

# RESOURCE MANAGEMENT AGENCY Planning Department

Norman L. Allinder, Planning Director *[Signature]*

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**PLANNING COMMISSION DATE:** November 3, 2009

**AGENDA ITEM:** #6

<b>CZ</b>	<b>#2009-004</b>	<b>Amendment to the County Code, Title 17, Chapter 17.74</b>
<b>APN</b>	<b>Countywide</b>	<b>Applicant: Madera County</b>
<b>CEQA</b>		<b>EXEMPT</b>

**REQUEST:**

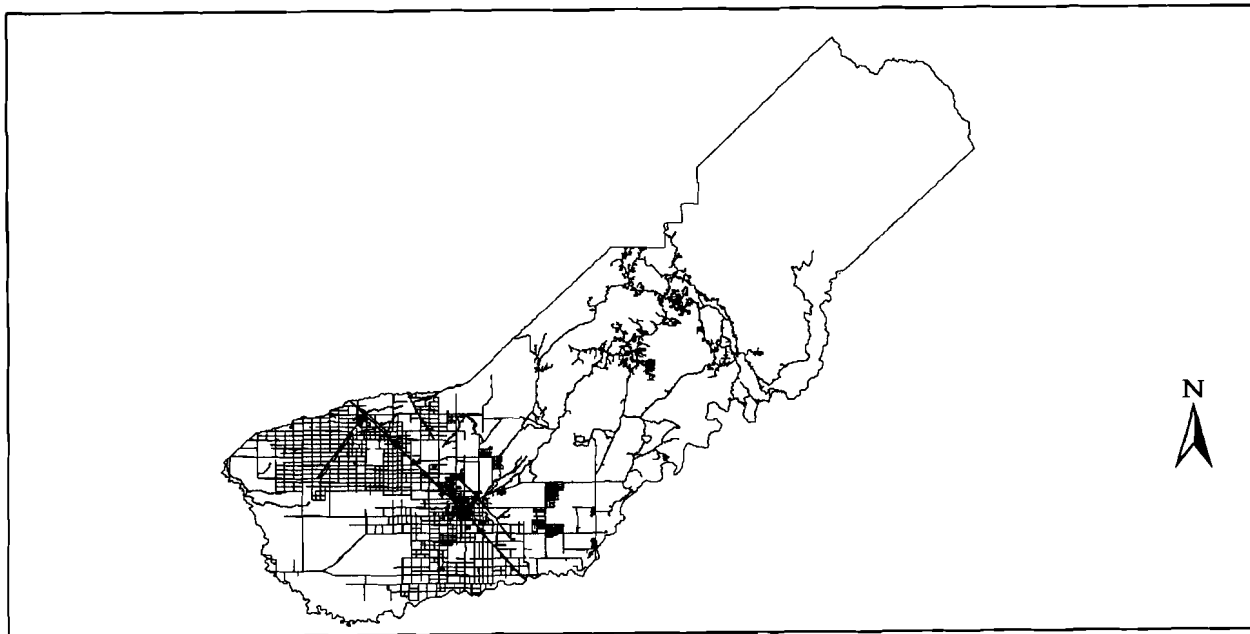
This is a proposal by the County of Madera to amend the Madera County Ordinance, Title 17, Chapter 17.74 to comply with State law.

**LOCATION:**

The proposed amendments will affect all zone districts in Madera County.

**ENVIRONMENTAL ASSESSMENT:**

Under the provisions of the California Environmental Quality Act (CEQA), Section 15061(b)(3), and the Madera County Environmental Guidelines, the County has determined that this amendment will not have a significant effect on the environment and is exempt from CEQA.



**RECOMMENDATION:**

Approve the proposed amendments to sections of the Madera County Code, Title 17.74, Lot Line Adjustments

**BACKGROUND:**

The Title 17 was first adopted in 1963 and is a document that grows and changes as needed. The last major amendment was in 2004. It consists of Lot Line Adjustment, Parcel Map, and Subdivision Ordinances.

This item was before the Commission for public comment on August 4, 2009.

