



Staff Report to the Planning Commission

Application Number: **06-0589**

Applicant: Powers Land Planning, Inc.
Owners: Robert E. & Mary Ann Whalen
APN: 088-081-07 & -08

Date: November 14, 2007
Agenda Item: # **8**
Time: 9:00 a.m.

Project Description: Proposal to transfer approximately 10.86 acres from APN 088-081-08 to 088-081-07, to result in two parcels of approximately 32.8 acres and 13.5 acres respectively, to facilitate two independent Christmas tree farms.

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

Permits Required: 1) General Plan Amendment to add the Agricultural Resource designation to APN 088-081-07; 2) Rezoning of APN 088-081-07 from the Special Use (SU) zone district to the Commercial Agriculture – Preserve (CA-P) zone district; 3) rezoning of APN 088-081-08 from the Commercial Agriculture (CA) zone district to the Commercial Agriculture-Preserve (CA-P) zone district; 4) establish a new Agricultural Preserve (Williamson Act) contract for APN 088-081-07; 5) simultaneous rescission of the existing Agricultural Preserve (Williamson Act) contract for APN 088-081-08 and establishment of a new Agriculture Preserve (Williamson Act) contract to reflect the adjusted parcel boundary; 6) Agricultural Policy Advisory Commission review and; 7) a Lot Line Adjustment.

Actions Required	Assessor's Parcel Number	
	088-081-07	088-081-08
General Plan Amendment	YES* Add Agricultural Resource Designation	NO
Rezoning	YES* Rezone from Special Use (SU) to Commercial Agriculture-Preserve (CA-P)	YES* Rezone from Commercial Agriculture (CA) to Commercial Agriculture Preserve (CA-P)
Agricultural Preserve (Williamson Act) Contract	YES* Establish new Agricultural Preservation (Williamson Act) contract	YES* Simultaneously rescind existing Agricultural Preserve (Williamson Act) contract and enter into new contract to reflect adjusted boundary
Agricultural Policy Advisory Commission (AFAC) Review	AFAC reviewed and accepted the agricultural viability report and recommended approval of the proposal on January 18, 2007	
Lot Line Adjustment	YES*	

*Requires affirmative recommendation by the Planning Commission to the Board of Supervisors

Staff Recommendation:

- Recommend to the Board of Supervisors adoption of the Negative Declaration prepared pursuant to the California Environmental Quality Act.
- Adopt **the** Resolution recommending to the Board of Supervisors Approval of Application 06-0589, based on the attached findings and conditions.

Exhibits

A.	Planning Commission Resolution	I.	New Land Conservation Contract for
B.	Board of Supervisors Resolution and		APN 088-081-07
	Ordinance	J.	Assessor's parcel map, Location map
C.	Findings	K.	Zoning map, General Plan map
D.	Lot Line Adjustment Conditions of	L.	Agricultural Viability report by Dale
	Approval		Rush, Ph.D. dated May 1, 2006, and
E.	Lot Line Adjustment map		agricultural classification letter by
F.	Negative Declaration		Dale Rush, dated January 12, 2007
G.	Land Conservation Contract 2-17-77	M.	APAC Resolution
H.	New Land Conservation Contract for	N.	Site photographs
	APN 088-081-08		

Parcel Information

Parcel Sizes:	Existing: 2.64 and 43.66 acres
	Proposed: 13.5 and 32.8 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
	(Commercial Agriculture) APN 088-081-08
Supervisory District:	Fifth (District Supervisor: Stone)
Within Coastal Zone:	<input type="checkbox"/> Inside <input checked="" type="checkbox"/> 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:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Water Supply:	Private well
Sewage Disposal:	CSA #12, private septic system
Fire District:	CDF
Drainage District:	N/A

Background

This is a proposal to transfer approximately 10.86 acres from APN 088-081-08 to 088-081-07, to result in two parcels of approximately 32.8 acres and 13.5 acres respectively, to facilitate two independent Christmas tree farms. A number of associated actions are required to implement the proposal, as discussed and described below.

On January 18, 2007, the County Agricultural Policy Advisory Commission (APAC) heard this item at a public hearing and recommended approval of the proposal. Rush and Associates, agricultural consultants, prepared an Agricultural Viability Report and an agricultural classification letter for the parcels (Exhibit M).

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 Report investigated a number of factors, including "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." The Report concluded that "the remaining area within APN 088-081-08 will continue to be a viable agricultural enterprise" and that "the expansion of APN 088-081-07 will create a profitable agricultural enterprise."

The agricultural classification letter specifically addressed the issue of whether APN 088-081-07, after the lot line adjustment, would "be consistent with a Commercial Agricultural classification and qualify for inclusion into the Williamson Act." Based primarily on a review of the soils on the property, the primary indicator of whether a parcel should be zoned Commercial Agriculture, the letter concluded "the requested designation of APN-07 as Commercial Agriculture is appropriate and qualifies for Williamson Act inclusion."

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 fir 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.

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 Christmas tree farming by the Whalen family since 1963. 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 APN 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.

Analysis

Lot Line Adjustment

The lot line adjustment will transfer approximately 10.86 acres from APN 088-081-08 to APN 088-081-07 (Exhibit E). Currently, APN 088-081-07 is 2.64 acres and APN 088-081-08 is 43.66 acres.

APN	Existing Size	Amount Transferred	Amount Received	Proposed Size
088-081-07	2.64	0.0	+10.86	13.46
088-081-08	43.66	-10.86	0.0	32.80

After the lot line adjustment both parcels will be over **the** minimum 10-acre size required for the Commercial Agriculture (CA) zone district (APN 088-081-08 is already zoned CA; APN 088-081-07 will be rezoned **from** the Special Use zone district to the **CA** zone district). The CA zone district implements the existing General Plan Agriculture (**A**) designation that both parcels currently carry. Permitted uses in the CA zone district include a single-family dwelling and agricultural uses. The land transferred from APN 088-081-08 will not reduce that parcel **below** the minimum 10-acre size for the CA zone district as the parcel remains at 32.8 acres. That parcel is under a Williamson Act contract (75-1285-AP).

The transfer of this property from one owner to the other will 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.

General Plan Amendment

Both parcels currently carry the AG (Agriculture) General Plan land use designation. Because it is zoned CA, the larger parcel, APN 088-081-08, also carries the General Plan resource designation of Agricultural Resource. The smaller parcel, APN 088-081-07, does not have the Agricultural Resource General Plan resource designation. However, that parcel has the same soil, slope, precipitation, and other factors that the larger parcel has and so intuitively is of the same resource category as is the larger parcel. The Agricultural Viability Report confirms this. Further, the smaller parcel is proposed to be placed in a Williamson Act contract. Therefore, both to indicate the high quality nature of the land for agriculture and to protect the land from other, non-agricultural uses, it is appropriate to add the General Plan resource designation of Agricultural Resource to APN 088-081-07.

County Code Section 13.01.090 permits General Plan amendments to be approved by your Commission by resolution recommending the amendment to the Board of Supervisors for approval. That resolution is required to include the reasons for the recommendation, a statement of consistency of the proposal to the other parts of the adopted General Plan, and a statement of findings regarding compliance with the California Environmental Quality Act. Staff believes that the required General Plan findings can be made because the proposed General Plan land use designation change is consistent with other parts of the General Plan and the proposal will not have any significant adverse effect on the environment. Please refer to Exhibit A for the resolution.

Rezoning

The larger of the two parcels, APN 088-081-08, is zoned CA. Because that parcel is currently under Williamson Act contract and will continue to be after the lot line adjustment, it should be rezoned to the Commercial Agriculture – Preserve (CA-P) zone district to reflect the fact that it is under an agricultural preserve contract. The smaller parcel, APN 088-081-07, is currently zoned SU. That parcel must be rezoned to the CA-P zone district for the reasons mentioned above regarding adding the General Plan resource designation of Agricultural Resource and to recognize that it too is under an agricultural preserve contract.

County Code Subsection 13.10.215(d) requires that your Commission determine the following:

1. That the rezoning will allow density and types of uses consistent with the General Plan,
2. That the proposed zone district is appropriate in relation to available utilities and services, and
3. That your Commission find that
 - a) The character of development in the vicinity has changed or is changing such that the public interest will be better served by a different zone district; or
 - b) The proposed rezoning is necessary to provide for a community-related use not anticipated when the Zoning Plan was adopted; or
 - c) The present zoning is the result of an error; or
 - d) The present zoning is inconsistent with the designation shown on the General Plan.

Staff believes that the zoning plan amendment findings can be made because the proposed zoning is consistent with the proposed General Plan land use designation change, all utilities and services are

present, and development in the area is changing such that the proposed **zone** district will better serve the public interest. Please refer to Exhibit B, incorporated herein by reference, for the determinations and findings

Agricultural Preserve (Williamson Act) Contract Considerations

Government Code Section 51257 regulates minor lot line adjustments for properties under Williamson Act contract. The owners of the larger 43.66-acre parcel, APN 088-081-08, entered into a Williamson Act contract on February 27, 1976, which was recorded February 17, 1977 (Exhibit G). The contract has automatically renewed and remains in effect. However, because the lot line adjustment will change the area of that parcel described in the existing contract, a new contract is required. Technically, upon approval by the Board of Supervisors, **the** existing contract will be rescinded and a new contract entered into simultaneously, which will describe the new shape of the parcel

The smaller 2.64-acre parcel is currently zoned Special Use (SU) and **is** not under Williamson Act contract. That parcel is proposed to be placed under a Williamson Act contract concurrently with the General Plan amendment and rezoning.

In both cases, the Board of Supervisors must make the findings that the new contracts would restrict the properties to the uses specified in the contracts for at least 10 years and that there would be no net decrease in the amount of acreage restricted due to the lot line adjustment.

According to State law, a lot line adjustment involving a property currently under a Williamson Act contract must result in at least 90 percent of the land under the existing contract remaining in the new contract. That will be the case here. 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 parcels. **The** Agricultural Viability Report confirms that this will be the case. Finally, the lot line adjustment **is** not allowed to result in the removal of adjacent land from agricultural use. Here, no land will be **removed** from agricultural use.

Findings are on file in the County Planning Department.

Recommendation

It is therefore RECOMMENDED that your Commission take the following two actions:

- Recommend that the Board of Supervisors certify the Negative Declaration (Exhibit F), finding that the proposed project will not have a significant impact on the environment and
- Adopt the Resolution attached as Exhibit A recommending **that** the Board of Supervisors approve the Lot line Adjustment, General Plan Amendment, Rezoning, and Williamson Act contracts as described in **this** report.

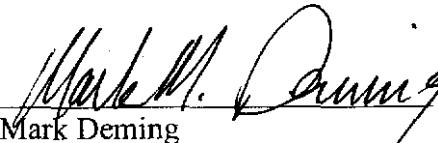
Supplementary reports and information referred to in this report are on file and available

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:


Mark Deming

Assistant Director
Santa Cruz County Planning Department

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. _____

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

PLANNING COMMISSION RESOLUTION RECOMMENDING APPROVAL OF A LOT LINE ADJUSTMENT; GENERAL PLAN AMENDMENT TO ADD THE AGRICULTURAL RESOURCE DESIGNATION TO APN 088-081-07; REZONING OF APN 088-081-07 FROM THE SPECIAL USE (SU) ZONE DISTRICT TO THE COMMERCIAL AGRICULTURE PRESERVE (CA-P) ZONE DISTRICT; REZONING OF APN 088-081-08 FROM THE COMMERCIAL AGRICULTURE (CA) ZONE DISTRICT TO THE CA-P ZONE DISTRICT; ESTABLISHMENT OF A NEW AGRICULTURAL PRESERVE (WILLIAMSON ACT) CONTRACT FOR APN 088-081-07; AND SIMULTANEOUS RECISION OF THE EXISTING AGRICULTURAL PRESERVE (WILLIAMSON ACT) CONTRACT FOR APN 088-081-08 AND ESTABLISHMENT OF A NEW AGRICULTURE PRESERVE (WILLIAMSON ACT) CONTRACT TO REFLECT THE ADJUSTED PARCEL BOUNDARY.

WHEREAS, the Board of Supervisors, on May 24, **1994**, approved an update of and adopted the current County General Plan: and

WHEREAS, certain zone districts exist **to** implement the various General Plan land use designations; and

WHEREAS, APN 088-081-07 currently has a General Plan land use designation of Agriculture and is zoned Special Use (SU), which implements **the** Agriculture land **use** designation; and

WHEREAS, APN 088-081-08 has a General Plan land use designation of Agriculture and has a General Plan resource designation of Agriculture Resource and is zoned Commercial Agriculture (CA), which implements both the Agriculture land use designation and the Agriculture Resource designation; and

WHEREAS, a lot line adjustment is proposed to transfer land from APN 088-081-08 to APN 088-081-07; and

WHEREAS, an Agricultural Viability Report, accepted **by** the Agricultural Policy Advisory Commission, demonstrates that APN 088-081-07 is viable agricultural land meeting the criteria to be designated as Agriculture Resource land; and

WHEREAS, a General Plan resource designation of Agriculture Resource is proposed to be placed on APN 088-081-07; and

WHEREAS, the SU zone district does not implement the Agriculture Resource designation; and

WHEREAS, the proposed General Plan amendment to add **the** Agriculture Resource designation to APN 088-081-07 is consistent with other parts of the General Plan, including Policies 5.13 and **5.14**; and

WHEREAS, APN 088-081-08 currently is encumbered by an Agricultural Land Conservation (Williamson Act) contract; and

WHEREAS, due to the proposed Lot Line Adjustment the boundaries of APN 088-081-08 will no longer conform to the boundaries described in **the** contract; and

WHEREAS, **the** owners of APN 088-081-07 wish to encumber APN 088-081-07 with an Agricultural Land Conservation (William Act) contract; and

WHEREAS, neither **the** SU nor the CA zone district reflect the existence of an Agricultural Land Conservation (Williamson Act) contract; and

WHEREAS, **the** zoning of APN 088-081-07 is proposed to be changed from the SU zone district to the CA-P zone district, and the zoning of APN 088-081-08 is proposed to be changed from the CA zone district to the CA-P zone district, which zone district implements the Agriculture Resource designation and identifies the parcels **as** being under a Agricultural Land Conservation (Williamson Act) contract; and

WHEREAS, on August 16,2007, the Environmental Coordinator determined that the proposed project would not have a significant impact on the environment and issued a negative declaration; and

WHEREAS, on November 14,2007, the Planning Commission held a duly noticed public hearing to consider the proposed project; and

WHEREAS, the Planning Commission finds that the proposed Lot Line Adjustment; General Plan Amendment to designate APN 088-081-07 as Agricultural Resource land; the Rezoning of APN 088-081-07 from the Special Use (SU) zone district to the Commercial Agriculture -Preserve (CA-P) zone district; **the** Rezoning of APN 088-081-08 from the Commercial Agriculture (CA) zone district to the CA-P zone district; establishment of a new Agricultural Preserve (Williamson Act) Contract for APN 088-081-07; and simultaneous recision of the existing Agricultural Preserve (Williamson Act) Contract for APN 088-081-08 and establishment of a new Agriculture Preserve (Williamson Act) Contract *to* reflect the adjusted parcel boundary **are** consistent with all County Code Ordinances and General Plan Policies.

Application #: 06-0589
 APN: 088-081-07 & -08
 Owners: Roben E. & Mary Ann Whalen

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the negative declaration be certified by the Board of Supervisors and that the Board of Supervisors approve the proposed project as described in the staff report and as shown below:

Actions Required	Assessor's Parcel Number	
	088-081-07	088-081-08
General Plan Amendment	Add Agricultural Resource Designation	N/A
Rezoning	Rezone from Special Use (SU) to Commercial Agriculture – Preserve (CA-P)	Rezone from Commercial Agriculture (CA) to Commercial Agriculture – Preserve (CA-P)
Agricultural Preserve (Williamson Act) Contract	Establish new Agricultural Preservation (Williamson Act) contract	Simultaneously rescind existing Agricultural Preserve (Williamson Act) contract and enter into new contract to reflect adjusted boundary
Lot Line Adjustment		
Existing Size	2.64 acres	43.66 acres
Amount Transferred	0.0 acres	-10.86 acres
Amount Received	+10.86 acres	0.0 acres
Proposed Size	13.46 acres	32.80 acres

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this _____ day of _____, 2007 by the following vote:

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

 Chairperson

ATTEST: _____
 Mark Deming, Secretary

Application #: 06-0589

APN: 088-081-07 & -08

Owners: Robert E. & Mary Ann Whalen

APPROVED AS TO FORM:


COUNTY COUNSEL

cc: County Counsel
Planning Department

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. ____

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

BOARD OF SUPERVISORS RESOLUTION APPROVING A LOT LINE ADJUSTMENT; GENERAL PLAN AMENDMENT TO ADD THE AGRICULTURAL RESOURCE DESIGNATION TO APN 088-081-07; ESTABLISHMENT OF A NEW AGRICULTURAL PRESERVE (WILLIAMSON ACT) CONTRACT FOR APN 088-081-07; AND SIMULTANEOUS RECISION OF THE EXISTING AGRICULTURAL PRESERVE (WILLIAMSON ACT) CONTRACT FOR APN 088-081-08 AND ESTABLISHMENT OF A NEW AGRICULTURE PRESERVE (WILLIAMSON ACT) CONTRACT TO REFLECT THE ADJUSTED PARCEL BOUNDARY.

