



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

TOM BURNS, PLANNING DIRECTOR

Agenda Date: September 27, 2006

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

Agenda Date: 9/27/06

Item #: 7

Time: After 9 AM

APN: 051-701-13

Application: 06-0269

Subject: Public Hearing to consider an appeal of the Zoning Administrator's decision to approve Application 06-0269, a proposal to construct various improvements on APN 051-701-13 within the riparian setback adjacent to Kelly Lake.

Members of the Commission:

This item is an appeal of the Zoning Administrator's July 7, 2006 decision to approve Application 06-0269, a proposal to construct: a detached garage with under floor storage, retaining wall (33 feet), recognize a PVC sheet pile wall (115 feet) and to install a lakeside revegetation plan within the lake setback. The property is located at 45 Cutter Drive, Watsonville and is in the Pajaro Valley Planning Area.

BACKGROUND

The property owner applied on June 28, 2005, under development application 05-0406, to construct a split-level garage/boathouse with attached docks and concrete boat ramp, to recognize a PVC sheet-pile wall, and to implement a shoreline revegetation plan. The Zoning Administrator approved this application, without the concrete boat ramp, on November 18, 2005. This action was subsequently appealed on December 2, 2005. Following a public hearing on this application on January 25, 2006, your Commission upheld the appeal and denied Application 05-0406. During that hearing, Commissioners expressed concern about the overall size of the structure, extension of the boathouse into Kelly Lake, lot coverage and the ability of vehicles to safely turn around at the end of Cutter Drive extension.

The applicant has redesigned the project and has reapplied for a Riparian Exception under Application 06-0269. The new proposal has retained the approximate location and size of the previously proposed garage (616 sq.ft.) with under floor storage (132 sq.ft.). The new plans also retain a sheet pile wall (115 feet), and implementation of a lakeside revegetation plan as originally proposed in application 05-0406:

The following items proposed in application 05-0406 have been eliminated in this proposal: the boathouse with attached dock areas (approximately 788 sq.ft.); the concrete boat

ramp; and the garage bathroom

The project has been scaled back in scope significantly with no development proposed in the waters of Kelly Lake.

This application was heard by the Zoning Administrator, and was approved, based on Riparian Exception Findings and revised "Conditions of Approval" (Exhibits A, B, and C, respectively) on July 7, 2006. On July 20, 2006, an appeal to the Zoning Administrators decision on Application 06-0269 was filed with the Planning Department. Letters accompanying the appeal and received subsequent to that filing are included as Exhibits F, G, and H.

ANALYSIS AND DISCUSSION

The project site is located on the south side of Kelly Lake (45 Cutter Drive) in southern Santa Cruz County (vicinity map and project plans are attached as Exhibit D). The parcel is unique within this residentially developed area of Kelly Lake because the majority of the one-acre parcel is underwater with only a small section composed of dry land (an approximate area extending 50 feet back from waters' edge along 200 feet of shoreline). Exhibit depicts the parcel boundaries in relation to the edge of Kelly lake. In addition, the south side of the parcel is constrained by a right-of-way for vehicle access.

The area in which the garage is proposed is already used for parking and storage, and is the only remaining dry section of land on the parcel. Since the entire parcel lies within the 100-foot Riparian Corridor & Wetlands Protection setback established by Santa Cruz County Ordinance (16.30.030) a riparian exception is required.

ISSUES ON APPEAL OF ZONING ADMINISTRATOR'S ACTION

Each issue is addressed below in chronological order, as raised in the appellant's letters, followed by staff response.

Letter of Brandon & Trisha Kett dated, July 4, 2006

Approval would set a new precedent for future structures on Kelly Lake: This property is unique in comparison to almost all other parcels bordering Kelly Lake because the parcel is entirely within the 100-foot riparian corridor & wetland protection setback established by the County of Santa Cruz (Chapter 16.30). For this reason, the Planning Department does not feel that granting the applicant a Riparian Exception is setting a new precedent for future development. Each application is determined on a case-by-case basis with consideration given to site constraints and the quality of the affected riparian habitat. In addition, in order to address concerns expressed by Commissioners during the appeal hearing on Application 05-0406, this proposal would not result in construction of a boathouse extending into Kelly Lake.

Concern over Vehicle Clearance & Safety: This section of Cutter Drive extension is narrow and does require close attention from motorists during periods of ingress and egress.

However, the construction of the garage will not create any new safety-related issues. The area in which the garage is proposed has been used for vehicle parking and storage area for many years. The proposed plan does not indicate that the garage will obstruct any portion of the existing right-of-way or exacerbate the existing parking situation.

Letter of Richard Yando dated, July 7, 2006

Concern that Application 06-0269 is not substantially different than the previous proposal: The original project was a split-level garage/boathouse with attached docks that measured 1,636 sq. ft. The redesigned project includes a two-car garage with under floor storage (748 sq.ft.) and no development proposed within the waters of Kelly Lake. The project impact has been significantly reduced from the original proposal.

No other garages are within 25 feet of Kelly Lake: This particular one-acre parcel has physical constraints that most other parcels in this residentially developed area do not have. The majority of this parcel is underwater with only a small section composed of dry land. The developable portion of the property is a 50-foot wide strip of land running from the edge of Kelly Lake to Cutter Drive.

Removal of riparian vegetation, and lack of vegetation re-growth because of sheet pile wall: There has been a loss of riparian vegetation with the installation of the sheet pile wall. A revegetation plan has been reviewed and approved by the Planning Department. The plan has been designed to increase wildlife habitat and provide visual screening for the sheet pile wall.

Concerns over installation of PVC sheet pile wall without an approved permit: The sheet pile wall was installed to protect the home and existing shoreline from wave erosion (generated by recreational boating and wind). The permitting process is addressed through this application.

Desire for conversion of existing second unit back to original garage: The existing second unit was permitted by the previous owner under Residential Development Permit #98-0359. There is no nexus for the Planning Department to require the conversion back to a garage.

Concerns regarding preserving open space and aesthetic surroundings: The garage is proposed in an area that is already used for parking and storage and will not intrude into the waters of Kelly Lake. Planning Department staff has determined that this development proposal adheres to all applicable codes and policies of the Zoning Ordinance and General Plan/LCP policies.

Letter of neighbors dated, July 18, 2006

The Planning Commission upheld the appeal of Application 05-0406 based on a review of adjacent land usage and adherence to the Riparian Code, not based on the size of the structure: The Commission was concerned about the size of the structure and encroachment of the structure into the lake. The Commission adopted the following

findings for denial of Application 05-0406 (Exhibit I) that consistently document this concern:

Development Permit Findings

(5.) That the proposed project will compliment 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.

