



**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

**Tentative Notice of Action**

*Promoting the wise use of land  
Helping build great communities*

|   |  |  |                                    |
|---|--|--|------------------------------------|
| <b>MEETING DATE</b><br><b>June 20, 2014</b><br><b>EFFECTIVE DATE</b><br><b>July 7, 2014</b>   | <b>CONTACT/PHONE</b><br>Stephanie Fuhs (805)781-5721<br>sfuhs@co.slo.ca.us | <b>APPLICANT</b><br>James Forage             | <b>FILE NO.</b><br>DRC2013-00063   |
| <b>SUBJECT</b><br>Hearing to consider a request by James Forage for a Minor Use Permit to allow an exception to the design standards for a secondary dwelling to be located more than the maximum distance requirement of 250 feet from the primary dwelling and site disturbance of over an acre. The secondary dwelling will be located approximately 1,000 feet from the primary residence. <b>The request also involves locating the existing caretakers residence further than 250 feet from the primary residence.</b> The caretaker unit will be located approximately 600 feet from the primary residence. The project will result in the disturbance of 1.23 acres of an approximately 209 acre parcel. The proposed project is within the Residential Rural and Rural Lands land use categories and is located at 3355 See Canyon Road, approximately four miles south west of The City of San Luis Obispo. The site is in the San Luis Obispo planning area. |  |  |                                    |
| <b>RECOMMENDED ACTION</b><br>Approve Minor Use Permit DRC2013-00063 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.   |  |  |                                    |
| <b>ENVIRONMENTAL DETERMINATION</b><br>This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].  |  |  |                                    |
| <b>LAND USE CATEGORY</b><br>Rural Lands/ Residential<br>Rural   | <b>COMBINING DESIGNATION</b><br>Flood Hazard/ Geologic Study Area          | <b>ASSESSOR PARCEL NUMBER</b><br>076-103-021 | <b>SUPERVISOR DISTRICT(S)</b><br>3 |
| <b>PLANNING AREA STANDARDS:</b><br>None applicable<br><i>Does the project meet applicable Planning Area Standards: Not applicable</i>   |  |  |                                    |
| <b>LAND USE ORDINANCE STANDARDS:</b><br>22.10.060 – Lighting, 22.10.090 – Height Limitations, 22.10.130 – Residential Density, 22.10.140 – Setbacks, 22.30.430 – Caretakers Unit, 22.30.470 – Secondary Dwellings<br><i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>  |  |  |                                    |
| <b>FINAL ACTION</b><br>This tentative decision will become final action on the project, effective on the 15 <sup>th</sup> day following the administrative hearing, or on July 7, 2014, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.  |  |  |                                    |
| <b>EXISTING USES:</b><br>Four single family residences, numerous accessory structures   |  |  |                                    |
| <b>SURROUNDING LAND USE CATEGORIES AND USES:</b><br><i>North: Agriculture/Grazing, undeveloped</i><br><i>East: Residential Rural/Scattered residences, agricultural uses</i><br><i>South: Rural Lands/Undeveloped</i><br><i>West: Residential Rural and Rural Lands/Scattered residences and agricultural uses</i>  |  |  |                                    |
| ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT:<br>COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242  |  |  |                                    |

|   |   |
|---|---|
| OTHER AGENCY / ADVISORY GROUP INVOLVEMENT:<br>The project was referred to: Public Works, CalFire                          |   |
| TOPOGRAPHY:<br>Gently to steeply sloping  | VEGETATION:<br>Grasses, forbs, shrubs, oaks, orchards |
| PROPOSED SERVICES:<br>Water supply: On-site well<br>Sewage Disposal: Individual septic system<br>Fire Protection: CalFire | ACCEPTANCE DATE:<br>May 14, 2014                      |

**DISCUSSION**

**PROJECT DESCRIPTION**

The applicant is proposing to construct a 13,703 square foot single family residence with 12,694 square foot unconditioned basement and 1,714 square foot attached garage to be located approximately 1,000 feet from an existing 1,160 square foot residence. The smaller residence will become the secondary dwelling on the property.

Land Use Ordinance standards require that a secondary residence be located within 250 feet of the primary residence on parcels over two acres in size. This standard can be waived through the approval of a Minor Use Permit.

Land Use Ordinance standards also require that a caretaker residence be located within 250 feet of the primary residence within the Residential Rural land use category. This standard can be modified through Minor Use Permit approval.

The Minor Use Permit is also requesting site disturbance over one acre for access improvements and structural development. The total area of disturbance is 1.23 acres with 2,000 cubic yards of cut and 2,500 cubic yards of fill.

