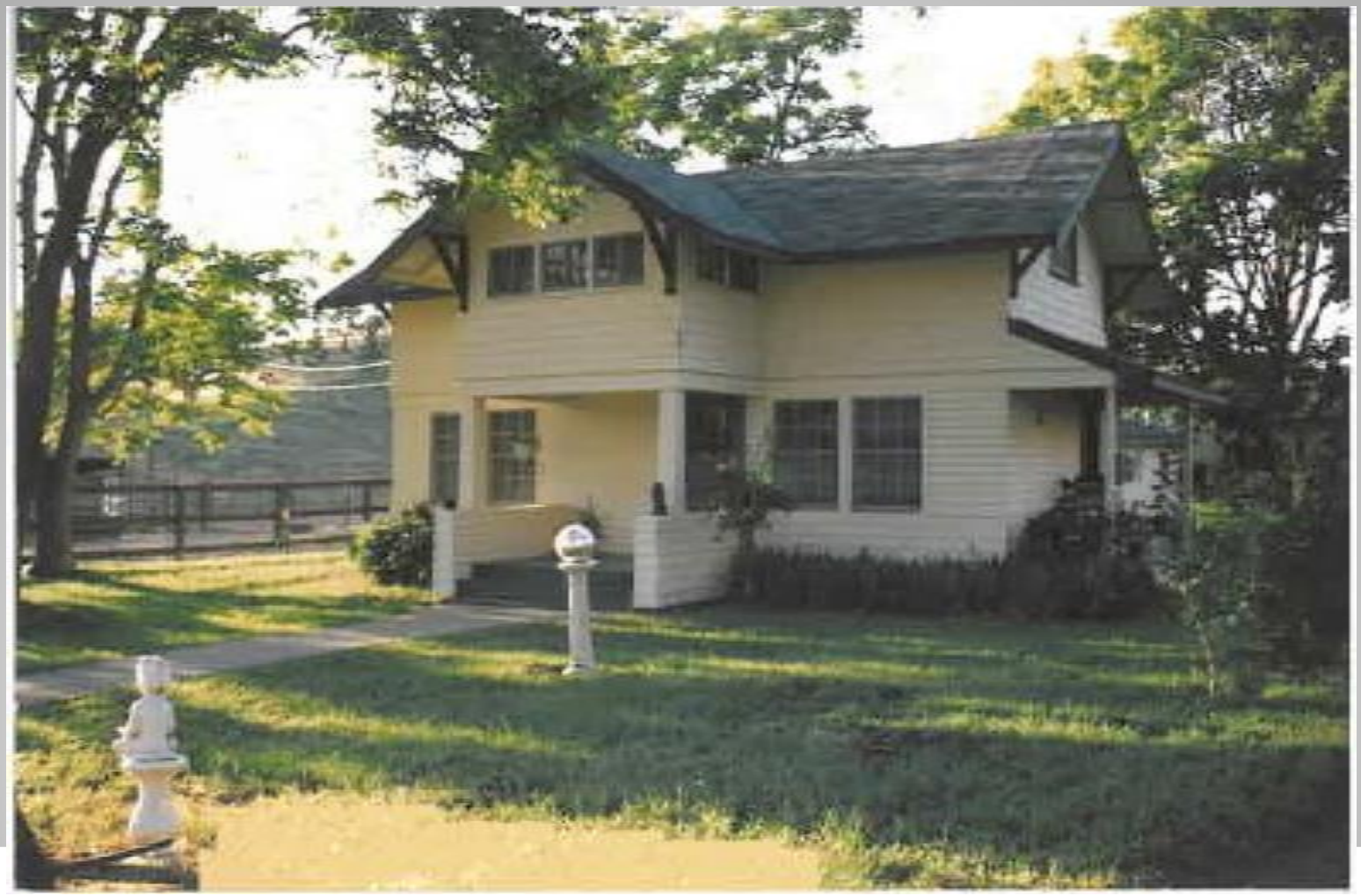
Board of Supervisors Hearing Regarding the Rose Petition for Termination of the Grove Non-Conforming Use

Santa Barbara County Board of Supervisors

April 1, 2014

The "Old Farm House"



LUDC Section 35.101.060 - Unpermitted Expansion of Nonconforming Uses

After a public hearing, as provided in Section 35.101.070 (Termination Procedures), below, any expansion of or change in a nonconforming use of structures or land, or both, not expressly allowed under and strictly in compliance with the provisions of this Development Code, and especially this Chapter, nor required by law, may be ordered terminated by the Board.

