



Staff Report to the Agricultural Policy Advisory Commission

Application Number: **06-0589**

Applicant: Ron Powers
Owners: Robert E. & Mary **Ann** Whalen
APN: 088-081-07 & -08

Date: January **18,2006**
Agenda Item: # 9
Time: 1:30 p.m.

Project Description: Proposal to transfer about 10.86 acres from Assessor's Parcel Number 088-081-08 to APN 088-081-07, resulting in two parcels of 32.8 acres and 13.5 acres respectively.

Location: Properties located on the south side of Skyline Boulevard, about 2.4 miles east from the intersection of Highway 9 at 15435 Skyline Boulevard in Los Gatos.

Permits Required: Requires a Lot Line Adjustment and Agricultural Policy Advisory Commission Review of an Agricultural Viability Determination, Rezoning of APN 088-081-07 from the Special Use (SU) zone district to the Commercial Agriculture (CA) zone district, and Amendment of the Williamson Act contract on APN 088-081-08.

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 06-0589, based on the attached findings and conditions.

Exhibits

- | | |
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| A. Project plans | H. Agricultural Viability report by Dale Rush, Ph.D. dated May 1, 2006 |
| B. Findings | I. Land Conservation Contract 2-17-77 |
| C. Conditions | J. Rezoning Resolution for APN 088-081-07 from SU to CA |
| D. Categorical Exemption (CEQA) | K. Site photograph |
| E. Assessor's parcel map, Location map | |
| F. Zoning map, General Plan map | |
| G. Comments & Correspondence | |

Parcel Information

Parcel Sizes: 2.6 and 43.7 acres
Existing Land Use - Parcels: Christmas tree farm, two single-family residences
Existing Land Use - Surrounding: Castle Rock State Park. very low density residential

Project Access: Highway 35, Skyline Boulevard
Planning Area: Skyline
Land Use Designation: A (Agriculture)
Zone District: SU (Special Use District) APN 088-081-07 and CA
(Commerical Agriculture) APN 088-081-08
Supervisorial District: Fifth (District Supervisor: Stone)
Within Coastal **Zone**: Inside X Outside

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: Lompico-Felton complex, Madonna loam
Fire Hazard: Not a mapped constraint
Slopes: 15 – **30** percent slopes
Env. Sen. Habitat: **Not mapped**/no physical evidence on site
Grading: No grading proposed
Tree Removal: No trees proposed to be removed
Scenic: Not a mapped resource
Drainage: Existing drainage adequate
Archaeology: Mapped/no physical evidence on site

Services Information

Inside Urban/Rural Services Line: Yes X No
Water Supply: Private well
Sewage Disposal: CSA #12, private septic system
Fire District: CDF
Drainage District: Non-zone

Analysis

The proposed lot line adjustment will transfer approximately 10.86 acres from APN 088-081-08 to APN 088-081-07 (Exhibit **A**). The subject parcels have both been actively engaged in Christmastree farming by **the** Whalen family since 1963. Currently, APN 088-081-07 is 2.6 acres and APN 088-081-08 is 46.3 acres. Each parcel is developed with an existing single-family dwelling and there is an existing barn on APN 088-081-08 which would be located on AFN 088-081-07 after the proposed lot line adjustment. General Plan Policy 5.14.6 encourages the pursuit of agriculture, particularly tree crops and open field horticulture, to provide visually pleasing open space. This is of particular importance in view of the property's location in the vicinity of Castle Rock State Park, which provides spectacular vistas across tree covered *peaks* and valleys with views out **to** Monterey Bay.

After the **lot** line adjustment both parcels will be over the minimum 10-acre size required for the Special **Use** (SU) zone district. The Special Use zone district provides for flexibility of use and regulation, which is necessary to ensure consistency with the parcels' General Plan Agriculture (A) designation. A single-family dwelling and agricultural uses **are** principal permitted uses in the **SU** zone district **as** per County Code Section 13.10.382. The land transferred from APN 088-081-08 will not reduce that parcel below the minimum 10-acre size for the zone district as the parcel remains at 32.8 acres. The land is under Williamson Act as per 75-1285-A€

The transfer of this property from one owner to the other shall not increase the development potential on either property. No new building sites will be created as a result of this application. There are two parcels currently and there will be two parcels as a result of this permit. No new parcels will be created.

Agricultural Viability Determination

An Agricultural Viability Report was prepared for the “Choose and Cut” Christmas tree farm (Exhibit H). The report studied both parcels to investigate whether the lot line adjustment would impact the ability of the larger parcel APN 088-081-08 to sustain the tree production operation with the transfer of 10.86 acres, and if the land added to the smaller parcel APN 088-081-07 would sustain a second independent operation.

The existing farm utilizing both parcels has provided a viable economic return since 1963. Approximately 24 acres of the total 46 acres is planted with Christmas trees, mainly Douglas and White fir trees. About 15 acres of trees would remain on the larger parcel and 8 acres of trees on the smaller parcel after the proposed lot line adjustment. Trees are spaced on a 5' x 5' grid. Trees are harvested at an average age of 6-9 years. Timely planting of replacement trees and intensity of management will affect sustainability of both operations. The Christmas tree farms benefit from an annual average rainfall of about 55 inches, so that little supplemental irrigation is required. Trees existing on the properties are at different stages of development so that gradual replacement as trees are cut sustains the operation. In addition, proximity to the Silicon Valley and high visibility afforded to visitors to the nearby castle Rock State park, contribute to the agricultural viability of both parcels.

Williamson Act Considerations

Government Code Section 51257 regulates minor lot line adjustments for properties under Williamson Act contract. The larger 46.3-acre parcel, APN 088-081-08 entered into a Williamson Act contract on February 27, 1976 recorded February 17, 1977 (Exhibit I). The contract has automatically renewed and remains in effect. The smaller 2.6-acre parcel is zoned Special Use (SU) and is not under Williamson Act contract. New contracts would be required to be approved by the Board of Supervisors. The Board must make the findings that the new contracts would restrict the properties for at least 10 years and that there would be no net decrease in the amount of acreage restricted. At least 90 percent of the land under the former contract must remain in the new contract. After the lot line adjustment, the parcels of land under the Williamson Act contract must be large enough to sustain the agricultural use and shall not compromise the long-term agricultural productivity of the parcel. The lot line adjustment shall not result in the removal of adjacent land from agricultural use. The lot line adjustment shall not result in a greater number of developable parcels than existed prior to the adjustment and the adjusted lots must remain consistent with the General Plan. A rezoning of the smaller parcel from SU to Commercial Agriculture (CA) would be required. Both parcels carry **an** Agriculture (A) General Plan designation.

Findings are on file in the County Planning Department.

Recommendation

- Staff recommends that your Commission ACCEPT the Agricultural Viability Determination and ADOPT Resolution **2007-01** recommending a rezoning of APN 088-081-07 from the Special Use (SU) zone district to the Commercial Agriculture (CA) zone district, proposed under Application # 06-0589, and based on the attached findings and recommended conditions; and
- Forward the application to the Planning Commission and Board of Supervisors to consider the proposed Lot Line Adjustment and rezoning of APN 088-081-07 from the Special Use (SU) district to Commercial Agriculture (CA) to enter into a Williamson Act Land Conservation contract.

