



Staff Report to the Zoning Administrator

Application Number: **04-0413**

Applicant: Charles and Kathie Stark
Owner: Charles and Kathie Stark
APN: 041-271-69

Agenda Date: November 18, 2005
Agenda Item #: **4**
Time: After 10:00 a.m.

Project Description: Proposal to construct a 154 square foot garage for tractor storage within the front yard setback, demolish an existing significantly non-conforming carport which encroaches over the property line, construct an equipment cabinet for an existing meter, recognize the location of a propane tank within the front yard setback, and recognize the construction of a five foot tall retaining wall within the front yard setback.

Location: Property located off the end of Apple Lane, at 220 Apple Lane.

Supervisory District: 2nd District (District Supervisor: Ellen Pirie)

Permits Required: Requires a Variance to reduce the 40 feet front yard setback to about 15 feet for the garage, a Variance to reduce the front yard setback to about 12 feet for the propane tank and meter, and a Residential Development Permit for a fence between three feet and six feet within the front yard setback.

Staff Recommendation:

- Approval of Application 04-0413, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Exhibits

- | | |
|---|--------------------------------|
| A. Project plans | E. Assessor's parcel map |
| B. Findings | F. Zoning and General Plan map |
| C. Conditions | G. Comments & Correspondence |
| D. Categorical Exemption (CEQA determination) | |

Parcel Information

Parcel Size: About 2.3 acres (EMIS estimate)
Existing Land Use - Parcel: Single-family residential, small-scale vineyards

Existing Land Use - Surrounding: Single-family residential, Multi-family residential
Project Access: Apple Lane
Planning Area: Aptos Hills
Land Use Designation: R-R (Rural Residential)
Zone District: RA (Residential Agriculture)
Coastal Zone: ☐ Inside ☒ Outside
Appealable to Calif. Coastal Comm. ☐ Yes ☒ No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: Baywood Loamy Sand, Zayante Rock Outcrop
Fire Hazard: Mapped Mitigatable Fire Hazard
Slopes: 10% to 50%+
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: Grading previously conducted
Tree Removal: No trees proposed to be removed
Scenic: Not a mapped resource
Drainage: Existing drainage adequate
Traffic: No increase
Roads: Existing roads adequate
Parks: Existing park facilities adequate
Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: ☐ Inside ☒ Outside
Water Supply: Central Water District
Sewage Disposal: Existing septic system
Fire District: Aptos/La Selva Fire District
Drainage District: No Drainage District

Project scope

This application was accepted by the County Planning Department on September 1st, 2004, to rectify a red-tag violation for a carport/shed, propane tank, and firewood storage within the front yard setback, and to construct a new garage on an existing pad within the front yard setback. After reviewing the original application, staff determined that findings could not be made to grant a variance to reduce the front yard setback down to 0 feet in order to recognize the location of the existing *carport*, nor could findings be made for the covered firewood storage due to the availability of other locations on site with adequate space for covered firewood storage. However, staff determined that findings could be made to warrant a reduction in the front yard setback to about **15** feet for the proposed garage and about **12** feet for the existing propane tank and meter. To obtain a recommendation for approval, the carport on the property line and the covered firewood storage have been removed from the project description.

Project Setting

The project site is a steep, 2.3 acre lot with access from Apple Lane at the Northwest corner of the property and an unused comdor of about 580 feet to Freedom Boulevard to the south. All development is located on the western third of the site, encompassing the house and accessory structures, with the remaining two-thirds of the site planted as vineyards for a hobby winery operation.

Lot line adjustment with parcel 041-271-28 (former Golden Torch property)

A lot line adjustment transferring about 0.71 acre from the subject parcel to parcel 041-271-28 (the former Golden Torch site), and transferring about 0.33 acre from 041-271-28 to the subject site was approved with Residential Development Permit 04-0039 for conversion of the former Golden Torch site. This adjustment results in the transfer of most of the Freedom Boulevard conidor to the former Golden Torch property, and the transfer of the northwest comer of the former Golden Torch property to the subject parcel. As of October 2005, this adjustment has yet to be exercised, so land to be combined with the subject property could not be evaluated for the purpose of the requested variance.

