



## Staff Report to the Zoning Administrator

Application Number: **111149**

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**Applicant:** Laurie Swett  
**Owner:** Chi Kephart  
**APN:** 028-062-85

**Agenda Date:** November 4, 2011  
**Agenda Item #:**  
**Time:** After 10:00 a.m.

**Project Description:** Proposal to establish the legality of an 8,022 square foot remainder parcel created by Minor Land Division 99-0658.

**Location:** Property located on the east side of 17th Avenue (530 17th Avenue) at the intersection with Matthews Lane.

**Supervisory District:** First District (District Supervisor: John Leopold)

**Permits Required:** Conditional Certificate of Compliance  
**Technical Reviews:** None

### Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Direct that the Conditional Certificate of Compliance attached as Exhibit D be recorded for APN 028-062-85.

### Exhibits

- |  |   |
|--|---|
| A. Assessor's parcel map   | C. Categorical Exemption (CEQA determination) |
| B. Chains of Title, Copies of Deeds, and other supplemental information (on file with the Planning Department) | D. Conditional Certificate of Compliance      |

### Background and Analysis

Tentative Map application 99-0658 was approved on December 11, 2002 for the creation of four new parcels and a remainder parcel. The approved Minor Land Division was subsequently recorded on August 21, 2003 at Book 58 of Parcel Maps, Page 14. The remainder parcel (APN 028-062-85) is a separate parcel from the parcels that were created through the land division. As set out in County code section 14.01.109(d) a designated remainder parcel "may subsequently be sold without any further requirement of the filing of a parcel map or final map, however, prior to

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the sale, lease or financing of said remainder parcel, a conditional certificate of compliance shall be obtained. Currently the subject parcel is in violation of this provision and cannot be considered as a legal separate parcel because, subsequent to the recording of the Parcel Map, the parcel has been sold and the ownership transferred without the prior issuance of a Certificate of Compliance. This application has been made to remedy that situation.

### **Conditional Certificate of Compliance**

When a request is made to a local agency by a property owner for a determination whether a property complies with the provisions of the State Map Act and local ordinances, the local agency must issue either an Unconditional Certificate of Compliance or a Conditional Certificate of Compliance (see Govt. Code Section 66499.35 and County Code Section 14.01.109 (b)).

No evidence was found to indicate that the parcel was described as a part of another parcel within one metes and bounds description which included a statement within the deeds indicating that it was the intent of that document to combine the property as required by the Civil Code Section 1093 or was combined by a record of survey map with another parcel either at the request of the owner or by the action of the owner. Further, no evidence was found that the parcel has been combined by the action of the owner as outlined in County Code Section 14.01.110. Finally, based upon County Code Section 14.01.111, and the applicable provisions of the Government Code Section 66451, the parcel is not subject to merger. Based upon the available information, the site is improved with an existing single family dwelling.

The real property in question complies with the provisions of the Subdivision Map Act and County Ordinances enacted pursuant thereto as follows:

(1) The subject property was conveyed by a separate document as a separate parcel on or before January 20, 1972.

The parcel was not created by a separate deed instrument recorded prior to January 20, 1972. The parcel was created by the approval of Minor Land Division 99-0685 as a remainder parcel.

(2) The parcel in question complied with the provisions of the Subdivision Map Act at the time of its creation.

Evidence was presented indicating that the parcel did comply with the applicable provisions of the State Map Act at the time the parcel was created.

(3) At the time the contract, deed or other document creating the subject parcels was signed, the subject parcels complied with the applicable County ordinances then in effect, including (without limitation) the parcel size required by the then applicable zone district.

Based on the Tentative Map for Minor Land Division 99-0685, the parcel did not comply with the applicable standards in effect at the time the parcel was created. Specifically, the existing dwelling on the parcel did not meet the site standards for the zone district at the time of the creation of the lot, has not been relocated to within the recorded building envelope, and no exception or variance has been obtained. The maintenance of an

existing dwelling that is not within the designated Building Envelope is not consistent with the applicable County ordinances in effect at the time that the parcel was created. Therefore, this parcel does not warrant the issuance of an Unconditional Certificate of Compliance and a Conditional Certificate of Compliance is required.

