



County of Lassen
Department of Planning and Building Services

• Planning • Building Permits • Code Enforcement • Surveyor • Surface Mining

June 6, 2018

Maurice L. Anderson, Director
707 Nevada Street, Suite 5
Susanville, CA 96130-3912
Phone: 530 251-8269
Fax: 530 251-8373
email: landuse@co.lassen.ca.us
website: www.co.lassen.ca.us

TO: Board of Supervisors
Agenda Date: June 12, 2018

Zoning & Building
Inspection Requests
Phone: 530 257-5263

FROM: Maurice L. Anderson, Director

SUBJECT: Appeal of the Director of the Planning and Building Services Department's April 18, 2018, interpretive action regarding land use occurring at 705-605 Jordanna Lane, filed by Dava Montgomery.

ACTION REQUESTED:

1. Conduct a public meeting pursuant to Lassen County Code section 18.122.050; and
2. Grant the appeal, or
3. Disapprove the appeal.

SUMMARY:

On March 28, 2018, Dava Montgomery submitted a request for a Determination/Interpretation of several different zoning code sections of Lassen County Code Title 18 (the Lassen County zoning code), as they pertain to a current land use occurring on an adjacent parcel to the Montgomery property. This request for interpretation is allowed pursuant to Chapter 18.122 of said code.

In summary, the request contends that the keeping of 18 large animals (cows) on an adjacent parcel to Dava Montgomery constitutes an animal feed yard or commercial feedlot, as defined in the Lassen County Code (sections 18.14.400 and 18.14.390 respectively), and as such, a 200 foot setback is required (pursuant to Lassen County code section 18.108.020).

The request also suggests noncompliance with development standards for the subject zoning district U-C (Upland Conservation District). The size of the subject parcel (20 acres) is smaller than the minimum size denoted for the U-C zoning district (100 acres). The Appellant also claims that the subject area is a "residential area."

On April 18, 2018, I responded to the request for interpretation. In short, I determined that the existing land use at the above property does not constitute an animal feed yard or commercial feedlot, as those terms are defined in the Lassen County Code (sections 18.14.400 and 18.14.390 respectively). Accordingly, it was determined that the 200 foot setback required at section 18.108.020 for animal feed yards does not apply in this case. Further, it was determined that the subject parcel is "legally nonconforming" (the parcel was created legally). As such, despite the

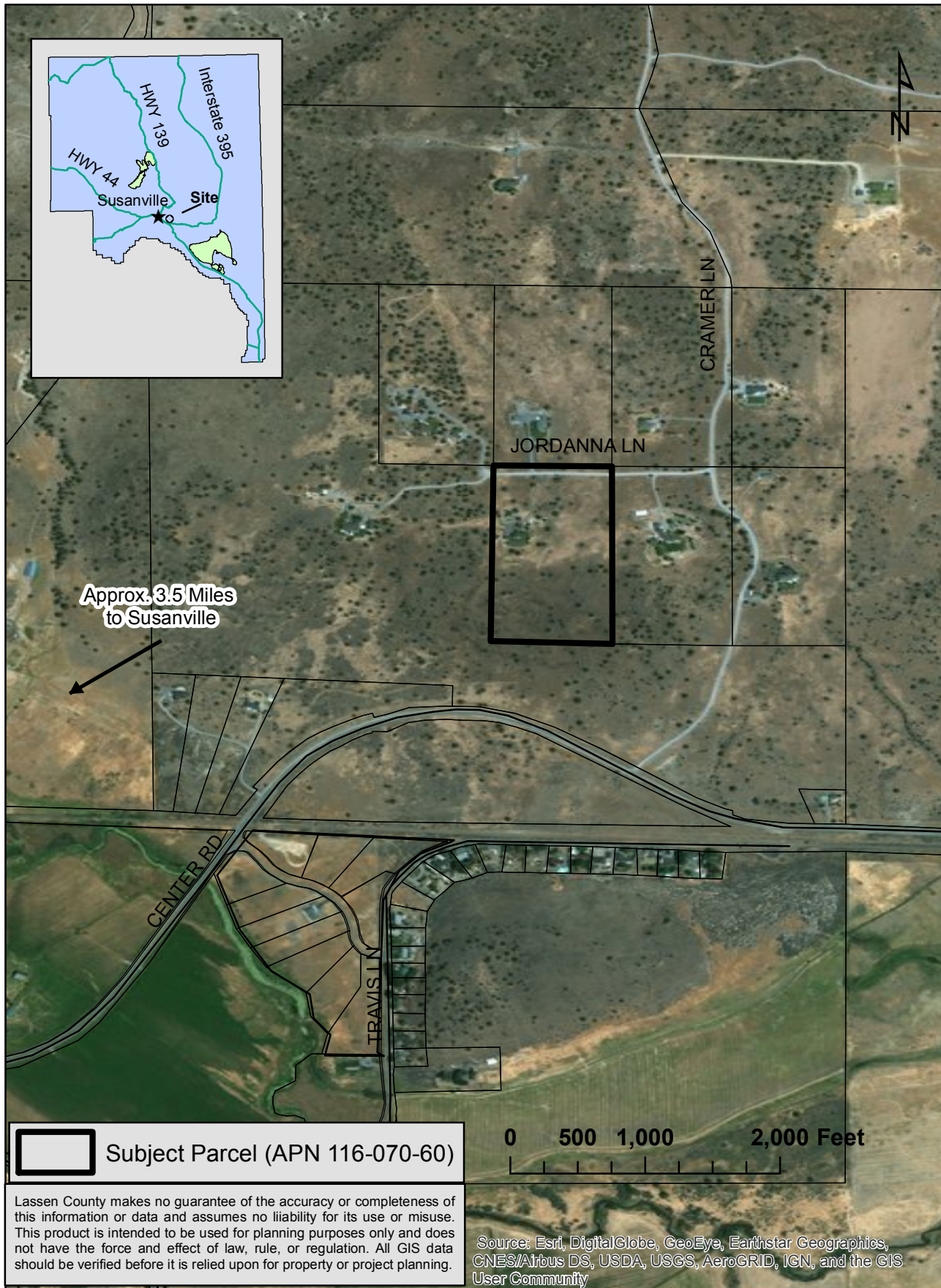
20 acre size, the parcel is eligible for the uses detailed in the subject zoning district (U-C Upland Conservation).