WHEREAS, the Board of Supervisors, on May 24, 1994, approved an update of and adopted the current County General Plan, establishing various resource designations; and

WHEREAS, a lot line adjustment is proposed to transfer land from APN 088-081-08 to APN 088-081-07; and

WHEREAS, an Agricultural Viability Report, accepted by the Agricultural Policy Advisory Commission, demonstrates that APN 088-081-07 is viable agricultural land meeting the criteria to be designated as Agriculture Resource land; and

WHEREAS, a General Plan resource designation of Agriculture Resource is proposed to be placed on APN 088-081-07; and

WHEREAS, the proposed General Plan amendment to add the Agriculture Resource designation to APN 088-081-07 is consistent with other parts of the General Plan, including Policies 5.13 and 5.14; and

WHEREAS, APN 088-081-08 currently is encumbered by an Agricultural Land Conservation (Williamson Act) contract; and

WHEREAS, due to the proposed Lot Line Adjustment the boundaries of APN 088-081-08 will no longer conform to the boundaries described in the contract; and

WHEREAS, the owners of APN 088-081-07 wish to encumber APN 088-081-07 with an Agricultural Land Conservation (William Act) contract; and

WHEREAS, on August 16, 2007, the Environmental Coordinator determined that the proposed project would not have a significant impact on the environment and issued a negative declaration; and

Application #: 06-0589
 APN: 088-081-07 & -08
 Owners: Robert E. & Mary Ann Whalen

WHEREAS, on November 14, 2007, the Planning Commission held a duly noticed public hearing to consider the proposed project; and

WHEREAS, the Planning Commission found and recommended that the Board of Supervisors approve the proposed Lot Line Adjustment; General Plan Amendment to designate APN 088-081-07 as Agricultural Resource land; establishment of a new Agricultural Preserve (Williamson Act) Contract for APN 088-081-07; and simultaneous rescission of the existing Agricultural Preserve (Williamson Act) Contract for APN 088-081-08 and establishment of a new Agriculture Preserve (Williamson Act) Contract to reflect the adjusted parcel boundary are consistent with all County Code Ordinances and General Plan Policies.

NOW, THEREFORE; BE IT RESOLVED, that the Board of Supervisors hereby certifies the negative declaration prepared for the proposal and approves the proposed project as described in the staff report and as shown below:

	088-081-07	088-081-08
General Plan Amendment	Add Agricultural Resource Designation	N/A
Agricultural Preserve (Williamson Act) Contract	Establish new Agricultural Preservation (Williamson Act) contract	Simultaneously rescind existing Agricultural Preserve (Williamson Act) contract and enter <i>into new</i> contract to reflect adjusted boundary
Lot Line Adjustment		
Existing Size	2.64 acres	43.66 acres
Amount Transferred	0.0 acres	-10.86 acres
Amount Received	+10.86 acres	0.0 acres
Proposed Size	13.46 acres	32.80 acres

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2007 by the following vote:

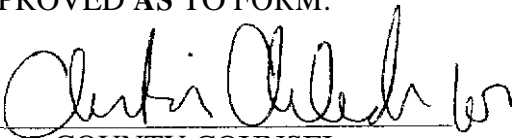
AYES: SUPERVISORS
 NOES: SUPERVISORS
 ABSENT: SUPERVISORS
 ABSTAIN: SUPERVISORS

 Chairperson of the Board of Supervisors

Application #: 06-0589
APN: 088-081-07 & -08
Owners: Robert E. & Mary Ann Whalen

ATTEST: _____
Clerk of the board of Supervisors

APPROVED AS TO FORM:



COUNTY COUNSEL

cc: County Counsel
Planning Department

ORDINANCE NO. _____

**ORDINANCE AMENDING CHAPTER 13.10 OF THE SANTA CRUZ COUNTY CODE
CHANGING THE ZONING OF APN 080-081-08 IN THE SKYLINE PLANNING AREA**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Board of Supervisors hereby adopts the recommendation of the Planning Commission for the Zoning Plan amendment as described in Section II below, and adopts the Planning Commission findings in support thereof without modification as set forth below:

The zoning for the subject parcels is inappropriate for the existing and future uses, the present zoning of APN 088-081-07 is inconsistent with the Agricultural Resource General Plan resource designation to be added to the parcel, and the current zoning of both APN 088-081-07 and APN 088-081-08 does not reflect the existence of Agricultural Land Conservation (Williamson **Act**) contracts.

SECTION II

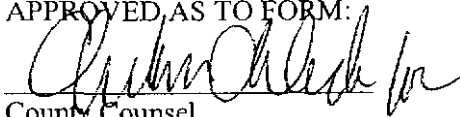
The County Zoning Plan is hereby amended as shown below and on Exhibit A, attached hereto:

Assessor's Parcel Number	Current <i>zone</i> district	New <i>zone</i> district
APN 080-081-07	SU	CA – P
APN 088-081-08	CA	CA - P

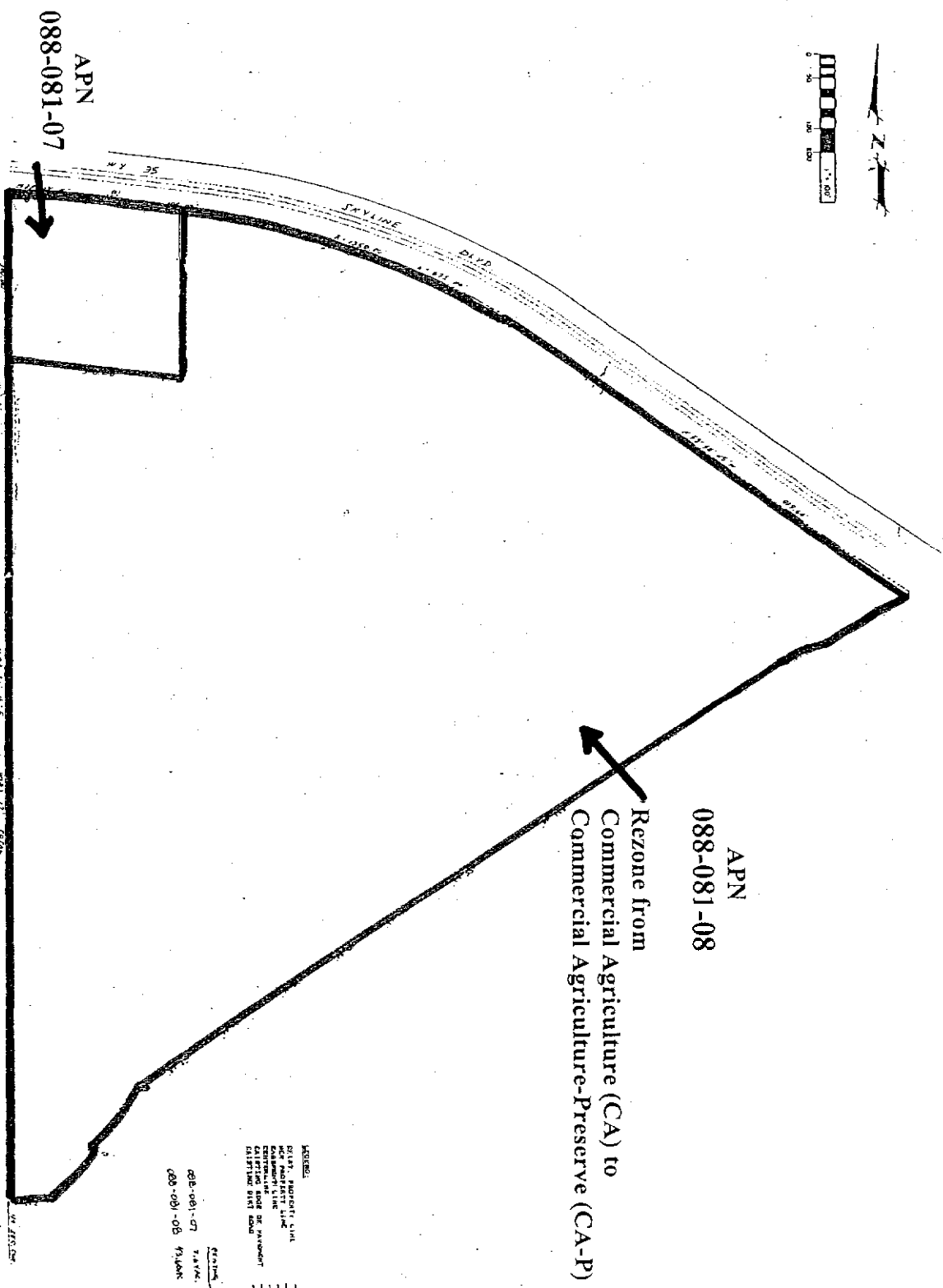
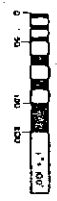
CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:


County Counsel

Copies to: Planning
County Counsel



APN
088-081-08

Rezoned from
Commercial Agriculture (CA) to
Commercial Agriculture-Preserve (CA-P)

APN
088-081-07

Rezoned from Special Use (SU) to
Commercial Agriculture-Preserve (CA-P)

LEGEND:
DIST. PROPOSED LINE
NEW PROPOSED LINE
EXISTING LINE
DISTANCE TO PROPOSED
DISTANCE TO EXISTING

088-081-07 3.14 AC 23,500 AC
088-081-08 41.40 AC 23,500 AC
TOTAL 44.54 AC 47,000 AC

WESTFALL ENGINEERS, INC.
11353 DIO BASIN WAY, SMALDON, CA 95075 916/897-7211

EXHIBIT B

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 Commercial Agriculture – Preserve (CA-P) 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 088-081-08 from the CA to the CA-P zone district and APN 088-081-07 from the SU to the CA-P zone district to clearly identify that the parcels are high quality agricultural land and that they are under agricultural land conservation contracts. The proposed CA-P zone district will be consistent with the existing pattern **of** development in the vicinity. The rezoning is also necessary to ensure consistency with the proposed addition of the General Plan Agricultural Resource designation. 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.

Lot Line Adjustment Findings

- I. 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 the transfer will create no additional building sites as both parcels are currently developed with a single-family dwelling. Both of the parcels have a General Plan designation of Agriculture and the proposed parcel sizes of 13.5 and 32.8 acres have been determined to be adequate 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 as 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 **43.66** acres to 32.8 acres.

Findings Required For Agreement To Rescind Agricultural Land Conservation Contract And Enter Into New Contract

1. The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least ~~as~~ long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.

This finding can be made in that the new contract will be for a period of at least 10 years, with automatic renewal each year for a subsequent period of nine (9) years.

2. There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.

The acreage of APN 088-081-08 will decrease by 10.86 acres to approximately 32.8 acres, but the adjoining APN 088-081-07, which will receive the 10.86 acres and increase to approximately 13.5 acres, will also be enforceably restricted by a new Agricultural Land Conservation Contract on that parcel, which has not had such a contract in the past. The result is that ~~the~~ total acreage enforceably restricted will increase from 43.66 acres to 46.30 acres.

3. At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.

The existing land under the former contract totals approximately 43.66 acres. One hundred percent (100%) of that land, plus an additional 2.64 acres of land will be under contract after the proposal is approved.

4. After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

On January 18, 2007, the County Agricultural Policy Advisory Commission (APAC) considered this proposal and reviewed an Agricultural Viability Report by Rush and Associates, agricultural consultants. 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 Report investigated a number of factors, including "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." The Report concluded that "the remaining area within APN 088-081-~~08~~ will continue to be a viable agricultural enterprise" and that "the expansion of APN 088-081-07 will create a profitable agricultural enterprise."

5. The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

See Finding 4, above.

6. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

The lot line adjustment will result in two parcels that are both enforceably restricted by Agricultural Land Conservation contracts. The total area under such contracts will increase with the approval of the lot line adjustment. No agricultural land will be removed from agricultural use, nor is it likely that any adjacent land currently in agricultural use will be removed from that use.

7. The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

The lot line adjustment is proposed between two existing, developable and developed parcels. Two developable and developed parcels will exist after the lot line adjustment. There will be no increase in the number of developable parcels due to this lot line adjustment. The lot line adjustment is consistent with the General Plan in that neither lot will be reduced below the minimum size required by the General Plan and in that the lot line adjustment is consistent with the land use policies of the General Plan, including the Agricultural Policies and Scenic Policies.

Conditions of Approval for Lot Line Adjustment

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.

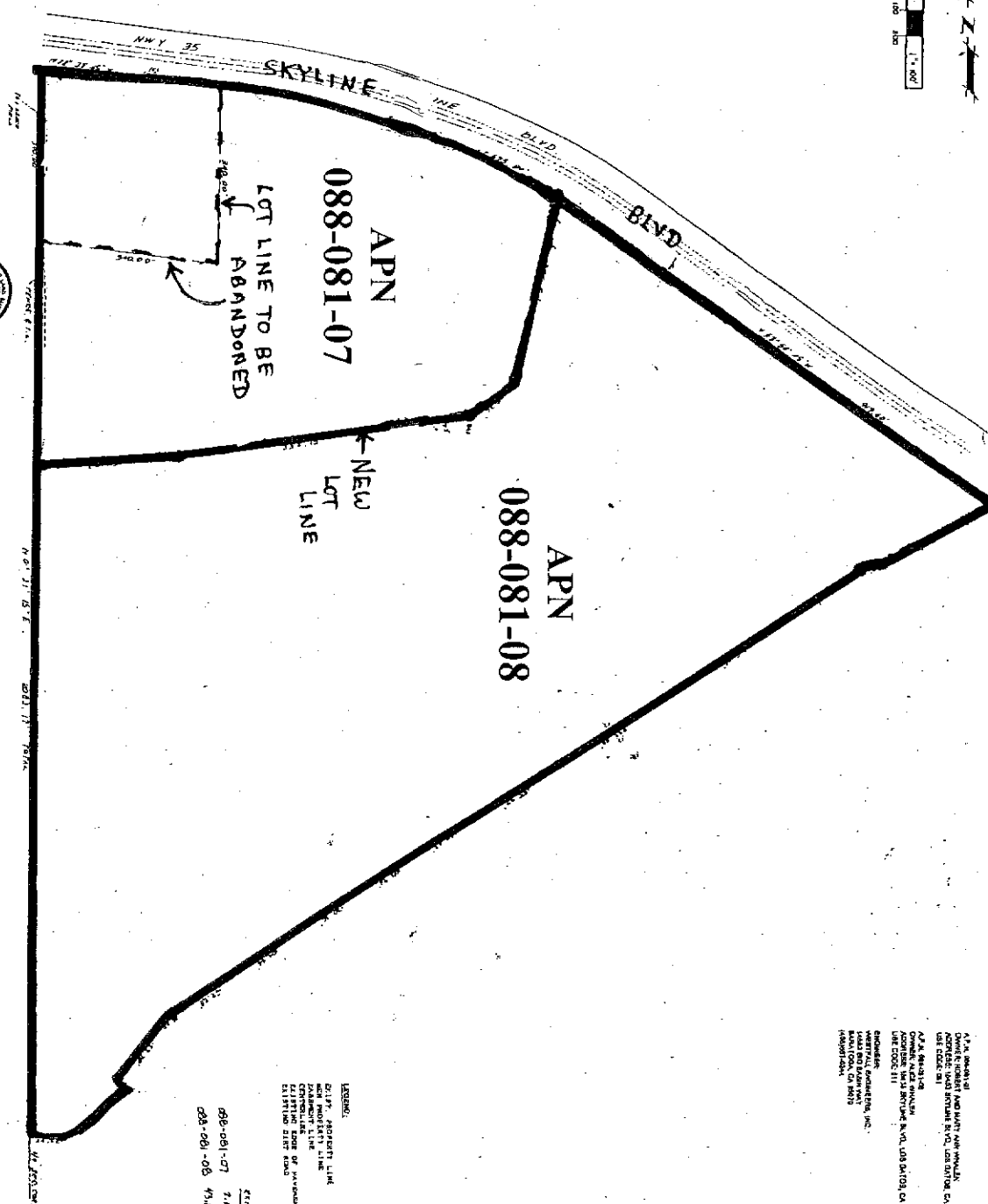
Minor Variations to **this** permit which do not **affect** the overall concept or density may be approved by the **Planning** Director at the request **of** the applicant **or staff** in accordance with Chapter 18.10 **of** the County Code.