"The design of *garage/boathouse*, as proposed, is inconsistent with similar development along the shore of Kelly Lake in that the *1,472 square* foot size of the building is *considerably* larger than other detached structures in the vicinity.

Riparian Exception Findings

(2.) That the exception is necessary for the proper design and function of some permitted or existing activity on the property.

"Since the entire parcel lies within the riparian area and is subject to the "Riparian Corridor & Wetlands Protection Ordinance" (Chapter 16.30), any development proposed on this parcel would require approval of a riparian exception. This finding cannot be made for the proposed project at this time because there appears to be design alternatives available that can eliminate encroachment into the lake and still allow the permitted and existing activity".

(3.) That the granting of the exception will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located.

"This finding cannot be made in that the project could potentially be detrimental to neighboring properties due to the size and bulk proposed. Accessibility to the lake for recreational purposes can be achieved by one or more of the following methods: using a dock at the back of the house, using the launch ramp at the Paiaro Valley Rod & Gun Club, or possible sharing the use of the neighbor's existing launch ramp at 41 Cutter Drive (APN 051-701-15) such that the larger boathouse is not required to provide adequate access to the lake."

(5.) That the granting of the exception is in accordance with the purpose of this Chapter, and with the objectives of the General Plan and Elements thereof, and Local Coastal Program Land Use Plan.

"The purpose of the riparian ordinance is to eliminate or minimize development activities in riparian/wetland areas so as to protect wildlife habitat, water quality, open space and to allow for the conveyance and storage of floodwaters. This finding cannot be made because the project as designed does not minimize development activities into the lake when other design alternatives that completely eliminate encroachment into the lake are available.

Foundation of the garage is two-feet into Kelly Lake, and not 100 feet away: In response to similar concerns expressed at the public hearing, the Zoning Administrator added the following "Condition of Approval" to the application: "A minimum 20-foot setback of structures to the edge of the right-of-way shall be maintained and a minimum 5 feet from

shoreline (56 foot contour). This shall be staked in the field and verified by staff prior to foundation pour" (Exhibit C).

On September 19th, staff visited the site for the purpose of viewing stakes that had been placed by a surveyor to document the setbacks described above. Our observations indicate that one corner of the structure is approximately 1 foot from the lake shoreline and would not meet the 5 foot setback requirement established in the Conditions of Approval. In order to ensure compliance with this Condition of Approval, we suggest that your Commission add a requirement that, prior to submission for a Building Permit, the applicant reduce the size of the garage. The design will allow for this because, as currently proposed, the garage is 25 feet deep to provide for storage space. A reduction in size to a 20 foot deep structure will ensure that all required setbacks are met. Such a Condition has been added to the recommendation at the conclusion of this report.

Finally, the owner has made application for a riparian exception which, if granted, allows for a reduction in the 100 foot setback prescribed in the Riparian Corridor & Wetlands Protection ordinance (Chapter 16.30).

Concerns regarding the fairness and impartiality of the hearing: The Zoning Administrator held the public hearing according to established procedures. The applicant was provided an opportunity to testify, and the neighbors and other members of the public were allowed a similar duration of time to testify as well. Staff members from the Planning Department submitted their recommendations, and the appellants and applicant were given the opportunity to ask questions of them. It is the position of Planning Staff that the hearing was fair and impartial, and we therefore **do** not believe that this issue would be an appropriate reason for supporting the appeal.

No compelling need or supportive justification for construction of the garage: The owner does not currently have a garage and the garage is proposed in an area already used for parking and storage. A garage is a usual and customary accessory structure for a single family dwelling, which will actually reduce the usual impacts of parked automobiles in this location.

SUMMARY

Application 06-0269 proposes the construction of a 748 square foot detached garage with under floor storage. This is approximately a 50 percent reduction in the square footage of improvements proposed under the previous application considered by your Commission under appeal. Planning staff believes that Application 06-0269 is responsive to the concerns expressed by your Commission concerning the previous proposal, as documented in the adopted Findings for Denial. As previously stated, the subject parcel is extremely constrained due to the limited amount of developable area that exists between the Kelly Lake shoreline and Cutter Drive. Due to these constraints, a Riparian Exception is required for any construction on the property.

In light of the recent determination that, as currently proposed, the garage will not meet the lakeshore setback approved by the Zoning Administrator, we recommend the addition of a

Condition of Approval requiring that plans accompanying the application for a Building Permit reflect a reduction in size of the structure. With this reduction in size to ensure that the 5 foot setback from the shoreline will be met, the modestly-sized garage proposed under Application 06-0269 will not unduly impact riparian resources, and the implementation of the shoreline revegetation plan will restore and enhance those resources.

While we believe that the current proposal adequately speaks to your concerns regarding the previous application in terms of the size of the structure and its location relative to the edge of Kelly Lake, your Commission can certainly revisit concerns that the site, given its constraints, would be overbuilt if the applicant is allowed to construct the garage, as proposed.

RECOMMENDATIONS

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

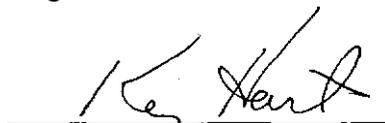
- 1) Add a Condition of Approval to Application 06-0269 requiring that building plans reflect a reduction in the size of the garage from 25 to 20 feet in depth to ensure that the 5 foot setback from the shoreline of Kelly Lake is met;
- 2) Uphold the Zoning Administrator's approval of Application 06-0269 based on the "Findings" and "Conditions of Approval" contained in Exhibits B and C, respectively; and.
- 3) Certify that the project is exempt from further environmental review under the California Environmental Quality Act (CEQA).

Sincerely,



Bob Loveland
Resource Planner
Environmental Planning

Reviewed By:



Ken Hart
Principal Planner
Environmental Planning

Exhibits:

- A. Staff Report to the Zoning Administrator, originally heard on 7/7/06
- B. Riparian Exception Findings
- C. Conditions of Approval

- D. Site Plan
- E. Location Map
- F. Appeal letter, prepared by Brandon & Trisha Kett, dated 7/4/06
- G. Appeal letter, prepared by Richard Yando, dated 7/7/06
- H. Appeal letter, prepared by the following neighbors: Frank & Nancy Remde, Richard & Candida Yando, Mike & Joelle Treanor, Stephen & Therese Felder and Brandon & Trisha Kett, dated 7/18/06
- I. Planning Commission "Findings for Denial" of Development Permit 05-0406



Staff Report to the Zoning Administrator

Application Number: **06-0269**

Applicant: Ron Gordon
Owners: Joseph & Tila Guerrero
APN: 051-701-13

Agenda Date: **July 7, 2006**

Time: After 10:00 a.m.

