

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: July 16, 2004
Agenda Item: No. **2**
Time: After 10:00 a.m.

STAFF REPORT TO THE ZONING ADMINISTRATOR

APPLICATION NO.: 04-0189
APPLICANT: Glen Ifland
OWNER Donal and Linda Broesamle

APN: 066-143-06

PROJECT DESCRIPTION: Proposal to construct a replacement single-family dwelling. Requires a Variance to reduce the minimum 10-foot side yard to about 5 feet, 10 inches.

LOCATION: Located on the east side of Pine Avenue about 200 feet south of the intersection of Conference Drive and Pine Avenue. Situs: 3 Pine Avenue. Mt. Hermon.

FINAL ACTION DATE: 90 days from hearing date
PERMITS REQUIRED: Variance Permit
ENVIRONMENTAL DETERMINATION: Categorically Exempt Class 3(a)
COASTAL ZONE: y e s XX no

PARCEL INFORMATION

PARCEL SIZE: 10,700 square feet
EXISTING LAND USE: PARCEL: residential
SURROUNDING: residential
PROJECT ACCESS: Pine Avenue, privately maintained road
PLANNING AREA: ~~San~~ Lorenzo Valley
LAND USE DESIGNATION: R-S – Suburban Residential
ZONING DISTRICT: R-1-15 – Single-family Residential 15,000 square foot lot size minimum
SUPERVISORIAL DISTRICT: 5''

ENVIRONMENTAL INFORMATION

<u>Item</u>	<u>comments</u>
a. Geologic Hazards	a. None noted
b. Soils	b. Soils Report completed with building permit
c. Grading	c. Grading Permit #136422
d. Tree Removal	d. Completed
e. Biotic Resource	e. Mapped – Sandhills, no Sandhills species noted at site
f. Scenic	f. Not mapped
g. Drainage	g. Drainage plan approved under BP #136422
h. Traffic	h. No increase
i. Roads	i. Pine Avenue, a privately maintained road
j. Archeology	j. Mapped resource, site review complete with grading permit

SERVICES INFORMATION

W/in Urban Services Line: yes XX no

Water Supply: Existing water service
Sewage Disposal: Septic – permit approved
Fire District: Felton Fire
Drainage District: Zone 8

ANALYSIS & DISCUSSION

Project Description and Background

The applicant is requesting a Variance to reduce the required side yard setback from 10 feet to 5 feet, 10 inches at the northern property line for a replacement single family dwelling currently under construction. Demolition Permit #134930 for old dwelling was issued June 20, 2003 and the Building and Grading Permit #136422 for the replacement dwelling were issued November 24, 2003. The original dwelling was demolished in July of 2003, and construction began on the new dwelling about March 2004. The County Building Inspector requested a survey to verify setbacks on March 23 and 29 of 2004. The Building Section of the Planning Department received a copy of a survey stating that the foundation footings met the setback requirements on March 31, 2004. Sometime thereafter, the northern neighbor contacted the property owner informing them that the new structure appeared to be too close to the property line. The owner subsequently had the property be re-surveyed. The surveyors determined that a significant error had been made on the original survey and the setback to the north property line was only 3.2 feet.

The site is a fairly sloping site, requiring extensive retaining walls along the northern and eastern sides of the proposed dwelling and an engineered foundation constructed on an engineered fill pad. The walls and foundations were inspected and poured prior to the discovery of the surveying error. The applicant has revised the garage footprint and re-engineered the building design to achieve a greater setback along the north property line. This redesign increase the setback from 3.2 feet to 5 feet, 10 inches, which is still less than the 10 feet required. Hence a Variance is required.

