



Staff Report to the Planning Commission

Application Number: **181068**

Applicant: Diedre Hamilton
Owner: Kyle Andeer
APN: 063-071-24
Site Address: No Situs

Agenda Date: December 9,
2020 **Agenda Item #:** 7
Time: After 9:30 a.m.

Project Description

Proposal to revise the site building envelope and construct a two-story, approximately 3,538 square-foot single-family dwelling, an attached, approximately 704 square-foot carport, a swimming pool and a hot tub.

Location: Located on the south side of Brisa del Mar (575 Brisa del Mar) approximately 530 feet east of the intersection with Via Venado.

Permits Required: Amendment to the Redwood Meadows Open Space Easement, Amendments to Subdivision 82-226-S and Planned Unit Development 82-227, Coastal Development Permit, Preliminary Grading Approval and a determination that the project is exempt from further environmental review under CEQA.

Supervisory District: 3rd District (District Supervisor: Coonerty)

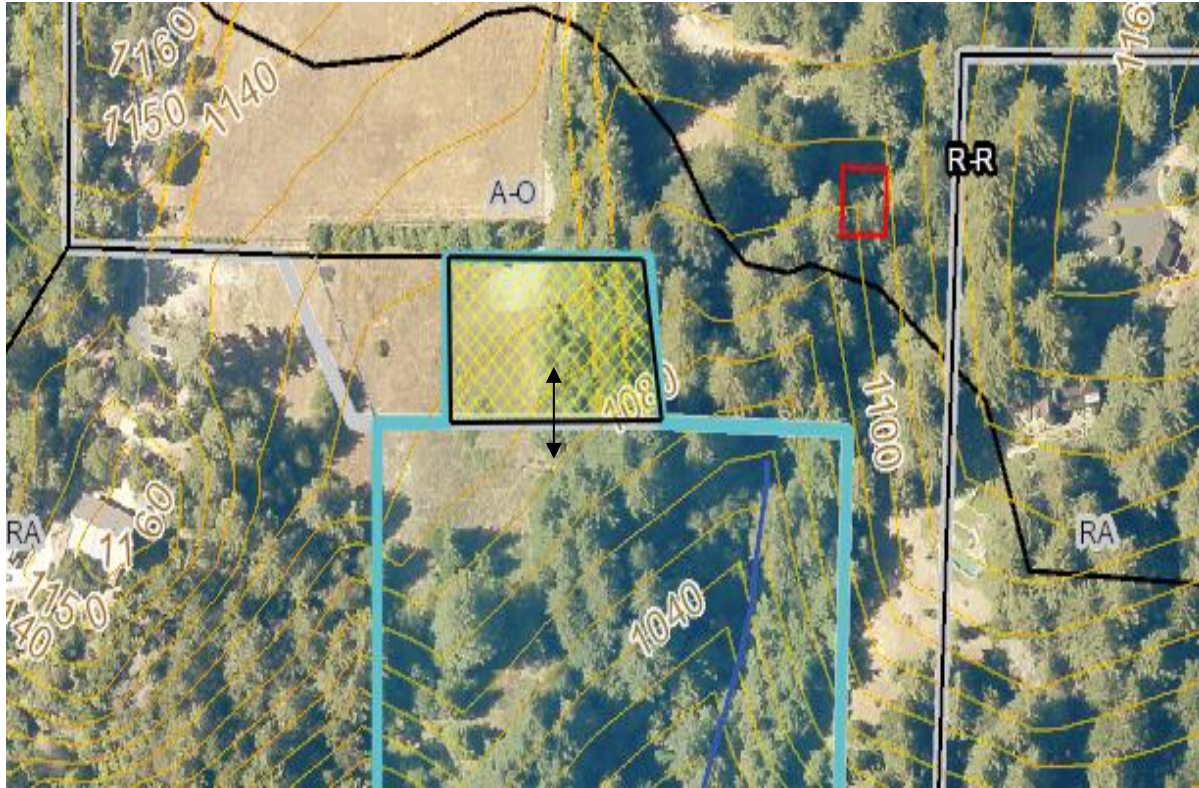
Staff Recommendation:

- Adopt the attached resolution (Exhibit G) recommending that the Board of Supervisors determine that the project is exempt from further review under the California Environmental Quality Act and approve application 181068, based on the attached findings and conditions.

Project Background

Coastal Permit application 181068 proposes development of a single-family dwelling and carport on a vacant parcel within the Redwood Meadows subdivision. Redwood Meadows is a 12-lot subdivision in the Bonny Doon Planning Area, approved by the Board of Supervisors in 1983 (see Exhibits K and L for subdivision map and conditions of approval).

The subdivision, accessed via Brisa del Mar, includes two open space parcels, one for agricultural and scenic uses, and one for timber management. Because 0.58 acres of the subject parcel is located within the open space easement (OSE 3808-227, recorded 2-28-1985; Exhibit H), the project includes an amendment to the OSE to remove the proposed development site (hatched area below; also Exhibit I).



The area proposed for removal (hatched) from the OSE is already part of parcel 063-071-24, outlined in blue. Lot line adjustment 93-0076 transferred ownership to the subject parcel but did not include amending the OSE. In 2003, an expanded building envelope (Exhibit M) encompassing the adjusted area was recorded for parcel 063-071-24, and it was based on this building envelope that the current owner purchased the parcel. The subject application, 181068, would in effect, “clean-up” the lot line adjustment by removing the development area from the OSE and formally recognizing the expanded building envelope. The building envelope would be revised to comply with zoning standards.

Because the proposed project entails construction of a dwelling unit on a site currently subject to an open space easement, the proposed OSE amendment was reviewed by the Open Space Programs Committee (OSPC), an ad-hoc committee composed of the Santa Cruz County Agricultural Commissioner, the County Assessor, the Director of Parks, Open Space and Cultural Services, and the Assistant Planning Director or designees. The OSPC met on Thursday, September 24, reviewed the submitted staff memo (Exhibit J) and unanimously recommended that the Planning Commission approve the amendment of Open Space Easement 3808-227 to remove the subject area, based on the findings required by State law (See OSPC minutes, Exhibit P).

In addition to the OSE amendment, the project requires an amendment to the Redwood Meadows subdivision, a coastal development permit, and a preliminary grading approval.

Zoning & General Plan Consistency

The subject property is 5.46 acres in area, located in the RA and A (Residential Agriculture and Noncommercial Agriculture) zone districts, designations which allow residential uses. The proposed single-family dwelling and carport would be located in the A zone district at the top of

the parcel (See Zoning Map, Exhibit E). The zoning is consistent with the site's R-M (Mountain Residential) General Plan designation.

Open-Space Easement Amendment

The original purposes of the Redwood Meadows OSE were to provide for future agricultural uses and to preserve the land's rural character and scenic qualities. The key issues concerning removal of the OSE from the subject parcel are discussed below.

Agricultural Resources

The conditions of approval of the original Redwood Meadows Subdivision permit refer to the area covered by OSE 3808-227 as "the agricultural parcel." Condition E of the permit states that "the agricultural parcel shall be retained by the permit holder for agricultural and other open space uses," and that an open space easement shall be established that "provides for the permanent protection of the nonresidential parcel for agriculture, open space and other open space use purposes."

Years before the Redwood Meadows Subdivision was approved, a stand of olive trees was cultivated within part of the area for a period of time. However, no agricultural activity has apparently taken place since the OSE was recorded.

The soils within the OSE area are not designated as being an Agricultural Resource by the County General Plan and not subject to a Williamson Act contract. The Felton Sandy Loam found in the OSE area has a moderate Storie Index rating of 73, not considered prime, but "fairly suitable for agriculture." The Capability Index for the site soil is "Class III – Severe Limitations," due to slopes and potential erosion hazard. The Natural Resource Conservation Service soil survey for Santa Cruz County indicates that the Felton soil is not typically used for production of row crops, berries, Brussels sprouts or lettuce, not used for rangeland, and has a very low yield rating for apples.

Several soil cores taken at the subject site during the month August were found to be damp, suggesting high water table or drainage issues. The sandstone or mudstone occurs very close to the surface in some locations near the subject site.

The combination of poor drainage, slopes, high bedrock and marginal soils at the subject site; its small size; and the fact that it is already incorporated into the parcel proposed for development, add up to a very low value for agriculture. Consistent with the OSPC recommendation, amendment of the OSE to remove the 1/2-acre proposed development site would have no substantial adverse impact on the potential agricultural value of the remaining approximately 46.5 acres of the open space parcel.

Scenic Resources

The language of OSE 3808-227 states that the basis for its establishment was "to preserve and conserve for the public benefit the natural scenic beauty and existing openness of the Property, subject to certain retain rights for improvement, uses, paths and trails . . ." Although it prohibits residential structures, the OSE provides guidelines for any agricultural or timber-related structures built within it:

"All structures should be compatible with the intent of the contract; specific concerns include the location of the site, screening and landscaping, exterior finishing materials and the colors, and general harmony with the character of the area."

Although the project proposes to remove the OSE from the subject parcel, the proposed dwelling's siting and design are consistent with the intent of the OSE to ensure that structures are compatible with the rural setting and resources. The proposed dwelling site is more than 500 feet from the Brisa del Mar roadway and would be screened by a solid windbreak of existing pine trees (see aerial photo above). Absent the pine trees, only part of the small upper floor still would be visible from the roadway (Exhibit N), with the bulk of the structure hidden by relief. The proposed exterior colors and material are earth-toned shades of brown – Corten (rusted steel) and rammed earth for the body and bronze anodized aluminum for the trim (Exhibit O). Any parts of the structure visible from the road or adjoining parcels would be compatible with the background terrain.

Amendment of the OSE to facilitate the proposed dwelling would have no significant impact on scenic values. The site is not within a mapped scenic area and not visible from Bonny Doon Road. The structure would be screened from other dwellings in the neighborhood by surrounding forest. Therefore, amending the OSE and the new dwelling that is proposed in that ½-acre area would have no substantial adverse impacts affecting the natural scenic beauty and openness of the property.

Open Space Easement Abandonment – Government Code

Government code §51093 regulates abandonment initiated by private parties. Both §51093 and the text of OSE 3808-227 state that a governing body may approve the abandonment of an open-space easement only if, by resolution, it finds:

- 1) That no public purpose described in Government Code §51084 will be served by keeping the land as open space; and
- 2) That abandonment is not inconsistent with the purposes of this chapter [§51084]; and
- 3) That abandonment is consistent with the General Plan; and
- 4) That the abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

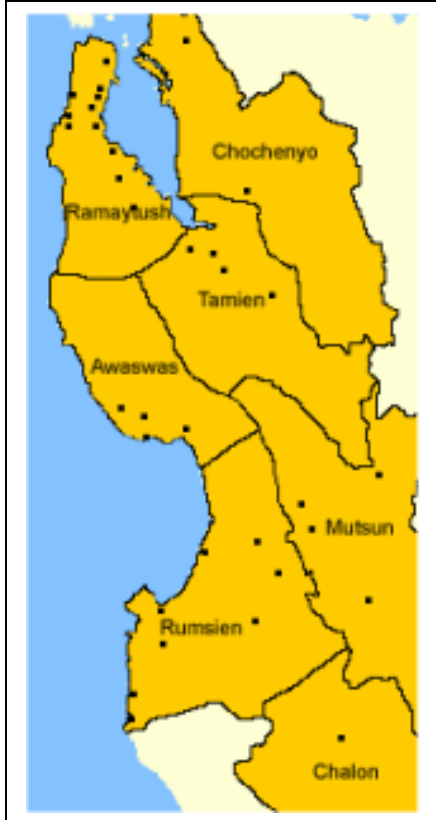
These findings can be made, as provided by Exhibit B, attached.

Cultural Resources

The area proposed for removal from the OSE contains archeological resources (site CA-SCR---). A cultural resource assessment was prepared by Albion Environmental, Inc. (REV181072), and a Phase II site evaluation was completed by Dudek pursuant to an Archeological Permit (181233). The site appears to have been used regularly by Awaswas peoples for flaked stone tool production and food processing, and also appears have experienced post-colonial activity. The consultants determined that the cultural resources present within the proposed development area did not qualify for California Register of Historical Resources (CRHR) listing as a historical resource pursuant to 14 CCR Section 15064.5,

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15064.5, did not comprise a historical resource under any of the criteria defined under Public Resources Code Section 5024.1, and did not qualify as a unique archeological resource under PRC Section 21083.2(g). These conclusions were peer-reviewed and upheld by Pacific Legacy archeological consultants.



Pursuant to 14 CCR Section 15064.5(c)(4):

“If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.”

The Santa Cruz County Code (SCCC) addresses cultural resources under Chapter 16.40 – Native American Cultural Sites (SCCC 16.40.035). Project approval requires that the project permit shall “shall contain whatever conditions the Decision-Making Body shall determine to promote the purposes of this chapter. Such conditions shall be based on the archaeological report and consultation with local Native California Indian groups. ... Conditions shall include, but not be limited to, the following:

“(A) All appropriate preservation or mitigation measures. Such measures shall include, but not be limited to, the following:

- (1) Preservation of the site through project design or restrictions on use and/or grading, such as restricting improvement and grading activities to portions of the property not containing the resource, or covering the site with earth fill to a depth where the site would not be disturbed by development as determined by a professional archaeologist; and/or
- (2) Excavation of the site by a professional archaeologist in order to preserve a sample of the remains, artifacts, or other evidence. Such excavation may take place only as authorized by an archaeological excavation permit.

(B) A provision that if previously undiscovered human remains are encountered during the course of excavation or development, the procedures of SCCC 16.40.050 et seq., be followed.”

Staff conducted a tribal consultation outreach to a current list of tribes provided by the Native American Heritage Commission. Five tribes were contacted. One response was received, from Rob Cuthrell, Ph.D., Director of Archaeological Resource Management, Amah Mutsun Land Trust, on behalf of Amah Mutsun Tribal Band. The response stated in part,

Amah Mutsun Tribal Band opposes any development project that adversely impacts indigenous archaeological sites, whether such sites are determined to be NRHP eligible or not. We request that if a development permit is approved that will adversely impact site CA-SCR--, that data recovery should be conducted as mitigation whether the site is determined to be NRHP eligible

or not. We request that any plans for data recovery at CA-SCR-- should be shared with Amah Mutsun Tribal Band for comment prior to initiating such activities. We request that a qualified Native American Tribal Monitor should be present for any data recovery work at the project site. We request that, if development permits are approved and the project moves forward, a qualified Native American Tribal Monitor and an archaeological monitor should be present for any ground disturbing development activities at the project location.

