

# Staff Report to the Zoning Administrator

Application Number: 221302

**Applicant:** Margaret Krieger

Agenda Date: December 16, 2022

Owner: Margaret Krieger (-08) and Roman

Agenda Item #:

Basinschi (-17)

**APN:** 093-102-08; 093-102-17

Time: After 9:00 a.m.

Site Address: 18500 & 18510 Main Blvd, Los Gatos 95033

**Project Description**: Proposal for an equal exchange Lot Line Adjustment to resolve an existing structural encroachment. The adjustment will result in a transfer of 519 sq ft from 18500 Main Blvd, Los Gatos (APN 093-102-08) to 18510 Main Blvd, Los Gatos (APN 093-102-17) and vice versa. This will result in two parcels of 10,517 square feet (APN 093-102-17) and 27,878 square feet (APN 093-102-17). Requires a Lot Line Adjustment and a Variance to reduce the required side setback from 10ft to 4'3" at APN 093-102-08 and 4'7" at APN 093-102-17, and a determination that the project is exempt from further review under the California Environmental Quality Act (CEQA).

**Location**: Properties are on the south side of Main Boulevard approximately 115 ft (18500 Main Boulevard) and 175 sq feet (18510 Main Boulevard) east of the intersection with Circle Drive in the Skyline Planning Area.

Permits Required: Lot Line Adjustment and Variance to the Site Standards

Supervisorial District: District 5 (District Supervisor: Bruce McPherson)

#### **Staff Recommendation:**

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 221302, based on the attached findings and conditions.

### **Project Description & Setting**

APN 093-102-08 and APN 093-102-17 are located within the Big Redwood Park subdivision in Los Gatos. The parcels have a double frontage onto both Main Boulevard and Oak Drive but the existing dwellings are located in the northern portion of the parcels where they are accessed from Main Boulevard. The area is heavily wooded and both lots have steep slopes with a majority of each parcel exceeding 30% slope.

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The existing dwelling at APN 093-102-08 has an estimated construction date of 1912, which is prior to the issue of development permits. The dwelling is nonconforming to current site and development standards for the R-1-15 zone district in that the structure encroaches over the property line it shares with APN 093-103-17. APN 093-102-17 is currently developed with one single-family dwelling that was likely constructed in or before 1957, which is nonconforming to the required 20-foot front yard setback but conforms to the required 10-foot side yard setback.

The proposed project is to relocate the property line so that it runs between the two existing structures to cure the structural encroachment of the existing dwelling on APN 093-102-08. The revised property line will correspond with a portion of an existing wall that runs between the two houses and as proposed, will result in an equal exchange of land between APN 093-102-08 and APN 093-102-17. An area of 519 square feet along the northwestern section of APN 093-102-17 will be transferred to APN 093-102-08 and a 519 square foot section of land along the southeastern section of APN 093-102-08 will be transferred to APN 093-102-17.

The lot line adjustment will bring the dwelling on APN 093-102-08 into greater conformance with the 10-foot side yard setback required in the R-1-15 zone district; however, because the two existing structures are only nine feet apart, it is not possible that this dwelling can be rendered conforming. Further, because the revised property line will be moved closer to the dwelling on APN 093-102-17, this structure will no longer conform to the side-yard setback. Variances are therefore required for both properties to allow for reduced side yard setbacks.

#### Zoning & General Plan Consistency

APN 093-102-08 is a 10,517 square foot lot and APN 093-102-17 is a 27,878 square foot lot, both of which are located in the R-1-15 (Single family residential - 15,000 square feet) zone district, a designation which allows residential uses. Both lots are developed with single family dwellings, which are a principal permitted use within the zone district. The residential zoning is consistent with the site's R-M (Mountain Residential) General Plan designation.

#### Lot Line Adjustment

In order to correct for the encroachment of the existing dwelling that was constructed over the property line and to also bring the structure into greater conformance with the required residential site and development standards, the project includes a proposal to transfer approximately 519 square feet from APN 093-102-17, which is owned by Roman Basinschi, to the subject parcel, APN 093-102-08, which is owned by Margaret Krieger.

The transfer of this property from APN 093-102-17 to the subject parcel, APN 093-102-08 will not increase the development potential on either property and no new building sites will be created. The proposal is for an equal exchange of land and will not result in any change in area to either parcel. There are two parcels currently and there will continue to be two parcels after the issue of this permit. No new parcels will be created.

