



Staff Report to the Zoning Administrator

Application Number: **06-0056**

Applicant: Brian Claassen
Owner: Kenneth & Deborah Bergman
APN: 067-153-07

Agenda Date: July 21, 2006
Agenda Item #: 3.
Time: After 10:00 a.m.

Project Description: Proposal to recognize the construction of a cap and guardrail atop an existing 6'-4" tall retaining wall within the required front yard setback.

Location: Project located on the east side of *Oak Acres* approximately 0.2 miles north of the intersection with La Madrona Drive (380 *Oak Acres*).

Supervisory District: 1st District (District Supervisor: Janet Beautz)

Permits Required: Level 5 Residential Development Permit

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 06-0056, based on the attached findings and conditions.

Exhibits

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

Parcel Information

Parcel Size:	1.39 acres (EMIS)
Existing Land Use - Parcel:	Residential
Existing Land Use - Surrounding:	Residential
Project Access:	Oak Acres
Planning Area:	Carbonera
Land Use Designation:	R-R (Rural Residential)
Zone District:	RA (Residential Agriculture)

County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060

Environmental Information

Services Information

History

The subject parcel is developed with a single-family dwelling. A 6'-4" retaining wall was constructed at the time the home was built in 1981. The building permit (67656) for the dwelling included the wall. Although the plans do not indicate that the retaining wall was located within the required 40-foot front yard setback, a portion of the wall encroaches into the setback. Subsequently, building permits have been issued and finalized for additions and remodeling work on the house. At some point during these renovations an 8" cap and 3'-4" railing were constructed atop the existing retaining wall. This Residential Development Permit will allow the recognition of the cap and handrail that were added.

Project Setting

The house is located on a slope of between 20 and 30%. Large retaining walls were constructed to the north and south of the single-family dwelling. The 6'-4" retaining wall is located along the southern edge of the existing dwelling and supports a parking deck. There are additional retaining walls located to the north, east and south of the residence. No other portions of the retaining walls encroach into required setbacks.

The access road, *Oak Acres*, is a private road that dead-ends just past the subject house with one additional residence located to the north of the subject lot. The road serves a total of **10** houses. The neighborhood is rural in character, with surrounding lots averaging approximately 4.5 acres in size. The retaining wall is only visible from the south in relative close proximity to the subject house and

is not visible from La Madrona, to the southeast. The only neighbor potentially impacted by the view of the retaining wall, cap and railing is the neighbor to the north who would view the wall on the approach to their property.

The further increase in height of a wall that already exceeds the 6-foot maximum height requires a Level V Residential Development Permit. The safety railing is a required safety element and is located away from the driveway apron. The cap and railing will not impair visibility or present any additional aesthetic impacts to the surrounding properties. The design of the cap and railing match those constructed on other decks on the southeast-facing side of the house.

Zoning & General Plan Consistency

The subject property is a 60,635 square foot lot, located in the RA (Residential Agriculture) zone district. The retaining wall is consistent with the purpose of the RA zone district in that the primary use of the property will continue to be residential and fences are a normal ancillary use in that zone district.

The fence is consistent with the site's (R-R) Rural Residential General Plan designation in that it is a residential use. Sight distances that existed prior to construction the retaining wall will be maintained. All other site standards and setbacks are met for the single-family dwelling.

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

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **06-0056**, 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

Report Prepared By: Robin Bolster-Grant
Santa **Cruz** County **Planning** Department
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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 designated for residential uses and is not encumbered by physical constraints to development. The design of the retaining wall cap and railing will not utilize **an** excessive quantity of materials or energy in their construction or maintenance, in that the retaining wall features are relatively insignificant structures that are accessory to the residential use allowed on the property. No motorized gates or lights are proposed.

The cap and railing will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure is not significant in size, is set back from the road and nearby structures and is constructed with horizontal cables and so does not reduce sight distances for drivers exiting the subject parcel or driving along Oak Acres.