Lastly, it was determined that the subject parcel is not considered a “residential area or residential community.” “Residential Districts” are defined at section 18.14.995, and do not include the U-C zoning district, which is an agricultural district.

On April 30, 2018, Dava Montgomery filed an appeal of the above Interpretation/Determination as allowed pursuant to Lassen County Code section 18.122.050. Both the Interpretation/Determination and appeal are attached herein.

MLA:gfn
EnclosuresPla/admin/files/318.03.18.01/Montgomery appeal Board letter

File 318.03.18.01, Appeal of Interpretive Action (Hancock Property)



April 29, 2018

RECEIVED

APR 30 2018

Lassen County Board of Supervisors

Subject: Appeal Request

Lassen County Department of
Planning and Building Services
SUBMITTED BY EMAIL
FROM COUNTY CLERK

Re: Interpretation/decisions made by Mr. Maury Andersons regarding Zoning Codes and
Violations at 705-605 Jordanna Lane owned by Mr. Hancock.

I strongly disagree, as do the rest of the homeowners in this area in question, as to the decisions made by Mr. Maury Anderson in his interpretation of property located at 705-605 Jordanna Lane.

Although Mr. Anderson had quotes and definitions of the zoning codes in his letter, it is quite evident that this was based on his personal belief and opinions and not on the content or equal application of the law. Mr. Anderson sites operations that consist of thousands of acres and hundreds of large animals. He is basing his decision on the fact that only large operations are commercial. This is not factual. There are a lot of small cattle operations. The Wagyu beef operations are of a small nature, although there are some larger ones to be found. They are a pampered Japanese breed that requires different management. They're not always fattened up for market, which is what Mr. Anderson sites as to what constitutes a commercial feedlot. The interpretation here is the word "market".

Commerce has more than one way to define a commercial beef business, and size is not one of them. This being said, Mr. Hancock's operation fits all applicable standards as to a commercial feed lot and business, whether it is 20 or 40 cows, or a thousand cows. His breeding and semen taking operation is designed to make money and sale not only his cattle, but by products as well. He has made this very clear to many people that this is a business. This is not a right to farm, or a 4-H project, or a hobby.