Zoning, Variance and General Plan Issues

The project parcel is 10,700 square feet in size, has a zoning designation of R-1-15 and a Suburban Residential (R-S) General Plan designation. R-1-15 is an implementing zone district of the R-S General Plan designation. A single-family residential and residentially related accessory uses are the principal use for this zone district. The project as it relates to the required setbacks for the R-1-15 zone district is the following:

SETBACK	REQUIRED	PROPOSED
Front yard	20 feet	20 feet
Side yard (north)	10 feet	5 feet 10 inches
Side yard (south)	10 feet	46 feet
Rear yard	15 feet	38 feet

This residential neighborhood is part of the Mount Hermon Association subdivisions No. 1 and 2 filed in 1907. The neighborhood is characterized by a majority of nonconforming lots with respect to the R-1-15 zone district standards. Most parcels are between 5,000 and 8,000 square feet, although there are some smaller properties. There are a handful of larger properties that

have mostly been created by combining several smaller parcels. The development standards applicable to the majority of lots in this neighborhood are the R-1-9.9 or R-1-5.9 zone district standards, which set forth either 5 and 8 foot side yard setbacks or 5 feet for both side yards. Furthermore, most parcels under 10,000 square feet have frontages less than 60 feet wide, and therefore are allowed to develop at 5 feet for each side yard. The subject lot, however, is not less than 10,000 square feet of net site area (APN 066-143-06 is 10,700 sq ft) and, therefore, the R-1-9.9 setbacks are not applicable. Nevertheless, nearly all of the residences in neighborhood predate the R-1-15 zoning, and many are nonconforming with respect to the applicable zoning setbacks. Specifically, the dwelling demolished on the subject parcel was located less than 2 feet from the northern property line at the closest point, as well as being located well within the 20-foot front yard setback.

The northern property line of the subject parcel abuts the side yard of APN 066-143-01. The applicable side yard setbacks for APN 066-143-01 are 5 and 8 feet, and the existing residence is located 8 feet, 1 inch from the property line. Part of the garage and a portion of a second story bedroom of the proposed dwelling on the subject parcel would be located within the 10-foot side yard setback. There will not be any windows located within the required side yard, facing the neighboring property to the north. Therefore, the closer location will not compromise privacy for the neighboring dwelling.

Again, the foundation for the proposed dwelling was constructed by the owner and inspected by the County relying on what has been subsequently found as an erroneous survey. The removal of the foundation and retaining walls to relocate the structure to meet the 10-foot setback, will require extensive regrading of the lot to prepare the site for a new foundation, and will result in undue hardship for the property owner in terms of cost of the work and in plan redesign. The owner and applicant propose to reduce the garage size to increase the setback from the current 3 feet, 3 inches to 5 feet, 10 inches, this does require some re-engineering of the structure, which has been determined to be feasible. With the proposed modifications, the dwelling would be consistent with the overall pattern of development within this neighborhood. The granting of this variance will not adversely affect the neighboring property as the 5 foot, 10 inch setback will allow for adequate separation between structures to allow light and air.

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

RECOMMENDATION:

Staff recommends the following actions:

1. Certification of the determination that the project is Categorically Exempt from the California Environmental Quality Act, and
2. Approval of Application No. 04-0189 based on the findings and subject to the attached conditions.

EXHIBITS

- A. Project Plans & supporting documentation prepared by **Gary** Ifland & Assoc., dated 4/30/04
- B. Findings
- C. Conditions
- D. CEQA determination
- E. Assessor's Parcel Map
- F. Zoning **and** General Plan Maps

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.

Report Prepared **By** Cathleen Carr
Santa Cruz County Planning Department
701 Ocean Street, **4th** Floor
Santa Cruz CA **95060**
Phone Number: **(831) 454-3225**
e-mail: cathleen.carr@co.santa-cruz.ca.us

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.

