

Existing Land Use - Parcel: 093-011-41: vacant rural land
093-282-04 and **88**: rural single family residential
Existing Land Use - Surrounding: Rural residential and vacant residential properties
Timberland and water district watershed
Project Access: Private 20-foot easement from Bell Road
Planning Area: Skyline
Land Use Designation: R-M (Mountain Residential)
Zone District: SU (Special Use)
Supervisorial District: **5"**
Within Coastal Zone: Inside **XX** Outside

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: Soils Report submitted, review in process
Fire Hazard: Not a mapped constraint
Slopes: 10-30%
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: Minimal to minor grading
Tree Removal: No trees proposed to be removed
Scenic: Not a mapped resource
Drainage: NIA
Traffic: NIA
Roads: **Less** than 40 foot right-of-way proposed as principal access
Parks: Existing park facilities adequate
Archeology: Not mapped/no physical evidence on site

Services Information

Inside Urban/Rural Services Line: Yes **XX** No
Water Supply: Private well
Sewage Disposal: On-site septic
Fire District: Zayante Fire Department
Drainage District: None

History

This application was initially submitted for a permit to utilize a less than 40-foot right of way as a principal means of access to a proposed single family dwelling on January 22, 2004. Subsequent to that submittal, the applicant was informed that site **area** variances were required for APNs 093-282-04 and **88** (existing substandard lots that were being further reduced in net site area due to the access easement) and that the legality of APN 093-011-41(**which** had been landlocked) was in question.

A Lot Legality Determination/Certificate of Compliance evaluation was completed for APN 093-011-41, and it was determined that the lot is a legal lot, resulting in the recordation of an Unconditional Certificate of Compliance on June 7, 2004. Therefore, the consideration of the

40-foot right of way can proceed for consideration by the Zoning Administrator.

Project Setting

The project is located off of a proposed 20-foot right of way about 500 feet in length, which intersects with Bell Road. This intersection is about 600 feet west of the intersection of Bell Road with Hutchinson Road.

The proposed 20-foot right of way traverses parcels 093-282-04 and 88, both substandard lots under the current **SU** zoning, which requires a minimum 10-acre net site area. The creation of the right of way, which will provide legal access for parcel 093-011-41, reduces parcels 093-282-04 and 88 as follows:

APN	GROSS PARCEL SIZE	EXISTING NET SITE AREA	PROPOSED NEW RIGHT OF WAY	PROPOSED NET SITE AREA
093-282-04	4.580 acres	4.380+- acres	0.193+- acres	4.187+- acres
093-282-88	4.888 acres	4.351+- acres	0.007+- acres	4.344+- acres

to and the development of this legal parcel.

Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- a APPROVAL of Application Number **04-0032**, based on the attached findings and conditions.
- Certification that the proposal is categorically 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

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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 use of a less than 40 foot right of way with less than 100 feet of frontage 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, it will not result in inefficient or wasteful use of energy and will not be materially injurious to properties or improvements in the vicinity in that adequate and safe access will be provided.

The project is located in an area designated for 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 single family dwelling and access road 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. Moreover, a soils engineering report has been completed to ensure the proper design and functioning of the proposed dwelling and addressing development on the subject parcel.

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 the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the SU (Special Use) zone district within a Mountain Residential General Plan designation in that the primary use of the property will be one single family dwelling that meets all current site standards for the zone district. The proposed 20-foot wide right of way accessing the building site is less than the 40 feet required by County Code, which requires a Zoning Administrator's sign off, will result in less than 100 feet of frontage on the subject parcel which requires a Variance to the site development standards and reduces the net site area of Assessor's Parcel Numbers 093-282-04 and 88 which requires Site Area Variances. As discussed in finding #1, the proposed 20-foot right will provide adequate safe access to the subject parcel for one single family dwelling and is therefore consistent with the goals of the County regulations and General Plan policies. As discussed in the Variance Findings, there are special circumstances, which warrant the granting of the Variances to the site frontage on the subject property (APN 093-011-41) and for the site areas on the adjacent properties (APN 093-282-04 and 88) through which the new right of way traverses.

