



## Staff Report to the Agricultural Policy Advisory Commission

Application Number: **131111**

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**Applicant:** Chad Williams  
**Owner:** Kevin and Wauhillaue Erbe  
**APN:** 110-021-40

**Date:** 8/15/2013  
**Agenda Item #:** 6  
**Time:** 1:30 p.m.

**Project Description:** Proposal to construct a second unit on a parcel in the CA zone district. Requires approval from the Agricultural Policy Advisory Commission to locate a second unit farther than 100 feet from the primary dwelling unit and an Agricultural Buffer Setback Reduction to reduce the minimum 200 foot agricultural buffer setback to approximately 77 feet from APN 110-021-02 and 113 feet from APN 110-021-41 and a CEQA (California Environmental Quality Act) exemption.

**Location:** Property located on the north side of Algen Lane approximately 700 feet from Webb Road.

**Permits Required:** Agricultural Buffer Setback Reduction

### Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act; and
- Approval of Application 131111, based on the attached findings and conditions.

### Exhibits

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

### Parcel Information

Parcel Size:	3 acres
Existing Land Use - Parcel:	Residential and Agriculture
Existing Land Use - Surrounding:	APN 110-021-02: home site and agriculture field; APN 110-021-41: Home Site and agriculture field
Project Access:	Algen Lane
Planning Area:	Salsipuedes
Land Use Designation:	A (Agriculture)

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Application #: 131111  
APN: 110-021-40  
Owner: Kevin and Wahillau Erbe

Zone District: CA (Commercial Agriculture)  
Supervisory District: 4<sup>th</sup> District (District Supervisor: Caput)  
Within Coastal Zone: ☐ Inside ☒ Outside  
Appealable to Calif. Coastal Comm. ☐ Yes ☒ No

### Services Information

Inside Urban/Rural Services Line: ☐ Yes ☒ No  
Water Supply: Pajaro Valley Water  
Sewage Disposal: Septic Maintenance Area  
Fire District: Pajaro Valley Fire Protection District  
Drainage District: Flood Zone District 7

### Analysis and Discussion

#### Project and Setting

The proposed project is to construct a 1199 square foot second unit on a 3 acre parcel containing an existing 1800 square foot single family residence. The project is located at 231 Algen Road within the Salsipuedes planning area. The building site is zoned Commercial Agriculture and is located approximately 135 feet from the existing residence. The building site is located within 200 feet of Agricultural land to the northwest and southwest. The applicant is requesting a reduction in the 200 foot agricultural buffer setback to 77 feet to APN 110-021-02 and 113 feet to APN 110-021-41 feet.

The subject property is characterized by gentle sloping topography from the northeast to southwest. The parcel is located outside the Urban Services Line and the immediate vicinity can be characterized as residential agricultural cul-de-sac containing a residence surrounded by small agricultural fields, some not currently farmed.

The parcel is located within the Agriculture (A) General Plan designation and the implementing zone district is (CA) Commercial Agriculture. The parcel is surrounded by Commercial Agriculture zoned land and building site is within 200 feet of commercial agricultural land on the northwest side (APN 110-021-02) and southwest side (APN 110-021-41) of the parcel. County Code Section 16.50.095 requires that habitable development be located no closer than 200 feet to land zoned CA. County Code Section 13.10.681 (D) (1) requires a second unit on General Plan agriculturally designated land to be within 100 feet of the main house, unless the Agricultural Policy Advisory Commission (APAC) approves another location.

#### Agricultural Setback Reduction Reasoning

Location of the home within 100 feet of the dwelling would have concentrated the development in one area, allowing more area for agricultural operations. However, the desired location of the home, adjacent to the existing dwelling, was found to be geologically unsuitable. A reduced agricultural buffer is recommended for this site due to the fact that fault traces identified on the property by the project geologist preclude location of a second unit meeting the 200 foot buffer requirements and maximum 100 foot setback from the existing dwelling. The proposed location was determined to be the only viable location. Correspondence (Exhibit F) from the geologist

and staff detail the difficulty in identifying a geologically suitable building envelope on the property. These exhibits show the location of the fault traces discovered during soils testing, and substantiate why the house cannot be located elsewhere on the site.

In the absence of compliance with the minimum 200 foot buffer setback, projects are typically required to include protective fencing with an evergreen hedge of plantings along the property line of the subject parcel to reduce the impact of adjoining agricultural activities on the proposed second residential unit use, and to protect the agricultural interests of the Commercial Agriculture zoned parcel(s). 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 as a means to put future owners on notice regarding agricultural operations.

Findings and conditions for this reduction are attached.