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: 
Glenda Hill, AICP
Principal Planner
Long Range Planning
Santa Cruz County Planning Department

Lot Line Adjustment Findings

1. The lot line adjustment will not result in a greater number of parcels than originally existed.

This finding can be made, in that there were two parcels prior to the adjustment and there will be two parcels subsequent to the adjustment.

2. The lot line adjustment conforms with the county zoning ordinance (including, without limitation, County Code section 13.10.673), and the county building ordinance (including, without limitation, County Code section 12.01.070).

This finding can be made, in that no additional building sites will be created by the transfer as both parcels are currently developed with a single-family dwelling. Both of the parcels have a General Plan designation of 'Agriculture' and the minimum parcel size shall be determined by the Agricultural policy Advisory Commission based upon review of the agricultural viability study (Exhibit H. Neither of the parcels are zoned 'TP' or have a designated Timber Resource as shown on the General Plan maps. The proposal complies with the General Plan designation of the parcels Agriculture (A) per 13.10.673(e).

3. No affected parcel may be reduced or further reduced below the minimum parcel size required by the zoning designation, absent the grant of a variance pursuant to County Code section 13.10.230.

This finding can be made, in that neither of the parcels included in the proposal will be reduced below the minimum parcel size required by the zone district as a result of this lot line adjustment. Both parcels remain above 10 acres as per County Code Section 13.10.313.c. Assessor's Parcel Number 088-081-07 will increase in area from 2.64 acres to 13.5 acres and APN 088-081-08 will decrease in area from 46.3 acres to 32.8 acres.

Rezoning Findings

1. The proposed zone district will allow a density of development and types of uses which are consistent with the objectives and land-use designations **of** the adopted General Plan; **and,**

This finding can be made, in that the project site has an Agriculture (A) General Plan land use designation, which requires a ten-acre minimum parcel size. The proposed CA (Commercial Agriculture) zone district will be appropriate to achieve consistency with the surrounding pattern of development.

2. The proposed zone district is appropriate of the level of utilities and community service available to the land; and,

This finding can be made, in that the project site is not within the Urban Services Line (USL) and is not presently served by all public utilities. The existing two single-family dwellings on the Christmas tree farm are served by a private water well and septic system which is adequate to serve the existing development.

3. The character of development in the area where the land is located has changed or is changing to such a degree that the public interest will be better served by a different zone district.

This finding can be made, in that the surrounding parcels are zoned for open space for agriculture, timber production and state park lands. The public interest would be better served through rezoning APN 088-081-07 **from** the SU to the CA zone district to allow an internally consistent agricultural uses on the site. The proposed CA (Commercial Agriculture) zone district will be consistent with the existing pattern **of** development in the vicinity. The land will be entered into a Williamson Act land conservation contract and **has** been determined to be a viable agricultural property in terms of economic sustainability as a Christmas tree farm.

Conditions of Approval

Exhibit A: Tentative Map, 1 sheet, prepared by Westfall Engineers, Inc., dated September 2006.

- I. No parcel map is required. File deed(s) of conveyance (which must result in parcel configurations that match the approved Exhibit "A" for this permit) with the County Recorder to exercise this approval. Parcels or portions of parcels to be combined must be in identical ownership.
- II. The deed(s) of conveyance must contain the following statement after the description of the property(ies) or portion(s) of property to be transferred:
 - A, "The purpose of the deed is to adjust the boundary between Assessor's Parcel Number 088-081-07 and Assessor's Parcel Number 088-081-08 as approved by the County of Santa Cruz under Application 06-0589. This conveyance may not create a separate parcel, and is null and void unless the boundary is adjusted as stated."
- III. Return a conformed copy of the deed(s) to the Planning Department.
- IV. If a map is also to be recorded with the County Surveyor's office (which is not required to implement this approval), you must include a copy of these Conditions of Approval to the County Surveyor with the map to be recorded.
- V. In the event that future County inspections of the subject property disclose noncompliance 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, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

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 and is no longer valid if the boundary adjustment is not recorded prior to the expiration date listed below.**

Approval Date: _____ 1-18-2007 _____
Effective Date: _____ 2-02-2007 _____
Expiration Date: _____ 2-02-2009 _____

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: 06-0589

Assessor Parcel Number: 088-081-07 & -08

Project Location: 15435 Skyline Boulevard, Los Gatos CA 95033

Project Description: Lot line adjustment

Person or Agency Proposing Project: Ron Powers, Powers Land Planning, Inc.

Contact Phone Number: 831-426-1663

- 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).

Specify type:

- E. **Categorical Exemption**

Specify type: Class 5 - Minor Alterations in Land Use Limitations - Section 15305

F. Reasons why the project is exempt:

Lot line adjustment

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

Joan Van der Hoeven, Project **Planner**

Date: January 18,2007

FOR TAX PURPOSES ONLY

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PDR. SECS. 7, 17 & 18, 1.85, K&W, M.L.B. & M.