To meet the responding tribe's request for avoidance of cultural resources, along with County Code requirements, Planning and Environmental Planning Staff required the proposed project to be redesigned to minimize disturbance within the limitations of the site, which is constrained by slopes on the south side. The redesigned proposal omits a previously proposed ADU, relocates the proposed driveway, dwelling unit and carport to avoid the concentration areas of cultural resources, proposes a dwelling and grading plan that minimize excavation and emphasize the use of fill as needed, and reduces the overall size and disturbance envelope of the proposed development.

To further preserve the cultural resources, Dudek prepared Cultural Resources Monitoring Plan in consultation with the Amah Mutsun representative Rob Cuthrell. The CRMP provides the following operation measures:

- Archaeological and Native American monitors using direct observation to monitor all initial ground-disturbing activities within the Project area.
- Procedures for any potentially significant find, including halting construction, initial assessment of the find and recommendations for moving forward.
- Procedures to address the discovery of any human remains, including halting construction, initial assessment of the find and recommendations for moving forward.
- Evaluation of recovered materials from the monitoring effort.
- As requested by the responding tribe, all recovered materials would be reburied within the subject parcel at a location not subject to further disturbance. The final disposition of any human remains and associated grave goods would be determined through consultation with the appropriate tribal representative, property owner, and County.

The redesigned project and CRMP are consistent with the archeological documentation and, together with the review process described above, provide for full compliance with County Code (16.40) and the County General Plan (5.19).

Design Review

As provided by SCCC 13.20.130 - Coastal Design Criteria, all coastal development must comply with the design review criteria given by SCCC 13.11.072(A)(1) and 13.11.073(B)(1). The former section requires that the site design create compatible development with respect to such applicable factors as location and type of access to the site, building siting in terms of its location and orientation, building scale, landscaping and relationship to natural site features and environmental influences. The site is designed to meet these standards, in that the access is largely out of site, built with a recessed grade along one side of the open area; the scale is moderate and integrated into existing topography, screened behind a dense row of planted trees, and designed to avoid

archeological resources and slopes. As shown by the architect's height analysis (Exhibit N), all but the highest points of the structure would be hidden by a slope break behind existing evergreen trees. Additional existing forest trees would screen the proposed structure from Bonny Doon Road. The engineered drainage plan would meet Department of Public Works criteria for minimizing runoff and erosion. SCCC 13.11.073(B)(1) addresses building design with respect to such applicable factors as scale, building silhouette, massing, color and materials. The building is designed to meet these standards in that the building scale, silhouette and massing are compatible with the site; the building's colors would be earth toned and the materials used would be rammed earth and materials that create natural-appearing tones and textures (Exhibit O). These project features also provide consistency with the conditions of approval of the parent permits (82-226-S, 82-227), which required homes to have low profiles, use earth tones and prevent window glare from reaching area roads.

Local Coastal Program Consistency

The proposed residence and accessory building is in conformance with the County's certified Local Coastal Program, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Existing vegetative buffers would be maintained and the site plan, scale and profile of the structure would be integrated into the topography to minimize visibility. These measures would preserve the scenic quality of the existing forest, meadows and potential agricultural land along Brisa del Mar, in compliance with Coastal Design Criteria (13.20.130). The site is not visible from any designated scenic road. No public access would be affected.

California Environmental Quality Act (CEQA)

The Santa Cruz County Environmental Coordinator reviewed the proposed project for its conformance with CEQA and determined that it would have no potential to degrade the environment. The site's archaeological resource is neither a unique archaeological resource nor an historical resource qualified for protection under State law; therefore, as provided by 14 CCR Section 15064.5(c)(4), the effects of the project on those resources shall not be considered a significant effect on the resource and no further CEQA review is necessary. The proposed project therefore is Categorically Exempt under CEQA 15303 (Class 3) - New Construction or Conversion of Small Structures.

Conclusion

The current owner purchased the subject parcel with a recorded building envelope, for the purpose of building a home and an ADU. Upon discovery that the development site remained within the Redwood Meadows OSE, the owner applied for an OSE Amendment, submitted detailed archeological reports including a resource avoidance and recovery plan, redesigned, relocated and reduced the size of the development to avoid archeological resource, and deleted the proposed ADU from the project. Amendment of the Open Space Easement 3808-227 to remove the subject area would thereby be consistent with the County General Plan, State Law, the Zoning Ordinance and the abandonment terms established by the OSE itself. Further, As proposed and conditioned, the project is consistent with the Redwood Meadows Subdivision conditions and all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit B (Findings) for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- Adopt the attached resolution (Exhibit G) recommending that the Board of Supervisors determine that the project is exempt from further review under the California Environmental Quality Act and approve application 181068, based on the attached findings and conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.sccoplanning.com

Report Prepared By: _____



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Report Reviewed By: _____

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Exhibits

- A. Categorical Exemption (CEQA determination)
- B. Findings
- C. Conditions
- D. Project plans
- E. Assessor's, Location, Zoning and General Plan Maps
- F. Parcel information
- G. Resolution Recommending Amendment of OSE 3808-227

- H. Open Space Easement 3808-227
- I. Open Space Easement Area to be Abandoned
- J. Open Space Programs Committee Memo
- K. Redwood Meadows Subdivision Map
- L. Redwood Meadows Subdivision Conditions of Approval
- M. Building envelope recorded 2003
- N. Visual Analysis – Heights from Brisa del Mar
- O. North Elevation of Structure
- P. Open Space Programs Committee meeting minutes

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: 181068
Assessor Parcel Number: 063-071-24

Project Description: Open-space easement amendment, development of single-family dwelling, carport and swimming pool

Person or Agency Proposing Project: Diedre Hamilton

Contact Phone Number: (831) 423-9992

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

Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)

F. Reasons why the project is exempt:

Class 3 reason: Construction of a single-family dwelling in an area designated for residential uses.

Pursuant to 14 CCR Section 15064.5(c)(4):

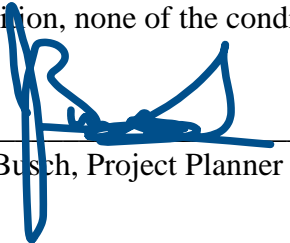
“If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. ... they need not be considered further in the CEQA process.”

The project would have no adverse impact on potential agricultural use, as the subject site is already part of a parcel designated for residential development, and the site has low potential agricultural use, due to soil, slope and groundwater constraints. Further, the subject development site is buffered from potential agricultural activity by existing topography and vegetation; an amendment to remove the OSE from the subject parcel would reinforce the existing boundary and minimize potential land-use conflicts. The proposed project would have no impact on scenic resources – the site is not mapped as scenic nor visible from any scenic road; the site and project design would minimize visual intrusion on the neighborhood, and the existing landscape trees

EXHIBIT A

completely screen from view the small volume of the proposed structures not hidden by topography. In terms of water quality impacts, the proposed development site is less erosion-prone than the development site designated by the original subdivision.

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



Jerry Busch, Project Planner

Date: _____11/13/2020_____

Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts that are listed in LCP Section 13.10.170(D) as consistent with the LCP Land Use Plan designation of the site.

This finding can be made, in that the property is zoned RA (Residential Agriculture) and A (Agriculture), designations that allow residential uses. The proposed single-family dwelling and carport is a principal permitted use within these zone districts, and the zoning is consistent with the site's R-M (Mountain Residential) General Plan designation.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

This finding can be made, in that the project includes abandonment of the existing Open Space Easement affecting the subject parcel (abandonment findings below).

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to SCCC 13.20.130 and 13.20.140 et seq.

This finding can be made, in that the proposed dwelling has a low profile and minimal massing and, as demonstrated in Exhibit N, would be screened from the rural neighborhood and Bonny Doon Road by topography, natural forest and a planted windbreak; the proposed colors and materials are natural earth tones and complementary to the site; and the development site is not on a prominent ridge, beach, or blufftop.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the LCP Land Use Plan, including Chapter 2: Section 2.5 and Chapter 7.

This finding can be made, in that the project site is not identified as a priority acquisition site in the County Local Coastal Program, is not zoned for visitor accommodations and does not provide public beach access.

5. That the project conforms to all other applicable standards of the certified LCP.

This finding can be made, in that the structure and road are sited and designed to blend in with the surrounding landscape, hidden by topography and vegetation, and integrated with the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the RA; A (Residential Agriculture; Noncommercial Agriculture) zone district, as well as the R-M (Mountain Residential) General Plan and Local Coastal Program land use designation. Developed parcels in the area contain single family dwellings. Size and architectural styles vary in the area, and the design submitted is consistent with the pattern of development within the surrounding neighborhood.

The conditions of approval include conditions protecting the Townsend's big-eared bat, consistent with General Plan Policy 5.1.6. The site has no existing agriculture nor potential for agricultural development.

6. If the project is located between the nearest through public road and the sea or the shoreline of any body of water located within the Coastal Zone, that the project conforms to the public access and public recreation policies of Chapter 3 of the Coastal Act.

This finding can be made, in that the project site is not located between the shoreline and the first public road. Consequently, the single-family dwelling and carport would not interfere with public access to the beach, ocean, or any nearby body of water.

Subdivision Findings

1. That the proposed subdivision meets all requirements or conditions of the Subdivision Ordinance and the State Subdivision Map Act.

The proposed amendment meets all of the technical requirements of the Subdivision Ordinance and is consistent with the County General Plan and the Zoning Ordinance as set forth in the findings below.

2. That the proposed subdivision, its design, and its improvements, are consistent with the General Plan, and the area General Plan or specific plan, if any.

This finding can be made, in that the proposed amendment of Open Space Easement 3808-227 and modification of the building envelope for lot #2 (APN 063-071-24) would not affect the density, parcel boundaries or access for the original subdivision. The modified building envelope will provide for a site design that meets all of the requirements of the original subdivision 82-226-S, maintaining the visual and rural character of the site, agricultural resources and improved maintenance of watershed values such as erosion and sediment control and stormwater management. The project includes abandonment of the existing Open Space Easement affecting the subject parcel (abandonment findings below). No specific plan has been established for the area.

3. That the proposed subdivision complies with Zoning Ordinance provisions as to uses of land, lot sizes and dimensions and any other applicable regulations.

This finding can be made, in that the use of the property will be residential; the density of the subdivision will not change and the revised building envelope will meet the minimum standards for the A (Agriculture) and RA (Residential Agriculture) zone districts where the project is located.

4. That the site of the proposed subdivision is physically suitable for the type and density of development.

This finding can be made, in that the proposed building envelopes are properly configured to allow development in compliance with the required site standards and density allowed by the PUD. No environmental resources would be adversely impacted by the proposed development; all of the requirements of Chapter 16.40, Native American Cultural Sites will be met in that the site's archeological resources were evaluated in an archeological report, found not to be significant pursuant to State law, and a project re-design and resource recovery and reburial plan were developed in consultation with tribal representatives. No change in density from the original subdivision is proposed.

5. That the design of the proposed subdivision or type of improvements will not cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat.

This finding can be made, in that no sensitive habitats or species were observed on site, and conditions of approval would insure that no mapped species of concern potentially occurring in the vicinity will be adversely impacted through the development of the site.

6. That the proposed subdivision or type of improvements will not cause serious public health problems.

This finding can be made, in that the existing site has septic capacity as established by the original subdivision approval and proposed project will not affect water demand. The project will improve the capacity of the building site to accommodate all runoff, and facilities to minimize stormwater runoff would be installed. The subdivision fire access standards will be maintained with the establishment of a fire turnaround at the site.

7. That the design of the proposed subdivision or type of improvements will not conflict with easements, acquired by the public at large, for access through, or use of property within the proposed subdivision.

This finding can be made, in that no such easements are known to affect the project site.

8. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating or cooling opportunities.

This finding can be made, in that the revised building envelope will improve the ability of the site to take advantage of passive solar opportunities, solar access for potential photovoltaic systems, and the building design will meet the original subdivision requirements for potentially providing solar-heated water.

9. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076) and any other applicable requirements of this chapter.

This finding can be made, in that the proposed project will maintain the existing rural character and visual qualities of the site by using topography and visual screening to minimize visual intrusion, maintain natural topography, improve site design for solar access, provide safe fire access and eliminate a proposed accessory structure. The low-profile, articulated building design will minimize potential visual impacts, and the earth-toned colors and materials and native landscaping will provide for compatibility with the natural setting. Access and parking will incorporate landscaping and screening, and lighting will be low-rise and directed downward to minimize environmental effects.

Planned Unit Development (PUD) Findings

1. That any residential development shall contribute to the ongoing desirability and character of the surrounding neighborhood.

This finding can be made in that amendment of Open Space Easement 3808-227 and modification of the building envelope for APN 063-071-24 will not affect the overall density or property lines of the existing subdivision and PUD, will comply with all original conditions of approval and will allow development of a site plan that maintains the rural character and visual quality of the neighborhood.

2. That the combination of different dwelling and/or structure types and the variety of land uses in the development will complement each other and will harmonize with existing and proposed land uses, structures, and the natural environment in the vicinity.

This finding can be made, in that the proposed project would maintain existing topography, natural vegetation and landscaping to be integrated harmoniously into the natural environment, in keeping with other dwelling units existing in the vicinity. The proposed amendment of Open Space Easement 3808-227 and modification of the building envelope would maintain an existing buffer between lands that could potentially accommodate future agricultural uses and lands within the subject parcel, minimizing potential land-use conflicts between agricultural uses and residential uses.

3. That the permitted departures from the otherwise required development standards will provide specific benefits to the neighborhood and/or the community in which the planned unit development is located, and that such benefits are specified by the Board of Supervisors in connection with its approval of a planned unit development, and that any conditions required to achieve such benefits are incorporated into the project and made conditions of approval.

This finding can be made, in that the revised building envelope will meet the site and structural standards for the A (Agriculture) and RA (Residential Agriculture) zone districts where the project is located, and will not increase the number or degree of departures from development standards that may have been established by the original PUD.

4. That the site of the proposed subdivision is physically suitable for the type and density of development.

This finding can be made, in that modification of the existing building envelopes would not change the single-family residential use approved by the original PUD nor increase the residential density. Modification of the building envelope would move the proposed development and its stormwater management facilities onto reduced slopes, facilitating runoff and erosion control.

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in an area designated for residential uses. Construction would comply with prevailing building technology, the California Building Code, and the County Building ordinance to ensure the optimum in safety and the conservation of energy and resources. Relocation of the proposed development envelope to avoid steep slopes would protect riparian resources and water quality within the watershed and maintain soil resources on the subject site.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed location of the single-family dwelling and carport and the conditions under which it would be operated or maintained would be consistent with all pertinent County ordinances and the purpose of the RA; A (Residential Agriculture; Noncommercial Agriculture) zone districts as the primary use of the property would be one single-family dwelling and carport; and the existing building envelope would be revised to comply with the site standards for the development site's A (Agriculture) zone district.

