



Staff Report to the Zoning Administrator

Application Number: **161194**

Applicant: Daryl Woods
Owner: Roy & Annie Folger
APN: 046-271-08

Agenda Date: February 3, 2017
Agenda Item #:
Time: After 9:00 a.m.

Project Description: Proposal to recognize additions (totaling approximately 475 square feet) to an existing non-habitable accessory structure and to convert the upper floor from non-habitable to habitable (two habitable rooms) and to install a toilet in the upper floor.

Location: Property located on the north side of Crest Drive, approximately 250 feet west of Lindero Drive. (150 Crest Drive)

Supervisory District: Second District (District Supervisor: Zach Friend)

Permits Required: Coastal Development Permit, Residential Development Permit

Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 161194, based on the attached findings and conditions.

Exhibits

- | | |
|---|---|
| A. Categorical Exemption (CEQA determination) | E. Assessor's, Location, Zoning and General Plan Maps |
| B. Findings | F. Open Space Easement |
| C. Conditions | G. Comments & Correspondence |
| D. Project plans | |

Parcel Information

Parcel Size:	4.8 acres
Existing Land Use - Parcel:	Single family dwelling and detached accessory structure
Existing Land Use - Surrounding:	Rural residential neighborhood, agriculture, state beach
Project Access:	Crest Drive
Planning Area:	San Andreas
Land Use Designation:	A (Agriculture)

Zone District: CA-O (Commercial Agriculture - Open Space Easement)
Coastal Zone: X Inside Outside
Appealable to Calif. Coastal Comm. X Yes No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: To be reviewed at Building Permit stage
Fire Hazard: Not a mapped constraint
Slopes: 3-5% at accessory building site
Env. Sen. Habitat: Mapped biotic resource (Maritime Chaparral), construction within existing structure/disturbed area - no impact to biotic resources
Grading: No grading proposed
Tree Removal: No trees proposed to be removed
Scenic: Not a mapped resource
Drainage: To be reviewed at Building Permit stage
Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: Inside X Outside
Water Supply: San Andreas Mutual Water Company
Sewage Disposal: Septic
Fire District: Aptos/La Selva Fire Protection District
Drainage District: None

Project Setting

The subject property is located on the north side of Crest Drive, at 150 Crest Drive and is developed with an existing single family dwelling and a detached accessory building. The project site is located within a rural residential and agricultural neighborhood with homes to the south and east. The Manresa State Beach campground is located to the west and vacant parcels are located to the north.

Project Description

This application is a proposal to recognize additions to the existing detached accessory structure. Additions were added to the existing structure without benefit of permits and the construction was halted by Building and Code Compliance staff. Additions totaling approximately 475 square feet are proposed to be recognized, including the conversion of a portion of the structure to habitable rooms and the installation of a toilet within the accessory structure.

Zoning & General Plan Consistency

The subject property is a parcel of approximately 4.8 acres located in the CA-O (Commercial Agriculture - Open Space Easement) zone district, a designation which allows residential uses in conjunction with agricultural activities and the open space easement recorded on the property. The

existing accessory structure is an allowed residential accessory use within the zone district. The zoning is consistent with the site's A (Agriculture) General Plan designation.

Residential Development Permit

This proposal includes heating two rooms of the existing accessory structure and installing a toilet in the upper floor of the structure (no bathing facilities are proposed or authorized). The total proposed square footage of the upper floor exceeds 640 square feet of habitable floor area (at 734 square feet), and the lower floor is proposed to be over 1000 square feet (at 1,414 square feet). A Residential Development Permit is required to exceed these thresholds and to allow a toilet to be installed within the structure. The proposed additions are compatible with the existing structure and will not result in a structure that is out of scale with the existing development on the property. The heated rooms will be considered as additional detached bedrooms for the primary residence and cannot be rented or used for habitation separate from the primary residence, as specified in County Code section 13.10.611 (Accessory Structures).

Open Space Easement

The subject property is under the limitations of an Open Space Easement. The Open Space Easement states that no new buildings or structures shall be allowed on the property with the exception of appurtenant accessory structures and fencing. The existing accessory structure is considered as an appurtenant accessory structures and is allowed per the terms of the existing Open Space Easement.

Local Coastal Program Consistency

The proposed modifications to the existing accessory structure are in conformance with the County's certified Local Coastal Program, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the existing residential development and the character of the surrounding neighborhood. Although the project site is located between the shoreline and the first public through road, public beach access is available at Manresa State Beach nearby. Consequently, the proposed project will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

Vacation Rental

After the application for this Coastal and Residential Development Permit (161194) was made on 7/13/16, a separate application for a 3 bedroom Vacation Rental (161244) was made on 8/17/16. The Vacation Rental application is not associated with this proposal and will be processed separately. None of the proposed habitable space within the accessory structure will be allowed to be included in a vacation rental, per limitations on such use in the County Code. As application 161194 is to correct a code compliance violation, the processing of the Vacation Rental application will be held until the processing of this application has been completed.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **161194**, 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

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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: 161194

Assessor Parcel Number: 046-271-08

Project Location: 150 Crest Drive

Project Description: Recognize modifications to an existing accessory structure.

Person or Agency Proposing Project: Daryl Woods

Contact Phone Number: 831-234-9853

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

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

F. Reasons why the project is exempt:

Modifications to an existing residential accessory structure on site with an existing residence.

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

Randall Adams, Project Planner

Date: _____

Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts, listed in section 13.10.170(D) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the property is zoned CA-O (Commercial Agriculture - Open Space Easement), a designation which allows residential and agricultural uses. The existing residential development is an allowed use within the zone district, and the zoning is consistent with the site's A (Agriculture) General Plan designation.

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

This finding can be made, in that the construction and improvement of appurtenant accessory structures is allowed under the recorded open space easement.

