

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

Application Number: 171086

Applicant: Daryl Woods

Owner: Roy and Annie Folger

APN: 046-271-08

Date: 7/20/2017

Agenda Item #: 10

Time: 1:30 p.m.

Project Description: Proposal to convert an existing non-habitable accessory structure to a habitable accessory structure within 200 feet of Type 3 Agricultural Resource (approximately 175 feet to APN 046-271-36, 75 feet to APN 046-271-25, 70 feet to APN 046-271-07. 95 feet to APN 046-241-03, 72 feet to APN 046-241-33, 105 feet to APN 046-241-55, and 195 feet to APN 046-241-54). Requires an Agricultural Buffer Determination.

LOCATION: Property located at 150 Crest Drive in La Selva Beach.

Permits Required: Agricultural Buffer Determination

Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 171086, based on the attached findings and conditions.

Exhibits

C.

Α. CEQA Exemption D. Project plans

B. Findings Conditions E. Assessor's, Location, Zoning, and

General Plan maps

Parcel Information

Parcel Size:

4.8 acres

Existing Land Use - Parcel:

Single family dwelling and detached accessory structure

Existing Land Use - Surrounding:

Rural residential neighborhood, agriculture, state beach

Project Access:

Crest Drive

Planning Area: Land Use Designation: San Andreas A (Agriculture)

Zone District:

CA-O (Commercial Agriculture - Open Space Easement)

Coastal Zone:

X Inside Outside

Appealable to Calif. Coastal Comm. X Yes

No

Owner: Roy and Annie Folger

Services Information

Urban/Rural Services Line: ___ Inside __X Outside

Water Supply: San Andreas Mutual Water Company

Sewage Disposal: Septic

Fire District: Aptos/La Selva Fire Protection District

Drainage District: None

Project Setting

The subject property is located on the north side of Crest Drive, at 150 Crest Drive and is developed with an existing single family dwelling and a detached non-habitable accessory building. The project site is located within a rural residential and agricultural neighborhood with homes to the south and east. The Manresa State Beach campground is located to the west and vacant parcels are located to the north.

Open Space Easement

The subject property is under the limitations of an Open Space Easement. The Open Space Easement states that no new buildings or structures shall be allowed on the property with the exception of appurtenant accessory structures and fencing. The existing accessory structure is considered as an appurtenant accessory structures and is allowed per the terms of the existing Open Space Easement. Conversion of the structure to a habitable accessory structure is not precluded by the contract.

Analysis and Discussion

The applicant proposes to convert an existing second story non-habitable accessory structure to a habitable accessory structure, by installation of heating to create habitable rooms. This proposal includes heating two rooms of the existing accessory structure and installation of a toilet in the upper floor of the structure (no bathing facilities are proposed or authorized). The heated rooms will be considered as additional detached bedrooms for the primary residence. The total proposed square footage of the upper habitable floor is approximately 734 square feet, located over approximately 1,414 square feet non-habitable garage/storage/shop floor below.

This requires review and approval by the Agricultural Policy Advisory Commission to allow a reduction in the required 200 foot setback from surrounding parcels containing agricultural resource soil types, whether or not these surrounding parcels are used for commercial agricultural purposes.

The subject property is characterized by sloping topography from the southeast to southwest and generally sloping toward the Monterey bay. The parcel is located outside the Urban Services Line and can be characterized as a large pocket of residentially developed property in the commercial agriculture of San Andreas Planning area. The parcel is located within the Agriculture (AG) General Plan designation and the implementing zone district is (CA-O) Commercial Agriculture-Open Space. Commercial Agriculture zoned land is situated within 200 feet of the subject property. The existing building site is within 200 feet of Commercial Agricultural land to the northeast and southeast. The applicant is requesting a reduction in the 200 foot agricultural buffer setback to approximately 175 feet to APN 046-271-36, 75 feet to

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APN 046-271-25, 70 feet to APN 046-271-07, 95 feet to APN 046-241-03, 72 feet to APN 046-241-33,105 feet to APN 046-241-55, and 195 feet to APN 046-241-54.