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PROJECT LOCATION

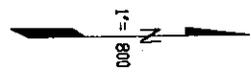
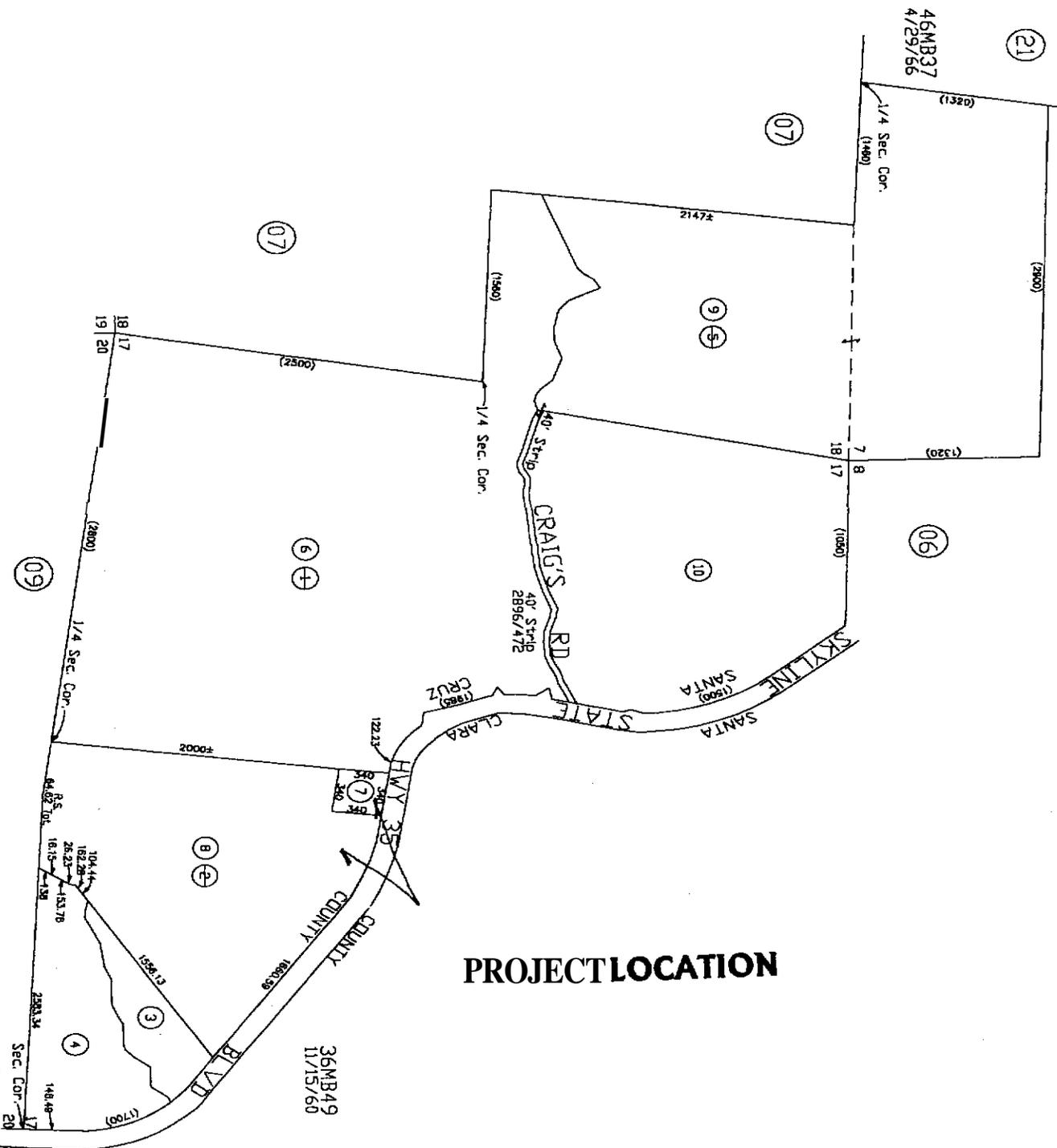


EXHIBIT E

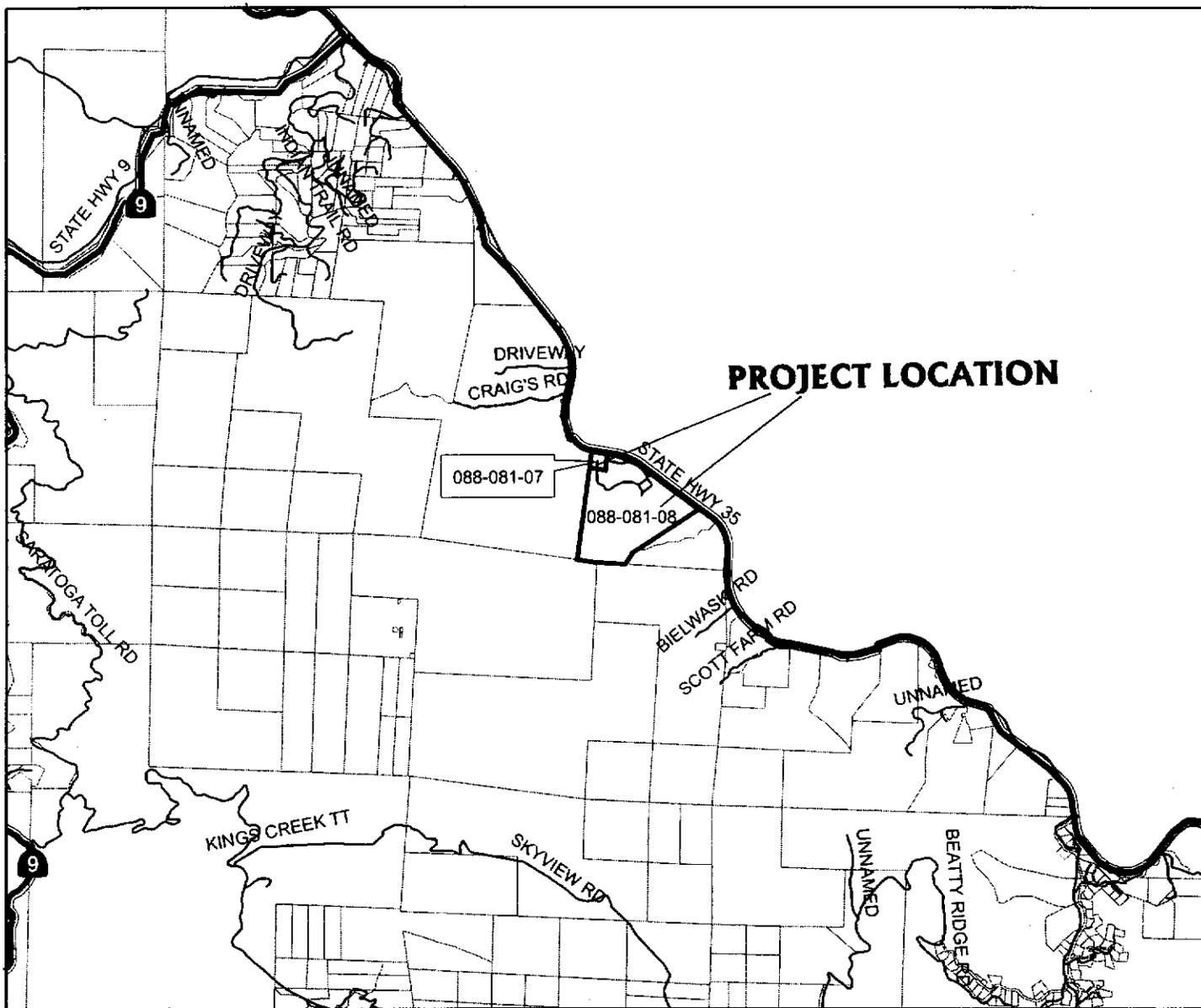
Note - Assessor's Parcel & Block

Assessor's Map No. 38-08
County of Santa Cruz, Calif.