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

This finding can be made, in that the development is consistent with the existing structure and residence as well as the surrounding neighborhood in terms of architectural style; the colors will be natural in appearance and complementary to the site; and the development site is not on a prominent ridge, beach, or bluff top.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the General Plan and Local Coastal Program land use plan, specifically Chapter 2: figure 2.5 and Chapter 7, and, as to any development between the nearest through public road and the sea or the shoreline of any body of water located within the coastal zone, such development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act commencing with section 30200.

This finding can be made, in that although the project site is located between the shoreline and the first public through road, public beach access is available at Manresa State Beach nearby. Consequently, the proposed project will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

5. That the proposed development is in conformity with the certified local coastal program.

This finding can be made, in that the structure is sited and designed to be visually compatible, in scale, and integrated with the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the CA-O (Commercial Agriculture - Open Space Easement) zone district, as well as the General Plan and Local Coastal Program land use designation. Developed parcels in the area contain rural residential and agricultural uses. Size and architectural styles vary in the area, and the design submitted is consistent with the existing range of styles.

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 that allows residential and agricultural uses. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources.

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 accessory structure and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the CA-O (Commercial Agriculture - Open Space Easement) zone district as the primary use of the property will be open space with a residence and accessory structure that meet all current site standards for the zone district.

The inclusion of two habitable rooms and a toilet within the existing accessory structure is allowed with a Residential Development Permit as specified in County Code section 13.10.611 (Accessory Structures). The use of the proposed habitable rooms will be appurtenant and accessory to the existing residential use and the structure shall not be rented or used for habitation separate from the primary dwelling.

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

This finding can be made, in that the proposed residential use is consistent with the use and density requirements specified for the A (Agriculture) land use designation in the County 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 no new residential units are proposed as a result of this project. No increase in traffic generation or demand on utilities is anticipated as a result of the project.

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.

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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 accessory structure is consistent with the existing residential development on the property as well as the land use intensity and density of the neighborhood.

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

This finding can be made, in that the existing residential development, including the proposed additions to the existing accessory structure, will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area.

Conditions of Approval

Exhibit D: Project Plans, prepared by Daryl Woods Architect, dated 7/13/16.

- I. This permit authorizes the construction of additions to an existing accessory structure and conversion of the upper floor to heated/habitable space as indicated on the approved Exhibit "D" for this permit. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days from the effective date of this permit.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 2. One elevation shall indicate materials and colors as they were approved by this Discretionary Application.
 3. Grading, drainage, and erosion control plans.
 4. Details showing compliance with fire department requirements.

- B. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
 - C. Meet all requirements of the Environmental Planning section of the Planning Department.
 - D. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
 - E. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
 - F. Pay the current fees for Parks and Child Care mitigation for 2 bedroom(s). Currently, these fees are, respectively, \$800 and \$109 per bedroom.
 - G. Provide required off-street parking for 5 cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
 - H. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
 - I. Complete and record a Declaration of Restriction to maintain a Habitable Accessory Structure. **You may not alter the wording of this declaration.** Follow the instructions to record and return the form to the Planning Department.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The project must comply with all recommendations of the approved soils reports.
 - D. Pursuant to Sections 16.40.040 and 16.42.080 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 16.42.080, shall be observed.

IV. Operational Conditions

A. In addition to all restrictions specified in County Code Section 13.10.611 and the recorded Declaration of Restriction to maintain a Habitable Accessory Structure, the following restrictions on the use of the detached accessory structure shall apply:

1. The detached Habitable Accessory Structure shall not be used for vacation rental purposes, and shall not be separately occupied from the primary residence. If a Vacation Rental approval is granted for the primary residence, the Habitable Accessory Structure shall not be occupied or in use at any time that the primary residence is being used as a vacation rental.

B. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

V. 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

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Owner: Roy & Annie Folger

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.

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

Approval Date: _____

Effective Date: _____

Expiration Date: _____

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

[illegible]

- THE EXISTING AND PROPOSED EROSION CONTROL MEASURES ARE TO BE CONSIDERED AS PART OF THE EROSION CONTROL PLAN. THE EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND TO MAINTAIN THE STABILITY OF THE SOILS. THE EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND TO MAINTAIN THE STABILITY OF THE SOILS. THE EROSION CONTROL MEASURES SHALL BE DESIGNED TO PREVENT EROSION AND TO MAINTAIN THE STABILITY OF THE SOILS.
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EROSION CONTROL LEGEND

