

Staff Report to the Agricultural Policy Advisory Commission

Application Number: 08-0468

Applicant: Stephen Graves & Associates

Owner: Cathy Mello APN: 109-051-09 & 10

Date: February 19, 2009

Agenda Item #: 7 Time: 1:30 p.m.

Project Description: Proposal to establish a building envelope on parcel 109-051-09. Requires APAC approval to allow non-agricultural development on Commercial Agriculture (CA) zoned land with an Agricultural Preserve Contract and an Agricultural Buffer Determination to reduce the required 200 foot agricultural buffer to 60' from the west adjacent Commercial Agriculture (CA) zoned parcel (APN 109-051-05) and to 20' from the east adjacent CA zoned parcel (109-051-10).

Location: Property located on the north side of Green Valley Road and the southeast side of Apple Valley Road, at the intersection of these two roads.

Permits Required: APAC approval to establish a building envelope & Agricultural Buffer Setback Reduction

Staff Recommendation:

 Approval of the proposed building envelope location on parcel 109-051-09 and an Agricultural Buffer Reduction for application 08-0468, based on the attached findings and conditions.

Exhibits

A. Project plans

E. Zoning map & location map

B. Findings

F. Comments & Correspondence

C. Conditions

D. Assessor's parcel map

Parcel Information

Parcel Size:

36.8 ac (109-051-09)

Existing Land Use - Parcel:

Vacant land

Existing Land Use - Surrounding:

Vacant land and Commercial Agriculture

Project Access:

Via Green Valley Road

Planning Area:

Eureka Canyon

Yes

Land Use Designation:

AG (Agriculture)

Zone District:

CA-P (Commercial Agriculture with an Agricultural

Preserve Contract)

Supervisorial District:

4th (District Supervisor: Tony Campos)

Within Coastal Zone:

__ Inside X Outside

Appealable to Calif. Coastal Comm.

X No

Environmental Information

Geologic Hazards:

Small portions of the eastern property line are mapped as possible landslide areas; portions are also within mapped liquefaction areas;

geologic and geotechnical reports were reviewed and accepted by the

County Geologist.

Soils:

Geotechnical report was submitted and accepted by the County

Geologist.

Fire Hazard:

Northern portion of parcel in mapped fire hazard area; no

development proposed in this location.

Slopes:

Over 30% slopes exist throughout the site; building envelope is proposed on flattest area of parcel and is supported as geologically

feasible areas for development by the project geologist.

Env. Sen. Habitat:

Not mapped.

Grading:

No grading proposed; engineered grading plans and grading permit

required prior to building permit issuance.

Tree Removal:

No trees proposed to be removed

Scenic:

Not a mapped resource

Drainage:

No development proposed; engineered drainage plans required for

review and approval by County Geologist and County Civil Engineer

prior to building permit issuance.

Archeology:

Mapped cultural resource area; reconnaissance negative for cultural

resources.

Services Information

Inside Urban/Rural Services Line:

Yes X No

Water Supply:

Private well

Sewage Disposal: Fire District:

Septic Pajaro Valley Fire District

Drainage District:

Zone 7

Analysis and Discussion

The proposed project is to designate a building envelope on parcel 109-051-09; an approximately 36.8 acre parcel zoned Commercial Agriculture (CA). The parcel is located on the north side of Green Valley Road, about 70 feet east of the intersection with Apple Valley Road. As a part of the application, the property owner is requesting approval of a Lot Line Adjustment that will result in an equal exchange of land between parcels 109-051-09 and -10. Approval of the proposed Lot Line Adjustment requires an administrative level review and approval which will

be pursued after approval of the Agricultural Buffer Reduction and non-agricultural use by your Commission.

The proposed building envelope is within 200 feet of Commercial Agricultural land to the west, south, and east. The applicant is requesting a reduction in the 200 foot agricultural buffer setback to 60' from APN 109-051-05 (south and west) and to 20' from APN 109-051-10 (east).

The subject property is characterized by steep topography that slopes upwards to the north and east. The parcel is not located within the Urban Services Line and may be characterized as a commercial agriculture neighborhood. The parcel carries an Agriculture (AG) General Plan designation and the implementing zoning is (CA-P) Commercial Agriculture with an Agricultural Preserve Contract.

The subject parcel is currently vacant and is likely able to be utilized as commercial grazing land. The Agricultural Preserve Contract currently in effect (AP 1-68) allows for a residence to be to be erected on the parcel for individuals and their families that are involved with the management of land; therefore, a building envelope established for a future residence is in compliance with the limitations of the Agricultural Preserve Contract.