#### Variance

The proposed lot line adjustment requires a variance to the site standard for side yard setbacks for both parcels. The variance will result in a reduction of the required side setback from 10 feet to 4 feet 3 inches at APN 093-102-08 and 4 feet 7 inches at APN 093-102-17.

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The applicable site and development standards for parcels in the R-1-15 zone district in accordance with County Code section 13.10.323 – "Development Standards for Residential Districts", are as set out in the following table:

	APN 093-102-08	APN 093-102-17
EXISTING	minus 5.6 feet (dwelling is over the property	>10 feet
	line)	
REQUIRED	10 feet	10 feet
PROPOSED*	4.7 feet	4.3 feet

<sup>\*</sup>Setback shown is at the point of least conformance with the required site standard

#### **Environmental Review**

Environmental Review has not been required for the proposed project since, as proposed, the project qualifies for an exemption under the California Environmental Quality Act (CEQA) consistent with the CEQA guidelines in Section 5, Minor Alterations in Land Use Limitations (15305). The proposed lot line adjustment and variance to the side setbacks result in no change to the existing residential use and only minor changes are proposed to the side setbacks to both properties to cure a structural encroachment.

#### 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 221302, based on the attached findings and conditions.

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

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

Report Prepared By: Victoria Miller

Santa Cruz County Planning Department

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### **Exhibits**

- A. Categorical Exemption (CEQA determination)
- **Findings** B.
- Conditions C.
- Project plans D.
- Assessor's, Location, Zoning and General Plan Maps E.
- F. Parcel information

# 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.

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Assessor Parcel Number: 093-102-08; 093-102-17

does not result in the creation of additional building sites.

Victoria Miller, Project Planner

Project Location: 18500 & 18510 Main Blvd, Los Gatos 95033
<b>Project Description:</b> Proposal for an equal exchange Lot Line Adjustment to resolve an existing structural encroachment. The adjustment will result in a transfer of 519 sq ft from 18500 Main Blvd, Los Gatos (APN 093-102-08) to 18510 Main Blvd, Los Gatos (APN 093-102-17) and vice versa. This will result in two parcels of 10,517 square feet (093-102-17) and 27,878 square feet (093-102-17).
Person or Agency Proposing Project: Margaret Krieger
Contact Phone Number: (408) 489-1728
<ul> <li>A The proposed activity is not a project under CEQA Guidelines Section 15378.</li> <li>B The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).</li> <li>C Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment.</li> <li>D Statutory Exemption other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).</li> </ul>
E. X Categorical Exemption
Specify type: Class 5 - Minor Alterations in Land Use Limitations (Section 15305)
F. Reasons why the project is exempt:
Minor Lot Line Adjustment, between 4 or fewer parcels, and variance to side setbacks which

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

Owner: Margaret Krieger (-08) and Roman Basinschi (-17)

# Lot Line Adjustment Findings

1. The Lot Line Adjustment will not result in a greater number of parcels than originally existed.

This finding can be made, in that there were two parcels prior to the adjustment and there will be two parcels subsequent to the adjustment.

2. The Lot Line Adjustment conforms with the County zoning ordinance (including, without limitation, County Code section 13.10.673), and the county building ordinance (including, without limitation, County Code section 12.01.070).

This finding can be made, in that no additional building sites will be created by the transfer of land from APN 093-102-08 to APN 093-102-17 in that both parcels are currently developed with single family dwellings. Neither of the parcels has a General Plan designation of 'Agriculture' or 'Agricultural Resource'; neither is zoned 'TP' or has a designated Timber Resource as shown on the General Plan maps, and technical studies are not necessary as both lots are already developed with single family dwellings. The proposal also complies with the General Plan designation of the parcels in that both parcels, which have a General Plan designation of R-M Mountain Residential, will remain their original size due to an equal exchange of land, which is proposed in order to cure a structural encroachment.

3. No affected parcel may be reduced or further reduced below the minimum parcel size required by the zoning designation, absent the grant of a variance pursuant to County Code section 13.10.230.

This finding can be made, in that neither of the parcels included in the proposal will be further reduced below the minimum parcel size required by the zone district as a result of this lot line adjustment in that the proposed boundary adjustment constitutes an equal exchange of land. The site area of the subject parcels will remain unchanged by the proposal; APN 093-102-08 is 10, 517 square feet (approximately 0.24 acres) and APN 093-102-17 is 27, 878 square feet (approximately 0.6 acres).