The project was redesigned in consultation with tribal representatives to avoid archeological resources and to salvage information from any resources that are disturbed, prior to reburial onsite, thereby complying with Chapter 16.40.

The project redesign and relocation will significantly reduce the grading associated with the project, minimize cut slopes and fully comply with Ch. 16.20

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made, in that the proposed residential use is consistent with the use and density requirements specified for the R-M (Mountain Residential) land use designation in the County General Plan.

The proposed single-family dwelling and carport would be properly proportioned to the parcel size and the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the proposed single-family dwelling and carport would be designed with earth-tone colors and materials with a low profile and unenclosed two-story decks, fenestration and articulated mass to maintain the rural character of the site and to remain unobtrusive and hidden.

The proposed development location, compact site design and minimized footprint would help to

maintain watershed resources as provided by General Plan Policy Objective 5.5a (Watershed Protection), in that the building site would locate storm-drain discharge outlets away from the site's steepest slopes, minimizing potential erosion and sedimentation in the Liddell Creek watershed.

As provided by General Plan Policy 5.19.1-5, the site's archeological resources were mapped and evaluated; although not found to trigger environmental review, the proposed development was designed to avoid the resource, and to use earth fill to protect cultural materials within the development envelope. A Cultural Resources Monitoring Plan was prepared in consultation with tribal representatives to control archaeological monitoring and treatment of resources encountered during construction. A tribal representative would monitor all earth disturbing activities and supervise data recovery (on-site) and replacement of cultural material underground on site. The archeological site protocols would be reinforced by project conditions of approval.

4. That the proposed use will not overload utilities, and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the proposed single-family dwelling and carport is to be constructed on an existing undeveloped lot. The expected level of traffic generated by the proposed project is anticipated to be less than peak trip per day (1 peak trip per dwelling unit), such an increase will not adversely impact existing roads or intersections in the surrounding area.

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the structure and road are sited would be hidden by topography and vegetation, while the structure is designed to minimize the visible silhouette. The earth-toned color and materials are compatible with the natural setting. The modern design, windows and unenclosed, covered deck adds articulation to the walls and roof assemblies. The proposed single-family dwelling and carport are consistent with the land use intensity and density of the neighborhood.

6. The proposed development project is consistent with the Design Standards and Guidelines provided by 13.11.072(A)(1) and 13.11.073(B)(1)., as required by Coastal Design Criteria (13.20.130(A)(2).

This finding can be made, in that the proposed dwelling will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area. The site and access road will be visually screened to maintain the rural character. The low profile, angled orientation and natural materials and colors of the building design harmonize with the natural setting. The site plan minimizes tree removal, and the conditions of approval require that any tree >6" in diameter at breast height shall be retained unless within the grading area. If trees outside the limits of grading and disturbance are proposed for removal during the building permit phase a certified arborist shall be required to determine that retention is not a feasible option.

Open Space Easement Abandonment Findings

Government Code §51093 and the text of OSE 3808-227 state that a governing body may approve the abandonment of an open-space easement only if, by resolution, it finds:

- 1) That no public purpose described in Government Code §51084 will be served by keeping the land as open space; and
- 2) That abandonment is not inconsistent with the purposes of this chapter [§51084]; and
- 3) That abandonment is consistent with the General Plan; and
- 4) That the abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

These findings can be made, as provided below.

- 1) That no public purpose described in Government Code §51084 will be served by keeping the land as open space.

The public purposes of GC §51084 are set forth below with associated findings:

51084. A grant of an open-space easement shall not be accepted or approved by a county or city, unless the governing body, by resolution, finds:

- (a) That the preservation of the land as open space is consistent with the general plan of the county or city;

The proposed amendment is consistent with the 1/2-acre's General Plan designation of R-M (Mountain Residential) which allows residential development; the soils of the site are not designated as an Agricultural Resource; the site is not mapped as scenic nor visually intrusive to the neighborhood; and the parcel does not contain sensitive biotic resources. The site contains archeological resources, but an archeological report for the site was reviewed by Environmental Planning in consultation with a tribal representative, and determined not to be significant under State law Pursuant to County Code (Chapter 16.40); the project was modified to avoid the cultural resources and to catalog and rebury any artifacts unearthed during construction.

General Plan Policy 5.14.11 b encourages the use of OSEs (for agricultural land protection) but has no policies governing their modification or abandonment.

The site design, access and structure are designed to minimize visual intrusion and to maintain the rural character of the site and the visual quality of the meadow and forest, consistent with General Plan Policy 8.6.1.

- (b) That the preservation of the land as open space is in the best interest of the state, county, city, or city and county and is important to the public for the enjoyment of scenic

beauty, for the use of natural resources, for recreation, or for the production of food or fiber specifically because one or more of the following reasons exists:

(1) That the land is essentially unimproved and if retained in its natural state has either scenic value to the public, or is valuable as a watershed or as a wildlife preserve, and the instrument contains appropriate covenants to that end.

The above purpose is not served by retaining the 1/2-acre proposed for removal from the OSE as the acreage does not comprise a significant wildlife habitat, and watershed values would be improved by moving the proposed development away from steep slopes as is proposed. Further, the land is screened from public view by trees, not visible to the public and not mapped as scenic.

(2) It is in the public interest that the land be retained as open space because such land either will add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located.

The above purpose is not served by retaining the 1/2-acre proposed for removal from the OSE, because the rural amenities and character of the area would be unaffected by the loss of the relatively small area which is not mapped as scenic and is not visible from a County road. In addition, the 1/2-acre is distant from the Redwood Meadows access drive and, therefore, has very low visibility to the neighborhood. The land is not adjoining or neighboring an urbanized area. In addition, the land in question is privately owned and, therefore, is not available for use by the public.

(3) The land lies in an area that in the public interest should remain rural in character and the retention of the land as open space will preserve the rural character of the area.

The proposed OSE amendment would not adversely affect the rural character of the area because the subject area is screened from neighboring parcels and access road and is not within a designated scenic area or visible from a scenic road. The proposed dwelling has a low-profile silhouette, earth-toned colors and landscaping. The subject 1/2-acre is part of a parcel already designated as a building site. The area is segregated from the rest of the agricultural parcel by topography, location and existing vegetation. Removal of the subject 1/2 acre would have no impact on the rural character of the area.

(4) It is in the public interest that the land remain in its natural state, including the trees and other natural growth, as a means of preventing floods or because of its value as watershed.

Because the 1/2-acre area is less steep than other building sites on the subject parcel, development there would reduce erosion potential and runoff rates. In addition, no trees, and very little native vegetation, would be removed as a part of the construction of the proposed dwelling.

(5) The land lies within an established scenic highway corridor.

The land is not within an established scenic highway corridor.

(6) The land is valuable to the public as a wildlife preserve or sanctuary and the instrument contains appropriate covenants to that end.

No sensitive biotic resources are known to occur onsite.

(7) The public interest will otherwise be served in a manner recited in the resolution and consistent with the purposes of this subdivision and Section 8 of Article XIII of the Constitution of the State of California.

Section 8 of Article XIII of the Constitution of the State of California states, "To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses. To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses."

GC §51093(b) and OSE 3808-227 both indicate that if an OSE is abandoned, the landowner shall pay an abandonment fee as follows:

(b) Prior to approval of the resolution abandoning or approving the abandonment of an open-space easement, the County Assessor of the county in which the land subject to the open-space easement is located shall determine the full cash value of the land as though it were free of the open-space easement. The assessor shall multiply such value by 25 percent, and shall certify the product to the governing body as the abandonment valuation of the land for the purpose of determining the abandonment fee.

(c) Prior to giving approval to the abandonment of any open-space easement, the governing body shall determine and certify to the county auditor the amount of the abandonment fee which the landowner must pay the county treasurer upon abandonment. That fee shall be an amount equal to 50 percent of the abandonment valuation of the property.

Notwithstanding the foregoing sections of Government Code, the Assessor has determined that the area proposed for removal from OSE 3808-227 has been previously and currently assessed at full-cash value for property tax purposes consistent with potential residential use, rather than at reduced the rates applied to restricted open space. Therefore, the Assessor would not require payment of an abandonment fee.

2) That abandonment is not inconsistent with the purposes of this chapter [§51084].

Abandonment is not inconsistent with the purposes of §51084 in that the area proposed for removal from OSE 3808-277 is within A (Agriculture) zone district, a district that is consistent with the R-M (Mountain Residential) land use designation and allows single family residential development by right. The site does not present significant agricultural, biotic, visual or recreational open space values; the building site would be relocated to reduced gradients that would help preserve watershed values; the site plan and design are compatible with the neighborhood and preserve the rural character of the site vicinity, and the parcel has been previously and currently assessed at full market value for residential purposes.

3) That abandonment is consistent with the General Plan.

The Santa Cruz County General Plan designates the site as R-M, Mountain Residential, a classification that provides for residential development. As described in part 1) above, abandonment of the open space easement is consistent with General Plan sections pertaining to scenic, agricultural, archaeological, and neighborhood design and scale.

4) That abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

An amendment to remove the OSE from the subject parcel is necessary to avoid a substantial financial hardship to the landowner given that he purchased property within an approved subdivision with a recorded building envelope, and was unaware that the preferred building site was encumbered by the OSE.

Conditions of Approval

Exhibit D: Project plans, prepared by Fuse Architects, dated 4/20/20.

- I. This permit authorizes the construction of a single-family dwelling, carport and swimming pool/hot tub as indicated on the approved Exhibit D for this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - D. Obtain an Encroachment Permit from the Department of Public Works for any off-site work performed in the County road right-of-way.
 - E. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services. Prior to the submission of the building application, applicant must submit to DEH a new Site Evaluation and/or new Sewage Disposal Application with two plot plans and fees.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit D on file with the Planning Department. Any changes from the approved Exhibit D for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. A copy of the text of these conditions of approval incorporated into the full-size sheets of the architectural plan set.
 2. Elevations shall indicate materials and colors as they were approved by this Discretionary Application.
 3. All outdoor lighting shall be low-rise, directed downward and screened to the extent feasible from surrounding natural habitats.

4. Plan details shall include the following statement, “All units shall be plumbed and wired for solar water heating.” A hold shall be placed on the building permit pending confirmation that units are plumbed and wired for solar water heating.
5. Grading, drainage, and erosion control plans.
 - a. All project design and construction shall comply with the archaeology report review and acceptance letter dated May 26, 2020.
 - b. Grading and drainage plans shall reflect measures to avoid cultural resources, including:
 - i. The building permit grading plan and cross-sections shall clearly show the limits of excavation required for preparation of the subgrade material and the required excavation depths as stated in the approved soils report. The grading plan shall include notes regarding the minimum relative compaction requirements.
 - ii. The building permit application shall include a “limits of grading and disturbance” line that includes all areas to be disturbed during construction, including, but not limited to: areas to be graded (including fill keyways), used as staging/storage/stockpile locations during construction, leach fields, and utility/stormwater trenches. Please note that the “limits of grading and disturbance” line must include area required for equipment access.
 - iii. To avoid cultural resources, applicant and soils engineer shall avoid over-excavation and re-compaction for storm drains and utilities as feasible and limit excavation to 18 inches or less except where technically infeasible.
 - iv. Excavation for fence posts, garden walls and other landscape features shall be kept to less than 18 inches deep except where technically infeasible.
 - c. Project shall include recommendations, as made by Bowman and Williams, to the existing cross-culvert on the grading and drainage plan sheet.
 - i. Provide cross-section construction details for the permanent stormwater drainage features to be constructed as part of the future building permit application.
 - ii. Provide a maintenance schedule/table for all drainage improvements.

- d. All project design and construction shall comply with the recommendations of the soils report.
 - e. Final plans shall reference the report by title, author and date.
 - f. Final Plans should also include a statement that the project shall conform to the soils report's recommendations.
6. After plans are prepared that are acceptable to all reviewing agencies, please submit a completed Soils (Geotechnical) Engineer Plan Review Form to Environmental Planning. The author of the soils report shall sign and stamp the completed form. Please note that the plan review form must reference the final plan set by last revision date. Any updates to report recommendations necessary to address conflicts between the report and plans must be provided via a separate addendum to the soils report.
7. After plans are prepared that are acceptable to all reviewing agencies and prior to approval of the building permit application, the applicant shall submit a completed Consultant Plan Review Form (PLG300) prepared by the consulting archaeologist.
8. The building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site which clearly depict the total height of the proposed structure. Maximum height is 28 feet.
9. Details showing compliance with fire department requirements. If the proposed structure(s) are located within the State Responsibility Area (SRA) the requirements of the Wildland-Urban Interface code (WUI), California Building Code Chapter 7A, shall apply.
10. NOTE on the plans the following fire code compliance:
- a. "A 100-foot clearance shall be maintained around and adjacent to the building or structure to provide additional fire protection or fire break by removing all brush, flammable vegetation, or combustible growth. EXCEPTION: Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided they do not form a means of rapidly transmitting fire from native growth to any structure."
 - b. "The submitter, designer and installer certify that these plans and details comply with applicable Specifications, Standards, Codes and

Ordinances, agree that they are solely responsible for compliance with applicable Specifications, Standards, Codes and Ordinances, and further agree to correct any deficiencies noted by this review, subsequent review, inspection or other source, and, to hold harmless and without prejudice, the reviewer and reviewing agency.”

- c. “The job copies of the building and fire systems plans and permits must be on-site during inspections.”

- 11. A Water Efficient Landscape Plan prepared in accordance with the requirements of the Water Efficient Landscape Ordinance (County Code Chapter 13.13) by a certified/licensed landscape architect, landscape contractor, civil engineer, landscape irrigation designer, landscape irrigation auditor, or water manager.

- a. Any landscape plan submitted to comply with SCCC Ch. 13.13 shall include a Water Efficient Landscape Plan Submittal Compliance Statement.
- b. Per General Plan Policy 8.7.2, it is required that rural projects use drought tolerant species with a predominance of plants being native species. Identify native plants on the landscaping plan and/or include a note on the plan that most plants will be California natives. Additionally, native plants indigenous to the area shall be used where landscaping is adjacent to the existing natural vegetation. On the subject site, this includes perimeter landscaping around the structure and along the driveway. Revisions to the landscape plan will be required prior to building permit issuance.
- c. No perimeter fencing of residential parcels shall be allowed, fencing within building envelopes only.

- B. Meet all requirements for Large Project and pay drainage fees to the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.