Staff Memorandum dated March 25, 2014

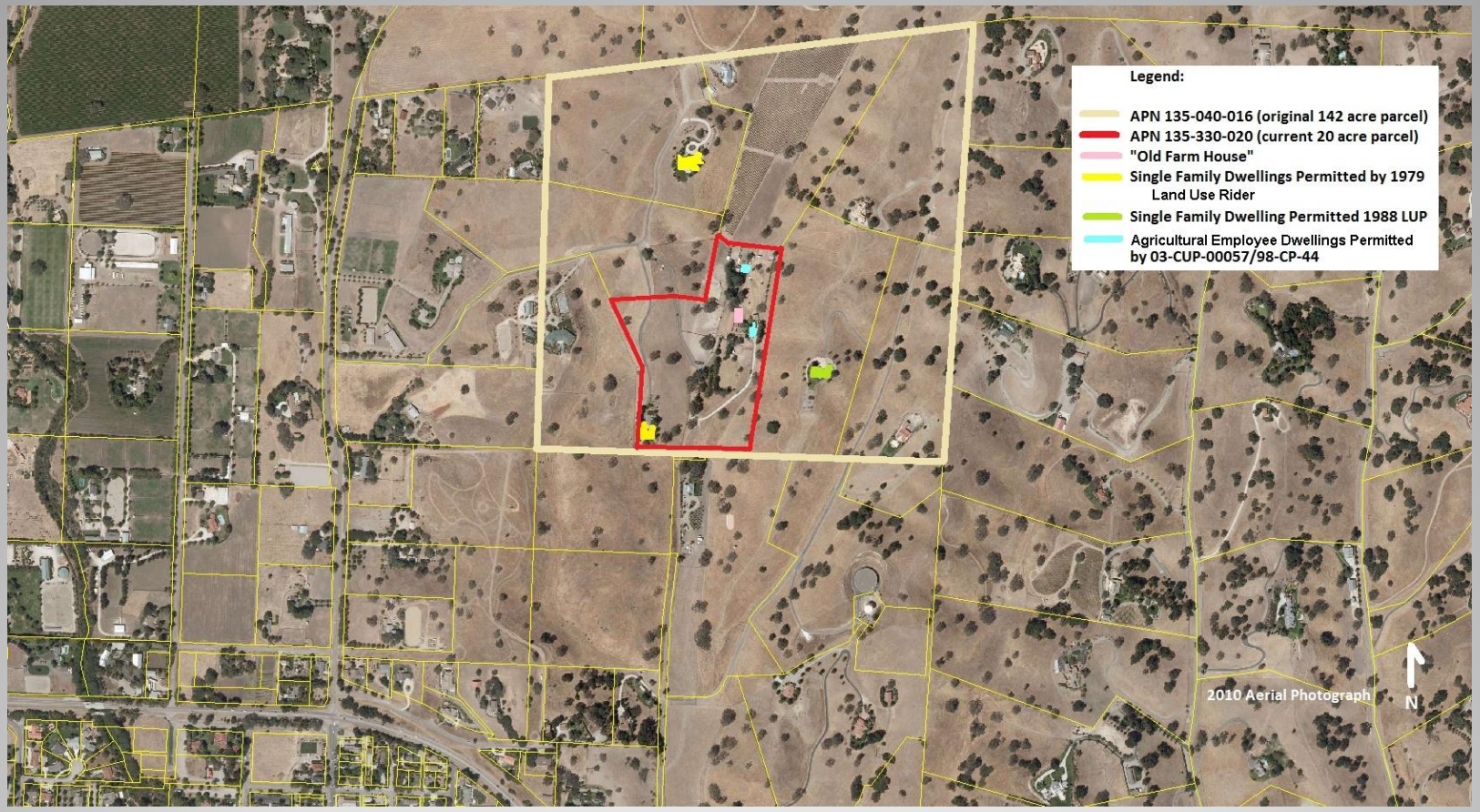
- Revised Staff Recommended Actions:
  - Determine that the action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3).
- And one of the following:
  - Render a written decision containing findings of fact, included as Attachment 2 to the April 1, 2014 Board Letter, ordering the nonconforming use terminated, and requiring that the nonconforming use be terminated by April 1, 2017; or
  - Render a written decision containing findings of fact, included as Attachment 2A to the March 25, 2014 Board Memorandum, permitting the continuance of the nonconforming use; or
  - Render no decision on the matter, thereby being deemed to permit the continuance of the nonconforming use.

Recommended Board Action

- Determine that the action is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15061(b)(3).

- And one of the following:
  - Render a written decision containing findings of fact, included as Attachment 2 to the April 1, 2014 Board Letter, ordering the nonconforming use terminated, and requiring that the nonconforming use be terminated by April 1, 2017; or
  - Render a written decision containing findings of fact, included as Attachment 2A to the March 25, 2014 Board Memorandum, permitting the continuance of the nonconforming use; or
  - Render no decision on the matter, thereby being deemed to permit the continuance of the nonconforming use.