A reduced agricultural buffer is recommended on the northeast due to the fact that there is an over 200 foot setback between the subject property and nearest agriculturally developed parcel to the northeast. The intervening properties to the northeast are too small to be farmed and contain residential uses. Thus, no additional vegetation or fencing is necessary along the northeast property line. Notwithstanding, substantial existing vegetation is located on the northeast side of the property.

A reduced agricultural buffer is recommended on the southeast in that these properties also contain a pocket of residential uses and are otherwise too small to be farmed or are not farmed. Nonetheless, substantial evergreen vegetation exists that screens the property to the southeast and topographic changes result in a lower elevation than properties to the southeast. No fencing is recommended along the southeast property line given existing surrounding residential uses and substantial vegetation.

The applicant will also be required to record a Statement of Acknowledgement regarding the issuance of a building permit in an area determined by the County of Santa Cruz to be subject to Agricultural-Residential use conflicts.

Recommendation

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act pursuant to Exhibit A.
- Staff recommends that your Commission **APPROVE** the Agricultural Buffer Reduction from the adjacent CA zoned property proposed under Application # 171086, based on the attached findings and recommended conditions.

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

Report Prepared By: Sheila McDaniel

Santa Cruz County Planning Department

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Report Reviewed By: Steven Guiney, AICP

Principal Planner Development Review

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 171086
Assessor Parcel Number: 046-271-08 Project Location: 150 Crest Drive, Watsonville, CA 95076
Project Description: Proposal to convert an existing non-habitable accessory structure to a habitable accessory structure within 200 feet of Type 3 Agricultural Resource (approximately 175 feet to APN 046-271-36, 75 feet to APN 046-271-25, 70 feet to APN 046-271-07, 95 feet to APN 046-241-03, 72 feet to APN 046-241-33, 105 feet to APN 046-241-55, and 195 feet to APN 046-241-54). Requires an Agricultural Buffer Determination.
Person or Agency Proposing Project: Daryl Woods
Contact Phone Number: (831) 234-9853
 A The proposed activity is not a project under CEQA Guidelines Section 15378. B The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c). C Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment. D Statutory Exemption other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).
E. X Categorical Exemption
Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)
F. Reasons why the project is exempt:
Conversion of existing non-habitable structure to habitible structure.
In addition, none of the conditions described in Section 15300.2 apply to this project.
Date:
Sheila McDaniel, Project Planner

Owner: Roy and Annie Folger

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

There is an over 200 foot setback between the subject property and nearest agriculturally developed parcel to the northeast. The intervening properties to the northeast are too small to be farmed and contain residential uses. Thus, no vegetation or fencing is necessary along the northeast property line. Nonetheless, substantial existing vegetation is located on the northeast side of the property.

Properties to the southeast also contain a pocket of residential uses and are otherwise too small to be farmed or are not farmed. Nonetheless, substantial evergreen vegetation exists that also screens the properties to the southeast. No fencing is recommended along the southeast property line given surrounding residential uses and substantial vegetation.

- 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
- 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 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.

The subject property is approximately 4.8 acres in size and situated in an area of smaller, non-commercially viable agriculturally zoned parcels and/or development with single family residences. The imposition of a 200 foot setback would preclude building on this parcel of record as properties on all sides have agricultural resource type land. The proposed setbacks for the proposed structure comply with the site standards established for residential zoned parcels based on site size in accordance to 13.10.323. No conflicts would occur between the proposed residential use and surrounding properties and existing landscape provides a sufficient vegetative buffer. No fencing is recommended given the vegetative buffer, residential uses adjacent to the site, and distant agriculturally developed property.

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

1. 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.

The subject property is located on Type 3 commercial agricultural resource type land and contains residential development, including the habitable accessory structure proposed to be converted to habitable space, and does not contain an existing commercial agricultural use. Thus, the proposed conversion of a non-habitable accessory structure to a habitable accessory structure would not result in conversion of any ground area to non-agricultural uses on the property and would minimize conflicts with potential future agricultural production on site.