- 1. A Final Stormwater Management Report, signed and stamped by the Civil Engineer, shall be completed in compliance with Part 3 Appendix D of the Design Criteria prior to building permit issuance.
- 2. Legal documentation of ownership and maintenance responsibilities associated with the common/shared driveway easement and drainage improvements shall be recorded prior to building permit issuance.
- 3. Update the final maintenance agreement and associated plan sheets to include all existing and newly proposed mitigation features that will require inspections and maintenance by the property owners. Please refer to Part 3 Section C.3e of the CDC for further guidance/requirements. Contact the

County of Santa Cruz Recorder's office for the appropriate recording procedure. The maintenance agreement form can be picked up from the Public Works office or can be found online at:

<http://www.dpw.co.santa-cruz.ca.us/Home/FloodControlStormwater/ResourcesandReports.aspx>

- C. Meet all requirements and pay any applicable plan check fee of the Fire Protection District.
 - D. Pay the current fees for Parks and Child Care mitigation for three bedroom(s). Currently, these fees are, respectively, \$578 and \$109 per bedroom.
 - E. Pay the current fees for Roadside and Transportation improvements for three bedroom(s).
 - F. The proposed dwelling unit shall not be subject to Affordable Housing Fees. The original subdivision Redwood Meadows Ranch for 12 units met the affordable housing obligation through a transfer of credit to the Volunteers of America.
 - G. Provide required off-street parking for three cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
 - H. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The project must comply with all recommendations of the approved soils reports.
 - D. The methods and protocols described in the Cultural Resources Monitoring Plan (CRMP), prepared by John Schlagheck and Ryan Brady, dated April 19, 2020 shall be followed and used for archaeological monitoring, discovery, and treatment of resources encountered during construction.
 - E. The Archaeologist shall attend the pre-construction meeting prior to any ground disturbance at the site. At the pre-construction meeting they shall provide the contact information for the Principal Investigator (P.I.).

- F. The Native American monitor shall attend the pre-construction meeting prior to any ground disturbance at the site.
- G. Archaeological areas as shown on the final approved plans shall be protected with fencing prior to the pre-construction meeting. Ground disturbance shall not take place until the protective fencing is installed.
- H. In the event of a potentially significant find during construction the P.I. shall notify the Planning Director. The Planning Director shall arrange for an inspection of the property. Said inspection shall take place within 72 hours of notice to the Director of the discovery. The property owner shall grant all duly authorized representatives of the Planning Director permission to enter onto the property and to take all actions consistent with this chapter. A representative of local Native California Indian groups, such as N.I.C.P.A., and the property owner shall be notified of the time of the inspection and both may accompany the Director and his/her representative at all times on the property. The purpose of the inspection shall be to determine whether the discovery is a site of cultural significance.
- I. All recovered materials from the monitoring effort and any formal evaluation will be kept on site for processing, cataloging, and analysis. Where the discovered material warrants special studies that require more technical analysis than can be accomplished on-site, the P.I. may seek permission from the tribal monitor to temporarily remove the resource material for analysis.
- J. All recovered materials will be reburied within the subject parcel at a location specified by the tribal monitor in consultation with the property owner that is not subject to further disturbance. The final disposition of any human remains and associated grave goods will be determined through consultation with the Native American monitor, property owner and County.
- K. At the completion of project construction and following any subsequent archaeological analysis a brief report of findings is to be prepared by the project Archaeologist. A copy of this report is to be returned to the project Planner for inclusion into the file for this application.
- L. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100 and the CRMP shall be observed.
- M. The area is mapped as potential habitat for Townsend's big-eared bat, which is a California Department of Wildlife (CDFW) Species of Special Concern (SCC). To minimize potential impact a bat ecologist shall conduct an investigation within 30 days of scheduled demolition to determine if any trees over 20 inches DBH to be

removed are being used by bats. If there is no evidence of bat use removal may proceed as scheduled. If a non-maternal roost is found, the qualified biologist, with prior approval from California Department of Fish and Wildlife, will install one-way valves or other appropriate passive relocation method. For each occupied roost removed, one bat box shall be installed in similar habitat and should have similar cavity or crevices properties to those which are removed, including access, ventilation, dimensions, height above ground, and thermal conditions. Maternal bat colonies may not be disturbed.

- N. Trees >6" in diameter at breast height shall be retained unless they are clearly within the marker limits of grading and disturbance. If trees outside the limits of grading and disturbance are proposed for removal during the building permit phase a certified arborist shall be required to determine that retention is not a feasible option.

IV. Operational Conditions

- A. 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.

V. Indemnification

The applicant/owner shall indemnify, defend with counsel approved by the COUNTY, and hold harmless the COUNTY, its officers, employees, and agents from and against any claim (including reasonable attorney's fees, expert fees, and all other costs and fees of litigation), against the COUNTY, its officers, employees, and agents arising out of or in connection to this development approval or any subsequent amendment of this development approval which is requested by the applicant/owner, regardless of the COUNTY's passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the COUNTY. Should the COUNTY in its sole discretion find the applicant's/owner's legal counsel unacceptable, then the applicant/owner shall reimburse the COUNTY its costs of defense, including without limitation reasonable attorney's fees, expert fees, and all other costs and fees of litigation. The applicant/owner shall promptly pay any final judgment rendered against the COUNTY (and its officers, employees, and agents) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this development approval.

- A. The COUNTY shall promptly notify the applicant/owner of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. The COUNTY shall cooperate fully in such defense.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
- C. Settlement. The applicant/owner shall not be required to pay or perform any settlement unless such applicant/owner has approved the settlement. When representing the COUNTY, the applicant/owner shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the COUNTY.
- D. Successors Bound. The “applicant/owner” shall include the applicant and/or the owner and the successor(s) in interest, transferee(s), and assign(s) of the applicant and/or the owner.

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.

This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

Approval Date: _____

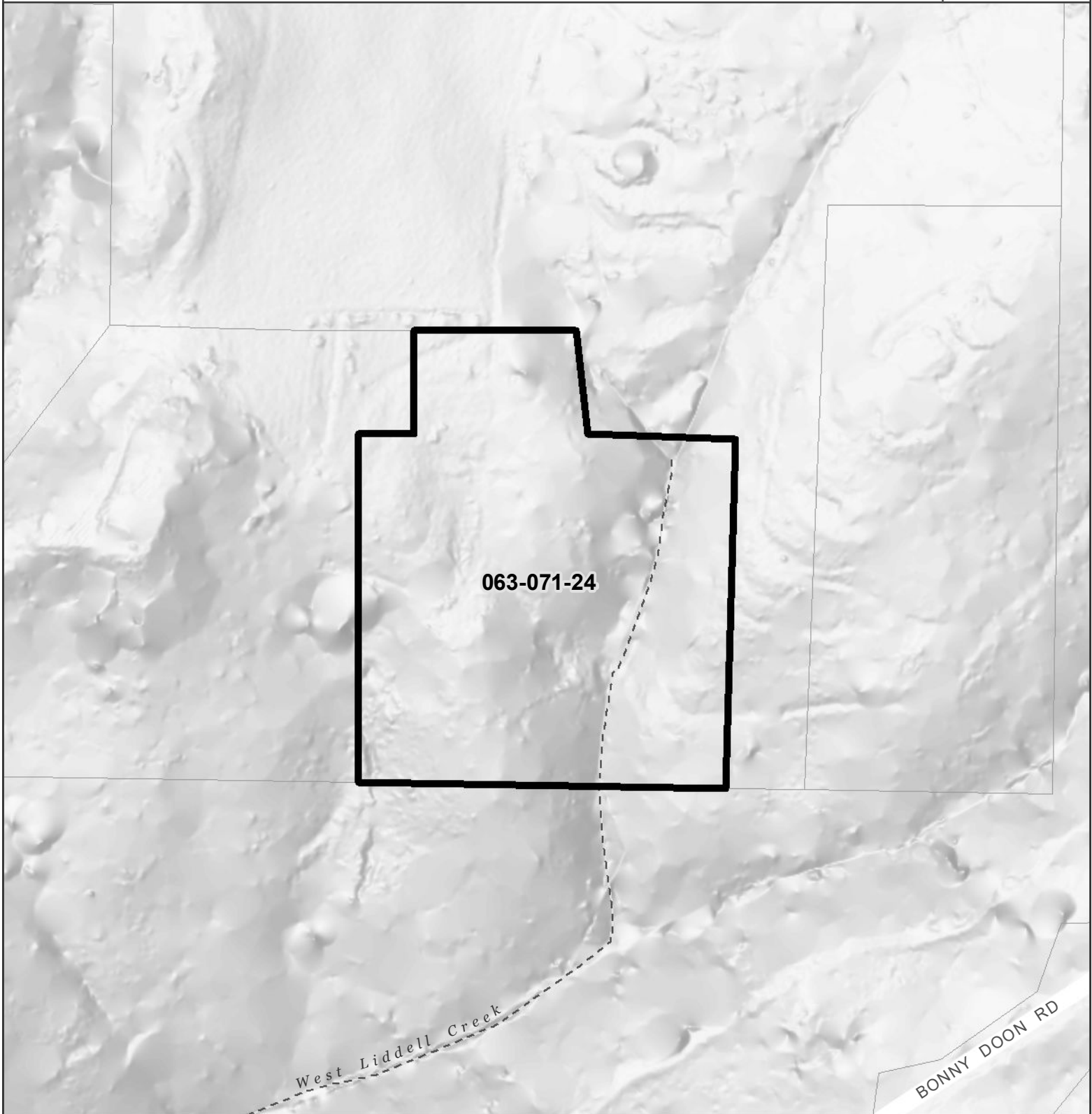
Effective Date: _____

Expiration Date: _____



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



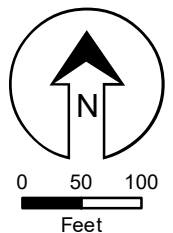
Parcel Location Map



Parcel: 06307124

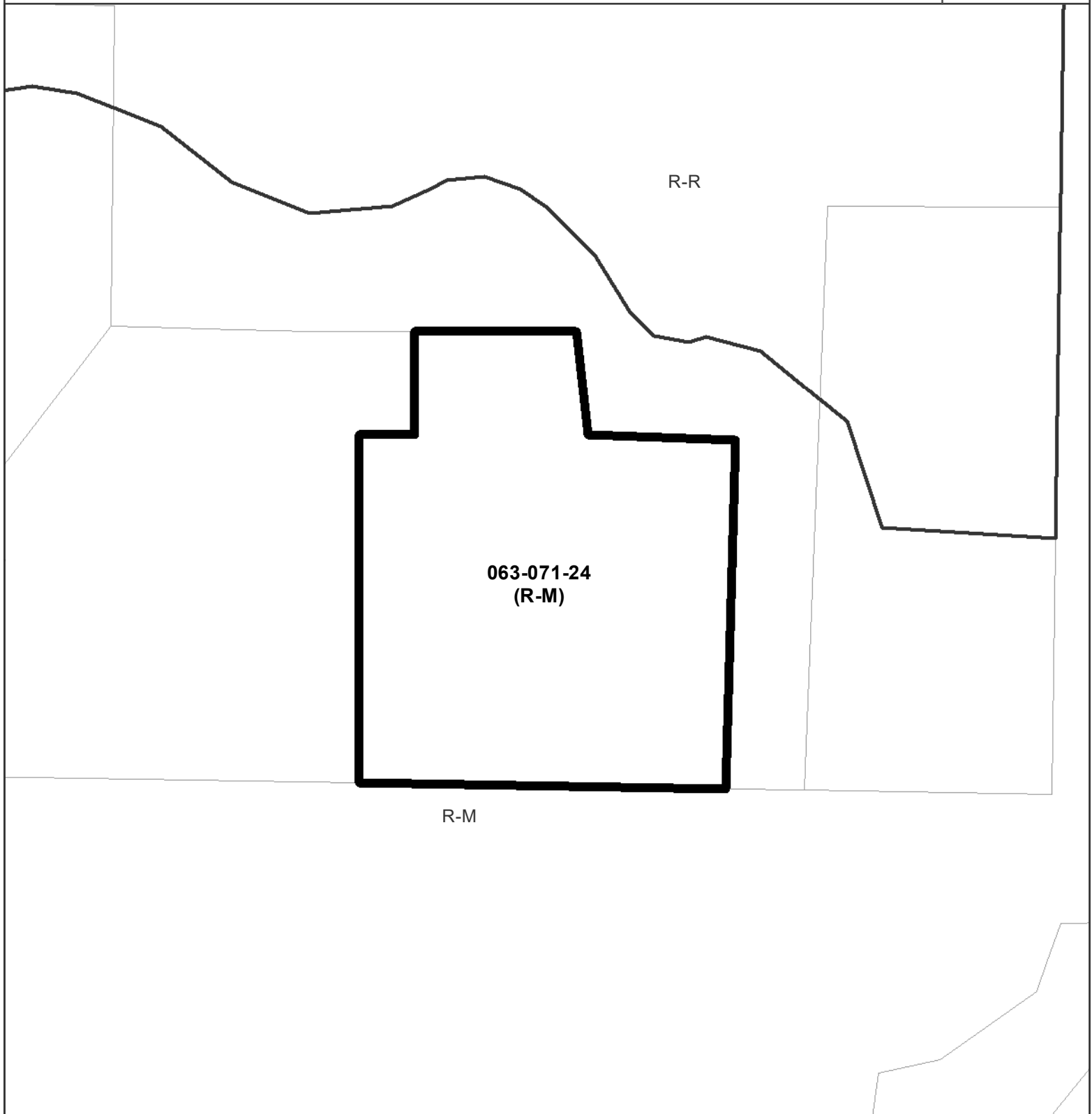
-  Study Parcel
-  Assessor Parcel Boundary