### **Recommendation**

Staff recommends that your Commission:

- **CERTIFY** that the proposal is exempt from further Environmental Review under the California Environmental Quality Act;
- **APPROVE** the location of the second unit farther than 100 feet from the primary dwelling unit; and
- **APPROVE** the Agricultural Buffer Setback Reduction to reduce the minimum 200 foot agricultural buffer setback to approximately 77 feet to APN 110-021-02 and 113 feet to APN 110-021-41 from the subject parcel, APN 110-021-40.

**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](http://www.co.santa-cruz.ca.us)**

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Report Reviewed By: Steven Guiney, AICP  
Principal Planner  
Development Review

# owners: **Wauhillau & Kevin Erbe** **PROPOSED ADU**

231 Algen Lane, Watsonville, CA. 95076

apn: 110.02.40

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A.1.5	PERMITS - THIS IS DATA
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## **BUILDING SITE RESTRICTIONS**

THE SITE IS LOCATED IN AN AREA DESIGNATED FOR RESIDENTIAL DEVELOPMENT. THE SITE IS SUBJECT TO THE FOLLOWING RESTRICTIONS:

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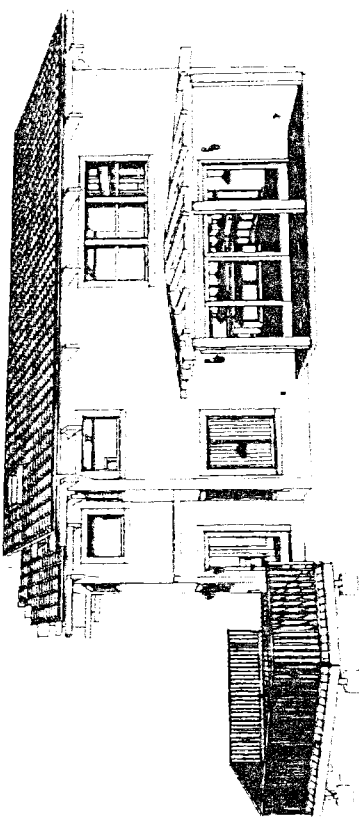
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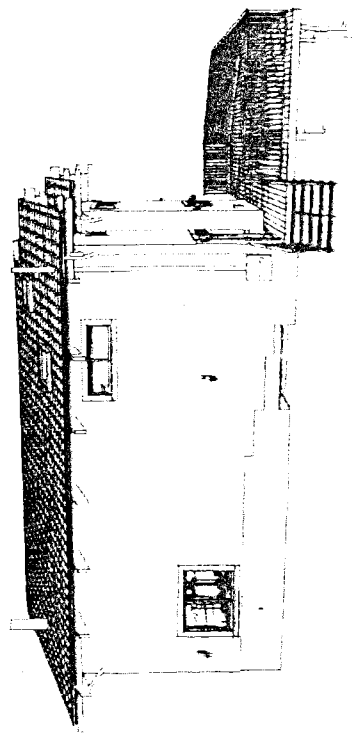
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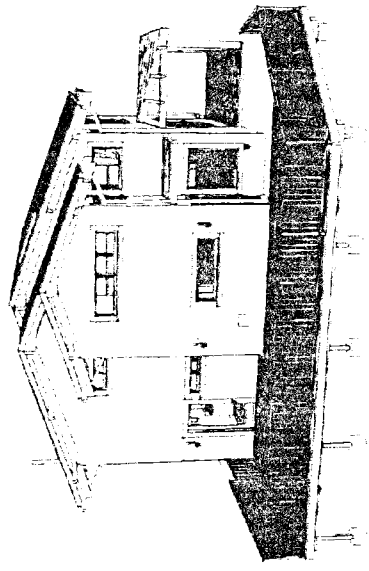
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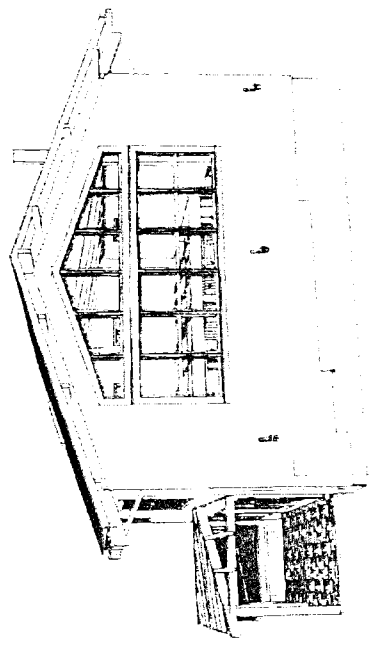
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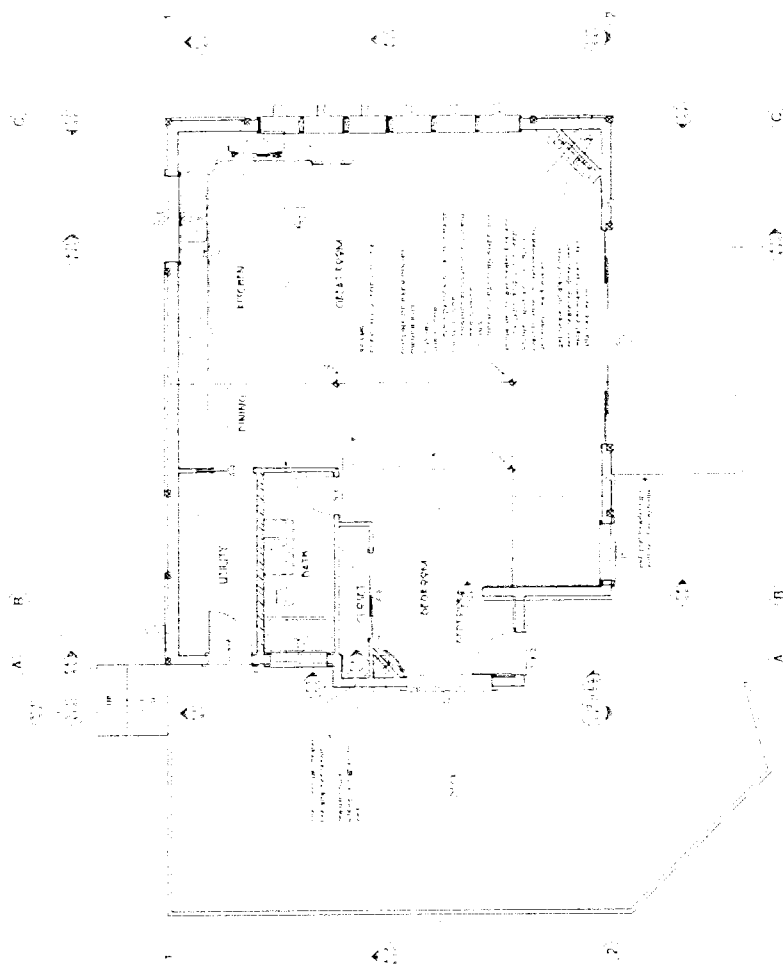