**PROJECT DESCRIPTION:**

We are looking at the Lot Line Adjustment, Parcel Map, and Subdivision Ordinances for compliance with new State laws. Currently, the Lot Line Adjustment is before you for review.

**ORDINANCES/POLICIES:**

Madera County Code Title 17, Chapter 17.74.

**ANALYSIS:**

As the State amends the law, we must also amend County Ordinance. The Planning Department is currently comparing Title 17 with State law with the intention of amending all Chapters to bring them into compliance. The first is Chapter 17.74, Lot Line Adjustment. Only minor changes were needed. The Subdivision Map Act does not provide for appeals of the decision, however, the ability to appeal will remain in the ordinance.

On August 4, 2009, this item was presented to the Planning Commission and to the public. Applicant, who have submitted Lot Line Adjustment applications since 2001, were sent a public hearing notice. Only two comment letters, one telephone call, and public comments from the August 4, 2009 meeting were received. The following concerns were submitted and addressed:

Jones and Snyder Surveying

- 1) *Title Report or signatures of a mortgage holder, or the legal descriptions of the property being transferred should be required after a conditional approval is granted.*

Information regarding the ownership of the parcels is needed. To start the application process and then find out that the wrong parcel numbers were submitted or that an owner is not in agreement with this process would be financially prohibitive. However, in an effort to lessen the burden, the wording has been changed:

*"A preliminary title report or a current statement describing all rights-of-way, easements, lien holders, and record title interests to which each parcel shown on the lot line adjustment map is subject."*

- 2) *Section 17.74.030 A and B states: the drawing and legal descriptions be prepared by a licensed Land Surveyor or Civil Engineer. This should read "Civil Engineer registered prior to 1982."*

Wording has been changed to be: "stamped and signed by a licensed land surveyor or licensed civil engineer registered prior to January 1, 1982, shall be authorized to practice all land surveying."

- 3) *Section 17.74.050 states that the Planning Director and the County Surveyor shall sign the Lot Line Adjustment application. I see no need for the County Surveyor's review or signature at this time. Only when and if a Record of Survey is required.*

This has been changed to be: "The Director of Planning or his appointee".

- 4) *Section 17.74.100 is proposing that the applicant and not the Planning Department record all necessary documents to complete the process. This does not provide for a mechanism for checking legal descriptions or the mapping, nor does it specify what requirements will be for an exhibit map.*

Currently, the ordinance states that: "The planning department shall then cause the approved application and exhibit map to be recorded in the office of the county recorder, together with any deeds; and, records of survey (if required); and, the written consents to the lot line adjustment." This wording will remain. In the future, with reduced staff, it may be necessary to change procedures. However, staff feels that the wording would allow the change if necessary.

- 5) *It has been County policy up to now to allow the adjustment of a substandard parcel as long as the resultant parcel is not made less substandard. I would like to see this policy continue. It provides for a reasonable solution to problems that is not available without this flexibility.*

Our new submittal checklist (Exhibit B) addresses this: "Note: The adjustment of a substandard parcel can not result in a parcel that is more sub-standard."

- 6) *The possibility of suspending the time for processing during a rezone, annexation, or other County process was mentioned. This is OK, but would require someone to monitor these things which takes time and costs money. At a very minimum, I would like to see at least the same time period allotted for Lot Line Adjustment processing as a Parcel map, and in these economic times, it has been extended to 3 years.*

We are attempting to streamline the Lot Line Adjustment process. To extend the time limit to three (3) years would drag the process out. However, there is a need to address conflicting processes and time lines, so the following wording was inserted: ". A Lot Line Adjustment application is valid for six(6) months. If additional entitlements or annexations are necessary, the time line is suspended from the time the entitlement application is submitted until the completion of the entitlements. The applicant may apply for two (2) six month time extensions. " We are increasing the amount of extensions possible to four (4).

Dale Mell

- 1) *When stating "prepared and stamped by a state licensed land surveyor or civil engineer" add "licensed to practice land surveying".*

Wording has been changed to be: "stamped and signed by a licensed land surveyor or licensed civil engineer registered prior to January 1, 1982, shall be authorized to practice all land surveying."