Due to topography and other circumstances, the existing parcel was inaccurately surveyed. A Building and Grading permit was issued for the property and exercised through the construction of the foundation and retaining walls, which were inspected and cleared by the County Building Inspector based on two surveys. A subsequent survey determined that the original one was incorrect and found that the foundation and retaining wall had been constructed within 3 feet, 3 inches of the northern property line, where 10 feet is required by the zone district standards. The applicant proposes to modify the dwelling by reducing the garage size and increase the setback to 5 feet, 10 inches, which requires a Variance. Due to the location of the existing permitted, foundation, the steep slopes on the property behind the dwelling, the strict application of the zoning ordinance would create a hardship as to move the dwelling would require removal of an extensive retaining wall and foundation system and extensive grading of the steep lot. Almost all of the parcels in this neighborhood are allowed to have five-foot setbacks for one or both side yards and are zoned R-1-15. Many of the existing homes are nonconforming with respect to setbacks including the original house on the subject parcel, which was located less than two feet from the northern property line. Thus, the granting of the variance to reduce the north side yard to 5 feet, 10 inches is compatible with the development pattern of the neighborhood and is consistent with the privileges enjoyed by other properties in the vicinity within the R-1-15 zone district under similar circumstances.

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 maintaining adequate separation between structures and property lines along side yards in that the proposed side yard is over 5 feet with 5 feet being the minimum side yard setback allowed in the R-1 zone district. The variance to reduce the 10 foot side yard setback to 5 feet, 10 inches will not be materially detrimental to public health, safety or welfare or injurious to property or improvements in the vicinity in that the minimum 10-foot separation between structures will be maintained, the proposed dwelling will be located substantially further from the northern property line than the original structure which was located within 1 foot 8 inches of this property line. All windows facing the neighboring parcel on the north side are about 10 feet away, therefore, the reduced setback will not adversely affect privacy of the neighboring dwelling on the north side. It is mostly the single story garage that is closest to the property line and the second story portion is located further upslope from the neighboring residence, thus, the variance allowing the reduction of the side yard setback to 5 feet, 10 inches will allow sufficient separation to not adversely affect the light and air of the neighboring property.

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 this site area variance would not constitute a special privilege as the majority of the parcels in this neighborhood are zoned R-1-15, but are allowed to develop with 5-foot setbacks at one or both side yards. Many dwellings, including the original structure on the subject parcel, are developed closer than five to their property lines. The granting of the variance to reduce the north side yard to 5 feet, 10 inches is compatible with the development pattern of the neighborhood and is consistent with the privileges enjoyed by other properties in the vicinity within the R-1-15 zone district under similar circumstances as discussed in Variance Finding #1.

RESIDENTIAL 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.

As discussed in Variance Finding #2, the location of a portion of the garage and a second story bedroom within the side yard setback will not be detrimental to the health, safety, or welfare of persons in the neighborhood or the general public, and will not be materially injurious to properties or improvements in the vicinity.

The County Building Inspectors have inspected and approved the completed, engineered foundation and will verify that the remaining construction complies with prevailing building technology, the Uniform Building Code, and the County Building ordinance, thereby insuring 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.

The project site is located in the R-1-15 (Single Family Residential – 15,000 square foot minimum lot size) zone ~~district~~. The location of the proposed dwelling and attached garage and the conditions under which it would be operated and maintained will be consistent with all pertinent County ordinances and the purpose of the R-1-15 zone district, with the exception of the north side yard setback for which a variance is sought (see Variance Findings).

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.

The project is located in the R-S (Suburban Residential) land use designation. The proposed use

is consistent with all elements of the General Plan in that the use is a principal **use** and is not located in a hazardous or environmentally sensitive area. 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.

The **use** will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity in that this dwelling replaces a dwelling that was recently demolished and there is adequate parking and septic which has been approved under a building permit.

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.

As discussed in Variance Findings #1 and #3, the proposed residence 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. Specifically, the majority of the parcels are allowed to develop with 5-foot setbacks on one or both side yards. Moreover, many dwellings, including the original dwelling on this site, pre-date the R-1-15 zoning and are nonconforming with respect to setbacks, including the side yards. The proposed side yard is **5 feet, 10 inches**, which is consistent with both the existing and proposed future patterns of development in this neighborhood. The proposed dwelling is consistent with the physical parameters of this steeply sloping lot, the lot size and the surrounding neighborhood.