As set out in County Code section 14.01.105-L(1), a relocation of lot lines may be approved, regardless of whether the parcels involved (either before or after the Lot Line Adjustment) are conforming or nonconforming to the minimum parcel size required by the zoning ordinance, where the Lot Line Adjustment is to cure a structural encroachment, otherwise lawfully developed, and where the resulting property line meets the required minimum setbacks from the encroaching structure, or any approved variance therefrom. For the proposed project, because the two existing structures are located only nine feet apart, it is not possible for either structure to meet the required 10-foot side yard setback to the relocated property line. Therefore, as proposed, the project includes a Variance to the side setbacks on both properties in conjunction with the application for the minor lot line adjustment. A complete list of Variance findings is included with this report.

Owner: Margaret Krieger (-08) and Roman Basinschi (-17)

### 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.

The proposed project is located within the R-1-15 (Single family residential - 15,000 square feet) zone district, a designation that allows for residential uses. The residential zoning is consistent with the R-M (Mountain Residential) designation that applies to the project site.

The existing dwellings are located on small and extremely steep parcels that are each less than 15,000 square feet in size; APN 093-102-08 is 10, 517 square feet (approximately 0.24 acres) and APN 093-102-17 is 27, 878 square feet (approximately 0.6 acres). APN 093-102-08 is developed with an existing non-conforming dwelling that encroaches over the existing northwestern property line onto APN 093-102-17. APN 093-102-17 is developed with an existing dwelling that conforms to the site standard for side yard setbacks. To correct the structural encroachment by the dwelling on APN 093-102-08 onto adjacent parcel APN 093-102-17 and to bring the structure into greater conformance with the site and structural standards, a Lot Line Adjustment is proposed that will transfer of 519 square feet between the two parcels to result in an equal exchange of land (Lot Line Adjustment findings are included with this report).

The proposed lot line will be located between the two structures where it will align with an existing retaining wall associated with the dwelling on APN 093-102-08. This will eliminate the existing structural encroachment by the dwelling on APN 093-102-08 and allow for a modest side yard setback for both dwellings. However, because the two existing dwellings are only nine feet apart, it is not possible for either structure to meet the required 10-foot side yard setback to the relocated property line as required in the R-1-15 zone district. The approval of a variance to allow for reduced side yard setbacks of 4.7 feet to the dwelling on APN 093-102-08 and 4.3 feet to the dwelling on APN 093-102-17 is therefore appropriate. This finding can therefore be made.

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.

This finding can be made in that a single-family dwelling is an allowed use within the R-1-15 zone district. The Variance is being made in conjunction with an application for a lot line adjustment to cure an existing structural encroachment and will not result in any modifications to the existing single-family dwellings on the sites. The proposed lot line will be located between the two structures and will follow an existing retaining wall associated with the dwelling on APN 093-102-08. The proposal will not result in any additional deprivation of light, air, or open space to the subject parcels or other parcels within the vicinity and will not be materially detrimental public health, safety, and welfare or injurious to property.

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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 granting of a Variance to recognize a reduction of the required side setback to 4.3 feet for APN 093-102-17 and 4.7 feet for APN 093-102-08, will not constitute a grant of special privilege to this parcel since it is not possible to correct for the existing structural encroachment and for both existing dwellings to meet the site standard of 10 feet on each side of the property line. The proposal does not include any modifications to either of the existing dwellings and this application is made with the sole purpose of eliminating the encroachment of the dwelling on APN 093-102-08 over the property line and bringing the structure into greater conformance with site standards for the zone district as specified in SCC 13.10.323.

Therefore, this finding can be made.

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# **Conditions of Approval**

Exhibit D: Tentative Map, 1 sheet, prepared by Alan Brodie French, Licensed Land Surveyor, dated September 20, 2022.