Thank you,

Dava Montgomery

Dava Montgomery
Homeowners of Jordanna Lane

Attachments

FILED

APR 30 2018

JULIE RUSTAN, CLERK
LASSEN COUNTY CLERK

By JS, Deputy

4/29/18

RECEIVED

APR 30 2018

To the Board of Supervisors of Lassen County

I am a landman working in the Western United States of 15+ years. I am writing this letter in reply to Mr. Anderson's reply letter dated April 18, 2018 as an effort to help mediate/communicate their concerns that is based of factual repercussions, not opinion or lack of interpretation, as the result of the growing number of cattle neighboring their property. I would like to point out the use of the first person tense in Mr. Anderson's letter was excessive and evident of his personal opinion; which did not accurately address the concerns of the Montgomery household. Mr. Anderson's letter was his own personal opinion as he states in every paragraph his "interpretation".

Lassen County Department of
Planning and Building Services
submitted
by email
from Clerk

First, I think it would be helpful to clarify the following:

1. Please define the boundaries of the Upland Agricultural zoning by drawing (pencil is fine) the boundaries on the parcel map shown in the attached Exhibit and note the year this took effect. (Note the parcel map does not clarify the few residential properties not exceeding 20 acres each.)
2. Define the intent and purpose of the fire codes, setbacks of a feed lot and explain why this would not be applicable to this smaller, but similar, operation.
3. Please provide proof of Cal Fire's conclusion.
4. What permits were approved?

My point being that although there may not be an exact code protecting the environment and primary rights a home/land owner has of "peaceful enjoyment" at a smaller scale, all the same elements are there that the current codes were written for. It is absurd for Mr. Anderson to base his assumptions, in which he describes the Montgomery's concerns as not being applicable by feed lot definition, because his comparison is land of significantly larger acreage. Yes, 18 cattle plus their offspring would not be a concern on a larger parcel of land, typically over 80 acres, but it is on 20 acres which is what this small neighborhood consists of.

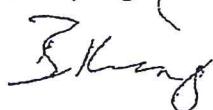
Also would like to point out that the Montgomery's complaints are not stand alone and they are speaking for the other neighbors and they have also written complaints and submitted to the zoning department.

To support the misinterpretation of upland zoning not applying to these parcels, please see attached exhibit of the parcel map a quote with specifications of the wells and intended use based of a residence and not a cattle operation. Note that the developer did not design these parcels for such an operation and there are no proper drains installed to filter the waste from these animals.

The phrase "inconsistent of immediate area" found on page 3 of Mr. Anderson's reply letter is simply stating that this cattle operation is not consistent to the residential neighborhood. Although the definition of a feed lot may not match however, it does not exactly match the animal husbandry definition either, as 18 cattle is clearly not for personal consumption in which the animal husbandry definitions apply to. Mr. Anderson states he "will not attempt to decipher the meaning" of the phrase regarding the cattle operation not being consistent to the neighboring residence calling it "erroneous". How can he call it erroneous if he claims he will not attempt to decipher the meaning? His lack of understanding does not make it erroneous.