Project Description: Proposal to construct a 748 square foot detached garage; construct 33 feet of concrete block retaining wall; recognize the installation of 115 feet of PVC sheet piling wall and installation of a "lakeside revegetation plan".

Location: Property located on the west side of a 20-foot right-of-way, about 200 feet north of Cutter Drive, at 45 Cutter Drive in Watsonville.

Supervisory District: Fourth District (District Supervisor: Campos)

Permits Required: Riparian Exception

Staff Recommendation:

- Approval of Application 06-0269, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Exhibits

- A. Project plans
- B. Riparian Exception Findings
- C. Conditions of Approval
- D. Categorical Exemption (CEQA determination)
- E. Assessor's parcel map/Location map

Parcel Information

Parcel Size:	1.14 acres
Existing Land Use - Parcel:	Single-family dwelling
Existing Land Use - Surrounding:	Single-family dwellings, Kelly Lake
Project Access:	College Road to Cutter Drive
Planning Area:	Pajaro Valley
Land Use Designation:	R-UL (Urban Low Density Residential)

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

APN: 051-701-13

Owners: Joseph & Domitila Guerrero

Zone District: R-1-10 (Single-family Residential/10,000 sq ft min lot)

Coastal Zone: Inside OutsideAppealable to Calif. Coastal Comm. Yes No**Environmental Information**

Geologic Hazards: Mapped floodplain north adjacent to Kelly Lake, CFZ
 Soils: Watsonville loam
 Fire Hazard: Not a mapped constraint
 Slopes: 2 – 15 percent slopes, rear of lot slopes down to Kelly Lake
 Env. Sen. Habitat: Mapped resources but no physical evidence on site
 Grading: Less than 100 cubic yards
 Tree Removal: No trees proposed to be removed
 Scenic: Not a mapped resource
 Drainage: Existing drainage adequate
 Traffic: No significant impact
 Roads: Existing roads adequate
 Parks: Existing park facilities adequate
 Archeology: Mapped but not in project area. Scope of project will not impact resource.

Services Information

Urban/Rural Services Line: Inside Outside
 Water Supply: City of Watsonville
 Sewage Disposal: Salsipuedes Sanitation District
 Fire District: Pajaro Valley Fire Protection District
 Drainage District: Zone 7 Flood Control/Water Conservation District

History

The site is developed with an existing single-family dwelling and garage constructed in 1974. The garage was subsequently converted to a second unit under Residential Development Permit 98-0359, with technical reviews for a Riparian Exception and Geologic Hazards Assessment completed under development applications 98-0371 & 97-0089.

The owner applied (June 28, 2005) for a garage/boathouse under (05-0406 & 51335G). The development application (05-0406) was heard and approved by the Zoning Administrator on November 18, 2005. An appeal of the Zoning Administrator's decision was received by the Planning Department on December 2, 2005. The Planning Commission heard the appeal and overturned the Zoning Administrator's decision on February 22, 2006. Although the Planning Commission upheld the appeal based on the overall size of the project and impact to the lakeshore habitat, they were not opposed to all development within the project area.

The owner has recently reapplied for permits (06-0269 & 59218G) on this parcel. The owner has redesigned and reduced the size of the project from (1,636 square feet to 748 square feet) by eliminating the boathouse, dock areas and a reduction in storage area.

This application was accepted on May 18, 2006 and deemed complete on June 1, 2006.

Project Setting

The project is located at 45 Cutter Drive in Watsonville in the Pajaro Valley Planning Area. The 1.14 acre project site is located in a developed residential area immediately adjacent to Kelly Lake. The proposed garage is located above the 63.5 foot flood elevation determined by Mid Coast Engineers (Exhibit A).

Zoning & General Plan Consistency

The subject property is a 1.14-acre parcel, located in the R-1-10 (Single-family Residential with a 10,000 square foot minimum lot size) zone district, a designation that allows non-habitable accessory uses when appurtenant to existing single-family residential development, as per County Code Section 13.10.322. County Code Section 13.10.611 allows accessory structures in the R-1-10 zone district subject to conditions that restrict the use. A Declaration of Restriction to Maintain the Structure as Non-habitable is required to be recorded as a Condition of Approval for this application.

The proposed non-habitable accessory structure is an allowed use within the zone district and the project is consistent with the site's (R-UL) Urban Low Density Residential, Urban Open Space, Lakes/Reservoirs and Lagoons General Plan designation. The development is also consistent with County Code Section 16.30 (Riparian Corridor and Wetlands Protection).

Environmental Review

Environmental review has not been required for the proposed project per the requirements of the California Environmental Quality Act (CEQA) as the project qualifies for a Categorical Exemption (CEQA Guidelines Section 15303 - New construction of Small Structures).

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP.

Staff Recommendation

- **APPROVAL** of Application Number 06-0269, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

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

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

Report Prepared By: Bob Loveland
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060
Phone Number: (831) 454-3163
E-mail: pln319@co.santa-cruz.ca.us

RIPARIAN EXCEPTION FINDINGS

1. THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE PROPERTY.

Any development proposed on this parcel would require granting a riparian exception since the entire parcel lies within the one hundred foot setback (setback required by the "Riparian Corridor & Wetlands Protection" ordinance).

2. THAT THE EXCEPTION IS NECESSARY FOR THE PROPER DESIGN AND FUNCTION OF SOME PERMITTED OR EXISTING ACTIVITY ON THE PROPERTY.

There is an existing single-family residence and second unit on the parcel but no garage. The previous property owner converted the garage on the property into a second unit which was recognized by the planning department under building application # 27922M. The proposed garage and retaining wall are both permitted uses on the property and the current property owner would like to construct a garage in the only feasible area left on the parcel. The PVC sheet-piling wall placed along the shoreline was installed as an erosion control device and without a permit. The sheet-piling wall is being recognized "as built" because removal would cause unnecessary disturbance to the lake environment. As part of the revegetation plan, bulrush will be planted along the entire length of the sheet-piling wall (water side) in order to screen it from the lake and eliminate wave refraction from boating activities.

3. THAT THE GRANTING OF THE EXCEPTION WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO OTHER PROPERTY DOWNSTREAM OR IN THE AREA IN WHICH THE PROJECT IS LOCATED.