Required Findings for Development on Land Zoned Commercial Agriculture or Agricultural Preserve County Code Section 13.10.314(A)

1. The establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

The subject property is not currently in agricultural production; and,

The proposed residential development would not reduce, restrict or adversely affect agricultural resources on the subject property because the property already contains the structure proposed to be converted to habitable space. Furthermore, the closest agriculturally developed parcels are over 200 feet from the subject property and properties in the vicinity are developed with residential uses and are not farmed.

- 2. The use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or no other agricultural use of the parcel is feasible for the parcel; or the use consists of an interim public use which does not impair long-term agricultural viability, or consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of Section 13.10.635; or
- 3. Single family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.

The applicant proposes to convert an existing non-habitable structure to habitable space on a property that does not contain an existing commercial agricultural use on site. Therefore, no

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conflicts exist. In addition, the proposed residential use would not conflict with commercial agriculture activities in the area because the nearest commercial agricultural use is a minimum of 200 feet from the subject property.

4. The use will be sited to remove no land from production (or potential production) if any non-farmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

The subject property is located on Type 3 commercial agricultural resource type land. The applicant proposes to convert an existing non-habitable structure to habitable space on a property that does not contain an existing commercial agricultural use on site. As a result, the proposed project would not remove any land from production or potential production.

Required Findings for Residential Development on Land Zoned Commercial Agriculture or Agricultural Preserve In The Coastal Zone County Code Section 13.10.314(B)

- 1. The parcel is less than one acre in size; or the parcel has physical constraints (such as adverse topographic, geologic, hydrologic, or vegetative conditions) other than size which preclude commercial agricultural use; or that the residential use will be ancillary to commercial agricultural use of the parcel based upon the fact that either:
 - (i) The farmable portion of the parcel, exclusive of the building site, is large enough in itself to constitute a minimum economic farm unit for three crops, other than greenhouses, suited to the soils, topography, and climate of the area; or
 - (ii) The owners of the subject parcel have a long-term binding arrangement for commercial agricultural use of the remainder of the parcel, such as an agricultural easement.

The parcel has pre-existing structural development on the site that precludes development of this portion of the property as agricultural use of this portion of the property.

2. The residential use will meet all the requirements of section 16.50.095 pertaining to agricultural buffer setbacks.

County Code 16.50.095 requires a minimum 200 foot buffer between residential uses and agriculture resource type land. The proposed development is too small to meet the required setbacks. However, the proposed project includes a request for an agricultural buffer reduction by the Agricultural Policy Advisory Commission and is subject to conditions of approval, including a declaration of agricultural acknowledgment. The property is located within a pocket of residentially developed commercial agriculture zoned parcels and no agricultural production occurs in this area. The proposed residential use does not conflict with agricultural production in the area in that the nearest agricultural use is a minimum of 200 feet from the subject property.

3. The owners of the subject parcel have executed binding hold-harmless covenants with the

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owners and agricultural operators of adjacent agricultural parcels. Such covenants shall run with the land and shall be recorded prior to the issuance of the permit for the proposed development.

The project is conditioned to require recordation of a declaration of acknowledgement prior to issuance of a building permit.

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Exhibit D: Project Plans

Conditions of Approval

- I. This permit authorizes conversion of an existing non-habitable accessory structure to a habitable accessory structure within 200 feet of Type 3 Agricultural Resource (approximately 175 feet to APN 046-271-36, 75 feet to APN 046-271-25, 70 feet to APN 046-271-07, 95 feet to APN 046-241-03, 72 feet to APN 046-241-33, 105 feet to APN 046-241-55, and 195 feet to APN 046-241-54). 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 "D" on file with the Planning Department. Any changes from the approved Exhibit "D" 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 copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 - 2. A development setback of a minimum of approximately 175 feet to APN 046-271-36, 75 feet to APN 046-271-25, 70 feet to APN 046-271-07, 95 feet to APN 046-241-03, 72 feet to APN 046-241-33,105 feet to APN 046-241-55, and 195 feet to APN 046-241-54) from the habitable accessory structure shall be provided.

