



## Staff Report to the Zoning Administrator

Application Number: **141142**

---

**Applicant:** Marc Auger  
**Owner:** Auger  
**APN:** 080-151-04

**Agenda Date:** 2/20/15  
**Agenda Item #:** 1  
**Time:** After 9:00 a.m.

**Project Description:** Proposal to keep two horses on a 3.6 acre parcel, reduction to the required setback for paddocks, and recognize construction of a six foot high fence and eight foot high entry gate within the front yard of a parcel in the RR zone district. Requires a Residential Development Permit.

**Location:** Property located on the east side of Empire Grade approximately 500 yards north of Pine Flat Road.

**Supervisory District(s):** 5th District (District Supervisor: McPherson) & 3<sup>rd</sup> District ( District Supervisor: Coonerty)

**Permits Required:** Residential Development Permit and Over-height fence permit

### Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 141142, based on the attached findings and conditions.

### Exhibits

- A. Categorical Exemption (CEQA determination)
- B. Findings
- C. Conditions
- D. Project plans/site photos
- E. Assessor's, Location, Zoning and General Plan Maps
- F. Comments & Correspondence

---

County of Santa Cruz Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor, Santa Cruz CA 95060

### Parcel Information

Parcel Size: 3.6 acres  
Existing Land Use - Parcel: Residential  
Existing Land Use - Surrounding: Residential, Parks and Recreation  
Project Access: Empire Grade  
Planning Area: Bonny Doon, San Lorenzo Valley  
Land Use Designation: O-R, R-R (Existing Parks and Recreation, Rural Residential)  
Zone District: RR, SU (Rural Residential, Special Use)  
Coastal Zone: ☐ Inside ☒ Outside  
Appealable to Calif. Coastal Comm.: ☐ Yes ☒ No

### Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site  
Soils: Soils report not required  
Fire Hazard: Not a mapped constraint  
Slopes: N/A  
Env. Sen. Habitat: Not mapped/no physical evidence on site  
Grading: No grading proposed  
Tree Removal: No trees proposed to be removed  
Scenic: Empire Grade Road  
Drainage: No change to existing drainage  
Archeology: Mapped Arch. Report not required.

### Services Information

Urban/Rural Services Line: ☐ Inside ☒ Outside  
Water Supply: Well  
Sewage Disposal: Septic  
Fire District: County Fire  
Drainage District: Outside Flood Control District

### Project Setting/Analysis

The subject property is located off Empire Grade Road in the Bonny Doon and San Lorenzo Planning Areas. The site is slightly sloped downward from east to west and developed with an existing single family dwelling at the east side of the property with a detached garage situated in roughly the middle of the parcel. An existing unpermitted eight foot high entry gate with six foot high chain link fence fronts the subject property and serves as a portion of the proposed paddock fencing. This application includes an over height fence certification for the existing fencing and entry gate to recognize an existing fence in excess of 3 feet in height within the front yard.

This parcel split zoning, RR (Rural Residential) and SU (Special Use), and also has split General Plan Designations of R-R and O-R (Rural Residential and Parks and Recreation). As a result of

the parcel having split zoning, a portion of the parcel zoned SU, allows for the keeping of horses without the need for a development permit approval whereas the majority of the parcel consists of the RR zoning designation, which requires a Development Permit to allow horses and paddocks.

A Residential Development Permit is required for the keeping of horses on the portion of the parcel zoned-RR, a reduction to the required 50 foot front yard setback for paddocks to zero feet, reduction of the required 20 foot side yard setbacks for paddocks to zero feet, and locating paddocks outside the rear half of the parcel as required by County Code Section 13.10.641(A). A Residential Development Permit is also required to recognize the construction of the entry gate greater than six feet in height and the 6 foot high chain link fence within the front yard.

The upper portion of the parcel (east side) is zoned Special Use and though the keeping of horses would be allowed without development approval, this area is heavily wooded and the steepest portion of the parcel. The lower portion of the property containing the Rural Residential zoning is relatively flat and sparsely vegetated with the exception of an existing vegetative buffer located along Empire Grade Road.

In general, the lower portion of the subject parcel is more suited for the keeping of horses. While the proposed paddock area does not meet the setbacks to property lines as required by County Code Section 13.10.641(A), the proposed paddocks will maintain the necessary setbacks to adjacent dwellings on both the subject parcel and adjacent parcels.

As proposed, the existing entry gate would not impede site distance for vehicles entering and exiting the subject property and the open design of the six foot high chain link fence fronting the property would not adversely impact availability of light air and open space the traffic along Empire Grade Road. An electrical permit is required to recognize the installation of the electric gate.

### **Zoning & General Plan Consistency**

The subject property is a parcel of approximately 3.6 acres in size, located in the RR and SU (Rural Residential, Special Use) zone districts, designations which allow residential uses. The proposed horse paddocks and keeping of horses are permitted within the RR zone district with a Level 5 approval and simply allowed within the SU (Special Use) zone district. The project is consistent with the site's (R-R) Rural Residential and (O-R) Parks and Recreation General Plan designations. As per County Code Section 13.10.641(a)(1), up to two horses may be kept on a parcel with a minimum of one gross acre. The subject property is located outside the coastal zone.

### **Environmental Review**

The proposed development qualifies as a Class 3 Categorical Exemption under the California Environmental Quality Act (CEQA) and not subject to further environmental review.