A reduced agricultural buffer is recommended due to the fact that the parcel is severely constrained by steep, sloping topography and the proposed location of the building envelope is geologically supported by the County and project Geologists. In addition, there is a heavily wooded riparian area on the adjacent CA zoned land to the west, which will never be planted for commercial agriculture. The closest planted commercial agriculture is about 230' south across Green Valley Road and is approximately 30 feet below the proposed building envelope. The east adjacent parcel is not actively planted but may be partially planted or used for grazing in the future.

A condition of approval is recommended for the applicant to install a solid six-foot fence on the east side of the building envelope with an evergreen hedge of plantings to reduce the impact of possible future agricultural activities on the proposed residential use, and to therefore protect the agricultural interests on the east adjacent CA zoned parcel. No additional barrier is recommended to buffer the west and south adjacent CA zoned parcel due to the location of the permanent riparian vegetation and the topographical differences between the two parcels. The applicant shall further be required to record a Statement of Acknowledgement regarding the issuance of a county building permit in an area determined by the County of Santa Cruz to be subject to Agricultural-Residential use conflicts.

Recommendation

Staff recommends that your Commission APPROVE the location of the proposed building envelope and the Agricultural Buffer Reduction from 200 feet to 60' and 20' from the proposed building envelope to the west, south, and east adjacent CA zoned properties known as APN 091-051-05 & 10, proposed under Application # 08-0468, 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

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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: Samantha Haschert

Santa Cruz County Planning Department

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Report Reviewed By: Paia Levine

Principal Planner Development Review

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

This finding can be made in that significant topographical differences exist between the subject parcel and APN 091-051-05, which supports a reduction in the required 200 foot setback to about 60' feet from the property line. The proposed building site is about 30 feet above the elevation of the adjacent Commercial Agricultural zoned parcel in the location of the planted agricultural, so additional landscaping and solid fences are not required to buffer the parcel to the west and south.

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

A future habitable structure would be set back 60' feet from the west and south adjacent Commercial Agriculture zoned land. With the location of a heavily wooded riparian area to the west and the only actively planted commercial agriculture located about 230 feet from the building envelope, the proposed setback of 60' feet to the south and west adjacent CA zoned parcel minimizes the need for an additional 200 foot setback or an additional buffering barrier on the west and south property lines.

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

An effective barrier consisting of a six foot tall solid fence enhanced with evergreen shrubs would be adequate to prevent conflicts between the future proposed nonagricultural development and the east adjacent Commercial Agriculture zoned land of APN 091-051-10. The barrier will not create a hazard in terms of the vehicular sight distance on Green Valley Road because the road is about 10-20 feet lower in elevation than the proposed building envelope and because the fence would be setback about 80 feet from the edge of Green Valley Road, therefore, this finding can be made.

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.

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 proposed building envelope will be located on the south west corner of parcel 109-051-09, which is zoned Commercial Agriculture (CA). The parcel is approximately 36.8 acres and the proposed future building site is located close to the property lines and street, leaving the majority of the parcel open and undisturbed for possible future commercial farming; therefore, the applicant has proposed a building location that removes as little land as possible from potential production. In addition, the property owner will be required install a 6 foot tall solid wood board fence along the east property line to minimize possible future conflicts between a residence and future agricultural production on parcel 109-051-10.

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

 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.

This finding can be made in that the proposed building envelope is to be located on the south west corner of the Commercial Agriculture (CA) zoned parcel, which is close to the property lines and street and leaves the majority of the parcel open and undisturbed for possible future commercial farming, thereby supporting possible future commercial grazing on the parcel. In addition, it is unlikely that there will be conflicts between commercial agricultural operations on the west and south adjacent parcel (APN 109-051-05) in that topographical differences exist between the subject parcel and the area of commercial agricultural and because a vegetated riparian area exists closest to the proposed building area which will never be planted for commercial agriculture. In addition, Green Valley Road, a public road with a 40' right of way is located between the proposed building envelope and the adjacent CA zoned land to the south and west (109-051-05). The east adjacent parcel (APN 109-051-10) is zoned CA but is vacant and therefore, not currently used as such. In order to ensure that the proposed non-agricultural use does not adversely affect possible future surrounding agricultural resources, the property owner will be required to construct a six foot maximum height solid wood board fence and a vegetative buffer consisting of an evergreen hedge along the east edge of the proposed building envelope to minimize conflicts between possible future agricultural operations and the proposed nonagricultural use to protect commercial agricultural interests.

