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

Santa Barbara County Board of Supervisors

March 11, 2014

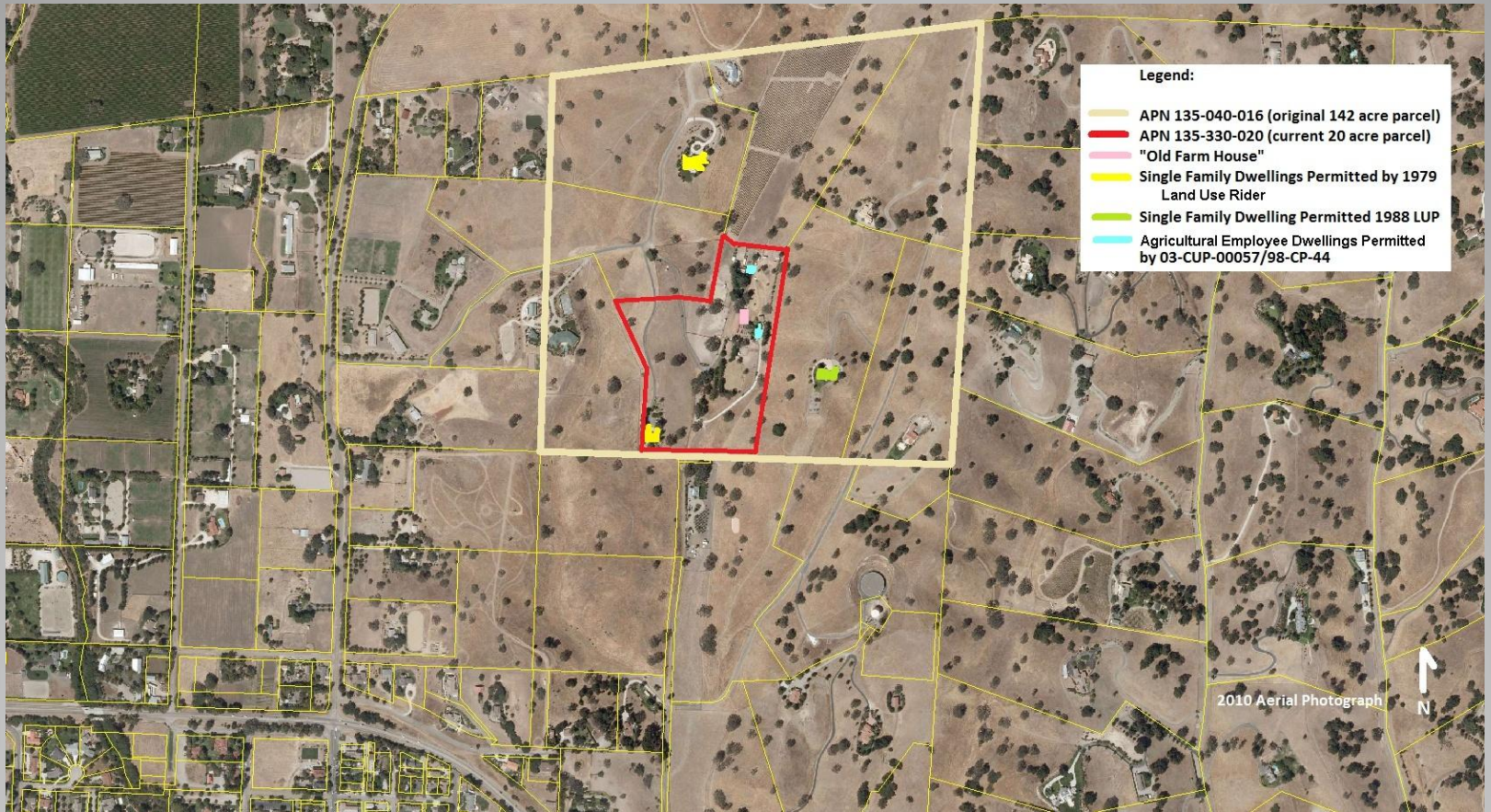


LUDC Section 35.101.060 - Unpermitted Expansion of Nonconforming Uses

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.

LUDC Section 35.101.020(D) - Abandonment/Discontinuance.

A nonconforming use that is discontinued for a continuous period of at least 12 consecutive months shall be considered to be abandoned and the rights to continue the nonconforming use shall terminate. If a nonconforming use is abandoned, any future use shall comply with the provisions of the zone in which the use is located.



Project Location

The "Old Farm House"



Land Use & Development Code

According to Section 35.101.070.A.1. of the County Land Use and Development Code (LUDC):

- *Upon recommendation of the Commission, or upon petition by a person affected by a non-conforming use of structures or land or both, or on its own initiative, the Board may set a date for, and call for a public hearing to determine whether or not a nonconforming use of land or structures, or both, or an unpermitted expansion of or change in the use, should be ordered terminated.*

Petitioner's Request

- The subject petition was filed with the Clerk of the Board by Matthew M. Clarke, attorney for Kelly Rose on March 19, 2013.
- The petition submitted by Mr. Rose requests that the Board terminate the non-conforming use of an existing structure.
- On December 10, 2013, the Board elected to conduct a public hearing on the matter.

Legal Non-Conforming Status

- Over time, the subject structure has been used as a primary residence, a bunk house, a farm employee dwelling, and a guest house (per 87-CP-069/APAC meeting on 07-14-78).
- Since 2011, the P&D Director, Assistant Director, and a Deputy Director have reviewed the information provided by Mr. Rose in the context of a zoning enforcement complaint; each of them determined that the residential use of the structure does not constitute a zoning violation.

Hearing Procedures

The hearing must follow the hearing procedures outlined in LUDC Section 35.101.070. These procedures specify requirements for:

- **Noticing**
- **Rules of Evidence**
- **Timing and Form of the Board's Decision**

Hearing Procedures, Cont.

- STAFF PRESENTATION: John Karamitsos – 10 minutes
- OPENING STATEMENTS: Petitioner presents first, then Respondent (15 minutes each)
- PUBLIC COMMENT – 15 minutes
- PRESENTATIONS OF DOCUMENTARY AND ORAL EVIDENCE: Petitioner presents first, then Respondent (90 minutes each)
- REBUTTAL: Petitioner presents first, then Respondent (15 minutes each)
- CLOSING STATEMENTS: Petitioner presents first, then Respondent (15 minutes each)
- BOARD QUESTIONS AND DELIBERATION – 50 minutes

Board Options

Following testimony, your Board may order the subject nonconforming residential use terminated pursuant to either of two provisions of LUDC Section 35.101: .060 or .020(D) (as described in slides 2 and 3 above).

Your Board's options consist of one of the following actions:

- 1) Render a decision permitting continuance of the nonconforming use; or
- 2) Ordering the nonconforming use terminated, and specifying the time within which the nonconforming use shall be terminated; or
- 3) Render no decision on the matter.

Each option includes a finding that the hearing is exempt from the provisions of CEQA.

Results of Board's Action

In the event that the Board:

- Determines to permit the continuance of the nonconforming use, then the ongoing use would be confirmed as legal, nonconforming and the use could continue; then staff would return to your Board with a written decision containing findings of fact regarding the nonconforming use;
- Orders the nonconforming use terminated, then staff would return to your Board with a written decision containing findings of fact and a specified time to terminate the use and return the structure to a conforming use;
- Renders no decision on the status of the nonconforming use within 30 days of closing the public hearing (i.e., by April 10, 2014), then the nonconforming use could continue.

End of Presentation