RESIDENTIAL DEVELOPMENT PERMIT

CONDITIONS OF APPROVAL

Approval No. 04-0189

Applicant: Gary Ifland

Owner: Donal and Linda Broesamle

Assessor's Parcel No. 066-143-06

Location and address: The property is located on the east side of Pine Avenue about 200 feet south of the intersection of Conference Drive and Pine Avenue. Situs: 3 Pine Avenue, Mt. Hermon.

Exhibits: A. Project Plans & supporting documentation prepared by Gary Ifland & Associates dated 4/30/04

- I. This permit authorizes the construction of a single family dwelling and attached garage within **5** feet, 10 inches of the northern (side yard) property line. 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 Change Order for Building Permit #136422 from the Santa Cruz County Building Official for the modifications to the garage and dwelling proposed under Variance Permit 04-0189.
- 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 "A" on file with the Planning Department. The final plans shall include the following additional information:
 1. Permit conditions for Variance Permit 04-0189.
 2. The side yard setback to the northern (side yard) property line shall be a minimum of **5** feet, 10 inches to all portions of the structure.
- 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 and Grading Permit

plans (#136422 and the subsequent Change Order) shall be installed.

- B. All inspections required by the grading and building permits shall be completed to the satisfaction of the County Building Official and the County Senior Civil Engineer.

IV. Operational Conditions

- A. Windows on the north side of the second story bedroom are prohibited within 10 feet of the northern property line.
- 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.

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 OF THIS APPROVAL UNLESS YOU OBTAIN YOUR BUILDING PERMIT, INSPECTIONS AND BUILDING PERMIT FINAL.

Approval Date: JULY 16,2004

Effective Date: JULY 30.2004

Expiration Date: JULY 30.2004

Don Bussey
Deputy Zoning Administrator

Cathleen Carr
Project Planner

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: 04-0189

Assessor Parcel Number: 066-143-06

Project Location: 3 Pine Avenue, Mt. Hermon

Project Description: Proposal to construct a replacement single-family dwelling. Requires a Variance to reduce the minimum 10-foot side yard to about 5 feet, 10 inches.

Person or Agency Proposing Project: Gary Ifland

Contact Phone Number: (831) 426-7941

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

F. Reasons why the project is exempt:

The proposal is to construct a replacement single family dwelling on a parcel designated as residential by the zone district and the General Plan. This structure replaces an existing nonconforming single family dwelling. Due to special circumstances a Variance is required to reduce the required 10 foot side yard setback to 5 feet, 10 inches. This setback is consistent with the 5-foot side yard setbacks that nearly all of the surrounding parcels enjoy.