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- 3. Final plans shall show the location of the vegetative buffering barrier (and any fences/walls used for the purpose of buffering adjacent agricultural land) which shall be composed of drought tolerant shrubbery. 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.
- 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.
- 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 and/or physical barrier 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 barrier (vegetative and/or other) has 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 and physical barrier 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, it 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.

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- 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. <u>Settlement</u>. 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. <u>Successors Bound</u>. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

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.

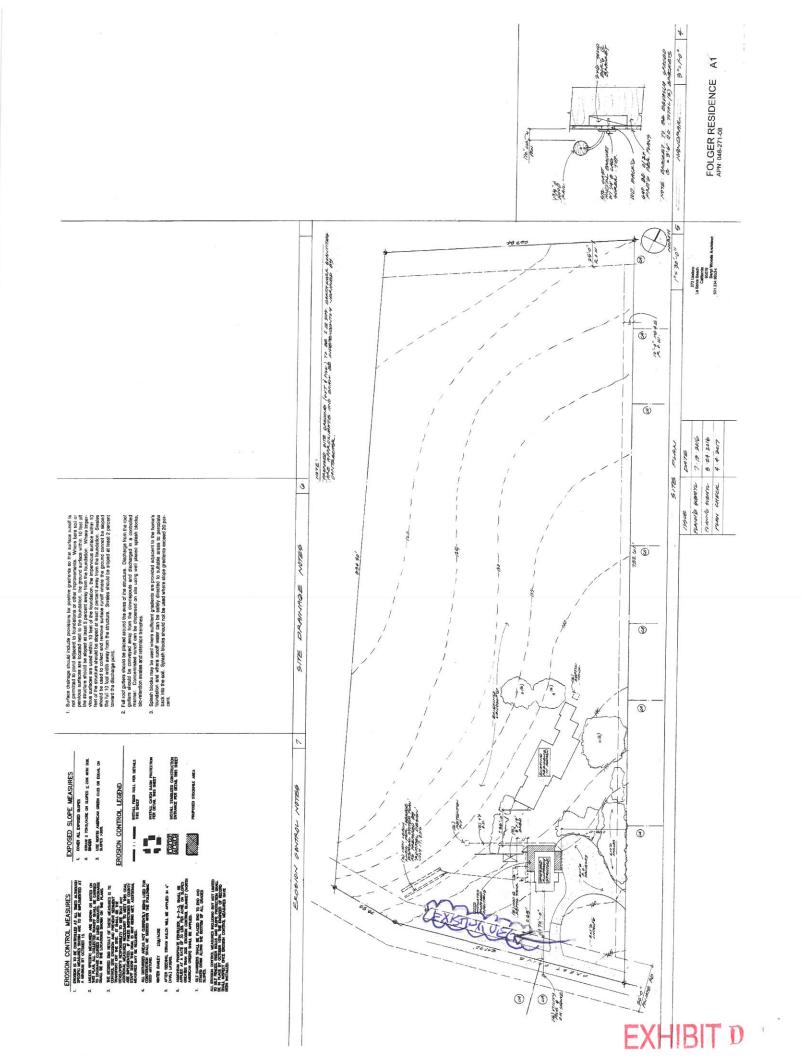
Please note: This permit expires three years from the effective date listed below or if additional discretionary permits are required for the above permitted project, this permit shall expire on the same date as any subsequent approved discretionary permit(s) unless a building permit (or permits) is 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.