Application #: 141142  
APN: 080-151-04  
Owner: Auger

## **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 **141142**, 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](http://www.co.santa-cruz.ca.us)**

Report Prepared By: Nathan MacBeth  
Santa Cruz County Planning Department  
701 Ocean Street, 4th Floor  
Santa Cruz CA 95060  
Phone Number: (831) 454-3118  
E-mail: [nathan.macbeth@co.santa-cruz.ca.us](mailto:nathan.macbeth@co.santa-cruz.ca.us)

# 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: 141142

Assessor Parcel Number: 080-151-04

Project Location: 9458 Empire Grade

**Project Description: Installation of an eight foot high entry gate and six foot high fence with additional five foot high paddock fencing for the keeping of 2 horses on a 3.6 acre parcel.**

Person or Agency Proposing Project: Marc Auger

Contact Phone Number: (408) 821-5564

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

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

**F. Reasons why the project is exempt:**

Construction of a fencing associated with a residential use in an area designated for residential uses.

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

\_\_\_\_\_  
Nathan MacBeth, Project Planner

Date: \_\_\_\_\_



## **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 the keeping of animals as an ancillary use. County Code Section 13.10.641 allows for the keeping of horses at a density of 2 horses per acre of land. Based on the size of the subject parcel (3.6 acres) up to six horses could be allowed. This is a proposal to keep two horses on a 3.6 acre parcel.

The proposed horse enclosure and horses will not materially impact the neighborhood in that the location of the proposed paddocks will be sufficiently set back from surrounding dwellings on both adjacent properties and the subject parcel to protect from possible noise, smell, and visual impacts of horse keeping. Though Environmental Health Services does not require a Manure Management Plan for the keeping of two horses, a condition of approval requires that the management of manure be done in manner consistent with Environmental Health Services requirements and guidelines to reduce potential impacts from the accumulation of manure.

As a condition of approval, the existing vegetative buffer located along Empire Grade Road shall be permanently maintained to reduce possible runoff and dust from leaving the subject property while maintaining the scenic qualities of views along Empire Grade Road.

The location of the proposed paddock and fencing is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed fencing will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to these amenities.

The fencing is a relatively insignificant structure that is accessory to the residential use allowed on the property. The open design of the fencing (chain link) allows for sufficient access to light, air, and open space as seen from Empire Grade Road. The fence design is consistent with fencing found in the vicinity.

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 horse paddock and fencing and the conditions under which they will be operated or maintained will be consistent with all pertinent County Ordinances and the purpose of the RR (Rural Residential) zone district for which the paddocks are to be located in that the primary use of the property will continue to be residential and the horse paddock and fencing are ancillary uses. As conditions of approval, a maximum of

2 horses will be allowed on the property at one time and the reduced setback for the paddock would be sufficiently mitigated by the regular maintenance of manure of the paddocks and seasonal rotation of the horses between the proposed paddock areas.

The location of the six foot high fence and eight foot high entry gate along Empire Grade allow adequate sight distance for vehicles entering and exiting the subject property along Empire Grade. Though the fencing is located within the required front yard, the fencing is located outside of the required ten foot sight distance triangle defined in County Code Section 13.10.525. Whereas the six foot high fencing along the front of the subject property could be approved with an over-height fence certification, the eight foot high entry gate requires a Residential Development Permit to exceed six feet in height. County Code Section 13.10.525 allows for the increased height of structures such as archways, trellises, and pergolas that do not exceed 25% of the length of the fence along the applicable property line. The entry gate and pillars are similar in that they do not making up more than 25% of the length of the front yard fencing and the request for two additional feet in height for 20 linear feet is relatively insignificant in relation to the length of the fencing within the front yard.

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 Existing Parks and Recreation, Rural Residential (O-R, R-R) land use designation in the County General Plan.

The horses, horse enclosure, and fencing are consistent with the purpose of the Rural Residential (R-R) land use designation in the County General Plan because horses, paddocks, and fencing are all ancillary to the existing single family residence and maintain the rural character of the area. The fencing is of "see-through" design and sufficiently set back from the travelled roadway and allows adequate sight distance consistent with road standards.

The Rural Residential General Plan Designation allows for some agricultural uses such as livestock raising and private paddocks based on physical settings and community character. Based on the character of the subject parcel and its vegetative buffer along Empire Grade Road, the proximity of surrounding dwellings to the proposed paddocks, and the parcel's split zoning of RR and SU, the finding can be made that the keeping of horses on the portion of the property containing the R-R General Plan Designation is consistent with the objectives of the County's General Plan.

A specific plan has not been adopted for this portion of the County and the parcel is located outside of the coastal zone.

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 subject property is developed with an existing single family dwelling and the proposal to keep two horses for private use would not result in an increase in traffic. As proposed, the keeping of horses on the subject property will not adversely impact existing roads or intersections in the surrounding area.

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 subject property is located in a rural neighborhood containing a variety of residential and agricultural uses. Parcel size varies widely in the area and the subject property is situated adjacent to large open space land to the south and east. The proposal is consistent with the density for keeping horses (1 horse per acre of land) as stated in County Code Section 13.10.641 and the proposed fencing is consistent with similar fencing found in the vicinity.

