



Staff Report to the Agricultural Policy Advisory Commission

Application Number: **101111**

Applicant: Edward & Julie Klinsky
Owner: Edward & Julie Klinsky
APN: 051-401-55

Date: January 20, 2010
Agenda Item #: 8
Time: 1:30 p.m.

Project Description: Proposal to modify the approved building envelope for a single-family dwelling and reduce the Agricultural Buffer Setback to 35 feet.

Location: Property located on the east side of Cunningham Way, about 500 feet north from Trembley Lane, at 100 Cunningham Way.

Permits Required: Minor Variation to Minor Land Division 05-0359 and an Agricultural Buffer Setback Reduction

Staff Recommendation:

- Approval of Application 101111, based on the attached findings and conditions.

Exhibits

- | | |
|------------------|--------------------------------------|
| A. Project plans | D. Assessor's, Location, Zoning, and |
| B. Findings | General Plan maps |
| C. Conditions | E. Comments & Correspondence |

Parcel Information

Parcel Size:	1.21 acres
Existing Land Use - Parcel:	Single-Family Residential
Existing Land Use - Surrounding:	Single-Family Residential and Commercial Agricultural
Project Access:	Cunningham Way
Planning Area:	Pajaro Valley
Land Use Designation:	R-UL (Urban Low Density Residential)
Zone District:	R-1-10 (Single family residential - 10,000 square feet minimum)
Supervisory District:	4th (District Supervisor: Greg Caput)
Within Coastal Zone:	<input type="checkbox"/> Inside <input checked="" type="checkbox"/> Outside
Appealable to Calif. Coastal Comm.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Services Information

Inside Urban/Rural Services Line: X Yes No
Water Supply: City of Watsonville Water District
Sewage Disposal: Freedom Sanitation District
Fire District: Pajaro Valley Fire Protection District
Drainage District: Zone 7

Analysis and Discussion

The project is a proposal to modify an approved building envelope for a single-family dwelling of approximately 1,284 square feet on a 13,617 (net) square foot parcel. The project is located at 100 Cunningham Way. The building site is within 200 feet of Commercial Agricultural land to the east. The applicant is requesting a reduction in the previously approved 100 foot agricultural buffer setback to 35 feet from APN 051-022-01.

The subject property is characterized by gently sloping topography with an intermittent stream bisecting the lot from the northwest to the southeast. The property is currently developed with a two-story single-family dwelling. The parcel is located within the Urban Services Line and can be characterized as a suburban residential neighborhood that backs onto commercial agriculture. The subject parcel is located within the Urban Low Density Residential (R-UL) General Plan designation and the implementing zone district is (R-1-10) single family residential - 10,000 square feet minimum. Commercial Agriculture zoned land is situated within 200 feet at the east side of the parcel at Assessor's Parcel Number 051-022-01. The Commercial Agriculture property is not currently under cultivation and, according to aerial photographs, has not been under cultivation for more than a decade.

Minor Variation #02-0541 was approved in 2003 and allowed the agricultural buffer between the subject parcel and the adjacent Commercial Agriculture zoned property to be reduced from 200 feet to 100 feet. In 2008, Minor Land Division #05-0359 was approved to allow the subject lot to be split into two new lots with no change in the previously approved 100 foot buffer. The building envelope that was approved with the Land Division placed the new dwelling between the existing house to the north and the riparian corridor located to the south.

An additional reduction in the agricultural buffer is now recommended due to the proximity of the approved building envelope to the riparian corridor. Allowing the building envelope to move eastward would provide greater corridor protection from the future residential use. The revised building footprint is considerably smaller than that which was approved with Minor Land Division 05-0359 and no longer includes a second unit, which was previously approved. The applicant proposes to enhance the existing vegetative screening that exists between the subject property and the Commercial Agricultural property as well as to extend the existing six-foot fence to the full length of the eastern property boundary. The vegetative buffer will be enhanced with plantings from the "Recommended Agricultural Buffer Planting List." The additional plantings and fencing will reduce the impact of agricultural activities on the proposed residential use, and therefore protect the agricultural interests on the Commercial Agriculture zoned parcel. The applicant will also be required to record a Statement of Acknowledgement regarding the issuance of a 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 Agricultural Buffer Reduction from 100 feet to about 35 feet to the single-family dwelling from the adjacent CA zoned property known as APN 051-022-01, proposed under Application # 101111, 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 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

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Report Reviewed By: Ken Hart
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
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

The habitable structure is proposed to be set back 35 feet from the adjacent Commercial Agriculture zoned land. An effective barrier consisting of a six foot tall solid wood fence enhanced with evergreen shrubs would be adequate to prevent conflicts between the non-agricultural development and the adjacent Commercial Agriculture zoned land of APN 051-022-01. This barrier, as proposed, shall not create a hazard in terms of the vehicular sight distance as it is located at the rear of the parcel and is not located near any vehicular right of way.