The project site contains numerous dwellings and structures. The applicant has requested that a 2-year bond be posted prior to issuance of construction permits for the 13,000 square foot residence for the conversion of the dwellings and structures on the property to bring them into compliance with ordinance and building code standards. Conversion of the structures would occur prior to occupancy of the new residence.

Staff does not support the applicant's request to post a bond for the conversion of the existing structures on the site. There is currently an open code enforcement case (COD2012-00194) for expired permits (PMT2008-00083, PMT2008-00086, PMT2008-00934). This case will need to be resolved prior to issuance of construction permits for the currently proposed uses. A condition has been added accordingly. In addition to the code enforcement case, structures that were built without permits or that need to be converted to other uses will need to be brought into compliance prior to issuance of construction permits for the primary residence because staff cannot issue new permits where code violations exist.

The following table shows the permit history for the parcel:

| Permit Number        | Permit Type              | Status    |
|----------------------|--------------------------|-----------|
| <b>PMT2008-00079</b> | Demo existing MH         | Expired   |
| <b>PMT2008-00082</b> | Demo existing MH (63014) | Expired * |

|                      |  |              |
|----------------------|--|--------------|
| <b>PMT2008-00083</b> | Replacement MH                               | Expired      |
| <b>PMT2008-00084</b> | Garage for MH                                | Expired      |
| <b>PMT2008-00085</b> | Convert living space to storage (535 sq.ft.) | Expired *    |
| <b>PMT2008-00086</b> | Greenhouse                                   | Expired *    |
| <b>PMT2008-00087</b> | Greenhouse                                   | Withdrawn    |
| <b>PMT2008-00088</b> | Convert portion of SFD (584) to garage       | Expired *    |
| <b>PMT2008-00089</b> | Convert SFD to workshop                      | Expired *    |
| <b>PMT2008-00934</b> | Temporary Power                              | Expired *    |
| <b>PMT2008-01220</b> | Addition to SFD (10,445 sq.ft.)              | Expired      |
| <b>PMT2008-01449</b> | Firesprinklers for addition                  | Expired      |
| <b>PMT2013-00934</b> | 13,703 sq.ft. SFD                            | Under review |

The following table shows the structures on the property and their status:

| Type of Structure  | Status                                  | Permits required  |
|--|---|---|
| <b>Pole Barn</b>   | No permits found                        | Yes   |
| <b>900 square foot Residence (proposed caretaker unit)</b>       | Assessed in 1948                        | No  |
| <b>1,744 square foot residence (proposed secondary dwelling)</b> | Built in 1961                           | Yes, to convert family room (584 sq.ft.) to garage to meet secondary dwelling size standard |
| <b>400 square foot rental</b>                                    | No permits found                        | Yes, convert to storage or remove   |
| <b>850 square foot residence</b>                                 | Permit 32367 for multi-use ag. building | Yes, to convert to other use or remove  |
| <b>Mobile Home</b>   | Removed                                 | Yes, permit needs to be finalized (PMT2008-00082)   |
| <b>2 Barns</b>   | No permits found                        | Yes   |

LAND USE ORDINANCE STANDARDS

**22.14.060 – Flood Hazard Area** – Portions of the site are within the Flood Hazard combining designation (see the attached map showing the area subject to these standards). The proposed

primary residence is located in a clearing outside the designated flood hazard area, so it is not subject to these standards; however several of the structures that will need permitting/conversion are located within the flood hazard designation and may be subject to these standards.

**22.14.070 – Geologic Study Area** – A portion of the northeastern corner of the site is located within the Geologic Study Area (see the attached map for the mapped area). The area proposed for development is outside of this area and is not subject to these standards.

**22.10.060 – Exterior Lighting** - Standards include: minimizing light intensity, directing lighting onto the lot, and shielding of fixtures. Conditions have been added to the project to comply with these standards.

**22.10.090 – Height Limitations** – The maximum allowed height is 35 feet. As proposed, the residence will be 18 feet which complies with this standard.

**22.10.130 – Residential Density** – The portion of the parcel that is being developed is within the Residential Rural land use category which allows one primary dwelling of any size and one secondary dwelling up to 1,200 square feet. A caretakers unit can be allowed on a parcel to provide housing for an employee of the commercial operation occurring on the property. In this case, there are existing orchards and grazing lands on the site, so the applicant is requesting that the existing 900 square foot residence remain as a caretaker unit.