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.

use designation in the County General Plan. The proposed use of a less than 40-foot right of way is consistent with all elements of the General Plan in that safe and adequate access is being provided as outlined in Section 6.5 of the General Plan.

A specific plan has not been adopted for this portion of the County.

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 use of the 20-foot right of way for one single family residence will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity or the project. It is anticipated that the dwelling will generate about one peak trip per day, an increase that will not adversely impact existing roads and intersections in the surrounding area.

Variance Findings

1. THAT BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, AND SURROUNDING EXISTING STRUCTURES, THE STRICT APPLICATION OF THE ZONING ORDINANCE DEPRIVES SUCH PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTY IN THE VICINITY AND UNDER IDENTICAL ZONING CLASSIFICATION.

Special circumstances exist in that the existing road accessing APN 093-011-41 and passing through APNs 093-282-04 and 88 is not a legal deeded right of way, and there is no other access available to the subject parcel. In order to develop 093-011-41 (a legal lot of record) with a single family dwelling (a principal permitted use), a legal deeded right of way is required. The creation of such a right of way, however, reduces the net site area of the parcel it crosses by the area of the right of way on that parcel. The minimum net site area for a SU zoned parcel within the Mountain Residential General Plan designation is 10 acres. APN 093-282-04 and APN 093-282-88 have net site areas of 4.38 and 4.35 acres respectively and are therefore nonconforming with respect to net parcel size. The proposed 20-foot right of way allowing legal access to APN 093-011-41 will reduce the net site area of APN 093-282-04 by about 0.193 acres and that of APN 093-282-88 by roughly 0.007 acres. Application of the site development standards for net site area would prohibit the creation of the access easement and would preclude the development of a single family dwelling on an otherwise buildable, existing lot of record, which is a privilege enjoyed by other properties in the area with building sites and SU zoning within the Mountain Residential General Plan designation.

The location of the proposed right of way results in a 96.8-foot frontage along the subject parcel, which is less than the 100-foot frontage required by the residential development standards for creating new lots. As discussed above, creating legal access for the subject parcel will reduce the site area of APN 093-282-04, increasing the frontage to 100 feet results in a commensurate additional reduction in the net site area of 093-282-04 thereby further increasing its nonconformity. Moreover, the property owner of 093-282-04 has not agreed to grant any additional easement on their property. Thus, the strict application of the required minimum frontage will preclude construction of a single family dwelling, an otherwise principal permitted use, on the subject parcel. In addition, most of the parcels in this area were created prior to the adoption of the current site development standards. Many of the parcels located at the terminus of a right of way, as is proposed in this case, do not meet the 100 foot frontage requirement, these properties, however, are not precluded from constructing a single family dwelling based on inadequate frontage. As there are no alternative access locations, the strict application of the minimum frontage requirement would preclude residential development of the subject parcel, a privilege enjoyed by other buildable parcels in the area and under the same zoning and General Plan designations with less than the required site frontage.

2. THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF ZONING OBJECTIVES AND WILL NOT BE MATERIALLY DETRIMENTAL TO PUBLIC HEALTH, SAFETY, OR WELFARE OR

INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY.

The granting of the variance is in harmony with the general intent and purpose of zoning objectives of providing adequate access to residential development and to encourage development densities consistent with the resources and constraints of an area. The granting of the variances to reduce the site areas of APN **093-282-04** and 88 further below the required minimum 10-acre net site size will be consistent with the intent of these regulations, specifically these existing lots are fully developed, already are less than the required minimum and the proposed reduction will not affect the existing development and will have a negligible affect on any future additional development on these parcels. The proposed reduction does not change the size of the required setbacks, therefore the policies to maintain the adequate setbacks for light, air and open space, and to prevent sight distance problems for vehicles traveling along roadways or entering/exiting properties will be met.

The granting of the variance to reduce the minimum frontage from 100 feet to **96.8** feet is consistent with the general intent of maintaining adequate access to parcels with safe access and turnaround areas for emergency response vehicles. The modest reduction in frontage will not adversely affect emergency access as a turnaround meeting fire agency requirements is proposed as well as required in the conditions of approval

3. THAT THE GRANTING OF SUCH VARIANCES SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES INCONSISTENT WITH THE LIMITATIONS UPON OTHER PROPERTIES IN THE **VICINITY** AND ZONE IN WHICH SUCH IS SITUATED.