Location Map



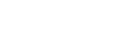
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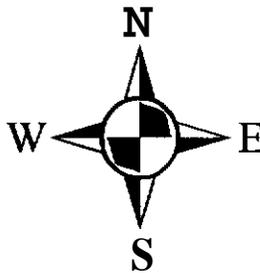
088-081-07

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Legend

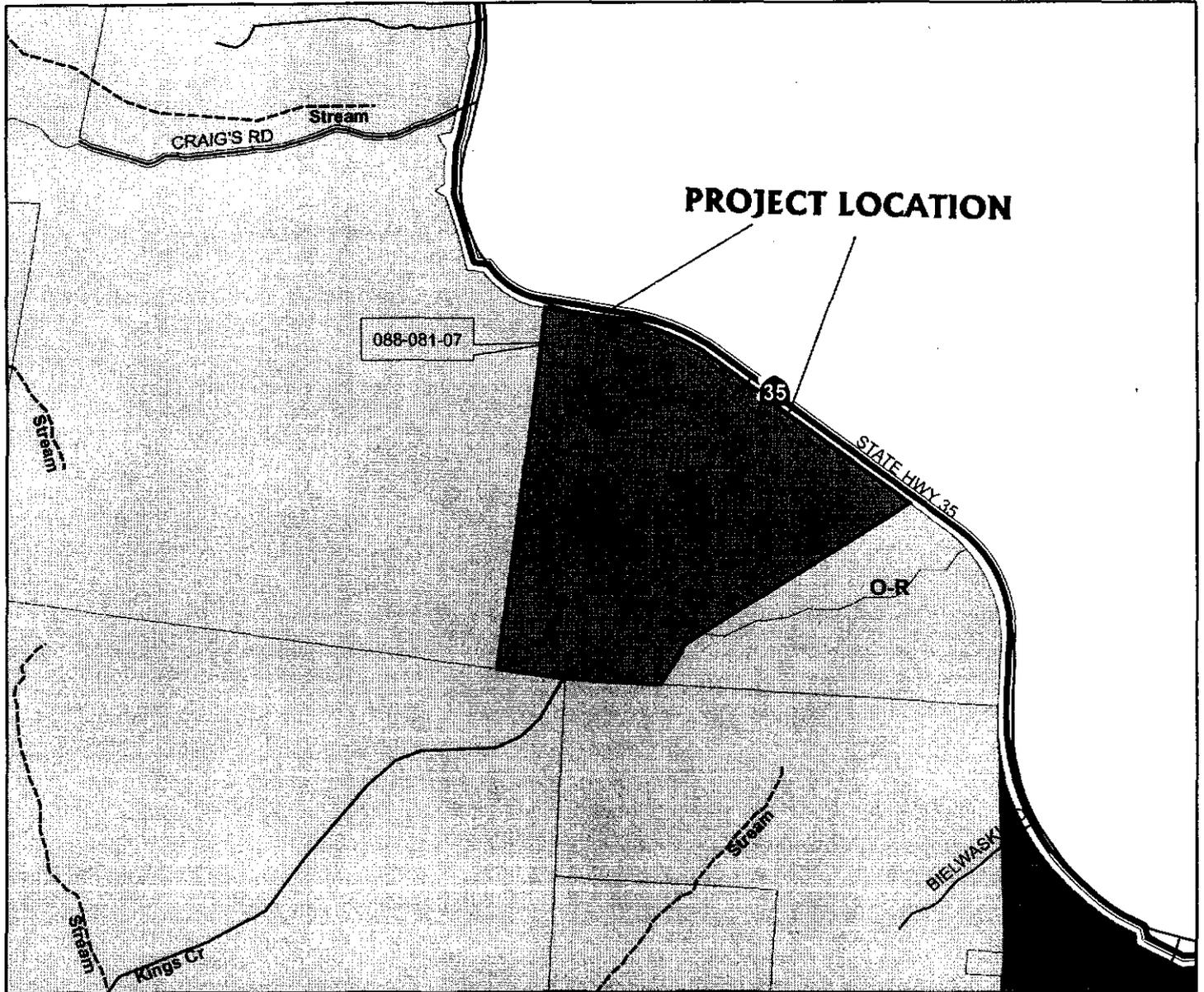
-  Subject Parcels
-  Assessors Parcels
-  Streets
-  State Highways



Map Created by
 County of Santa Cruz
 Planning Department
 November 2006

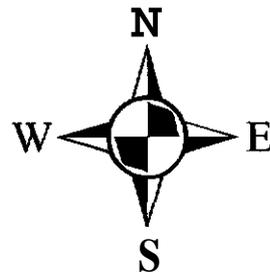


General Plan Designation Map



Legend

-  Subject Parcels
-  Assessors Parcels
-  Streets
-  State Hghways
-  INTERMITTENT STREAM
-  PERENNIAL STREAM
-  Agriculture (AG)
-  Parks and Recreation(O-R)
-  Residential-Mountain(R-M)

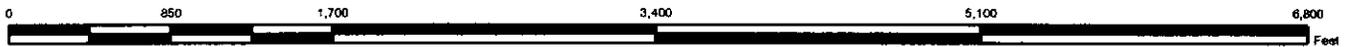
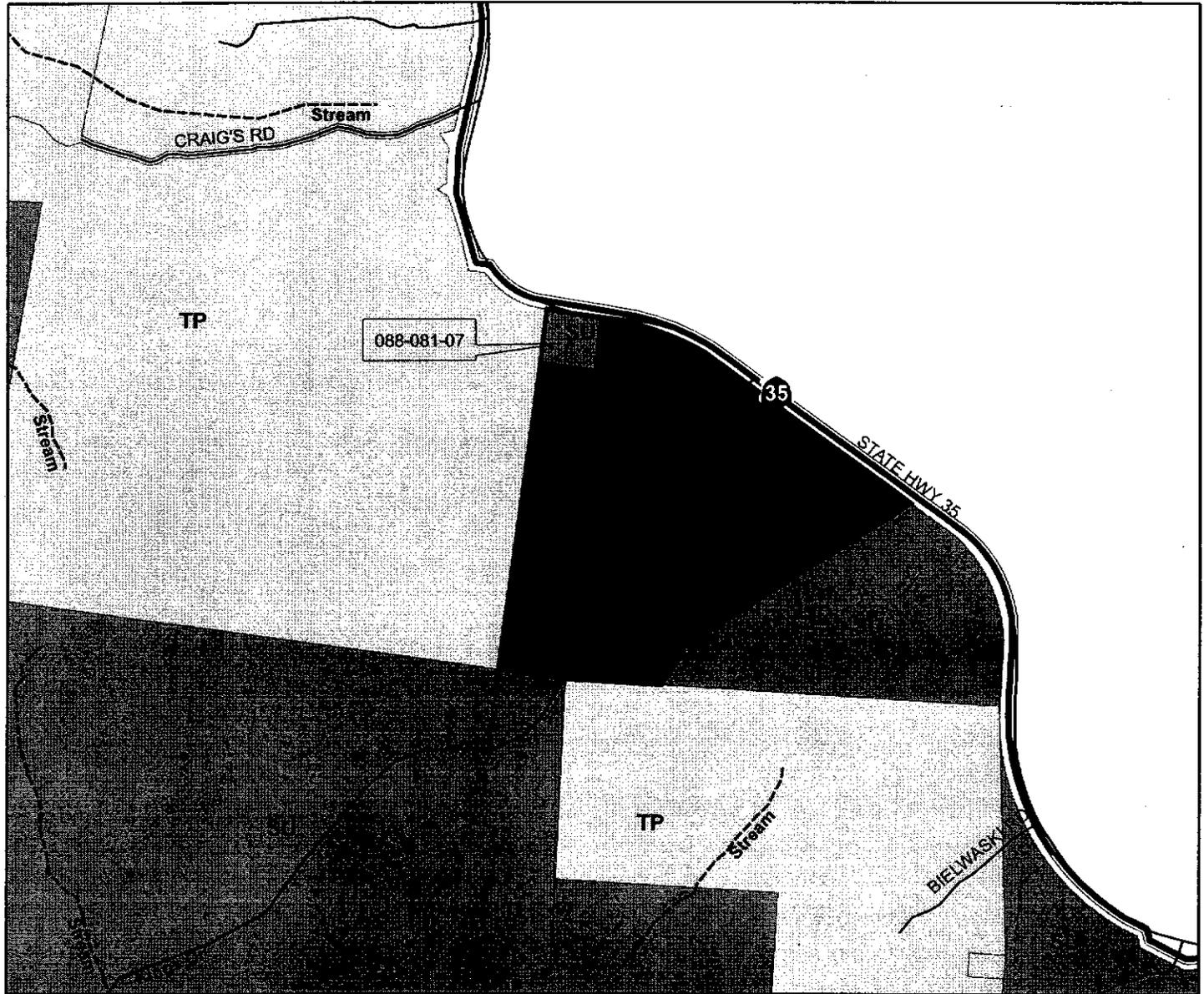


