

Department of
Conservation &
Development

Community Development Division

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Catherine O. Kutsuris
Director

Aruna Bhat
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Community Development Division

August 18, 2010

Mike and Lori Farr
18311 Bollinger Canyon Road
San Ramon, CA 94583

Dear Mr. & Ms. Farr:

Re: **Response to Inquiry on Compliance of
Existing Agricultural Storage Buildings (Altered Cargo Containers)
18311 Bollinger Canyon Road, San Ramon area
APN 199-030-059**

CD File #CDPC10-00012

This is in response to your inquiry of August 3, 2010, inquiring as to the compliance status of several existing buildings that you have installed at the above captioned property. The buildings consist of cargo containers that have been altered to appear like small cabins with faux pitched roof and exterior siding materials. You indicated that these improvements were made without obtaining building permits and that you plan use them to store agricultural products, equipment and material.

Violation of (A-4) Zoning District Requirements

The property is zoned Agricultural Preserve, A-4. See attached zoning map. This zoning district identifies uses that are permitted by right and uses that are permitted after the granting of a land use permit. See attached copy of district regulations. The district also identifies the minimum yard (structure setback) requirements for development.

The storage of agricultural products and equipment is one of the uses in this district that is permitted after the granting of a land use permit. We can find no record that a land use permit application was filed or granted for these buildings.

With regards to compliance with the yard requirements for this district, the buildings have been placed adjacent to an on-site private road easement which defines the adjacent eastern property line as a frontage for the parcel and the intervening yard as a front yard. The A-4 district requires a minimum front yard from the front property line of 50 feet, whereas the buildings have been placed as close as 35 feet to this property line.

Therefore, the buildings constitute violations of (1) the permitted uses and (2) the front yard that is required by the A-4 zoning district.

You may correct these zoning violations by filing and obtaining approval of an application for a land use permit/variance permit, and complying with its terms. Enclosed is an application form for this purpose. This application will require a noticed public hearing before it can be approved.

Alternative Method to Effect Compliance with Zoning Code

When we met, you asked if you could correct any violations by a rezoning of the property.

As you are aware, the A-4 zoning is a programmatic zoning that the County uses as part of its Agricultural Preserve (Williamson Act/Land Conservation Act) program when the property owners enter into a Land Conservation Contract with the County. Reflecting the land use restrictions in the Williamson Act program, the A-4 zoning is more restrictive than other agricultural zoning districts in the Zoning Code. In your case, the Land Conservation Contract that had applied to the subject property and two adjoining parcels (APN 199-030-060 & -061) expired several years ago. Accordingly, there is no longer a programmatic mandate to maintain the more restrictive A-4 zoning on these properties. Accordingly, you would have the right to apply to another zoning district that is consistent with the General Plan.

The General Plan designates your property Agricultural Lands. There are several agricultural zoning districts that are consistent with this designation including the General Agricultural, A-2 district (attached). The A-2 district allows as a permitted use the erection and maintenance of buildings for the storage of agricultural products and equipment. It also requires a minimum front yard of 25 feet.

You would have the right to apply to rezone your property from the A-4 district to the A-2 district. Such an application would be initially heard by the Planning Commission and subsequently by the Board of Supervisors. If granted, the existing buildings would comply without the need to obtain either a land use permit or a variance permit. Enclosed is a rezoning application form.

Surcharge for Late Filing

Both applications are subject to a fee covering staff time and material costs with an initial fee deposit. See attached fee schedule.

Further, County Ordinance Code section 26-2.2806 provides that whenever the County determines that a person has begun an illegal land use without first applying for and obtaining all required permits or entitlements, that person shall apply as soon as practicable and pay a 50% surcharge of the normal fee. Consequently, a surcharge would be required for either a land use permit application or a rezoning application.

Violations of Building Ordinance

As you will recall, we met with Judi Kallerman of the Building Inspection Division. Notwithstanding that the buildings will not be attached to the ground, following actions to establish compliance with the zoning code, Ms. Kallerman indicated the buildings will require building permits to comply with the building ordinance.

Should you have any questions, please call me at (925) 335-1214.

Sincerely,


ROBERT H. DRAKE
Principal Planner

Att. Assessor's map
 Zoning Map
 Application Forms for
 Land Use Permit to Allow Building to Store Ag products/equip.
 within existing A-4 zoning
 Rezoning from A-4 district to A-2 district
 Fee Schedule

Cc: Application & Permit Center
 Judi Kallerman
 Keith Denison
 Bill Mayne, Property Conservation Section
 File