*The granting of this exception will not be detrimental to the public welfare or injurious to other property downstream or in the area **in** which the project is located. In fact, there **will** be a net environmental benefit to the site after the approved revegetation plan has been installed and established (Exhibit A).*

4. THAT THE GRANTING OF THE EXCEPTION, IN THE COASTAL ZONE, WILL NOT REDUCE OR ADVERSELY IMPACT THE RIPARIAN CORRIDOR, AND THERE IS NO FEASIBLE LESS ENVIRONMENTALLY DAMAGING ALTERNATIVE.

The parcel is located outside the coastal zone.

5. THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF THIS CHAPTER, AND WITH THE OBJECTIVES OF THE GENERAL PLAN AND ELEMENTS THEREOF, AND THE LOCAL COASTAL PROGRAM LAND USE PLAN.

The purpose of the riparian and wetland protection ordinance is to eliminate or minimize development activities in riparian/wetland areas so as to protect wildlife habitat, water quality, open space and to allow for conveyance and storage of floodwaters. This finding can be made because the garage is placed in an area that does not provide wildlife habitat, nor will the water quality and storage of floodwaters within the lake be negatively affected. The garage has been designed to meet all requirements set forth by the Federal Emergency Management Agency (FEMA).

Conditions of Approval

1. This permit authorizes the construction of a one-story habitable accessory structure of 748 square feet, consisting of a garage and storage area; retaining wall (33 feet); recognize a PVC sheet pile wall (115 feet) and installation of a lakeside revegetation plan. Prior to exercising any rights granted by the permit including, without limitation, any occupancy, 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
 - C. Submit proof that these conditions have been recorded in the Office of the County Recorder.

- II. Prior to issuance of the Building Permit the applicant/owner shall:
 - A. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include, but not be limited to, the following:
 1. An erosion/sediment control & drainage plan.
 2. A surveyed plot plan prepared by a licensed engineer is required. Plans shall indicate all property lines and right-of ways and the water boundary. **A** minimum 20-foot setback of structures to the edge of the right-of-way shall be maintained and a minimum of 5 feet from shoreline (56 contour). This shall be staked in the field and verified by staff prior to foundation pour (added at ZA hearing 7/7/06).
 3. Complete and record a Declaration of Restriction to maintain the garage as a non-habitable accessory structure. You may not alter the wording of this declaration.
 4. All Environmental Planning requirements shall be met including grading and revegetation plan implementation.

- III. All construction shall be performed according to the approved plans for the building permit. For reference in the field, a copy of these conditions shall be included on all construction plans. Prior to the final building inspection clearance; the following conditions must be met:

- A. All site improvements shown on the approved building permits plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the Building Official.
- C. The planting of bulrush (*Scirpus acutus*) along the length of the PVC sheet pile wall shall be completed as per "Sheet L1" by Ward Hastings (Exhibit A) prior to final inspection or within 12 months whichever occurs first (added at ZA hearing 7/7/06).
- E. Erosion control measures must be in place and all disturbed soils shall be stabilized to prevent siltation in the lake.
- F. A site inspection is required prior to final Planning Department approval of the proposed work; notify Environmental Planning at (831) 454-31 63 prior to project completion for final inspection and clearance.
- G. All work shall conform to the recommendations of the approved technical reports.
- H. 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 archeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from further site excavation and notify the Sheriff-Coroner if the discovery contains human remains and the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100 shall be observed.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any conditions of the 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.
- B. The non-habitable accessory structure shall not have a kitchen or food preparation facilities, toilet and shall not be rented, let or leased as an independent dwelling unit.
- C. The revegetation project approved shall be maintained in healthy condition in perpetuity. An annual revegetation progress report, for ~~3 to~~ 5 years, shall be completed by Ward Hastings, or other qualified professional, and submitted for review to Environmental Planning. All recommendations made by the revegetation specialist and/or county personnel regarding the revegetation process shall be completed.

- V. **As** a condition of this development approval, the holder of this development approval (“Development Approval Holder”), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys’ fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
1. COUNTY bears its own attorney’s fees and costs; and
 2. COUNTY defends the action in good faith
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
- D. Successors Bound. “Development Approval Holder” shall include the applicant and the successor’(s) in interest, transferee(s), and assign(s) of the applicant.
-

Approval Date: _____

Owner: Joseph & Domitila Guerrero
Application #: 06-0269
APN: 051-701-13

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

Bob Loveland
Project Planner

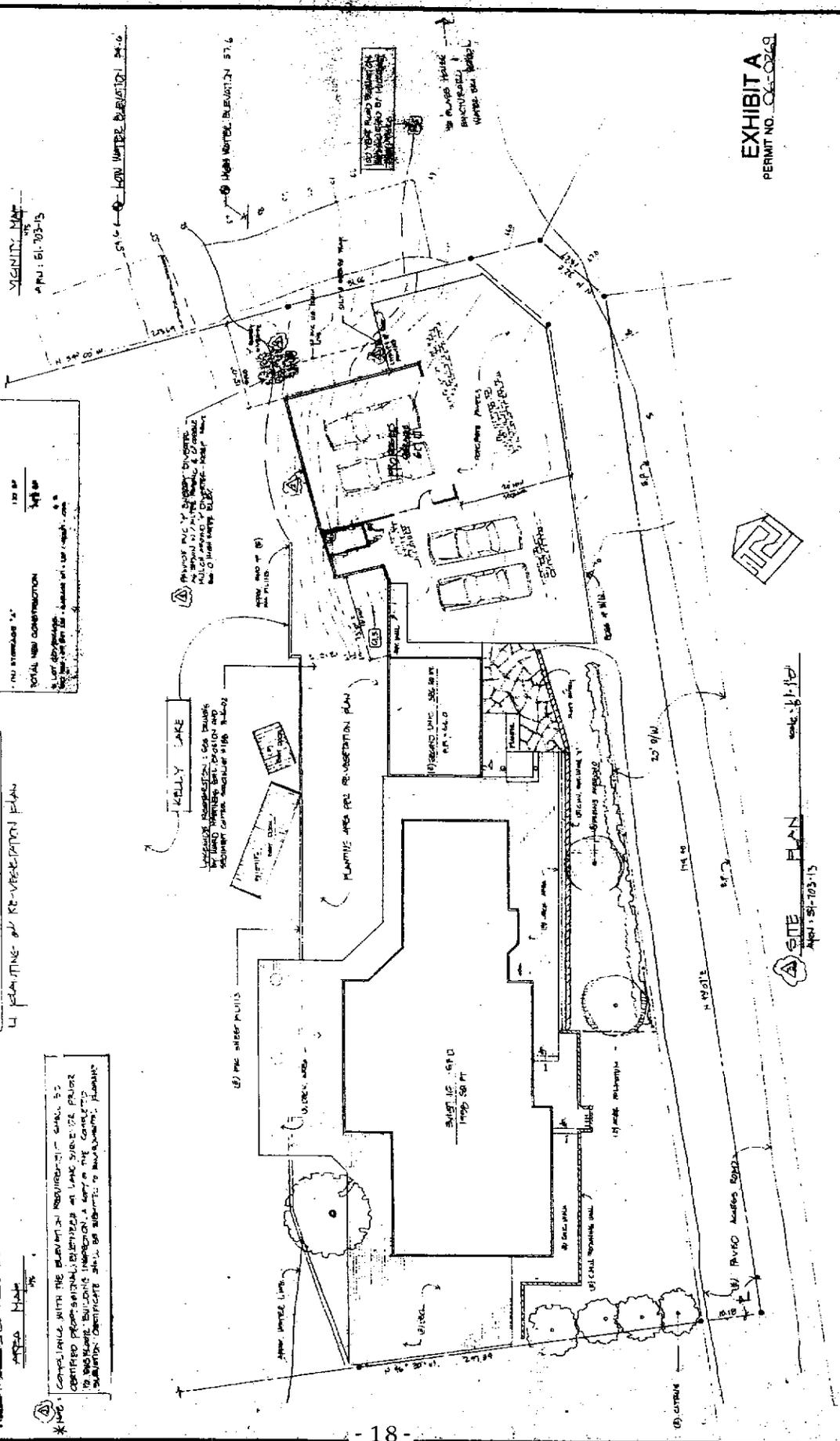
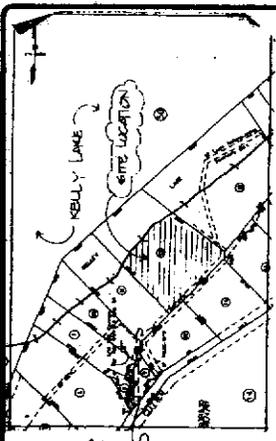
In accordance with Chapter 18.10 of the County Code, minor variations to this permit which do not affect the overall concept, intensity, or density may be approved by the Planning Director at the request of the applicant or staff.