- I. This permit authorizes an equal exchange of 519 square feet from APN 093-102-17 to APN 093-102-08 and a variance to the required side setback of 10 feet to 4 feet 3 inches at APN 093-102-08 and 4 feet 7 inches at APN 093-102-17. 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. 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. No parcel map is required. File deed(s) of conveyance (which must result in parcel configurations that match the approved Exhibit "A" for this permit) with the County Recorder to exercise this approval. Parcels or portions of parcels to be combined must be in identical ownership. Please note that this approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property.
- III. The deed(s) of conveyance must contain the following statement after the description of the property(ies) or portion(s) of property to be transferred:
  - A. "The purpose of the deed is to adjust the boundary between Assessor's Parcel Number 093-102-08 and Assessor's Parcel Number 093-102-17 as approved by the County of Santa Cruz under Application 221302. This deed and approval of the related Lot Line Adjustment Number 221302 shall be deemed to permanently reconfigure the affected underlying parcels. Any configuration of such underlying parcels that existed prior to recordation of this deed shall no longer be valid and shall not be used for transfer, conveyance, sale, or any other purpose. This conveyance may not create a separate parcel, and is null and void unless the boundary is adjusted as stated."
- IV. Return a conformed copy of the deed(s) to the Planning Department.
- V. If a map is also to be recorded with the County Surveyor's office (which is not required to implement this approval), you must include a copy of these Conditions of Approval to the County Surveyor with the map to be recorded.
- VI. Operational Conditions
  - A. In the event that future County inspections of the subject property disclose

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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.

#### VII. Indemnification

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

- B. The COUNTY shall promptly notify the applicant/owner of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. The COUNTY shall cooperate fully in such defense.
- C. 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.
- D. <u>Settlement</u>. The applicant/owner shall not be required to pay or perform any settlement unless such applicant/owner has approved the settlement. When representing the COUNTY, the applicant/owner shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the COUNTY.
- E. <u>Successors Bound</u>. The "applicant/owner" shall include the applicant and/or the owner and the successor'(s) in interest, transferee(s), and assign(s) of the applicant and/or the owner.

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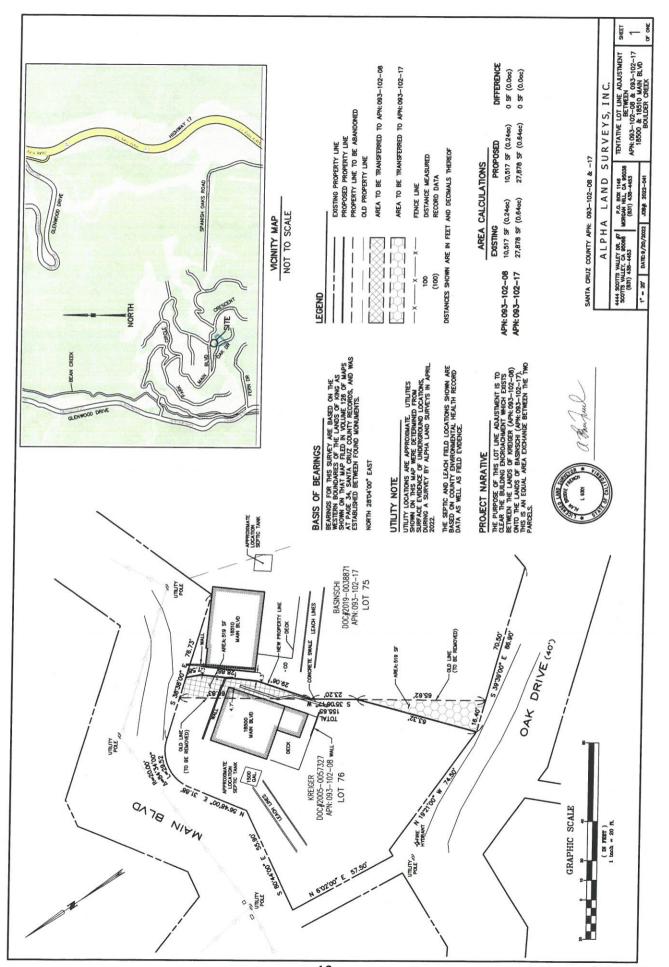
Owner: Margaret Krieger (-08) and Roman Basinschi (-17)