The approval of the proposed variances will not constitute the granting of any special privileges as other properties in the area are substandard in size and the minor reduction proposed will allow for a reasonable access meeting County standards to an otherwise buildable parcel of record. The creation of an access right of way, which slightly reduces the site area of the two neighboring parcels is consistent with the existing pattern of development in the neighborhood.

As discussed in Variance Finding #1, the granting of the variance to reduce the required minimum frontage from 100 feet to **96.8** feet will not constitute that grant of special privileges. Most of the parcels in this area were created prior to the adoption of the current site development standards. Many of the parcels located at the terminus of a right of way, as is proposed in this case, do not meet the 100 foot frontage requirement, these properties, however, are not precluded from constructing a single family dwelling based on inadequate frontage. As there are no alternative access locations and an inability to increase the size of the proposed right of way to meet the frontage requirement, the strict application of *the* minimum frontage requirement would preclude residential development of the subject parcel, a privilege enjoyed by other buildable parcels in the area and under the same zoning and General Plan designations with less than the required site frontage.

Conditions of Approval

Exhibit A: Plans prepared by Scotty Construction and Design dated January 2004

- I. This permit authorizes the construction of a single family dwelling utilizing a less than 40-foot right of way as the principal means of access with a frontage less than 100 feet. 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. Pay all outstanding fees in the At-Cost account #13709 for Application **04-0032**, if applicable.
 - C. Submit a copy of the recorded deed documents granting the right of way to Bell Road across APNs 093-282-04 and 88. This shall also be accompanied with evidence acceptable to the County, which assures that the property has the right to traverse the private rights of way (Bell Road and Hutchinson Road) to a publicly maintained road (Summit Road).
 - D. Applicant/owner shall obtain an Urban Wildland Intermix Code - Fire Agency Analysis from the California Department of Forestry/County Fire agency.
 - E. Obtain a Building Permit **from** the Santa Cruz County Building Official.
 - F. Obtain a Grading Permit **from** the Santa Cruz County Building Official, if required.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
 - B. 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 the following additional information:
 1. All site improvements including but not limited to septic location, parking, driveway location and driveway profile, water storage and building foot print and all required setbacks.
 2. All development shall comply with the RA site development standards for required setbacks, **height** and lot coverage.
 3. Architectural elevations and cross sections for determining maximum height.

4. Grading, drainage, and erosion control plans.
 5. Details showing compliance with fire department requirements.
- C. Meet all requirements of and pay any drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
 - D. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
 - E. Meet all requirements and pay any applicable plan check fee of the Zayante Fire Protection District.
 - F. The applicant/owner shall submit proof of Fire Clearance under the Urban Wildland Intermix Code. The final plans shall meet all requirements of the applicable Urban Wildland Intermix Code.
 - G. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
 - H. Submit 3 copies of a letter of plan review and approval by the project soils engineer. The letter shall state that the building, grading, drainage and erosion control plans are in conformance with the soils report recommendations and shall specifically reference the plans (sheet numbers, preparer and dates) reviewed.
 - I. Pay the current fees for Parks and Child Care mitigation. These fees are based on the number of rooms meeting the definition of a bedroom in Section 13.10.700-B of the County Code.
 - J. Provide required off-street parking. 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.
 - K. 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.
 - L. Complete and record an Acknowledgement for Development Adjacent to Timberlands. **You may not alter the wording of this** declaration. Follow the instructions to record the document. A copy **of** the recorded document shall be submitted to the Planning Department with your building permit application.
- 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:

Owner: Edward and Linda Michaels; **Bruce** and Diane **Kennedy**; Michael Dudas

- 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. Applicant/owner shall submit a final letter from the soils engineer that states that the completed project (foundations, retaining walls, grading, drainage and erosion control) conforms with the recommendations contained in the soils report.
- D. 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, shall be observed.