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 proposal is not subject to Design Review as specified in County Code Section 13.11.040.



## Conditions of Approval

Exhibit D: Site Plan prepared by Marc Auger

- I. This permit authorizes the keeping of 2 horses and the reduction of setbacks for animal enclosures to property lines and construction of an entry gate of approximately eight feet in height within the front yard. 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. Prior to issuance of a Building Permit for the entry gate the applicant/owner shall:
  - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
    1. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material board in 8 1/2" x 11" format for Planning Department review and approval.
  - B. 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.
  - C. Meet all requirements and pay any applicable plan check fee of the Fire Protection District for the electric gate.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:

- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

IV. Operational Conditions

- A. A maximum of two horses may be kept on this property at any one time.
- B. The management of manure shall be done in conformance with the requirements of Environmental Health Services.
- C. Horse paddocks shall be maintained in conformance with Chapter 16.22 of the County Code with respect to erosion control and winter operation.
- D. The existing vegetative buffer located along Empire Grade Road shall be permanently maintained.
- E. 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 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: \_\_\_\_\_

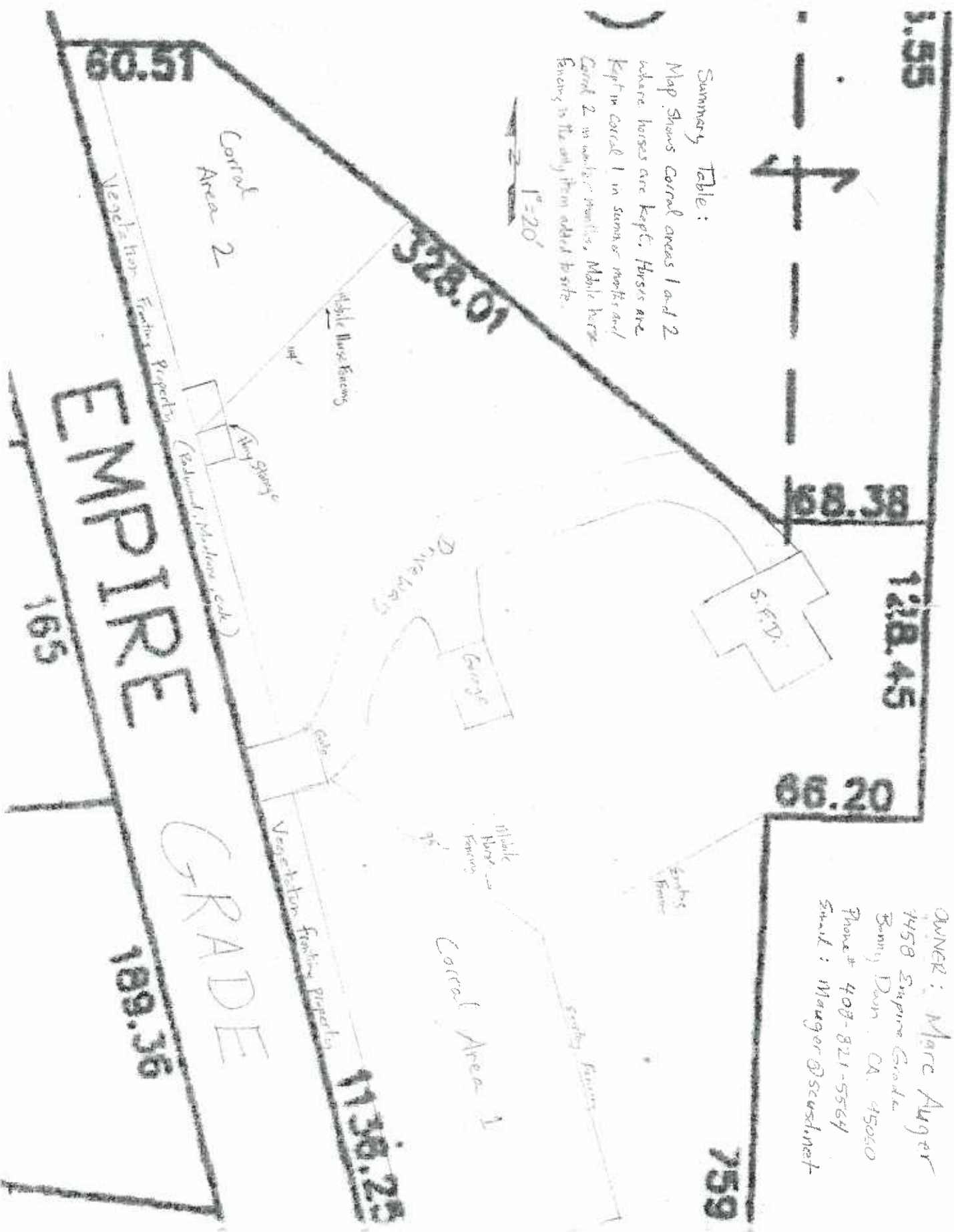
\_\_\_\_\_  
Wanda Williams  
Deputy Zoning Administrator