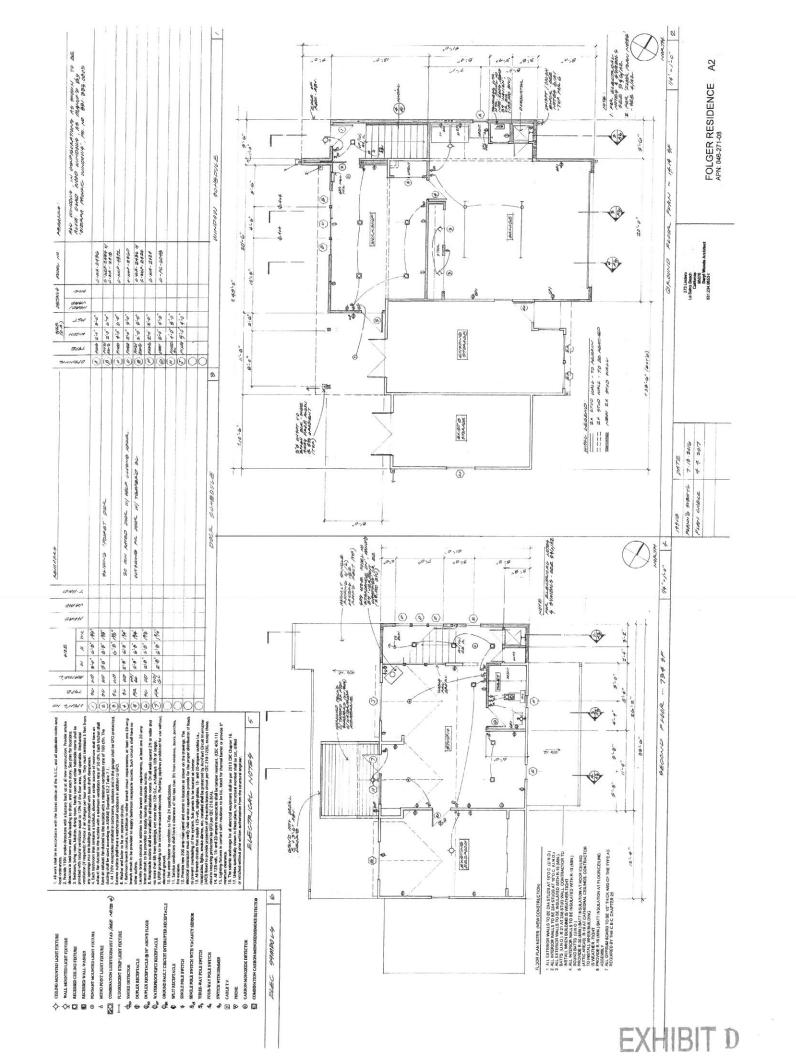
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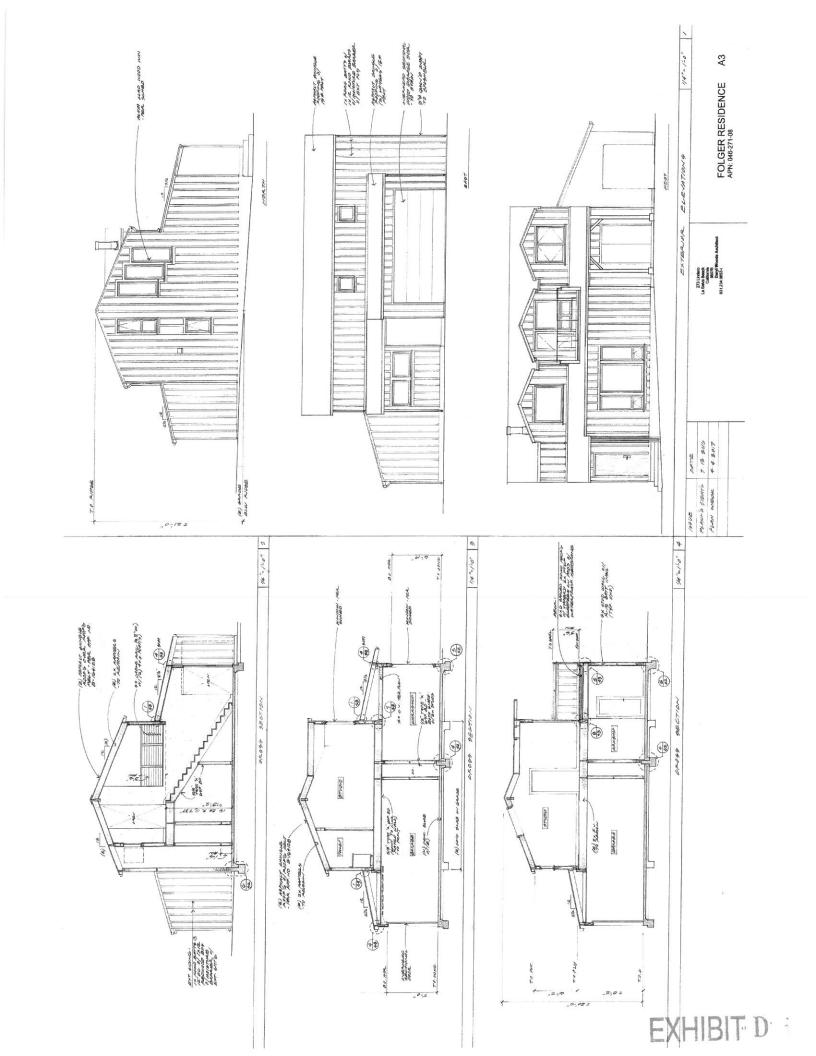
Owner: Roy and Annie Folger