**22.10.140 – Setbacks** – Setbacks required are 25 feet from the front property line, 30 feet from the side and rear property lines. The proposed residence is located toward the center of the 209 acre parcel, so the project complies with these standards.

**22.30.430 – Residential Caretakers Unit** – One permanent accessory dwelling is permitted for purposes of housing a caretaker employed on the site of any allowable agricultural, commercial, institutional or industrial use in all categories except Residential Single Family, and Residential Multiple Family. Within the Residential Rural land use category, the caretaker unit is to be located within 250 feet of the primary residence unless a Minor Use Permit is approved allowing an adjustment of the standards. The applicant has requested that the existing 900 square foot residence located closest to See Canyon Road remain as a caretaker residence for the agricultural uses on the property including maintenance of the existing approximately six acres of orchards and approximately 60 acres of grazing lands. A condition has been added to the project for recordation of an agreement to ensure the structure remains a caretaker unit and is not converted to another residential use.

**22.30.470 – Secondary Dwellings** - This section of the Land Use Ordinance states that on sites that are over two acres, the maximum square footage of the secondary dwelling is 1,200 square feet and that the secondary unit be located within 250 feet of the primary residence. This section also allows the Review Authority to approve exceptions to design standards to allow a secondary dwelling to be located farther than 250 feet from the primary residence if there are site constraints that would preclude locating the second unit within the 250 feet.

*Neighborhood Compatibility:* The area is zoned Residential Rural, Agriculture and Rural Lands and consists of smaller residentially zoned parcels along See Canyon Road with larger parcels on the west side of the road and the steeper hillsides to the east. There is a large mix of housing types and uses along this road from single family residences to commercial orchards.

*Distance Waiver Request:* The project site is 209 acres. The project proposes an approximately 1,000-foot separation between the primary and secondary dwelling and a 600 foot separation between the caretaker unit and primary residence. Within 250 feet of the existing primary residence, there are steep slopes with oak trees, orchards, a creek and existing structural development. Because the caretaker unit is existing and locating the proposed primary dwelling within 250 of the unit would place the structure in an area with steep slopes, oak woodland and a creek staff is recommending approval of the distance modification. Findings for the modification of this standard have been added. Placing the secondary dwelling within the 250-foot distance requirement would require removal of the orchard or necessitate significant grading and removal of several oak trees and/or existing structures. In addition, the placement of the secondary dwelling is further back from See Canyon Road and will not be visible from public roads. For these reasons, staff is in support of the distance waiver request.

#### STAFF COMMENTS

Site disturbance of over an acre requires a Minor Use Permit be processed in order to review the site for potential impacts and ensure that proper drainage and sedimentation controls are in place to avoid potentially significant impacts to the surrounding area. As stated above, the grading plan shows 1.23 acres of site disturbance with 2,000 cubic yards of cut and 2,500 cubic yards of fill. Most of the site disturbance will be located in a clearing where the proposed 13,000 square foot residence will be located, with the remainder for access improvements from an existing DG driveway. No tree removal will occur with the proposal. Due to the amount of disturbance, a Stormwater Pollution Prevention Plan (SWPPP) will be required prior to issuance of permits for the primary residence.

#### AGENCY REVIEW:

Public Works – Responded with “no concerns”

CalFire – Supportive of waiver request (see attached fire safety letter)

#### LEGAL LOT STATUS:

The one lot was legally created by a recorded map at a time when that was a legal method of creating lots.

**EXHIBIT A – FINDINGS**  
**Forage Minor Use Permit DRC2013-00063**

*Environmental Determination*

- A. This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA.  
[Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption]

*Minor Use Permit*

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because the use is an allowed use and as conditioned is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project or use satisfies all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the primary dwelling located over 250 feet from the secondary dwelling does not generate activity that presents a potential threat to the surrounding property and buildings. This project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because primary dwelling located over 250 feet from the secondary residence on a 209 acre parcel is similar to, and will not conflict with, the surrounding lands and uses.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because the project is located on See Canyon Road, a collector road constructed to a level able to handle any additional traffic associated with the project.

*Secondary Dwelling/Caretaker Distance Modification*

- G. Modification of the distance standard to allow the primary dwelling to be located approximately 1,000 feet from the secondary dwelling is justified because there are specific conditions of the site that make the standard unnecessary. Modification of the distance standard to allow the primary residence to be located approximately 600 feet from the existing caretaker unit is justified because there are specific conditions of the site that make the standards unnecessary. The existing conditions on the property consist of steep slopes with oak trees, orchards, a creek and existing structural development within 250 feet of the existing residence making the construction of a secondary dwelling in this area unworkable and would impact several features on the property. Placing the secondary dwelling and caretaker within the 250-foot distance requirement would require removal of the orchard or necessitate significant grading and removal of several oak trees and/or existing structures and could result in development within an existing creek. In addition, the placement of the secondary dwelling is further back from See Canyon Road and will not be visible from public roads.