\_\_\_\_\_  
Nathan MacBeth  
Project Planner

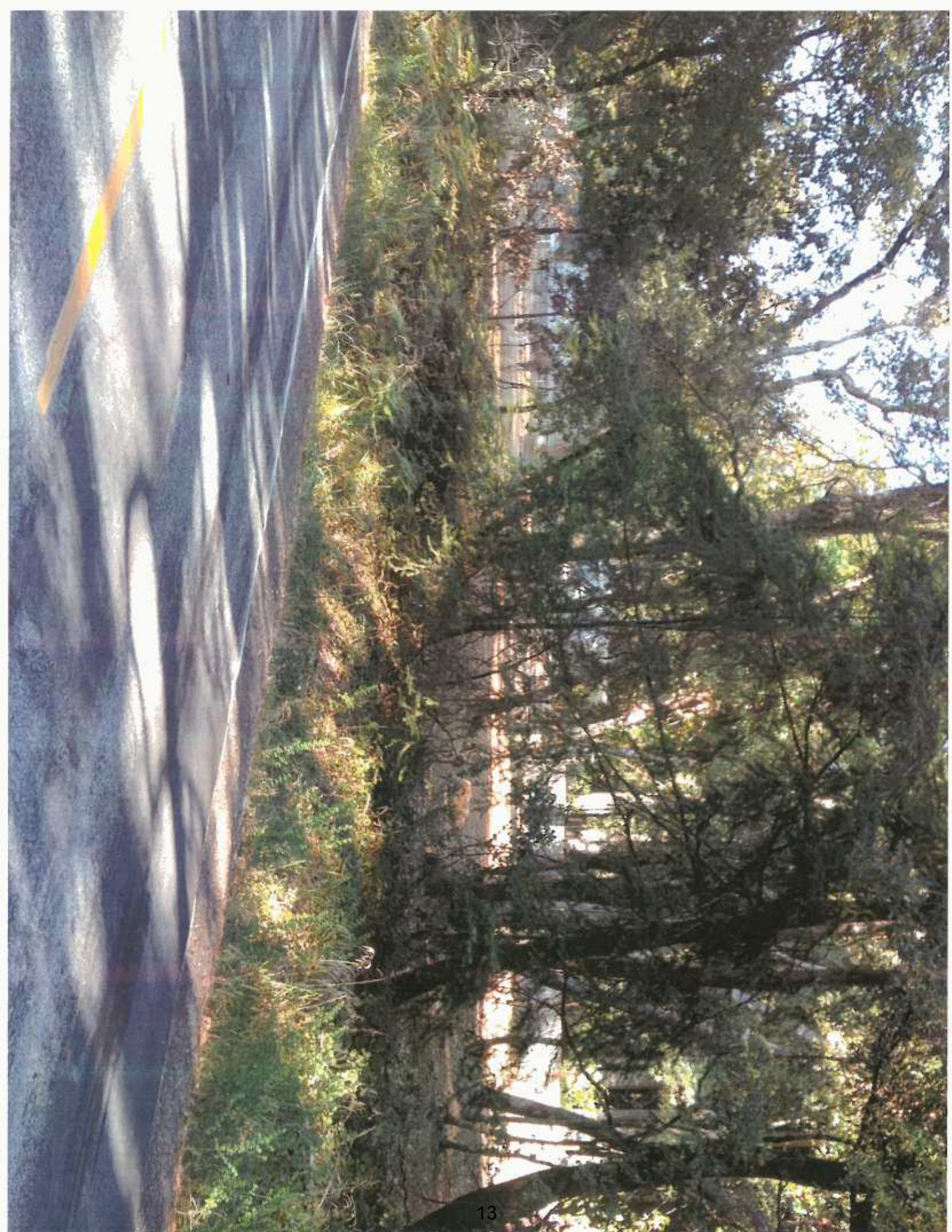
---

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.