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.

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

Please note: This permit expires two years from the effective date unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

Cathleen Carr
Project Planner

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

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

Application Number: 04-0032

Assessor Parcel Number: 093-011-41, 093-282-04 and 093-282-88

Project Location: No situs; 2530 Hutchinson Road; 2500 Hutchinson Road

Project Description: Proposal to construct a single family dwelling utilizing a less than 40-foot right-of-way as a principal means of access, a Variance to reduce the required frontage from 100 feet to 96.8 feet and Site Area Variances to reduce the minimum parcel sizes on APN 093-282-04 and 88 to less than 10 acres.

Person or Agency Proposing Project: Scotty Construction and Design

Contact Phone Number: (408) 353-3103

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

Specify type:

- E. Categorical Exemption

Specify type: New Construction of Small Structures (Section 15303) and Minor Alterations to Land Use Limitations (Section 15305)

F. Reasons why the project is exempt:

Construction of a single family dwelling utilizing a less than 40-foot right of way with less than 100 feet of frontage and where the access right-of-way reduces the site area of the adjacent parcels below the 10 acre minimum.

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


Cathleen Carr, Project Planner

Date: 9/14/04

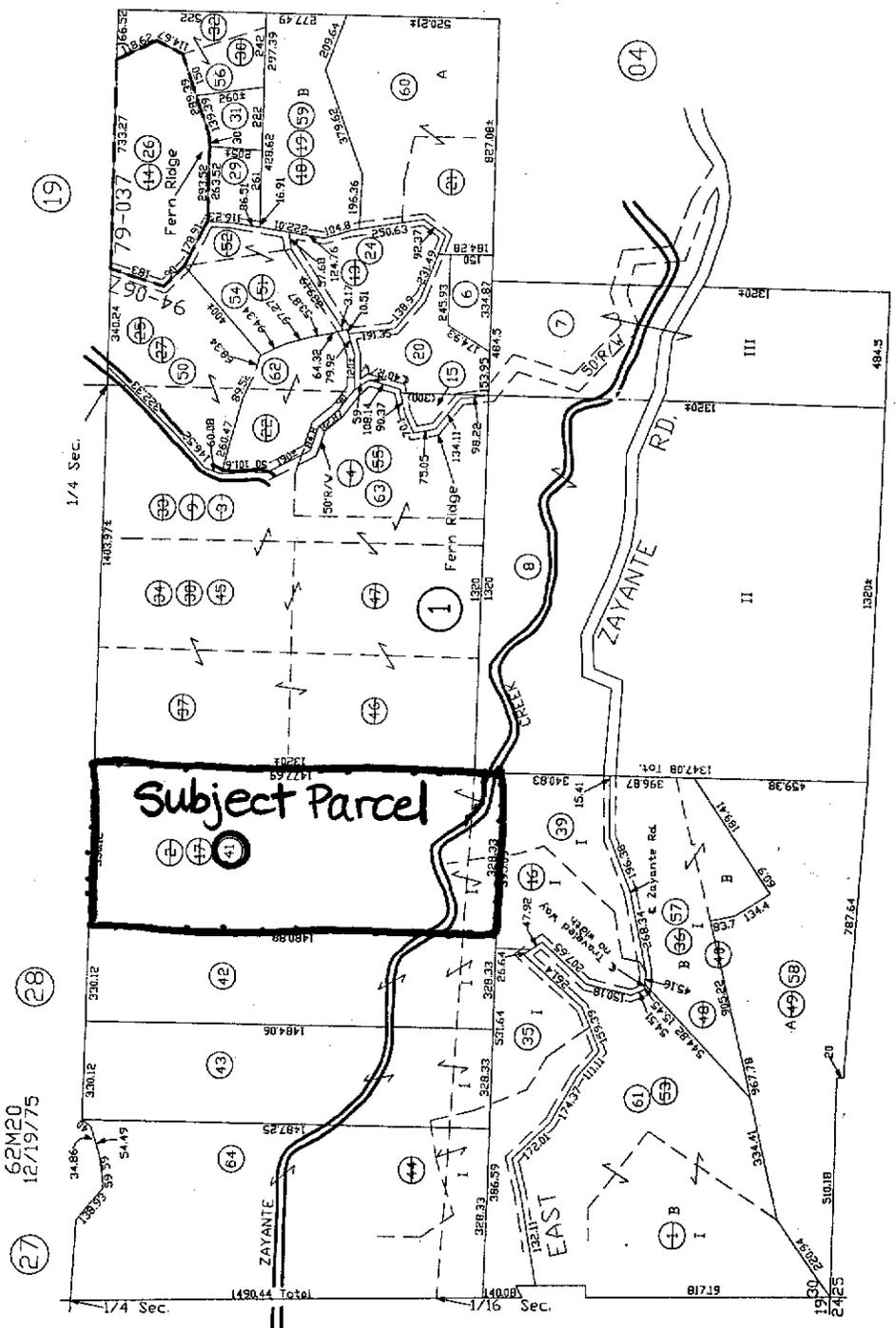
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POR W. 1/2 SEC. 30,
 T.9S., R.1W., M.D.B. & M.