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: _____

Effective Date: _____

Expiration Date: _____

[illegible]

EXIST. PROPERTY LINE
NEW PROPERTY LINE
EASEMENT LINE
CUT/STAKE
EXISTING EDGE OF PAVEMENT
EXISTING DIRT ROAD

	STAINING	PROMOTED	DIFFERENCE ATTACHMENT
O86-O81-07	7.97 ME	13.00 AC	+ 10.03 ME (79.03% over 79)
O88-O81-08	49.14 ME	53.80 AC	- 20.06 ME (79.03% over 79)

- 22 -

EXHIBIT E

[illegible]



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX (831) 454-2131 TDD (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

NEGATIVE DECLARATION AND NOTICE OF DETERMINATION

Application Number: 06-0589

Ron Powers, for Robert E. & Mary Ann Whalen

Proposal to transfer about 10.86 acres from APN 088-081-08 to APN 088-081-07 to result in two parcels of 32.8 acres and 13.5 acres respectively. Requires a Lot Line Adjustment, a General Plan amendment to designate Assessor's Parcel Number (APN) 088-081-07 as Agricultural Resource land; a rezoning of APN 088-081-07 from the Special Use (SU) zone district to the Commercial Agriculture (CA) zone district; a new Williamson Act contract for APN 088-081-07 to reflect the adjusted parcel boundaries; and modification of the existing Williamson Act contract for APN 088-081-08 to reflect the adjusted parcel boundaries. The project is located on the south side of Skyline Boulevard, about 2.5 miles southeast from the intersection of Highway 9 at 15435 Skyline Boulevard, Los Gatos, California.

APN: 088-081-07 & -08

Steven Guiney, Staff Planner

Zone District: CA, SU

ACTION: Negative Declaration

REVIEW PERIOD ENDS: 9-19-07

This project will be considered at a public hearing by the Planning Commission. The time, date and location have not been set. When scheduling does occur, these items will be included in all public hearing notices for the project.

Findings:

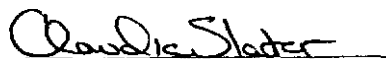
This project, if conditioned to comply with required mitigation measures or conditions shown below, will not have significant effect on the environment. The expected environmental impacts of the project are documented in the Initial Study on this project attached to the original of this notice on file with the Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California.

Required Mitigation Measures or Conditions:

☒ None
☐ Are Attached

Review Period Ends September 19, 2007

Date Approved By Environmental Coordinator September 25, 2007


CLAUDIA SLATER
Environmental Coordinator
(831) 454-5175

If this project is approved, complete and file this notice with the Clerk of the Board:

NOTICE OF DETERMINATION

The Final Approval of This Project was Granted by _____

on _____. No EIR was prepared under CEQA.

THE PROJECT WAS DETERMINED TO NOT HAVE SIGNIFICANT EFFECT ON THE ENVIRONMENT.

Date completed notice filed with Clerk of the Board: _____



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX (831) 454-2131 Too: (831) 454-2123
TOM BURNS, PLANNING DIRECTOR

NOTICE OF ENVIRONMENTAL REVIEW PERIOD

SANTA CRUZ COUNTY

APPLICANT: Ron Powers, for Robert E. & Mary Ann Whalen

APPLICATION NO.: 06-0589

APN: 088-081-07 & -08

The Environmental Coordinator has reviewed the Initial Study for your application and made the following preliminary determination:

XX Negative Declaration
(Your project will not have a significant impact on the environment.)

_____ Mitigations will be attached to the Negative Declaration.

XX No mitigations will be attached.

_____ Environmental Impact Report
(Your project may have a significant effect on the environment. An EIR must be prepared to address the potential impacts.)

As part of the environmental review process required by the California Environmental Quality Act (CEQA), this is your opportunity to respond to the preliminary determination before it is finalized. Please contact Matt Johnston, Environmental Coordinator at (831) 454-3201, if you wish to comment on the preliminary determination. Written comments will be received until 5:00 p.m. on the last day of the review period.

Review Period Ends: **September 19, 2007**

Steven Guiney
Staff Planner

Phone: 454-3172

Date: August 15, 2007



Environmental Review Initial Study

Application Number: **06-0589**

Date: 06 August 2007
Staff Planner: Steven Guiney

I. OVERVIEW AND ENVIRONMENTAL DETERMINATION

APPLICANT: Ron Powers

APN: 088-081-07 **8** 08

OWNER: Robert E & Mary Ann Whalen

SUPERVISORIAL DISTRICT: Fifth
(District Supervisor: Stone)

LOCATION: Properties located on the south side of Skyline Boulevard, about 2.5 miles southeast from the intersection of Highway 9 at 15435 Skyline Boulevard, **Los Gatos**.

SUMMARY PROJECT DESCRIPTION: Proposal to transfer about 10.86 acres from APN 088-081-08 to APN 088-081-07 to result in two parcels of 32.8 acres and 13.5 acres respectively. Requires a Lot Line Adjustment, a General Plan amendment to designate Assessor's Parcel Number (APN) 088-081-07 as Agricultural Resource land; a rezoning of APN 088-081-07 from the Special Use (**SU**) zone district to the Commercial Agriculture (CA) zone district; a new Williamson **Act** contract for APN 088-081-07 to reflect the adjusted parcel boundaries; and modification of the existing Williamson Act contract for APN 088-081-08 to reflect the adjusted parcel boundaries.

ALL OF THE FOLLOWING POTENTIAL ENVIRONMENTAL IMPACTS ARE EVALUATED IN THIS INITIAL STUDY. CATEGORIES THAT ARE MARKED HAVE BEEN ANALYZED IN GREATER DETAIL BASED ON PROJECT SPECIFIC INFORMATION.

<input type="checkbox"/> Geology/Soils	<input type="checkbox"/> Noise
<input type="checkbox"/> Hydrology/Water Supply/Water Quality	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Public Services & Utilities
<input type="checkbox"/> Energy & Natural Resources	<input type="checkbox"/> Land Use , Population & Housing
<input type="checkbox"/> Visual Resources & Aesthetics	<input type="checkbox"/> Cumulative Impacts
<input type="checkbox"/> Cultural Resources	<input type="checkbox"/> Growth Inducement
<input type="checkbox"/> Hazards & Hazardous Materials	<input type="checkbox"/> Mandatory Findings of Significance
<input type="checkbox"/> Transportation/Traffic	

County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060

DISCRETIONARY APPROVAL(S) BEING CONSIDERED

<input checked="" type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Grading Permit
<input type="checkbox"/> Land Division	<input type="checkbox"/> Riparian Exception
<input checked="" type="checkbox"/> Rezoning	<input checked="" type="checkbox"/> Other: Williamson Act contract, Lot Line Adjustment
<input type="checkbox"/> Development Permit	<input type="checkbox"/>
<input type="checkbox"/> Coastal Development Permit	<input type="checkbox"/>

NON-LOCAL APPROVALS

Other agencies that must issue permits or authorizations: None

ENVIRONMENTAL REVIEW ACTION

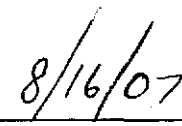
On the basis of this Initial Study and supporting documents:

☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the attached mitigation measures have been added to the project. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.


Matt Johnston


Date

For: Claudia Slater
Environmental Coordinator

II. BACKGROUND INFORMATION

EXISTING SITE CONDITIONS

Parcel Size: 2.6 and 43.7 acres

Existing Land Use: Christmas tree farm, two single-family dwellings

Vegetation: Farmed pine and fir trees, chaparral, mixed evergreen forest

Slope in area affected by project: All 0 - 30% 31 - 100%

Nearby Watercourse: Unnamed stream (GIS identifies as "Stream 938") property

Distance To: Runs through property

ENVIRONMENTAL RESOURCES AND CONSTRAINTS

Groundwater Supply: Adequate

Water Supply Watershed: Yes, except for
northeast corner

Groundwater Recharge: No

Timber or Mineral: No

Agricultural Resource: Yes, parcel 08

Biologically Sensitive Habitat: None mapped

Fire Hazard: No

Floodplain: No

Erosion: Slight to high potential

Landslide: Approximately one-quarter acre
mapped in northwest corner

Liquefaction: Not mapped

Fault Zone: Not mapped. Closest
mapped fault zone approx. 1 mile

Scenic Corridor: Highway 35

Historic: N/A

Archaeology: Mapped, but area
highly disturbed

Noise Constraint: N/A

Electric Power Lines: N/A

Solar Access: N/A

Solar Orientation: Slopes to west

Hazardous Materials: N/A

SERVICES

Fire Protection: CDF

School District: SLV

Sewage Disposal: On-site

Drainage District: N/A

Project Access: Highway 35

Water Supply: On-site wells

PLANNING POLICIES

Zone District: CA, SU

Special Designation: Ag Resources on
08

General Plan: Agriculture

Urban Services Line: Inside

XX Outside

Coastal Zone: Inside

XX Outside

PROJECT SETTING AND BACKGROUND:

The properties are located on the south side of Highway 35 about 2.5 miles southeast from the junction with Highway 9 on the ridgeline summit of the Santa Cruz Mountains.

The subject parcels have both been actively engaged in Christmas tree farming by the Whalen family since 1963. The family wishes to extend the benefits of the existing

Williamson Act contract' on APN 088-081-08 to APN 088-081-07 and to adjust the boundaries to allow continued Christmas tree farming by independent property owners. Currently, APN 088-081-07 is 2.6 acres and APN 088-081-08 is 43.6 acres. After the lot line adjustment, the parcels would be 13.5 acres and 32.8 acres respectively. 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 APN 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 because 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 and because the properties are bordered on the north by Highway 35, a General Plan-designated scenic highway.

Approximately 24 acres of the total 46 acres are 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. The farm operates as a "choose and **cut**" Christmas tree farm where consumers come to the farm and choose a live tree that is then cut and taken home. 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 consumer awareness of the Christmas tree sales, which contributes to the agricultural viability of both parcels.

The larger 43.6-acre parcel, APN 088-081-08, has been in a Williamson Act contract since 1976, which has automatically renewed every year 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.

* Please see Attachment 7

DETAILED PROJECT DESCRIPTION:

The Whalen family has actively farmed both the subject parcels for the growing of Christmas trees since 1963. The family wishes to extend the benefits of the existing Williamson Act contract on APN 088-081-08 to APN 088-081-07 and to adjust the boundaries to allow continued Christmas tree farming by independent property owners.

The proposal consists of the following specific actions:

1. Amend the General Plan to designate Assessor's Parcel Number (APN) 088-081-07 as Agricultural Resource land;
2. Rezone APN 088-081-07 from the Special Use (SU) zone district to the Commercial Agriculture (CA) zone district;
3. Transfer about 10.86 acres from APN 088-081-08 to APN 088-081-07 to resulting in two parcels of 332.8 acres and 13.5 acres respectively;
4. Establish a new Williamson Act contract for APN 088-081-07 consistent with the adjusted parcel boundaries; and
5. Rescind the existing contract on APN 088-081-08 and simultaneously enter into a new contract on that parcel consistent with the adjusted parcel boundaries.

General Plan Land Use Designation and Zoning Considerations

The smaller 2.6-acre parcel is zoned Special Use (SU) and is not under Williamson Act contract. Both parcels carry an Agriculture (A) General Plan designation. The larger parcel also has an Agricultural Resources designation. A General Plan amendment is required to add the Agricultural Resources designation to the smaller parcel, as well as a rezoning of that parcel from SU to Commercial Agriculture (CA).

Lot Line Adjustment Considerations

The proposed lot line adjustment will transfer approximately 10.86 acres from APN 088-081-08 to APN 088-081-07 (Exhibit A). Currently, APN 088-081-07 is 2.6 acres and APN 088-081-08 is 43.6 acres. After the lot line adjustment, APN 088-081-07 would be 13.5 acres and APN 088-081-08 would be 32.8 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 APN 088-081-07 after the proposed lot line adjustment.

Williamson Act Considerations

The larger 46.3-acre parcel, APN 088-081-08 entered into a Williamson Act contract on February 27, 1976, recorded February 17, 1977. The contract has automatically renewed each year and remains in effect. Consistent with Government Code Section 51257(a), with Board approval, the existing contract on the larger parcel would be rescinded and a new contract entered into simultaneously. A new contract would be established for APN 088-081-07.

To enable the lot line adjustment and the corresponding contracts, the Board is required by Government Code Section 51257(a) to find all of the following:

1. The new contract or contracts would enforceably restrict the adjusted boundaries of the parcel for an initial term for at least as long as the unexpired term of the rescinded contract or contracts, but for not less than 10 years.
2. There is no net decrease in the amount of the acreage restricted. In cases where two parcels involved in a lot line adjustment are both subject to contracts rescinded pursuant to this section, this finding will be satisfied if the aggregate acreage of the land restricted by the new contracts is at least as great as the aggregate acreage restricted by the rescinded contracts.
3. At least 90 percent of the land under the former contract or contracts remains under the new contract or contracts.
4. After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.
5. The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.
6. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.
7. The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

Agricultural Viability Determination

An Agricultural Viability Report studied both parcels to investigate whether the lot line adjustment would affect 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.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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III. ENVIRONMENTAL REVIEW CHECKLIST

A. Geology and Soils

Does the project have the potential to:

1. Expose people or structures to potential adverse effects, including the risk of material loss, injury, or death involving:

X

- A. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or as identified by other substantial evidence?

X

- B. Seismic ground shaking?

X

- C. Seismic-related ground failure, including liquefaction?

X

- D. Landslides?

X

All of Santa Cruz County is subject to some hazard from earthquakes. However, the project site is not located within or adjacent to a county or State mapped fault zone, therefore the potential for ground surface rupture is low. The project site is likely to be subject to strong seismic shaking during the life of the improvements. The improvements will be designed in accordance with the Uniform Building Code, which should mitigate the hazards of seismic shaking and liquefaction to a less than significant level. There is no indication that landsliding is a significant hazard at this site.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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2. Subject people or improvements to damage from soil instability as a result of on- or off-site landslide, lateral spreading, to subsidence, liquefaction, or structural collapse?

X

Following a review of mapped information and a field visit to the site, there is no indication that the development site is subject to a significant potential for damage caused by any of these hazards.

3. Develop land with a slope exceeding 30%?

X

There are slopes that exceed 30% on the property. However, no improvements are proposed on slopes in excess of 30%.

4. Result in soil erosion or the substantial loss of topsoil?

X

No new development is proposed as part of this project, so there is no potential for soil erosion. Any future development will be required to obtain the appropriate and necessary permits, including grading permits.

5. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to property?

X

There is no indication that the development site is subject to substantial risk caused by expansive soils.

6. Place sewage disposal systems in areas dependent upon soils incapable of adequately supporting the use of septic tanks, leach fields, or alternative waste water disposal systems?

X

No new development is proposed as part of this project. Existing development utilizes onsite sewage disposal systems.

7. Result in coastal cliff erosion?

X

The parcel is not located on or near a coastal bluff.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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B. Hydrology, Water Supply and Water Quality

Does the project have the potential to:

1. Place development within a 100-year flood hazard area? _____ **X**

According to the Federal Emergency Management Agency (FEMA) National Flood Insurance Rate Map, dated March 2, 2006, no portion of the project site lies within a 100-year flood hazard area.

2. Place development within the floodway resulting in impedance or redirection of flood flows? _____ **X**

According to the Federal Emergency Management Agency (FEMA) National Flood Insurance Rate Map, dated March 2, 2006, no portion of the project site lies within a 100-year flood hazard area.

3. Be inundated by a seiche or tsunami? _____ **X**

The site is located on the Santa Cruz Mountains ridge top at an elevation of approximately 2900 feet above sea level.

4. Deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit, or a significant contribution to an existing net deficit in available supply, or a significant lowering of the local groundwater table? _____

No new development is proposed as part of this project. The existing development relies on a private well for water supply. The project is not located in a mapped groundwater recharge area.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
---	---	---	-------------------

5. Degrade a public or private water supply? (Including the contribution of urban contaminants, nutrient enrichments, or other agricultural chemicals or seawater intrusion).

