



## Sonoma County Board of Zoning Adjustments STAFF REPORT

**FILE:** ORD17-0008  
**DATE:** November 15, 2018  
**TIME:** 1:15 p.m.  
**STAFF:** Mark Franceschi

Appeal Period: 10 calendar days

### SUMMARY

**Appellant:** Chris P. and Jeanie Baker

**Location:** 650 Pepper Rd, Petaluma

**APN:** 113-173-047

**Supervisorial District No.:** 2

**Subject:** Appeal of an administrative determination that a livestock feed yard / lot and transport yard on a 4.07 acre parcel is illegal.

**Specific/Area Plan:** West Petaluma Area Plan

**Land Use:** DA (Diverse Agriculture) 10 acres per dwelling unit

**Zoning:** DA B6 10 acre density

**RECOMMENDATION:** Recommend that the Board of Zoning Adjustments deny the appeal and uphold the determination that the use of the property is not a legal, non-conforming livestock feed yard/lot and livestock transport yard.

**EXECUTIVE SUMMARY:** The Code Enforcement Section of Permit Sonoma received a complaint regarding the use of the property for a livestock yard. An investigation revealed the current use of the property met the Sonoma County Code Chapter 26 definition of a "feed yard/lot." A Notice & Order was issued for this unpermitted land use in the DA zoning district. This notice was appealed and an application was submitted by the property owner for a Legal, Non-conforming



Determination (ORD17-0008) for a cattle transfer yard operation under the “feeding and maintaining farm animals” that is a permitted use in the DA zoning district. The staff determination concluded that: “The current and historic use as a feed yard / lot is not the same as “feeding and maintaining farm animals” allowed in the zoning code, and therefore the use is not a legal non-conforming use. The feed lot requires a use permit in the DA zoning district. This determination was likewise appealed.

### **Definitions:**

Sonoma County Code Chapter 26 Article 2 Section 26-02-140 (Definitions)

**Feed yard/lot** means corrals or holding areas for the primary purpose of holding or feeding animals for market and not incidental to a farm or ranch.

**Agricultural enterprise** means an operation of a property owner/operator that derives their primary and principal income from the production of agricultural commodities for commercial purposes, including but not limited to the following: growing of crops or horticultural commodities; *breeding and raising of livestock* (emphasis added), poultry, bees, furbearing animals, horses; agricultural processing; and preparation of commodities for market. An agricultural enterprise excludes boarding of horses, forestry and lumbering operations, and commercial transportation of prepared products to market.

A “livestock feed yard / animal sales yard” requires a use permit in the DA zoning district.

### **Zoning History:**

<b><u>Current Zoning:</u></b>	<b><u>Ordinance #</u></b>	<b><u>Effective</u></b>
<b>DA (Diverse Agriculture)</b>	<b>5801</b>	<b>10/23/2008</b>
<p>The subject parcel is currently zoned DA. A review of the permit history for this parcel reveals that in May of 2000, the Sonoma County Planning Commission conducted a hearing considering changing the land use designation from AR (Agricultural and Residential) to DA and recommended the Board of Supervisors vote for denial of the land use designation change to DA via Resolution Number 01-0900 dated July 17, 2001. Nevertheless, as part of the above referenced ordinance, the DA zoning was assigned via the reclassifying of certain parcels approved as part of the General Plan Update 2020. The zone change from AR to DA was adopted by the Board of Supervisors on September 23, 2008.</p>		

The current DA zoning district land uses are detailed in Sonoma County Code Chapter 26 Article 08 Section 26-08-010 and states:

*Sec 26-08-010 Permitted Uses*

*Permitted uses include the following:*

*(a) On parcels exceeding two (2) acres, raising, feeding, maintaining and breeding of farm animals. When such farming involves animals which are continuously confined, such as veal calves, poultry,*

*hogs and pigs, dairy cows or similar livestock which may result in concentrations of animal waste, the use shall be subject to issuance of a zoning permit based upon written approval of the Sonoma County Health Services Department and the applicable regional water quality control board of a confined animal management plan. Horses, goats, sheep, and similar farm animals are not considered to be confined animals for purposes of this chapter. The plan shall include provisions for:*