Perspective View East  
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EXHIBIT A



Floor Plan - No Dimensions

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**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
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 habitable structure is proposed to be set back 77 feet to APN 110-021-02 and 113 feet to APN 110-021-41 from the adjacent Commercial Agriculture zoned land. An effective barrier consisting of a six foot tall solid 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 110-021-02 and 110-021-41. This barrier, as proposed, shall not create a hazard in terms of the vehicular sight distance necessary for safe passage of traffic.

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.

A reduced agricultural buffer is recommended for this site due to the fact that fault traces identified on the property by the project geologist dictate the location of the proposed second unit. The location of the fault traces preclude siting the second unit within the 100 feet required by County Code Section 13.10.681 and necessitate the second unit's location within the 200 foot buffer setback. The proposed location was determined to be the only viable location minimizing conflict with adjacent agricultural use and removing as little agricultural land as is feasible given the geologic conditions. Correspondence from the geologist and staff (Exhibit F) detail the difficulty in identifying a geologically suitable building envelope on the property.

## Conditions of Approval

- I. This permit authorizes an Agricultural Buffer Setback reduction from the proposed residential use to APN 110-021-02 and 110-021-41 and the location of the proposed second unit more than 100 feet from the main dwelling. 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 from the adjacent agricultural zoned parcels of a minimum of 77 feet to APN 110-021-02 and 113 feet to APN 110-021-41 from the second unit.
    2. Final plans shall show the location of the vegetative buffering barrier (and any fences/walls used for the purpose of buffering adjacent agricultural land) which shall be composed of drought tolerant shrubbery. 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.
    3. Water Efficient Landscape Plan (including a signed Water Efficient Landscape Checklist and Certificate) prepared in accordance with the requirements of the Water Efficient Landscape Ordinance (County Code Chapter 13.13) by a certified/licensed landscape architect, landscape

contractor, civil engineer, landscape irrigation designer, landscape irrigation auditor, or water manager.

- 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 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, 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.

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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 three years from the effective date listed below or if additional discretionary permits are required for the above permitted project, this permit shall expire 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: \_\_\_\_\_

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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.