X

No new development is proposed as part of this project. Runoff from existing development may contain small amounts of agricultural chemicals such as fertilizers and household contaminants from the existing residences. No commercial or industrial activities are proposed that would contribute a significant amount of contaminants to a public or private water supply.

6. Degrade septic system functioning?

X

No new development is proposed as part of this project. There is no indication that existing septic systems in the vicinity would be affected by the project.

7. Alter the existing drainage pattern of the site or area, including the alteration of the course of a stream or river, in a manner which could result in flooding, erosion, or siltation on or off-site?

X

No new development is proposed as part of this project. Stream 938 heads on the site and essentially bisects the larger parcel into a west half and an east half. The existing drainage pattern is not proposed to be altered.

8. Create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems, or create additional source(s) of polluted runoff?

X

No new development is proposed as part of this project, so there will be no change in the runoff due to this proposal.

9. Contribute to flood levels or erosion in natural water courses by discharges of newly collected runoff?

X

No new impervious surfaces are proposed as part of the project, thus there will be no additional storm water runoff that could contribute to flooding or erosion.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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10. Otherwise substantially degrade water supply or quality? _____ **X**

No new development is proposed as part of this project, so there will be no change in water supply of quality.

C. Biological Resources

Does the project have the potential to:

1. Have an adverse effect on any species identified as a candidate, sensitive, or special status species, in local or regional plans, policies, or regulations, or by the California Department of Fish and Game, or U.S. Fish and Wildlife Service? _____

According to the California Natural Diversity Data Base (CNDDDB), maintained by the California Department of Fish and Game, there are no known special status plant or animal species in the site vicinity, and there were no special status species observed in the project area. The lack of suitable habitat and the disturbed nature of the site make it unlikely that any special status plant or animal species occur in the area.

2. Have *an* adverse effect on a sensitive biotic community (riparian corridor, wetland, native grassland, special forests, intertidal zone, etc.)? _____ **X**

There are no mapped or designated sensitive biotic communities on or adjacent to the project site.

3. Interfere with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native or migratory wildlife nursery sites? _____ **X**

The proposed project does not involve any activities that would interfere with the movements or migrations of fish or wildlife, or impede use of a known wildlife nursery site.

- X**

X

X

X

EXHIBIT E-1

Does the project have the potential to:

X

X

X

x

Does the project have the potential to:

-

x

X

EXHIBIT F

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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5. Destroy, cover, or modify any unique geologic or physical feature? _____ **X**

No new development is proposed as part of this rezoning and lot line adjustment proposal and there are no unique geological or physical features on or adjacent to the site that would be destroyed, covered, or modified by the project.

F. Cultural Resources

Does the project have the potential to:

1. Cause an adverse change in the significance of a historical resource as defined in CEQA Guidelines 15064.5? _____ **X**

No new development is proposed as part of this rezoning and lot line adjustment proposal and the existing structures on the property are not designated as a historic resources on any federal, State or local inventory.

2. Cause an adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines 15064.5? _____ **X**

Although the County GIS archaeology layer shows the property as potentially containing archaeological resources, no archaeological materials are known to have been found on the property, much of which has been disturbed in the past by the tree farming. Additionally, because no new development is proposed as part of this rezoning and lot line adjustment proposal, no adverse change in the significance of any archaeological resource will occur as a result of this proposal.

3. Disturb any human remains, including those interred outside of formal cemeteries? _____ **X**

No new development is proposed as part of this rezoning and lot line adjustment proposal and no human remains are known to be on the site. However, pursuant to Section 16.40.040 of the Santa Cruz County Code, if at any time during any future site preparation, excavation, or other ground disturbance, human remains are discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the sheriff-coroner and the Planning Director. If the coroner determines that the remains are not of recent origin, a full archeological report shall be prepared and representatives of the local Native California Indian group shall be contacted. Disturbance shall not resume until the significance of the archeological resource is determined and appropriate mitigations to preserve the resource on the site are established.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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4. Directly or indirectly destroy a unique paleontological resource or site? _____ **X**

No new development is proposed as part of this rezoning and lot line adjustment proposal and there are no mapped or known unique paleontological resources on the site.

G. Hazards and Hazardous Materials

Does the project have the potential to:

1. Create a significant hazard to the public or the environment as a result of the routine transport, storage, use, or disposal of hazardous materials, not including gasoline or other motor fuels? _____ **X**

No new development is proposed as part of this rezoning and lot line adjustment proposal. No change is proposed in the Christmas tree farm operation or in the use of hazardous materials, if any so there will be no creation of a significant hazard regarding hazardous materials.

2. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? _____

The project site is not included on the April 16, 2007, list of hazardous sites in Santa Cruz County compiled pursuant to the specified code.

3. Create a safety hazard for people residing or working in the project area as a result of dangers from aircraft using a public or private airport located within two miles of the project site? _____ **X**

There is no public or private airport within two miles of the property

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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4. Expose people to electro-magnetic fields associated with electrical transmission lines?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal and no additional people will be on-site as a result of **the** proposal, nor will there be any new electrical transmission lines associated with **the** proposal.

5. Create a potential fire hazard?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal nor are there any changes proposed to the Christmas tree farming operation so there is no potential for the creation of a fire hazard associated with this proposal.

6. Release bio-engineered organisms or chemicals into the air outside of project buildings?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal, there are no known bio-engineered organisms used **on** the site nor are any proposed to be used, and any current chemical use is minimal and related to household uses and existing agricultural practices.

H. Transportation/Traffic

Does the project have the potential to:

1. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

X

No new development is proposed as part of this rezoning and lot line adjustment proposal so there will be no impact because no additional traffic will be generated.

2. Cause an increase in parking demand which cannot be accommodated by existing parking facilities?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so no increase in parking demand will be generated.

Significant OR Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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3. Increase hazards to motorists, bicyclists, or pedestrians? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so there will be no increase in hazards to motorists, bicyclists, or pedestrians.

4. Exceed, either individually (the project alone) or cumulatively (the project combined with other development), a level of service standard established by the county congestion management agency for designated intersections, roads or highways? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal.

I. Noise

Does the project have the potential to:

1. Generate a permanent increase in ambient noise levels in the project vicinity above levels existing without the project? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so the proposal will not create an incremental increase in the existing noise environment.

2. Expose people **to** noise levels in excess of standards established in the General Plan, or applicable standards of other agencies? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so there will be no increase in noise levels from those existing.

3. Generate a temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so there will be no temporary or periodic increases in ambient noise levels.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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J. Air Quality

Does the project have the potential to:
 (Where available, the significance criteria
 established by the MBUAPCD may be relied
 upon to make the following determinations).

- | | | | | | | |
|----|---|-------|-------|-------|-------|----------|
| 1. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | _____ | _____ | _____ | _____ | X |
|----|---|-------|-------|-------|-------|----------|

No new development *is* proposed as part of this rezoning and **lot** line adjustment proposal so there will be no increase in emissions that would violate any air quality standard

- | | | | | | | |
|---|--|-------|-------|-------|-------|----------|
| 2 | Conflict with or obstruct implementation of an adopted air quality plan? | _____ | _____ | _____ | _____ | X |
|---|--|-------|-------|-------|-------|----------|

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so there will be no conflict with or obstruction of implementation of the regional air quality plan. See J-1 above.

- | | | | | | | |
|----|---|-------|-------|-------|-------|----------|
| 3. | Expose sensitive receptors to substantial pollutant concentrations? | _____ | _____ | _____ | _____ | X |
|----|---|-------|-------|-------|-------|----------|

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so there will be no change in exposure of sensitive receptors to pollutant concentrations.

- | | | | | | | |
|----|--|-------|-------|-------|-------|----------|
| 4. | Create objectionable odors affecting a substantial number of people? | _____ | _____ | _____ | _____ | X |
|----|--|-------|-------|-------|-------|----------|

No new development is proposed as part of this rezoning and **lot** line adjustment proposal so no objectionable odors will be created.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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K. Public Services and Utilities

Does the project have the potential to:

1. Result in the need for new or physically altered public facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:

a. Fire protection?	_____	_____	<u> X </u>
b. Police protection?	_____	_____	<u> X </u>
c. Schools?	_____	_____	<u> X </u>
d. Parks or other recreational activities?	_____	_____	<u> X </u>
e. Other public facilities; including the maintenance of roads?	_____	_____	<u> X </u>

No new development is proposed as part of this rezoning and ~~lot~~ line adjustment proposal so there will be no contribution to the need for new ~~or~~ increased services

2. Result in the need for construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

_____ X

No new development is proposed as part of this rezoning and ~~lot~~ line adjustment . proposal so there will be no increase in stormwater runoff and ~~no~~ need to construct new or expand existing stormwater facilities.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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3. Result in the need for construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal. The Christmas tree farm and residential use currently and will continue to rely on individual wells for water supply. Public water delivery facilities will not have to be expanded.

No new development is proposed as part of this rezoning and lot line adjustment proposal so no new, expanded, or upgraded sewage disposal system is needed. The property *is* currently and will continue to be served by an on-site sewage disposal system.

4. Cause a violation of wastewater treatment standards of the Regional Water Quality Control Board?

X

No new development is proposed as part of this rezoning and lot line adjustment proposal. The properties' wastewater flows will not violate any wastewater treatment standards.

5. Create a situation in which water supplies are inadequate to serve the project or provide fire protection?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal, so no new demand for water will occur.

6. Result in inadequate access for fire protection?

X

No new development is proposed as part of this rezoning and **lot** line adjustment proposal and no existing fire access roads will be changed or otherwise affected.

7. Make a significant contribution to a cumulative reduction of landfill capacity or ability to properly dispose of refuse?

X

No new development is proposed as part of this rezoning and lot line adjustment proposal so there will be no contribution to the reduced **capacity** of regional landfills,

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
---	---	---	-------------------

- a. Result in a breach of federal, state, and local statutes and regulations related to solid waste management? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal and there are no issues related to solid waste management associated with this proposal.

I. Land Use, Population, and Housing

Does the project have the potential to:

1. Conflict with any policy of the County adopted for the purpose of avoiding or mitigating an environmental effect? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal. The proposal does not conflict with any policies adopted for the purpose of avoiding or mitigating an environmental effect.

2. Conflict with any County Code regulation adopted for the purpose of avoiding or mitigating an environmental effect? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal. The proposal does not conflict with any regulations adopted for the purpose of avoiding or mitigating an environmental effect.

3. Physically divide an established community? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal. The project will not include any element that will physically divide an established community.

4. Have a potentially significant growth inducing effect, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? _____ **X**

No new development is proposed as part of this rezoning and **lot** line adjustment proposal.

Significant Or Potentially Significant Impact	Less than Significant with Mitigation Incorporation	Less than Significant Or No Impact	Not Applicable
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5. Displace substantial numbers of people, or amount of existing housing, necessitating the construction of replacement housing elsewhere?

X

No new development is proposed as part of this rezoning and lot line adjustment proposal.

M. Non-Local Approvals

Does the project require approval of federal, state, or regional agencies?

Yes

No X

N. Mandatory Findings of Significance

1. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant, animal, or natural community, or eliminate important examples of the major periods of California history or prehistory?

Yes

No

2. Does the project have the potential to achieve short term, to the disadvantage of long term environmental goals? (A short term impact on the environment is one which occurs in a relatively brief, definitive period of time while long term impacts endure well into the future)

Yes

No

3. Does the project have impacts that are individually limited, but cumulatively considerable ("cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, and the effects of reasonably foreseeable future projects which have entered the Environmental Review stage)?

Yes

No

4. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Yes

No

TECHNICAL REVIEW CHECKLIST

	<u>REQUIRED</u>	<u>COMPLETED*</u>	<u>N/A</u>
Agricultural Policy Advisory Commission (APAC) Review	_____	01-18-07	
Archaeological Review	_____		X
Biotic Report/Assessment	_____		X
Geologic Hazards Assessment (GHA)	_____		X
Geologic Report	_____		X
Geotechnical (Soils) Report	_____		X
Riparian Pre-Site	_____		X
Septic Lot Check	_____		X
Other:	_____		

Attachments:

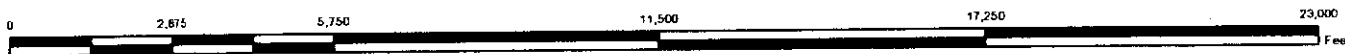
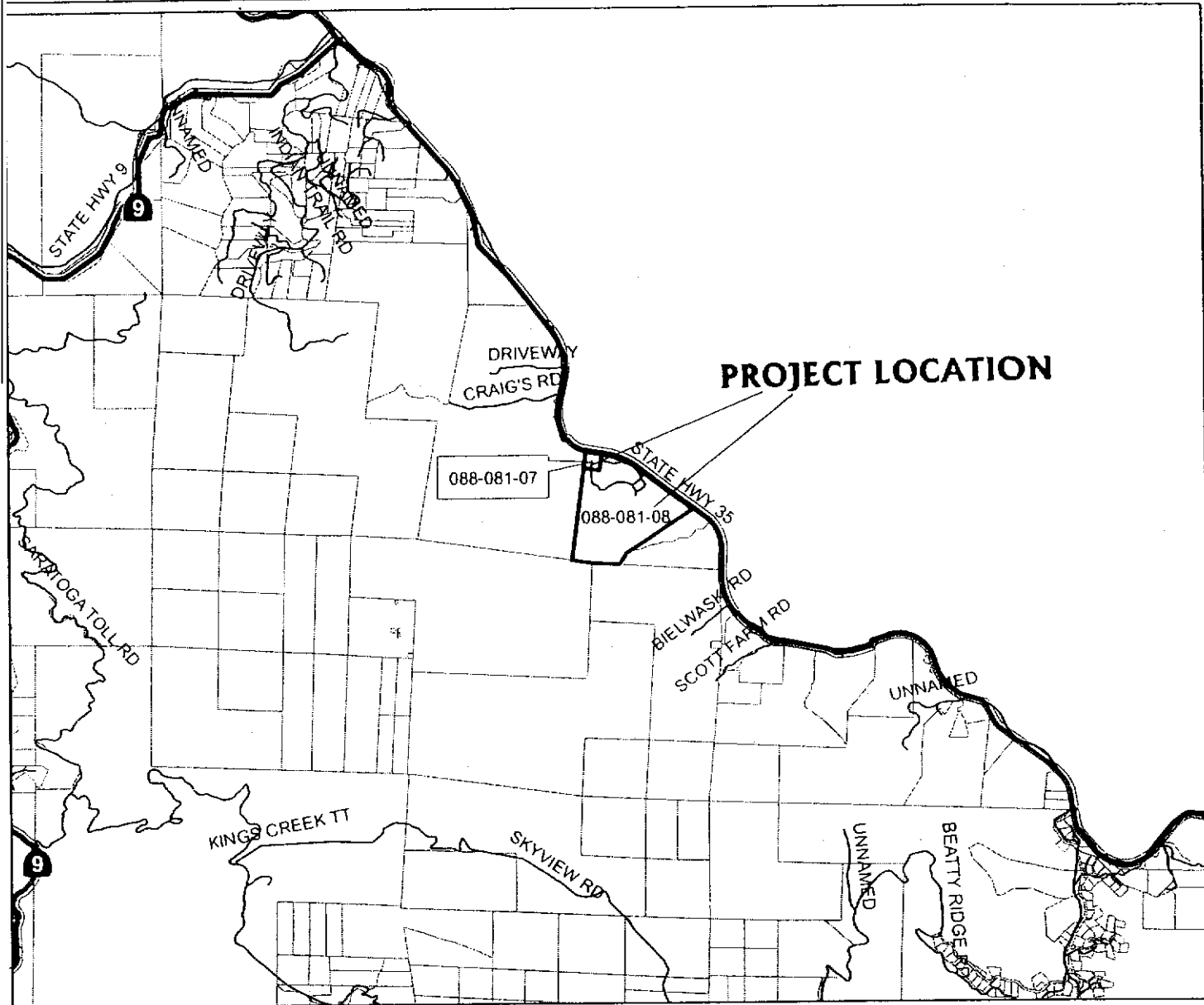
1. Location Map
2. General Plan Designation Map
3. Zone District Map
4. Assessors Parcel Map
5. Lot Line Adjustment map prepared by Westfall Engineers, dated September 2006
6. APAC staff report 01-18-07
7. Williamson Act definition