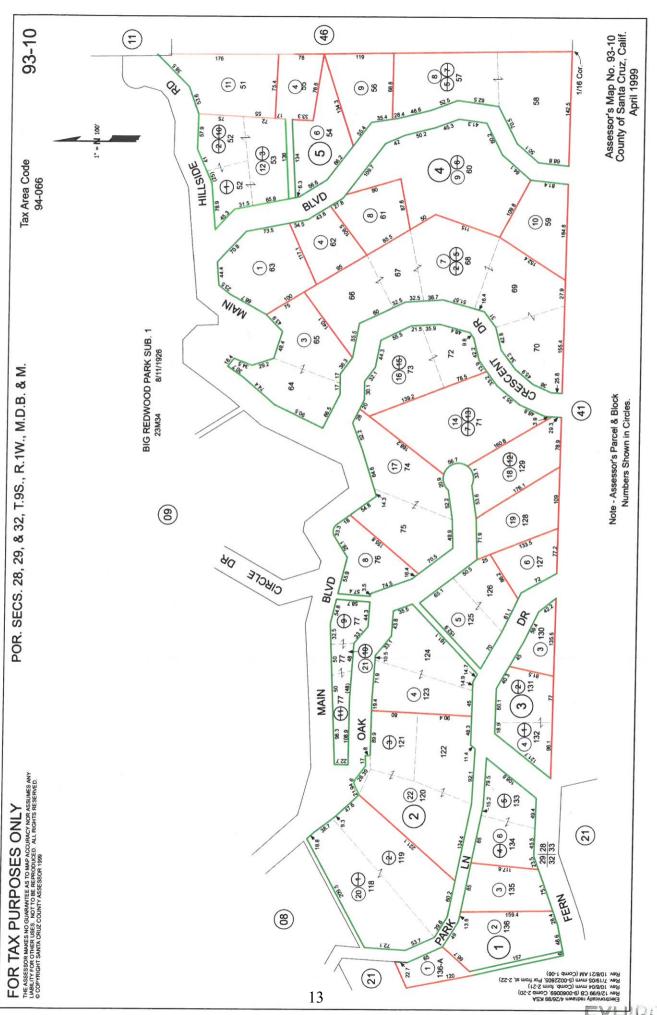
Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless the conditions of approval are complied with and the use commences before the expiration date.

Approval Date:	-		
Effective Date:			
Expiration Date:		e .	
	Steve Guiney, AICP Zoning Administrator		

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.