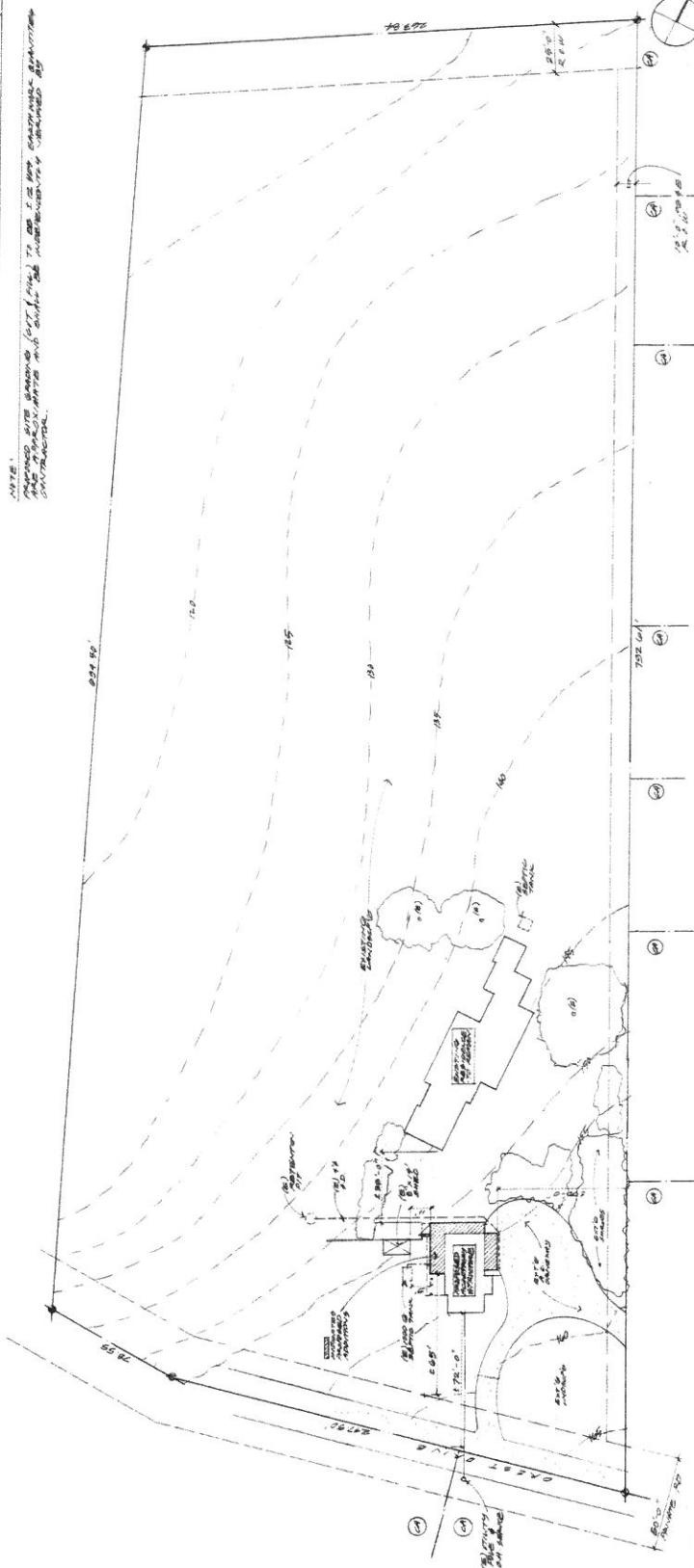


EROSION CONTROL NOTES

SITE DRAINAGE NOTES

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NOTE: 1. IMPROVED SITE DRAINAGE (SEE PLAN) TO BE INSTALLED TO PREVENT EROSION AND TO MAINTAIN THE STABILITY OF THE SOILS. THE IMPROVED SITE DRAINAGE SHALL BE DESIGNED TO PREVENT EROSION AND TO MAINTAIN THE STABILITY OF THE SOILS. THE IMPROVED SITE DRAINAGE SHALL BE DESIGNED TO PREVENT EROSION AND TO MAINTAIN THE STABILITY OF THE SOILS.



SITE PLAN

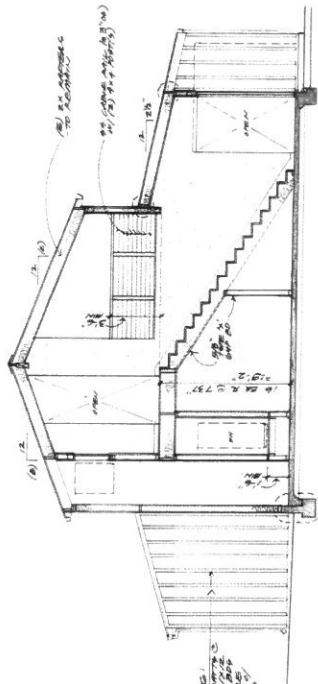
DATE: 7/19/2016

1/16 30' x 30' 5'

273 Leland
1800 South
Leland, CA 94541
916.334.8888

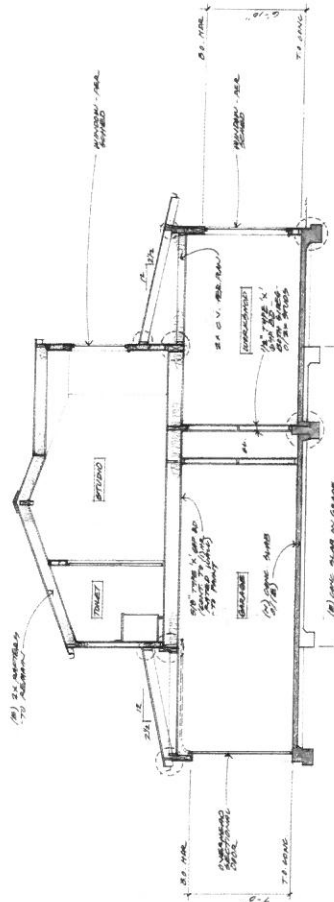
FOLGER RESIDENCE AT
APN: 046-271-08

EXHIBIT D



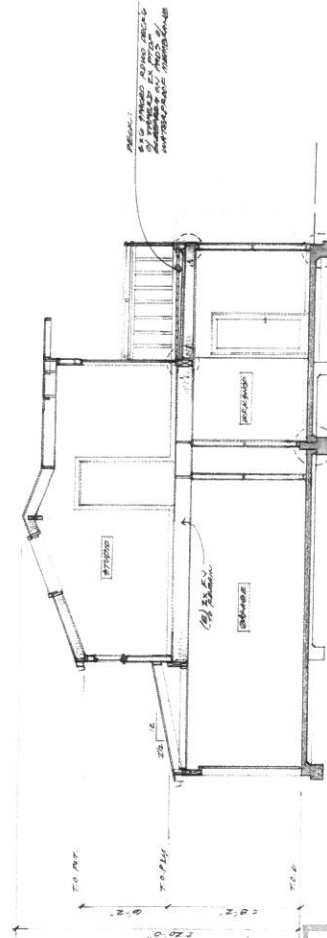
CROSS SECTION

1/4" = 1'-0"