- 2) *Applicant should include a statement:  
"Approval of the application will require that deeds be recorded and deeds of trust be modified, if applicable. A report from a title company, demonstrating that the parcels were properly adjusted, will be required to be submitted to this office."*

A new checklist has been prepared to be given to the applicant with the application that outlines all requirement materials.

Larry Jensen

- 1) *Indicated that the map stamped and certified by a licensed land surveyor or civil engineer should not be required until a conditional approved has been given.*

The requirement for stamped and certified drawing has been moved and will be required at final drawing stage. A legible drawing showing before and after compliance with drawing standards will be required with the application submittal.

The intention of staff is to modify the ordinance to comply with State law. The procedure as it currently is applied appears to be working. It is not our intention to make the process more difficult. The proposed changes will comply with State law and address the concerns of the public.

**GENERAL PLAN CONSISTENCY STATEMENT:**

The proposed text amendments are consistent with the goals and policies of the General Plan.

**RECOMMENDATION:**

Recommend approval of the amendments to Title 17 to the Board of Supervisors.

**ATTACHMENTS:**

1. Exhibit A, Chapter 17.74.
2. Exhibit B, Submittal Checklist
3. Exhibit C, Procedure Flow Chart
4. Exhibit D, Comment Letters, August 14, 2009
5. Exhibit E, Comment Letters, July 28, 2009

## LOT LINE ADJUSTMENT

### Sections:

- 17.74.010 Lot line adjustment defined.
- 17.74.020 Affected parcel defined.
- 17.74.030 Application
- 17.74.040 Parcel map committee review.
- 17.74.050 Parcel map committee decision.
- 17.74.060 Appeal to Board of Supervisors.
- 17.74.070 Board of Supervisors hearing.
- 17.74.080 Conditions.
- 17.74.100 Certificate of approval Compliance.

17.74.010 Lot line adjustment defined. A "lot line adjustment" is an alteration of an existing boundary line between *four or fewer* existing contiguous legal 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 Parcel Map Committee which is chaired by the Planning Director or his appointee.* *A lot line adjustment is an exclusion from the Subdivision Map Act and shall be reviewed in accordance with Section 66412(d) of the Government Code and this Chapter.* A Lot Line Adjustment may be granted pursuant to this chapter; provided, that:

- A. No additional parcels are created; and
- B. The sizes of all the altered parcels comply with the applicable general plan designation and zoning in effect on the date the application is filed; and
- C. No tax rate area boundary line will be altered.
- D. A local 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, and zoning and building ordinances.
- E. The applicant (s) are required to pre-pay the real property taxes prior to the approval of the lot line adjustment.
- F. The local agency shall require the relocation of existing utilities, infrastructure, or easements to facilitate the adjustment, if necessary.
- G. No tentative map, parcel map, or final map shall be required as a condition to the approval of a lot line adjustment.
- H. The lot line adjustment shall be reflected in a deed, which shall be recorded.
- I. No record of survey shall be required for a lot line adjustment unless required by Section 8762 of the Business and Professions Code (Professional Surveyor's Act).

17.74.020 Affected parcel defined. As used in this chapter, "affected parcel" means and refers to any parcel whose size or shape will be changed by the proposed lot line adjustment.

17.74.030 Application. An *completed application form provided by the County* for a lot line adjustment shall be submitted to the planning department and shall be considered filed when all the following have been provided:

A. A drawing which represents the proposed adjustment identifying the existing parcels and the resulting parcel(s) with acreage or square footage which satisfies the requirements of the Planning Department;

B. A signed statement setting forth the specific reasons for the proposed lot line adjustment;

C. A written consent to the proposed lot line adjustment, on a form prescribed by the Planning Department, signed by each person holding record title interest in the affected parcels (includes deeds of trust, which must be rewritten to reflect the change in legal description);

D. Copies of all deeds by which the owners of the affected parcels hold title;

E. The filing fee as set by resolution of the Board of Supervisors;

F. ~~A "title report" covering all affected parcels issued within thirty days insuring the county in the minimum amount of one thousand dollars;~~ A preliminary title report or a current statement describing all rights-of-way, easements, lien holders, and record title interests to which each parcel shown on the lot line adjustment map is subject.