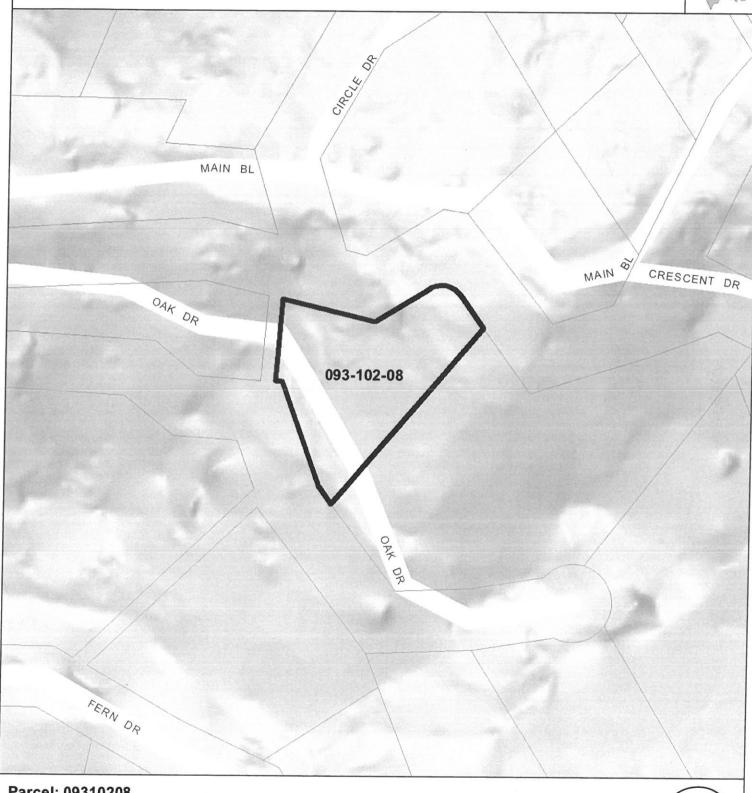
EXHIBIT

E



# **Parcel Location Map**





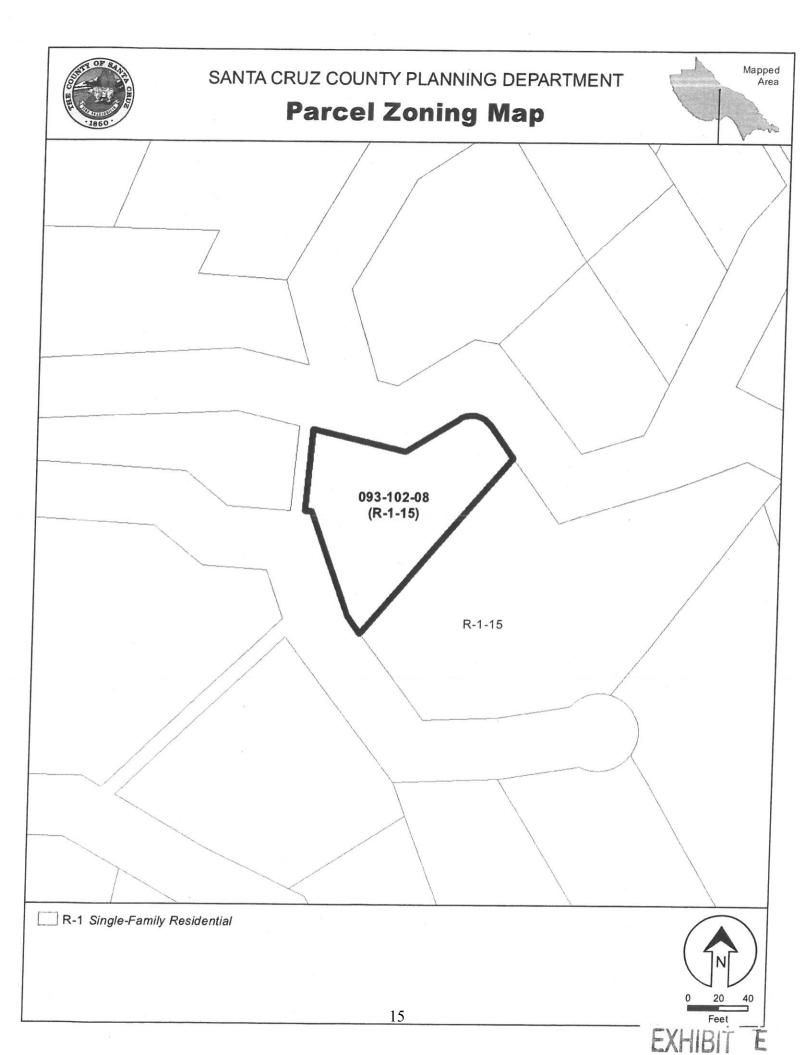
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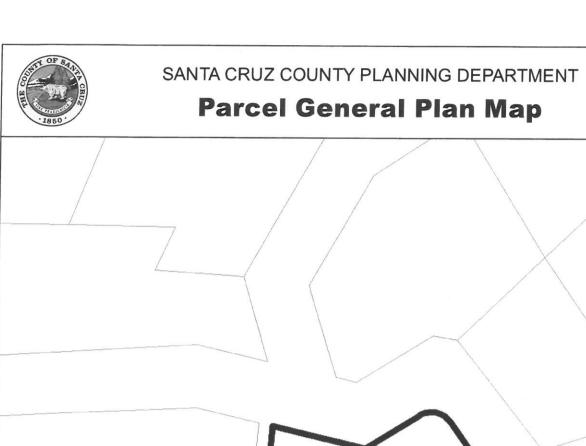
Study Parcel