Zoning & General Plan Consistency

The subject property is about 2.3 acres, located in the RA (Residential Agriculture) zone district, a designation which allows residential and small-scale agricultrual (such as hobby vinting) uses. The proposed 154 square foot garage will be used as a support facility to the hobby vineyard operation, and is an accessory to the single-family residential use of the site, and is consistent with the site's (R-R) Rural Residential General Plan designation.

Variances

The lot is awkwardly configured, being a flag-shaped lot with an unused access corridor to Freedom Boulevard and a driveway accessing Apple Lane at the northwest comer of the property. Per the setbacks established in the building permit for the existing single-family dwelling (permit 87890 issued in 1988), the required 40 foot front yard setback is from the western property line, though this property line does not abut a right-of-way.

Special circumstances exist on site due to the topography of the site, the location of the existing dwelling and driveway, and the presence of a hobby vineyard on the eastern two-thirds of the site. The proposed garage will replace an existing carport which encroaches over the property line, and will be used to house a small tractor used in the vineyard. For security reasons, the most desirable location for the garage is near the house, and the property near the house is steeply sloped on all sides with the exception of the driveway and a small area of land within the front yard setback.

The propane tank must be located adjacent to the driveway for delivery purposes, and due to the lack of flat land in the vicinity of the driveway must be located within the front yard setback.

The granting of the requested variance will not constitute the granting of a special privilege in view of the limitations placed on surrounding properties in that setback variances are often granted for parking facilities within the front yard setback where steep topography limits the location of parking facilities to within the front yard setback.

As proposed, the reduction in front yard setbacks will meet the intent and purpose of the ordinance in that the garage will not block access to light and air for adjacent properties or the Apple Lane right-of-way.

Retaining wall within the front yard setback

The existing five foot retaining wall exists within the front yard setback, so County Code 13.10.525 applies. As the front yard setback for this property is not adjacent to a right-of-way, the issues regarding visibility of vehicles and pedestrians on the traveled roadway do not apply. Furthermore, since the wall and structures are located more than 120 feet from the traveled roadway beyond a curve in the driveway, they are not visible from the street, so neighborhood compatibility is not an issue.

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

- **APPROVAL** of Application Number **04-0413**, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

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

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

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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.

This finding can be made in that the topography of the site, location of the existing residence, and presence of vineyards for most of the eastern two-thirds of the site present special circumstances which limit the location of the proposed garage, propane tank, and meter. The propane tank must be located adjacent to the driveway for access and fire protection purposes, and the tractor garage must be located in the vicinity of the main residence for security reasons. With the exception of the pads within the front yard setback, no location exists on site to accommodate these structures, and strict application of the zoning ordinance would deny the property owner a tractor garage that is accessible and secure.

2. That the granting of such 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, as the location of the garage, tank, and meter meet the general intent and purpose of the RA (Residential Agriculture) zoning objectives in that they will not impede access to light and air to surrounding properties due to changes in topography, and health and safety concerns regarding vehicle visibility usually associated with structures in the front yard setback do not apply in this case as the front yard setback at this location is not located adjacent to a right-of-way.

3. That the granting of such variance 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.

This finding can be made, as variances to the front yard setback to allow parking structures (such as the proposed tractor garage) are commonly granted where topography precludes the location of such structures outside of the setback. Furthermore, propane/natural gas tanks are frequently allowed to exist within front yard setbacks for access and fire safety reasons.

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, as the proposed garage, propane tank, and meter will meet all required building codes, will not impede access to light and air to neighboring properties due to topographical differences, and will not disrupt visibility of vehicles or pedestrians on the Apple Road right-of-way since the front yard setback is not adjacent to a right-of-way at the project location. The garage will not use any utilities, and the propane tank and meter serve the existing single-family dwelling on site.

The retaining wall does not impede visibility of vehicles or pedestrians along Apple Lane as the front yard setback is not adjacent to the right-of-way, and the traveled roadway is more than 120 feet from the retaining wall and structures in question.