NOTE: THIS PERMIT EXPIRES TWO YEARS FROM THE DATE OF APPROVAL UNLESS YOU OBTAIN YOUR BUILDING PERMIT AND COMMENCE CONSTRUCTION.

DATE	11/1/75
BY	J. J. ...
CHECKED BY	J. J. ...
SCALE	AS SHOWN
PROJECT NO.	SI-703-15
SHEET NO.	1



DATE	11/1/75
BY	J. J. ...
CHECKED BY	J. J. ...
SCALE	AS SHOWN
PROJECT NO.	SI-703-15
SHEET NO.	1



SCOPE OF WORK:
CONSTRUCT 1 CAR GARAGE WITH TOLAT ROOM

PROJECT DATA

ZONE	R-1000
RETRACES FRONT-30	REAR-20
LOT SIZE	49,841 SF
LOT COVERAGE (MAXIMUM)	1.4 ACRES
FRONT Y. SETBACK	14.00 FT
REAR Y. SETBACK	14.00 FT
NO. OF DWELLING UNITS	1
NO. GARAGES	1
TOTAL NEW CONSTRUCTION	1,100 SF
NO. STAMPEDES	1
NO. OF DWELLING UNITS	1
NO. OF GARAGES	1
TOTAL NEW CONSTRUCTION	1,100 SF

GARAGE & BOAT GARAGE FOR MR. & MRS. JOSEPH GUERRERO

SHEET INDEX

A1	SITE PLAN
A2	FOUNDATION PLAN
A3	FLOOR FINISHING PLAN
A4	STAIR DETAILS
A5	NO. OF FINISHING PLAN
A6	CONNECTION DETAILS
A7	FOUNDATION DETAILS
A8	STRUCTURAL SECTION
A9	GENERAL NOTES
A10	FOUNDATION SCHEDULE
A11	FOUNDATION SCHEDULE
A12	FOUNDATION SCHEDULE
A13	FOUNDATION SCHEDULE
A14	FOUNDATION SCHEDULE
A15	FOUNDATION SCHEDULE
A16	FOUNDATION SCHEDULE
A17	FOUNDATION SCHEDULE
A18	FOUNDATION SCHEDULE
A19	FOUNDATION SCHEDULE
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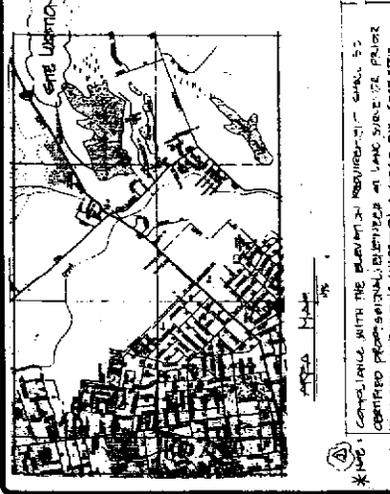
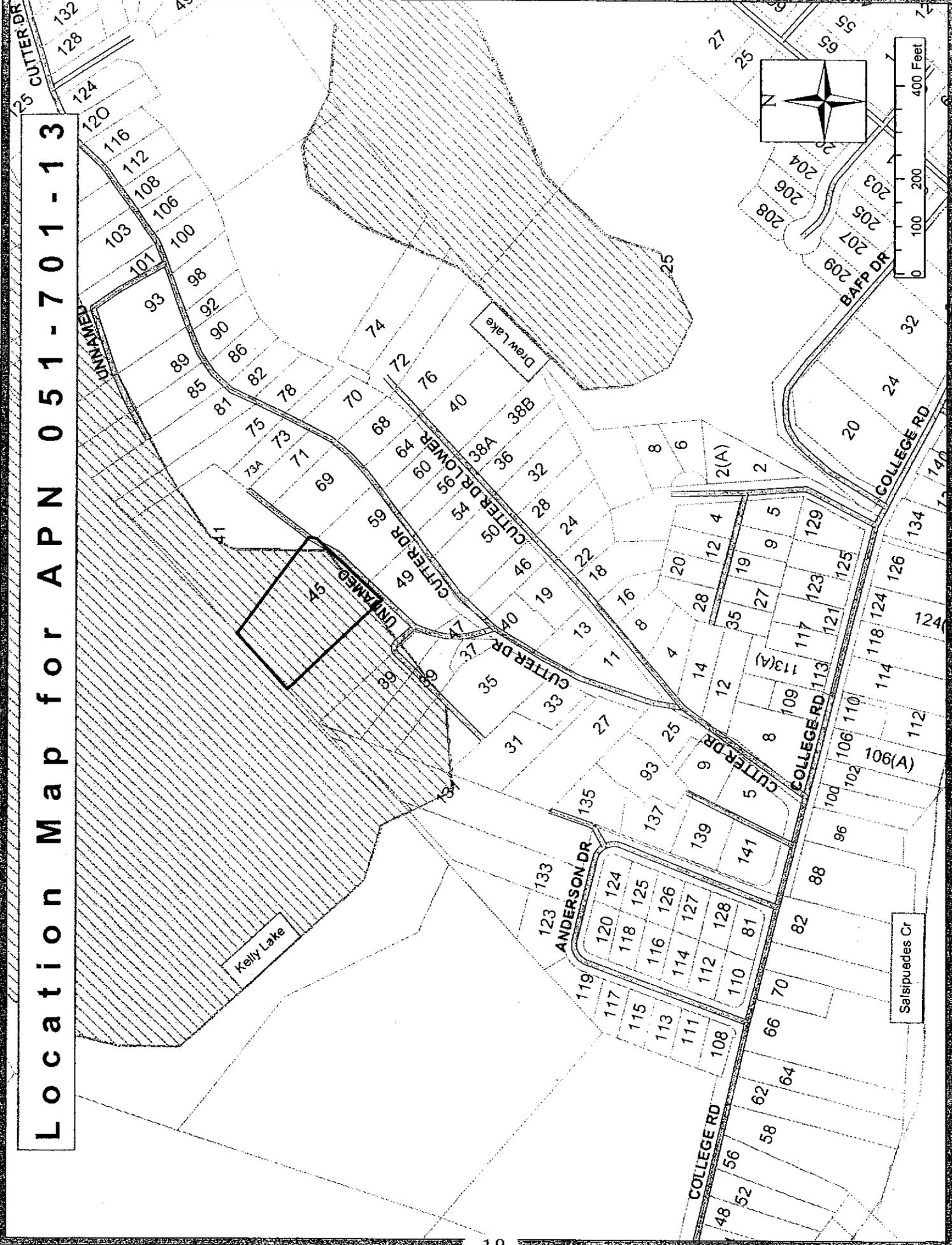