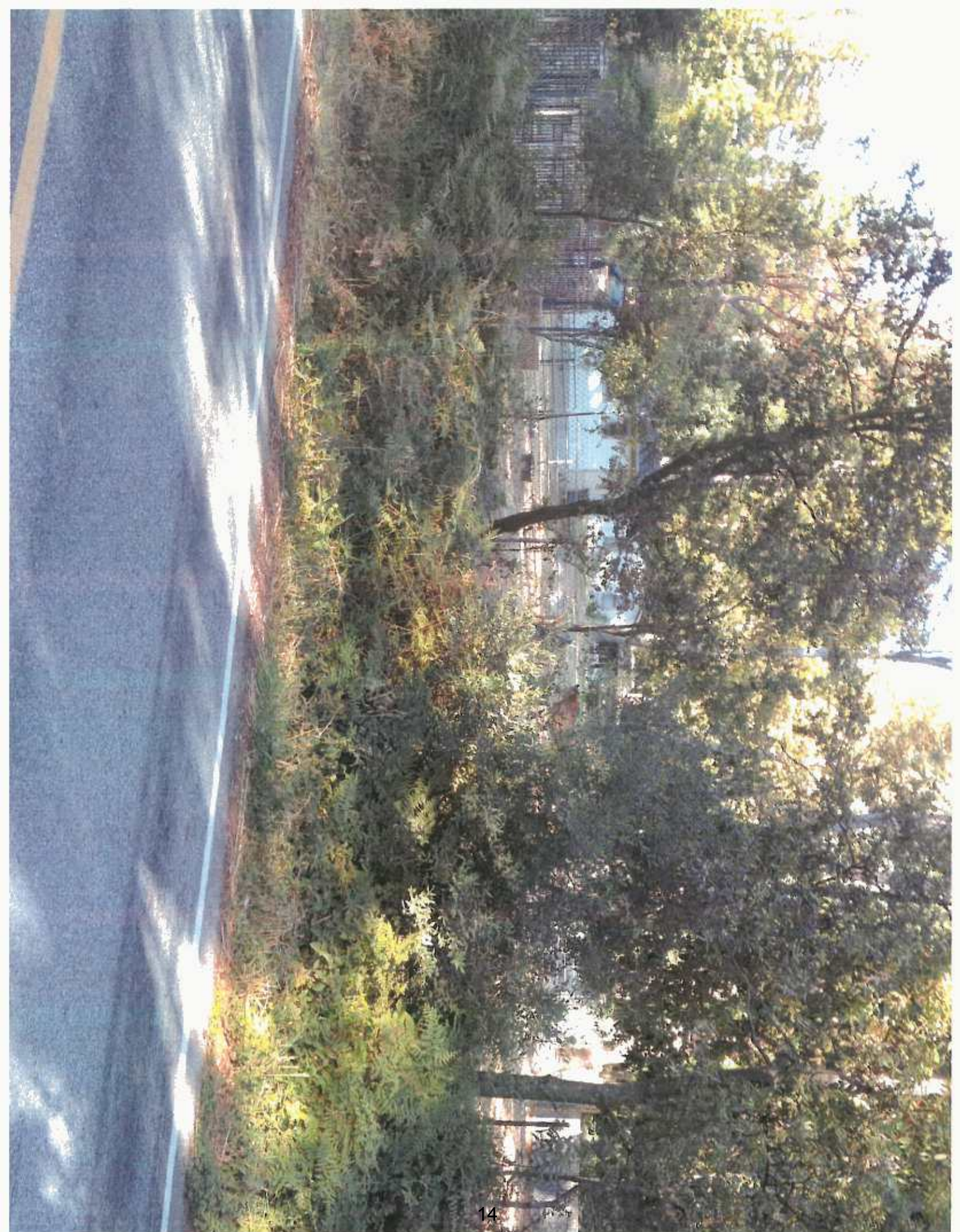
# Exhibit A: Site Plan

























# FOR TAX PURPOSES ONLY

THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 2000

POR. N.E. 1/4 SEC. 12, T.10S., R.3W., M.D.B. & M.

Tax Area Code  
58-001

80-15

T.10S., R.2W.  
T.10S., R.3W.