End of Presentation



Project Location

Passed Motions

Motion by Supervisor Farr:

Staff's Recommended Actions 1 (CEQA); and 2.b (Order the nonconforming use terminated), prepare findings and a written decision, continue the item to April 1, 2014, with the draft findings to include reference to the Planning & Development Tract Map report dated June 16, 1991 and the positive credibility of Mr. Rose as a witness, and with the draft written decision ordering the nonconforming use terminated within 3 years.

Aye: Farr, Carbajal, Wolf. No: Adam, Lavagnino.

Passed Motions

- The Board voted 5-0 that statements made through Public Comment, whether written or oral, will be considered as argument, but generally will not be admitted as evidence because they are not subject to the rights to cross-examination and oath that LUDC Section 35.101.070.B.2 provide.
- The Board voted 5-0 to provide Chair Lavagnino with the authority to make determinations regarding the admissibility of all evidence, after receiving advice of counsel.

Failed Motion

Motion by Supervisor Adam:

Staff's Recommended Actions 1 (CEQA); and 2.a (Permit the continuance of the nonconforming use), prepare findings and a written decision and continue the item to April 1, 2014, with the draft findings to include reference to the Planning & Development letter of July 3, 2012 and the positive credibility of Mr. Grove, Ms. Grove and Ms. Kirby as witnesses.

Aye: Adam, Lavagnino. No: Carbajal, Wolf, Farr.

Written Decision / Findings of Fact

The "OLD FARM HOUSE" AT 3110 ACAMPO ROAD, APN 135-330-020

A. The subject structure, known as the "Old Farm House," was built in 1889.

B. In 1954, the County Board of Supervisors adopted Ordinance 661, the first zoning ordinance in most of the County of Santa Barbara. At that time, the subject property was part of a larger 294 acre parcel, zoned Unlimited Agriculture, 100 acre minimum parcel size. Ordinance 661 allowed more than one single family dwelling on property zoned Unlimited Agriculture.

C. In 1979, the subject property was zoned Limited Agricultural District (100-AL-O). Ordinance 661 allowed more than one dwelling on property zoned Limited Agriculture District, provided that such dwelling was occupied by the owner, lessee, or lessor of the property, bona fide employees of the owner, lessee, or lessor, and families and nonpaying guests of the owner, lessee, or lessor.

D. In 1979, the County approved a Land Use Rider for the subject property for two single family dwellings. The Land Use Rider identified the Old Farm House as "Storage (Future HQ and Bunkhouse)."

Written Decision / Findings of Fact, Cont.

E. In 1983, the County Board of Supervisors adopted Article III, the zoning ordinance that replaced Ordinance 661. The subject property was subsequently rezoned from Limited Agricultural District (100-AL-O) to Agriculture II (AG-II-100) as part of the consistency rezoning following adoption of the 1980 Land Use Element, and then from Agriculture II (AG-II-100) to Agriculture I (AG-I-20), as part of 84-RZ-14. During the rezone process, the Old Farm House was identified as "one home built in the 1880's used as the office and to house temporary employees."

F. Article III allowed one single family dwelling unit per legal lot on property zoned AG-I or AG-II.

G. The subject parcel was created as Lot 6 of the Rancho Cuerno Largo rezone and subdivision. On February 23, 1993, Tentative Tract Map 14,162 was recorded, thereby creating the subject 20 acre parcel, APN 135-330-020. The Planning Commission Staff Report, dated June 16, 1991, contains a reference to the Old Farm House as a "guest-house/office building" (Section V.A.4., Present Use/Existing Development).

Written Decision /Findings of Fact, Cont.

H. The Property Owners, the Groves, purchased the subject parcel in 1997, and moved into the Old Farm House in 2008. The Groves currently use the Old Farm House as a primary dwelling unit.

I. Mr. Kelly Rose is a positive and credible witness to the use of the Old Farm House.

J. Use of the Old Farm House as a primary dwelling unit became nonconforming upon the property being rezoned to AG-II-100. Only one single family dwelling unit was allowed under AG-II-100, and the 1979 Land Use Rider identified two other structures on the property as single family dwellings.

Written Decision /Findings of Fact, Cont.

K. If the Old Farm House was used as a primary dwelling unit prior to the property being zoned AG-II-100, such use was subsequently changed to use as an office, temporary employee housing, and/or a guest house.

L. The Groves' resumption of use of the Old Farm House as a primary dwelling unit in 2008 was not authorized under the County Land Use and Development Code.