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 retaining wall cap and railing and the conditions under which they would be maintained will be consistent with all pertinent County ordinances and the purpose of the RA (Residential Agriculture) zone district in that the primary use of the property will continue to be one single-family dwelling that meets all current site standards for the zone district.

The cap and railing are consistent with the specific regulations contained in section 13.10.525 in that existing sight distances will be maintained, the light and/or air available to neighboring properties will not be reduced, and the design **of** the fence is compatible with the visual neighborhood character of the *Oak Acres/La Madrona* neighborhood.

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 Rural Residential (R-R) land use designation in the County General Plan.

The proposed cap and railing will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties. With the exception of height of the extension of the retaining wall, all current site and development standards for the zone district **as** specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance) are met.

The proposed cap and railing will not be improperly proportioned to the parcel size or the character of the neighborhood as specified in General Plan Policy **8.6.1** (Maintaining a Relationship Between Structure and Parcel Sizes), and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

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 the proposed cap and railing will not utilize a significant amount of electricity and will not generate any additional traffic on the streets in the vicinity of Oak Acres and the retaining wall and railing do not contain any motorized gates or lights and a fence is not a use that generates or intensifies 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 location and design of the cap and railing is compatible with the visual character of the *Oak Acres*/La Madrona neighborhood. The cap and railing do not impact the residential character of the neighborhood due to location with respect to the surrounding residences. The topography and vegetation provide visual screening and the elevation of the railing is only four feet above that of the parking deck. The retaining wall cap and railing do not alter or increase the density or intensity of residential use within the rural 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 proposed retaining wall cap and railing 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 A: Site Plan and Wall Detail (1 sheets) prepared by R.S., dated July 2005,
Topographic Survey, prepared by Dunbar and Craig, dated September 2005,
Retaining Wall Detail/Elevation (1 sheet), preparer unknown, undated.

- I. This permit authorizes the construction of an 8" cap and 3'-4" rail atop an existing 6'-4" retaining wall. 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.
- II. All construction shall **be** performed according to the site plan and elevations approved with this permit.
- III. Prior to issuance of **the** 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, but not **be** limited to, the following: (Construction must comply with the following conditions, even if no Building Permit is required)
 1. Fence materials shall be left natural (unfinished and unpainted), or be stained/painted one of the following colors: brown, reddish-brown, **or** white.
 2. No structure over three feet in height shall be located or constructed within twenty five feet **of** the intersection of the pavement surface of the driveway and the pavement surface of the public roadway as traveled.
 3. All trees within twenty five feet of the intersection of the pavement surface of the driveway and the pavement surface of the public roadway as traveled shall have their lower limbs and foliage removed up to a height of seven feet, and shall **be** maintained in this manner permanently.
 4. The fence, posts, and any post caps or other ornaments may not exceed 10'-6" feet in height from existing or finish grade, whichever is lower.
 5. Maintain a five foot setback from fence posts and/or piers to septic leach-field(s).
 6. Details showing compliance with fire department requirements, including all requirements of the Urban Wildland Intermix Code, if applicable.

- B. Meet all requirements and pay any applicable plan check fee of the Scotts Valley Fire Protection District.
- IV. All construction shall be performed according to the approved plans for the building permit. Prior to the final building inspection clearance, the following conditions must be met:
- A. All site improvements shown on the final building plans shall be installed
 - B. All inspections required by the building permit shall be completed to the satisfaction of the Building Official.
 - C. Pursuant to Sections 16.40.040 and 16.42.100 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 archeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from further site excavation and notify the Sheriff-Coroner if the discovery contains human remains and the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and **16.42.100** shall be observed.
- V. Operational Conditions
- A. The exterior finish and materials of the southeast-facing retaining wall must be maintained on a regular basis to protect surrounding properties from any visual blight associated with the deterioration of the wall surface. Additional paint and/or replacement materials shall be installed as necessary. In lieu of repainting the southeast-facing wall surface, vegetative screening may be implemented to shield the wall surface from surrounding properties.
 - 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.
- VI. 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 on the expiration date listed below unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