Other technical reports or information sources used in preparation of this Initial





None



Location Map



Legend

-  Subject Parcels
-  Assessors Parcels
-  Streets
-  State Highways

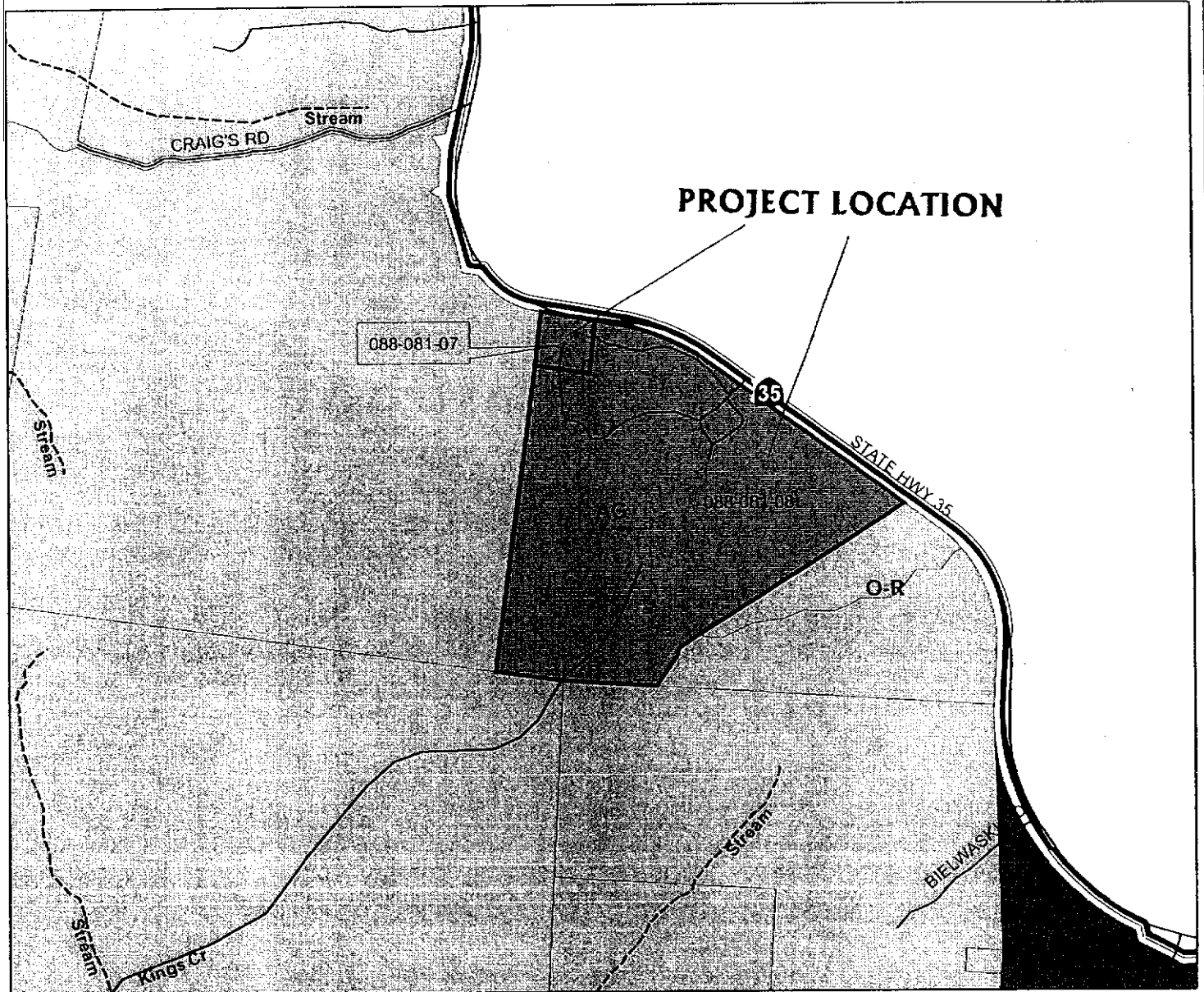


Environmental Review Initial Study
ATTACHMENT 1
APPLICATION 06-0589

Map Created by
County of Santa Cruz
Planning Department
November 2006

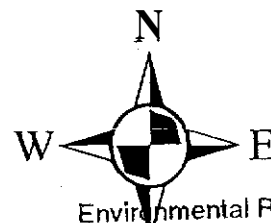


General Plan Designation Map



Legend

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



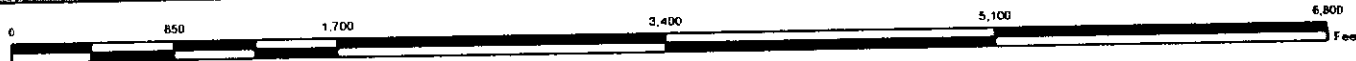
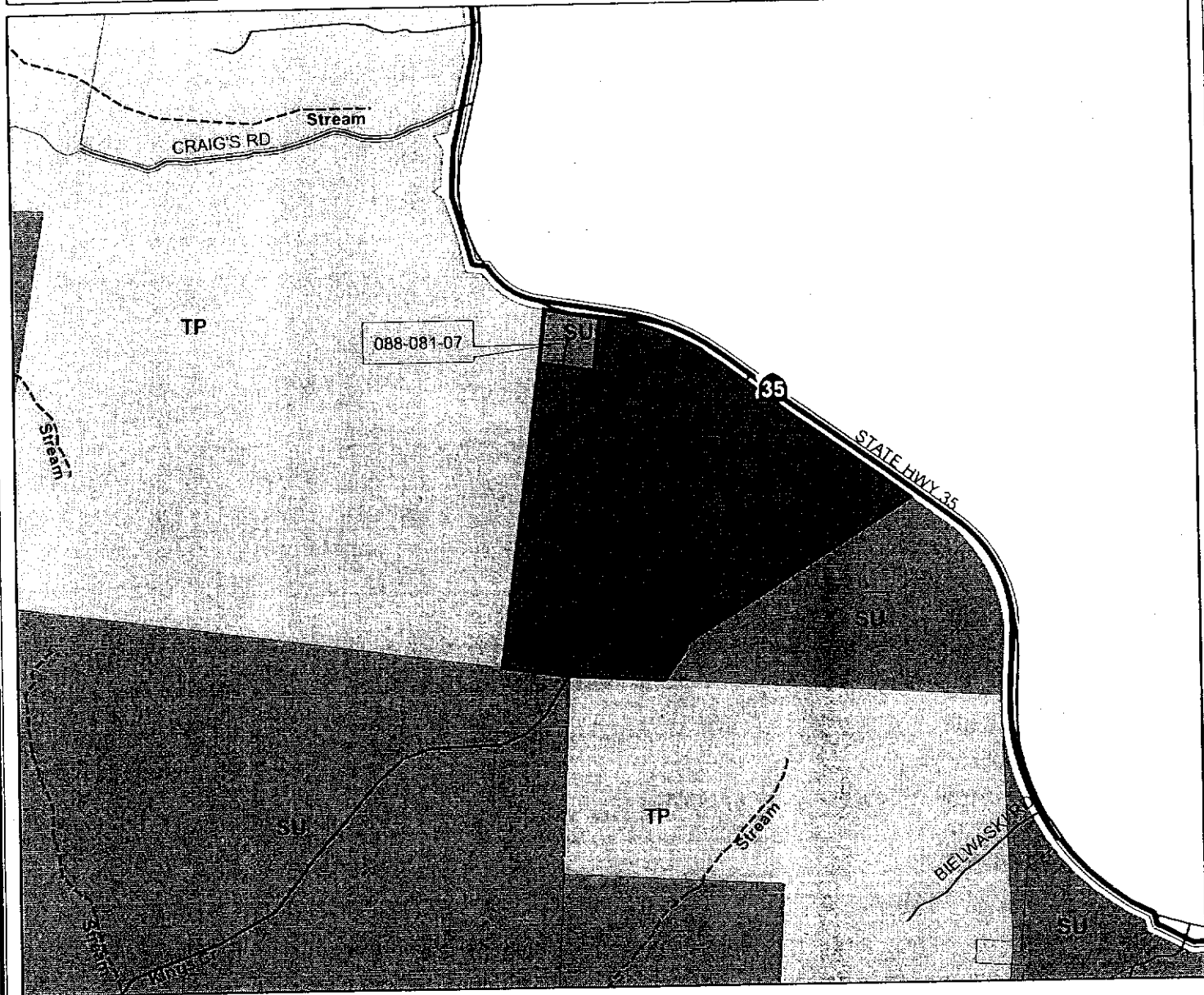
Environmental Review Initial Study
ATTACHMENT 2
APPLICATION 06-0589

Map Created by
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EXHIBIT

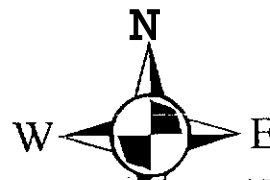


Zoning Map



Legend

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



Environmental Review Initial Study
ATTACHMENT 3
APPLICATION 06-0589

Map Created by
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November 2006

EXHIBIT

Tax Area Code
65-021

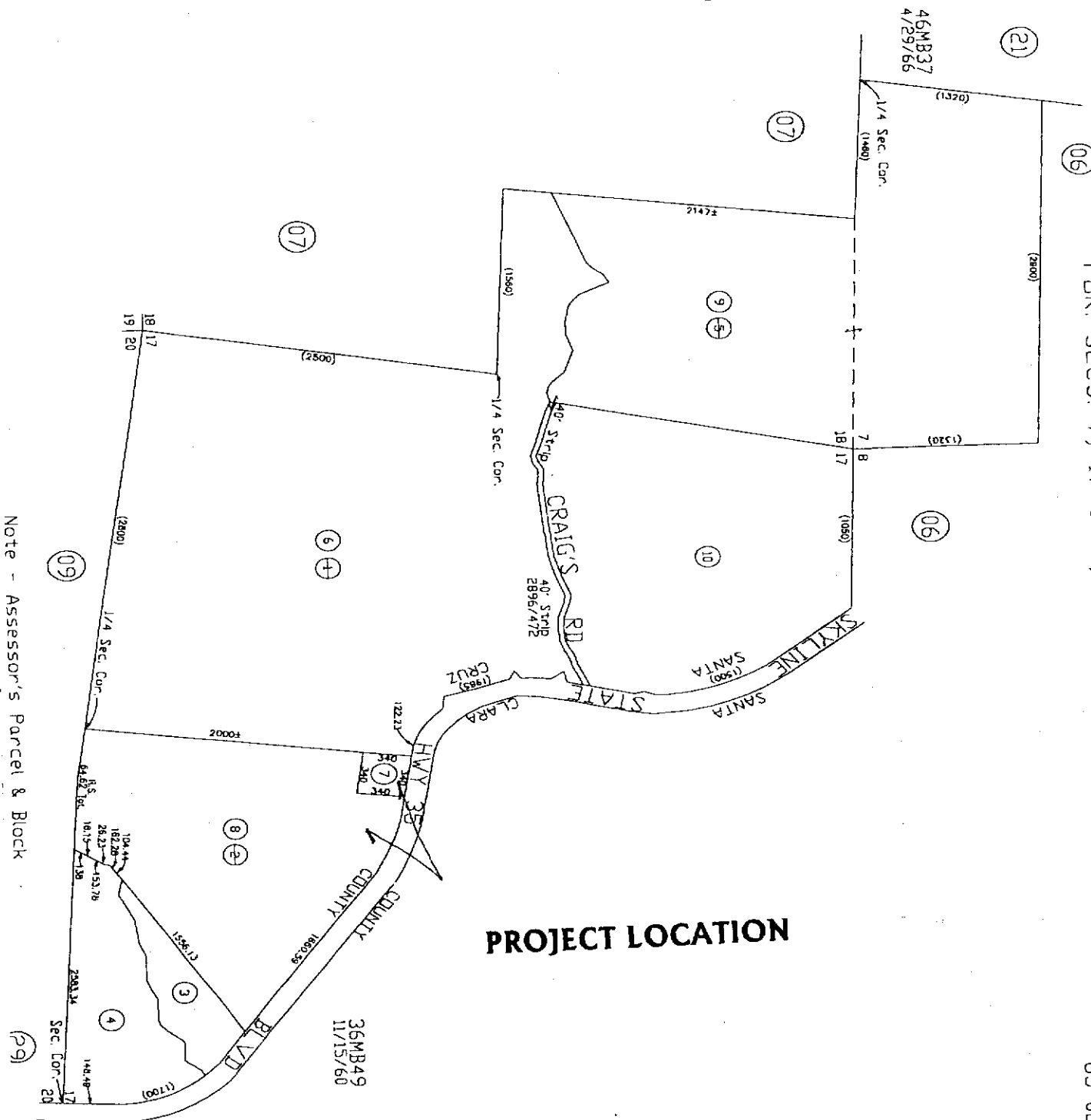
Environmental Review Initial Study

ATTACHMENT APPLICATION

06-0589

EXHIBIT

PROJECT LOCATION



Note - Assessor's Parcel & Block

15
Assessor's Map No. 88-08
County of Santa Cruz, Calif



Staff Report to the Agricultural Policy Advisory Commission

Application Number: **06-0589**

Applicant: Ron Powers

Date: January **18, 2006**

Owners: Robert E. & Mary **AM** Whalen

Agenda Item: # **9**

APN: 088-081-07 & -08

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

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

Environmental Review Initial Study

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APPLICATION 06-0589

County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060

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
Supervisory District: Fifth (District Supervisor: Stone)
Within Coastal Zone: ☐ Inside ☒ 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 ☒ No
Water Supply: Private well
Sewage Disposal: CSA #12, private septic system
Fire District: CDF
Drainage District: Non-zone

Analysis

Environmental Review Initial Study
ATTACHMENT 6, 2 of 27
APPLICATION 06-0589

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 Christmas tree 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 APN 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 IO-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 IO-acre size for the zone district as the parcel remains at 32.8 acres. The land is under Williamson Act as per 75-1285-AP.

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

Report Prepared By: Joan Van der Hoeven, AICP
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-5174
E-mail: pln140@co.santa-cruz.ca.us

Report Reviewed By Glenda Hill
Glenda Hill, AICP
Principal Planner
Long Range Planning
Santa Cruz County Planning Department

Environmental Review Initial Study
ATTACHMENT 61 4 of 27
APPLICATION 06-0589

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.