G. Such other relevant documentation and information as may reasonably be requested by the planning department. (Ord. 278N § 17(part), 2004).

17.74.040 Parcel map committee review. ~~Within thirty days after the application has been filed, the parcel map committee shall hold a meeting to review the application. After acceptance of the lot line adjustment application as complete,~~ the planning department shall provide a copy of the application to each member of the parcel map committee and each member of the parcel map committee shall file a recommendation regarding the application with the planning department. The parcel map committee may make rules and regulations pertaining to meeting procedures and the processing of applications, including continuances of committee meetings not to exceed sixty days. Composition of the parcel map committee shall be as described in Section 17.72.040. (Ord. 469 §1 (part), 1982).

17.74.050 Parcel map committee decision. The parcel map committee shall approve, disapprove, or conditionally approve the application based only upon the limits provided in Section 66412 in the Subdivision Map Act. Conditions of approval shall be consistent with Section 17.740.030, B, C, D and G of this code. The parcel map committee shall cause written notice of its decision to be given by mail to the applicant, any person who has filed with the Planning Department a written request for special notice of lot line adjustment applications and any person, who has filed with the planning department a

written request for special notice. ~~and to any person, as determined by the committee, whose property may be adversely affected by the decision.~~

17.74.055 Final Lot Line Adjustment Drawing. *To complete the Lot Line Adjustment after approval by the Parcel Map Committee (Chaired by the Planning Director or his representative), a Final Lot Line Adjustment Drawing must be stamped and signed by a licensed land surveyor or licensed civil engineer registered prior to January 1, 1982, that is authorized to practice all land surveying. A Title Report current within 30 days must be submitted. Conditions of approval must be met before the final Lot Line Adjustment Map is recorded. The conditions may include, but not be limited to the following: taxes on all property involved must be paid or bonded or; deeds to transfer the adjusted property must be recorded concurrently or before the Final Lot Line Adjustment Map; and evidence of partial reconveyance, extinguishing any liens that may exist on the property involved must be filed with the Planning Department. A Certificate of Compliance, which establishes the legality of the resulting boundaries, will be recorded with the Final Lot Line Adjustment Drawing.*

17.74.060 Appeal to Board of Supervisors. Any person aggrieved by the decision of the parcel map committee may appeal the decision to the Board of Supervisors within ~~ten or fifteen~~, as cited in other sections, days of the date of the decision. The appeal shall be in writing, shall state the specific objections, shall be accompanied by a fee as set by resolution of the Board of Supervisors, and shall be filed with the Planning Department. (Ord. 278N § 17(part), 2004).

17.74.070 Board of Supervisors hearing. The Board of Supervisors shall hold a noticed, public hearing to consider the appeal within forty-five days of the filing date of the appeal. At least ten days notice shall be given to the applicant and to those persons described in Section 17.74.050. The Board of Supervisors may approve, disapprove, modify or conditionally approve the decision of the parcel map committee. (Ord. 278N § 17(part), 2004).

17.74.080 Conditions. The following conditions shall be imposed on the application:

A. Those conditions consistent with Section 17.74.030 B and Section 66412 (d) of the Government Code;

AB. Submission and approval of records of survey, if required;

BC. Submission of properly executed, unrecorded deeds necessary to document the transfer of land ownership and the resulting parcels reflecting the approved legal descriptions;

€D. Such other conditions as may be necessary to insure adequate access, satisfactory sewage disposal; acceptable lot configuration and to protect the public health safety and general welfare.