- 2. (a) That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or (b) that no other agricultural use of the parcel is feasible for the parcel or (c) that 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. That 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.

This finding can be made in that although the subject parcel (109-051-09) is bound by Commercial Agriculture (CA) zoned parcels to the west, south, and east, the proposed location of the building envelope on parcel 109-051-09 will not conflict with surrounding commercial agricultural uses in that topographical differences exist between the building envelope location and the area of actively planted commercial agriculture to the south, there is a vegetated, steep, riparian area located adjacent to the building envelope to the east which can not be used in the future for agriculture, and because Green Valley Road, a public road with a 40-foot right of way, is located between the proposed building envelope and the CA zoned parcel to the east and south. In addition, the east adjacent CA zoned parcel is not currently used for commercial agricultural purposes (parcel is currently vacant); however, to minimize possible future conflicts, the property owner will be required to construct a six foot tall solid wood board fence and vegetative buffer along the east side of the proposed building envelope to buffer the non-agricultural use from potential future operations. The proposed building site will not conflict with existing commercial agricultural uses on the subject property in that the parcel is not currently used for commercial agriculture and if used in the future, would likely be used as commercial grazing land that will not be impacted by the location of a future residence within the proposed building envelope because the majority of the site is left undisturbed and open.

4. That 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.

This finding can be made in that the proposed location of the building envelope on parcel 109-051-09 is in the southwest corner of the parcel, close to the street and the property line, and because the parcel is about 36.8 acres total and the proposed building envelope will remove only about 35,600 square feet, or .8 acres, from the Commercial Agriculture (CA) zoned parcel; therefore, the majority of the parcel will be left open and undisturbed for future agricultural uses and the location of the building envelope has been sited so as to remove as little land as possible from production.

Conditions of Approval

- I. This permit establishes a building envelope on parcel 109-051-09 and authorizes an Agricultural Buffer Setback reduction from the proposed building envelope to APN's 109-051-05 & 109-051-10. 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 "A" on file with the Planning Department. Any changes from the approved Exhibit "A" for this development permit on the plans submitted for the Building Permit must be clearly called out. 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. Development setbacks of a minimum of 60' feet from the building envelope to the east and south adjacent Commercial Agriculture zoned parcel (APN 109-051-05) as measured from the property line.
 - 2. A development setback of a minimum of 20 feet from the building envelope to the west adjacent Commercial Agriculture zoned parcel (APN 109-051-10) as measured from the property line.
 - 3. Final plans shall show the location of the vegetative buffering barrier, which shall be composed of drought tolerant shrubbery and a six foot maximum height solid wood board fence along the entire east boundary of the building envelope for a length of about 190 feet. 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.

- 4. Plans shall reference the soils and geology reports and include a statement that the project shall conform to the reports' recommendations.
- 5. Plans shall provide a thorough and realistic representation of all grading necessary to complete this project. A civil engineered grading, drainage, and erosion control plan are required for the construction of a building pad on this site.
 - a. Grading, drainage, and erosion control plans shall address the removal of the dam and repair of an erosion rill at the location of the proposed building site to be reviewed and approved by the County Geologist and County Civil Engineer.
- B. Submit plan review letters for Environmental Planning Staff review and approval. The authors of the reports shall write the plan review letters. The letters shall state that the project plans conform to the report's recommendations.
- C. Submit electronic copies of the soils and geology reports to the Environmental Planning Section pln829@co.santa-cruz.ca.us
- D. 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.
 - 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.