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APPLICATION 06-0589

EXHIBIT F
EXHIBIT B

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 Chnstmastree 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

Environmental Review Initial Study
ATTACHMENT 6, 6 of 27
APPLICATION 06-0589

EXHIBIT F 1

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."
111. 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

Environmental Review Initial Study
ATTACHMENT 6, 7 & 27
APPLICATION 06-0589

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

EXHIBIT F
EXHIBIT C

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. X 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

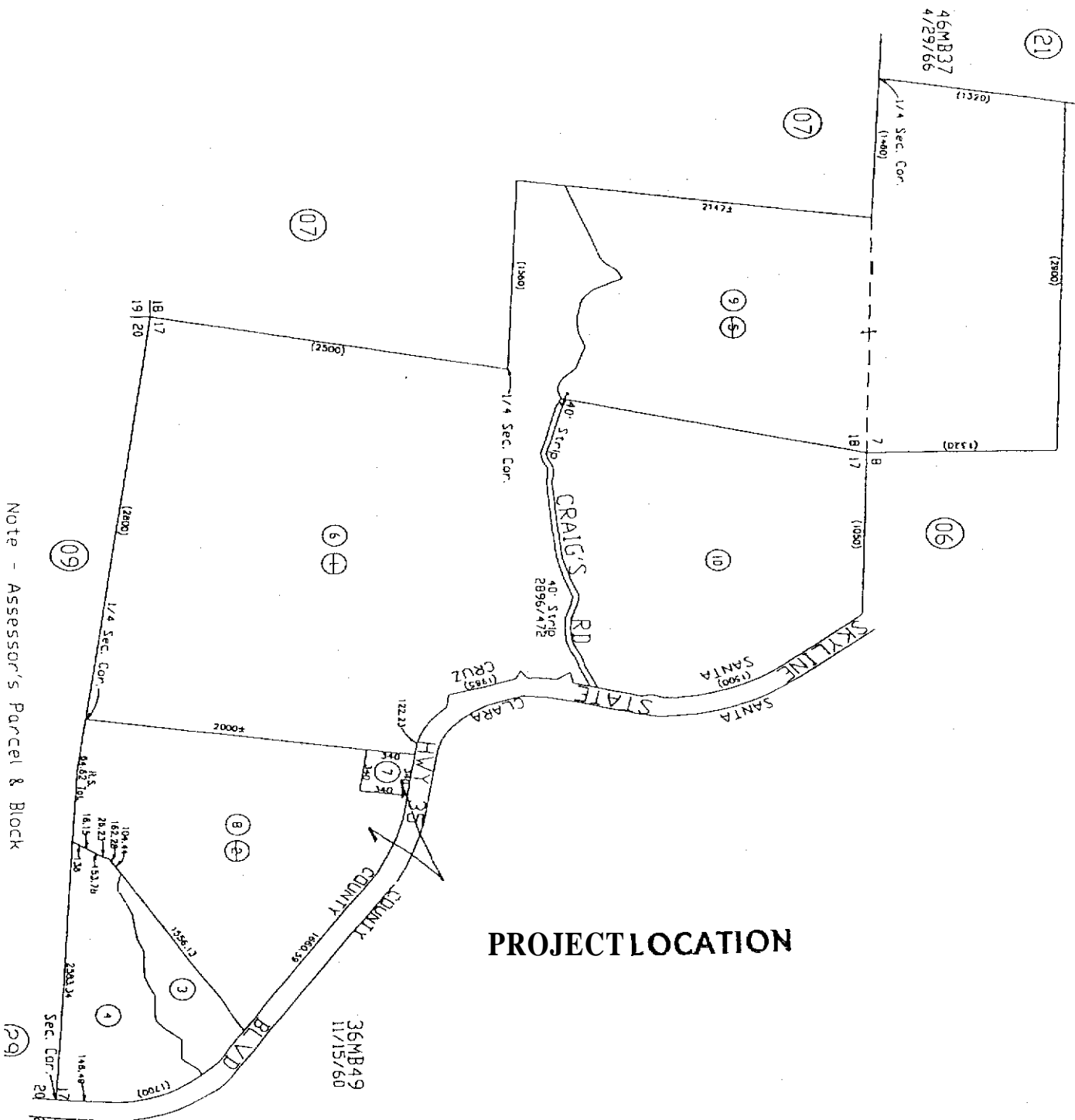
Environmental Review Initial Study
ATTACHMENT & APPLICATION 2nd 27
06-0589

EXHIBIT F
EXHIBIT

Tax Area
65-021

Environmental Review Initial Study
ATTACHMENT 6, 9 & 27
APPLICATION 06-0589

EXHIBIT F
EXHIBIT E

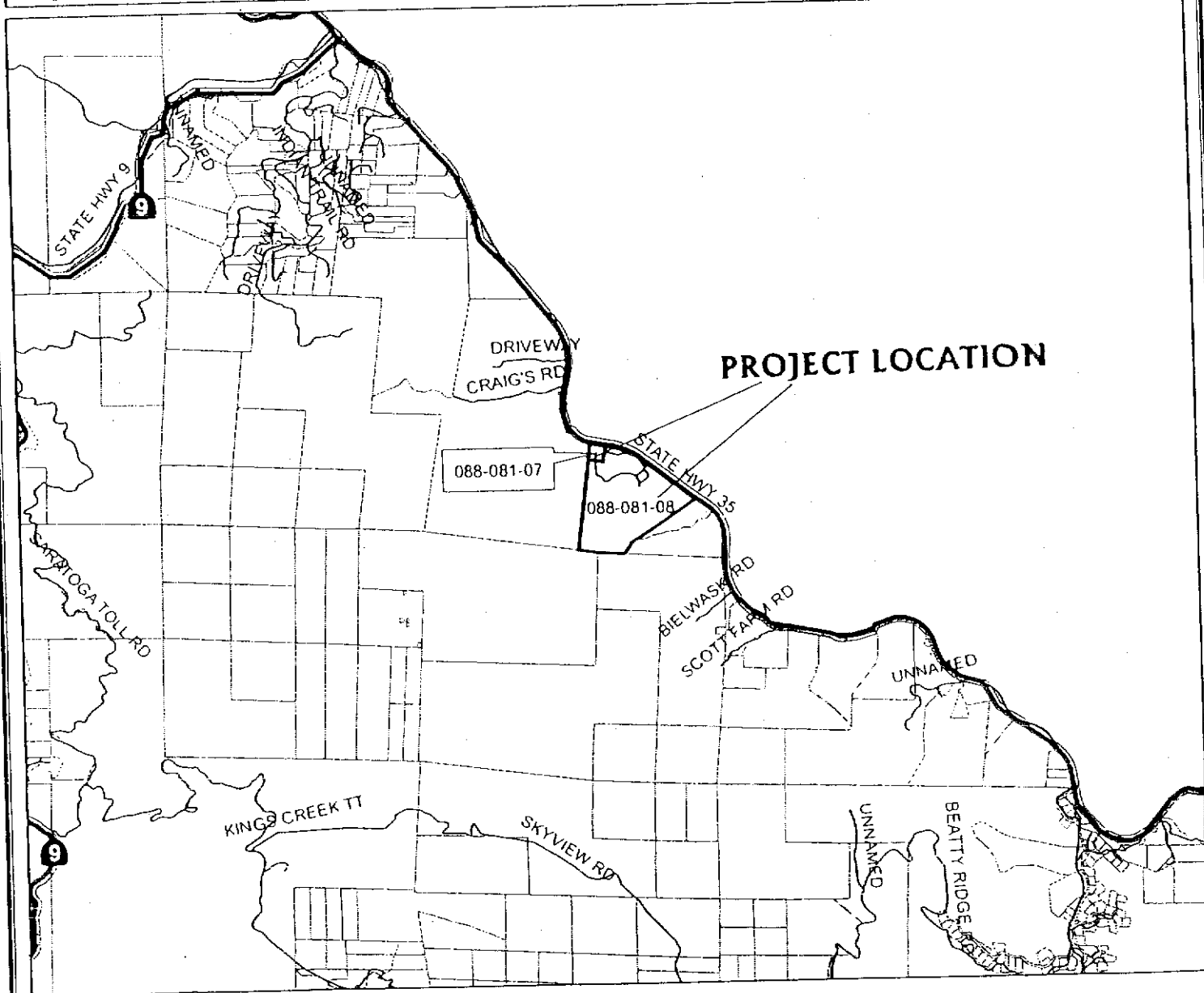


Note - Assessor's Parcel & Block





Assessor's Map 0. 88-08.
County of Santa Cruz, Calif.

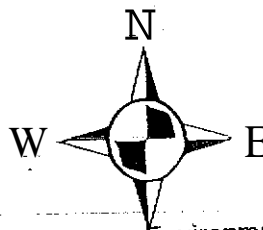


Location Map



Legend

-  Subject Parcels
-  Assessors Parcels
-  Streets
-  State Highways



Environmental Review Initial Study
ATTACHMENT 6, 12 of 23
APPLICATION 06-0589

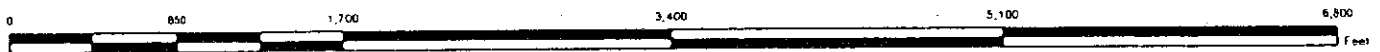
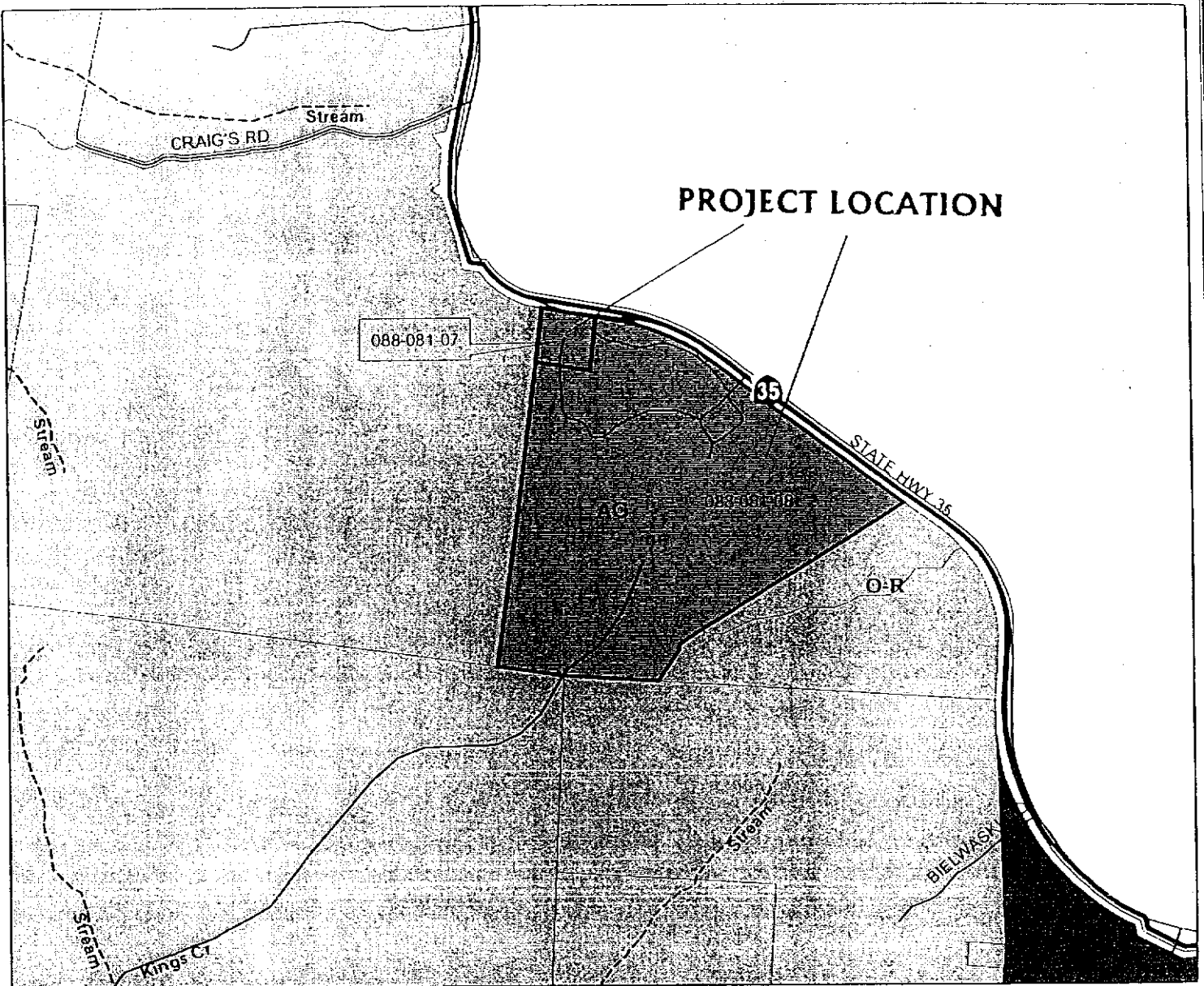
Map Created by
County of Santa Cruz
Planning Department
November 2006

EXHIBIT F

EXHIBIT E

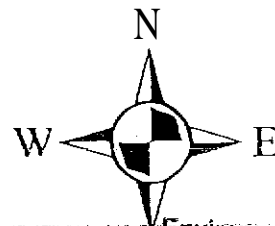


General Plan Designation Map



Legend

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

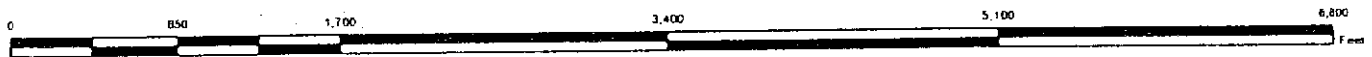
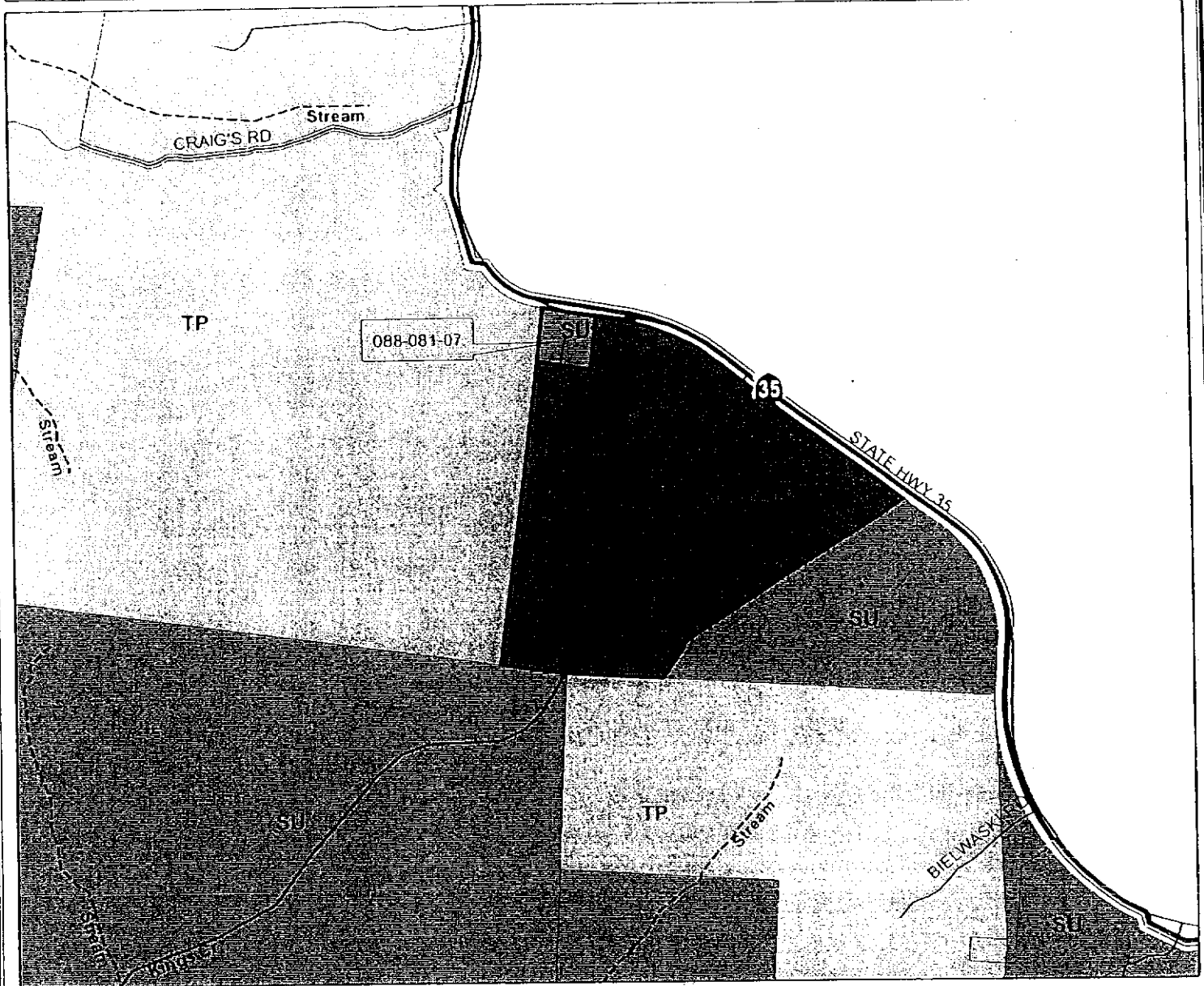


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APPLICATION 06-0589










Map Created by
County of Santa Cruz
Planning Department
November 2006
EXHIBIT F
EXHIBIT F

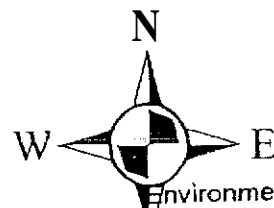


Zoning Map



Legend

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



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APPLICATION 06-0589

Map Created by
County of Santa Cruz
Planning Department
November 2006

EXHIBIT F
EXHIBIT F

C O U N T Y O F S A N B E R N A D O
DISCRETIONARY APPLICATION COMMENTS

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

Environmental Review Initial Study
ATTACHMENT 6, 13 of 27
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EXHIBIT F
EXHIBIT G

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.

Environmental Review Initial Study

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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 Lornond sandy loam (Land Capability Class 3e-1) 13.2 acres (29%). Agricultural uses include limber 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 limber 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 Review Initial Study
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APPLICATION 06-0589

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.

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APPLICATION

EXHIBIT F
EXHIBIT H

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 **subj**ed 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.