17.74.090 - Expiration of tentative approval. The applicant shall fulfill all conditions within six months of the date of parcel map committee approval or board of supervisors' approval whichever is later. This period may be extended for ~~two~~ four additional six-month periods by written application to the parcel map committee prior to expiration of the initial period or previous approved extension. The request for time extension shall be accompanied by a fee as set by resolution of the board of supervisors. *If additional entitlements or annexations are necessary, the time line is suspended from the time the entitlement application is submitted until the completion of the entitlements.* (Ord. No. 278R, § 1, 11-25-08)

17.74.100 Certificate of approval Compliance. Upon compliance with this chapter, all conditions and all applicable provisions of law; payment of all taxes, assessments and charges which are a lien, whether then payable or not; and upon payment of all applicable recordation fees, the County Counsel shall execute a certificate of ~~approval~~ compliance. The Planning Department shall then cause the approved application and exhibit map to be recorded in the office of the county recorder, together with any deeds; and, records of survey (if required); and, the written consents to the lot line adjustment. Upon recordation of the foregoing, the lot line adjustment shall be deemed perfected.

## LOT LINE ADJUSTMENT CHECKLIST *(Items not checked are deficient)*

### General

- 1. The applicant, or the applicant's agent, must complete the Lot Line Adjustment application form. The information must be typed or neatly lettered. Signatures should appear in the same form as title is held. (The form must be returned as provided. No copies can be accepted.)

Submit the following with Lot Line Adjustment application form.

- 2. The Site Plan or drawing(s) submitted with the lot line adjustment proposals may be 8½" x 11", 11" x 17" or 18" x 26" in size (one 8½" x 11" or 11" x 17" is required for our computer system). Larger or smaller map sizes are not acceptable. The scale must be large enough to show all details clearly. Eight (8) copies of the site plan must be submitted with the application form. The drawing must be legible. The following information must be included on the site plan:
  - a) Date, north arrow, and scale of drawing.
  - b) Existing parcel lines (broken and thin) with dimensions with the area (size in acres) of the original parcel.
  - c) Adjusted parcel lines (solid and bold) with dimensions with the sizes (acreages) and approximate dimensions of the proposed parcels.
  - d) A description of the original parcel sufficient to locate it on an Assessor's map (a current, valid Assessor's Parcel Number will suffice).
  - e) Structures existing on the parcel with approximate distances to the proposed division lines. In addition, well and septic system (including leach field) locations must be shown. Each structure or location shown must be identified (house, barn, well, etc.).
  - f) A vicinity map sufficient to locate the parcel in the field and/or in the office without the necessity of referring to additional maps.

Note: The adjustment of a substandard parcel can not result in a parcel that is more substandard.

- 3. A copy of the deed that includes by which each of the owners of the indicated APN's currently holds title.
- 4. A preliminary title report or a current statement describing all rights-of-way, easements, lien holders, and record title interests to which each parcel shown on the lot line adjustment map is subject.
- 5. The application fee (\$1,563.00)

### Final Lot Line Adjustment Map.

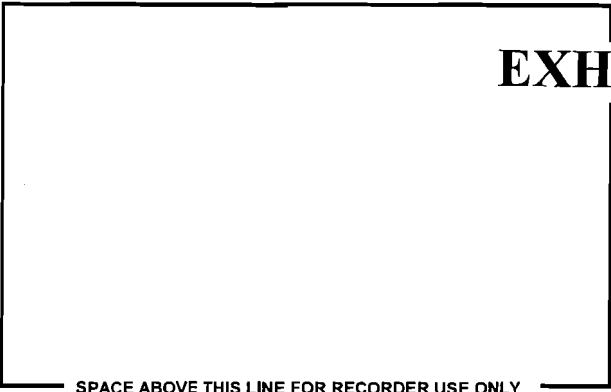
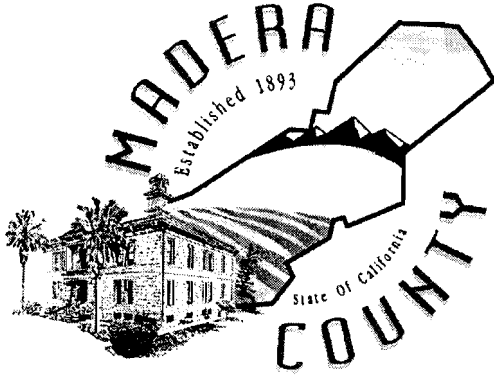
To complete the Lot Line Adjustment after approval by the Parcel Map Committee (Chaired by the Planning Director or his representative), a Final Lot Line Adjustment drawing must be stamped and signed by a licensed land surveyor or licensed civil engineer registered prior to January 1, 1982, shall be authorized to practice all land surveying. A Title Report currently within 30 days must be submitted. Conditions of approval must be met before the Final Lot Line Adjustment Map is recorded. The conditions may include, but not be limited to the following: taxes on all property involved must be paid or bonded or; deeds to transfer the adjusted property must be recorded concurrently or before the Final Lot Line Adjustment Map; and evidence of partial reconveyance, extinguishing any liens that may exist on the property involved must be filed with the Planning Department. A Certificate of Compliance, which establishes the legality of the resulting boundaries, will be recorded with the Final Lot Line Adjustment drawing.