Map printed: 9 Nov. 2020

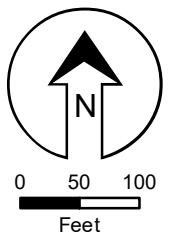




Parcel General Plan Map

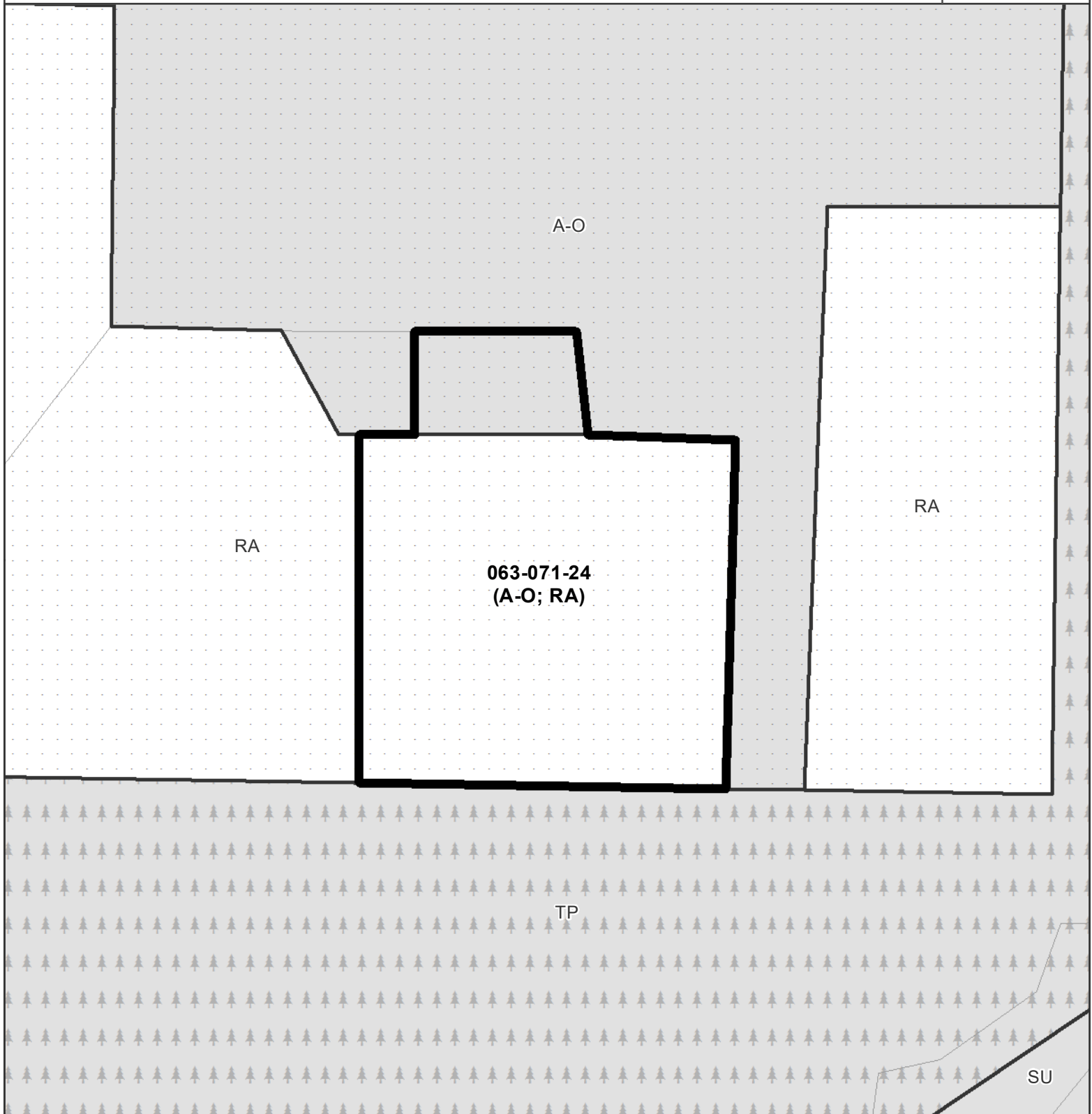


- ☐ R-M *Residential Mountain*
- ☐ R-R *Residential Rural*

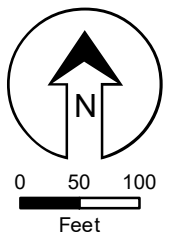




Parcel Zoning Map



- A *Agriculture*
- RA *Residential Agricultural*
- SU *Special Use*
- TP *Timber Production*



Parcel Information

Services Information

Urban/Rural Services Line: ☐ Inside ☒ Outside
Water Supply: Well
Sewage Disposal: Septic
Fire District: Cal-Fire
Drainage District: Outside

Parcel Information

Parcel Size: 5.5 acres
Existing Land Use - Parcel: Vacant
Existing Land Use - Surrounding: Residential and Open Space (Rural Subdivision)
Project Access: Private Road (Brisa del Mar)
Planning Area: Bonny Doon
Land Use Designation: R-M (Mountain Residential)
Zone District: RA; A (Residential Agriculture; Noncommercial Agriculture)

Coastal Zone: ☒ Inside ☐ Outside
Appealable to Ca. Coastal Comm. ☐ Yes ☒ No

Technical Reviews: Archeological Report Review (REV181072), Soils Report (REV181050)

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Fire Hazard: Not a mapped constraint
Slopes: Less than 15% to >50%
Env. Sen. Habitat: Potential occurrence of Townsend's big-eared bat; Riparian
Grading: Fill: 455 cu.yd. Cut: 270 cu.yd
Tree Removal: 17 trees proposed to be removed; no significant trees proposed
Scenic: Not a mapped resource
Archeology: Mapped resource

TRANSMITTAL FORM

Date: _____

To: Project File

Project Planner: _____

Application #: _____

PLEASE COMPLETE THE ITEMS CHECKED BELOW:

- ☐ Make ____ copies of the attached documents; distribute as follows:
 - ☐ Mail copies to: ☐ Applicant ☐ Owner ☐ Applicant/Owner (if same)
 - ☐ Send copies to: ☐ DPW Surveyor (Plans & Conditions - all land divisions)
 - ☐ Housing (Conditions - projects with affordable housing reqts.)
 - ☐ _____
 - ☐ _____
- ☐ Extra copy for mailing to the California Coastal Commission (after the appeal period is completed)
- ☐ Mail copy of Coastal Exclusion to Coastal Commission with any attached documents/exhibits
- ☐ Place copy of final staff report/conditions in the Project Listing by APN folder on the shared drive
- ☐ Send copy of CEQA notice to the Clerk of the Board:
 - ☐ Notice of Exemption (include copy of application form indicating COB fee payment)
 - ☐ Notice of Determination/Negative Declaration
 - ☐ Certificate of Fee Exemption
- ☐ Special instructions:
 - ☐ Send attached exhibit(s) to:
☐ Applicant ☐ Owner ☐ Applicant/Owner (if same)
 - ☐ Send attached recordable documents to:
☐ Applicant ☐ Owner ☐ Applicant/Owner (if same)
 - ☐ _____
 - ☐ _____

Completed by: _____

(staff)

(date)

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 is adopted:

PLANNING COMMISSION RESOLUTION RECOMMENDING
AMENDMENT OF OPEN SPACE EASEMENT 3808-227

WHEREAS, the Planning Commission has held a public hearing on Application No. 181068, involving the proposed development of a parcel located on the south side of Brisa Del Mar in Bonny Doon (575 Brisa del Mar, APN 063-071-24) (the “parcel”); and

WHEREAS, the parcel is currently part of the Redwood Meadows Subdivision (“Subdivision 82-226”) open space easement 3808-227 (“OSE 3808-227”) and Planned Unit Development (“PUD 82-227”) in the Bonny Doon Planning Area; and

WHEREAS, the Planning Commission has considered the proposal to amend OSE 3808-227, Subdivision 82-226, and PUD 82-227 to remove the parcel from the open space easement and approve a coastal development permit and preliminary grading approval; and

WHEREAS, the Planning Commission has considered all the testimony and evidence received at the public hearing, the recommendation of the Open Space Programs Committee, and the recommendation from Planning Department staff;

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends that the Board of Supervisors amend Open Space Easement 3808-227, Subdivision 82-226, and Planned Unit Development 82-227 to remove the parcel with APN 063-071-24 from the existing open space easement and approve a coastal development permit and preliminary grading approval pursuant to application 181068.

BE IT FURTHER RESOLVED, that the Planning Commission incorporates the findings and conditions on the proposed amendment as contained in the Staff Report.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2020 by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chairperson of the Board of Supervisors

ATTEST: _____
Clerk of the Board

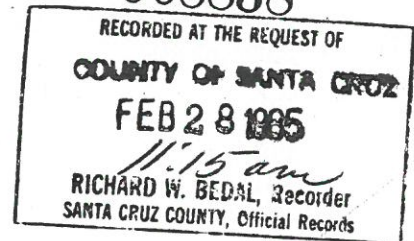
APPROVED AS TO FORM:



Office of County Counsel

DISTRIBUTION: County Counsel
Environmental Health Services
Parks, Open Space and Cultural Services
Planning Department

008858

OPEN SPACE EASEMENT

This Deed, executed this 28th day of February, 1985, by and between WILLIAM S. CUNNINGHAM and ROBIN W. CUNNINGHAM, his wife, as Grantor, and COUNTY OF SANTA CRUZ, as GRANTEE,

WITNESSETH:

WHEREAS, Grantor is the owner in fee of the real property hereinafter described, situated in Santa Cruz, California, ("Property") and

WHEREAS, Grantor and Grantee desire to preserve and conserve for the public benefit the natural scenic beauty and existing openness of the Property, subject to certain retained rights for improvements, uses, paths and trails as set forth below, and

WHEREAS, Grantor is willing to grant to Grantee an open space easement, as hereinafter expressed, in the Property, and thereby protect its present scenic beauty and existing openness by the restricted use and enjoyment of the Property by Grantor and his successors in interest or assigns through the imposition of the conditions hereinafter expressed, and

WHEREAS, Grantor approves the rezoning of the Property to a District classification consistent with the limitations of use and density contained within this instrument and to the O (Open-Space Easement) Combining District for the purpose of identification on the Sectional District Map;

NOW, THEREFORE, for and in consideration for the premises, Grantor does hereby grant and convey unto the County of Santa Cruz

an open-space easement in said real property of Grantor of the nature and character and to the extent hereinafter expressed, which easement will result from the restrictions hereby imposed upon the use of the Property by Grantor, and to that end and for the purpose of accomplishing the intent of the parties hereto, Grantor covenants on behalf of himself, his heirs, successors and assigns with Grantee, its successors and assigns, to do and refrain from doing severally and collectively upon Grantor's Property the various acts hereinafter mentioned. The restrictions hereby imposed upon the use of the Property and the acts which Grantor shall refrain from doing upon the Property in connection therewith are, and shall be, as follows:

1. No buildings or structure as defined in the Santa Cruz County Zoning Ordinance will be placed or erected upon said property nor shall utility poles or lines be located on or pass through said property.

EXCEPTIONS:

Any and all uses allowed by the "A" Agriculture Zone District, but not including any permanent residential structure.

THE EXCEPTIONS WILL REQUIRE DEVELOPMENT OR BUILDING PERMITS, WHERE APPLICABLE.

2. All new construction shall be reviewed by the Open Space Programs Committee with right of appeal to the Planning Commission. All structures should be compatible with the intent of this contract; specific concerns include location of the site, screening and landscaping, exterior finishing materials and the colors, and general harmony with the character of the area.

AG Structures

3. No advertising of any kind or nature shall be located on or within said property except for identification and for the sale of products produced on the site consistent with the purpose of this instrument, and for initial sale of Lots within Tract 1108 by Grantor.

4. Grantor shall not plant nor permit to be planted any vegetation upon said property except normal farming on presently cleared areas farmed in the past, reforestation, and planting of native California vegetation, normal landscaping and screening of homesites and farming area and facilities consistent with the purposes of this instrument.

5. Except for the construction, alteration, relocation and maintenance of private roads, public and private pedestrian (hiking, equestrian, and bicycle) trails, and the development of ponds for wildlife and fire protection, normal excavation for farming and building, development of sanitation and water facilities needed, measures needed to prevent erosion and provide for fire protection, the general topography and natural vegetation of the landscape shall be maintained in its present condition and no excavation or topographical changes shall be made. Normal maintenance and replacement of existing structures shall be permitted. Cutting of timber, trees and other natural growth as may be required for fire prevention, thinning, elimination of diseased growth and similar protective measures, or for the harvest of trees in a manner compatible with scenic purposes and with the forest management plan, approved by the Board of Supervisors, along with approval of the tentative map for Tract 1108, shall be permitted.

Allows for
some
development

6. No use of the Property which will or does materially alter the landscape or other attractive scenic and open space features of the Property other than those specified above shall be done or suffered. There shall be no deposition or accumulation of trash, garbage, or unsightly or offensive materials upon the Property.

7. Grantee shall not make any payment to Grantor for the conveyance of the open-space easement described above, it being recognized and agreed between the parties that the consideration for this conveyance is the substantial public benefit to be derived therefrom and the advantage which will accrue to Grantor in the event of any reduction in the assessed value of the Property due to the imposition of the limitations on its use contained herein.

8. The Property is situate in the County of Santa Cruz, State of California, and is particularly described in Exhibit "A", attached hereto and incorporated herein by reference.

Excepting and reserving to the Grantor:

- (1) The right to maintain all existing private roads, bridges, trails, and structures upon said land and the right to construct and maintain the improvements listed above.
- (2) The use and occupancy of said land not inconsistent with the conditions and restrictions herein imposed.

9. If at any time the Property, or any portion thereof, shall be selected for condemnation by any public agency or public utility, including the Grantee, then and in that event the easement created by this conveyance shall terminate as of the

time of the filing of the complaint in condemnation as to the land or portion thereof sought to be taken for public use, and shall revert to and vest in the Grantor, its successors in interest, or assigns.

10. The conveyance by Grantor to Grantee of an open-space easement in the Property described above is in perpetuity.

11. If either Grantor or Grantee desires in any year not to renew the open-space easement, that party shall serve written notice of non-renewal of the easement upon the other party at least Ninety (90) days in advance of the annual renewal date of the open-space easement. Unless such written notice is served at least Ninety (90) days in advance of the renewal date, the open-space easement shall be considered renewed as provided above.

Upon receipt by Grantor of a notice from Grantee of non-renewal, Grantor may make a written protest of the notice of non-renewal. Grantee may, at any time prior to the renewal date, withdraw the notice of non-renewal.

If Grantor or Grantee serves notice of intent in any year not to renew the open-space easement, the existing open-space easement shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the open-space easement, as the case may be.

12. Grantor may petition the Board of Supervisors for abandonment of the open-space easement as to all of the Property. The Board may approve the abandonment of an open-space easement only if, by resolution, it finds:

- (1) That no public purpose described in Government Code Section 51084 will be served by keeping the land as open space; and
- (2) That the abandonment is not inconsistent with the purposes of this chapter; and
- (3) That the abandonment is consistent with the General Plan; and
- (4) That the abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

No resolution abandoning an open-space easement shall be finally adopted until the matter has been referred to the Planning Commission, the Commission has held a public hearing thereon and furnished a report on the matter to the Board of Supervisors stating whether the abandonment is consistent with the General Plan and the Board of Supervisors has held at least One (1) public hearing thereon after giving Thirty (30) days' notice thereof by publication in accordance with Section 6061 of the Government Code, and by posting notice on the land.

Prior to approval of the resolution abandoning an open-space easement, the County Assessor shall determine the full cash value of the land as though it were free of the open-space easement. The Assessor shall multiply such value by Twenty-Five Percent (25%), and shall certify the product to the Board of Supervisors as the abandonment valuation of the land for the purpose of determining the abandonment fee.