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

Cathleen Carr, Project Planner

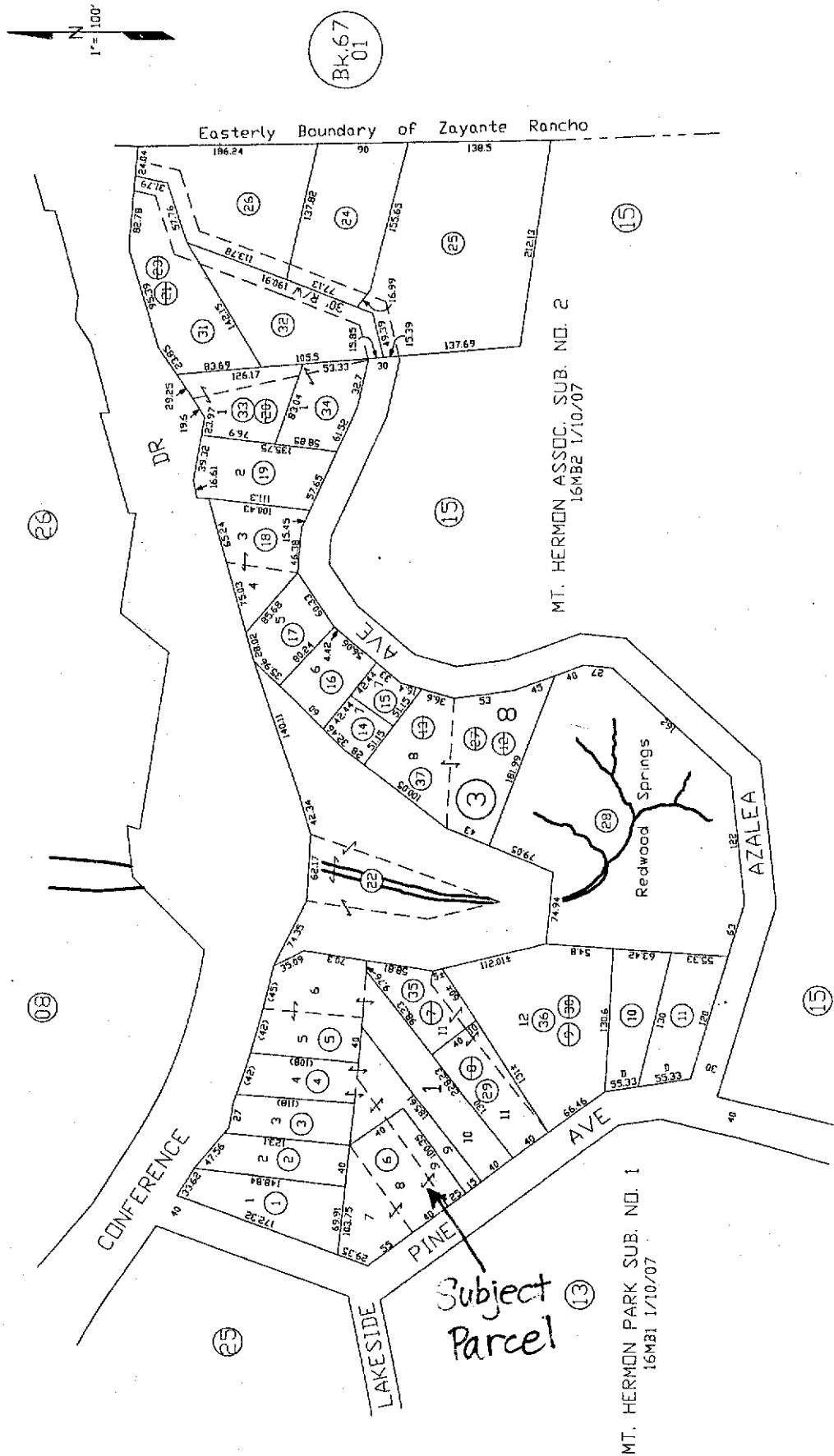
Date: _____

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POR. ZAYANTE RANCHO
 W. 1/2 SEC. 23, T.10S, R.2W, M.D.B. & M.