# CALIFORNIA ENVIRONMENTAL QUALITY ACT

## NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 131178

Assessor Parcel Number: 025-481-01

Project Location: 1555 Soquel Drive, Santa Cruz, CA 95065

**Project Description: Proposal to construct three antennas, six remote radio units, GPS unit, remove and replace two equipment cabinets, and fiber cabling for AT&T. Requires a Minor Variation of Permit 2380-U, 76-1782, 80-364PD, and 08-0293**

**Person or Agency Proposing Project: Julie Epstein**

**Contact Phone Number: (925) 951-7091**

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
- D. ☐ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).
- E. ☒ **Categorical Exemption**

Specify type: Class 1: Existing Facilities (Section 15301)

**F. Reasons why the project is exempt:**

Existing Hospital Building

In addition, none of the conditions described in Section 15300.2 apply to this project.

\_\_\_\_\_  
Sheila McDaniel, Project Planner

Date: \_\_\_\_\_

**EXIBHIT D**



FOR TAX PURPOSES ONLY

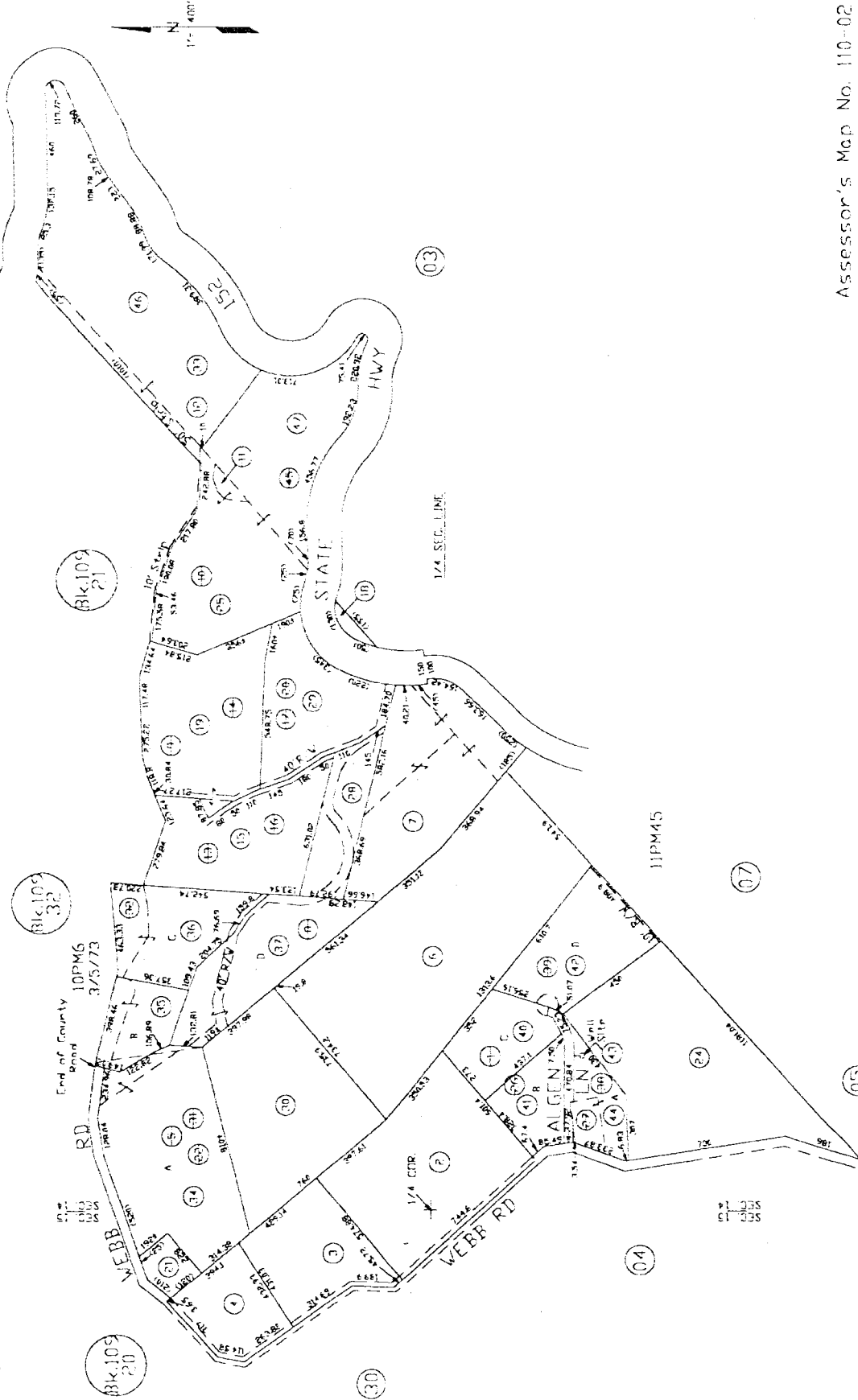
THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY AND ASSUMES NO LIABILITY FOR OTHER ERRORS. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1997

SALSIPUEDES RANCHO  
POR SECS. 14 & 15, T. 11S., R. 2E., M.D.B. & M.