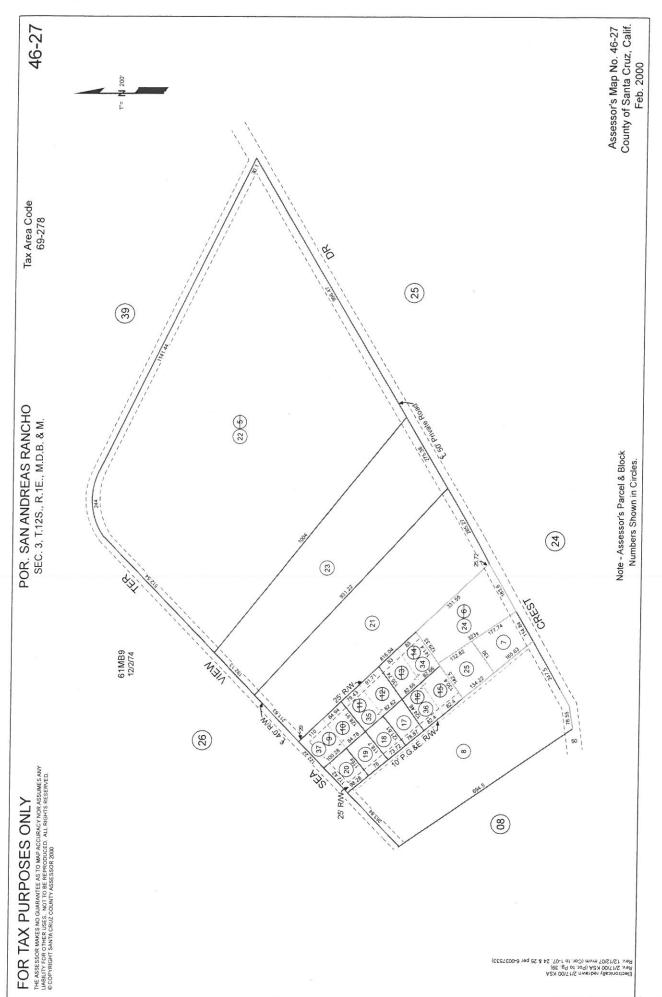
Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of County Code Chapter 16.50, may appeal the act or determination to the Board of Supervisors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