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 variance will still result in a project that meets the intent and purpose of the Residential Agriculture zoning of the property, in that the structures will not impede access to light and air for neighboring properties, and the tractor garage will be a support structure for a small scale agricultural operation on site.

The retaining wall complies with Section 13.10.525 (Regulations for fences and retaining walls) as vehicle and pedestrian visibility will not be impacted by the location of the wall, the wall will not create corners to hide persons with criminal intent, and the wall is compatible with the surrounding neighborhood in that it will not be visible from the traveled roadway of Apple Lane.

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, as the tractor garage, propane tank, and meter are accessory structures to the primary single-family residential use of the property, consistent with the property's R-R (Rural Residential) General Plan Land Use Designation.

The proposed garage will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance), in that the structures will not adversely shade adjacent properties due to topographical differences between the structures and adjacent property.

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

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APN: 041-271-69

Owner: Charles and Kathie Stark

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 utilities will be installed as the garage will be a non-habitable accessory structure. No proposed structures will not generate additional traffic.

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.

This finding can be made, in that the proposed garage, meter, and existing propane tank is compatible with the neighborhood as accessory structures are common within the neighborhood, in many cases within setbacks. Due to the layout of the parcel, the structures in question will not be visible from Apple Lane, as the traveled roadway is located more than 120 feet from the proposed structure. The structures will not change the land use intensity or dwelling unit density of the property, as the garage will be a non-habitable accessory structure supporting an existing small-scale vineyard operation.

Conditions of Approval

Exhibit A: Project plans, one sheet drawn by Paul Hanagan and dated 1/13/05, four sheets drawn by Dennis Grady and dated 8/26/04.

- I. This permit authorizes the construction of a garage of about 154 square feet within 15 feet of the front property line, the construction of a cabinet to protect an existing meter within a to be demolished carport, and to recognize the location of a propane tank within the front yard setback. 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 Demolition Permit from the Santa Cruz County Building Official for the demolition of the existing non-conforming carport.
 - C. Obtain a Building Permit from the Santa Cruz County Building Official.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
 - B. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include the following additional information:
 1. Identify finish of exterior materials and color of roof covering for Planning Department approval. Any color boards must be in 8.5" x 11" format.
 2. A drainage plan, detailing the existing and proposed drainage system. Runoff from the project must not impact downstream properties.
 3. Details showing compliance with fire department requirements, including all requirements of the Urban Wildland Intermix Code, if applicable.
 - C. Submit four copies of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.
 - D. Meet all requirements of and pay drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
 - E.. Obtain an Environmental Health Clearance for this project from the County

Department of Environmental Health Services.

- F. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
 - G. 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.
- 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.
- IV. Operational Conditions
- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- 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 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 two years from the effective date unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

David Keyon
Project Planner

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

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

Application Number: 04-0413

Assessor Parcel Number: 041-271-69

Project Location: 220 Apple Lane

Project Description: Construction of small accessory structures

Person or Agency Proposing Project: Charles and Kathie Stark

Contact Phone Number: (831) 662-9556

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

Specify type:

- E. X **Categorical Exemption**

Specify type: 15303(e): New Construction of accessory structures.

F. Reasons why the project is exempt:

The garage, propane tank, and meter are accessory structures to **the** existing single-family residence

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

David Keyon, Project Planner

Date: _____

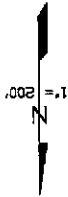
FOR TAX PURPOSES ONLY

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PDR, APTOS RANCHO
E. 1/2 SEC. 9, T.11S., R.1E., M.D.B. & M.