### Appeals.

Any action of the Planning Director (or Parcel Map Committee) may be appealed to the Planning Commission within 15 calendar days following the action.

Recording requested by the  
**Planning Department**  
Return to the Planning Department

**EXHIBIT C**



SPACE ABOVE THIS LINE FOR RECORDER USE ONLY

## LOT LINE ADJUSTMENT

*The undersigned is the owner of the real property described as  
Assessor's Parcel Number(s) \_\_\_\_\_  
and hereby requests the County of Madera to adjust the property line(s) as shown on  
the maps attached hereto.*

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

OWNER \_\_\_\_\_

OWNER \_\_\_\_\_

ADDRESS \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE: (\_\_\_\_) \_\_\_\_\_

PHONE: (\_\_\_\_) \_\_\_\_\_

OWNER \_\_\_\_\_

OWNER \_\_\_\_\_

ADDRESS \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE: (\_\_\_\_) \_\_\_\_\_

PHONE: (\_\_\_\_) \_\_\_\_\_

*Reason for application* \_\_\_\_\_

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LLA \_\_\_\_\_ - \_\_\_\_\_



**JONES  
& SNYDER  
SURVEYING**

P.O. BOX 2292, OAKHURST, CA 93644  
(559) 683-7661 • FAX (559) 683-0667

**EXHIBIT D**

August 14, 2009

Norman Allinder  
Madera County Planning Dept.  
2037 W. Cleveland Ave.  
Madera, CA 93637

Re: Lot Line Adjustment Ordinance

Dear Norm,

Enclosed are my most recent thoughts regarding modification of the Lot Line Adjustment Ordinance and what I spoke to at the last Planning Commission Meeting.

In reviewing the proposed Lot Line Adjustment ordinance, I see very little that will benefit the general public.

At this time, an applicant receives a conditional approval of a proposal prior to the requirement of providing a "Title Report" or the signatures of a mortgage holder, or the legal descriptions, of the property being transferred.

These items cost the applicant considerable money and are un-necessary until such time as a conditional approval is granted.

The existing ordinance requires these items as well, but County policy has been to require them **after** conditional approval.

Section 17.74.030 A & B states: the drawing and legal descriptions be prepared by a licensed Land Surveyor or Civil Engineer. This should read "Civil Engineer registered prior to 1982."

Section 17.74.050 states that the Planning Director and the County Surveyor shall sign the Lot Line Adjustment application. I see no need for the County Surveyor's review or signature at this time. Only when and if a Record of Survey is required. This signature would require additional time and expense for the County, and would probably constitute additional fees from the County Surveyor. This may not be included in his contract.

Section 17.74.100 is proposing that the **applicant** and not the Planning Department record all necessary documents to complete the process.

This does not provide for a mechanism for checking legal descriptions or the mapping, nor does it specify what requirements will be for an exhibit map.

Also, it has been County policy up to now to allow the adjustment of a sub-standard parcel as long as the resultant parcel is not made less sub-standard. I would like to see this policy continue. It provides for a reasonable solution to problems that is not available without this flexibility.

With regards to the time periods allowed for processing the Lot Line Adjustment: My latest thought is to let the time period be indefinite. There is nothing in the Map Act that limits the time period for processing. (It is no burden to the County to let these files remain active and it would certainly benefit the public.)

Becky mentioned the possibility of suspending the time for processing during a rezone, annexation, or other County process. This is ok, but would require someone to monitor these things which takes time and costs money.