Robin Bolster-Grant
Project Planner

Application #: 06-0056
APN: 067-153-07
Owner: Kenneth & Deborah Bergman

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: 06-0056

Assessor Parcel Number: 067-153-07

Project Location: 380 Oak Acres

Project Description: Recognize the construction of retaining wall that exceeds six foot maximum height limit within the front yard setback

Person or Agency Proposing Project: Brian Claassen

Contact Phone Number: (831) 818-0183

- 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:

Construction of a cap and rail atop an existing 6'-4" retaining wall constitutes an accessory or appurtenant structure to the main house. The location of the fence does not create any significant effect.

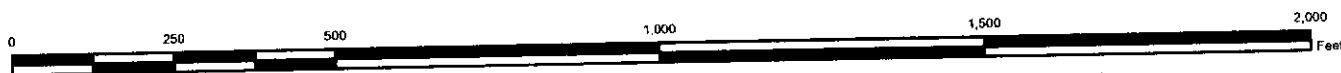
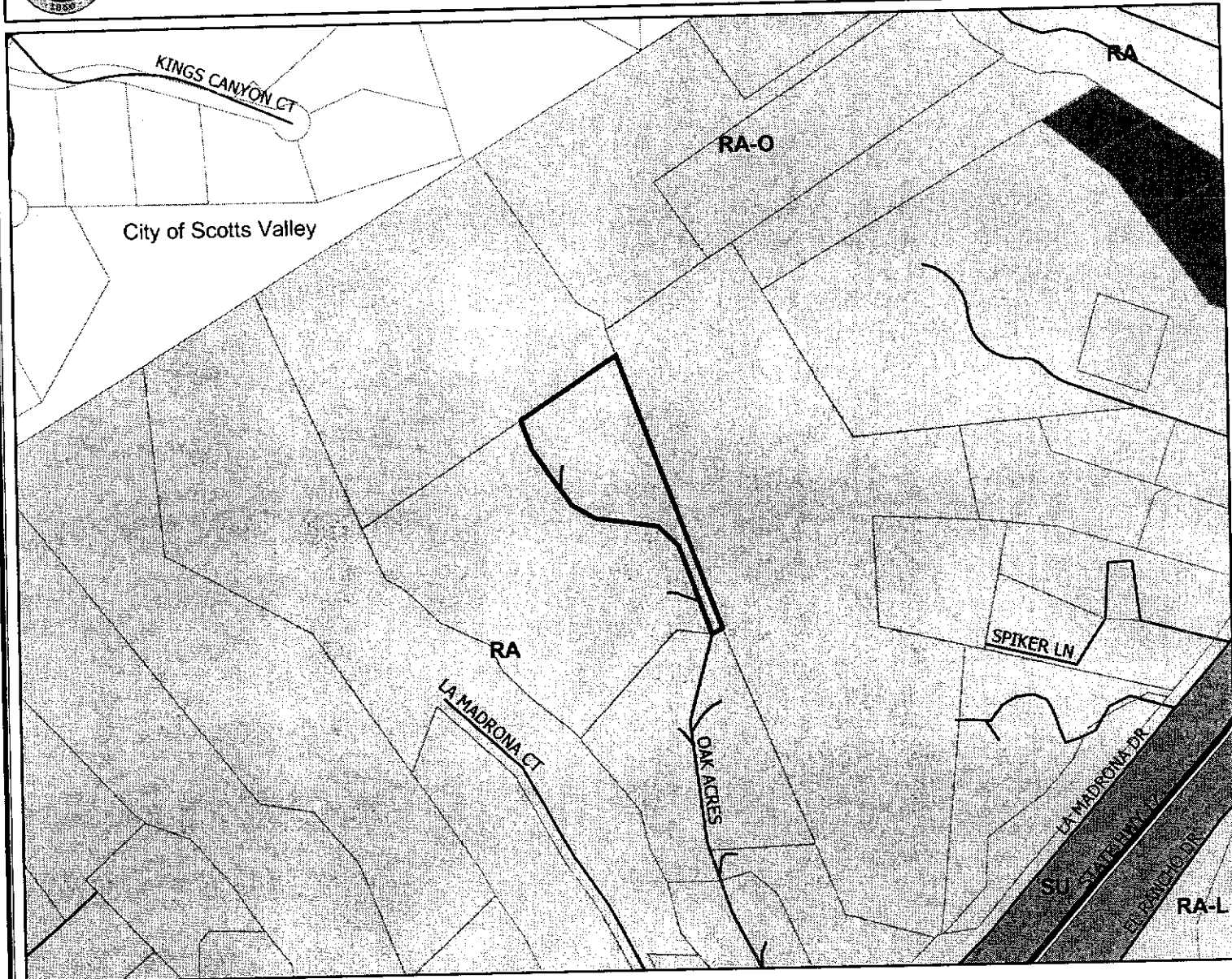
In addition, none of the conditions described in Section 15300.2 apply to this project.