EXHIBIT A
PERMIT NO. C-02028

SITE PLAN
SCALE: 1/8" = 1'-0"

Location Map for APN 051-701-13



VIA FAX 454-2131

7/4/2006

Zoning Administrator and
Environmental Planning
c/o Bob Loveland
701 Ocean St, Room 400
Santa Cruz, CA 95060

RE: app. # 06-0269 45 Cutter Dr. Watsonville

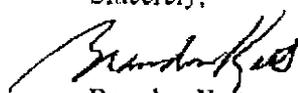
Dear Mr. Loveland,

My name is **Brandon Katt**. My wife **Trisha** and I live at 39 Cutter Dr., next door to Mrs. Guerrero. We understand that Mrs. Guerrero is now applying for a **garage** to be built on her land that borders Kelly Lake in the riparian corridor. Our understanding is that the main purpose of the riparian comdor law is to protect the natural open space and habitat of wetlands. When I applied to add on to my house in 1982, environmental planning required that I not disturb the riparian shoreline in any manner. If you grant her a ripnrian exception, you will be **setting a new precedent** for future structures on Kelly Lake. We are very concerned about **such a change**.

At the **planning** commission hearing of 1-25-06, I expressed my concern about there being enough mom for **cars or trucks to turn around at the site**. Cars and trucks often have to back up the long narrow driveway because of this lack of space. It is dangerous, and a car from 45 Cutter crashed into my **fence** and carport causing \$7000 **worth** of damage while backing up. In fact, at this hewing, Commissioner Messer stated that a **garage** does not need to be built at the site. He noted that the **property** had a garage and convened it to a **granny unit**. He seemed to imply that she should convert the **granny unit** back to a garage. That way she would not be disturbing the **riparian corridor** and would have more room for turning around at the site.

We urge you to deny the requested **riparian** exception in order to protect the wildlife habitat and open space of Kelly Lake. Thank you for listening.

Sincerely,


Brandon Kett


Trisha Kett

39 Cutter Dr.
Watsonville CA 95076

(831) 818-2139

July 7, 2006

Mr. Don Bussey
Supervising Planner

My name is Richard Yando. I live at 41 Cutter drive. We local neighbors are truly disappointed that everyone here is again taking time to discuss this same proposal. This is the exact same garage footprint which the Planning Commission has previously denied. The Planning Commission specifically ruled against the proposed boat house, this garage, and voided the Riparian exemption.

At that time it was shown that there are no other garages within 25 feet of Kelly Lake. I have also measured the proposed location from my property lines and confirmed that the foundation will extend 2 feet out into the water and the roofline will extend out even further.

Photo #1 shows all the natural vegetation along the shoreline that existed in the year 2000.

Photo #2 shows the Riparian vegetation being removed and the wall installed in the water nearly the length of the property. This was in August of 2003, but the permit was to only replace the existing 20 foot long fence. And that permit was signed off as completed in January 2002, nineteen months prior? That is why the previous application included "recognizing" the new shore line wall.

Photos 3, 4 and 5 show the current condition of the Riparian Corridor. A full three years after the wall was constructed there is still absolutely no vegetation in front of or behind the wall.

Photo #6 displays the fact that since the owner has converted the existing garage into a rental unit, there is just that much less room for parking. When this photo was taken, the applicant has two cars parked in my driveway and the car in the foreground is parked on my front yard! It is our position the existing garage can easily be converted back to a functioning garage.

The next attachment is our requests which have not been responded to as of this date.

The last attachment is the County document defining the Riparian Corridor. Of the 5 objectives, this property is in gross violation of the last 3, and most importantly "Preserving open space and aesthetic surroundings" so that this and future generations may benefit from and enjoy our lakes and streams.

In conclusion, we again stress the fact that the Planning Commission has already reviewed this garage plan and has denied it based on adjacent property setbacks as seen from aerial photographs. This is the fifth hearing that all four adjacent neighbors have attended regarding this property, which verifies the importance of this unprecedented construction. So we are again asking that you uphold the building code which we have all adhered to, not allow the pouring of concrete into Kelly Lake.

Thank you for your time.