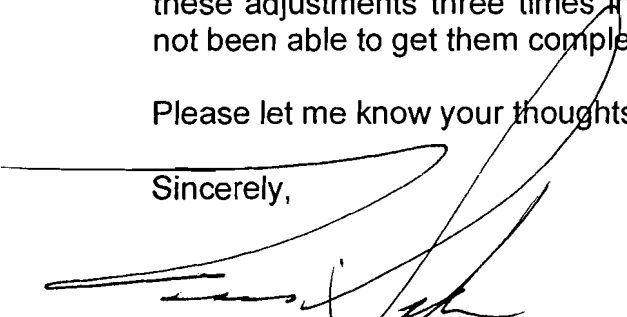
At a very minimum, I would like to see at least the same time period allotted for Lot Line Adjustment processing as a Parcel Map, and in these economic times, our Governor has extended Parcel Maps for 3 years.

At this time, I have two Lot Line Adjustments that are about to expire, and I need your help. Lot Line Adjustment 2008-24 is going through a LAFCO Detachment and Annexation and a Maintenance District Annexation that will probably not be complete before the time expires. Lot Line Adjustment 2008-15 has been ready to record since January, however, in my latest correspondence with the lender, I am told they are closing their doors. They are not going out of business, but are no longer processing these requests. I am still working with them, but due to their limited staff, this could take a while.

The changes to the ordinance will not take place until after these expire, and I would appreciate anything you can do to help these people. I have filed both of these adjustments three times in the past and for one reason or another, have not been able to get them completed.

Please let me know your thoughts.

Sincerely,



Timothy W. Snyder  
LS 4727



**JONES  
& SNYDER  
SURVEYING**

P. O. BOX 2292, OAKHURST, CA 93644  
(559) 683-7661 • FAX (559) 683-0667

July 28, 2009

Robert Lewis  
Madera County Planning Dept.  
2037 W. Cleveland Ave.  
Madera, CA 93637

Re: Proposed Lot Line Adjustment Ordinance Change

Dear Bob,

Regarding the upcoming discussion before the Planning Commission of proposed changes to the Lot Line Adjustment ordinance, I would like to offer the following suggestion.

Allow for an initial approval period of one year with the option of one or more 6 month extensions.

As we discussed last week, when a rezone is required in conjunction with a Lot Line Adjustment, it is virtually impossible to complete within 6 months. That combined with the necessity to acquire the consent of one or more Deed of Trust holder's substantially increases the time required to complete the process.

On the same note, we discussed the requirement of a Lot Line Adjustment being consistent with zoning, whereas in the past, Madera County has always had a policy when dealing with one or more substandard Parcels, as long as the resultant parcels were less sub-standard, the adjustment was allowed.

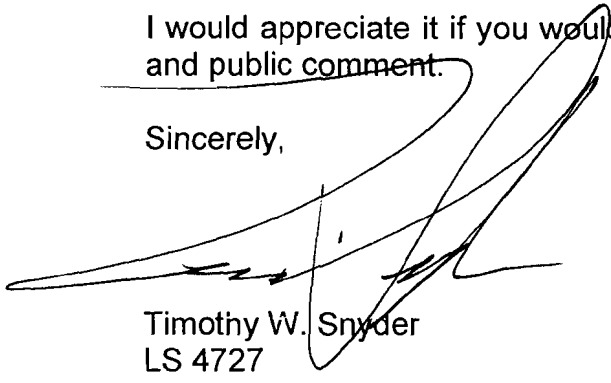
It would be very helpful to people if this policy were to continue. In the case where an encroachment exists on a substandard Parcel, a reasonable solution may not be

available without this flexibility. If County policy is not acceptable, I would suggest a County initiated text amendment of the Zoning Ordinance.

It seems that the County is interested in improving ordinances and procedures at this time so they might as well include the Zoning Ordinance.

I would appreciate it if you would send me any proposed ordinance changes for review and public comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy W. Snyder', is written over the typed name and extends upwards into the text above.

Timothy W. Snyder  
LS 4727