16

60MB43  
10/9/1974

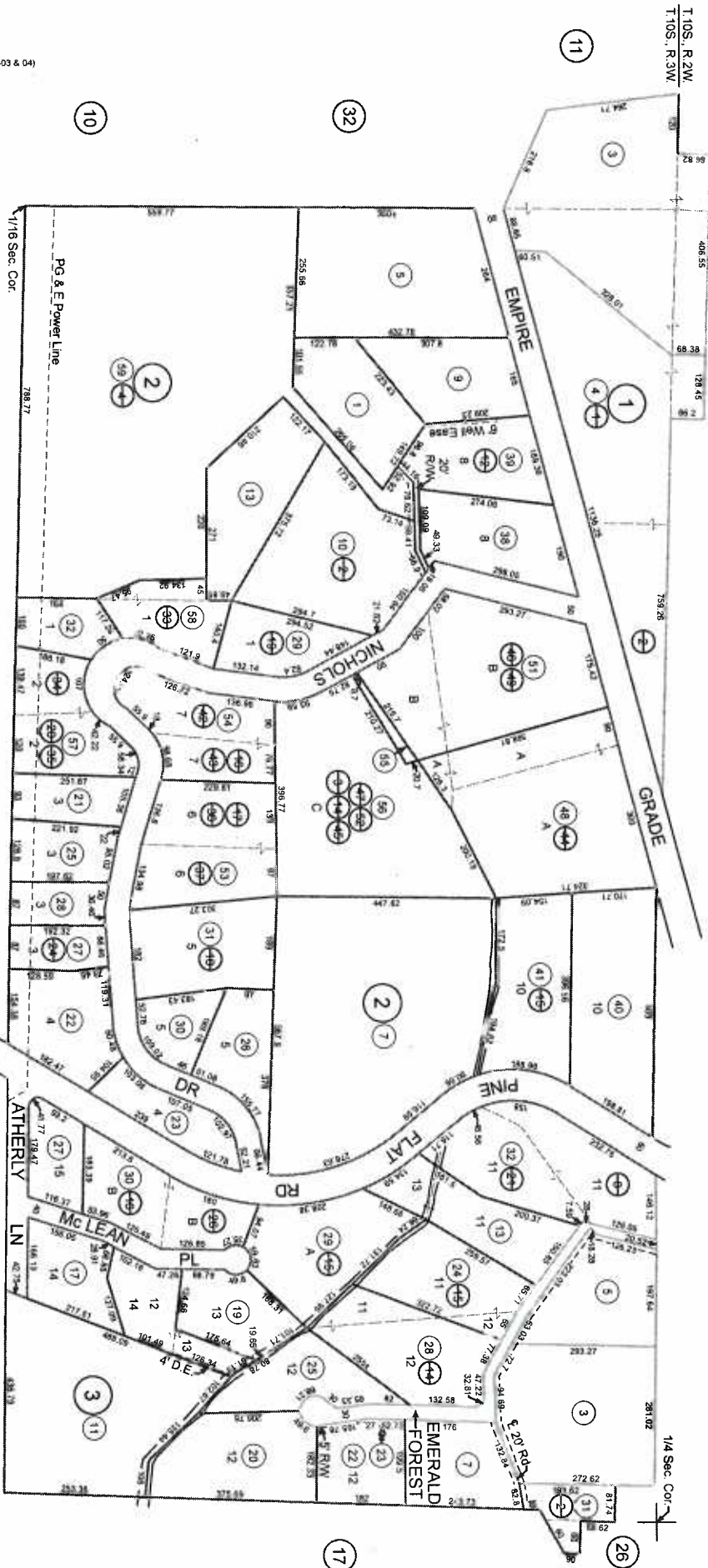
7PM35  
8/1/1972

12PM63  
9/20/1973

79RS59  
1/5/1989

114RS35  
10/29/2008

16



Electronically Redrawn 9/21/00 mvm  
Rev. 3/7/02 mvm (d name)  
Rev. 12/19/03 DD (3-0122010 & 11, ap. 1-03 & 04)  
Rev. 11/19/10 mo (114RS35)

14

80RS30  
5/22/1989

70MB6  
1/22/1981

33RS44  
1/18/1956

64PM25  
1/24/1977

10PM17  
3/9/1973

14

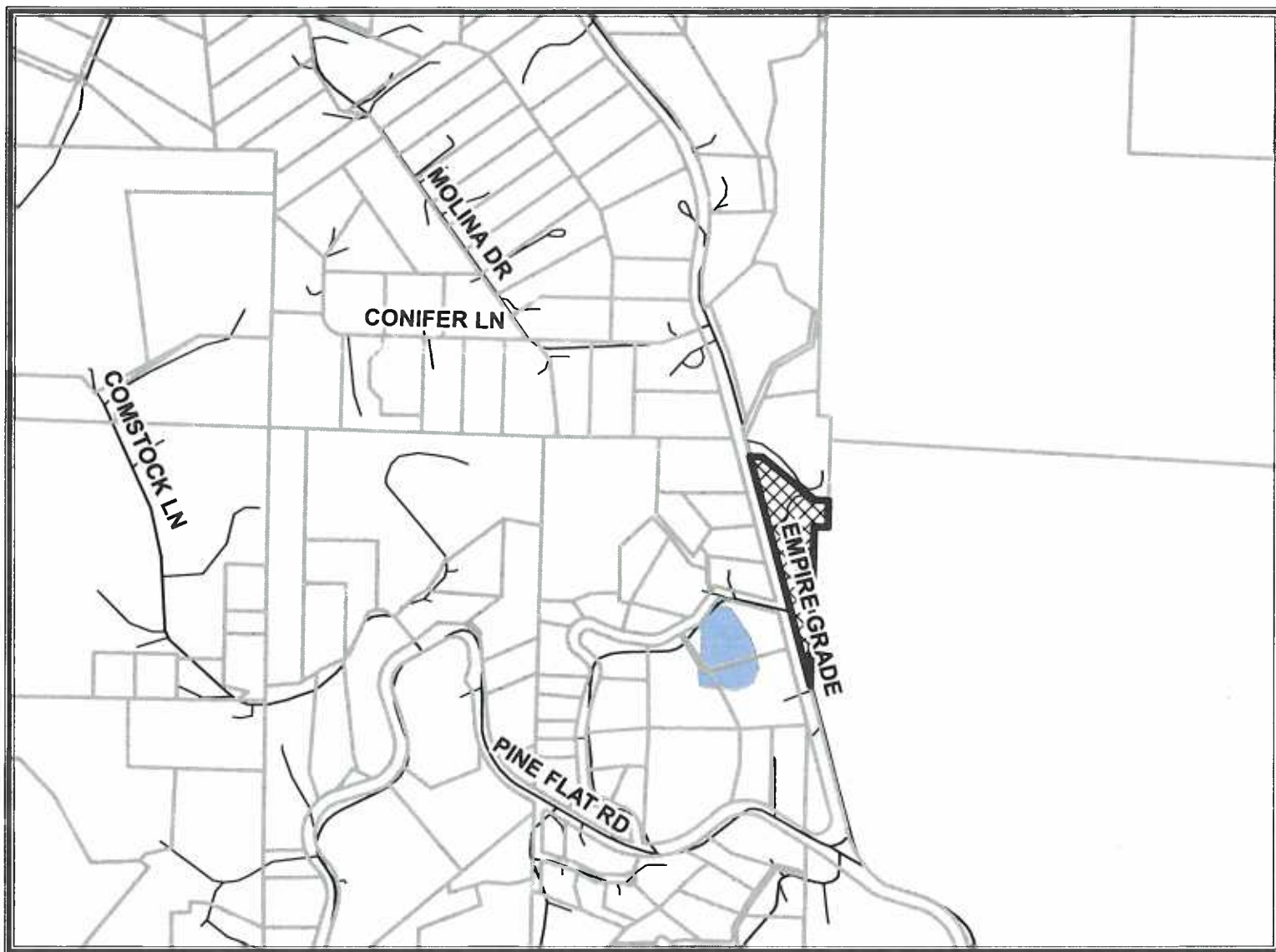
Note - Assessor's Parcel & Block  
Numbers Shown in Circles.