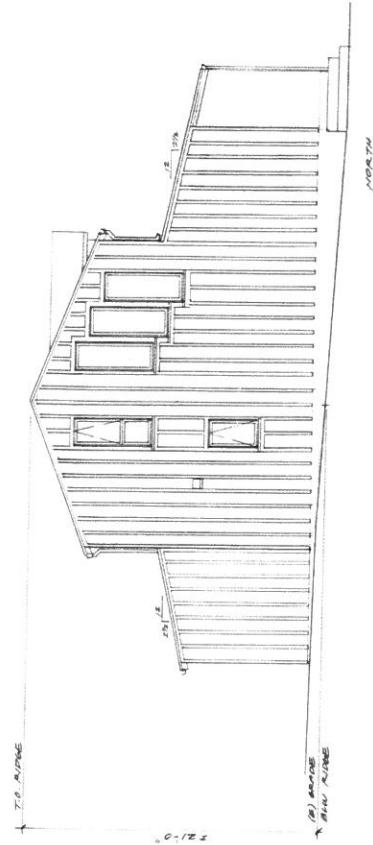
CROSS SECTION

1/4" = 1'-0"



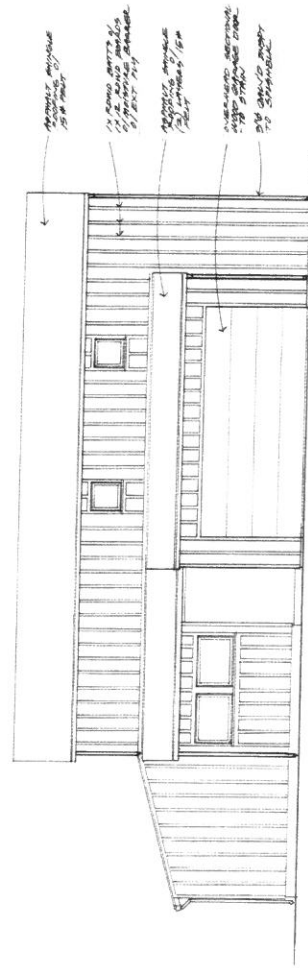
CROSS SECTION

1/4" = 1'-0"



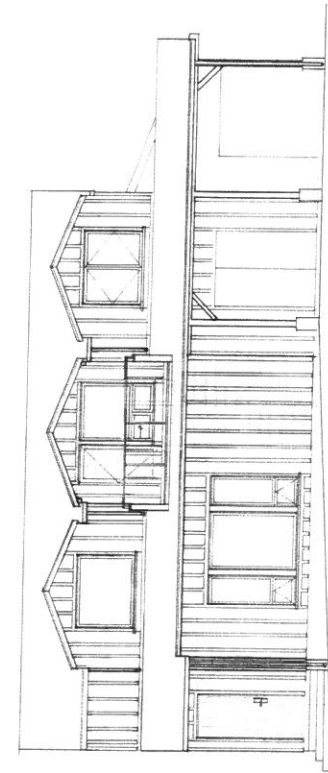
CROSS SECTION

1/4" = 1'-0"



CROSS SECTION

1/4" = 1'-0"



CROSS SECTION

1/4" = 1'-0"