Tax Area Code
 79-037 94-067 93-01



37PM11
 12/2/80



Assessor's Parcel Map

BK.92
 01

22PM50
 9/8/76

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

Assessor's Map No. 93-01
 County of Santa Cruz, Calif.
 March, 1997

BK.91
 16

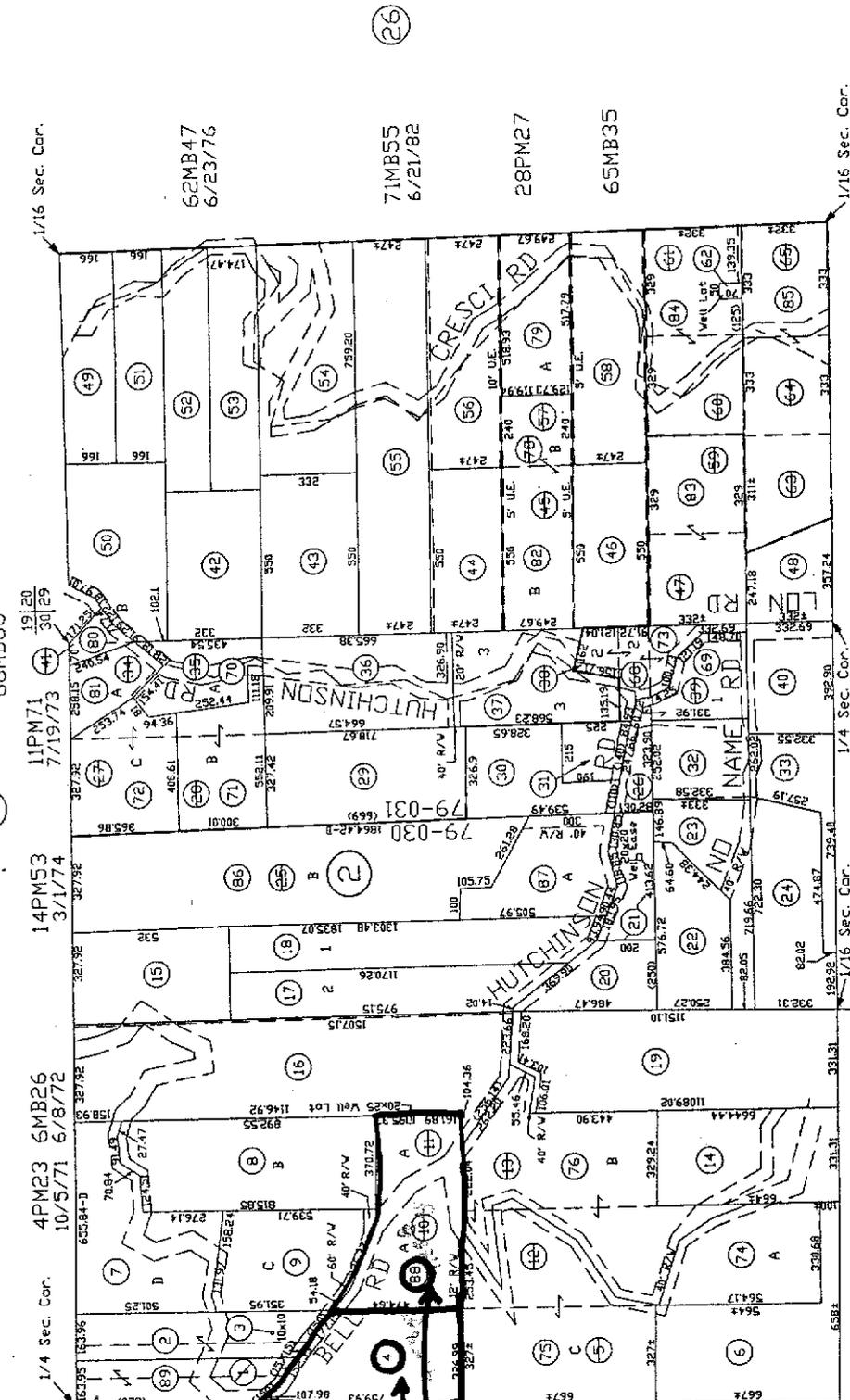
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N.E. 1/4 SEC. 30, 40R
 T.S., R.1W., M.D.B. & M.