Prior to giving approval to the abandonment of any open-space easement, the Board of Supervisors shall determine and certify to the County Auditor the amount of the abandonment fee

which the landowner must pay the County Treasurer upon abandonment. That fee shall be an amount equal to Fifty Percent (50%) of the abandonment valuation of the Property.

Any sum collected pursuant to this section shall be transmitted by the County Treasurer to the State Controller and be deposited in the State General Fund.

An abandonment shall not become effective until the abandonment fee has been paid in full.

13. The open-space easement conveyed by this instrument shall run with the land described herein and shall be binding upon the heirs, successors and assigns of the parties hereto.

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

GRANTOR:


 SAN JOSE PRODUCTION CREDIT
 ASSOCIATION


 WILLIAM S. CUNNINGHAM, Grantor


 ROBIN W. CUNNINGHAM, Grantor

GRANTEE:
 COUNTY OF SANTA CRUZ

By 

APPROVED AS TO FORM:

Dwight J. Hew
County Counsel

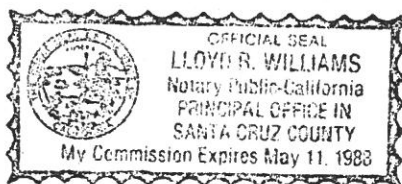
APN 63-071-03
63-231-01 portion

STATE OF CALIFORNIA)

COUNTY OF SANTA CRUZ)

On this 21st day of February, in the year 1985,
before me, Lloyd R. Williams, a Notary Public, State
of California, duly commissioned and sworn, personally appeared
William S. Cunningham and Robin W. Cunningham
personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person s whose name
ARC subscribed to this instrument, and acknowledged that
they executed it.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my official seal in the County of _____ on the date
set forth above in this certificate.



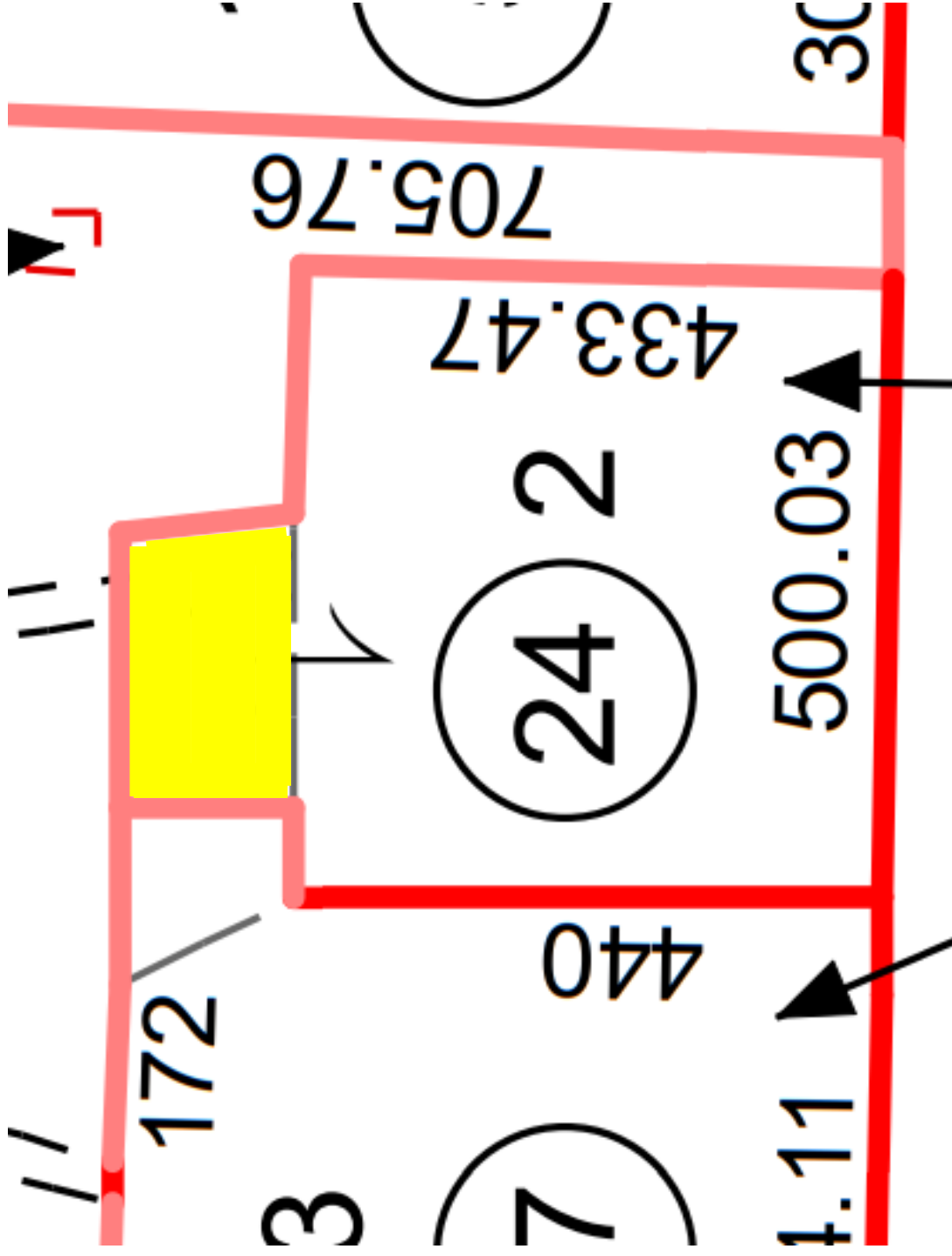
Lloyd R. Williams

EXHIBIT 'A'

EXHIBIT TO OPEN SPACE EASEMENT

All of the real property shown as "Agriculture Lot A-1" on that certain Final Subdivision Map for Redwood Meadows Ranch, Tract 1108, filed in the Recorder's Office of Santa Cruz County, California on October 4, 1984, in Volume 73 of Maps, at Page 69.

Attachment 7 – Parcel Map indicating area within OSE 3808-227 proposed for abandonment (yellow highlight).



MEMORANDUM

Date: September 24, 2020

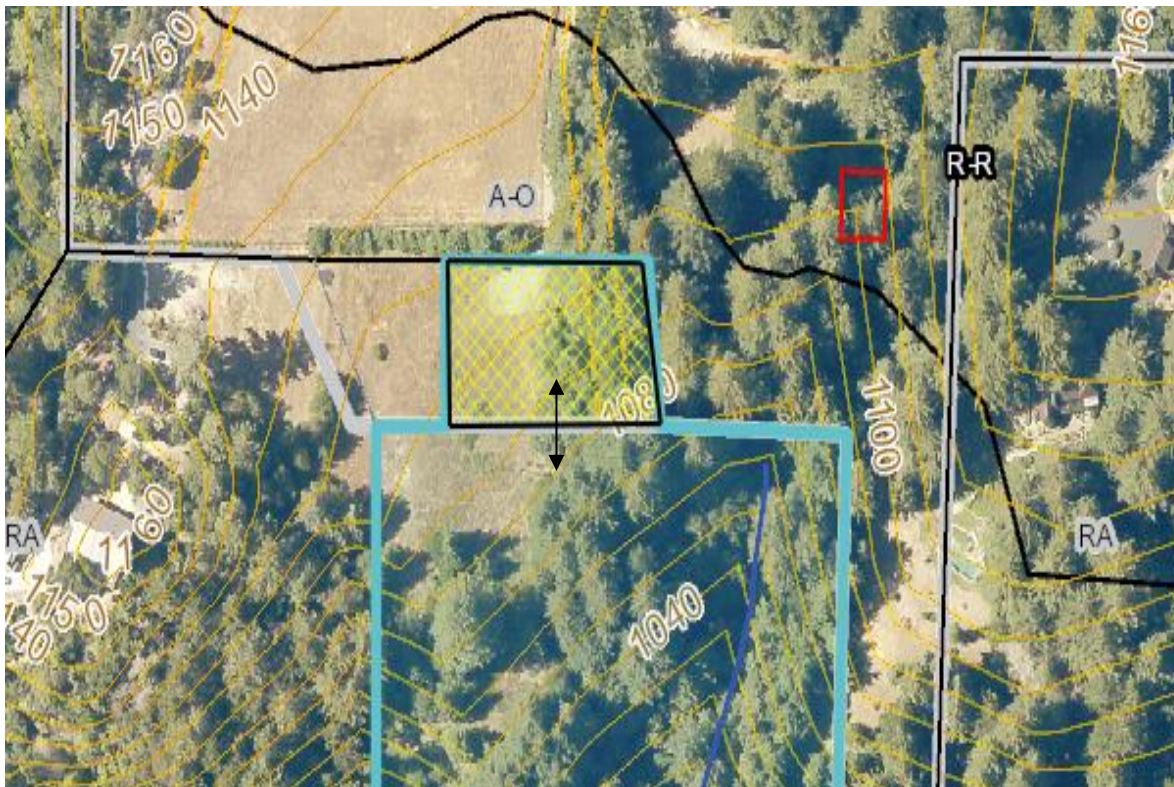
To: Open Space Programs Committee

From: Jerry Busch, Planner IV

Re: Amendment of Open Space Easement 3808-227

Purpose

This meeting of OSPC concerns Coastal Permit application 181068 (APN 063-071-24), which proposes development of a single-family dwelling and garage within a ½-acre (approx. 0.58 acres) of the large area covered by the Redwood Meadows Subdivision open space easement (OSE 3808-227, recorded 2-28-1985; Attachment 1). The proposed project would amend the OSE to remove the proposed development site (shown as the hatched area below) from the OSE area.



The area proposed for removal from the OSE is already part of parcel 06307124 (outlined in blue). Lot line adjustment 93-0076 transferred ownership to the subject parcel but did not amend the area covered by the OSE. A revised building envelope (Attachment 2) encompassing the adjusted area was recorded for parcel 063-071-24 in 2003, and it was based on this building envelope that the current owner purchased the parcel. The subject application, 181068, would in effect, “clean-up” the lot line adjustment to remove the development area from the OSE to allow a single-family dwelling to be built. The existing building envelope would be slightly modified to reflect current site standards.

Redwood Meadows is a 12-lot subdivision accessed from Bonny Doon Road via Brisa del Mar that was approved by the Board of Supervisors in 1983. The subdivision includes two open space parcels, one for agricultural and scenic uses, and one for timber management. The subdivision map and conditions of approval area attached (Attachments 4 and 5, respectively).

Open Space Programs Committee

Although Open Space Programs Committee review is required whenever a structure is proposed within an open space easement, the County Code, OSE 3808-227 and State Law are silent on whether abandonment of an OSE requires review by the OSPC. Staff determined that OSPC review was appropriate because the proposed project would result in the construction of a structure within an area that is currently covered by an open space easement.

The general function of the Open Space Programs Committee is summarized by Administrative Practice Guideline OSE-1 (Attachment 3). The OSPC recommendation concerning the Redwood Meadows OSE will be considered by the Planning Commission and the Board of Supervisors in evaluating the proposed OSE amendment, subdivision amendment, and Coastal Permit. The subject site is not within the -O combining district, so no rezoning is required.

Key Issues

Agriculture

The conditions of approval of the original Redwood Meadows Subdivision permit refer to the area covered by OSE 3808-227 as “the agricultural parcel.” Condition of approval E states that “the agricultural parcel shall be retained by the permit holder for agricultural and other open space uses,” and that an open space easement shall be established that “provides for the permanent protection of the nonresidential parcel for agriculture, open space and other open space use purposes.”

Parts of the area covered by the open space easement supported a limited stand of olive trees at some time prior to approval of the subdivision. No agricultural activity has apparently taken place on the OSE parcels since they were protected.

The OSE soils are not designated as being an Agricultural Resource by the County General Plan and not subject to a Williamson Act contract. The Felton Sandy Loam found in the OSE area has a moderate Storie Index rating of 73, not high enough to be considered prime, but considered to be “fairly suitable for agriculture.” The Capability Index for the site soil is “Class III – Severe Limitations,” due to slopes and potential erosion hazard. The Natural Resource Conservation Service soil survey for Santa Cruz County indicates that the soil type is not typically used for production of row crops, berries, Brussels sprouts or

lettuce, not used for rangeland, and has a very low yield rating for apples. Soil cores taken at in August the subject site were found to be damp, suggesting high water table or drainage issues. The sandstone or mudstone occurs very close to the surface in some locations near the subject site.

The combination of poor drainage, slopes, high bedrock and marginal soils at the subject site; its small size; and the fact that it is already incorporated into the parcel proposed for development, add up to a very low value for agriculture. Amendment of the OSE to remove the ½-acre proposed development site would have no substantial adverse impact on the potential agricultural value of the remaining approximately 46.5 acres of the open space parcel.

Scenic

The language of OSE 3808-227 states that the basis for its establishment is “to preserve and conserve for the public benefit the natural scenic beauty and existing openness of the Property, subject to certain retain rights for improvement, uses paths and trails” The OSE further states:

All structures should be compatible with the intent of the contract; specific concerns include the location of the site, screening and landscaping, exterior finishing materials and the colors, and general harmony with the character of the area.”

The location of the proposed dwelling is more than 500 feet from the Brisa del Mar roadway and would be screened by a solid windbreak of existing pine trees (see aerial photo above). Even if the pine trees were absent, most of the dwelling would lie below the brow of the hill, with only part of the upper floor visible to the roadway (Attachment 6). The proposed exterior colors and material are earth-toned shades of brown – Corten (rusted steel) and rammed earth for the body and bronze anodized aluminum for the trim. The limited areas of the structure that would be visible above the brow of the hill (if windbreak were absent) would be compatible with the background terrain.

Amendment of the OSE to facilitate the proposed dwelling would have no significant impact on scenic values. The site is not within a mapped scenic area and not visible from Bonny Doon Road. The structure would be screened from other dwellings in the neighborhood by intervening vegetation. Therefore, amending the OSE and the new dwelling that is proposed in that ½-acre area will have no substantial adverse impacts affecting the natural scenic beauty and openness of the property.

Open Space Easement Abandonment

Government code §51093 regulates abandonment initiated by private parties¹. Both §51093 and the text of OSE 3808-227 state that a governing body may approve the abandonment of an open-space easement only if, by resolution, it finds:

- 1) That no public purpose described in Government Code §51084 will be served by keeping the land as open space; and
- 2) That abandonment is not inconsistent with the purposes of this chapter [§51084]; and
- 3) That abandonment is consistent with the General Plan; and

¹ Government Code 51061 regulates open space easement abandonment initiated by government agencies.

- 4) That the abandonment is necessary to avoid a substantial financial hardship to the landowner due to involuntary factors unique to him.