- (1) Containment of waste to the site,*
- (2) Reuse or disposal of waste in accordance with health and/or water quality regulations,*
- (3) Mitigation of potential water quality impacts due to surface runoff of waste,*
- (4) Control of vectors.*

*In the event that the confined animal use is proposed within five hundred feet (500') of a nonagricultural land use category, it shall require prior approval of a use permit;*

The use of the property for a feed yard / lot is considered a continuously confined animal operation and the property is boarded on three sides by AR zoned property with a LEA parcel to the east. These conditions subject to the use of the property to the above DA zoning regulations requiring a zoning permit or use permit.

<b>Prior Zoning:</b>	<b>Ordinance #</b>	<b>Effective</b>
<b>AR (Agriculture and Residential)</b>	4643	April 8, 1993
In the AR zoning district between 1993 and 2008, on parcels exceeding two (2) acres raising feeding, maintaining and breeding of horses, cattle, sheep goats, and similar animals was a permitted use. A "feed yard/lot" was not an allowed use.		
<b>RR (Rural Residential)</b>	4225	August 10, 1990
In the RR zoning district between 1990 and 1993, domestic livestock farming shall be limited to the raising, feeding, maintaining, and breeding of not more than one horse or one mule or one cow or one steer per twenty thousand (20,000) square feet of area. This 4.07 acre site had the potential to support the raising and maintaining 8 cows or steers. A "feed yard/lot" was not an allowed use.		
<b>A1 (Primary Agricultural)</b>	2860	September 11, 1981
In the A1 district between 1981 and 1990, on parcels exceeding two (2) acres livestock farming, including the raising, feeding, maintaining and breeding of horses, cattle, sheep, goats, and similar livestock was a permitted use. A "feed yard/lot" was not an allowed use.		
<b>A2 (Secondary Agricultural)</b>	1928	August 21, 1975
In the A2 district between 1975 and 1981, on parcels exceeding two (2) acres livestock farming, including the raising, feeding, maintaining and breeding of horses, cattle, sheep, goats, and similar livestock was a permitted use. A "feed yard/lot" was not an allowed use.		

**U (Unclassified)**

230

November 23, 1945

Between 1945 and 1975, this parcel had an unclassified zoning designation. There were no applicable land use regulations and a “feed yard/lot” could be considered an allowed pre-code use between 1945 and 1975.

**DISCUSSION OF ISSUES:**

General Plan Consistency / Zoning Consistency:

**Policy for Diverse Agricultural Areas**

**Purpose and Definition.** This category shall enhance and protect those land areas where soil, climate, and water conditions support farming but where small acreage intensive farming and part time farming activities are predominant. In these areas, farming may not be the principal occupation of the farmer. The primary purpose of this category is to protect a full range of agricultural uses and to limit further residential intrusion consistent with the policies of the Agricultural Resources Element.

**STAFF’S DETERMINATION**

A comprehensive analysis has been completed (Exhibit A – ORD17-0008) using permit history, zoning history, and background information of the current and historic uses of the property. This research lead to a determination of a violation for the unpermitted land use as a cattle/livestock transfer yard. This research has also resulted in the determination that the use of the property for a cattle/livestock transfer yard on this 4.07 +/- acre parcel requires a use permit and is therefore not a legal non-conforming use.

An option available to the applicant is to apply for a Use Permit under the Diverse Agriculture zoning district for a livestock feed yard. The Use Permit application must include a traffic analysis, a noise analysis, a manure management plan, and any other studies required for the environmental review process consistent with the CEQA Guidelines. This is a discretionary application with a decision made by the Board of Zoning Adjustments.

**STAFF RECOMMENDATION**

Deny the appeal and uphold the staff determination that the current use is not considered a permitted use as a feeding and maintaining of farm animals and requires a use permit. The use was not established prior to 1975 when zoning went into effect, and therefore the use is not a legally established non-conforming use.

**LIST OF ATTACHMENTS**

EXHIBIT A: Ordinance Determination – ORD17-0008 with Exhibits