Sincerely,

Brandy King



RECEIVED

APR 30 2018

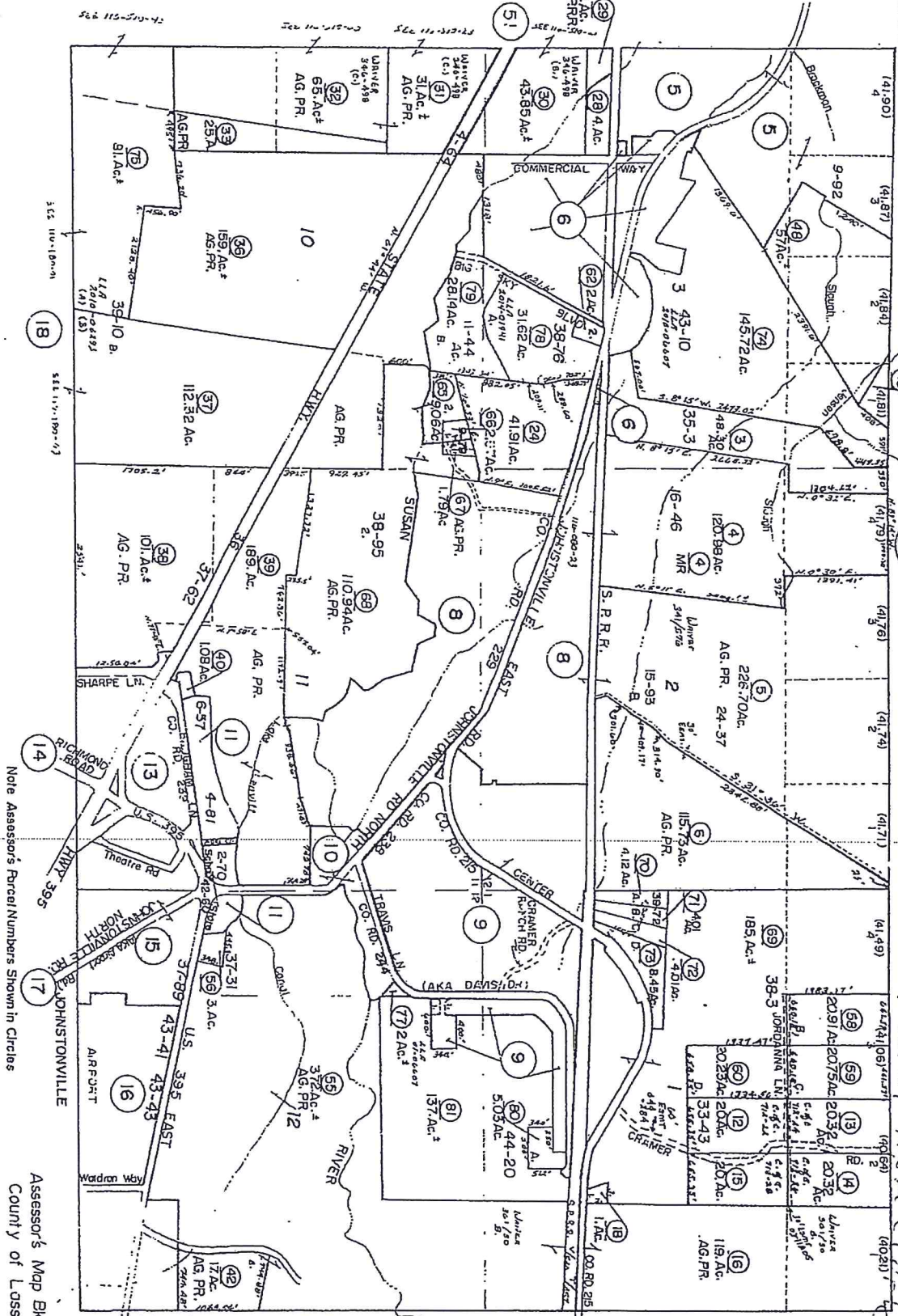
Losser County Department of
Planning and Building Services

116-07

T. 29 N. R. 12 E.

Parcel Request

Acreage listed is checked with available information and is for Assessor's use only.



Note Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 116 Pg. 07
County of Losser, Calif.

RECORDED MAPS	NAME
Map Bk. 116 Pg. 07	Map Bk. 116 Pg. 07
RS 1	RS 1
RS 2	RS 2
RS 3	RS 3
RS 4	RS 4
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RS 96	RS 96
RS 97	RS 97
RS 98	RS 98
RS 99	RS 99
RS 100	RS 100



County of Lassen

Department of Planning and Building Services

• Planning

• Building Permits

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Maurice L. Anderson, *Director*
707 Nevada Street, Suite 5
Susanville, CA 96130-3912
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Fax: 530 251-8373
email: landuse@co.lassen.ca.us
website: www.co.lassen.ca.us

CERTIFIED MAIL/RETURN RECEIPT
7016 3560 0000 8865 4193

April 18, 2018

Zoning & Building
Inspection Requests
Phone: 530 257-5263

Dava Montgomery
705-805 Jordanna Lane
Susanville, CA 96130

Subject: Interpretation Request – Lassen County Code Sections 18.14.400, 18.14.390, 18.108.020, 18.68.050 & 7.28.108. Location 705-605 Jordanna Lane.

Dear Ms. Montgomery:

Pursuant to Lassen County Code Section 18.122.030 (requests for interpretation or determination of similar use) you have requested an interpretation of a current land use occurring on a property located at 705-605 Jordanna Lane, an area near Johnstonville.

The situation involves a parcel of land developed with a single family dwelling and accessory buildings. The owner of the subject parcel also maintains a number of large animals (cows and bulls) at the subject site. The parcel is 20 acres in size and is zoned "U-C" (Upland Conservation District). The owner of the subject parcel has recently made improvements such as flat work and heated water troughs (including plumbing), all in an effort to care for the existing livestock that currently occupy the parcel. The plumbing and electrical improvements have been permitted by the Lassen County Planning and Building Services Department and are not subject to the zoning setback or fire safe setback.