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 November 2006

EXHIBIT F

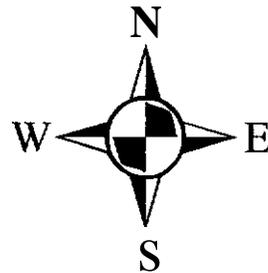


Zoning Map



Legend

- Subject Parcels
- Assessors Parcels
- Streets
- State Highways
- INTERMITTENT STREAM
- PERENNIAL STREAM
- AGRICULTURE COMMERCIAL (CA)
- SPECIAL USE (SU)
- TIMBER PRODUCTION (TP)



Map Created by
 County of Santa Cruz
 Planning Department
 November 2006

C O U N T Y O F S A N T A C R U Z
D I S C R E T I O N A R Y A P P L I C A T I O N C O M M E N T S

Project Planner: Joan Van Der Hoeven
Application No.: 06-0589
APN: 088-081-07

Date: December 22, 2006
Time: 10:13:05
Page: 1

Environmental Health Completeness Comments

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

===== REVIEW ON NOVEMBER 7, 2006 BY JIM G SAFRANEK =====
NO COMMENT

Environmental Health Miscellaneous Comments

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

===== REVIEW ON NOVEMBER 7, 2006 BY JIM G SAFRANEK =====
NO COMMENT

Dale W. Rush, Ph.D.
Edwin E. Sieckert, M.S.
Neil H. Phillips, Sr.
Larry Liggett, B.S.

RUSH and ASSOCIATES

AN ASSOCIATION OF INDEPENDENT AGRICULTURAL CONSULTANTS

28951 Falcon Ridge Road
Salinas, California 93908
Office: (831) 484-4834
Fax: (831) 484-4837

May 1, 2006

File No. 6009.07

Agricultural Viability Report

This document was prepared for Mr. **Robert** and Mrs. Mary Ann Whalen, 15435 Skyline Boulevard, Los Gatos, CA 95033.

The subject property is **located** at and about the above address, listed as **APNs** 088-081-07 and 08. within Section **17**, Township **8S**, Range **2W**, Mt. Diablo B/M, Santa Cruz County, CA (Exhibit **1**) The issue at hand is whether a property lot line adjustment to APN 088-081-07 toward the east and south to expand it from approximately 2.6 acres to approximately 13.5 acres will affect the agricultural viability of the remaining area within the subject APN 088-081-08. The change would reduce the **subject** parcel from approximately 46.3 acres **to** 32.8 acres.

The current use of both properties is mainly as a "Choose and Cut" Christmas tree farm that also contains two residences, a maintenance building and equipment storage. In addition to those uses there are approximately 20 acres of standing timber (mostly Douglas fir) and other naturally occurring hardwood species. Following the proposed **lot** line adjustment, approximately 11 acres of APN 088-081-08 would remain as an existing Christmas tree farm, with approximately 4-6 acres of land suitable for expansion of that enterprise. The remaining area contains a mix of open and brushy areas, harvestable timber (Douglas fir) and hardwood species, mostly deciduous oaks, Madrone, California Bay, and **tanoak**. A substantial part of APN 088-081-07 (approximately 2 acres) is currently planted to Christmas trees, with the remainder used as a residence.

History

The area currently in Christmas trees was originally cleared around the turn **of** the twentieth century and planted with pear or apple **trees**, with the remainder used for timber production as a commercial enterprise. The first experimental Christmas tree plantings on the property were made in 1949. By the early 1960's tree fruit production was no longer a viable enterprise and the land was completely converted to commercial Christmas tree production starting in 1963, and has since been in continuous use for that purpose. APN 088-081-08 is enrolled in the Williamson Act, designated as agricultural land for assessment purposes.

Current agricultural use

The current agricultural use of the majority of both parcels (approximately 24 acres) is for Christmas tree production, with a range of tree age and **variety** from recently planted hybrid Douglas fir and White fir, to **trees** that are of a size and maturity **for** cutting in **the** upcoming season (Exhibit 2). The remainder of the parcels is used for limited timber production and firewood on a maintenance basis.

Agricultural viability

The basis for evaluating agricultural viability includes several factors such as current use(s), land use capability, parcel size, related enterprises, local and adjacent land use, environmental conditions, potential economic return, and in this instance historical productivity and potential for continued productivity. Those issues were evaluated to determine appropriateness of the intended use following the proposed lot line adjustment.

Land capability

Review of the current U.S. Soil Conservation Service (USSCS) Soil Survey for Santa Cruz County revealed four soil series mapped within the subject property boundaries. Specific uses (listed and observed), and acreage are delineated below for a combined total of 46.3 acres (Exhibit 3) They are:

110-Ben Lomond sandy loam (Land Capability Class 3e-1) 13.2 acres (29%). Agricultural uses include timber production, apple/pear orchards, Christmas tree farms, tree nurseries and pasture.

143-Lompico-Felton complex (LCC 6e) 17.7 acres (38%). Agricultural uses include timber and firewood production and pasture.

144-Lompico-Felton complex (LCC 7e) 4.8 acres (10%). Agricultural uses include timber and firewood production and grazing.

149-Madonna loam (LCC 4e-1) 10.6 acres (23%). Agricultural uses include timber and firewood production, apple/pear orchards and Christmas tree farms.

Of the listed soil units mapped on the subject property, three (110, 143, and 149) of the four support farmed Christmas trees, including essentially all of both Ben Lomond and Madonna units, with areas within *the* Lompico unit (143) also planted for seasonal sales.

Local and surrounding land uses

The subject property is essentially surrounded by Castle Rock State Park, managed as mostly natural lands with mature timber, mixed hardwood forests, and variably open areas of native shrubbery and grasslands, formerly used for timber production, grazing and orchards. The general area also contains numerous homes in forest and pasture settings, as well as other Christmas tree farms. Access is by an adequately maintained two-lane blacktop all weather road identified as both California State Highway 35 and as Skyline Blvd. (ref: Exhibit 1). There is considerable visitation of the park, which assures a high degree of visibility of the Christmas tree farm, and thereby a sustainable business potential.