**EXHIBIT B - CONDITIONS OF APPROVAL**  
***Forage Minor Use Permit DRC2013-00063***

**Approved Development**

1. This approval authorizes
  - a. an exception to the design standards modifying the maximum distance requirement for a secondary dwelling and caretakers unit to be located more than the maximum distance of 250 feet from the primary dwelling and site disturbance of over an acre. The secondary dwelling will be located approximately 1,000 feet from the primary residence and the caretakers unit will be located approximately 600 feet from the primary residence. The project will result in the disturbance of 1.23 acres of an approximately 209 acre parcel.
  - b. maximum height is 35 feet from average natural grade (plans show 18 feet).

**Conditions required to be completed at the time of application for construction permits for the primary dwelling:**

***Site Development***

2. **At the time of application for construction permits** plans submitted shall show all development consistent with the approved site plan, floor plan, architectural elevations and landscape plan.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

***Fire Safety***

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to those outlined in the Fire Safety Plan, prepared by CalFire for this proposed project and dated February 8, 2014.

***Services***

5. **At the time of application for construction permits**, the applicant shall submit evidence that there is adequate water to serve the proposal, on the site.
6. **At the time of application for construction permits**, the applicant shall submit evidence that a septic system, adequate to serve the proposal, can be installed on the site.

**Conditions to be completed prior to issuance of a construction permit for the primary dwelling:**

***Fees***

7. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.

***Owner Occupancy Requirement***

8. **Prior to issuance of a construction permit**, the applicant for the second unit shall record a notice against the property notifying any subsequent purchaser that failure to meet this requirement will subject the second unit to abatement by the county pursuant to Chapter 22.74 of this title. No secondary dwelling shall be allowed on the site unless an owner of the site agrees to occupy one unit on the site as his or her primary residence.

***Ordinance Compliance***

9. **Prior to issuance of construction permits for the primary dwelling (PMT2013-00934), the code enforcement case (COD2012-00194) for expired permits (PMT2008-00083, PMT2008-00086, PMT2008-00934) shall be resolved, along with permitting of structures where permits were not obtained or are not in compliance with ordinance standards.** Construction permits associated with the code enforcement case, the demolition, conversion of existing structures or the permitting of existing structures can be issued, however final inspections for demolition of existing buildings, conversion of existing structures and the permitting of existing structures must be resolved prior to final inspection or occupancy of the primary dwelling (PMT2013-00934).
10. **Prior to issuance of construction permits for the primary dwelling (PMT2013-00934),** the applicant shall obtain building permits for conversion and/or removal of structures that are not currently in compliance with ordinance standards, including residences and barns. The site can contain only 1 primary residence, a secondary dwelling and caretaker unit along with accessory structures allowed in the Residential Rural land use category. The applicant shall verify that all accessory structures have obtained necessary approvals.
11. **Prior to issuance of construction permits,** the applicant shall prepare a Storm Water Pollution Prevention Plan, per Regional Water Quality Control Board requirements, and an Erosion and Sedimentation Control Plan shall be prepared by a certified sediment and erosion control specialist, registered civil engineer, registered architect or landscape architect, certified California nurseryperson, or licensed landscape contractor. The plan shall consist of graphic and narrative information of sufficient clarity to indicate the nature, extent, location and placement recommendations of the erosion and sedimentation control measures proposed. The location of all practices, methods and devices shall be shown on the grading plan, or on a separate plan attached to the grading plan.

***Limitation on Use***

12. **Prior to issuance of construction permits,** the applicant shall execute a covenant and agreement with the County in a form acceptable to the County Counsel whereby the applicant agrees, on behalf of himself and his successors in interest to restrict the use of the proposed 900 square foot caretakers unit, constructed at a time when building permits were not required, such that the building will not be used for a secondary dwelling or any other residential purpose not specifically authorized by this approval.

**Conditions to be completed prior to occupancy or final building inspection /establishment of the use for the primary dwelling:**

13. **Prior to occupancy or final inspection,** whichever occurs first, the applicant shall obtain final inspection and approval from CalFire of all required fire/life safety measures.

14. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

**On-going conditions of approval (valid for the life of the project)**

15. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
16. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.