Your interpretation request questions the applicability of several Lassen County code sections. You specifically asked for the below code sections to be interpreted, as they relate to the above mentioned location and associated fact pattern. Said code sections are as follows:

- 18.14.400, Feed yard
- 18.14.390, Feedlot, commercial
- 18.108.020, Animal feed yards, fertilizer plants, commercial kennels and horse shows
- 18.68.050, Development standards
- 7.28.108, Change in use of well from domestic to agriculture.

We do not find the last code section referenced above to exist (County Code Section 7.28.108). That said, the Lassen County Environmental Health Department would regulate the change in the use of a well (although this Department does issue the permit on behalf of the Environmental

Health Department). If you have questions concerning the correct code section and the potential applicability of said code section, please contact the Department for the information and a determination of applicability. The Environmental Health Department can be reached at (530) 251-8528.

With regard to your other questions:

Lassen County Code Section 18.14.400 defines "feed yards" as follows:

"Feed yard" means an area for the routine feeding of livestock incidental to a complete agricultural operation, but not including the site of the maintenance of such livestock in close quarters.

While the above definition does not identify what a "complete agricultural operation" is, I would say that I am aware of many agricultural operations in Lassen County that consist of thousands of acres and hundreds of large animals, operations that are solely reliant upon the agricultural operation as a means of livelihood.

In comparison, the scale and nature of the activities currently taking place at the above address do not compel me to view it as a "complete agricultural operation." I find that the size of the parcel (20 acres) limits the maximum number of large animals to 40 (see Lassen County Code Chapter 18.108.230 [1], which regulates the amount of large animals based on parcel size). I would also note that significantly fewer animals currently occupy the parcel than allowed. I further find that the Upland Conservation zoning district is specifically intended to allow, by right, general agriculture uses, which expressly include grazing and animal husbandry.

In addition, the second part of the definition of a feed yard states that it does not include the site of the maintenance of such livestock in close quarters. Even if the subject site were to be interpreted as a feed yard, an interpretation which I do not make, an argument that said livestock are being "maintained in close quarters" could be made and, as such, the first part of the definition is immaterial.

Lassen County Code Section 18.14.390 defines a commercial feedlot as follows:

"Commercial feedlot" means any structure, pen, or corral wherein cattle, horses, sheep, goats or swine are maintained in close quarters for the primary purpose of fattening such livestock for final shipment to market.

Again, and for the reasons outlined above (namely scale and intensity), I am not obliged to interpret the aforementioned land use (i.e. the keeping of 18 head of cattle [with a maximum of 40 animals]), as meeting the definition and/or intent of a "commercial feedlot." In addition to the size and scale test, which I find deficient, I also find the definition to contemplate a location of "final shipment and fattening", which is a departure from what appears to be occurring at the subject site. Instead, I find typical agriculture and animal husbandry to be occurring (I would

note that animal husbandry is a use allowed within the definition of agriculture [see Lassen County Code Section 18.14.030]].

Lassen County Code Section 18.108.020, Special Provisions, Animal feed yards, Fertilizer plants, commercial kennels and horse shows, states the following:

"Animal feed yards, fertilizer plants and yards, commercial kennels for dogs or cats, and horse shows shall be located no closer than two hundred feet to any property line; shall provide ingress and egress so designed to avoid traffic hazard, traffic congestion, odor, dust, noise or drainage problems."

As previously stated herein, I do not interpret the subject land use to be an "animal feed yard" and as such, the above referenced set back is not applicable. That said, it is worth noting that the "feed yard setback", as denoted in Lassen County Code section 18.108.020, is also applicable to other land uses such as fertilizer plants and commercial kennels, which reinforces my interpretation that the by right grazing and animal husbandry, even at the maximum number allowed, is a substantially less intensive land use when compared to the other uses which are required to have the special provision setback.