DATE	PLANNING	DATE	PLANNING	DATE	PLANNING
7/13/2010	7/13/2010	7/13/2010	7/13/2010	7/13/2010	7/13/2010

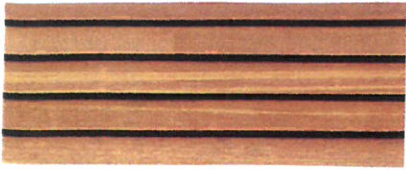
EXTERIOR ELEVATIONS

271 LEBRON
LA BAY
CALIFORNIA
90234
818.254.8851

FOLGER RESIDENCE A3

APN 046-271-08

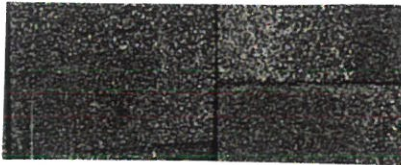
EXHIBIT D



Exterior Wood siding – “Amberwood Timber Oil”
by Cabot, or equal



Clad Wood Windows – “Forest Green”
by Sierra Pacific Windows



Asphalt Shingle Roofing – Timberline “Charcoal Blend”
by GAF, or equal

FOLGER RESIDENCE

APN: 046-271-08

273 Lindero
La Selva Beach
California
95076

Daryl Woods Architect
831.234.9853-t

EXHIBIT D

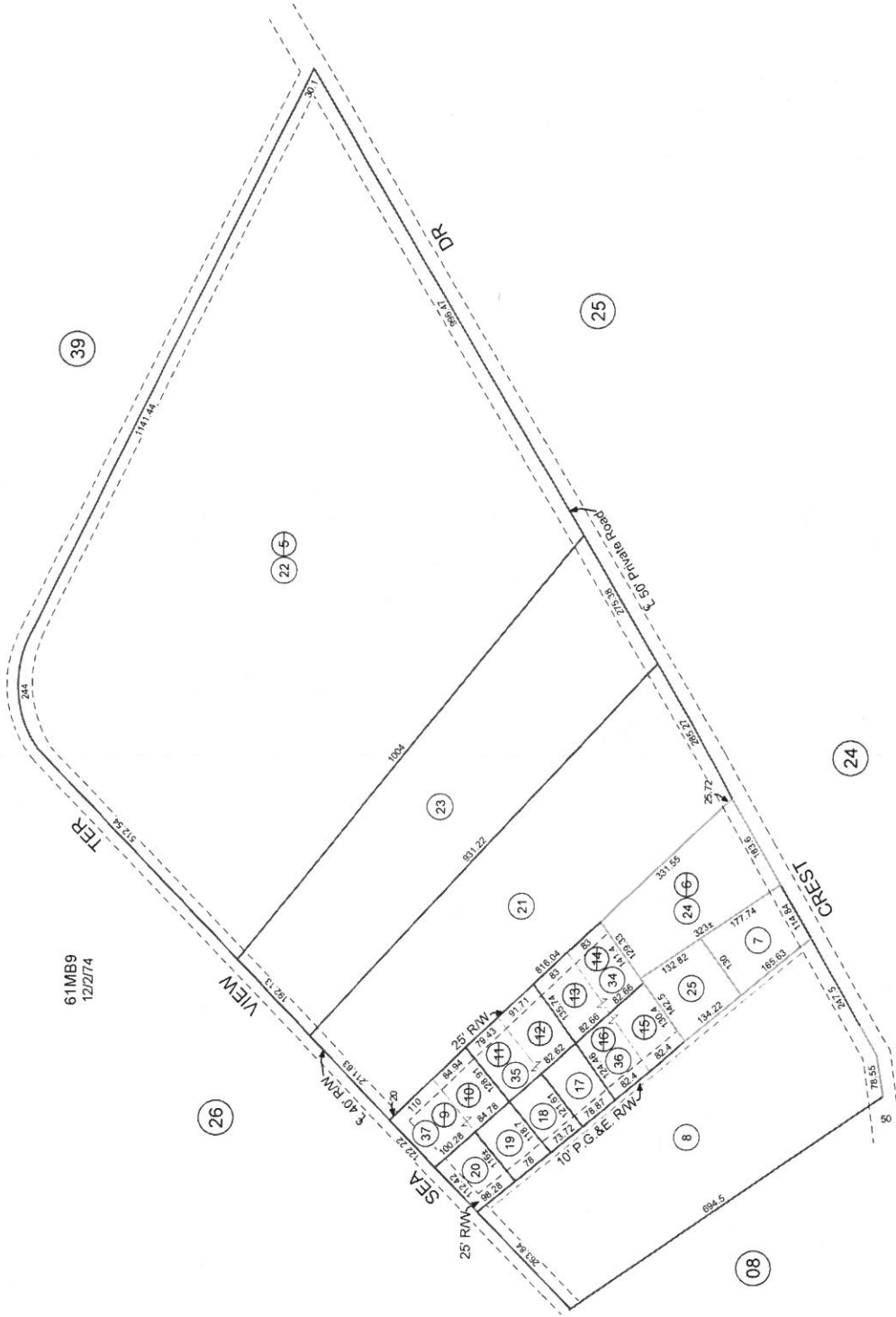
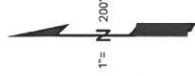
FOR TAX PURPOSES ONLY

THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
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POR. SAN ANDREAS RANCHO
SEC. 3, T.12S., R.1E., M.D.B. & M.

Tax Area Code
69-278

46-27



Electronically redrawn 2/17/00 KSA
Rev 2/17/00 KSA (Por. to Pg 39)
Rev 12/12/07 mvm (Cor. to 1-07, 24 & 25 per 6-0037533)

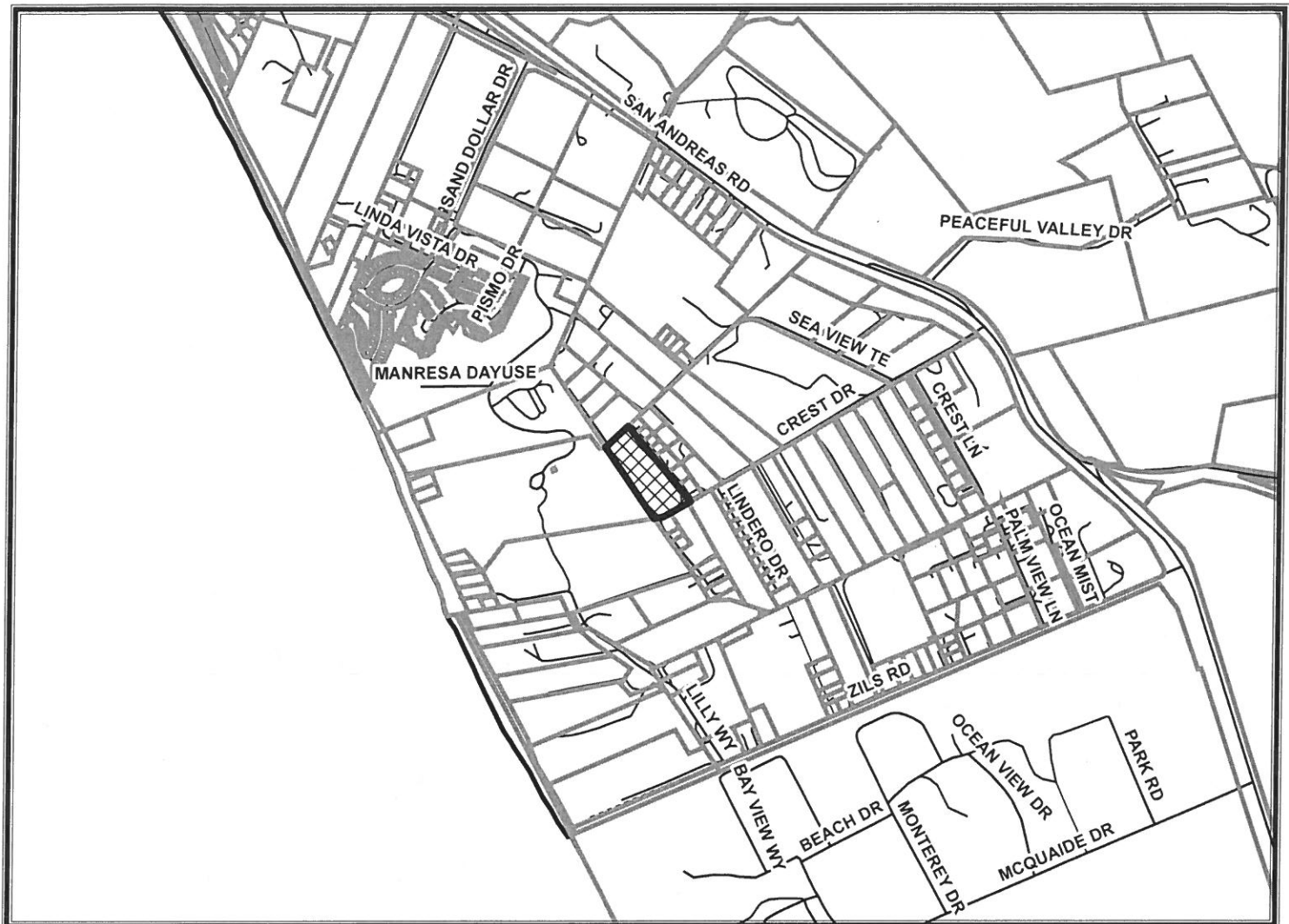
Note - Assessor's Parcel & Block
Numbers Shown in Circles.