(4) The parcel in question has not been combined by the owner, and is not subject to merger.

No evidence was found to indicate that the parcel was combined by the actions of the owner. The parcel is not subject to merger.

The State Map Act (66499.35) clearly states that the conditions "which would have been applicable to the division of the property at the time applicant acquired his or her interest therein" may be applied. This provision of State law has been implemented by County Code section 14.01.109(b)2. which states the following:

(b) If the County determines that the parcel in question does not comply with the provisions of the Subdivision Map Act or County Ordinances enacted pursuant thereto, and does not otherwise qualify for an Unconditional Certificate of Compliance, it shall issue a Conditional Certificate of Compliance, as follows:

2. If the applicant was not the owner of record at the time of the initial violation the County shall issue and record a Conditional Certificate of Compliance imposing such conditions as would have been applicable to the division of the property at the time the applicant acquired his or her interest therein.

### **Affordable Housing**

The creation of any new parcel is subject to County Code section 17.10 related to affordable housing, due to the relationship between new housing sites and the provision of affordable housing units. Per Minor Land Division 99-0658, the existing residence was proposed to be retained on the remainder parcel and it was to be relocated to within the identified Building Envelope. Relocation of the dwelling, including demolition of portions of the structure and any remodeling required to conform to the building envelope, may be carried out without an increased affordable housing obligation.

If however, due to structural considerations, the existing house on the remainder lot cannot be relocated and is demolished and replaced with a new dwelling unit, the removal and replacement of the existing residence would result in an increased affordable housing obligation (per County Code section 17.10.030) through the construction of an additional new dwelling unit. County Code section 17.10.030 states that the construction of five or more new dwelling units on a project site (or in any concurrent adjacent residential project) requires the provision of affordable housing units (or payment of in-lieu fees) equivalent to 15% of the total number of units provided. County Code section 17.10.020 states that a "New Dwelling Unit" is a dwelling unit that is newly constructed on a site, including replacement dwellings.

Because the subject property did not meet the site standards at the time that application 99-0658 was approved, a Conditional Certificate of Compliance is required. The certificate will include a

condition requiring that the property owner either: Relocate the existing dwelling to within the building envelope; remodel the dwelling to fit within the building envelope; obtain approval of a minor exception or Variance; or, if a replacement dwelling is constructed, pay the in-lieu fee for a 5 unit residential project.

### **Conclusion**

The subject property qualifies for a Conditional Certificate of Compliance, with the condition that either: The existing dwelling be relocated to within the building envelope; be remodeled to fit within the building envelope; or the approval of a minor exception of variance is obtained; or, the affordable housing requirements be met on the remainder parcel created by Minor Land Division 99-0658.

### **Staff Recommendation**

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **06-0659**, 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.co.santa-cruz.ca.us](http://www.co.santa-cruz.ca.us)**

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**FOR TAX PURPOSES ONLY**  
 THE ASSessor MAKES NO GUARANTEE AS TO MAP ACCURACY AND ASSUMES NO LIABILITY FOR ERRORS. THIS MAP IS NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
 COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1998