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EXHIBIT F
EXHIBIT H

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

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APPLICATION 06-0589

800-2614 PAGE 468

800-2589 PAGE 614
LAND CONSERVATION CONTRACT

19380 7984

COMPARED

10/7/89

THIS CONTRACT, made and entered into this 27th day of February, 1976, by and between PAMELA ELAINE WHALEN, MARK 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.

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APPLICATION 06-0589

EXHIBIT F
EXHIBIT

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 —

Environmental Review Initial Study
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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

3-

Environmental Review Initial Study
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APPLICATION 06-0589

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

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

Pam Whalen Date: 2-24-76

OWNER Mark Cleveland Date: 2/24/76

OWNER Rose Whalen Date: 2/25/76

NOTARY PUBLIC Chas. J. Whalen Date: 2/25/76

OWNER Chas. J. Whalen Date: 2/25/76

OWNER Suzanne E. Brundage Date: 2/25/76

J. J. Sutton
Chairman, Board of Supervisors
COUNTY

NOTARY PUBLIC

Date: Environmental Review Initial Study

ATTACHMENT 6, 22 of 27
APPLICATION 06-0589

EXHIBIT F
EXHIBIT

STATE OF CALIFORNIA)

) ss.

COUNTY OF SANTA CRUZ)

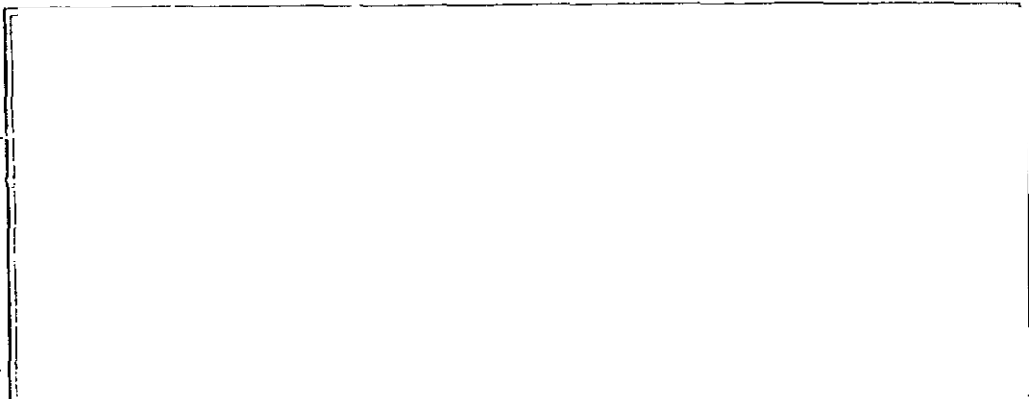
On this 10th day of March 1976 before me Richard C. Neal County Clerk and Ex-Officio Clerk of the Board of Supervisors, personally appeared Raymond Patton known to me to be the Chairman of the Board of Supervisors of the County of Santa Cruz, a political subdivision of the State of California, and known 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.

TESTED & SEAL, COUNTY CLERK AND
EX-OFFICIO CLERK OF THE BOARD OF
SUPERVISORS OF THE COUNTY OF SANTA
CRUZ, CALIFORNIA.

BY Richard C. Neal COUNTY CLERK

Environmental Review Initial Study
ATTACHMENT 6, 23, 177
APPLICATION 06-0589

EXHIBIT 6
EXHIBIT A



INDIVIDUAL ACKNOWLEDGMENT

State of California

County of Merced

} S.S.

On this 21th day of February, 1976, before me,

Isabel L Pacheco

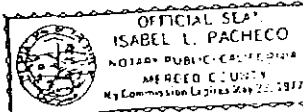
a Notary Public in and for said Merced County,

(SEAL)

personally appeared Pamela Elaine Mahlen and Mark Edward Mahlen

known to me to be the person 5 whose name are subscribed to the within instrument, and acknowledged that the 7 executed the same.

WITNESS my hand and official seal.



Isabel L. Pacheco Notary Public in and for said Merced County and State

My commission expires May 22 1977

Environmental Review Initial Study
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APPLICATION 06-0589

EXHIBIT F
EXHIBIT

BOOK 2614 PAGE 474

BOOK 2589 PAGE 619

T 121001-25

EXHIBIT "A"

SITUATION IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA AND DESCRIBE AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 8, SOUTH RANGE 3 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 NORTH WESTERLY LINE OF A THIRTY ACRE TRACT OF LAND KNOWN AS CASTLE ROCK CONVEYED BY H. M. BARNGROVER, 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

019380
BOOK 2614 PAGE 468
SANTA CRUZ COUNTY
RECORDED

MAY 10 2 15 PM '76

RECORDED AT REQUEST OF

SANTA CRUZ COUNTY

Santa Cruz County Recorder

RECORDED AT REQUEST OF

FEB 27 4 51 PM '76

SANTA CRUZ COUNTY
RECORDED

BOOK 2589 PAGE 614

007984

Environmental Review Initial Study
ATTACHMENT 6, 25012? -
APPLICATION 06-0589

EXHIBIT F
EXHIBIT I

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

RESOLUTION NO. 2007-01

On the motion of Commissioner Manfre
duly seconded by Commissioner McCrary
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 (15435 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 Dau, Earnshaw, ~~Kimes~~, Manfre, McCrary

NOES: COMMISSIONERS 0

ABSENT: COMMISSIONERS 0

ABSTAIN: COMMISSIONERS 0



BRUCE DAU, Chairperson

ATTEST: Joan Van der Hoeven
JOAN VAN DER HOEVEN, Secretary

APPROVED AS TO FORM:

DMulroe 1/2/07
COUNTY COUNSEL

Environmental Review Initial Study
ATTACHMENT 6, 26 of 27
APPLICATION 06-0589

EXHIBIT F

088-081-08 E-07 (MRT) 1980 PHOTO

West PROPERTY CME

Environmental Release Initials
ATTACHMENTS 6, 2, 1, 1
APPLICATION 06-0580

EXHIBIT
EXHIBIT F

Williamson Act Definition/Description

The California Legislature passed the Williamson Act in 1965 to preserve agricultural and open space lands by discouraging premature and unnecessary conversion to urban uses. The Act creates an arrangement whereby private landowners contract with counties and cities to voluntarily restrict land to agricultural and open-space uses. The vehicle for these agreements is a rolling term 10 year contract (i.e. unless either party files a "notice of nonrenewal" the contract is automatically renewed annually for an additional year). In return, restricted parcels are assessed for property tax purposes at a rate consistent with their actual use, rather than potential market value.

Environmental Review Initial Study
ATTACHMENT 7
APPLICATION 06-0589

#06-0587

88-081-0

2614 PAGE 468

2589 PAGE 614

19380 7984

LAND CONSERVATION CONTRACT

COMPARED

10 y h. 2

THIS CONTRACT made and entered into this 27th day of
February, 1976, by and between PAMELA ELAINE WHALEN, MARK
WHALEN, JR., ALICE E. WHALEN, EDWARD WHALEN, ROBERT E.
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 re-
newal 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 (Agricul-
tural) 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 COUNTY OF SANTA CRUZ, a Political
Pam. Whalen Subdivision of the State of California
 OWNER Date: 2-24-76
Mark Edward Whalen BY J. J. Patton
 OWNER Date: 2/24/76 (Chairman) Board of Supervisors
Rose E. Whalen COUNTY
 OWNER Date: 2/25/76
Oliver E. Whalen Date: 2/25/76
 OWNER
Susan E. Bruscia Date: 2/25/76
 OWNER

NOTARY PUBLIC Date:

-4-

OWNER Date:

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CRUZ)

On this 10th day of March in
the year 1976 before me Richard C. Neal
County Clerk and Ex-Officio Clerk of the Board of
Supervisors, personally appeared Ray A. Patton
Patton, 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.

WITTO 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. Brunin
known to me to be the person or 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,
(SEAL) personally appeared Pamela Elaine Whalen and Mark Edward Whalen
known to me to be the person or whose name are subscribed to the within
instrument, and acknowledged that they executed the same.
WITNESS my hand and official seal.

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

Notary Public in and for said Merced County and State
My commission expires May 22 1977

300-2614 PAGE 474

300-2589 PAGE 619

TI#121001-25

EXHIBIT "A"

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

COMMENCING 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. BARNGROVER, 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

019380
300-2614 PAGE 468
SANTA CRUZ COUNTY
RECORDED

MAY 10 2 15 PM '76
RECORDED AT REQUEST OF

Santa Cruz County Counsel

Santa Cruz County Counsel

FEB 27 4 51 PM '76
RECORDED AT REQUEST OF

300-2589 PAGE 614
SANTA CRUZ COUNTY
RECORDED

007984

EXHIBIT G

Recording requested by:

COUNTY OF SANTA CRUZ

Return recorded form to:

Planning Department
County of Santa Cruz
701 Ocean Street, 4th Floor

Attention: Steven Guiney
Application #: 06-0589

Land Conservation Contract

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(CALIFORNIA GOVERNMENT CODE §27361.6)

Recording requested by:

COUNTY OF SANTA CRUZ

When recorded, *return to*:

Steven Guiney
Planning Department
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

(Space above this line for Recorder's use only)

LAND CONSERVATION CONTRACT

THIS CONTRACT, made and entered into by and between

hereinafter collectively referred to as "Owner," and the COUNTY OF SANTA CRUZ, a Political Subdivision of *the* State of California, hereinafter referred to as "County."

WITNESSETH:

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 (the "Property"); 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 CA (Commercial 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, aesthetic, and economic asset to the 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 and agricultural-compatible uses.

WHEREAS, on January 27, 1976, Owner entered into a land conservation contract with County pursuant to the California Land Conservation Act of 1965, which contract has been continuously in effect since that time; and

WHEREAS, Owner has received approval of a lot line adjustment that changes the boundaries of the parcel subject to that contract.

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 contract entered into on January 12, 1976, is hereby rescinded and is simultaneously re-entered into to pertain to the adjusted parcel boundaries.

2. The within contract is made and entered into pursuant to the California Land Conservation Act of 1965, California Government Code § 51200 *et seq.*, including all amendments thereto, and related County regulations.

3. 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 CA (Commercial 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.

4. 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 CA (Commercial 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.

5. In consideration of *the* execution hereof by County, Owner agrees to restrict its property to those uses authorized in the CA (Commercial Agricultural) and the P (Agricultural Preserve) Combining District. Owner further agrees that he will not convey any part of the above-described

actually so condemned or acquired or as to such land and a remaining portion that is rendered unsuitable for agricultural or compatible **uses**.

7. This contract shall be effective commencing on the _____ day of _____, 20_____, 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.

8. 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.

9. 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 ~~herefrom~~ 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.

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

11. This contract may not **be** cancelled except upon a petition by the Owner to the Board of Supervisors of the County consistent with County Code and State law and provided that such Board, after a public hearing held in accordance with the provisions of Section 51284 of the Government Code, finds, including but not limited to:

- 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 such cancellation, the landowner shall pay to County a cancellation fee consistent with local Ordinance and State law.

The Board of Supervisors of County may waive or defer such payments or any portion thereof provided the Board finds, including but not limited to:

- a. It is in the public interest and the best interest 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 that produces a greater economic return of 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 of deferral is made contingent.

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

COUNTY OF SANTA CRUZ
A Political Subdivision of the
State of California

OWNER

By _____
Chairperson, Board of Supervisors

OWNER

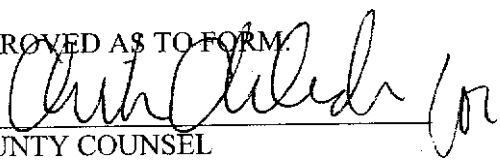
NOTARY PUBLIC date

OWNER

OWNER

OWNER

APPROVED AS TO FORM.



COUNTY COUNSEL

EXHIBIT "A"

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

~~COMMENCING 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 OF 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. BARNGROVER, 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 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.~~

Description pending; will insert before goes to BoS

088-081-08

Recording requested by:

COUNTY OF SANTA CRUZ

Return recorded form to:

Planning Department
County of Santa Cruz
701 Ocean Street, 4th Floor

Attention: Steven Guiney
Application #: 06-0589

Land Conservation Contract

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(CALIFORNIA GOVERNMENT CODE §27361.6)

Recording requested by:

COUNTY OF SANTA CRUZ

When recorded, return to:

Steven Guiney
Planning Department
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

(Space above this line for Recorder's use only)

LAND CONSERVATION CONTRACT

THIS CONTRACT, made and entered into by and between

hereinafter collectively referred to as "Owner," and the COUNTY OF SANTA CRUZ, a Political Subdivision of the State of California, hereinafter referred to as "County."

WITNESSETH:

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 (the "Property"); 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 CA (Commercial 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, aesthetic, and economic asset to the 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 and agricultural-compatible uses.

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, California Government Code § 51200 *et seq.*, including all amendments thereto, and related County regulations.

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 CA (Commercial 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 CA (Commercial 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 its property to those uses authorized in the CA (Commercial Agricultural) 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 General Plan, County Code, and State Law.

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 other 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 _____, 20_____, 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 herefrom 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 the County consistent with County Code and State law and provided that such Board, after a public hearing held in accordance with the provisions of Section 51284 of the Government Code, finds, including but not limited to:

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 such cancellation, the landowner shall pay to County a cancellation fee consistent with local Ordinance and State law.

The Board of Supervisors of County may waive or defer such payments ~~or~~ any portion thereof provided the Board finds, including but not limited to:

a. It is in the public interest and the best interest 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 that produces a greater economic return of 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 of deferral is made contingent.

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

COUNTY OF SANTA CRUZ
A Political Subdivision of the
State of California

OWNER

By _____
Chairperson, Board ~~of~~ Supervisors

OWNER

NOTARY PUBLIC date

OWNER

OWNER

OWNER

APPROVED AS TO FORM:



COUNTY COUNSEL

EXHIBIT "A"

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

~~COMMENCING 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 OF 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. BARN GROVER, 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 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,~~

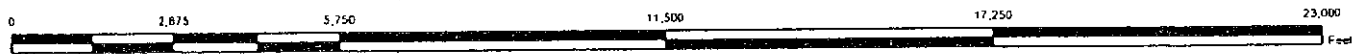
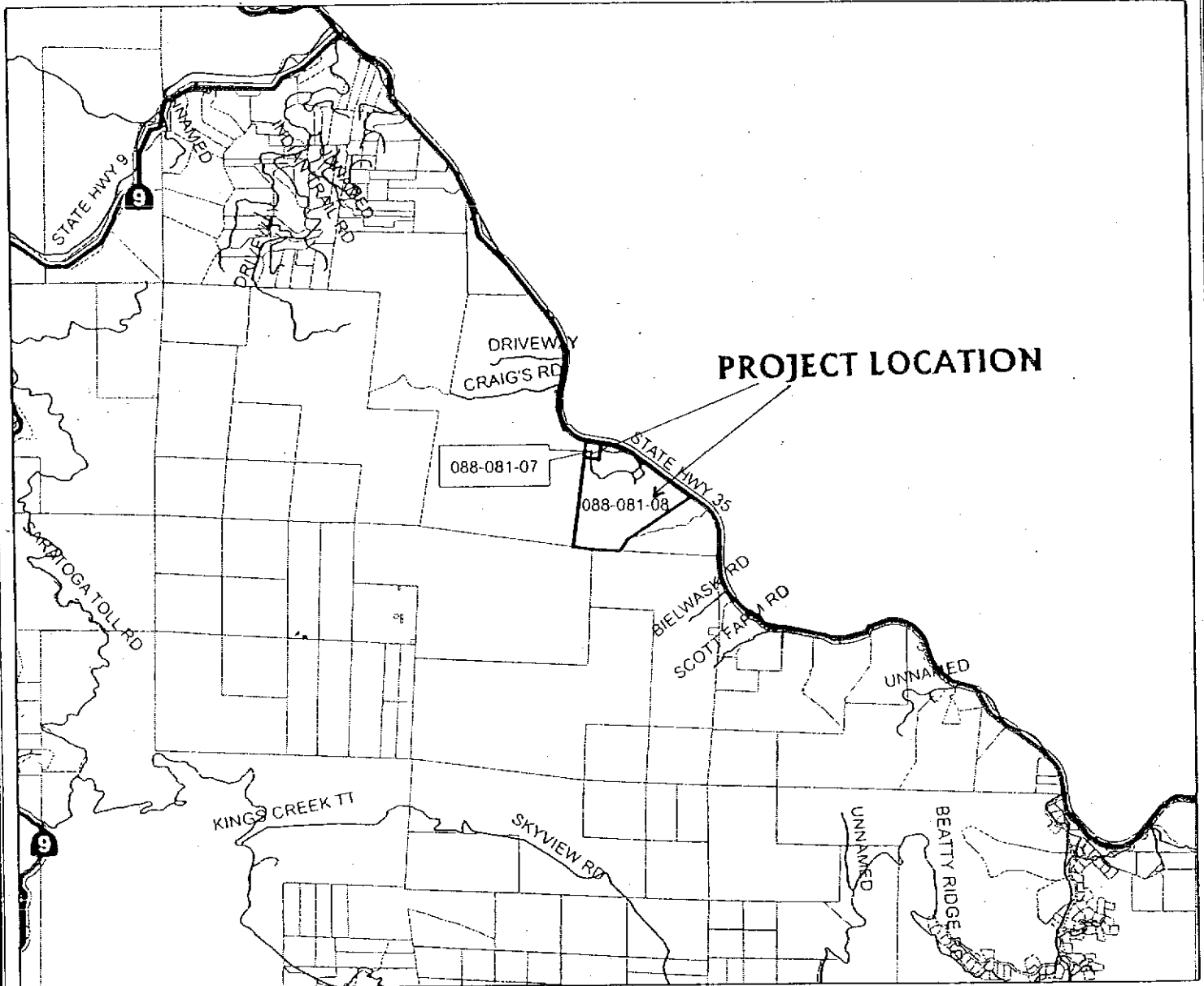
~~EXCEPTING THEREFROM THAT PORTION THEREOF CONVEYED BY H. G. ULM AND MURIEL ELLISON ULM, HIS WIFE, TO THE STATE OF CALIFORNIA BY DEED DATED DECEMBER 21, 1932, AND RECORDED JANUARY 30, 1933, IN VOLUME 238 OF OFFICIAL RECORDS AT PAGE 290, SANTA CRUZ COUNTY RECORDS.~~