Assessor's Map No. 80-15  
County of Santa Cruz, Calif.  
Sept., 2000









# Location Map



## LEGEND

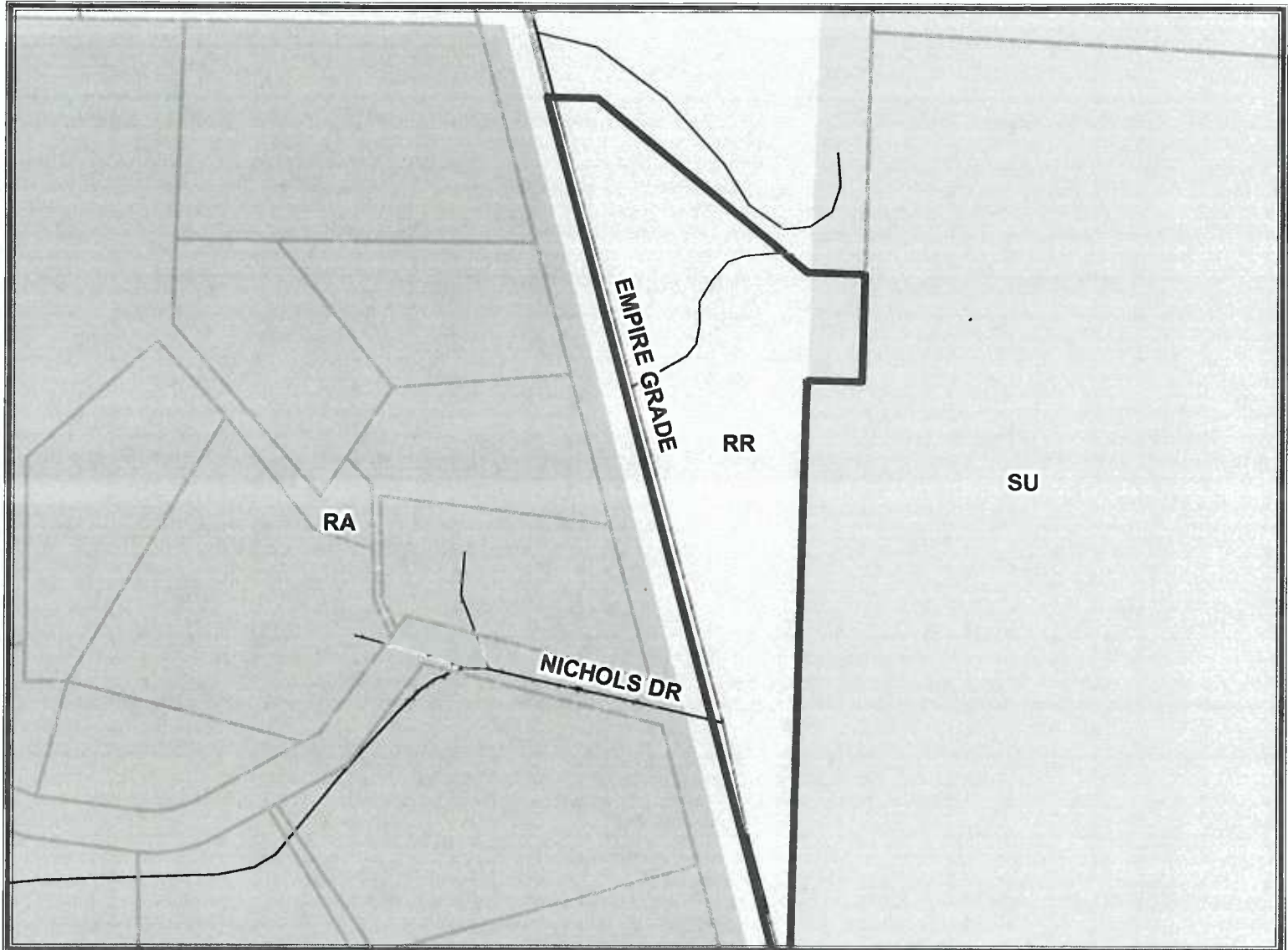
-  APN: 080-151-04
-  Assessors Parcels
-  Street
-  Lakes









Map Created by  
County of Santa Cruz  
Planning Department  
August 2014



# Zoning Map



## LEGEND

-  APN: 080-151-04
-  Assessors Parcels
-  Street
-  RESIDENTIAL-RURAL
-  SPECIAL USE
-  AGRICULTURE RESIDENTIAL