**POR. N.E. 1/4 SEC. 20 & N.W. 1/4 SEC. 21,  
 T.11S., R.1W., M.D.B. & M.**

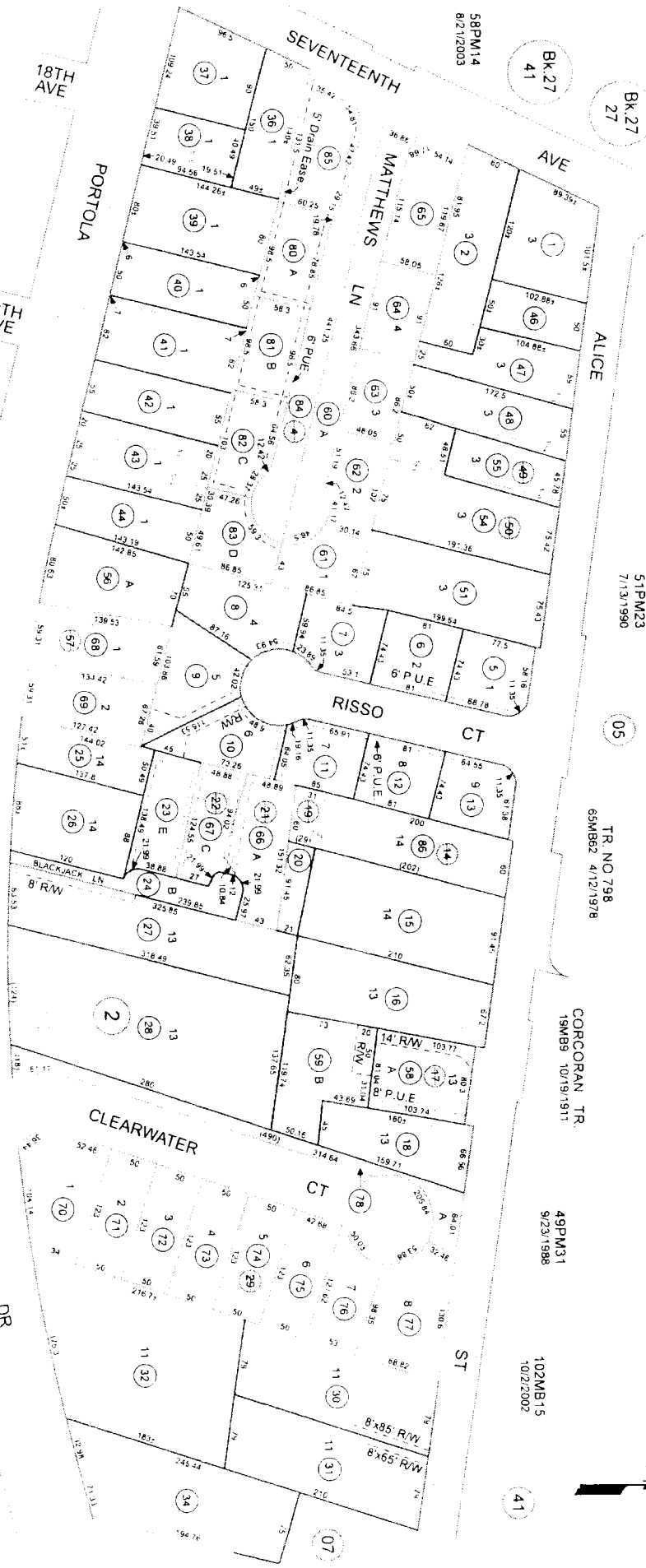
Tax Area Code  
 82-040

28-06

Electronically drawn 8/25/98 by  
 Rev. 8/25/98 (Rev. 10/9/97)  
 Rev. 11/23/98 CB 55PM29 2-62 & 69;  
 Rev. 10/20/02 CB 102MB15 2-76 to 75;  
 Rev. 10/9/02 CB 55PM14 5-1-80 to 85;  
 Rev. 10/1/94 CB Rev. 8/17/99 CB Acct to 12-79;  
 Rev. 4/25/05 DO (commod. form 2-86);  
 Rev. 12/16/07 to (Cont. to Rev. notes & pg. 16's);  
 Rev. 12/16/07 to (Cont. to East)

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

Assessor's Map No. 28-06  
 County of Santa Cruz, Calif.  
 Aug. 1998



# 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: 111149

Assessor Parcel Number: 028-062-85

Project Location: 530 17th Avenue, Santa Cruz, CA 95062

### Project Description:

Person or Agency Proposing Project: Laurie Swett

Contact Phone Number: (831) 338 6217

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

Specify type:

E.   X   **Categorical Exemption**

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

### F. Reasons why the project is exempt:

Recognizing a remainder lot created through an approved land division.