Tax Area Code
69-106 69-108

41-27

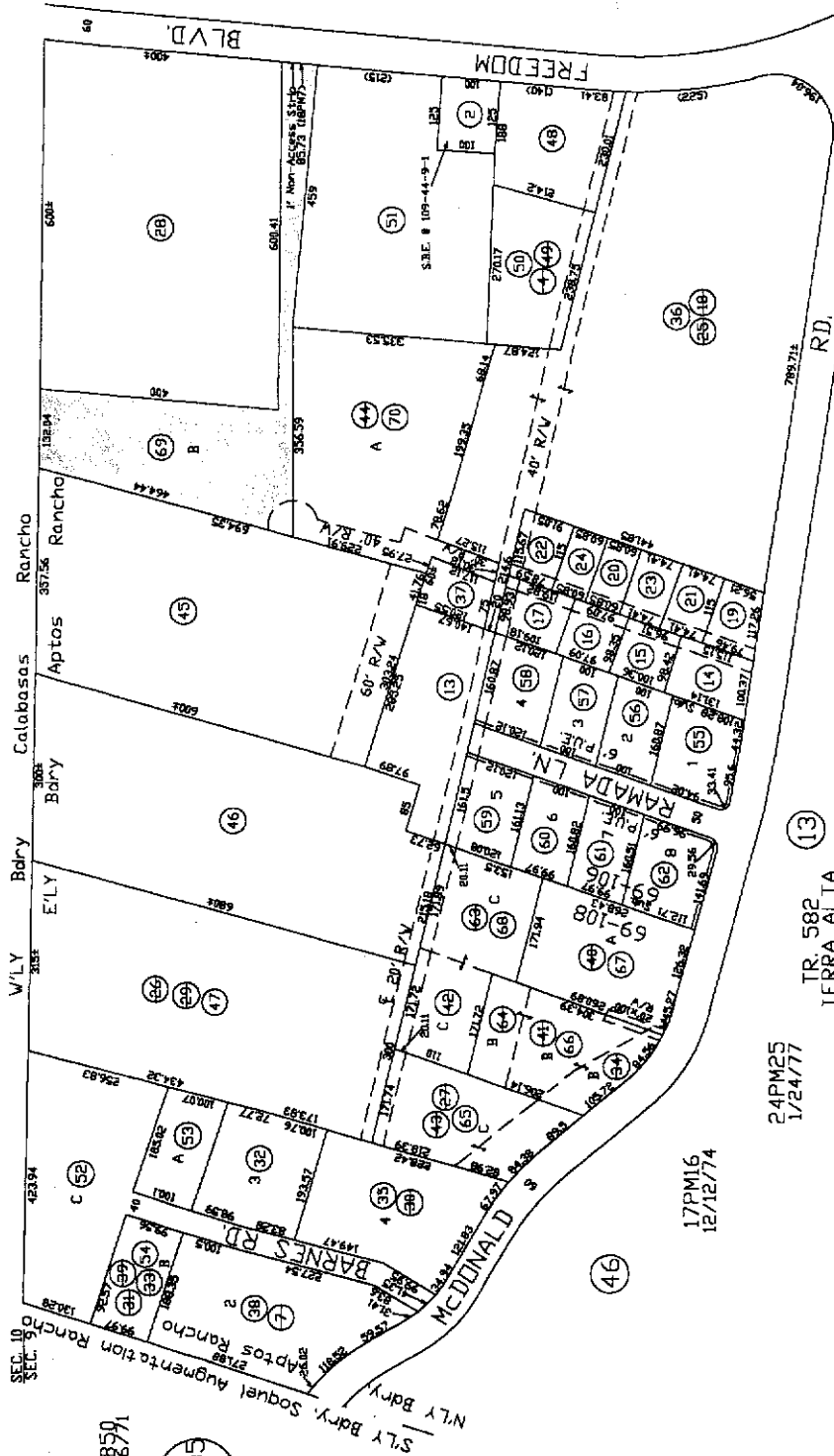


Bk.103
01

18PM7
2/28/75

Bk.107
14

48MB56
4/17/68



3MB50
8/16/71

Bk.105
16

77RS22
9/3/87

24PM25