These findings can be made to support the proposed OSE amendment (application 181068) in that the proposed amendment is consistent with the ½-acre's General Plan designation of R-M (Mountain Residential) which allows residential development; the soils of the site are not designated as an Agricultural Resource; the site is not mapped as scenic; and the parcel does not contain sensitive biotic resources. The site contains archeological resources, but an archeological report for the site was reviewed by Environmental Planning in consultation with a tribal representative, and determined not to be significant under State law Pursuant to County Code (Chapter 16.40); the project was modified to avoid the locus of cultural resources and to catalog and rebury any artifacts unearthed during construction.

General Plan Policy 5.14.11 b encourages the use of OSEs (for agricultural land protection) but has no policies governing their modification or abandonment.

As required in the first finding above, the proposed OSE amendment is consistent with the purposes of Government Code §51084, the code section governing open space easement adoption, as described below. Further, no public purpose would be served by keeping the land as open space, also as described below. An amendment to remove the OSE from the subject parcel is necessary to avoid a substantial financial hardship to the landowner given that he purchased the property unaware that the preferred building site was encumbered by the OSE.

In order to amend the OSE, OSE 3808-227 and Government Code §51084 require that findings be made relative to the public purposes of GC §51084 as set forth below with findings provided in italics:

(b) That the preservation of the land as open space is in the best interest of the state, county, city, or city and county and is important to the public for the enjoyment of scenic beauty, for the use of natural resources, for recreation, or for the production of food or fiber specifically because one or more of the following reasons exists:

(1) That the land is essentially unimproved and if retained in its natural state has either scenic value to the public, or is valuable as a watershed or as a wildlife preserve, and the instrument contains appropriate covenants to that end.

The above purpose is not served by retaining the ½-acre proposed for removal from the OSE as the acreage does not comprise a significant wildlife habitat, and watershed values would be improved by moving the proposed development away from steeply sloped areas to the flatter, ½-acre area which is currently subject to the OSE. Further, the land is screened from public view by trees and because it is not visible to the public, does not have public scenic value.

(2) It is in the public interest that the land be retained as open space because such land either will add to the amenities of living in neighboring urbanized areas or will help preserve the rural character of the area in which the land is located.

The above purpose is not served by retaining the ½-acre proposed for removal from the OSE, because the rural amenities and character of the area will be unaffected by the loss of the relatively small area which is not mapped as scenic and is not visible from a County road. In addition, the ½-acre is distant from the Redwood Meadows access drive and, therefore, has very low visibility to the neighborhood. The land is not adjoining or neighboring an urbanized area. In addition, the land in question is privately owned and, therefore, is not available for use by the public.

(3) The land lies in an area that in the public interest should remain rural in character and the retention of the land as open space will preserve the rural character of the area.

The proposed OSE amendment would not adversely affect the rural character of the area because the subject area is screened from neighboring parcels and access road and is not within a designated scenic area or visible from a scenic road. The proposed dwelling has a low-profile silhouette, earth-toned colors and landscaping. The subject ½-acre is part of a parcel already designated as a building site. The area is segregated from the rest of the agricultural parcel by topography, location and existing vegetation. Removal of the subject ½ acre will have no impact on the rural character of the area.

(4) It is in the public interest that the land remain in its natural state, including the trees and other natural growth, as a means of preventing floods or because of its value as watershed.

Because the ½-acre area is less steep than other building sites on the subject parcel, development there will reduce erosion potential and runoff rates. In addition, no trees, and very little native vegetation, would be removed as a part of the construction of the proposed dwelling.

(5) The land lies within an established scenic highway corridor.

The land is not within an established scenic highway corridor.

(6) The land is valuable to the public as a wildlife preserve or sanctuary and the instrument contains appropriate covenants to that end.

The site contains no sensitive biotic resources or significant wildlife value.

(7) The public interest will otherwise be served in a manner recited in the resolution and consistent with the purposes of this subdivision and Section 8 of Article XIII of the Constitution of the State of California.

[Section 8 of Article XIII of the Constitution of the State of California states, “To promote the conservation, preservation and continued existence of open space lands, the Legislature may define open space land and shall provide that when this land is enforceably restricted, in a manner specified by the Legislature, to recreation, enjoyment of scenic beauty, use or conservation of natural resources, or production of food or fiber, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses. To promote the preservation of property of historical significance, the Legislature may define such property and shall provide that when it is enforceably restricted, in a manner specified by the Legislature, it shall be valued for property tax purposes only on a basis that is consistent with its restrictions and uses.”]

The area proposed for removal from OSE 3808-227 has been previously valued for property tax purposes on a basis consistent with its restrictions and uses. GC §51093(b) and OSE 3808-227 both indicate that if an OSE is abandoned, the landowner shall pay an abandonment fee as follows:

(b) Prior to approval of the resolution abandoning or approving the abandonment of an open-space easement, the County Assessor of the county in which the land subject to the open-space easement is located shall determine the full cash value of the land as though it were free of the open-space easement. The assessor shall multiply such value by 25 percent, and shall certify the product to the governing body as the abandonment valuation of the land for the purpose of determining the abandonment fee.

(c) Prior to giving approval to the abandonment of any open-space easement, the governing body shall determine and certify to the county auditor the amount of the abandonment fee which the landowner must pay the county treasurer upon abandonment. That fee shall be an amount equal to 50 percent of the abandonment valuation of the property.

Conclusion

The current owner purchased the subject parcel in good faith for the purpose of developing a single-family dwelling. At the time of purchase, the ½-acre subject area had already been adjusted into the lot and a revised building envelope recorded. Upon discovery that the site had not been removed from the Redwood Meadows OSE, the owner applied for a Level 7 (Board of Supervisors) approval. The proposed Amendment of Open Space Easement 3808-227 to remove the subject area would be consistent with the County General Plan, State Law, the Zoning Ordinance and the terms established for abandonment of the easement itself.

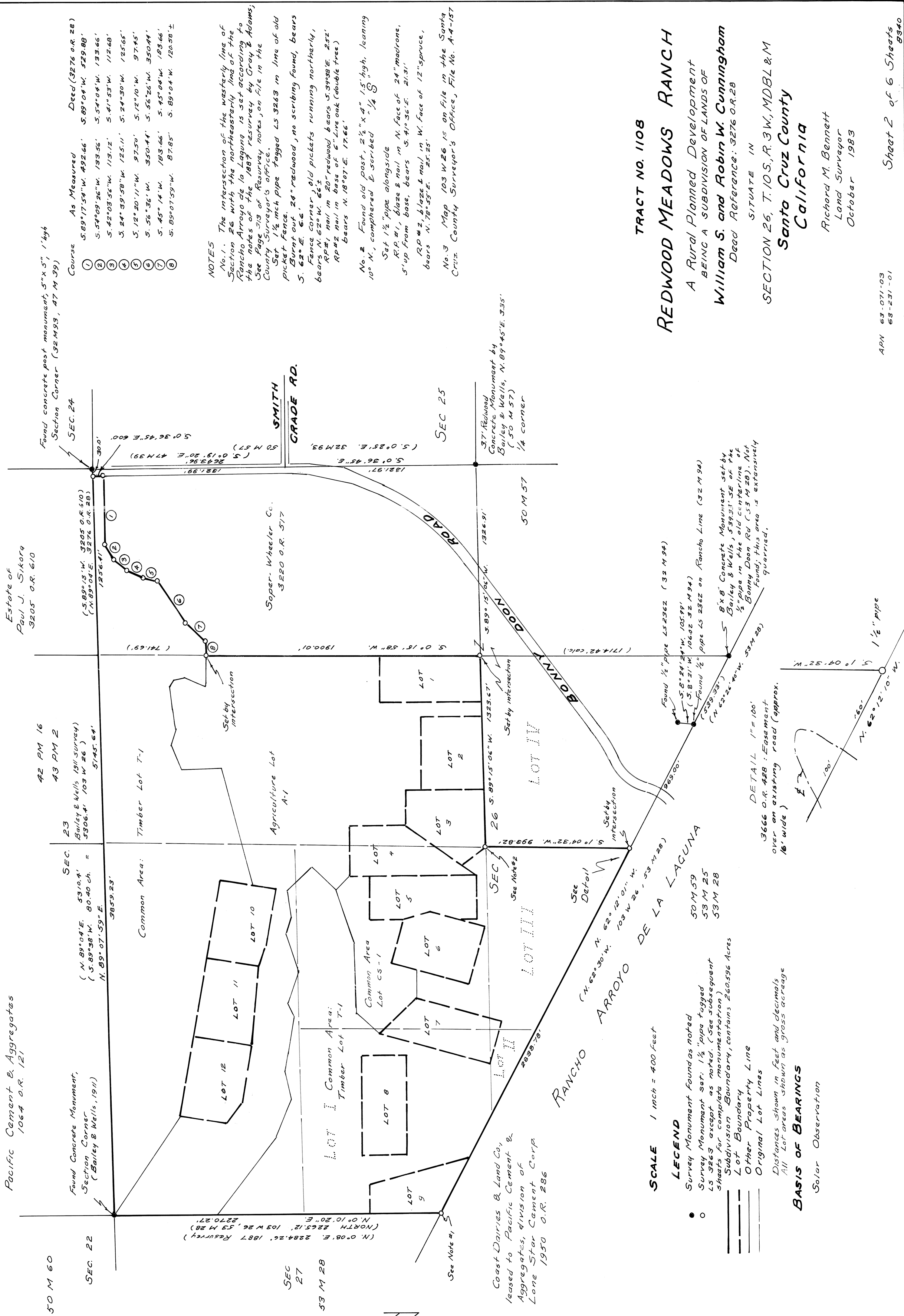
Staff Recommendation

Recommend that the decision-making body:

- Determine that the proposed Open Space Amendment is exempt from further Environmental

Review under the California Environmental Quality Act.

- **APPROVE** the amendment of Open Space Easement 3808-227 to remove the subject area, shown in Attachment 7, based on the above findings.





KRIS SCHENK
Director

COPY

#2

Mr. and Mrs. William Cunningham
3836 Porter Gulch Road
Aptos, CA 95003

The Santa Cruz County Board of Supervisors, at its meeting on July 19, 1983, approved the Tentative Map of Tract No. 1108 (Redwood Meadows Ranch), subject to the following conditions:

CONDITIONS

- I. Exhibits. All exhibits shall be incorporated as conditions of this permit unless otherwise specified herein. Exhibits are on file with the Planning Department.
 - A. Tentative Map by Richard Bennett, LS 3263, dated 1/18/83.
 - B. Access Road and Topo Map by R. Bennett, LS 3263, dated 4/30/83.
 - C. Soils Feasibility Study by Jacobs & Assoc., dated 8/82.
 - D. Forest Management Plan by S. Staub.
 - E. Geological Evaluation by Gary Griggs, RG 3277, dated 7/26/82.
- II. General Conditions.
 - A. This permit is for 12 residential parcels of approximately 5 acres each, one parcel of approximately 70 acres with agricultural open space use and the remainder as timberland open space use.
 - B. Implementation of the Planned Unit Development shall take place prior to the expiration of the Tentative Map (Tract 1108). The Tentative Map expires exactly 24 months after the effective date.
 - C. Minor variations to this permit which do not increase density, decrease the open space ratio, or change the concept of development may be approved by the County Planning Director at the request of the permittee or staff. Changes to the Tentative Map require review by the Environmental Coordinator.

- D. Prior to filing the Final Map, all improvement plans shall be submitted to the Department of Public Works for review and approval. These plans are to be fully engineered, and will include but are not limited to: grading, drainage, erosion control, roads and utilities.
- E. The agricultural parcel shall be retained by the permit holder for agricultural and other open space uses. The timber parcel shall be held by the Home Owners' Association with timber rights reserved to the permit holder, and shall be used for timber management and other open space uses. Prior to recording the Final Map, the permit holder shall enter into an open space easement contract with the County, in a form to be approved by the County, which shall provide for the permanent protection of the nonresidential parcel for agricultural, timber management, and other open space use purposes, and which shall specifically restrict the future uses of the land zoned TP to such purposes in the event that such parcels should ever cease to be zoned TP.
- F. Prior to recording the Final Map all sites shall receive complete septic approval from Environmental Health or be eliminated.
- G. Building envelopes shall be established on each residential parcel with slope less than 30% consistent with the geologic evaluation, Environmental Health, and Fire Marshal requirements. They shall be incorporated on the Final Map.
- H. No perimeter fencing of the residential parcels shall be permitted. Fencing within the designated building envelope shall be permitted as shown on the final plans.

III. Improvements and Services.

A. General.

1. All engineering design and improvement plans shall conform to the County Design Criteria, unless otherwise specified.
2. No construction may occur until the Final Map is filed. All improvement construction shall be completed, or bonded for, prior to recording the Final Map.
3. All improvement construction shall be according to County approved plans, and maintained in original condition.
4. Improvements shall include roadways, drainage facilities, and underground utilities. Above-ground utilities are not permitted. Drainage design shall be for on-site detention to accommodate a 10-year storm.
5. All recommendations of the geotechnical report by Griggs, and of the soils investigation by Jacobs & Associates shall be adhered to in improvement design.
6. All designs shall be to Grading and Erosion Control Ordinance standards, subject to Planning staff approval.

B. Circulation and Access.

1. Access within the subdivision shall be improved to County of Santa Cruz Design Criteria standards for residential roads "special conditions", unless otherwise specified by Department of Public Works. This entails minimum street width of 16 feet, with 2 inches of asphalt concrete on 5 inches of Class II aggregate base, and rolled asphalt berm where necessary to control drainage. It will also include all necessary engineered drainage and erosion control measures.

Access may be reduced to 12 feet with turn-outs, to the same standards, beyond the driveway to parcel 6, and on the access to parcels 10, 11, and 12 on slopes greater than 30%.

2. Secondary access shall be provided according to Exhibit "A", and may include a crash gate with equestrian access. It shall be improved to a 12 foot width with at least 5 inches of compacted aggregate base rock, Class II for its entire length. Where grade exceeds 15%, the base rock shall be overlain by 1½ inches of asphalt concrete. Appropriate drainage and erosion control facilities shall be provided.
3. Right to permanent emergency access and to maintenance over the secondary access road shall be recorded prior to recording the Final Map.

C. Water and Fire Protection.

1. All road and travel routes shall have overhead clearance of 14 feet vertical distance for its entire width and length.
2. All roads shall be provided with names and appropriate house numbers agreed upon by the County Fire Marshal.
3. The two existing water tanks shall be utilized to provide a water distribution system (fire hydrants) with no less than single 2½ inch N.S.T. gate valves at each hydrant location. Hydrants shall be accessible to firefighting equipment, and shall provide no less than 200 gallons per minute.
4. All residential lots shall have a water supply source of no less than 10,000 gallons each. Each source shall be accessible to firefighting equipment, and no more than 150 feet from the residence.
5. All roadways and driveways shall have flammable vegetation reduced to prevent rapid fire ignition or spread.