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

\_\_\_\_\_  
Lezanne Jeffs, Project Planner

Date: \_\_\_\_\_

Return recorded form to:

Planning Department  
County of Santa Cruz  
701 Ocean Street, 4<sup>th</sup> Floor

Attention: Lezanne Jeffs  
Application #: 111149

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Notice of Compliance

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

Recording requested by:

COUNTY OF SANTA CRUZ

When recorded, return to:

Planning Department  
Attn: Lezanne Jeffs  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

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**Conditional Certificate of Compliance**

WHEREAS, Chi Kephart is the property owner or vendee of such owner of certain real property located in the County of Santa Cruz, State of California, known as Santa Cruz County Assessor's Parcel Number 028-062-85, and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference made a part hereof, has requested that the County issue a Conditional Certificate of Compliance pursuant to Government Code Section 66499.35 and local regulations thereto; and

WHEREAS, pursuant to an application for Parcel Legality Status Determination, the County of Santa Cruz has determined that such real property does not comply with all the provisions of the State of California Subdivision Map Act and the County Subdivision Ordinance enacted pursuant thereto but that a Certificate of Compliance with conditions may appropriately be issued.

NOW, THEREFORE a Conditional Certificate of Compliance is hereby issued for the above-described parcel described in Exhibit "A" attached hereto subject to the conditions attached as Exhibit "B".

FURTHERMORE, this Conditional Certificate of Compliance shall not constitute a determination that said parcel is buildable or is entitled to a building permit or other development approval absent fulfillment and implementation of the enumerated conditions attached as Exhibit "B" and compliance with the provisions of all other Santa Cruz County ordinances and regulations. Compliance with the enumerated conditions shall be required prior to the application for a building permit or another development permit approval by the County of Santa Cruz.

DATED \_\_\_\_\_ COUNTY OF SANTA CRUZ

By: \_\_\_\_\_  
Steve Guiney  
Zoning Administrator

STATE OF CALIFORNIA  
COUNTY OF SANTA CRUZ

On \_\_\_\_\_ before me \_\_\_\_\_  
personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or, the entity upon behalf of which the person(s) acted, executed the instrument.

Signature \_\_\_\_\_



EXHIBIT A

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

THE PARCEL OF LAND DESIGNATED AS "REMAINDER" ON THE PARCEL MAP, APPL. NO. 99-0658, FILED FOR RECORD AUGUST 21, 2003 IN BOOK 58 OF PARCEL MAPS, PAGE 14, SANTA CRUZ COUNTY RECORDS.

APN: 028-062-85

## EXHIBIT B

All future development on the subject property described in the attached Exhibit "A" is subject to the following conditions:

- I. The existing dwelling shall be relocated or remodeled to fit within the recorded building envelope as approved by 99-0658 and as shown on the Parcel Map filed for record August 21, 2003 in Book 58 of Parcel Maps, Page 14, Santa Cruz County Records, or a minor exception or a variance shall be approved.
- II. Removal of the existing residence, or any remodel which meets the definition of reconstruction, as determined by the Building Official or her/his designated Building Plans Examiner, will require payment of affordable housing in-lieu fees for one additional "New Dwelling Unit".

The construction of an additional new dwelling unit (as described above) will be considered as the fifth new dwelling unit constructed in combination with the residential development approved through Minor Land Division 99-0658.

**If this occurs**, payment of current affordable housing in-lieu fees for a five unit development will be required as follows:

The property owner must enter into a Certification and Participation Agreement with the County of Santa Cruz to meet the Affordable Housing Requirements specified by Chapter 17.10 of the County Code. This agreement must include the following statement:

1. The developer shall pay in-lieu fees for the fractional equivalent of .75 unit (15% of the total number of units ) or provide an affordable housing unit, in accordance with the regulations and formulas as specified by Chapter 17.10 of the County Code.