Robin Bolster-Grant, Project Planner








Date: _____

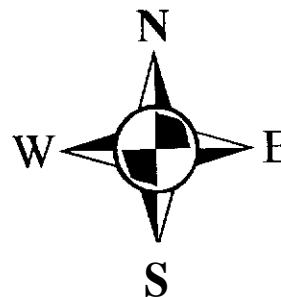


Zoning Map



Legend

-  APN 067-153-07
-  State Highways
-  Assessors Parcels
-  Streets
-  AGRICULTURE RESIDENTIAL (RA)
-  SPECIAL USE (SU)
-  RESIDENTIAL-SINGLE FAMILY (R-1)

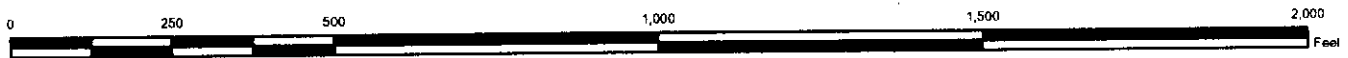
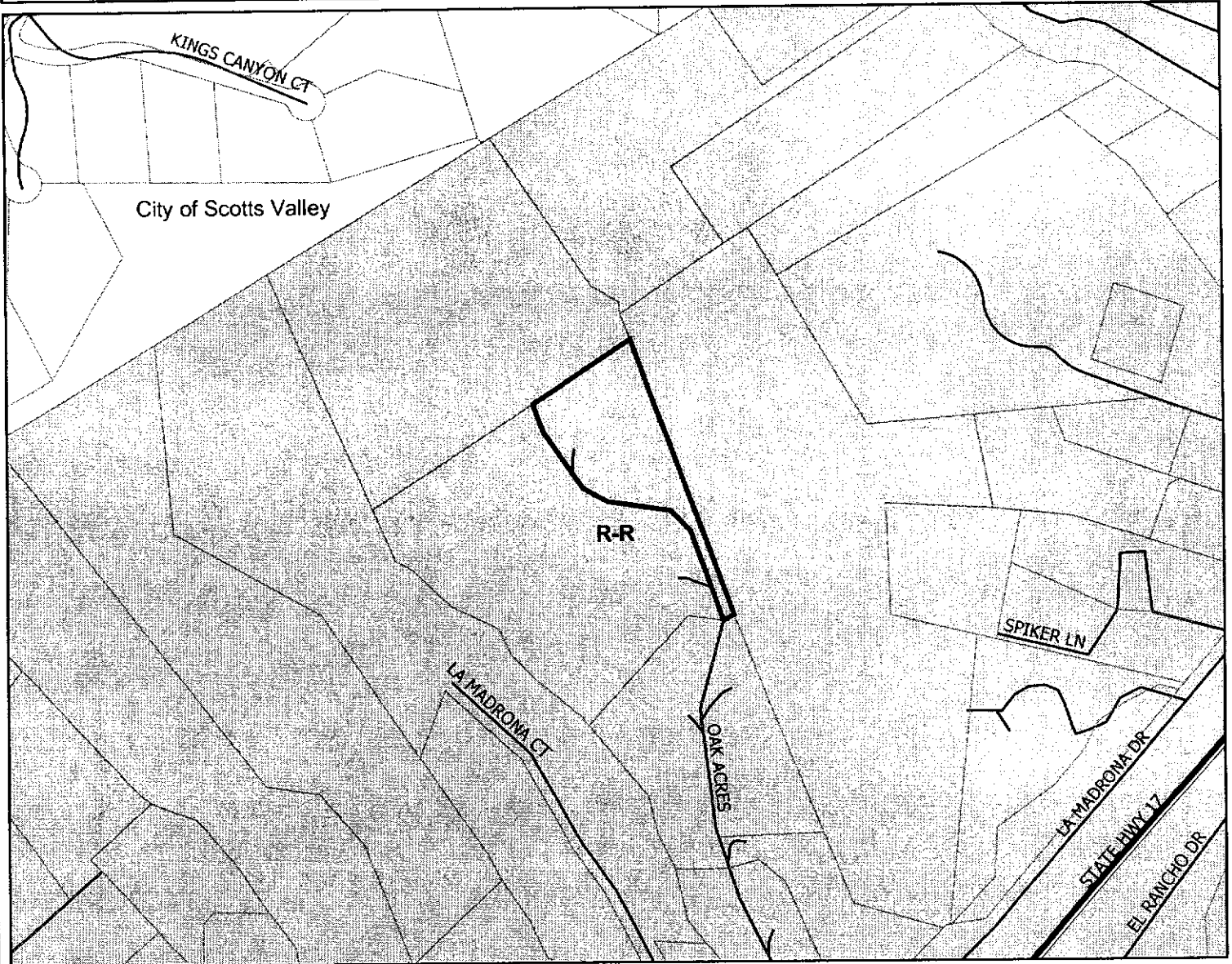


Map Created by
County of Santa Cruz
Planning Department
February 2006




EXHIBIT F

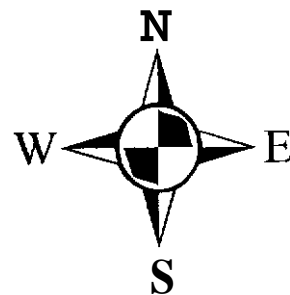


General Plan Designation Map



Legend

-  APN 067-153-07
-  State Highways
-  Assessors Parcels
-  Streets
-  Residential-Rural (R-R)

