



## **Staff Report to the Agricultural Policy Advisory Commission**

**Application Number: 07-0722**

**Applicant:** Eldon Sherwood  
**Owner:** Gloria and Leopoldo Amaya  
**APN:** 109-281-19

**Date:** 10/2/08  
**Agenda Item #:** 3  
**Time:** 1:30 p.m.

**Project Description:** Proposal to convert an existing single family dwelling to a second unit with nonhabitable storage and to construct a new 5,272 square foot primary dwelling with an attached 528 square foot garage.

Requires an agricultural buffer determination to reduce the required 200 foot agricultural buffer to about 118 feet, an archaeological review, and a geologic report review.

**Location:** Property located on the north side of Smith Road at the intersection with Casserly Road at 714 Casserly Road.

**Permits Required:** Agricultural Buffer Setback Reduction

### **Exhibits**

- |    |  |    |                       |
|----|--|----|-----------------------|
| A. | Project plans                              | E. | Assessor's parcel map |
| B. | Findings                                   | F. | Zoning map            |
| C. | Conditions of Approval                     |    |                       |
| D. | Categorical Exemption (CEQA determination) |    |                       |

### **Discussion**

The project, as proposed on the attached plans (Exhibit A), was reviewed and approved by the Agricultural Policy Advisory Commission (APAC) for an Agricultural Buffer Reduction on August 21, 2008. Revised findings for approval and conditions of approval, as directed by your Commission, are attached for APAC review and approval.

Please note that only one finding under County Code Section 16.50.095(d) and finding 16.50.095(e) must be made in order to approve the Agricultural Buffer Reduction.

**Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of**

**the administrative record for the proposed project.**

**The County Code and General Plan, as well as hearing agendas and additional information are available online at: [www.co.santa-cruz.ca.us](http://www.co.santa-cruz.ca.us)**

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Development Review

**Required Findings for Agricultural Buffer Setback Reduction  
County Code Section 16.50.095(d)**

1. Significant topographical differences exist between the agricultural and non-agricultural uses which eliminates or minimizes the need for a 200 foot agricultural buffer setback; or
2. Permanent substantial vegetation (such as a Riparian Corridor or Woodland protected by the County's Riparian Corridor or Sensitive Habitat Ordinances) or other physical barriers exist between the agricultural and non-agricultural uses which eliminate or minimize the need for a two hundred (200) foot agricultural buffer setback; or
3. A lesser setback is found to be adequate to prevent conflicts between the non-agricultural development and the adjacent agricultural development and the adjacent agricultural land, based on the establishment of a physical barrier (unless it is determined that the installation of a barrier will hinder the affected agricultural use more than it would help it, or would create a serious traffic hazard on a public or private right of way) or the existence of some other factor which effectively supplants the need for a two hundred (200) foot agricultural buffer setback; or

**This finding can be made in that the east adjacent Commercial Agriculture (CA) zoned parcel is only about 1 acre in size and is currently developed with a single family residence located on the west side of the parcel; therefore, any potential future commercial farming on the adjacent parcel would be minimal due to its small size and would likely occur on the east side of the existing dwelling where there is vacant land. In addition, the proposed single family dwelling will be required to maintain a minimum setback of 118 feet from the east property line and, as conditions of approval, the property owner must plant a vegetative barrier along the east property line to buffer the proposed residence from the Commercial Agriculture zoned land and is required to record a Declaration of Acknowledgment to build a nonagricultural habitable structure next to potential commercially farmed land. Therefore, with the required minimum 118 foot setback, the conditions of approval, and the existence of a single family dwelling located between the proposed residence and area of potential future commercial farming on the east adjacent CA zoned parcel, the need for a two hundred foot agricultural buffer setback is effectively supplanted.**

**This finding can also be made for the existing house to be converted to a second unit which already exists and will maintain the existing location of about 115 feet from the west property line where adjacent CA zoned land exists. The installation of a barrier such as a six foot tall wood board fence along the west property line would create a traffic hazard along the corner of Smith and Casserly and may hinder the ability to use the corner of the subject parcel as agricultural land; therefore an additional agricultural buffer will not be required for this structure.**

4. The imposition of a two hundred (200) foot agricultural buffer setback would preclude building on a parcel of record as of the effective date of this chapter, in which case a lesser buffer setback distance may be permitted, provided that the maximum possible

**EXHIBIT B**

setback distance is required, coupled with a requirement for a physical barrier (e.g. solid fencing and/or vegetative screening) to provide the maximum buffering possible, consistent with the objective of permitting building on a parcel of record.