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

The proposed lesser setback of 35 feet appears to be adequate to prevent conflicts between adjacent agricultural and the proposed non-agricultural development, in that a permanent vegetative barrier will exist along the eastern property line to buffer impacts from the adjacent Commercial Agriculture zoned property and conditions of approval require the property owner to extend the existing six foot tall solid wood fence to across the entire eastern property line.

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.

Conditions of Approval

- I. This permit authorizes an Agricultural Buffer Setback reduction from the proposed residential use to APN (051-022-01). 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 and labeled by standard architectural methods to indicate such changes. 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. A development setback of a minimum of 35 feet from the single-family dwelling to the adjacent Commercial Agriculture zoned parcel APN 051-401-55.
 2. The location of the six foot tall solid wood fence and a vegetative buffering barrier which shall be composed of drought tolerant shrubbery, located on the eastern property line. The location of the buffer is shown on the approve Exhibit A. Species shall be selected from the "Recommended Agricultural Buffer Planting List." 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. The fence and vegetative buffer shall not interfere with any easements on the property.

3. The accurate locations and heights of all existing and proposed fencing. All fencing on site shall comply with County Code Section 13.10.525.
- B. 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 documents the existence of 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, its 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. Settlement. 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. Successors Bound. "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 on the same date as any subsequent approved discretionary permit(s) 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.