Assessor Parcel Boundary

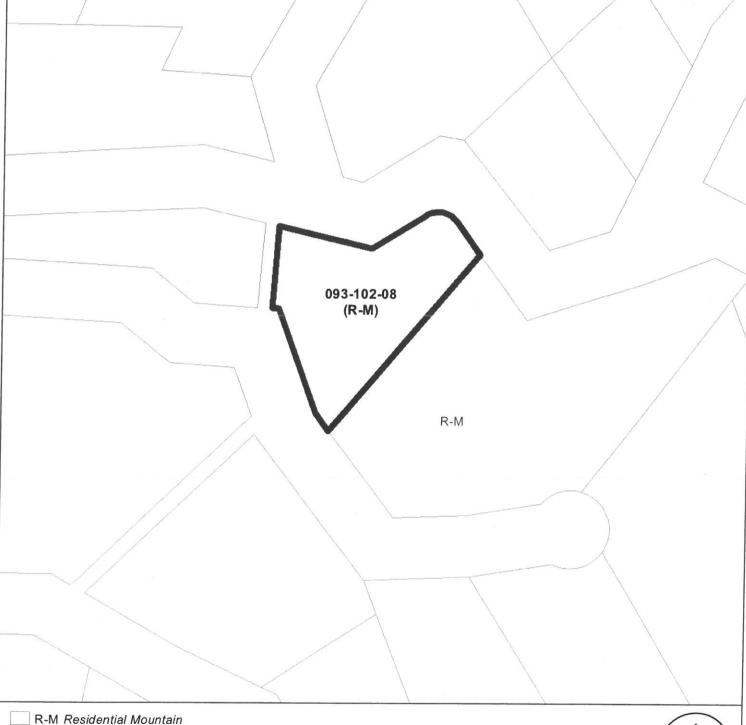
Map printed: 30 Nov. 2022

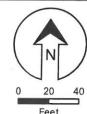








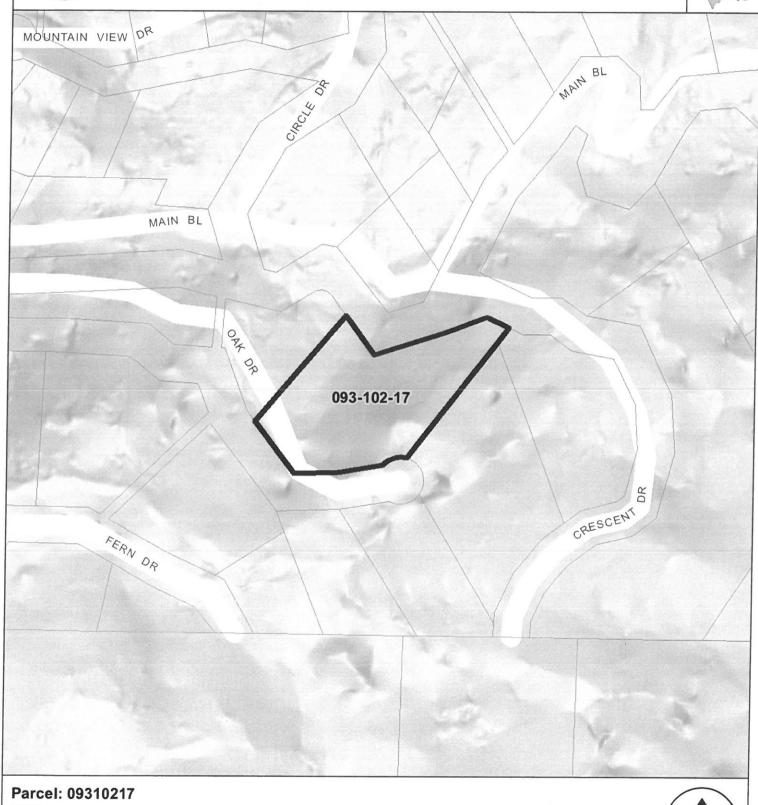






# **Parcel Location Map**

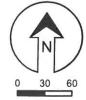




Study Parcel

Assessor Parcel Boundary

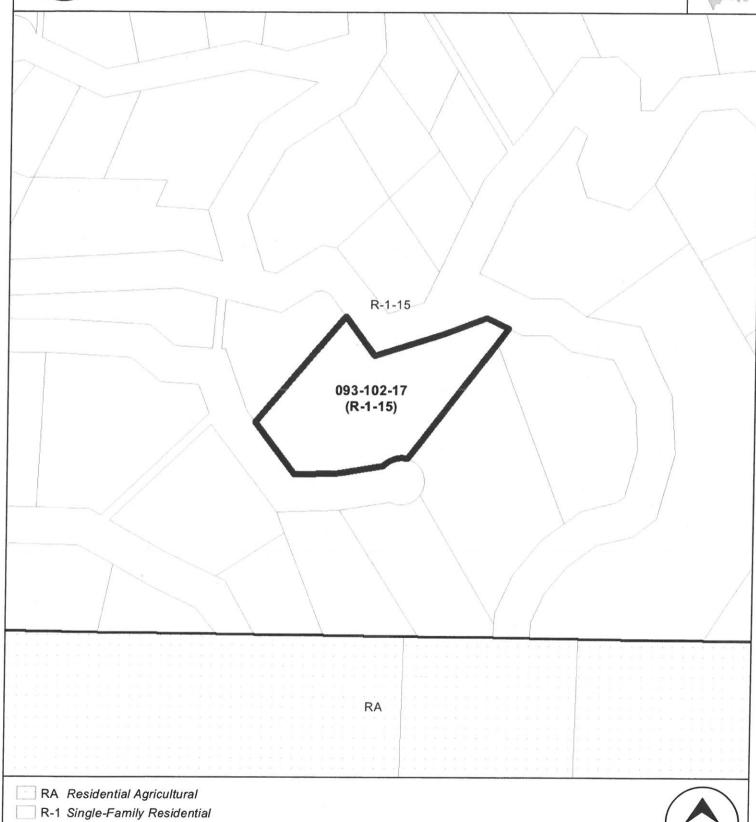
Map printed: 30 Nov. 2022





# **Parcel Zoning Map**



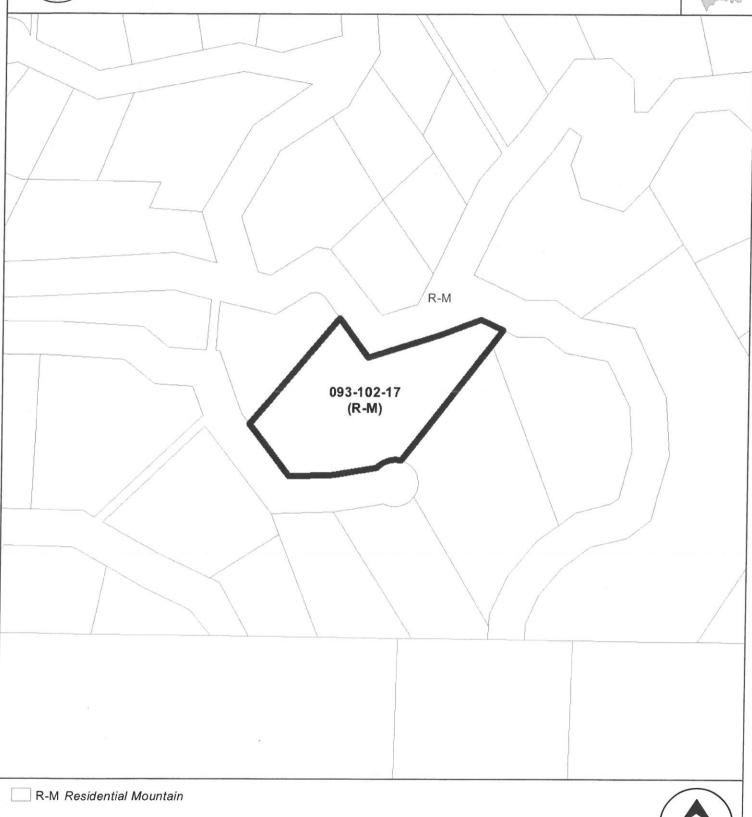


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# **Parcel General Plan Map**







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#### **Parcel Information**

#### **Services Information**

Urban/Rural Services Line:

Inside X Outside

Water Supply:

Public Water (Big Redwood Park)

Sewage Disposal:

Septic Tank

Fire District:

Scotts Valley FPD

Drainage District:

Out

#### **Parcel Information**

Parcel Size:

APN 093-102-08: 0.24 acres (10, 517 square feet);

APN 093-102-17: 0.6 acres (27, 878 square feet)

Existing Land Use - Parcel:

Residential

Existing Land Use - Surrounding:

Residential

Project Access:

Main Boulevard

Planning Area:

San Lorenzo Valley

Land Use Designation:

R-M (Mountain Residential)

Zone District:

R-1-15 (Single family residential - 15,000 square feet)

Coastal Zone:

\_\_ Inside

X Outside

Appealable to Calif. Coastal

Yes

X No

Comm.

#### **Environmental Information**

Geologic Hazards:

N/A – no construction proposed

Fire Hazard:

Not a mapped constraint

Slopes:

Steep slopes

Env. Sen. Habitat:

N/A – no construction proposed

Grading:

No grading proposed

Tree Removal:

No trees proposed to be removed

Scenic:

Not a mapped resource

Archeology:

Not mapped