Richard Yando





1

2000



2

August 2003 Removal of vegetation and start of wall



Current condition of shoreline,
no vegetation 3 years after shoreline wall was installed



5

Current shoreline condition



45

6

Lack of parking

The proposed project is unprecedented on Kelly Lake since the inception of Chapter 16.30, and that there are no other garages within 25 feet of the lake

That a previous Riparian Corridor exemption had been granted for the conversion of the original garage to a utility room and subsequently into a secondary living unit.

The building to land density of this property is more than three times that of the neighboring properties; 80 percent of the property is covered by water. That in its natural state, this land would not be buildable today based on present building codes.

Our measurements place the foundation of this structure 2 feet into the protected water instead of the required 100 feet away.

We discussed the un-permitted shoreline wall, total destruction of the shoreline vegetation, and prospect of additional habitat and wildlife loss resulting from further construction.

This plan is in gross violation of the objectives of the Riparian Code, most importantly to "Preserve open space and aesthetic surroundings" of our lakes and streams.

"WAS THE HEARING FAIR AND IMPARTIAL?" NO. It was again apparent from the outset, that the Zoning Administrator was predisposed to approve the project regardless of what we said. We stressed the importance of enforcing building codes equitably and granting exemptions only under truly unusual circumstances which would otherwise result in hardships. Neighbors described how they have adhered to the Riparian Corridor while the applicant was being granted an exception without justification.

We feel the decision was without basis. **No** compelling need or supportive justification was given for the construction of this second garage. The Zoning Administrator was incorrect when he stated several times that he is not enforcing the code because that would create several other violations in the area.

There is also a conflict of interest in that the Project Planner, Mr. Loveland, is also the Environmental Planner who approved the first Riparian exemption.

"WAS THERE AN ERROR OR ABUSE OF DISCRETION BY MR. BUSSEY?" Yes. In trying to support the position of the Project Planner, Mr. Bussey never gave us a reasonable response to any of our concerns, only to state that everyone should have a garage **We** repeated that there is already a garage unit

that could be converted back, but he would not consider any other options. He never addressed the "open space and aesthetic" issues of the Riparian Code. During his conclusion, (53:40) Mr. Bussey stated that in his opinion the 100 foot setback is only important for "coastal lagoons", and not a concern on lakes and streams. We then realized that he does not take the Riparian Corridor seriously.

'WAS THE DECISION SUPPORTED BY THE FACTS PRESENTED?' No. With the experience we have gained from the first hearing and successful appeal process, we presented even more facts to support our position. We focused on the objectives of the Riparian Code, but Mr. Bussey made no attempt to explain how this project complies with the code or deserves an exemption.

He falsely stated that the Planning Commission denied the original plan due to structural size, and that the new plan is down sized. Mr. Bussey was not at the Appeal hearing and is incorrect. The size of the garage was not a concern; it is a standard two car garage. The plan was denied based on a review of adjacent land usage and adherence to the Riparian Corridor. Also this is the same basic footprint in the same location as the original plan.

Again Mr. Bussey said he is not enforcing the Riparian Corridor because that would create other violations in the neighborhood. This is incorrect because building codes are not retroactive to existing structures. He then said that the 100 foot setback does not really apply to lakes, which we all know is incorrect.

After reviewing the minutes of the July 7 meeting, we realized that Mr. Loveland and Mr. Bussey's entire presentation was based on false statements, and action should be taken to prevent these errors in the future.

In conclusion, we would like to quote the position of the Planning Commissioners from the January 25 appeal:

(2:40) Commissioner Shepherd

"Is there any penalty assessed for building the wall without permits?" No action has been taken.

(2:55) Commissioner Durkee twice referred to the hearing as a "neighborhood squabble." We resent this. We are 5 neighbors working together to protect Kelly Lake.

(2:58) Commissioner Hummel

"It (the proposed structure) isn't meeting a very great need (to justify an exception)."

"There is an overuse of the property already."

"The Riparian Corridor should be protected."

(2:59) Commissioner Shepherd
"The turnaround may be an unsafe situation."

(3:00) Commissioner Messer
"It looks like most of the houses are back 100 feet. I am wondering how we can find they can build within the 100 feet. On any other lot they would not be able to do that."
"They don't need to have a garage. They had a garage; it was converted into something else."

"I don't think the garage belongs there."

"It is an unusual thing that we would be granting."

(3:06) Commissioner Osmer
"What sets this apart is it's at the edge (of the lake). I think we agree it probably shouldn't be there."

With this letter, we are asking the Planning Commission to continue their denial of this same garage without going through the hearing process again. We feel that Mr. Bussey has misinterpreted Chapter 16.30 and is misinterpreting the intentions of the Planning Commission. Thank you for your time.

Frank W. Remick
Wally Remick
Roy Sande
Ed. Yund
Mik Yund
Dee Dee Neaman
Stephen L. Felder
Theresa Stark Diller
Brandon Kett
Trisha Kett

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 accessory structures appurtenant to existing residential uses and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed non-habitable accessory structure, boat ramp and sheet pile wall will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to light, air, and open space in the neighborhood.~~

Although the proposed detached garage and boathouse comply with the required 20-foot front setback from Cutter Drive, the proposed project in this area of Cutter Drive would contribute to a potential safety concern. The narrow 20-foot width of this privately owned portion of Cutter Drive has no clearly defined turn around area. Circulation and access would be compromised as a result of the proposed construction on APN 051-701-13 and this would be materially injurious to property and improvements in the 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 proposed structure is located in a mixed neighborhood containing a variety of architectural styles, and the proposed non-habitable accessory structure is consistent with the land use intensity and density of the neighborhood.~~

The design of the garage/boathouse, as proposed, is inconsistent with similar development along the shore of Kelly Lake in that the 1,472 square foot size of the building is considerably larger than other detached structures in the vicinity.

Riparian Exception Findings

2. That the exception is necessary for the proper design and function of some permitted or existing activity on the property.

~~Any development that is lake related, such as the garage/boathouse and sheet piling wall would require a riparian exception. The proposed garage/boathouse and sheet piling wall along the lake edge (an erosion control device) are both permitted uses on the property.~~

Since the entire parcel lies within the riparian area and is subject to the "Riparian Comdor & Wetlands Protection Ordinance" (Chapter 16.30), any development proposed on this parcel would require approval of a riparian exception. This finding cannot be made for the proposed project at this time because there appears to be design alternatives available that can eliminate encroachment into the lake and still allow the permitted and existing activity

3. That the granting of the exception will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located.

~~The granting of this exception will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located. In fact, there will be a net environmental benefit to the site after the approved re-vegetation plan has been implemented.~~

This finding cannot be made in that the project could potentially be detrimental to neighboring properties due to the size and bulk proposed. Accessibility to the lake for recreational purposes can be achieved by one or more of the following methods: use a dock at the back of the house, using the launch ramp at the Paiaro Valley Rod and Gun Club, or possible sharing the use of the neighbor's existing launch ramp at 41 Cutter Drive (APN 051-701-15), such that the large boathouse is not required to provide adequate access to the lake.