Environmental conditions

The subject location lies at a North latitude of 37° 14 minutes and West longitude of 122° 6 minutes, at an elevation of 2,800- 3,000 feet above sea level as determined by GPS measurements and review of topographical maps. Rainfall as reported by Mr. Whalen over the last five decades and confirmed by other sources averages approximately 55 inches of precipitation per year, mostly rainfall during fall, winter, and spring periods. In addition to seasonal rainfall, additional moisture is derived from fog drip during otherwise dry months. The frost-free period is 220-245 days per year, based upon information from the soil survey report.

Those conditions have been adequate to supply the moisture needs and growing days for the existing Christmas tree farm since inception (1949), and no additional regular irrigation has been required for establishment and growth of trees of either Douglas or White fir species. However, irrigation facilities remain from previous use as pear and apple orchards, production of which terminated in 1963.

Economic viability

Continued economic viability is a key issue in the analysis. Historically, the property has been both occupied and operated continuously as a 'Choose and Cut' Christmas tree farm since the first trees matured in the mid 1960's. Continuous operation to the present (more than 40 years) supports long-term viability and reported profitability of the enterprise. Review of Whalen IRS/state filing documents for the last five years (2001-05) revealed reported income averaging approximately \$76,000 per annum from tree farm sales (Exhibit 4).

The issue is: If the lot line is adjusted, can the remaining area (33 acres) within APN 088-081-08 continue to be a viable agricultural enterprise. Evaluation of current and projected economic factors and expected returns are provided below. It should be noted that the significant issue in such matters is not whether such an enterprise will produce adequate revenue to be a sole source of income, but rather, will it produce more income than required costs to sustain the operation, e.g. produce a reasonable expectation of a significant profit above operating expenses.

The University of California Cooperative Extension Service (UCCE) publishes cost studies on production of various agricultural commodities including Christmas trees. The most recent study on a 'Choose and Cut' Christmas tree farm was published in 2005 (Exhibit 5). Published information can be used as a guideline and modified as necessary to conform to site-specific data to predict performance potential. Using such a guideline and inputting relevant data can predict profit potential. This approach was used in evaluating the profit potential of the subject parcel after a lot line adjustment that would change the area of production within the 08 APN, although the Overall area of Christmas tree production within both the 07 and 08 APNs would not be reduced.

Production parameters, data and assumptions

The Christmas tree spacing on ~~the~~ subject property is primarily a 4-5' by 4-6' grid spacing with 5' x 5' being the most common. This is consistent with the UCCE cost study parameters. The ~~two~~ species grown are Douglas and ~~White~~ fir, also consistent with the UCCE cost Study. Historic harvest schedule is 6-9 years depending upon species, and whether the trees are grown from seedlings or by regrowing new trees from cut stumps. This harvest schedule is similar to and consistent with the UCCE cost study. Tree value at cutting is currently \$45 for the subject and other nearby Christmas tree farms, but likely to escalate with time. By comparison the UCCE study uses \$34/tree as the likely return, with the location of the farm in relatively less affluent areas of the Sierra Nevada foothills.

The size of the farmed area used in the UCCE study is 16 gross acres, substantially smaller than the currently planted area before lot line adjustment. The planted area remaining within APN 088-081-08 after lot line adjustment is approximately 11 acres, plus 4-6 additional plantable acres, not including approximately 16-18 additional acres of steeper areas of standing timber. The farmed area within APN 07 would expand to approximately 13 acres.

There are also significant differences between the UCCE cost study and the subject area that impact costs and net return, and favor the existing Santa Cruz County sites. Variances include location (Sierra Nevada Foothills vs. coastal mountains), i.e. dryer, warmer vs. wetter, cooler, and higher tree value at sale: \$45/tree vs. \$34/tree for the SN site.

There are **also** substantial reductions in production costs such as lack of need for irrigation, (including establishment and maintenance of a system, labor, and power costs), not required for the ~~subject~~ tree farm, initial establishment costs such as land preparation, large volume tree purchases, planting costs, and lag time before first harvest; none of which are required for the ~~subject~~ existing tree farm(s).

While cost differences can be considered in any comparison of profitability, essentially all of those differences favor the existing Santa Cruz ~~tree~~ farm. However, important similarities include time to maturity for initial and continuing harvests, planting density, planted species, expected plant survival and marketability of mature trees.

Comparison of listed UCCE parameters for growing, input costs, and returns, revealed the subject Santa Cruz Christmas tree farm(s) produce superior returns (higher value for mature trees) and lower cash and overhead costs. ~~While~~ the projected return per tree and per acre in the UCCE study provides a profit and an incentive to establish and maintain a Christmas tree farm operation, continuing and/or moderate expansion of the Santa Cruz farms provides a better potential rate of return.

For instance, in the UCCE cost study, a viable operation scenario is a realistic expected net return of approximately \$12 per tree at an 80% productivity index and a sales price of \$34 per tree, mostly toward the end of a growing cycle of 7-12 years. However, there is a net return expectation of approximately \$23 per tree at the sales price of \$45 from the existing subject farm, and sales are current and ongoing due to variable maturity of existing trees and lower input costs.

Review of Whalen IRS/State filing data revealed revenues from the existing tree farm have averaged approximately \$76,000 per annum for the period 2001-2005. Assuming 23 acres of production, then the average return is at least \$3,300 per acre. Annual overhead costs for labor and property maintenance have averaged approximately \$900 per acre. Reported average harvest from the mixed age plantings is 100+ trees per acre per year. If the historic sales value has been similar to that used in the UCCE of \$34 per tree, then the gross return would have been \$78,000 per year for the existing plantings. This is close to the actual average reported annual income of \$76,000 from the subject property, assuming lower historical pricing, and that all cash sales were reported.

If tree sales for the remaining planted and plantable area within APN 088-081-08 after lot line adjustment are projected using a similar approach and the current sales price of \$45 per tree, 80% productivity index and plant density of 5' x 5' over approximately 15 planted acres, then the annual projected return for the property for a 10 year period for 1,394 harvestable trees at a net return of a minimum of \$23 per tree is approximately \$3,200 per acre. or \$48,000 per year. It should be noted that timely planting of replacement trees as necessary, and intensity of management may affect final return.

Conclusion

Based upon the current condition of the subject property with a mix of trees from newly planted to ready to sell, and current planted acreage plus limited expansion to plantable land, the remaining area within APN 088-081-08 will continue to be a viable agricultural enterprise. Similarly, the expansion of APN 088-081-07 will create a profitable agricultural enterprise.



Dale W. Rush, Ph.D., CPAg/SSc.