1/24/77

TR. 582
TERRA ALIA
57MB47 2/15/73

35MB44
6/5/61

LANDS OF
CHARLES F. HUTCHINS, JR. ET AL
39MB16 4/18/62

35MB32
1/18/61

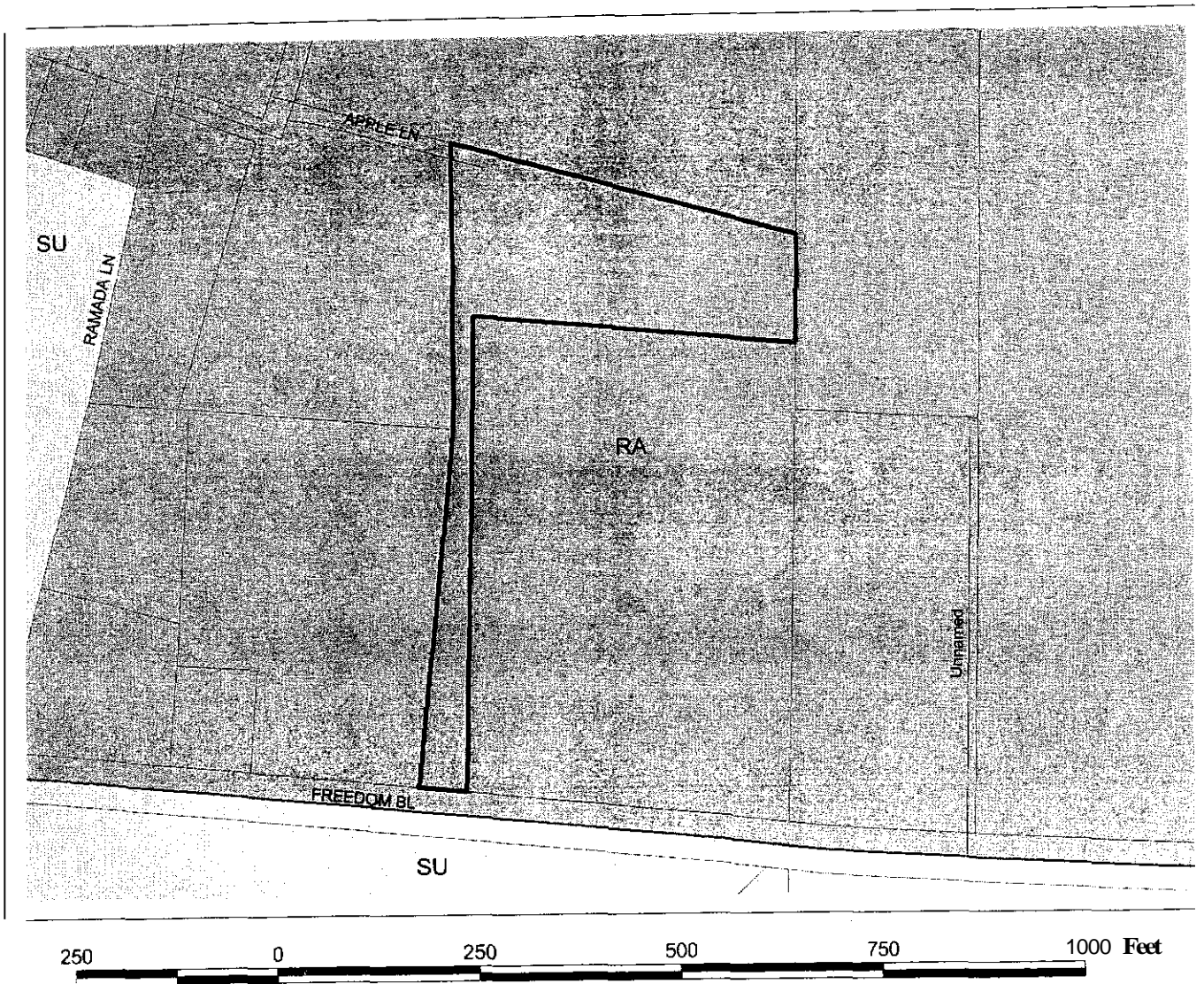
(26)