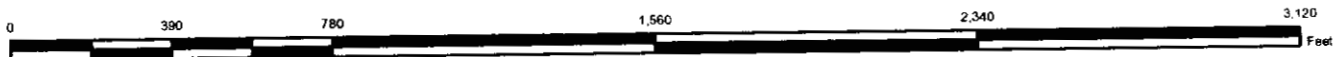
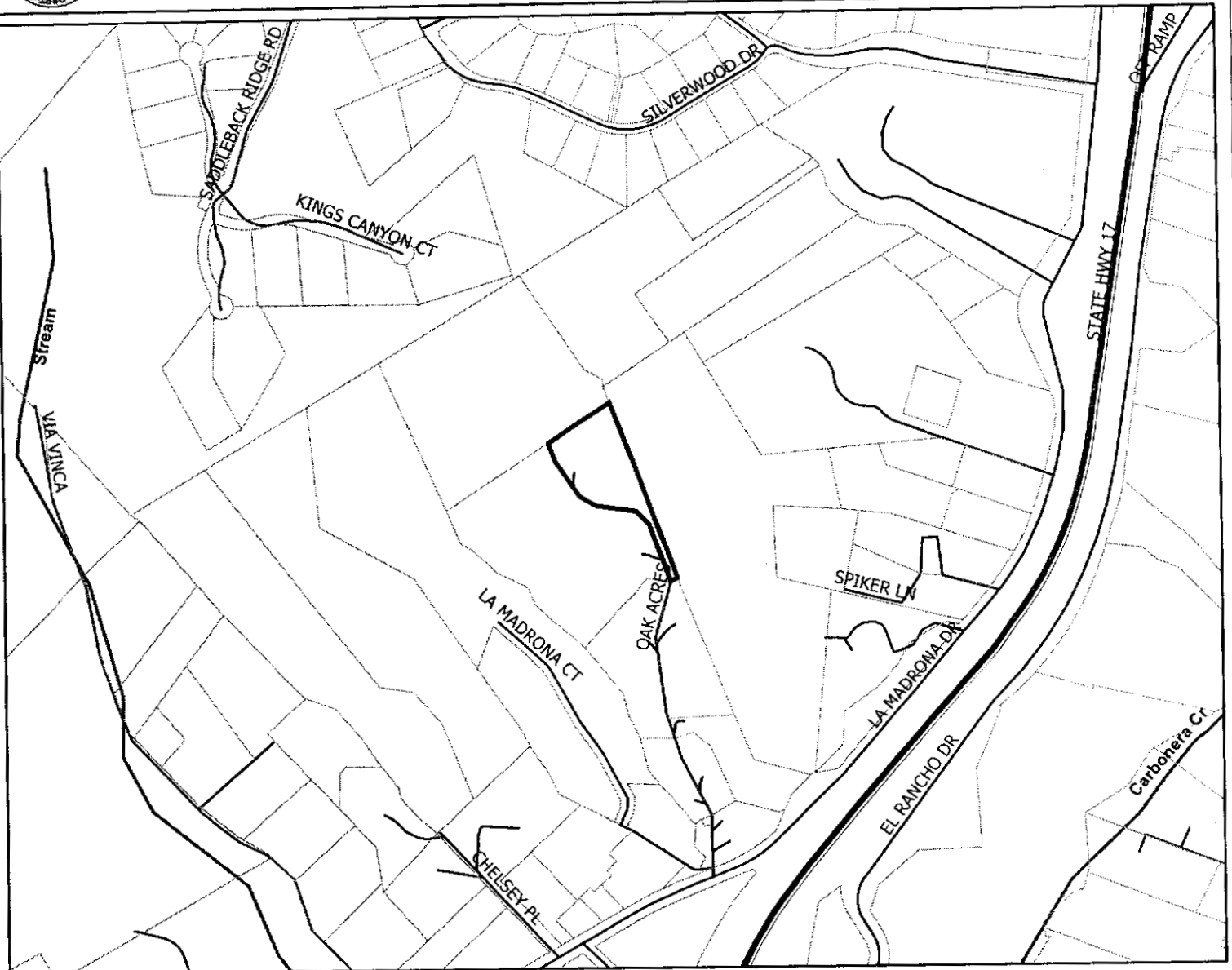