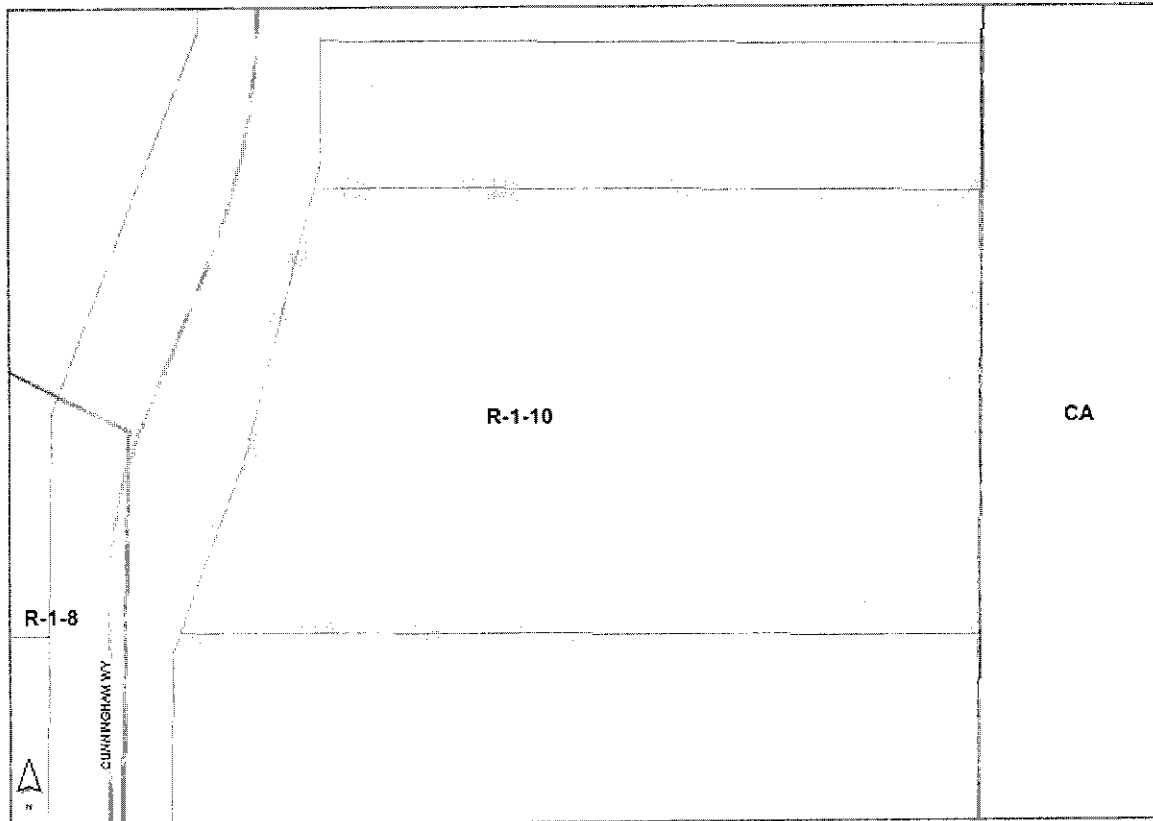
Approval Date: _____

Effective Date: _____

Expiration Date: _____

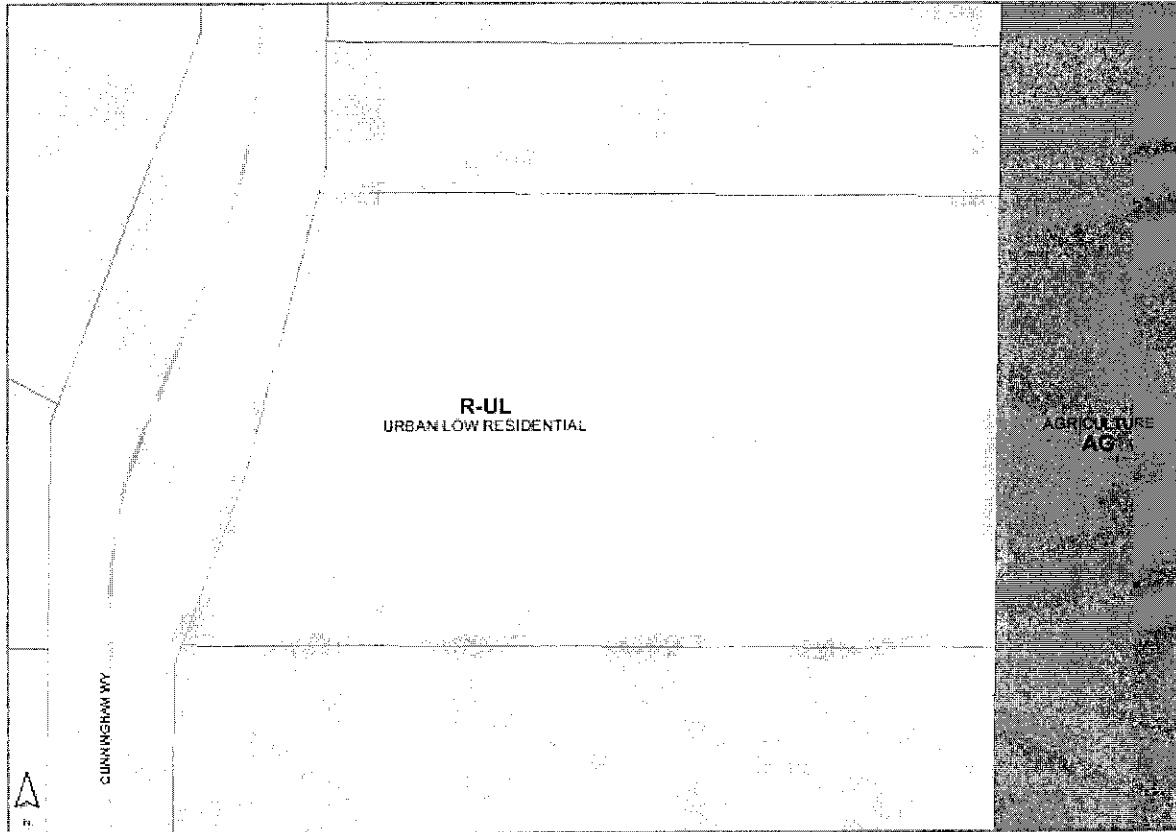
Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of County Code Chapter 16.50, may appeal the act or determination to the Board of Supervisors in accordance with chapter 18.10 of the Santa Cruz County Code.