Tax Area Code
 90-010

66-14



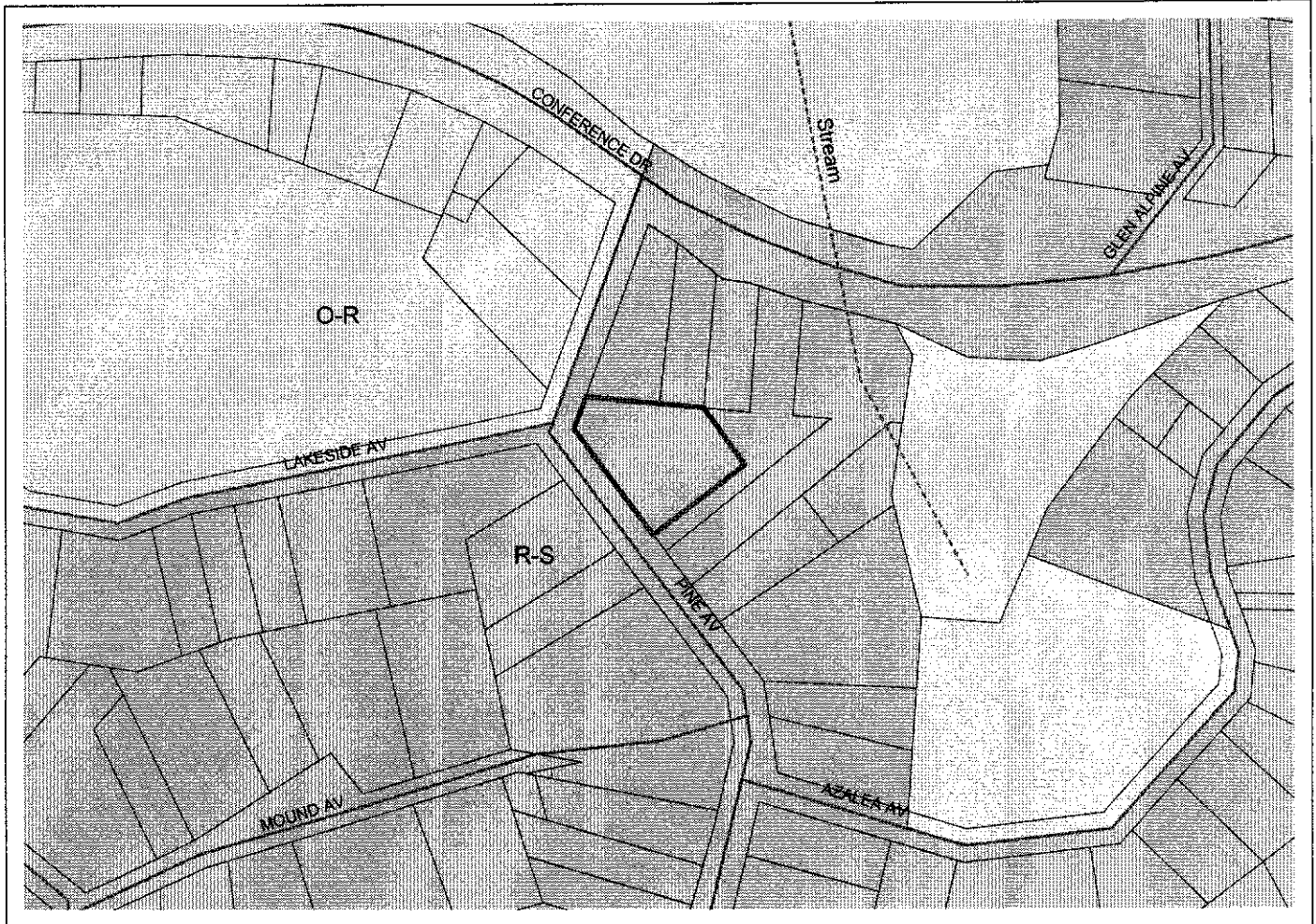
Assessor's Map No. 66-14
 County of Santa Cruz, Calif.
 Sep. 1999