DWR:kei

Enclosures: Exhibits 1-5

#06-0589

88-181-09

BOOK 2614 PAGE 468

BOOK 2589 PAGE 614
LAND CONSERVATION CONTRACT

19380 7984

COMPARED

10/2/75

THIS CONTRACT, made and entered into this 27th day of FEBRUARY, 1976, by and between PAMELA ELAINE WHALEN, MARK EDWARD WHALEN, ROBERT E. WHALEN, JR., ALICE E. WHALEN, and SUSAN E. BRUSIN, hereinafter referred to as "Owner," and the COUNTY OF SANTA CRUZ, a Political Subdivision of the State of California, hereinafter referred to as "County;

W I T N E S S E T H:

WHEREAS, Owner is the owner of certain real property in the County of Santa Cruz, which property is presently devoted to agricultural use and is described in Exhibit "A" attached hereto; and

WHEREAS, said property is located in an agricultural preserve heretofore established by County; and

WHEREAS, both Owner and County desire to limit the use of said property to agricultural uses and those compatible uses allowed in the A (Agricultural) District and the P (Agricultural Preserve) Combining District in order to discourage premature and unnecessary conversion of such land to urban use, recognizing that such land has substantial public value as open space, and that the preservation of such land in agricultural production constitutes an important physical, social, esthetic, and economic asset to County; and

WHEREAS, the parties have determined that the highest and best use of such land during the life of this contract, or any renewal thereof, is for agricultural purposes:

NOW, THEREFORE, the parties, in consideration of the mutual covenants and conditions Set forth herein and the substantial public benefits to be derived therefrom do hereby agree as follows:

1. The within contract is made and entered into pursuant to the California Land Conservation Act of 1965.
2. During the term of this contract the above-described land shall be used for the commercial production of agricultural commodities and/or those compatible uses allowed in the A (Agricultural) and the P (Agricultural Preserve) Combining District of the County Zoning Ordinance. No Structures shall be erected upon said land except such structures as may be incidental to and compatible with such uses.

3. In consideration of the execution hereof by Owner and the execution of similar contracts by other property owners within the same agricultural preserve. County agrees not to authorize any uses, other than those permitted by the County Zoning ordinance in the A (Agricultural District) and the P (Agricultural Preserve) Combining District, during the term of this contract or any renewal thereof. Nothing herein shall prohibit a change of boundaries of said Agricultural Preserve to omit lands not subject to a contract or to include additional lands.

4. In consideration of the execution hereof by County, Owner agrees to restrict his property to those uses authorized in the A (Agricultural) District and the P (Agricultural Preserve) Combining District. Owner further agrees that he will not convey any part of the above-described property unless any parcel proposed to be conveyed complies in all respects with the provisions of the A (Agricultural) District and the P (Agricultural Preserve) Combining District.

5. In the event that an action in eminent domain for the condemnation of any land described herein is hereafter filed by any public agency, or when such land is acquired in lieu of eminent domain for a public improvement, this contract shall be deemed null and void as of the date the action is filed or the land is so acquired, provided that the condemnation or acquisition is of the fee title or other interest less than the fee which would prevent the land from being used for agricultural or compatible uses and provided that the contract shall be null and void only as to land actually so condemned or acquired or as to Such land and a remaining portion that is rendered unsuitable for agricultural or compatible uses.

6. This contract shall be effective commencing on the _____

day of _____, 19____, and shall remain in effect for a period of ten (10) years therefrom.

This contract shall be automatically renewed at the end of each year for an additional one (1) year period, thus maintaining the term of the contract at ten (10) years, unless notice of non-renewal is given as provided below.

7. Either party hereto may cause this contract to expire at the end of nine (9) years from the next renewal date by serving a written notice of non-renewal on the other party at least ninety (90) days prior to such renewal date, if Owner is serving notice, and sixty (60) days prior to such renewal date if the County is serving notice.

8. Owner shall not receive any payment from County in consideration of the obligations imposed hereunder, it being recognized and agreed that the consideration for the execution of this contract is the substantial public benefit to be derived therefrom and the advantage which will accrue to Owner in the event of any reduction in the assessed value of said property due to the imposition of the limitations on its use contained herein.

9. The within contract shall run with the land described herein and shall be binding upon the heirs, successors, and assignees of the parties hereto.

10. This contract may not be cancelled except upon a petition by the Owner to the Board of Supervisors of County and provided that such board, after a public hearing held in accordance with the provisions of Section 51284 of the Government Code, finds:

- (a) That the cancellation is not inconsistent with the purposes of the California Land Conservation Act of 1965; and
- (b) That cancellation is in the public interest.

The existence of an opportunity for another use of the land shall not be sufficient reason for cancellation. A potential alternative use of the land may be considered only if there is no proximate

land not subject to a Land Conservation Act contract or agreement suitable for the use to which it is proposed the subject land be put. The uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation. The uneconomic character of the existing use may be considered only if there is no other reason or comparable agricultural use to which the land may be put.

Upon any such cancellation, the landowner shall pay to County an amount equal to fifty percent (50%) of the full market value of the land when relieved of the restriction, as found by the assessor, multiplied by the latest County assessment ratio published pursuant to Section 401 of the Revenue and Taxation Code when the contract was initially entered into.

The Board of Supervisors of County may waive or defer such payment or any portion thereof provided the Board finds:

- (a) It is in the public interest and the best interests of the program to conserve agricultural land that such payment be waived or deferred, and
- (b) The reason for the cancellation is an involuntary transfer or involuntary change in the use of the land and the land is not suitable and will not be immediately used for a purpose which produces a greater economic return to the Owner.

The Board of Supervisors of the County may make any such waiver or deferral of payment contingent upon the future use made of the land and its economic return to the landowner for a period not to exceed the unexpired period of the contract, had it not been canceled, and a lien shall be on the subject land to secure the performance of the act or acts upon which the waiver or deferral is made contingent.

IN WITNESS WHEREOF, the parties hereto have executed the within Contract the day and year first above written.

Pamela Elaine Whalen
 OWNER Date: 2-24-76
Pam Whalen
 OWNER Date: 2/24/76
Mark Edward Whalen
 OWNER Date: 2/25/76
Russ E. Whalen
 OWNER Date: 2/25/76
Oliver E. Whalen
 OWNER Date: 2/25/76
Suzanne E. Bruscia
 OWNER Date: 2/25/76

COUNTY OF SANTA CRUZ, a Political Subdivision of the State of California

BY [Signature]
 (Chairman) Board of Supervisors
 COUNTY

-4- NOTARY PUBLIC Date:

OWNER Date:

STATE OF CALIFORNIA)
)
COUNTY OF SANTA CRUZ)

On this 10th day of March in
the year 1974 before me Richard C. Neal
County Clerk and Ex-Officio Clerk of the Board of
Supervisors, personally appeared Theresa
Patterson, known to me to be the Chairman
of the Board of Supervisors of the County of Santa
Cruz, a political subdivision of the State of
California, and known to me to be the person who
executed the within instrument on behalf of said
political subdivision, and acknowledged to me that
such political subdivision executed the same.

RICHARD C. NEAL, COUNTY CLERK AND
EX-OFFICIO CLERK OF THE BOARD OF
SUPERVISORS OF THE COUNTY OF SANTA
CRUZ, CALIFORNIA

BY Richard C. Neal DEPUTY

BDO# 2589 PAGE 618

STATE OF CALIFORNIA, County of Santa Clara } ss.