Assessor's Map No. 46-27
County of Santa Cruz, Calif.
Feb. 2000





EXHIBIT E



Location Map



LEGEND

-  APN: 046-271-08
-  Assessors Parcels
-  Street
-  County Boundary

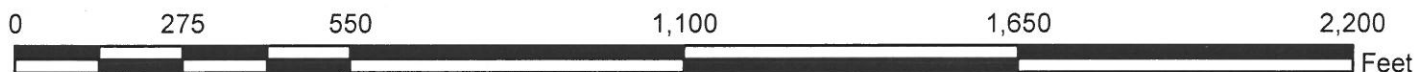
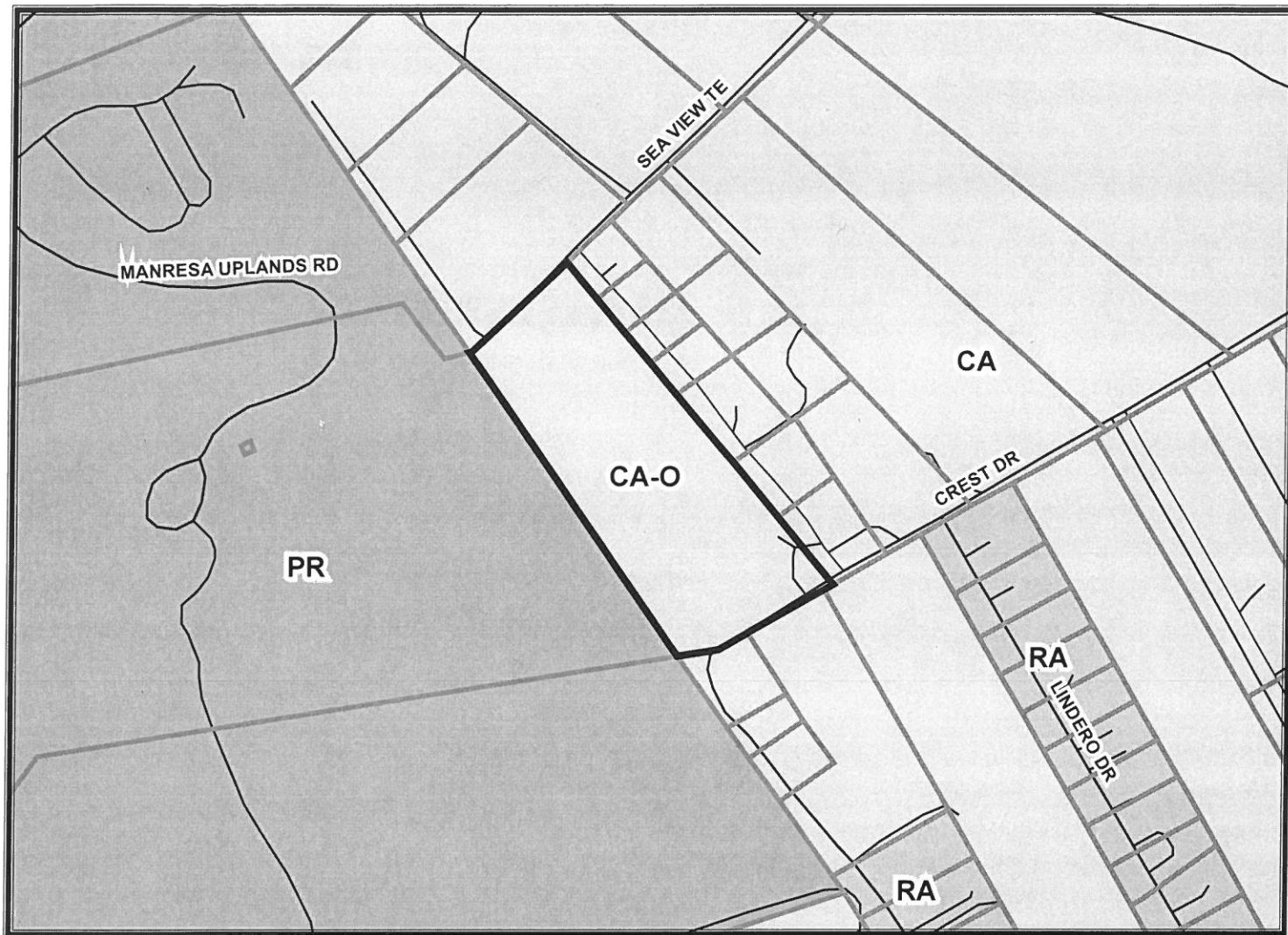