5. That the granting of the exception is in accordance with the purpose of this chapter, and with the objectives of the General Plan and Elements thereof, and the Local Coastal Program Land Use Plan.

~~The purpose of the riparian ordinance is to eliminate or minimize development activities in riparian/wetland areas so as to protect wildlife habitat, water quality, open space and to allow for conveyance and storage of floodwaters. The garage/boathouse is proposed in an area currently supporting little to no riparian and/or wetland vegetation. As part of this project, a vegetation restoration plan will be implemented that will result in a net environmental benefit to the surrounding area. The vegetation proposed in front of the existing sheet piling wall will provide an adequate screen from the lake. The water quality and storage of floodwaters within the lake will not be negatively affected by the proposed project and the garage/boathouse has been designed to meet the requirements set forth by the Federal Emergency Management Agency (FEMA).~~

The purpose of the riparian ordinance is to eliminate or minimize development activities in riparian/wetland areas so as to protect wildlife habitat, water quality, open space and to allow for the conveyance and storage of floodwaters. This finding cannot be made, because the project as designed does not minimize development activities into the lake when other design alternatives that completely eliminate encroachment into the lake are available.

PLANNING COMMISSION MINUTES- 1/25/06

Proceedings of the Santa Cruz County
Planning Commission

Volume 2006, Number 2

January 25, 2006

LOCATION Board of Supervisors, County Government Center,
701 Ocean Street, Room 525, Santa Cruz, CA 95060

ACTION SUMMARY MINUTES

VOTING KEY

Commissioners: Bremner, Durkee, Vice Chair Holbert, **Chair** Osmer, Shepherd
Alternate Commissioners: Messer, Hancock, Hummel, Gonzalez, Bntton

Commissioners present were Messer, Durkee, Vice Chair Holbert (for Items 1 - 7), Hummel (for Items 8 - 10), Chair Osmer, and Shepherd.

CONSENT ITEMS

6. APPROVAL OF MINUTES

To approve the **minutes** of the **January 11, 2006** Planning Commission **meeting** as submitted by the Planning Department.

Approved minutes. Osmer made the motion and Holbert seconded. Voice vote carried 5-0, with ayes from Messer, Durkee, Holbert, Osmer, and Shepherd.

CONTINUED ITEMS

I 03-0415 NO SITUS APN(S): NO_APN_SPEC
Appeal of Zoning Administrator's **September 9, 2004** approval of Commercial Development Permit 03-0415, a proposal to install a wireless communication facility consisting of two flat panel antennas mounted on an existing wood utility pole within the public Right-of Way. **Property** located on the South side of Moon Valley Ranch Road at about 500 feet West of the intersection with Larkin Valley Road.
APPELLANT: ROBERT JAY KATZ
OWNER DEPARTMENT OF PUBLIC WORKS, COUNTY OF SANTA CRUZ
APPLICANT ROGER HAAS
SWERVISORIAL DIST 2
PROJECT PLANNER- RANDALL ADAMS, 454- 3218

Upheld the Zoning Administrator's action and approved application with addition to conditions as recommended by staff regarding screening trees installation, maintenance, and bonding; and as recommended by Commissioner Messer, to require review by the Planning Commission of additional wireless applications on this site. Durkee made the motion and Shepherd seconded. Voice vote carried 5-0, with ayes from Messer, Durkee, Holbert, Osmer, and Shepherd.

SCHEDULED ITEMS

8. **04-0392** **705 CANHAM RD, SCOTTSVALLEY** **APN(S): 093-401-09**
Proposal to divide a 156-acre parcel zoned for Timber Production into two parcels of 54.1 gross acres and 102.4 gross acres respectively. Requires a Minor Land Division. The property is located on the east end of Canham Road at 705 Canham Road, Scotts Valley.
OWNER: CANHAM VENTURES, INC
APPLICANT: STEPHEN GRAVES & ASSOC.
SWERVISORIAL DIST 5
PROJECT PLANNER ROBIN BOLSTER-GRANT, 454- 5357

Approved application with amended conditions as recommended by staff to eliminate review of improvement plans by Department of Public Works and to require a grading permit. Shepherd made the motion and Durkee seconded Voicevote carried EO. with ayes from Messer, Durkee, Hummel, Osmer, and Shepherd

9. **03-0500** **3600 SOQUEL-SAN JOSE RD., SOQUEL** **APN(S): 103-071-43**
Proposal to divide a 10.887 acre parcel into three parcels of approximately 2.676 acres, 4.976 acres, and 3.236 acres. Requires a Minor Land Division, Soils Report Review, and Archaeological Site Review. Property located on the north west corner of the intersection of Soquel-San Jose Road and Laurel Glen Road. (3600 Soquel-San Jose Road)
OWNER: CASALEGNO HERITAGE, INC
APPLICANT: POWERS LAND PLANNING, INC
SUPERVISORIAL DIST: 1
PROJECT PLANNER: RANDALL ADAMS, 454-3218

Approved application as conditioned Messer made the motion and Shepherd seconded Voicevote carried 5-0, with ayes from Messer, Durkee, Hummel, Osmer, and Shepherd

10. **05-0406** **45 CUTTER DR, WATSONVILLE** **APN(S): 051-701-13**
Appeal of Zoning Administrator's approval of application 05-0406, a proposal to construct a garage with a boathouse below, an attached bath, and recognize an existing sheetpile wall. Requires a Residential Development Permit to increase the maximum 1000 square foot size limitation for nonhabitable accessory structures and to maintain a bath within a detached accessory structure and Riparian Exception. Property located on the west side of a 20 foot right of way, about 200 feet north from Cutter Drive at 45 Cutter Drive in Watsonville.
APPELLANT: RICHARD YANDO, ETAL
APPLICANT RON GORDON
OWNER: JOSEPH AND DOMITILA GUERRERO
SUPERVISORIAL DISTRICT: 4
PROJECT PLANNER: JOAN VAN DER HOEVEN, 454-5174

Upheld the appeal of the Zoning Administrator's action and preliminarily denied project application. with appropriate findings to return on the Consent Agenda on February 8, 2006. Voicevote carried 3-2, with ayes from Messer, Hummel, and Shepherd. Durkee and Osmer voted nay.