ON 25, February, 19 76, before me, the undersigned a Notary Public in and for the State of California with principal office in the County of Santa Clara, personally appeared

Robert E. Whalen, Jr. Alice E. Whalen & Susan E. Brunir
 known to me to be the person and whose name is are
 subscribed to the within Instrument, and acknowledged to me that they
 executed the same. *WITNESS* my hand and official seal.

OFFICIAL SEAL
 THOMAS W. SHAFER
 NOTARY PUBLIC - CALIFORNIA
 SANTA CLARA COUNTY
 My Commission Expires Aug. 31, 1976

SIGNATURE OF NOTARY: Thomas W. Shafer
 NOTARY PUBLIC IN AND FOR THE STATE OF CALIFORNIA

INDIVIDUAL ACKNOWLEDGMENT

State of California }
 County of Merced } ss.

On this 21th day of February, 19 76, before me,
Isabel L. Pacheco a Notary Public in and for said Merced County,
 personally appeared Pamela Elaine Whalen and Mark Edward Whalen
 known to me to be the person and whose name is are subscribed to the within
 instrument, and acknowledged that they executed the same.

OFFICIAL SEAL
 ISABEL L. PACHECO
 NOTARY PUBLIC - CALIFORNIA
 MERCED COUNTY
 My Commission Expires May 22, 1977

Isabel L. Pacheco
 Notary Public in and for said Merced County and State
 My commission expires May 22 1977

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TI#121001-25

EXHIBIT "A"

SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA AND DESCRIBED AS FOLLOWS:

COHENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 8, SOUTH RANGE 2 WEST, MOUNT DIABLO MERIDIAN, AND RUNNING THENCE NORTH ALONG THE WEST LINE OF SAID QUARTER SECTION TO THE POINT OF INTERSECTION OF SAID WEST LINE AND THE COUNTY ROAD KNOWN AS THE SUMMIT ROAD OR TWENTY SEVEN MILE DRIVE; THENCE SOUTHEASTERLY ALONG SAID COUNTY ROAD TO THE POINT OF INTERSECTION OF SAID ROAD WITH A LINE IN THE PROLONGATION OF THE NORTHEASTERLY FENCE LINE OF THE ORCHARD HEREIN CONVEYED; THENCE LEAVING SAID ROAD AND CONTINUING SOUTHEASTERLY ALONG SAID PROLONGATION OF SAID FENCE LINE TO THE NORTHERLY CORNER OF SUCH FENCE; THENCE CONTINUING SOUTHEASTERLY ALONG SAID FENCE LINE TO A STAKE DISTANT 2343 FEET FROM SAID POINT OF INTERSECTION OF SAID WEST LINE OF SAID QUARTER SECTION AND SAID COUNTY ROAD, THENCE IN A SOUTHWESTERLY DIRECTION TO THE CENTER LINE OF A RAVINE AT A POINT ONE ROD NORTHWESTERLY FROM THE CENTER LINE OF DEER CREEK RAVINE BEING THE NORTHWESTERLY LINE OF A THIRTY ACRE TRACT OF LAND KNOWN AS CASTLE ROCK CONVEYED BY H. M. BARNGRDVER, ET AL, TO JAMES R. WELCH BY DEED DATED FEBRUARY 8TH, 1908; THENCE CONTINUING SOUTHWESTERLY DOWN AND ON THE NORTHWESTERLY SIDE OF SAID DEER CREEK RAVINE AND ONE ROD FROM AND PARALLEL TO THE CENTER LINE THEREOF TO A POINT ONE ROD NORTHWESTERLY FROM A SPRING OF WATER IN THE CENTER LINE OF SAID DEER CREEK RAVINE AND THE NORTHWESTERLY LINE OF SAID CASTLE ROCK TRACT; THENCE TO THE CENTER LINE OF SAID DEER CREEK RAVINE; THENCE DOWN SAID CENTERLINE OF SAID RAVINE ABOUT 100 FEET TO THE SOUTH LINE OF SAID QUARTER SECTION; THENCE WEST ALONG SAID SOUTH LINE OF SAID QUARTER SECTION TO THE SOUTHWEST CORNER THEREOF TO THE PLACE OF BEGINNING,

EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED BY H. G. ULM AND MURIEL ELLISON ULM, HIS WIFE, TO THE STATE OF CALIFORNIA BY DEED DATED DECEMBER 21, 1932, AND RECORDED JANUARY 30, 1933, IN VOLUME 238 OF OFFICIAL RECORDS AT PAGE 290, SANTA CRUZ COUNTY RECORDS.

88-081-8

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BOOK 2614 PAGE 468
SANTA CRUZ COUNTY
RECORDED
MAY 10 2 15 PM '76

RECORDED AT REQUEST OF

Santa Cruz County Counsel

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Santa Cruz County Counsel

FEB 27 4 52 PM '76
RECORDED AT REQUEST OF

BOOK 2589 PAGE 614
SANTA CRUZ COUNTY
RECORDED

007984

BEFORE THE AGRICULTURAL POLICY ADVISORY COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 2007-01

On the motion of Commissioner
duly seconded by Commissioner
the following Resolution is adopted:

AGRICULTURAL POLICY ADVISORY COMMISSION RESOLUTION
SENDING RECOMMENDATION TO THE BOARD OF SUPERVISORS
ON PROPOSED AMENDMENT TO THE ZONING ORDINANCE

WHEREAS, the Agricultural Policy Advisory Commission has held a public hearing on Application No. **06-0589**, involving property located on the south side of Skyline Boulevard about 2.4 miles east from Highway 9 (1 **5435** Skyline Boulevard, Los Gatos, Assessor's Parcel Numbers 088-081-07 & 088-081-08), and the Agricultural Policy Advisory Commission has considered the proposed rezoning, all testimony and evidence received at the public hearing, and the attached **staff** report.

NOW, THEREFORE, BE IT RESOLVED, that the Agricultural Policy Advisory Commission recommends that the Board of Supervisors adopt the attached ordinance amending the Zoning Ordinance by changing property **from** the "SU" Special Use zone district to the "CA" Commercial Agriculture zone district.

BE IT FURTHER RESOLVED, that the Agricultural Policy Advisory Commission makes findings on the proposed rezoning as contained in the Report to the Board of Supervisors.

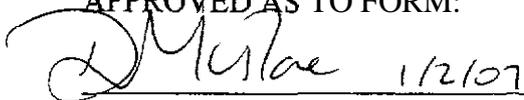
PASSED AND ADOPTED by the Agricultural Policy Commission of the County of Santa Cruz, State of California, this 18th day of January, 2007, by the following vote:

AYES: COMMISSIONERS
NOES: COMMISSIONERS
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

BRUCE DAU, Chairperson

ATTEST: _____
JOAN VAN DER HOEVEN, Secretary

APPROVED AS TO FORM:



COUNTY COUNSEL

088-081-08 (07 PART) 1980 PHOTO

WEST PROPERTY OWN