Map Created by
County of Santa Cruz
Planning Department
January 2017

EXHIBIT E



Zoning Map



LEGEND

- APN: 046-271-08
- Assessors Parcels
- Street
- AGRICULTURE COMMERCIAL
- AGRICULTURE RESIDENTIAL
- PARK

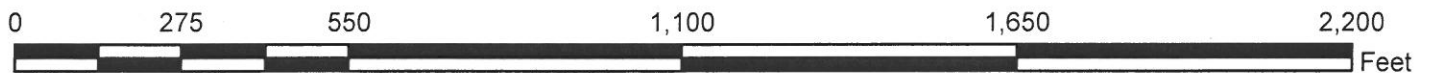
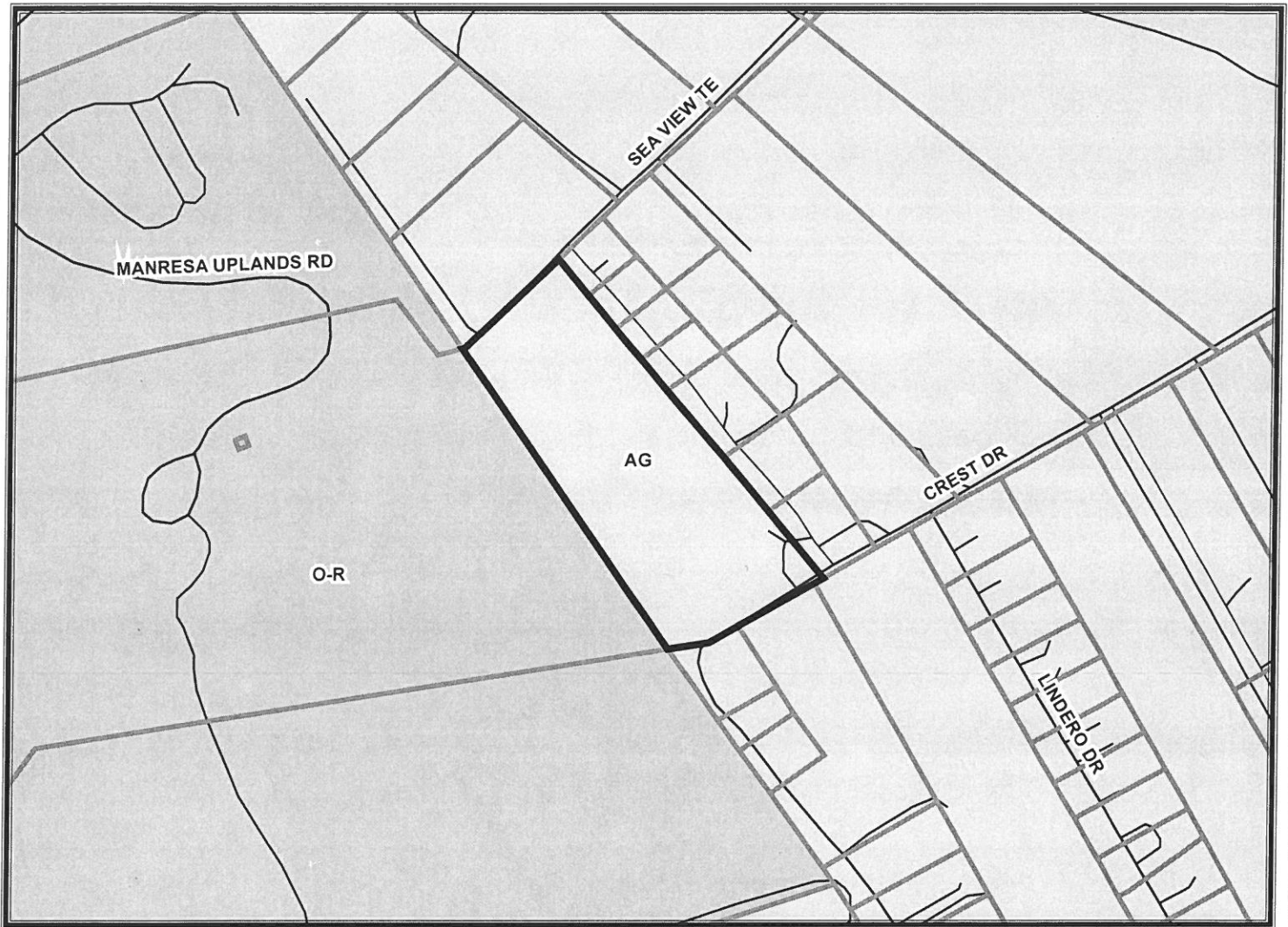


Map Created by
County of Santa Cruz
Planning Department
January 2017



EXHIBIT E



General Plan Designation Map



LEGEND

-  APN: 046-271-08
-  Assessors Parcels
-  Street
-  Agriculture
-  Parks and Recreation



Map Created by
County of Santa Cruz
Planning Department
January 2017

EXHIBIT E

COMPARED

OPEN-SPACE EASEMENT CONTRACT

THIS DEED, executed this 21st day of February, 1978 ,
by and between George W. Hippeli and Patricia M. Folger, as GRANTOR, and
the COUNTY OF SANTA CRUZ, as GRANTEE,

WITNESSETH:

WHEREAS, Grantor is the owner in fee of the real property
hereinafter described, situated in Santa Cruz County, California, and

WHEREAS, Grantor and Grantee desire to preserve and con-
serve for the public benefit the natural scenic beauty and existing
openness of said property, and

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

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

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

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

EXCEPTIONS: Appurtenant accessory buildings and fencing

THE EXCEPTIONS DO NOT GRANT ANY DEVELOPMENT RIGHTS, AND ANY DEVELOPMENT REQUESTED MAY OR MAY NOT BE ACCEPTABLE TO THE COUNTY

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

3. That no advertising of any kind or nature shall be located on or within said property except for identification and for the sale of products produced on the site consistent with the purpose of this instrument.

