



**County of Santa Barbara - Department of Public Works**  
Scott D. McGolpin, Director



## **Certificate of Compliance Appeal**

09-CC-100 – Foxen Oaks

APN 133-070-035

Office of the County Surveyor

March 23, 2010

Michael B. Emmons, County Surveyor





**County of Santa Barbara - Department of Public Works**  
Scott D. McGolpin, Director



## **Certificate of Compliance Appeal**

**09-CC-100 – Foxen Oaks**

**APN 133-070-035**

### **Purpose of Hearing**

**Request that the Board of Supervisors:**

- 1) Uphold the decision by the County Surveyor and deny issuing a Certificate of Compliance on APN 133-070-035; or**
- 2) Direct the County Surveyor to issue a Certificate of Compliance on APN 133-070-035**

Office of the County Surveyor  
March 23, 2010  
Michael B. Emmons, County Surveyor





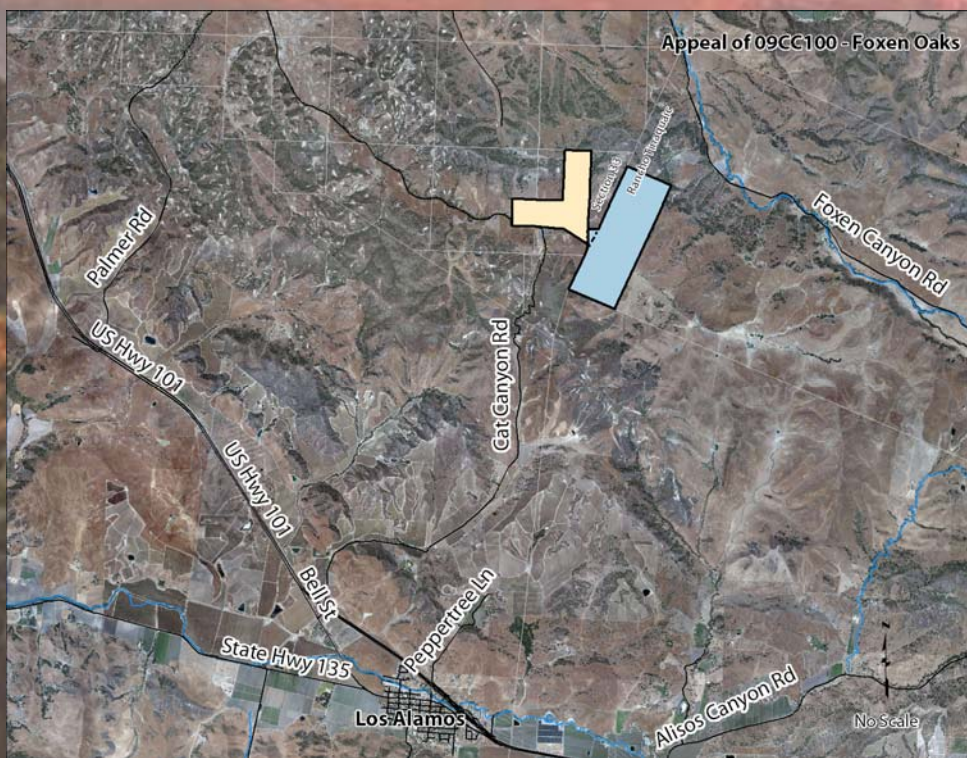
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Located  
approximately 4.5  
miles NE'ly of the  
intersection of Cat  
Canyon Road and  
Hwy 101