Tax Area Code  
69-258

110-02

(03)

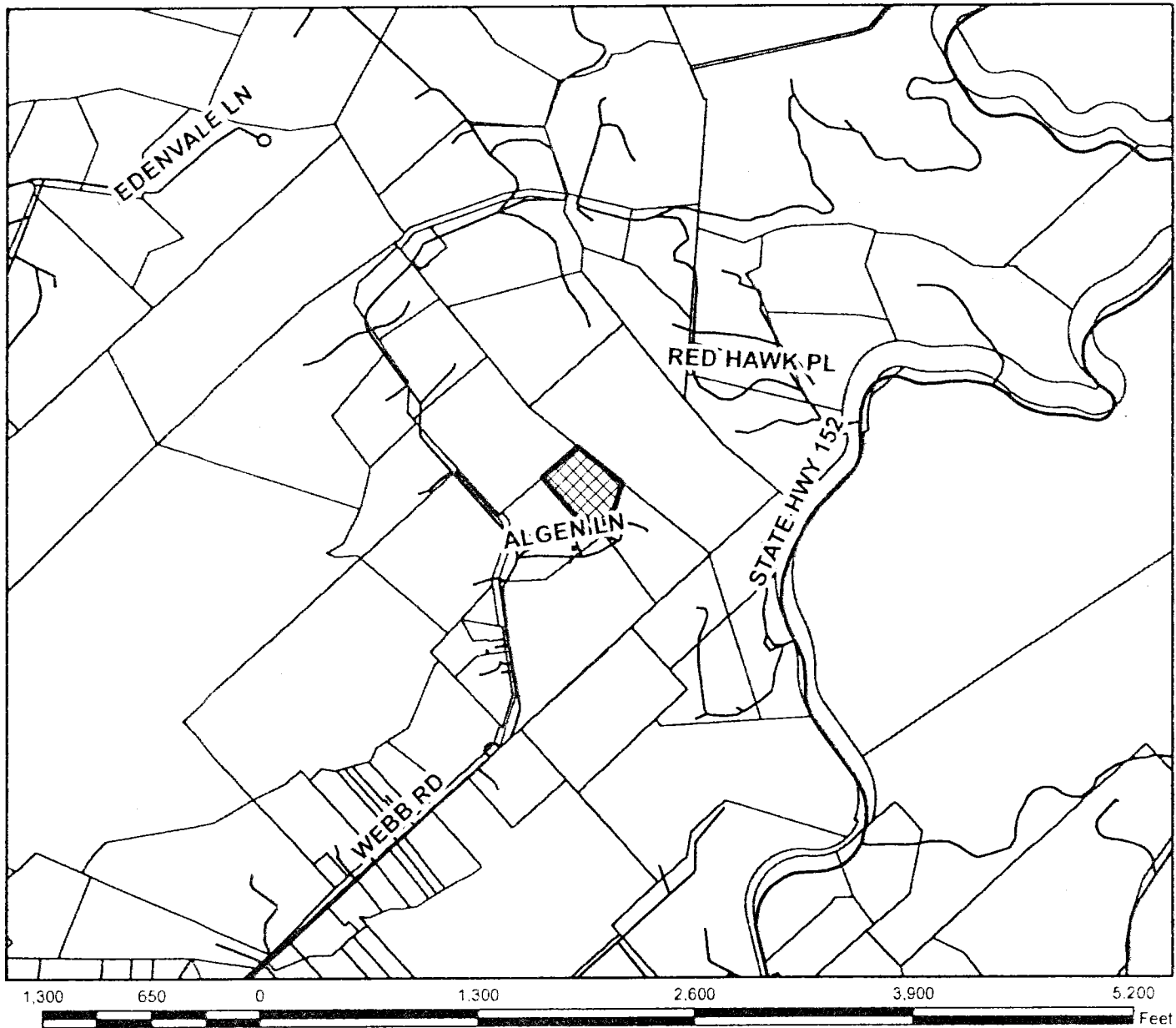


Note - Assessor's Parcel & Block Numbers Shown in Circles.