**Required Finding for Agricultural Buffer Setback Reduction on Commercial Agriculture  
(CA) Zoned Land  
County Code Section 16.50.095(e)**

In the event that an agricultural buffer setback reduction is proposed and the proposed non-agricultural development is located on Type 1, Type 2, or Type 3 commercial agricultural land, the non-agricultural development shall be sited so as to minimize possible conflicts between the agricultural use on the subject parcel; and the non-agricultural development shall be located so as to remove as little land as possible from production or potential production.

**This finding can be made in that an area of approximately 1.6 acres on the west side of the parcel is currently planted with fruit trees and the proposed residence is to be located on the east side of the parcel, which minimizes possible conflicts between current agricultural uses on the property and the new nonagricultural development. In addition, the amount of land proposed to be taken out of potential agricultural production by the location of the new house is approximately 12,000 square feet or approximately 28 percent of an acre or approximately 1/16 of the parcel size. The proposed single family residence has been sited close to the north property line on the east side of the parcel which allows the vast majority of the parcel, (approximately 3 acres on the east and west sides of the parcel) to be available for agricultural production. According to information supplied by the Agriculture Commissioner's office, 3 acres is enough land to sustain an economically viable agricultural operation; therefore, the proposed single family residence has been located so as to remove as little land as possible from production or potential production.**

## Conditions of Approval

- I. This permit authorizes an Agricultural Buffer Setback reduction from 200 feet to 118 feet from the proposed residential use to APN (109-281-17). This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit, including, without limitation, any construction or site disturbance, the applicant/owner shall:
  - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
  - B. Obtain a Building Permit and Grading Permit from the Santa Cruz County Building Official.
    1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
  - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. Any changes from the approved Exhibit "A" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
    1. A development setback of a minimum of 118 feet from the single-family dwelling to the adjacent Commercial Agriculture zoned parcel APN 109-281-17.
    2. Final plans shall show the location of a six foot tall, solid wood board, good neighbor fence and a vegetative buffering barrier which shall be composed of drought tolerant shrubbery along the east property line. The shrubs utilized shall attain a minimum height of six feet upon maturity. Species type, plant sizes and spacing shall be indicated on the final plans for review and approval by Planning Department staff. The fencing shall not have fence posts, lattice, caps, or other decorative ornaments as these features are included in the fence height. The fence must be solid wood board for the entire six feet.
  - B. The owner shall record a Statement of Acknowledgement, as prepared by the Planning Department, and submit proof of recordation to the Planning Department. The statement of Acknowledgement acknowledges the adjacent agricultural land use and the agricultural buffer setbacks.

- C. Obtain approval from Environmental Health Services for the two residences to be connected to the existing well and septic system approval.

III. All construction shall be performed according to the approved plans for the building permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. The agricultural buffer setbacks shall be met as verified by the County Building Inspector.
- B. The required vegetative barrier and fencing shall be installed. The applicant/owner shall contact the Planning Department's Agricultural Planner a minimum of three working days in advance to schedule an inspection to verify that the required barriers have been completed.
- C. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official and/or the County Senior Civil Engineer.

IV. Operational Conditions

- A. The vegetative barrier and fencing shall be permanently maintained.
- B. All required Agricultural Buffer Setbacks shall be maintained.
- C. In the event that future County inspections of the subject property disclose non-compliance with any Conditions of this Approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, up to and including permit revocation.

V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and
  2. COUNTY defends the action in good faith.
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

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Minor Variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

**Please note: This permit expires two years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.**

Approval Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

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Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of County Code Chapter 16.50, may appeal the act or determination to the Board of Supervisors in accordance with chapter 18.10 of the Santa Cruz County Code.