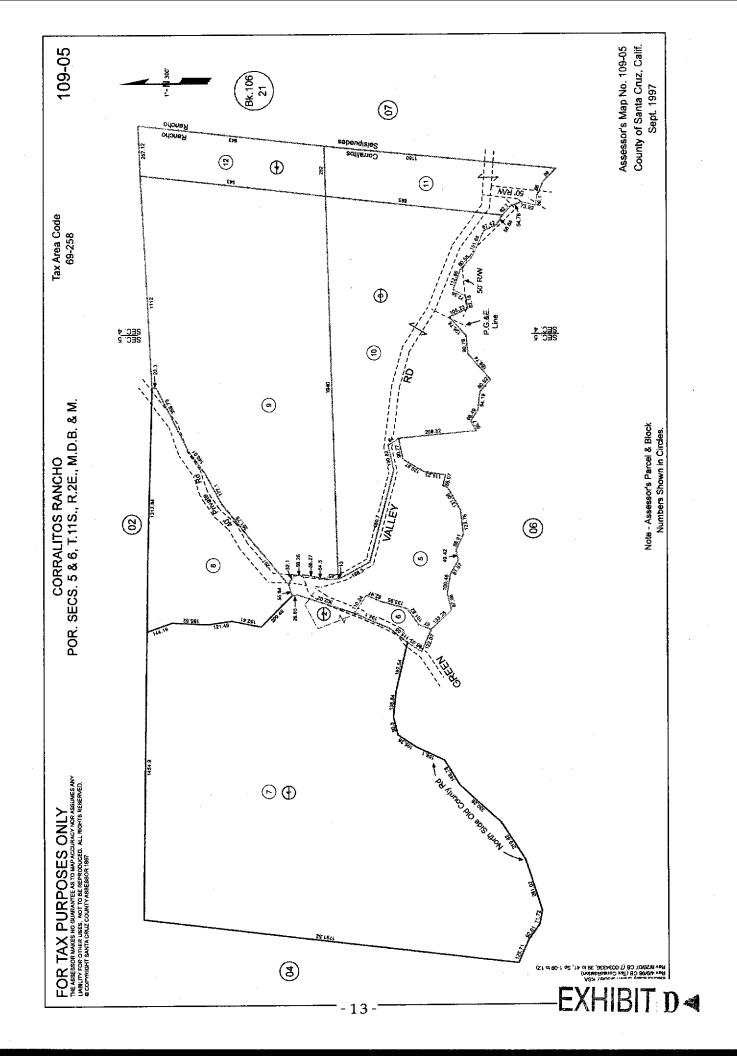
Minor Variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires two years from the effective date listed below 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.

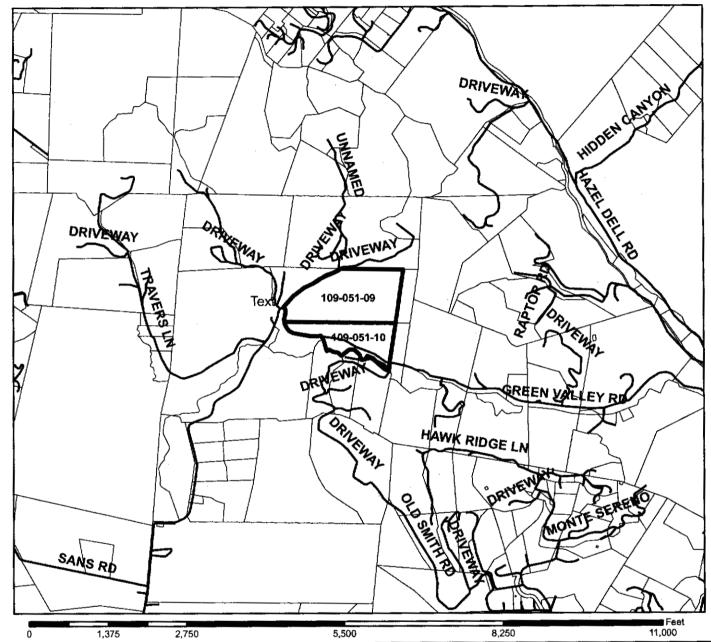
Approval Date:		
Effective Date:		
Expiration Date:	·	

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.





Location Map



LEGEND

APN: 109-051-10

APN: 109-051-09

Assessors Parcels

Streets



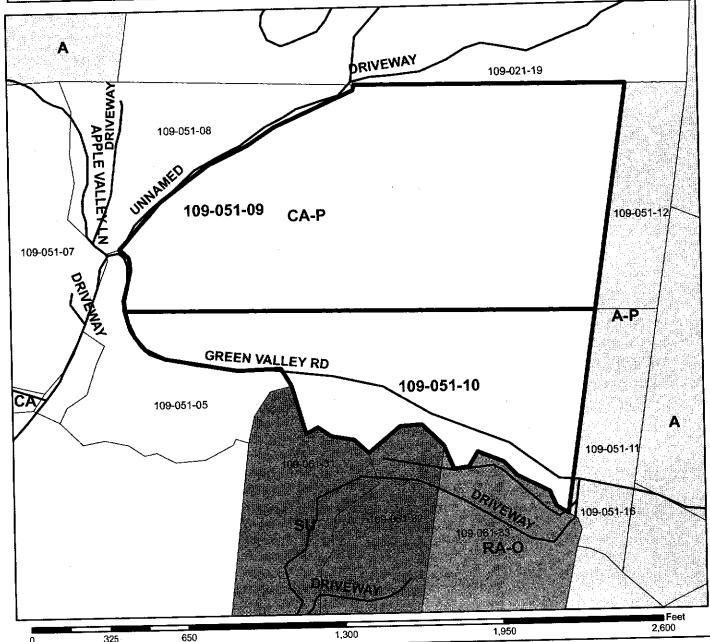
Map Created by County of Santa Cruz Planning Department November 2008