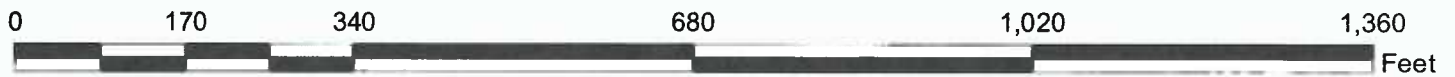
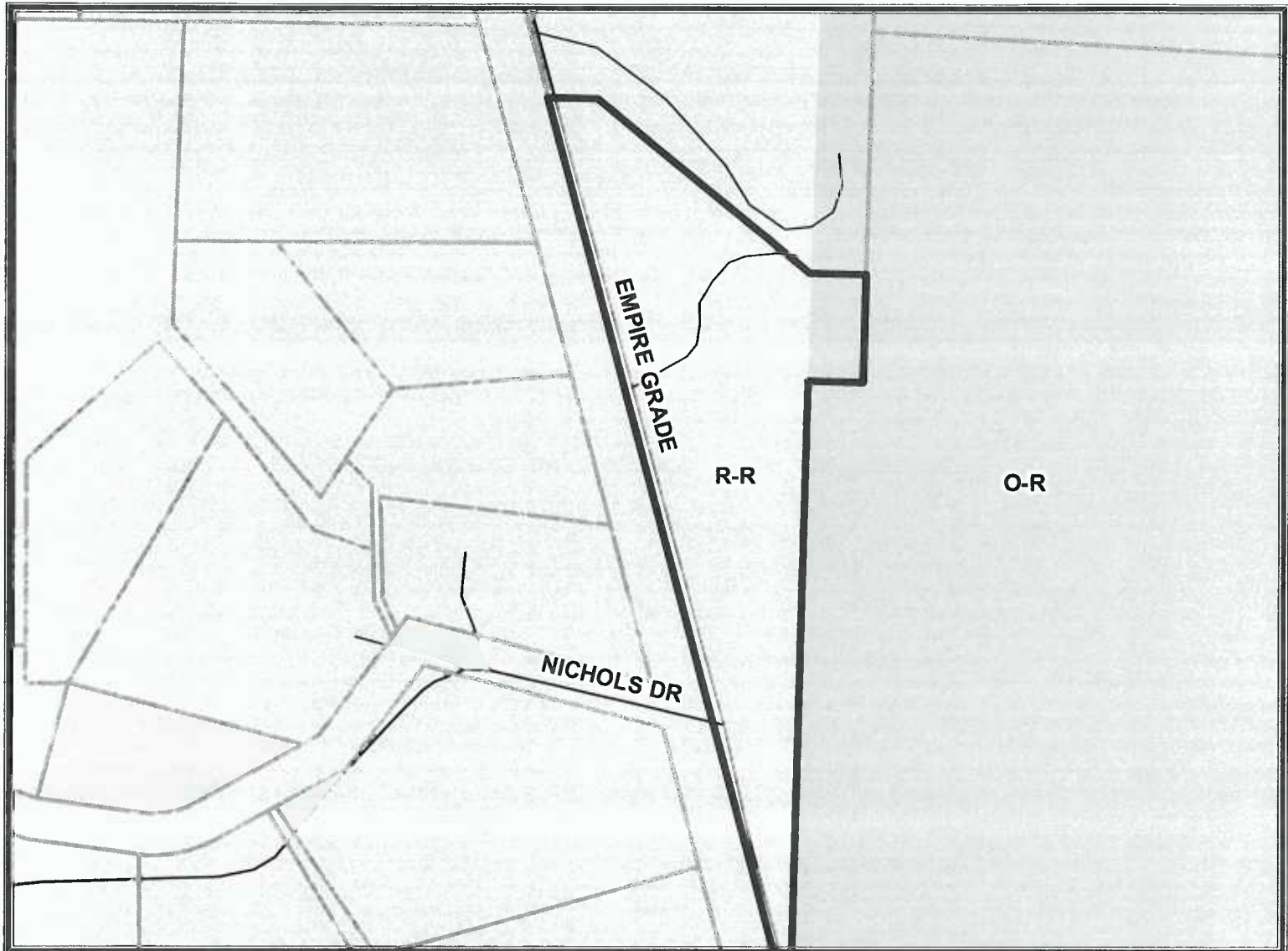
20








Map Created by  
County of Santa Cruz  
Planning Department  
August 2014



# General Plan Designation Map



## LEGEND

-  APN: 080-151-04
-  Assessors Parcels
-  Street
-  Residential-Rural
-  Parks and Recreation

21



Map Created by  
County of Santa Cruz  
Planning Department  
August 2014



## Nathan MacBeth

---

**From:** danny gallegos [danny37ford@gmail.com]  
**Sent:** Wednesday, October 15, 2014 9:11 PM  
**To:** Nathan MacBeth  
**Subject:** complaint regarding horses

Dear Mr. Macbeth,

I write in regards to my neighbor, Mr. Mark Auger's maintenance of horses on his property (9458 Empire Grade, Santa Cruz, CA). Mr. Auger is an owner of several horses, and unfortunately he has chosen to locate the horse pen directly across from the front of my house. Although he has access to about four acres of land, including that which is adjacent to the non-residential park land, Mr. Auger keeps his horses in a place that creates significant inconvenience to my family (and perhaps to other neighbors). We struggle with the chronic stench, dust, and insects created by the horses, which, I believe, comes from irregular cleaning of the pen (we used to have another neighbor who kept a horse, and we hardly ever felt the presence of the horse because she kept everything very clean).

It is my understanding that Mr. Auger has applied for a permit to keep his horses (#141142). I would like to be part of the process of consideration of this permit (at least as it pertains to the space set aside for keeping his horses OR in regards to the cleanliness standards for holding such a permit). Please inform me the time and place of this meeting.

Respectfully,

Danny Gallegos  
9473 Empire Grade  
Santa Cruz, CA 95060