Assessor's Map No. 110-02  
County of Santa Cruz, Calif.  
Sep. 1997

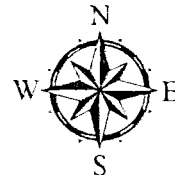


# Location Map



## LEGEND

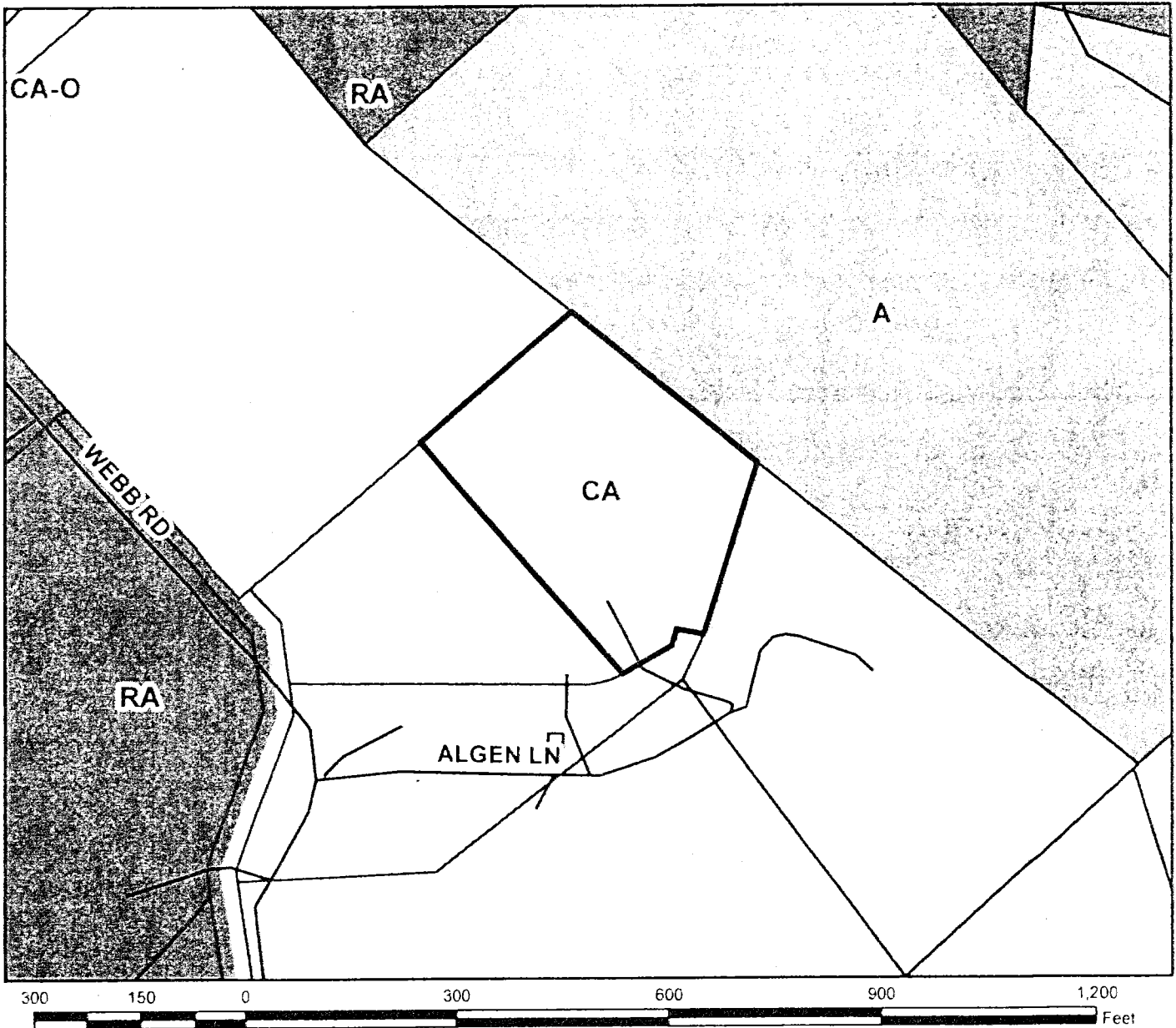
-  APN: 110-021-40
-  Assessors Parcels
-  Streets
-  State Highways