M. The Groves shall terminate the current use of the Old Farm House as a primary dwelling unit by April 1, 2017.

Attachment 2A
Written Decision/Findings of Fact

A. The subject structure, known as the "Old Farm House," was built in 1889.

B. The Board of Supervisors is considering the historic nonconforming residential use of a structure over more than thirty years, spanning three separate zoning codes each containing different definitions characterizing the residential occupation of a dwelling.

C. In 1954, the County Board of Supervisors adopted Ordinance 661, the first zoning ordinance in most of the County of Santa Barbara. At that time, the subject property was part of a larger 294 acre parcel, zoned Unlimited Agriculture, 100 acre minimum parcel size. Ordinance 661 allowed more than one single family dwelling on property zoned Unlimited Agriculture.

Attachment 2A
Written Decision/Findings of Fact, Continued

D. In 1979, the subject property was zoned Limited Agricultural District (100-AL-O). Ordinance 661 allowed more than one dwelling on property zoned Limited Agriculture District, provided that such dwelling was occupied by the owner, lessee, or lessor of the property, bona fide employees of the owner, lessee, or lessor, and families and nonpaying guests of the owner, lessee, or lessor.

E. In 1979, the County approved a Land Use Rider for the subject property for two single family dwellings. The Land Use Rider identified the Old Farm House as "Storage (Future HQ and Bunkhouse)."

Attachment 2A
Written Decision/Findings of Fact, Continued

F. In 1983, the County Board of Supervisors adopted Article III, the zoning ordinance that replaced Ordinance 661. The subject property was subsequently rezoned from Limited Agricultural District (100-AL-O) to Agriculture II (AG-II-100) as part of the consistency rezoning following adoption of the 1980 Land Use Element, and then from Agriculture II (AG-II-100) to Agriculture I (AG-I-20), as part of 84-RZ-14. During the rezone process, the Old Farm House was identified as "one home built in the 1880's used as the office and to house temporary employees."

G. Article III allowed one single family dwelling unit per legal lot on property zoned AG-I or AG-II.

Attachment 2A
Written Decision/Findings of Fact, Continued

H. The subject parcel was created as Lot 6 of the Rancho Cuerno Largo rezone and subdivision. On February 23, 1993, Tentative Tract Map 14,162 was recorded, thereby creating the subject 20-acre parcel, APN 135-330-020. The Planning Commission Staff Report, dated June 16, 1991, contains a reference to the Old Farm House as a "guest-house/office building" (Section V.A.4., Present Use/Existing Development).

I. Use of the Old Farm House as a single family dwelling, as defined in Article III, became nonconforming upon the property being rezoned to AG-II-100 in 1984, and remains nonconforming under the County's current Land Use and Development Code. Only one single family dwelling unit was allowed under AG-II-100, and the 1979 Land Use Rider identified two other structures on the property as single family dwellings.

Attachment 2A
Written Decision/Findings of Fact, Continued

J. The Property Owners, the Groves, purchased the subject parcel in 1997, and moved into the Old Farm House in 2008. The Groves, as owners of the property, currently occupy the Old Farm House as a dwelling.

K. Mr. Bill Grove, Mrs. Jo Grove, and Mrs. Julie Kirby are positive and credible witnesses to the use of the Old Farm House since 1997, and they testified that the Groves did not change, expand, discontinue, or abandon the nonconforming use of the Old Farm House.

L. County records, including the 1979 Land Use Rider and the County staff report for the 1993 Tentative Tract Map 14,162, show that between 1979 and 1993 the Old Farm House was used and occupied by employees and guests of the owner.

Attachment 2A
Written Decision/Findings of Fact, Continued

M. The letter from the County Department of Planning and Development, dated July 3, 2012 indicates that the Department of Planning and Development understood the Groves' current use to be consistent with uses designated in the 1979 Land Use Rider.

N. The Board did not receive credible and compelling evidence showing a change, expansion, discontinuance, or abandonment of use of the Old Farm House as a dwelling occupied by the owner, lessee, or lessor of the property, bona fide employees of the owner, lessee, or lessor, and families and nonpaying guests of the owner, lessee, or lessor.

Attachment 2A
Written Decision/Findings of Fact, Continued

O. Having been instructed by County Counsel at the March 11, 2014 hearing concerning Judicial Council of California Civil Jury Instruction 5003 (Witnesses), we conclude that the prolonged, ongoing neighbor dispute between the Groves and Mr. Rose degrades the credibility of Mr. Rose's testimony.

P. As the owners of the property, the Groves' current occupation of the Old Farm House as a dwelling is consistent with the uses permitted under Ordinance 661 in 1984, when the parcel was rezoned and such use became nonconforming.