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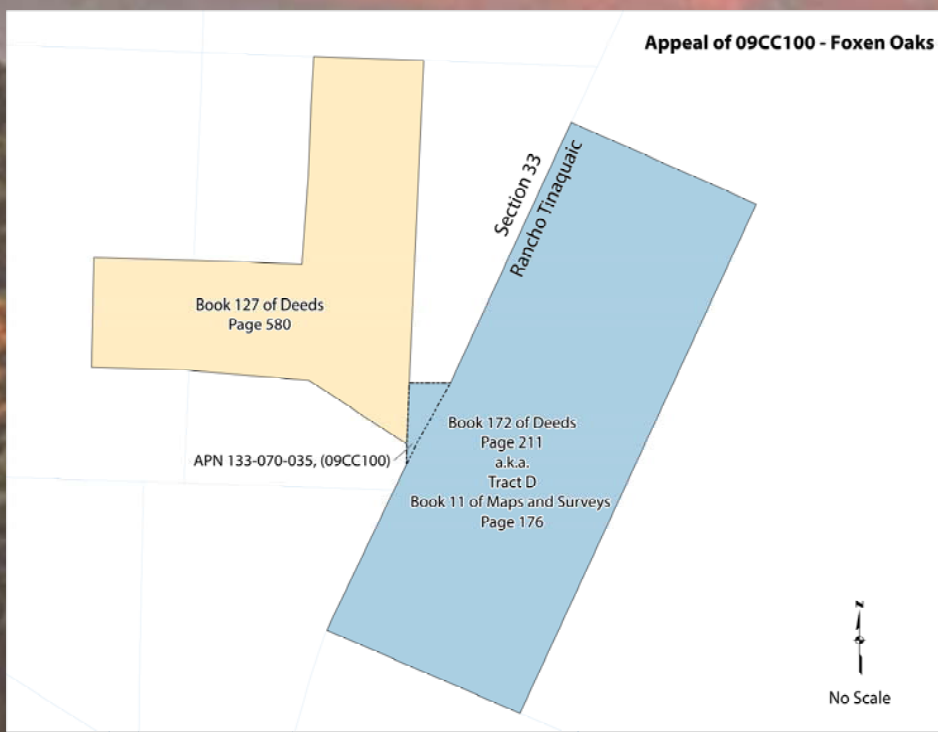
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[Larger Map](#)

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### **Past Practices of Santa Barbara County and People vs. Tehama County Board of Supervisors**

1. Recognition of “Fraction Lots” begin with the Montecito Avocado Ranch litigation creating the past practice of issuing Certificates of Compliance on unintentionally created parcels
1. Subsequent to that, the County adopted various ordinances and policies in response to this uncontrolled parcel creation that used over-lapping deeds to create them
2. People vs. Tehama County Board of Supervisors decision mandates a restrictive interpretation of Civil Code 1093 and rules against the existence of “Fraction Lots” in most cases. This is the basis for denial of this application. As with the Tehama Case, this land is subject to a Williamson Act Contract (71AP84)

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### **Legal Principle Contained Within**

### **People vs. Tehama County Board of Supervisors**

1. Civil Code Section 1093 serves to prevent the merger of previously existing parcels **ONLY** in the case where a subsequent deed conveys the entirety of two or more previously described and deeded parcels in a single new legal description.
2. Thus, if a new deed further divides earlier parcels, Civil Code Section 1093 does not apply.