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February 2006






EXHIBIT E

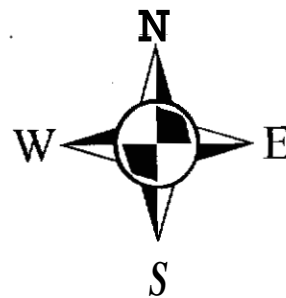


Location Map



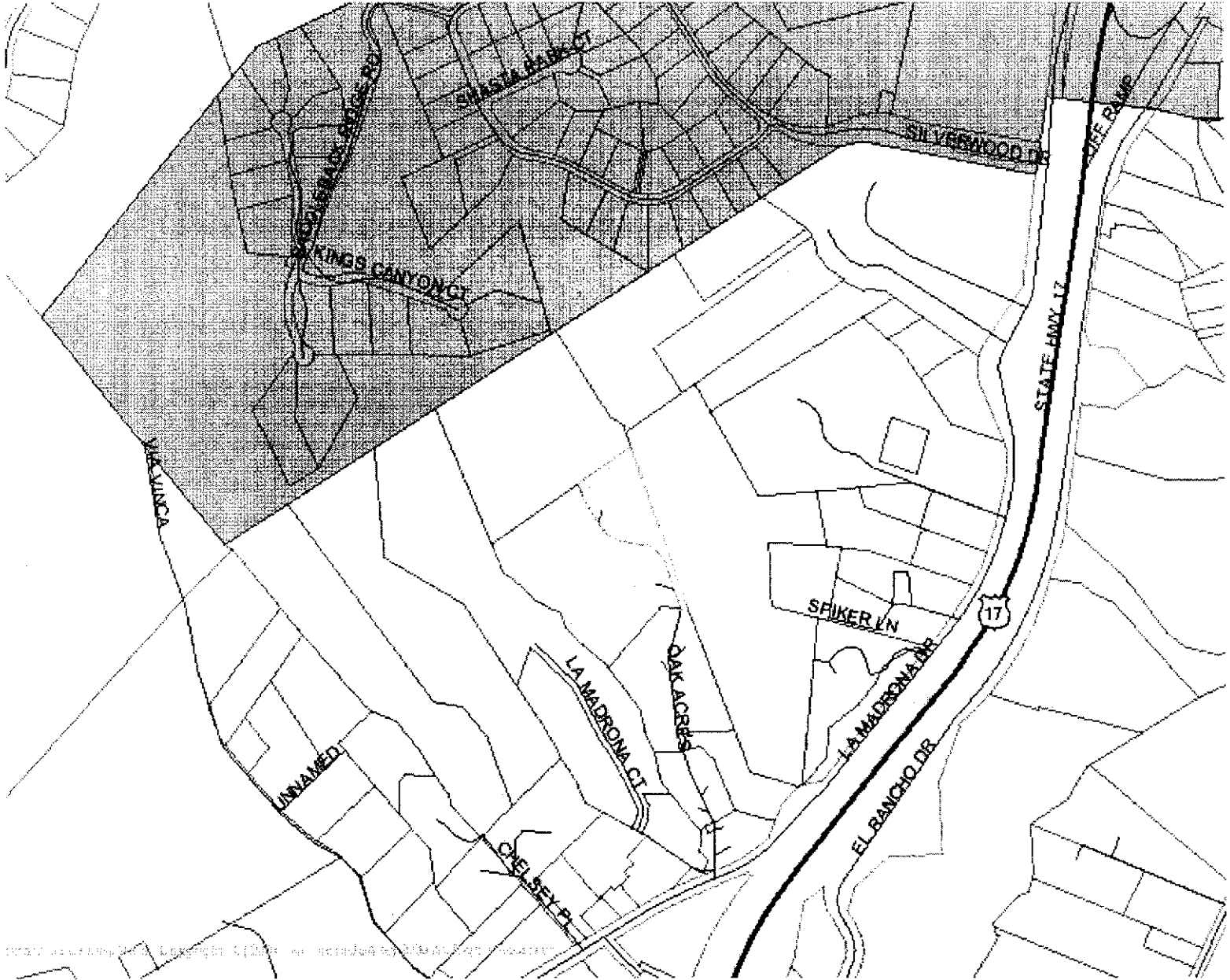
Legend

-  APN 067-153-07
-  State Highways
-  Assessors Parcels
-  Streets
-  PERENNIAL STREAM



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February 2006

06-0056 APN 067-153-07



Legend