IV. Homeowners' Association/C.C. & R's.

- A. The permittee shall establish a Homeowner's Association to assume maintenance responsibility for all roads, drainage and erosion control facilities, water and fire protection system, as originally approved, designed and constructed.
- B. C. C. & R's shall require the following:
 1. Landscaping shall be with drought tolerant plants. Invasive and nuisance plants are not permitted. Natives indigenous to this area shall be used

where landscaping is to be adjacent to the existing native vegetation.

2. Grading shall be limited to the area necessary for construction.
3. To minimize the visual impact of hill or ridgetop development, home design shall have a low profile or split-level, use earthen color tones and make maximum use of landscape screening. Structures shall be sited and designed so as to prevent reflections from windows in the daytime, or from indoor or outdoor lighting at night from being seen on either Bonny Doon Road or on the coast road.
4. All buildings should be designed and sited to balance minimum tree removal against maximum solar opportunity.
5. Building envelopes are designated on the final maps and represent the limit for structural improvements on each parcel.
6. Each property owner shall post their address number in such a way that it is visible day or night from the road in front of their house.
7. The septic system shall be regularly inspected and maintained.
8. The Homeowners' Association shall maintain the road system to Bonny Doon Road, according to the C. C. & R's.
9. This parcel may not be further divided under the Genral Plan policies which were in effect May, 1983. The Rural Development Matrix, which was in effect on that date, may not be used to justify a division of the open space parcel, since its size was used to balance 12 smaller parcels.
10. All units shall be oriented in the building envelope to make maximum use of solar energy.
11. All units shall be plumbed and wired for solar water heating.
12. All residents of this subdivision shall be advised through the Homeowners' Association that timber management/harvest and agricultural use are integral parts of this development. Accordingly, the County will do its utmost to encourage these uses. Further, they may result in temporary, periodic inconvenience to neighbors.
13. Recommendations of the timber management plan by Staub pertaining to reducing fire hazard shall be adhered to.
14. Applicant to enter into contract with the County to carry out the Timber Management Plan on parcel zoned T.P.
15. Parcels 10,11 and 12 are subject to timber harvest along with other timber areas, except for a 200-foot buffer measured from their south property line.
16. Parcels 10, 11 and 12 shall be subject to timbering under the Timber Management Plan, with timber rights retained by the Permittee. Condi-

V. Housing.

affordable housing

APPROVED BY PLANNING COMMISSION ON 5/25/83 WITH STAFF FINDINGS AND AMENDED CONDITIONS.

NOTE: This Tentative Map approval expires on July 19, 1985. The subdivider should also note that Final Map and Improvement Plan processing may take a period of months. Since this processing must be accomplished prior to the expiration date, the subdivider should plan accordingly.

by

KS:RL:dd

12345678910111213141516171819202122232425262728293031323334353637383940414243444546474849505152535455565758596061626364656667686970717273747576777879808182838485868788899091929394959697989900

No.	Routing Date	Info	Copy	Atch	Sign
1	Director Asst. Dir. Oper. Drainage Equip. Road Maint. Sanitation Traffic Permits Asst. Dir. Eng.	✓	✓	✓	DF
2	Design Surveyor Construction San. Eng. Drainage Real Property Business Manager Secretary		✓	✓	LL

25/8

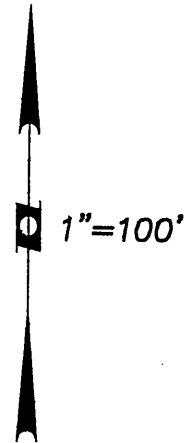
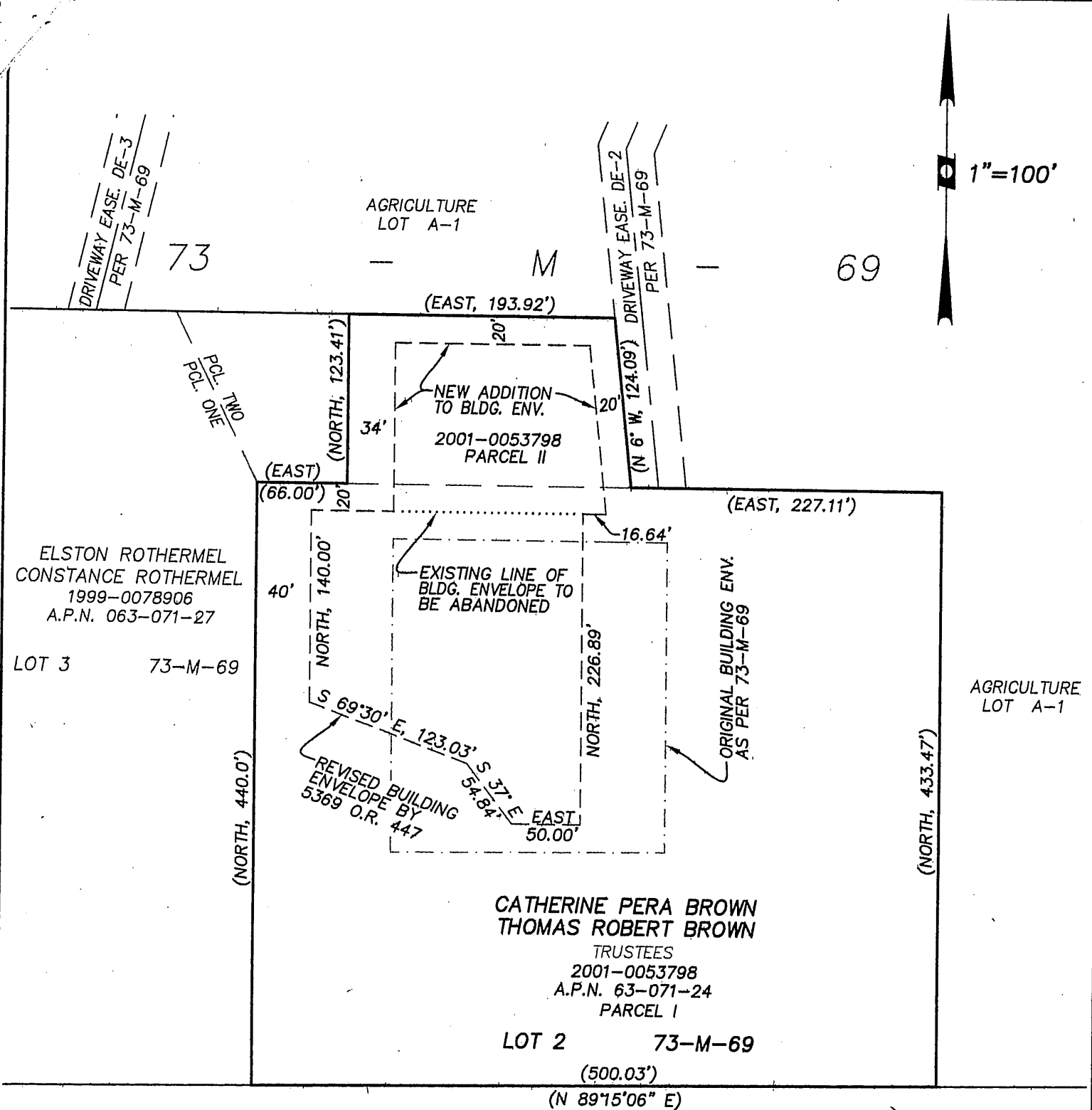


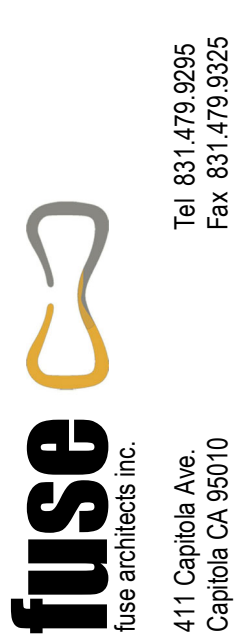
EXHIBIT "A"

1" = 100'

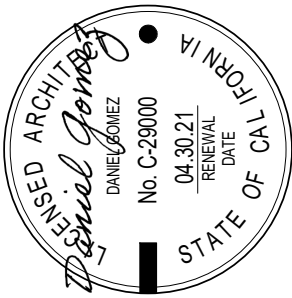
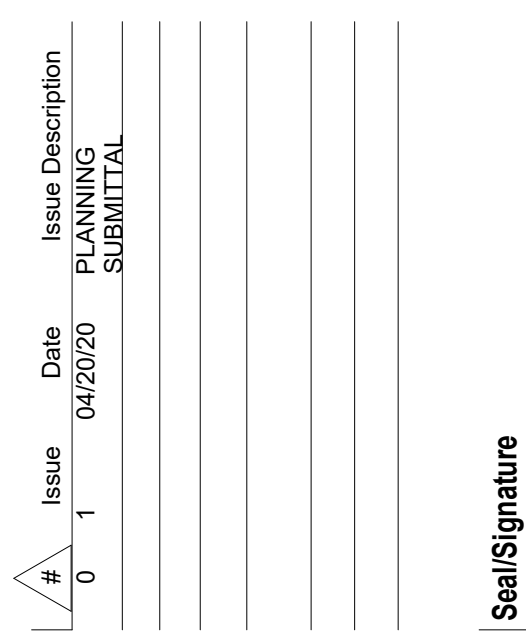
BY: MICHAEL F. BEAUTZ, C.E.
AUGUST 2003

Brisa Del Mar

575 Brisa Del Mar, Santa
Cruz CA, 95060



AERIAL PERSPECTIVE OF NEIGHBORHOOD CONTEXT



Project Name
Brisa Del Mar

Project Number
APN #: 06307124

Description	LOCATION MAP
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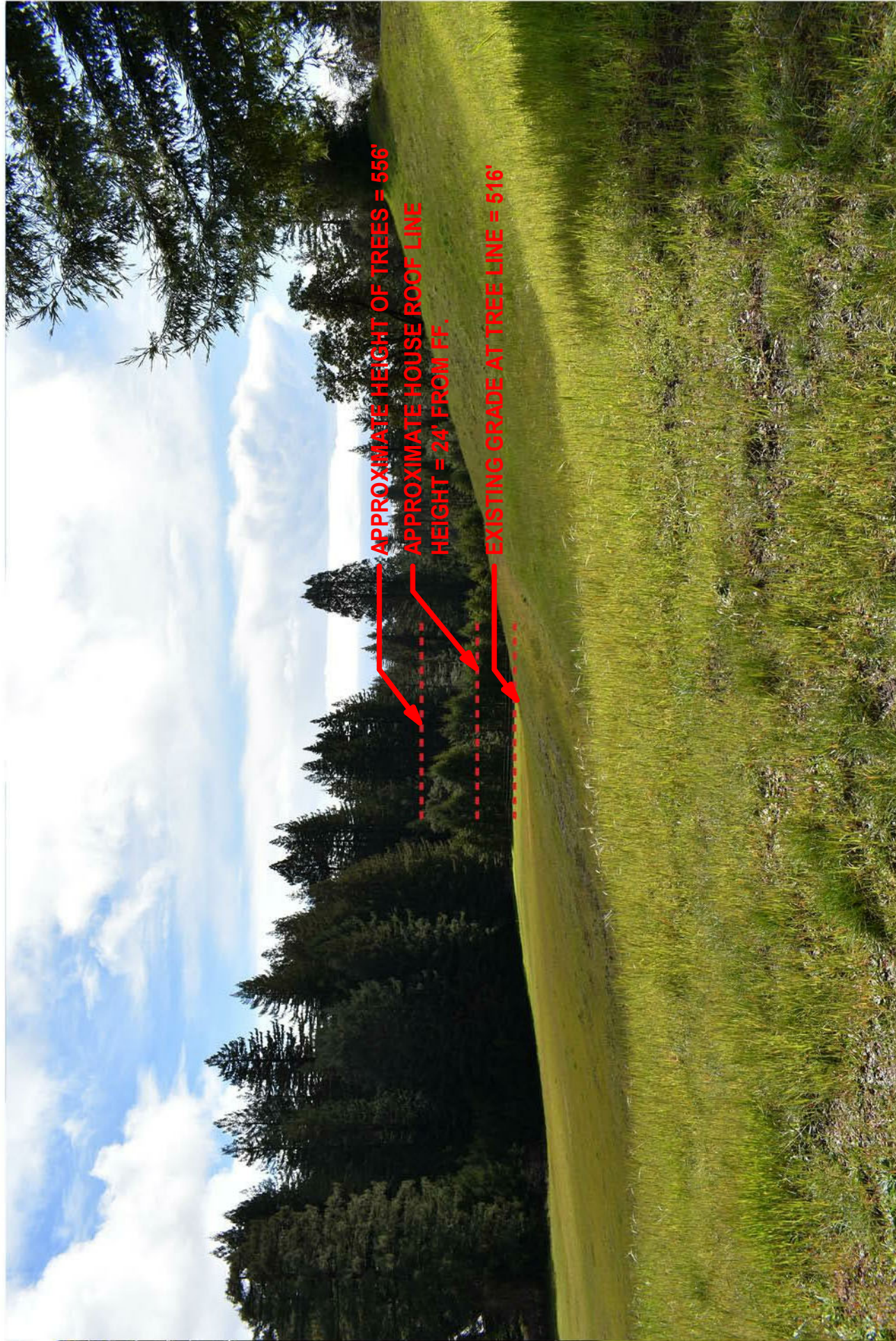
Scale

A0.2

© 2018 Fuse



A) VIEW FROM BRISA DEL MAR: SEE AERIAL



B) VIEW FROM BRISA DEL MAR: SEE AERIAL

OSPC Meeting Minutes September 24, 2020

Remote Meeting via TEAMS

Participating:

Jocelyn Drake, Principal Planner

David Sanford, Deputy Ag Commissioner stand in FOR Ag Commissioner , Juan Hidalgo

Sheri Thomas, Chief Deputy Assessor

Jeff Gaffney, Parks Director

Jerry Busch, Senior Planner

Annette Olson, Principal Planner

1. Introductions
2. Staff presentation
3. Discussion:
 - a. Mr. Gaffney asks when the current property owner purchased the property and whether discovery of the OSE would have been apparent as a part of pre-purchase due diligence.
 - b. Ms. Drake mentions the processing history anomalies of the adjustment that created the current parcel configuration without amending the original Open Space Easement.
 - c. Ms. Thomas points out that the property is not currently being assessed at a lower value reflective of the OSE.
4. Mr. Gaffney makes a motion to support the staff recommendation. Ms. Drake seconds the motion, and the recommendation of approval is unanimously supported.