Lassen County Code Section 18.68.050, development standards within an "Upland Conservation Zoning District." You reference this section in your interpretation request, and also put the following string of words next to them: "*Nuisance Agriculture Ordinance (inconsistent with immediate area)*". I will not attempt to decipher the meaning of your words with regard to this section, as they do not appear in the subject section and are therefore erroneous. However, I would offer the following in terms of clarification to the alleged land use issue and this specific section of code. Said section reads as follows:

"Development standards in a U-C district shall be as follows:

- (1) Minimum Lot Area. One hundred acres, or as otherwise specified in a project for which a use permit has been secured;*
- (2) Minimum Yards. Front, twenty feet; side, twenty feet; and rear, twenty feet."*

As to minimum lot area - The seven parcels located along Jordanna Lane, each of which are approximately twenty acres in size (including your own parcel), comprise a nonconforming subdivision which utilized legal parcels created from a combination of four Certificates of Compliance recorded in 1999 and from three parcels of Lot Line Adjustment recorded in 2002. As such, said parcels are developable - even if the parcels do not meet the minimum size required in the applicable zoning district. In short, said parcels (and potentially hundreds, if not thousands of other parcels in Lassen County) are considered "legally nonconforming" to the minimum parcel size referenced above.

As a result of the subject parcel being legally nonconforming, the uses listed in the Upland Conservation zoning district (the applicable zoning district), can be enjoyed on the parcel (or other parcels with the same fact pattern), regardless of the parcel size noted in the minimum lot requirements.

In this specific case, both the subject parcel and your adjacent parcel are zoned "Upland Conservation" and, as such, the above referenced development standards with regard to minimum acreage size are inapplicable.

This is the same principle that allows all the "by right" uses to be allowed on nonconforming parcels regardless of parcel size (provided they meet all other Lassen County, state or federal requirements). This is also the principle which allows for the development of ranch related dwellings and accessory structures, along with all other "by right" uses (including animal husbandry), which are land uses enjoyed by both you and the subject land owner currently, despite the nonconforming acreage sizes - common to all parties living on Jordanna Lane.

Minimum Yards - Again, all applicable permits have been obtained for work recently conducted at the subject site. While as mentioned in the beginning of this interpretation, some work was completed within the zoning setback, said work is not subject to the setback. As well, Cal Fire was also contacted regarding this matter and subsequently conducted a site inspection. Cal Fire concluded that the work completed was not subject to the fire setback requirement. In short, all required permits have been obtained by the subject owner.

While the above addresses the specific code sections identified in your interpretation request, a number of additional assertions are made in the associated commentary. I will attempt to answer these comments:

"Residential Community" Assertion - The Upland Conservation district is not, as you contend in your interpretation request, a residential district or "community" (your words), by any means. In fact, the Upland Conservation district is one of, if not the most intensive of, the Lassen County agricultural zoning districts. Conversely, residential districts are defined at Section 18.14.995 (attached) of the Lassen County Code and do not include the Upland Conservation district.

To the contrary of the notion that the Upland Conservation zoning district is intended for residential use, I can only conclude when analyzing the other uses allowed by right such as airstrips accessory to an agricultural operation, hydroelectric power plants under five megawatts, kennels, animal hospitals and veterinary clinics, that the Board of Supervisors, when contemplating the creation of this agricultural district, decided to provide for a very robust set of "by right" land uses.

I would also note in support of the above, when an application for a Land Conservation Act contract (Williamson Act contract) is made to Lassen County, the County requires the applicant to rezone to a zoning district consistent with the production of food and fiber. One such zoning district eligible for said rezone is the Upland Conservation zoning district, as it is a zoning

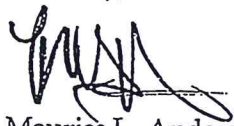
district applied to lands that are intended and contemplated for the heaviest, most intensive agricultural land uses, as previously discussed in detail.

Lassen County has a long history of supporting agricultural operations, when conducted properly and within appropriate zoning districts. This support is articulated throughout the Lassen County General Plan and other pertinent Lassen County Code sections mentioned herein, as well as Lassen County Title 6, Protection of Agricultural Activities (Protection of the Right to Farm).

Conclusion - In summary and based on the above, I do not interpret the current land use activity at the above referenced address as being inconsistent with any of the Lassen County Code sections cited in your interpretation request. That said, I would note that irrespective of this interpretation, you have the right to advance in civil court a private nuisance claim against any property owner you feel is interfering with the use and enjoyment of your property - a claim you assert in your interpretation request.

This interpretation may be appealed to the Lassen County Board of Supervisors, pursuant to Lassen County Code section 18.122.050 (attached). An appeal would need to be submitted to the Clerk of the Board of Supervisors, together with a filing fee of \$159.00 (pursuant to Lassen County Code Section 318.020) within ten days of the notice of the director's decision.