Map Created by  
County of Santa Cruz  
Planning Department  
July 2013



# Zoning Map



## LEGEND

APN: 110-021-40

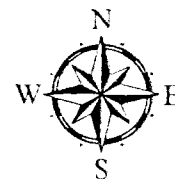
Assessors Parcels

Streets

AGRICULTURE COMMERCIAL

AGRICULTURE

AGRICULTURE RESIDENTIAL

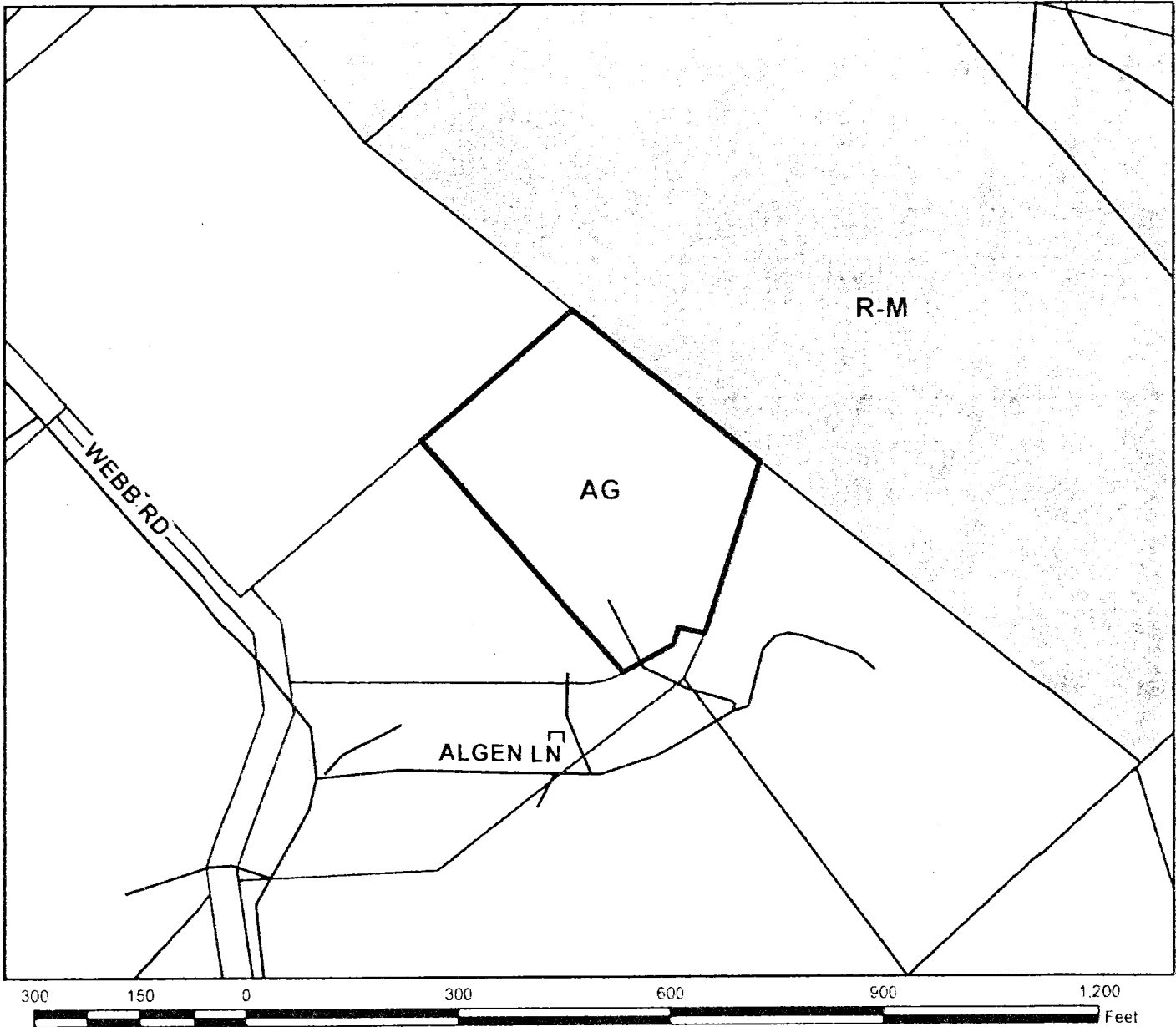


Map Created by  
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Planning Department  
July 2013




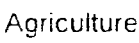
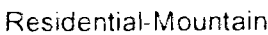
EXHIBIT 1

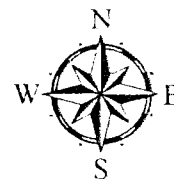


# General Plan Designation Map



## LEGEND

-  APN: 110-021-40
-  Assessors Parcels
-  Streets
-  Agriculture
-  Residential-Mountain