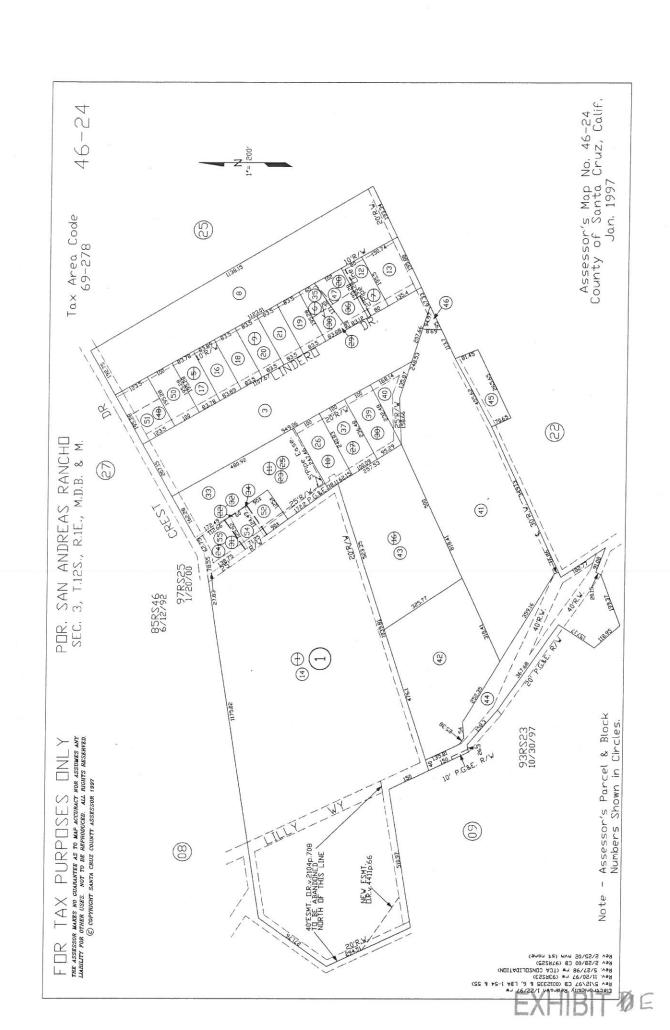
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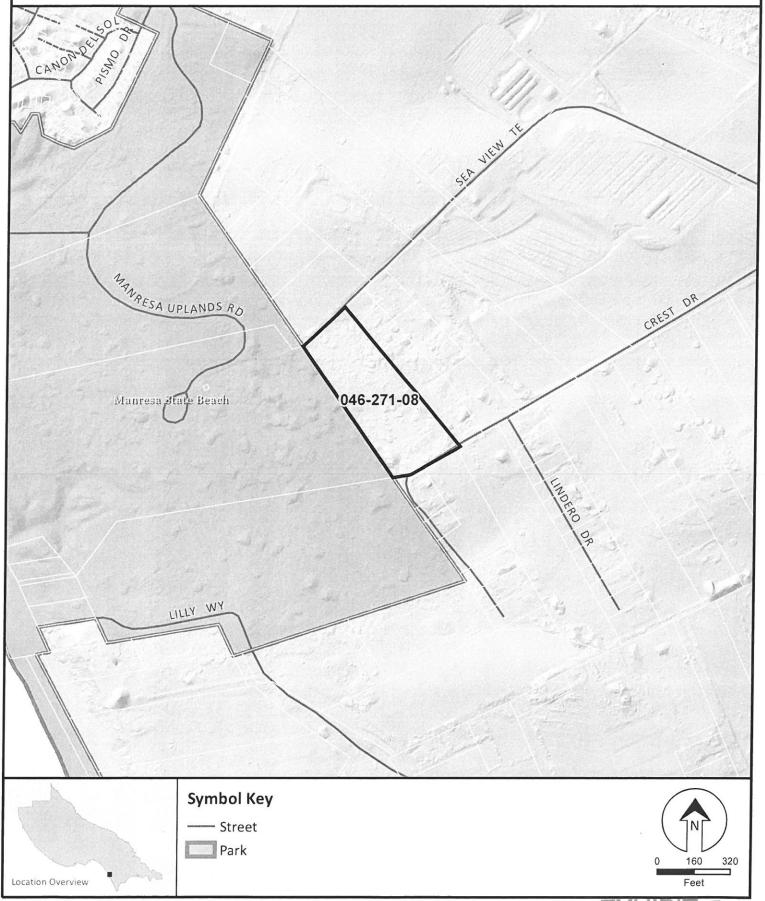