Tax Area Code
 79-030 79-031

93-28



Subject Parcels

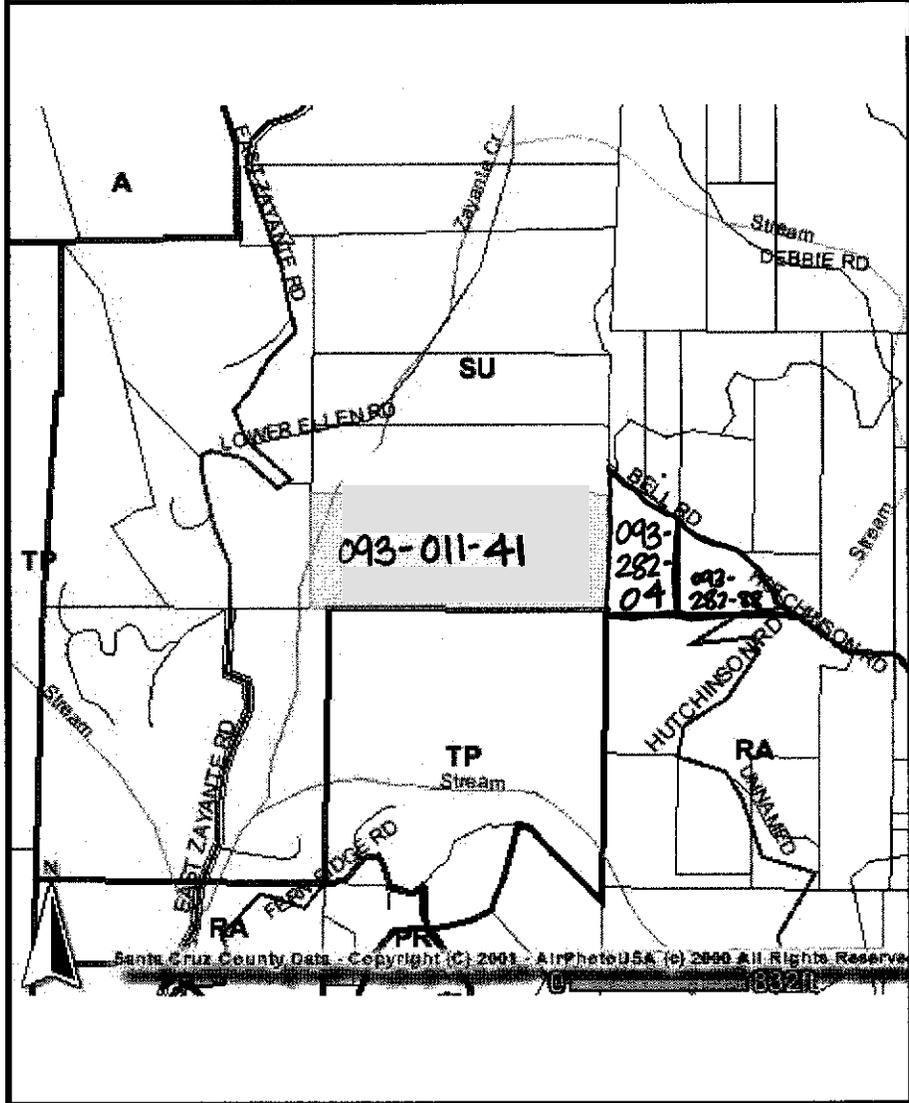
Assessor's Map No. 9:
 County of Santa Cruz,
 May 1997