Zoning Map



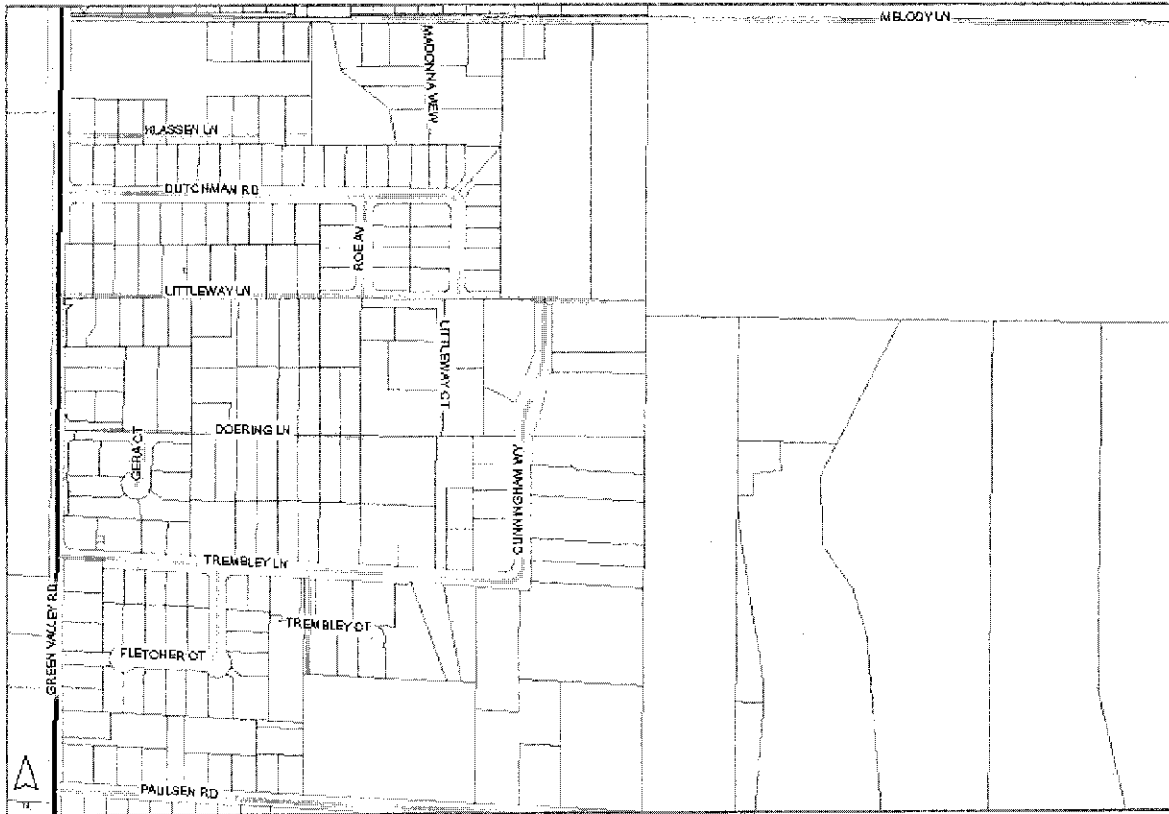
APN 051-401-55

General Plan Map



APN 051-401-55

Location Map



APN 051-401-55

FOR TAX PURPOSES ONLY

THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
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POR. RANCHO DE LOS CORRALITOS
POR. SEC. 21, T. 11S., R. 2E., M.D.B. & M.