EXHIBIT E

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Zoning Map





Map Created by County of Santa Cruz Planning Department November 2008

EXHIBIT E

COUNTY OF SANTA CRUZ Discretionary Application Comments

Project Planner: Samantha Haschert

Application No.: 08-0468

APN: 109-051-09

Date: January 27, 2009

Time: 15:03:34

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Environmental Planning Completeness Comments

===== REVIEW ON NOVEMBER 17, 2008 BY ROBERT S LOVELAND =======

- 1. The geology report submitted is in review status.
- 2. A "Building and Septic Field Area" needs to be identified for APN 109-051-10 as was done for APN 109-051-09.
- 3. Submit a letter from the project geologist stating that he has reviewed and approved Sheet 1 (Mid-Coast Engineers). He must review this sheet after it has been revised to include the information requested in Item 2 above. ======= UPDATED ON JANUARY 21, 2009 BY ROBERT S LOVELAND ========

The soils and geology reports have been reviewed and accepted.

Comments 2 & 3 above have also been addressed.

Environmental Planning Miscellaneous Comments

===== REV	IEW ON	NOVEMBER	17.	2008	ВҮ	ROBERT	S	LOVELAND	=======
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Conditions of Approval:

- 1. The existence of the building site is predicated on the removal of a dam and repair of an erosion rill. A civil engineered grading, drainage and erosion control plan are required for the removal and the repair. These plans must be reviewed and approved by the County Geologist and County Civil Engineer, and a grading permit must be issued before the start of work.
- 2. Final plans shall reference the reports (soils and geology) and include a statement that the project shall conform to the reports recommendations. Plans shall also provide a thorough and realistic representation of all grading necessary to complete this project. A civil engineered grading, drainage and erosion control plan required for the construction of a building pad on this site.
- 3. Prior to building permit issuance, a "Plan Review Letters" shall be submitted to Environmental Planning Section for review and approval. The authors of the reports shall write the "Plan Review Letters". The letters shall state that the project plans conform to the report's recommendations.
- 4. Prior to building permit issuance electronic copies of the soils and geology reports shall be submitted to Environmental Planning Section. Email reports to pln829@co.santa-cruz.ca.us.

Environmental Health Completeness Comments

LATEST	COMMENTS	HAVE N	NOT YET E	BEEN SENT	TO PLAN	INER FOR T	HIS AGENCY		
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Discretionary Comments - Continued

Project Planner: Samantha Haschert

Application No.: 08-0468

APN: 109-051-09

Date: January 27, 2009

Time: 15:03:34

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Environmental Health Miscellaneous Comments

LATEST COMMENTS HAVE NOT YET BEEN SENT TO PLANNER FOR THIS AGENCY

---- REVIEW ON NOVEMBER 10, 2008 BY JIM G SAFRANEK ---- NO COMMENT

Pajaro Valley Fire District Completeness Comments

LATEST COMMENTS HAVE NOT YET BEEN SENT TO PLANNER FOR THIS AGENCY

====== REVIEW ON NOVEMBER 4. 2008 BY COLLEEN L BAXTER ======= DEPARTMENT NAME: CALFIRE/SANTA CRUZ COUNTY FIRE Add the appropriate NOTES and DETAILS showing this information on your plans and RESUBMIT, with an annotated copy of this letter: Note on the plans that these plans are in compliance with California Building and Fire Codes (2007) as amended by the authority having jurisdiction. The job copies of the building and fire systems plans and permits must be onsite during inspections. All Fire Department building requirements and fees will be addressed in the Building Permit phase. Plan check is based upon plans submitted to this office. Any changes or alterations shall be re-submitted for review prior to construction. hour minimum notice is required prior to any inspection and/or test. Note: As a condition of submittal of these plans, the submitter, designer and installer certify that these plans and details comply with the applicable Specifications. Standards. Codes and Ordinances, agree that they are solely responsible for compliance with applicable Specifications, Standards, Codes and Ordinances, and further agree to correct any deficiencies noted by this review, subsequent review, inspection or other source, and, to hold harmless and without prejudice, the reviewing agency.

Pajaro Valley Fire District Miscellaneous Comments

LATEST	COMMENTS	HAVE	NOT YET	BEEN	N SENT	TO	PLANNER	FOR	THIS	AGENCY
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