Sincerely,



Maurice L. Anderson
Director

MLA
Attachments

March 27, 2018

RECEIVED

MAR 28 2018

Lassen County Department of
Planning and Building Services
orig: File cc:MLA, GFN

To: Lassen County Department of Planning and Building
Maurice Anderson, Director

Re: Determination/ Interpretation of land use and violations of Title 18 zoning codes in
Reference to letter dated February 20, 2018

Mr. Anderson,

This letter is in response to your letter stating that I need to request a determination of land use for a neighboring property owned by Jared and Tammy Hancock, with your office.

This follows several written complaints that I filed at the Planning Department and one legal request from my attorney that were totally ignored. I speak not only for myself but for the other taxpaying residents that have filed written complaints that your office has not responded to.

Mr. Hancock has put in a commercial cattle operation in the middle of a residential area with high end homes. Although the surrounding areas are zoned AG, the seven 20 acre parcels are not zoned AG. They are Upland Conservation. Please refer to the map, exhibit A. Although Lassen County supports agriculture and farming as do I, it is not what this area on the map was intended for. I would not have built here nor would the rest of the property owners if commercial cattle operations were here.

These 20 acre parcels were divided up by Leroy Cramer to be used for homes for his children. His intent was not for commercial ranching or farming. His grandson Skip Jones (RSJ Construction) built the first house on one of the parcels for his family in 2000. Skip developed and designed all the rest of the homes. My home was built in 2003. The other five parcels were sold to non family members with the stipulation that all homes were to be built by RSJ Construction and meet certain criteria. The homes were built with the surrounding landscape in mind.

For sixteen years this area has been a very quiet and peaceful neighborhood. Mr. Hancock purchased his home from one of the original homeowners about four years ago. At this time the subdivision was well established without any commercial cattle operations. Mr. Hancock also owns 100 plus acres of farmland about a mile from here on Center Road where he had his cattle. Last year he decided to bring them up here and put them into an enclosed feeding pen right in the middle of our community. This created a multitude of problems for all the homeowners on Jordanna and Cramer Lanes. Our concerns are devaluation of our property and homes, the contamination of land and

ground water, the waste build up, the adverse health affects and safety, the smell, the insects/flyes, the noise of equipment on a daily bases, the water usage from a domestic well, the dust, the basic nuisance of a cattle operation that has been abruptly injected into our daily lifes.

My understanding is that the planning department wants to make a determination of what the land usage is zoned for. I can assure you it was never intended for a feed yard, commercial or otherwise. Please keep in mind the existing zoning in place when the parcels were originally subdivided into 20 acre parcels.

Let me remind you that your position is as a public servant and are hired and paid by taxpayer's money. I further request that any fees, if any, for you to do your job, be waived. Your decision impacts many homeowners/tax paying citizens in our neighborhood/community.

As you can clearly see in the county parcel map enclosed as Exhibit A, the 20 acre parcels are not zoned Ag, although the surrounding areas are. These subdivided parcels have domestic wells that were not drilled to the specifications needed to supply a commercial feed yard or the potential contamination from the waste build up from these cattle.

Mr. Hancock has suitable land that he was raising his cattle on, so it is not a hardship for him or a right to farm. It is however a hardship on the homeowners, and interferes with their basic right to peaceful enjoyment of their property and homes. This is inconsistent with the immediate area, code 18.68.050, and any variances to the land usage need to have had an application made in writing, Title 18 zoning 18.118.

Whether it is considered a feed yard, a feed lot, or a feeding pen, there are still specific zoning codes that Mr. Hancock has failed to follow, and permits that were not applied for. Mr. Hancock has never been held to any standards of the law.

Following are just a few of the zoning codes the home owners feel are being violated:

7.28.108
18.108.020
18.14.390
18.14.400
18.68.050

I hope that you will do you duty as described in this clip from your web page below and enforce the laws:


Planning and Building Services

Planning and Building services is a multi-disciplinary department providing a range of planning and development services to citizens, appointed boards, and commissions. Our

Department ensures that all development is consistent with State Law, Building Codes, the General Plan, Zoning Ordinance and Development Code. "We work together to protect life and property, while improving quality of life and the environment."