Tax Area Code
69-255

51-40

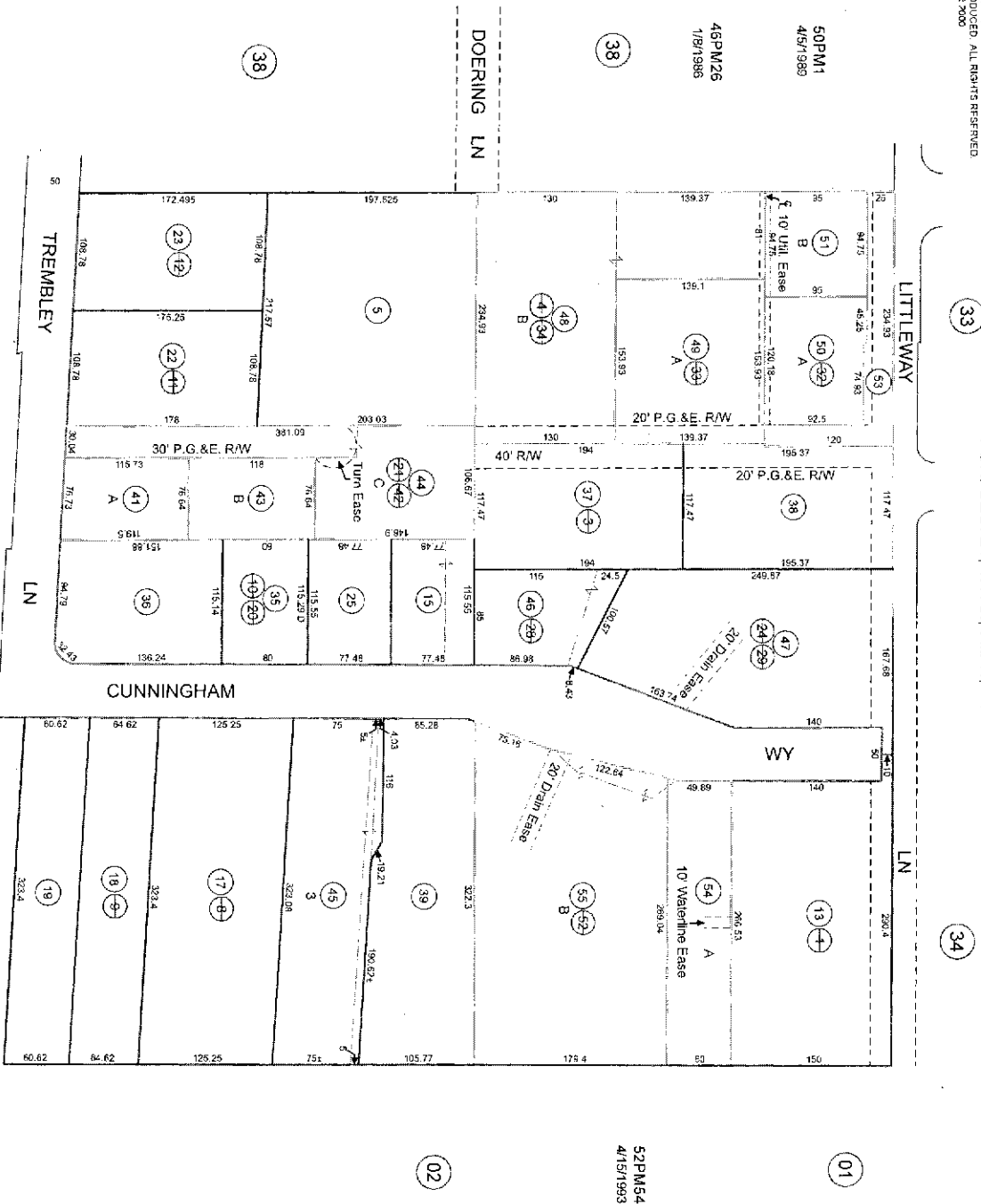
Electronically redrawn 7/19/00 KSA
Rev. 6/7/01 mvm (changed page refs)
Rev. 8/13/01 mvm (street names)
Rev. 1/23/03 mo (paria adjustment)

Note - Assessor's Parcel & Block
Numbers are Shown in Circles.

25PM19
4/1/1977

(41)

Assessor's Map No. 51-40
County of Santa Cruz, Calif.
July 2000



1" = 100'



Drainage Review

Routing No: 1 | Review Date: 12/13/2010

TRAVIS RIEBER (TRIEBER) : Complete

Completeness Comments:

Application Complete? ☒ Yes ☐ No

The plans dated November 4, 2010 have been received and are approved for the discretionary application stage. Please see miscellaneous comments for issues to be addressed at the building application stage.

Policy Considerations and Compliance Issues:

Permit Conditions and Additional Information:

The conditions of approval for discretionary application 05-0359 must still be addressed.

The owner is responsible for maintaining the stability of the slope along the riparian area being impacted by the grading activity for this project.

Please call the Dept. of Public Works, Storm Water Management Section, from 8:00 am to 12:00 noon if you have questions.

Project Review

Routing No: 1 | Review Date: 12/23/2010

ROBIN BOLSTER (RBOLSTER) : Incomplete

Project must be reviewed and approved by APAC in order to be deemed complete.
APAC hearing is scheduled for 1/20/11

Surveyor Review

Routing No: 1 | Review Date: 12/14/2010

KATE CASSERA (KCASSERA) : Complete

Parcel map should be revised to show new lot line and refer to 05-0350 and 101109.

Urban Designer Review

Routing No: 1 | Review Date: 11/30/2010

LAWRENCE KASPAROWITZ (LKASPAROWITZ) : Incomplete

1. Note on Plans that the smaller version is substantially similar in design to the previous version of



County of Santa Cruz, PLANNING DEPARTMENT

Discretionary Application Comments 101109/101111

APN 051-401-55

Urban Designer Review

Routing No: 1 | Review Date: 11/30/2010

LAWRENCE KASPAROWITZ (LKASPAROWITZ) : Incomplete

the residence.

2. Revise plant choices to comply with Ag Buffer handout.