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

Assessor's Parcel Map

EXHIBIT

General Plan Map



200 0 200 400 600 Feet

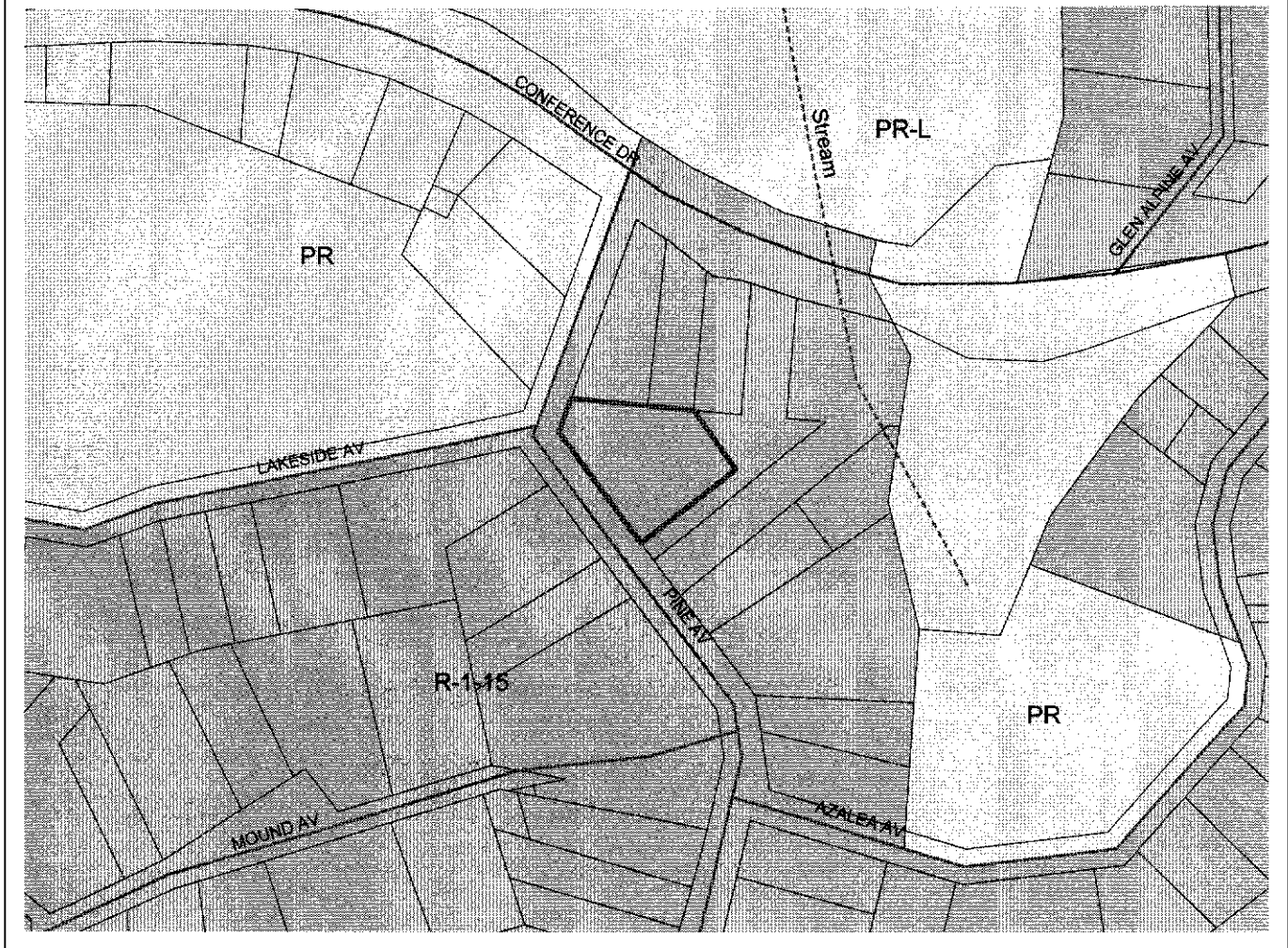
Legend

	APN 066-143-06
	Streets
	Intermittent Stream
	Parks and Recreation
	Suburban Residential



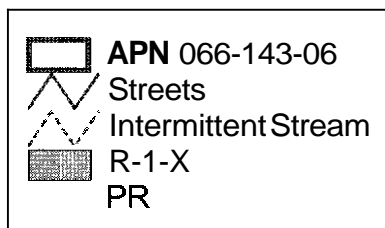
Map created by Santa Cruz County
Planning Department:
May 2004

Zoning Map



200 0 200 400 600 Feet

Legend



Map created by Santa Cruz County
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May 2004