Map Created by  
County of Santa Cruz  
Planning Department  
July 2013

## EXHIBIT E

## Samantha Haschert

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**From:** Jeff Nolan [jeff@nolangeology.com]  
**Sent:** Tuesday, May 21, 2013 2:36 PM  
**To:** Samantha Haschert  
**Subject:** RE: erbe project APN 110-021-40

Ok. You had me worried. I've attached a copy of plate 1 with the area of investigation annotated. Basically, trench 1 uncovered a series of thrust type structures (faults?) that trend southeast to northwest. Those structures ruled out the whole area uphill from the house (northeast of the house). We then looked lower down on the slope, where we noted another thrust type SE to NW trending structure, and a NE to SW trending normal fault. These last two structures pushed us away from the existing residence (if you draw a 40' setback to either side from the southernmost thrust structure, it takes out all the area nearer the house. The building envelope shown is not the building envelope the owners wanted or proposed. It's what we gave them. The owner's proposed building envelope is the yellow rectangle to the northeast of the existing site on plate 1.

---

**From:** Samantha Haschert [mailto:PLN145@co.santa-cruz.ca.us]  
**Sent:** Tuesday, May 21, 2013 11:24 AM  
**To:** 'Jeff Nolan'  
**Subject:** RE: erbe project APN 110-021-40

I never meant for them to have pay to do additional research. I just need to show or describe the constraints on the site is to support the building location and the report focuses on the building site proposed by the applicant. It's a required finding that I need to make to recommend approval of the second unit. Could you please send me the figure showing the areas that you investigated? Can you make a call based on your professional opinion or would you not feel comfortable providing that opinion absent trenching?

---

**From:** Jeff Nolan [mailto:jeff@nolangeology.com]  
**Sent:** Tuesday, May 21, 2013 9:31 AM  
**To:** Samantha Haschert  
**Subject:** RE: erbe project APN 110-021-40

Samantha,

I'm not sure if you appreciate how difficult it was to find a feasible building site on that property. We spent somewhere in the neighborhood of \$20,000 locating this site. We did not, however, investigate every possible site within 100 feet of the house. In order to demonstrate that there are no building sites located closer to the existing home, I would have to trench every potential site around the existing home. I could easily spend another \$30,000 to \$40,000 trying to prove that there are no feasible sites closer to the existing home (not to mention tearing up driveways, gardens, decks, mature fruit trees, etc.). Is that warranted for this project? It is a small hillside parcel with very limited agricultural potential and we are talking about a 1200 square foot house. I can give you a figure showing the areas we investigated, but that would not include every potential site within 100 feet of the house.

JN

---

**From:** Samantha Haschert [mailto:PLN145@co.santa-cruz.ca.us]  
**Sent:** Tuesday, May 21, 2013 8:39 AM  
**To:** 'Jeff Nolan'  
**Subject:** RE: erbe project APN 110-021-40

Hi Jeff,

Do you have a site plan or other plans that show the other locations that you reviewed? If not, could you write a letter to this effect for the project file? The requirement is that the structures are clustered to minimize the removal of ag land which is the reason why we require that a second unit be located within 100 feet of the main dwelling. So I have to provide evidence to the Ag Commissioners that there really are no other feasible building sites located closer to the existing residence.

Thanks,  
Samantha

---

**From:** Jeff Nolan [<mailto:jeff@nolangeology.com>]  
**Sent:** Tuesday, May 21, 2013 8:24 AM  
**To:** Samantha Haschert  
**Subject:** RE: erbe project APN 110-021-40

Samantha,

We started off closer to the existing residence. We had to relocate the building site several times before we found one that could be approved.

JN

---

**From:** Samantha Haschert [<mailto:PLN145@co.santa-cruz.ca.us>]  
**Sent:** Monday, May 20, 2013 7:42 AM  
**To:** 'Jeff Nolan'  
**Subject:** RE: erbe project APN 110-021-40

Thank you! A couple of other questions- did you evaluate the entire parcel for potential building sites or did you just evaluate this site? In your opinion, is there a building site located closer to the existing house or do you need the property owner to request an update to the report to make this determination?

Thanks,  
Samantha

---

**From:** Jeff Nolan [<mailto:jeff@nolangeology.com>]  
**Sent:** Friday, May 17, 2013 5:22 PM  
**To:** Samantha Haschert  
**Subject:** erbe project APN 110-021-40

Samantha,

Here's the Erbe plate 1. Let me know if you need anything else.

*Jeffrey M. Nolan*  
Nolan Associates  
P.O. Box 597  
Santa Cruz, California 95061

Tel. 831-423-7006  
Fax 831-423-7008