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Parcel Location Map

Santa Cruz County Planning Department

Parcel Number **046-271-08** Jul. 7, 2017

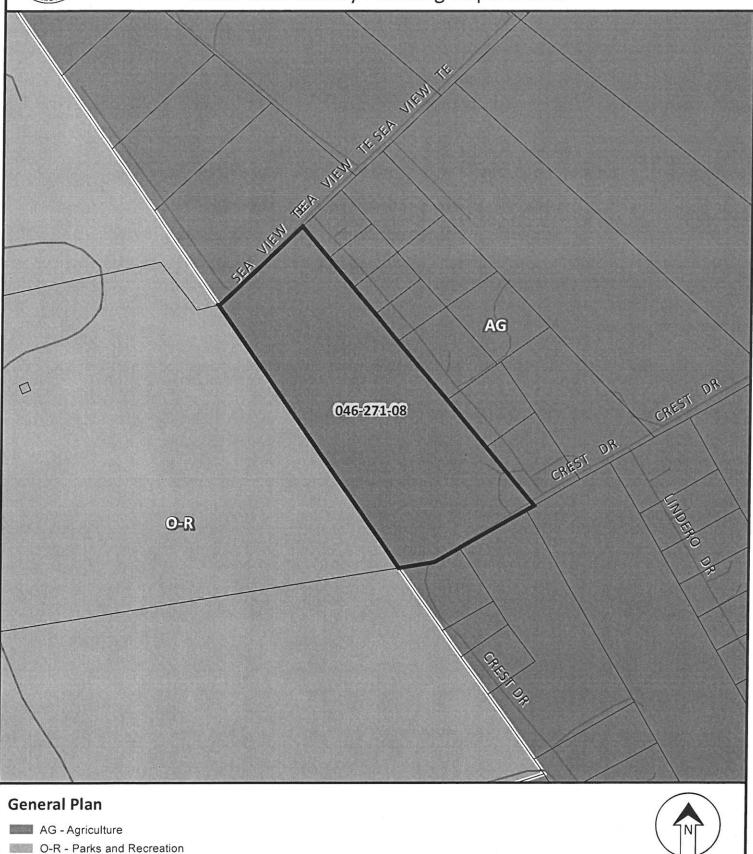


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Parcel General Plan Map

Santa Cruz County Planning Department

Parcel Number 046-271-08 Jul. 7, 2017

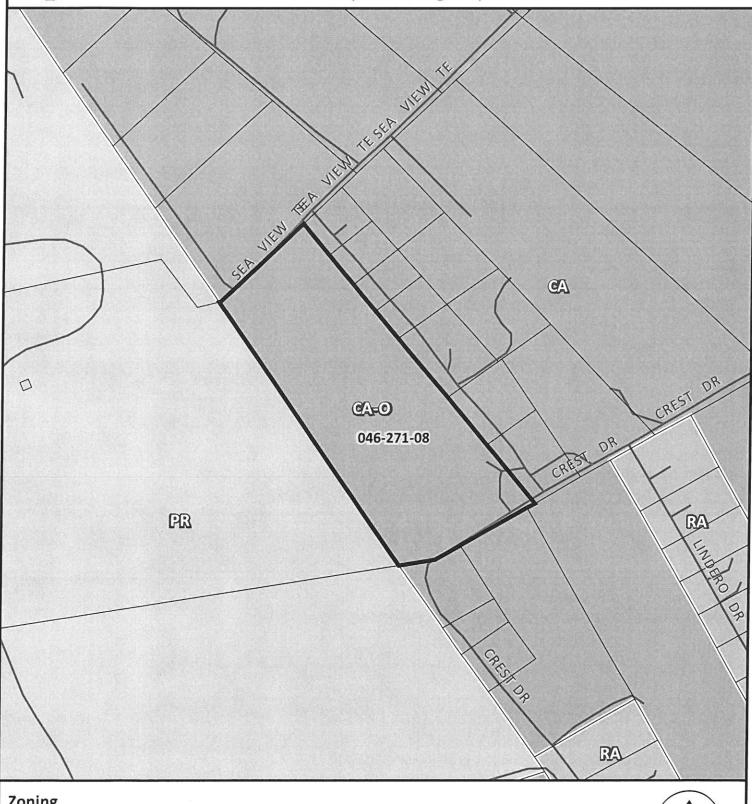




Parcel Zoning Map

Santa Cruz County Planning Department

Parcel Number 046-271-08 Jul. 7, 2017



Zoning

(CA) Commercial Agriculture

(PR) Parks, Recreation, and Open Space

(RA) Residential Agricultural