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

5. That, except for the construction, alteration, relocation and maintenance of public roads, public and private pedestrian (hiking, equestrian and bicycle) trails, and the development of ponds for wildlife and fire protection, normal excavation for farming and building, development of sanitation and water facilities needed, measures needed to prevent erosion and provide for fire protection, the general topography and natural vegetation of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made. Normal maintenance and replacement of existing structures shall be permitted. Cutting of timber, trees and other natural growth as may be required for fire prevention, thinning, elimination of diseased growth and similar protective measures, or for the harvest of trees in a manner

compatible with scenic purposes shall be permitted. (Section 51054, Government Code)

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

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

8. The property of the Grantor hereinabove referred to and to which the provisions of this instrument apply is situated in the County of Santa Cruz, State of California, and is particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

Excepting and reserving to the Grantor:

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

9. If at any time the property herein described, or any portion thereof, shall be selected for condemnation by any public agency or public utility, including the Grantee, then and in that event the easement created by this conveyance shall terminate as of the time of the filing of the complaint in condemnation as to the land or portion thereof sought to be taken for public use, and shall revert to and vest in the Grantor, its successors in interest, or assigns.

10. The conveyance by Grantor to Grantee of an open-space easement in the property described above is for a term of ten (10) years from the date of execution of this instrument. The term of the open-space easement shall be automatically renewed on the anniversary date of the execution of this instrument for an additional one (1) year period, thus maintaining the term of the open-space easement at ten (10) years, unless notice of non-renewal is given as provided below.

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

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

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

12. The Grantor may petition the governing body of the Grantee for abandonment of any open-space easement as to all of the subject land. The governing body may approve the abandonment of an open-space easement only if, by resolution, it finds:

- (1) That no public purpose described in Section 51084 will be served by keeping the land as open space; and
- (2) That the abandonment is not inconsistent with the purposes of this chapter; and
- (3) That the abandonment is consistent with the local general plan; and

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

No resolution abandoning an open-space easement shall be finally adopted until the matter has been referred to the local planning commission, the commission has held a public hearing thereon and furnished a report on the matter to the governing body stating whether the abandonment is consistent with the local general plan and the governing body has held at least one public hearing thereon after giving 30 days' notice thereof by publication in accordance with Section 6061 of the Government Code, and by posting notice on the land.

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

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

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

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

EXHIBIT "A"

SITUATE in the County of Santa Cruz, State of California.

PARCEL ONE.

BEGINS on the centerline of a right of way 50 feet in width and known as Sea View Terrace at the most Western corner of the lands described in the Deed to E. B. Fisher, et ux., recorded September 7, 1951 in Volume 837, Page 449, Official Records of Santa Cruz County; thence along the Southwestern boundary line of said lands of Fisher South 40° 52' East 792.61 feet to the Northern corner thereof on the Southern boundary line of Lot 42 of the San Andreas Rancho; thence along the boundary lines thereof North 53° 36' East 247.50 feet to an angle point; thence continuing along said boundary line Westerly 73.55 feet to the most Southern corner of said Lot 42; thence along the Southwestern boundary line North 36° 43' 45" West 694.50 feet to the centerline of said Sea View Terrace; thence along said last mentioned boundary line North 36° 36' East 263.81 feet to the point of beginning.

EASEMENT.

A right of way 50 feet in width, appurtenant to Parcel One, described by the centerline as follows:

BEGINS at the West Southern corner of Parcel One above described; thence along the Southern boundary of Parcel One Westerly 73.55 feet to an angle; thence North 53° 36' East 247.50 feet to San Andreas Road as set out in various deeds of record.

RIGHT-OF-WAY.

A right of way, appurtenant to Parcel One, over a strip of land 40.00 feet in width described by the centerline:

BEGINS at the Northwestern or West Western corner of the above described parcel and running North 43° 31' East 1216.51 feet to the beginning of a curve; thence on a curve to the right having a radius of 200.00 feet through an angle of 60° 31' an arc distance of 204.00 feet to a point of tangency; thence South 65° 25' East 1171.51 feet to a station on the centerline of the above described 50.00 foot right of way, as set out in various deeds of record.

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

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

George W. Hippeli
GEORGE W. HIPPELI GRANTOR

Patricia M. Folger
PATRICIA M. FOLGER GRANTOR

COUNTY OF SANTA CRUZ

By Edward F. Borovatz
GRANTEE

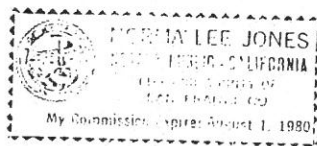
APPROVED AS TO FORM:

Dwight L. Herr
DWIGHT L. HERR
Assistant County Counsel

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA CRUZ)
On this 28th day of February, the year 1978, before me RICHARD C. HERR, County Clerk and Ex-Officio Clerk of the Board of Supervisors, personally appeared EDWARD F. BOROVATZ, known to me to be the Chairman of the Board of Supervisors of the County of Santa Cruz, a political subdivision of the State of California, and known to me to be the person who executed the within instrument on behalf of said political subdivision, and I am duly sworn to me by such political subdivision executed the same.

RICHARD C. HERR, COUNTY CLERK AND

STATE OF CALIFORNIA, } BOOK 2879 PAGE 217
City & County of San Francisco } ss:
On this 23rd day of February, in the year one thousand hundred and 1978, before me, Norma Lee Jones, a Notary Public, State of California, duly commissioned and sworn, personally appeared George W. Hippeli and Patricia M. Folger, known to me to be the person, whose name, are, subscribed to within instrument and acknowledged to me that they executed the same.
IN WITNESS WHEREOF I have hereunto set my hand and affixed my official City & County of San Francisco the day and year in certificate first above written.



Norma Lee Jones
Notary Public, State of California
My Commission Expires August 1, 1980