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

Assessor's Parcel Map

EXHIBIT E

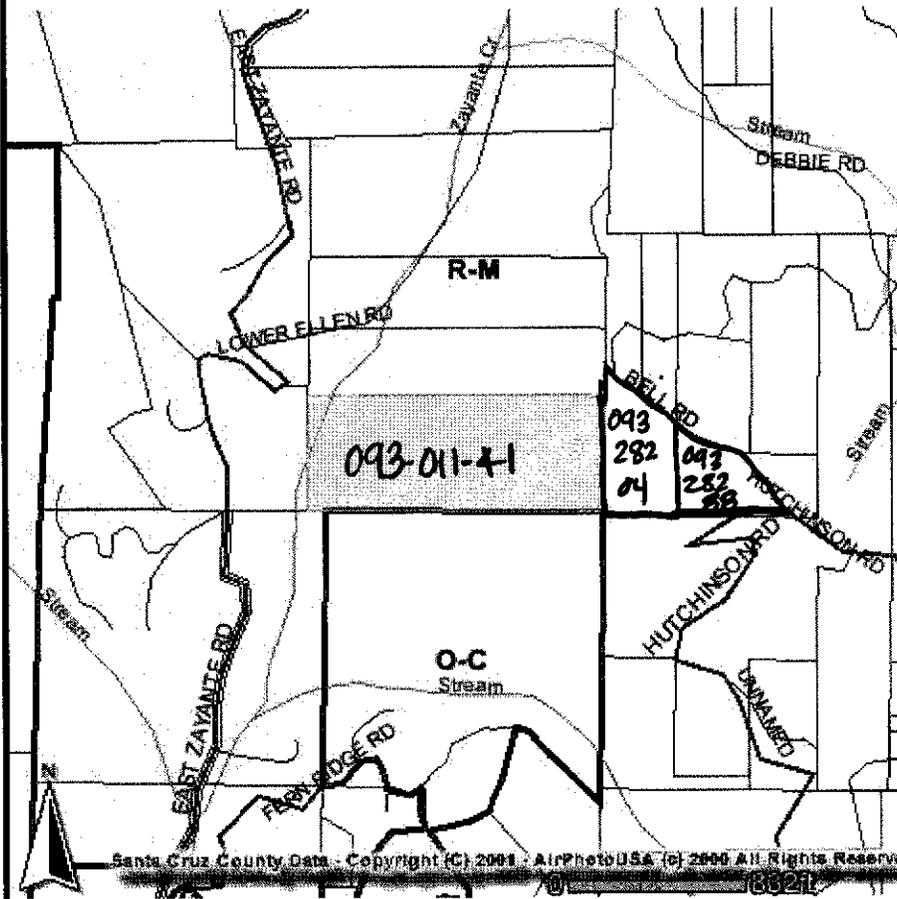
Zoning Map



- Legend**
- Selected Features
 - Parcel (Assessor)
 - State Highways
 - County Streets
 - Major Streets
 - Streams
 - Intermittent
 - L/S
 - Potential
 - Lakes
 - Zone Text (DETAILED)
 - Santa Cruz County Boundary

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General Plan Map



- Legend**
- Selected Features
 - Parcel (Assessor's)
 - State Highways
 - County Streets
 - Major Streets
 - Streams
 - Interment
 - L-S
 - Perennial
 - Lakes
 - General Plan (B&W Text)
 - Santa Cruz County Boundary

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