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

Assessor's Map No. 41-27
County of Santa Cruz, Calif.
January, 1999

EXHIBIT E

Zoning Map



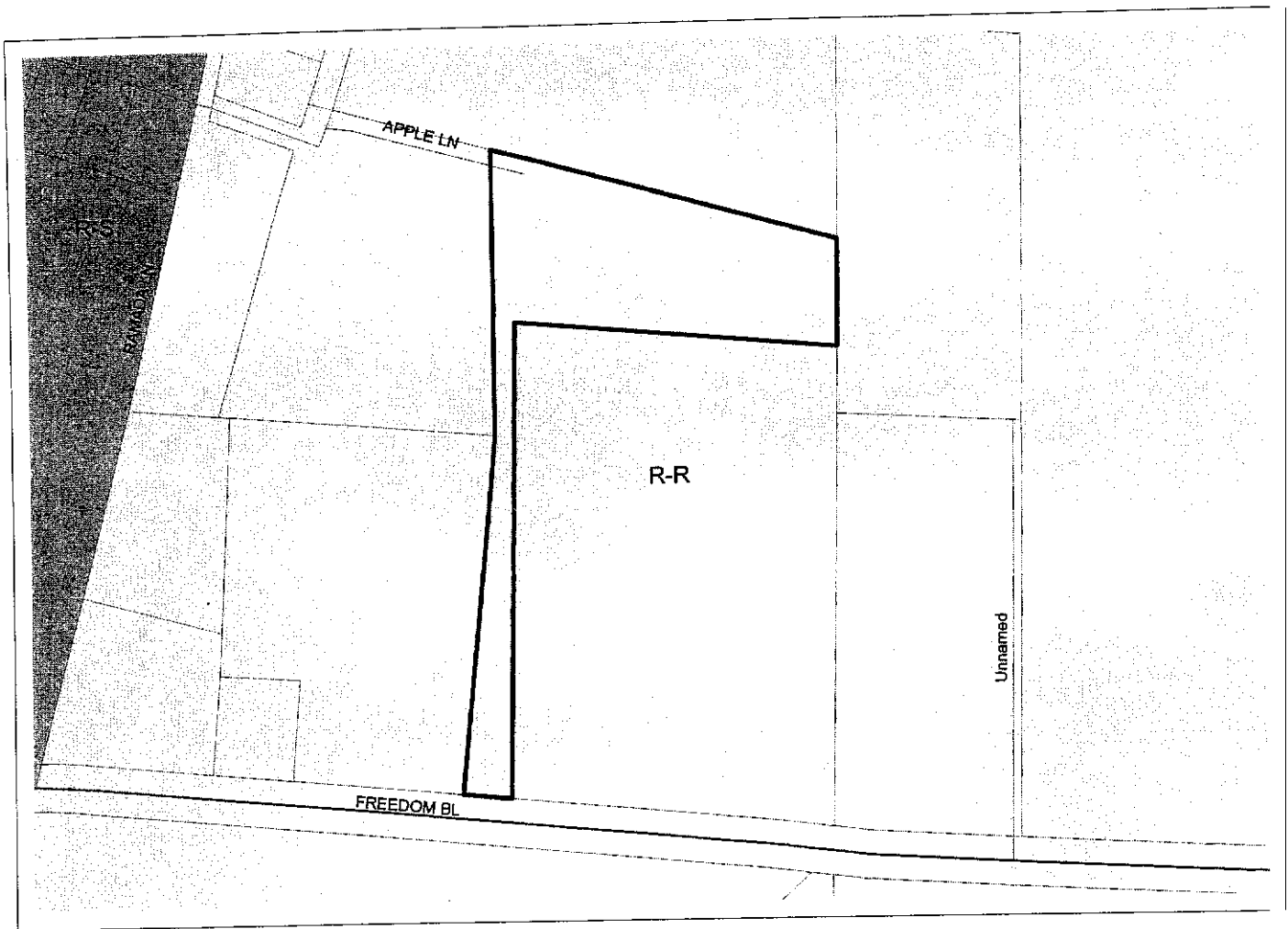
Legend

	APN 041-271-69
	Parcel boundaries
	Streets
	Residential Agriculture (RA)
	Special Use (SU)



Map created by Santa Cruz County
Planning Department:
September 2004

General Plan Map



250 0 250 500 750 1000 Feet

Legend

	APN 041-271-69
	Parcel boundaries
	Streets
	Rural Residential
	Suburban Residential



Map created by Santa Cruz County
Planning Department:
September 2004