Sincerely,

Lassen County Tax Payer and resident


DavaDee Montgomery

Enc: Exhibit A – Lassen County zoning parcel map

CC: Law Office of Eugene Chittock
District 3 Supervisor, Jeff Hemphill
District Supervisors 1, 2, 4, and 5
Lassen County District Attorneys Office
All public media resources, including local news, radio, Face book, Twitter, etc

Exhibit "A"

PARCEL REQUEST

Acres listed is checked with available information and is for Assessor's use only.

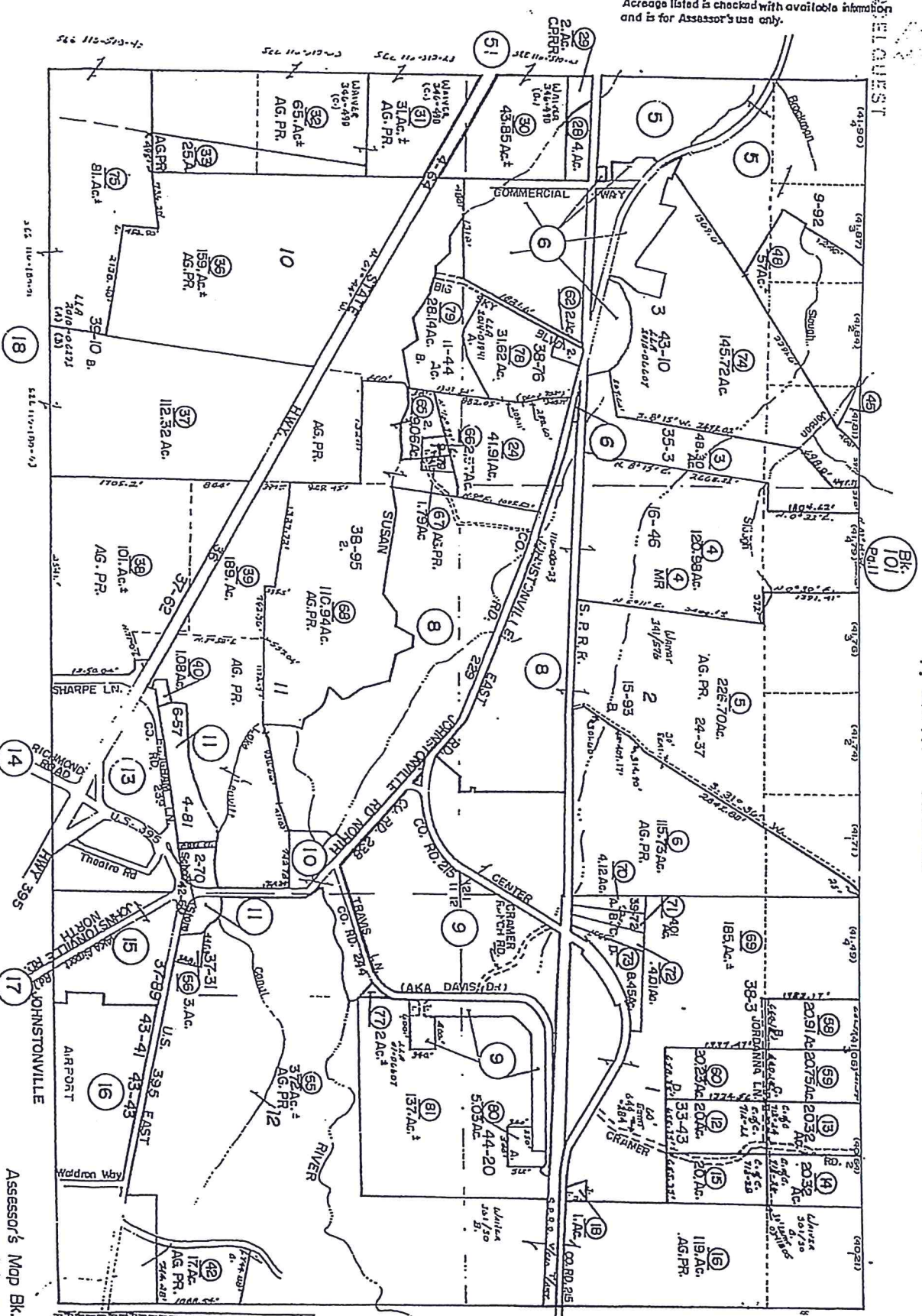
As compiled by:

T. 29 N. R. 12 E.

116-07

Note Assessor's Parcel Numbers Shown in Circles

Assessor's Map Bk. 116 Pg. 07
County of Lassen, Calif.



Map No.	Map Name
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