Description pending; will insert before goes to BoS


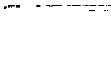
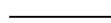

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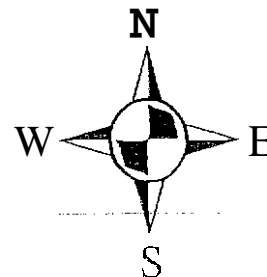


Location Map



Legend

-  Subject Parcels
-  Assessors Parcels
-  Streets
-  State Highways

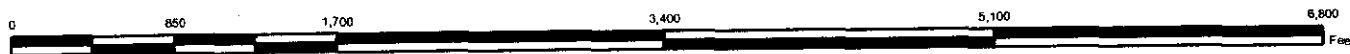
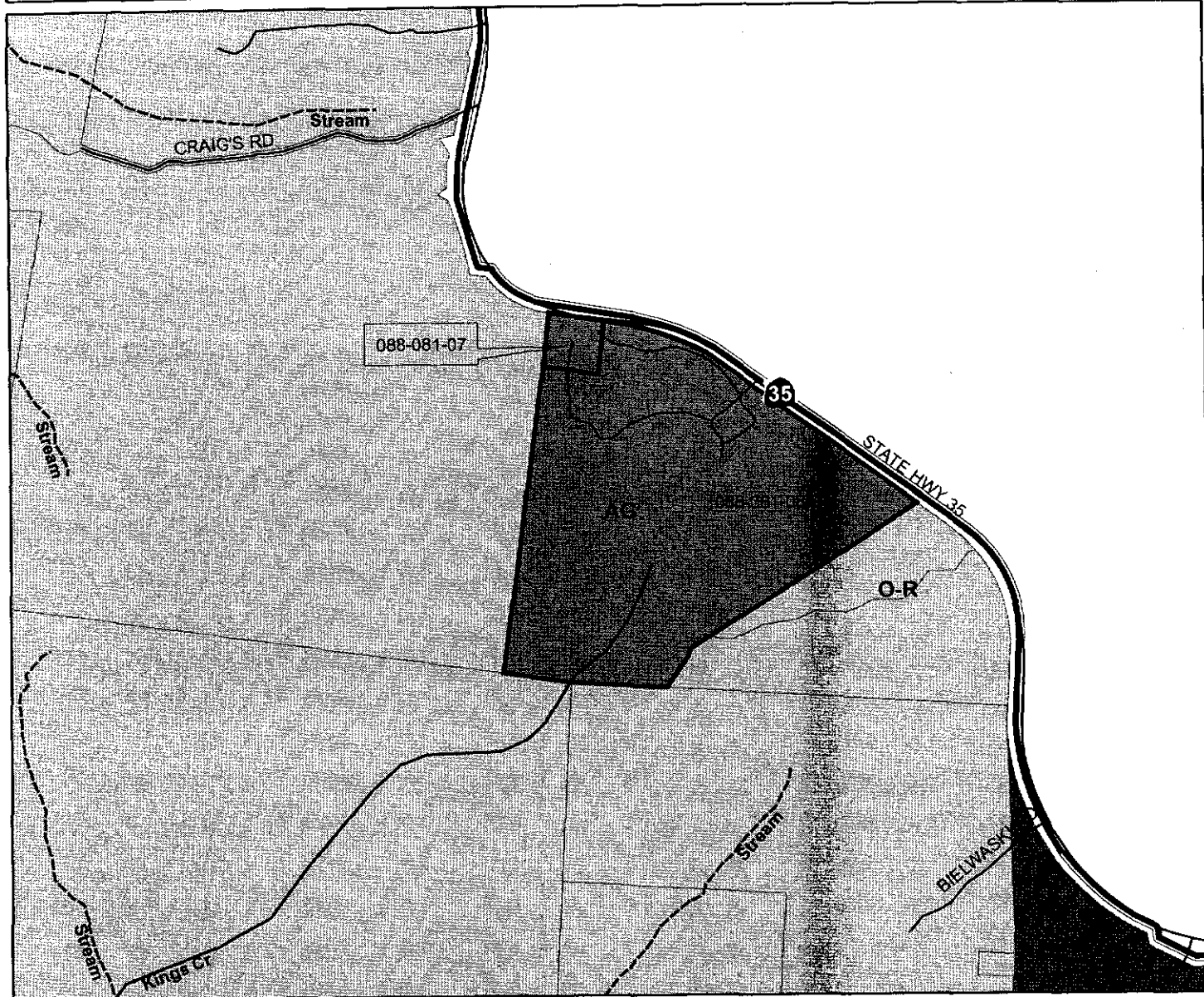


Map Created by
County of Santa Cruz
Planning Department
November 2006

EXHIBIT

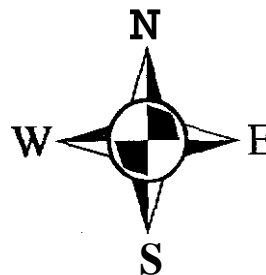


General Plan Designation Map



Legend

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

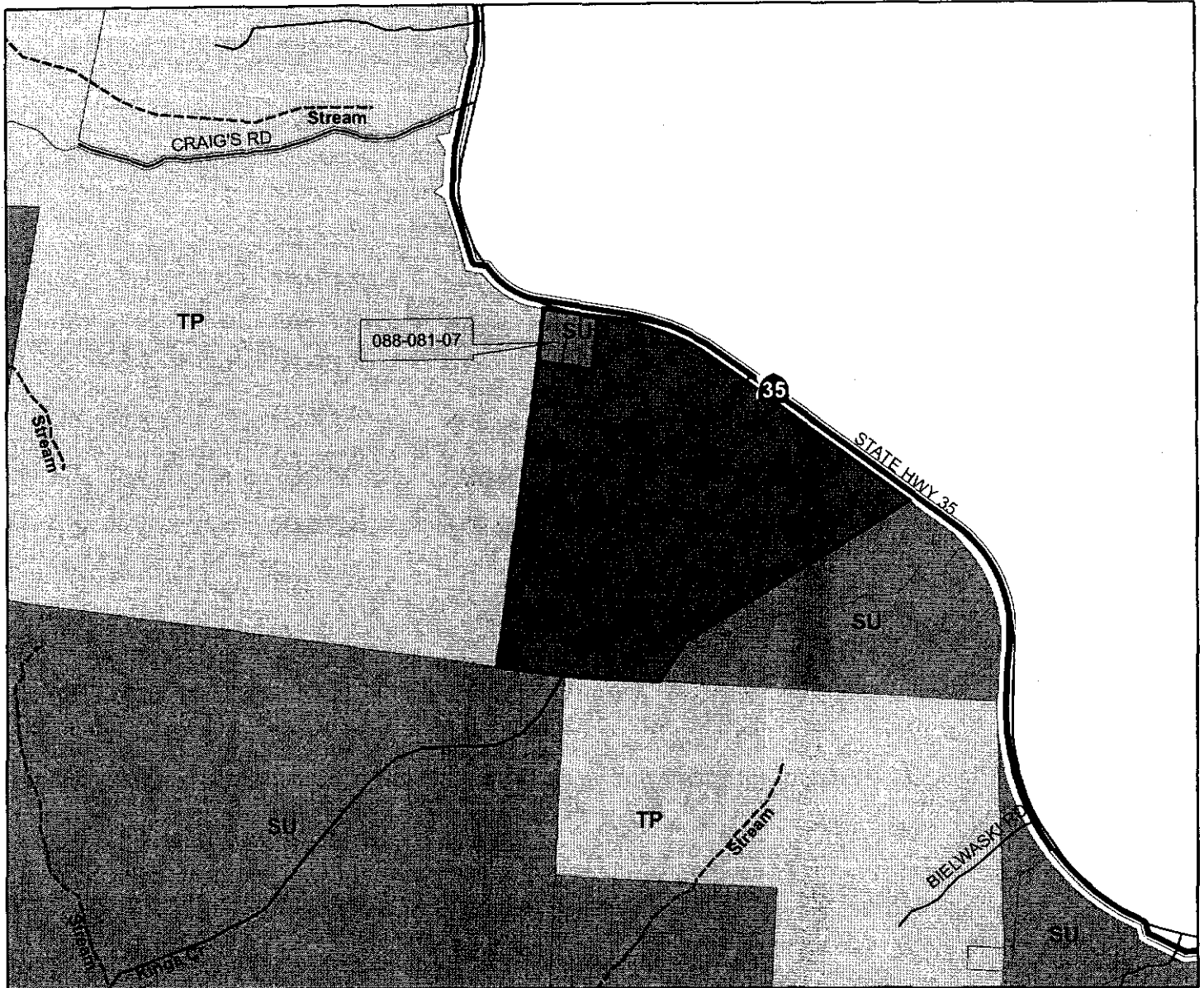


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County of Santa Cruz
Planning Department
November 2006

EXHIBIT K

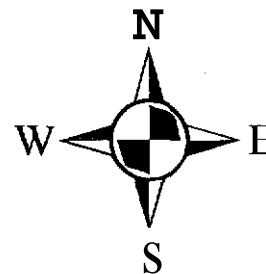


Zoning Map



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

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 1953.

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 farm 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 53,200 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

Dale W. Rush, Ph.D.
Neil H. Phillips, Sr.
Larry Liggett, B.S.
Steven L. Morrison, Ph.D.
Jon Tecklenburg

RUSH, MARCROFT and ASSOCIATES

AN ASSOCIATION OF INDEPENDENT AGRICULTURAL CONSULTANTS

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January 12, 2007

File No 6009.07

Mr. and Mrs. Robert Whalen
15435 Skyline Blvd.
Los Gatos, CA 95033

Re: Agricultural classification of APN 088-081-07

At the request of Mr. Ron Powers (Powers Land Planning, Inc.) a review and determination was made of the soil and land capability classifications for the area to be incorporated into APN 088-081-07, after the proposed lot line adjustment. The issue is: after the lot line adjustment, will the property be consistent with a Commercial Agricultural classification and qualify for inclusion into the Williamson Act.

Since the current use of the property to be included into APN-07 is currently zoned Commercial Agriculture and is included in a Williamson Act contract, it would appear that Commercial Agriculture zoning and Williamson Act inclusion is reasonable and appropriate. However, to confirm the status of the land capability and current use, a review of those issues is included herein.

Soils within the proposed expanded APN-07 (Exhibit A)

The following three SCS soil types *are* included in the current and proposed 13.5-acre APN-07.

110-Ben Lomond sandy loam (Land Capability Class 3e-1): 4.8 acres **or** 35.6% of the total.

143-Lompico-Felton Complex (LCC 6e): 1.9 acres or 13.8% of the total

149-Madonna loam (LCC 4e-1): 6.8 acres or 50.6% **of** the total.

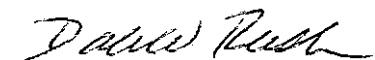
Current land uses for APN-07

The substantial majority **of** APN-07 under the current lot line (more than two thirds of the existing 2.64-acre lot) is used for Christmas tree production. Approximately 80% is Madonna loam with listed agricultural uses including timber and firewood production, apple/pear orchards and Christmas tree farms, based upon SCS soils maps for Santa Cruz County. Roads and residential structures occupy most of the remaining land.

Land to be included within APN-07

Approximately 10.9 additional acres are proposed to be included within APN-07. Of that area, approximately 9 acres (80+%) are currently in Christmas tree production. The dominant soil types within the area to be added are Ben Lomond sandy loam and Madonna loam. Listed agricultural uses for the Ben Lomond loam include apple orchards, tree nurseries and Christmas tree farms. Therefore, listed soil survey agricultural uses are consistent with historical and current ag uses of the subject property, including both APN-07 and APN-08.

The total area of soils classified as compatible with growing Christmas trees, and currently in production is approximately 11.6 acres (85+%) **of** the proposed new APN-07. On a per-acre basis, the amount of planted land within the proposed APN-07 is approximately equal to the currently planted Christmas tree area remaining within APN-08. Therefore, the requested designation of APN-07 as Commercial Agriculture is appropriate and qualifies **for** Williamson Act inclusion.



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

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

RESOLUTION NO. 2007-01

On the motion of Commissioner Manfre
duly seconded by Commissioner McCrary
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 (15435 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 Dau, Earnshaw, Kimes, Manfre, McCrary

NOES: COMMISSIONERS 0

ABSENT: COMMISSIONERS 0

ABSTAIN: COMMISSIONERS 0



BRUCE DAU, Chairperson

ATTEST: Joan Van der Hoeven
JOAN VAN DER HOEVEN, Secretary

APPROVED AS TO FORM:

DMC 1/21/07
COUNTY COUNSEL



COUNTY OF SANTA CRUZ Planning Department

AGRICULTURAL VIABILITY DETERMINATION

Owner: ROBERT E. & MARY ANN WHALEN
Address: 15435 SKYLINE BLVD
LOS GATOS, CA 95030

Permit Number: 06-0589
Parcel Number(s): 088-081-07, & -08

PROJECT DESCRIPTION AND LOCATION

Permit to transfer approximately 10.86 acres of land from APN 088-081-08 to APN 088-081-07, resulting in two parcels of about 32.8 acres and 13.5 acres respectively. Requires a Lot Line Adjustment, rezoning of APN 088-081-07 from Special Use (SU) to Commercial Agriculture (CA) and an amendment to the Williamson Act contract for APN 088-081-08 and establishment of a Williamson Act contract for APN 088-081-07. Requires an Agricultural Viability Determination. Property located on the south side of Skyline Boulevard, about 2.4 miles east of the intersection with Highway 9, at 15435 Skyline Boulevard in Los Gatos.

SUBJECT TO ATTACHED CONDITIONS

APAC Approval Date: 1/18/07

Effective Date: 2/01/07

Subject to final discretionary review if Zoning Admin., Planning Com., or Board action is required.

Exp. Date (if not exercised): see conditions

Coastal Appeal Exp. Date: N/A

_____ This project requires a Coastal Zone Permit, which is not appealable to the California Coastal Commission. It may be appealed to the Board of Supervisors. The appeal must be filed within 14 calendar days of action by the decision body.

_____ This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 14 calendar days of action by the decision body.

This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work.

APAC REVIEW IS NOT A BUILDING PERMIT. A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit.

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

[Signature]
Signature of Owner/Agent

1-18-07
Date

[Signature]
Staff Planner

1-18-2007
Date

Distribution: Applicant, File, Clerical

EXHIBIT

WEST PROPERTY LINE

EXHIBIT

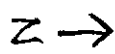
088-081-08 E-07 M&T 1980 PHOTO

088-081-07 & -08 Whalen 06-0589



Legend

- Legend
- Parcel (Assessor)
- State Highways
- Major Streets
- County Streets
- 6in. Pixel
- 2Ft Pixel
- Relief Map (10 Meter)

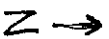


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