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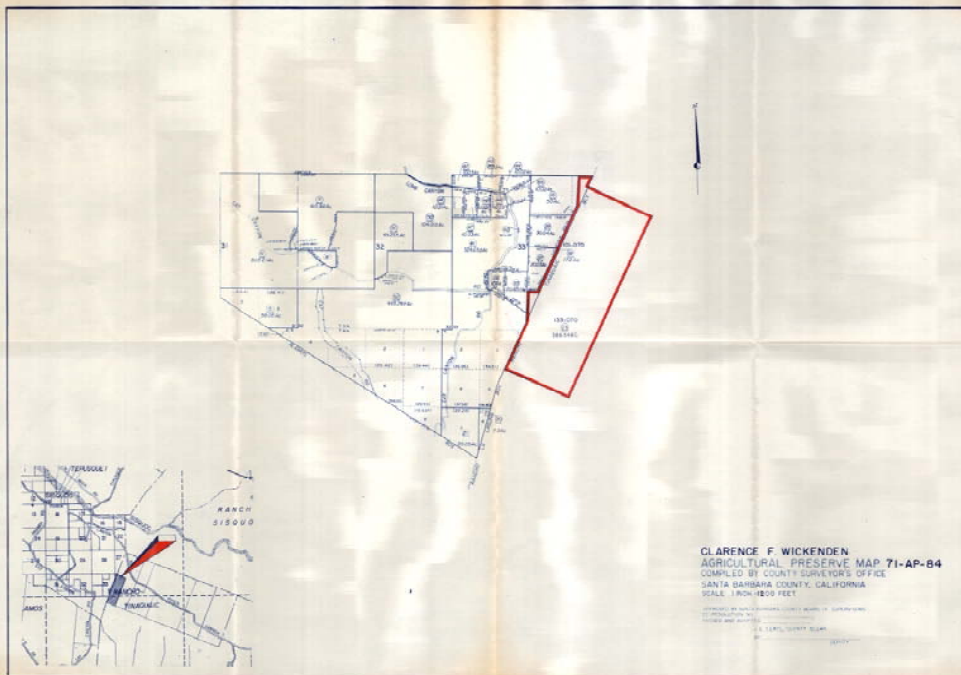
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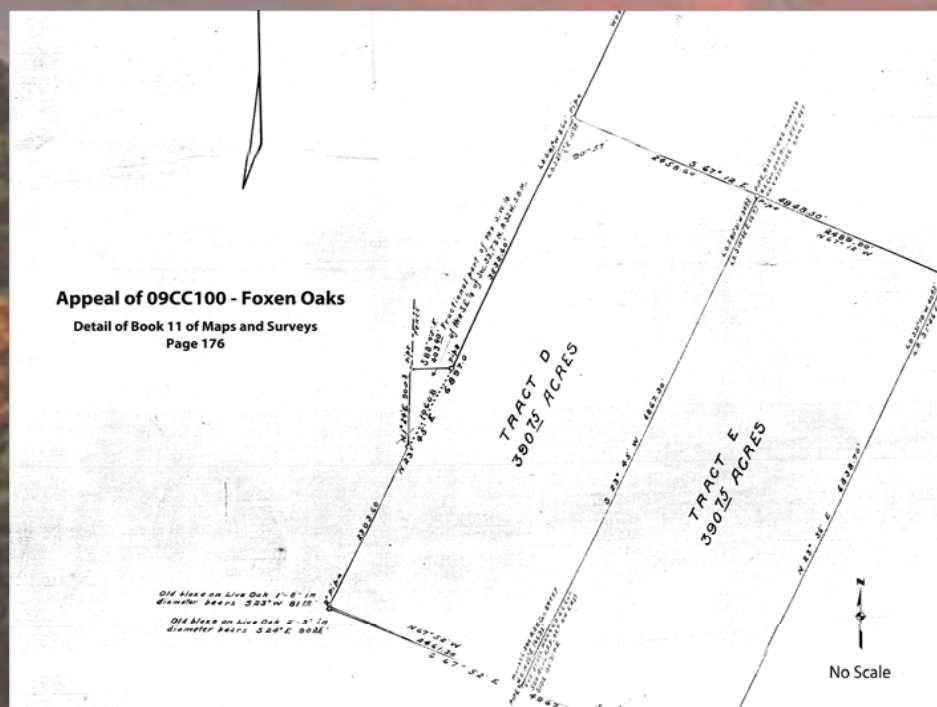
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### **Evidence of this Case**

- 1. The 1840's land grant of Rancho Tinaquaic recognized by the US Government in a later patent, created the westerly boundary of the Rancho which the appellant wishes to preserve to establish the existence of the triangular shaped property of this case**
- 2. In 1918, the Wickenden family divided their holdings using a single description of the outside boundary of "Tract D" as shown on the Record of Survey**
- 3. The Record of Survey shows "Tract D" as a single 390.75 acre parcel and uses a solid exterior line to denote the parcel boundary**

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### **Administrative Findings**

#### **Attachment A**

- 1) APN 133-070-035 has never been conveyed as a separate parcel of land nor has it been separately described in any recorded grant deed, quitclaim deed, deed of trust, or subdivision (final or parcel) map**
- 2) APN 133-070-035 was merged into one parcel depicted as “Tract D – 390.75 Acres” on a Record of Survey recorded in Book 11 Page 176 of Records of Survey by the recording of an indenture from the Wickenden Co., to Margaret Wickenden, et. al. on February 17, 1919 recorded in Book 172 Page 211 of Deeds**

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**Legal Analysis and Discussion**

**County Counsel**

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