

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** December 4, 2014

**TO:** Zoning Hearing Officer

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Coastal Development Permit and Planned Agricultural District Permit, pursuant to Sections 6328.4 and 6354, respectively, of the County Zoning Regulations; a Certificate of Compliance (Type B), pursuant to Section 7134.2 of the County Subdivision Regulations, to confirm the legality of three (3) existing parcels (of approximately 36 acres; 47 acres; and 26 acres) to be combined into one legal parcel located adjacent to Cloverdale Road in the unincorporated Pescadero area of San Mateo County. This project is appealable to the California Coastal Commission.

County File Number: PLN 2014-00030 (Burns/Kleffer)

**PROPOSAL**

The applicant has applied for a Certificate of Compliance (Type B) to confirm legality of the three parcels referenced above, combined together to represent one legal parcel. The Type B is required because the subject parcels were not conveyed separately from the surrounding adjacent parcels until 1966, which was after July 1945, the effective date of the County's first subdivision ordinance. The Certificate of Compliance (CoC) Type B ensures compliance with the County Subdivision Regulations, and triggers the accompanying Coastal Development Permit (CDP) as required by the County's Local Coastal Program. A Planned Agricultural District Permit is also required by the Zoning Regulations Section 6354.

**RECOMMENDATION**

That the Zoning Hearing Officer approve the Coastal Development Permit, Planned Agricultural District Permit, and Certificate of Compliance (Type B), County File PLN 2014-00030, by making the required findings and adopting the conditions of approval listed in Attachment A.

**BACKGROUND**

Report Prepared By: Pete Bentley/Project Planner

Applicant/Owner: William Cook/Deborah Kleffer

Location: Cloverdale Road, Pescadero

APNs: 086-061-120; 086-061-130 and 086-061-080

Size: Approximately 110.47 acres (total of all 3 parcels)

APN 086-061-120: 26.29 acres

APN 086-061-130: 47.77 acres

APN 086-061-080: 36.41 acres

Existing Zoning: PAD/CD (Planned Agricultural District/Coastal Development)

General Plan Designation: Agriculture

Williamson Act Contract Status: The subject parcels are not under a Williamson Act contract.

Parcel Legality: APNs 086-061-120; 086-061-130; and 086-061-080 were created by individual grant deeds for the first time in 1966; their legalization together as one parcel is the subject of this application.

Existing Land Use: Undeveloped

Water Supply: N/A (No potable or non-potable water source or well exists)

Sewage Disposal: N/A

Flood Zone: FEMA Flood Insurance Rate Map designation indicates parcel as Zone X, Area of 0.2% annual chance of flood, Community Panel No. 06081C0451E, dated October 16, 2012.

Environmental Evaluation: Categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines.

Setting: The three parcels (taken together as one) are irregular in shape and located adjacent to Cloverdale Road approximately 1-mile south of its intersection with Pescadero Creek Road and approximately 1.5 miles southeasterly of the town of Pescadero. The northerly portions of all three parcels are located within the Cloverdale Road County Scenic Corridor. There is currently no development on any of the three parcels. Only one parcel (APN 086-061-080) includes a small amount of prime soils. None of the parcels currently support any ongoing agriculture. Adjacent property to the west is owned by Peninsula Open Space Trust as is the majority of the surrounding land to the south.

Assessor's Parcel Number 086-061-120 has an outstanding grading violation (VIO 2013-00193). This violation notice was sent to the owner on October 8, 2013. Grading work included road widening (beginning on an existing unimproved road accessing the property from Cloverdale Road), placement of fill material, hillside cuts, and new culverts under the road. The owner has submitted the requisite Grading/CDP application (PLN 2014-00445) that proposes to legalize this grading and will have submitted this application prior to the date of this hearing. A condition of approval to the subject CoC is recommended (Attachment A) to require that this application must be approved (although the actual grading activity in the field with an issued Grading Permit may be deferred) prior to the CoC being recorded.

## DISCUSSION

### A. KEY ISSUES

#### 1. Conformance with the General Plan

##### a. Soil Resources

Policy 2.21 (*Protect Productive Soil Resources Against Soil Conversion*) seeks to regulate land use and subdivision of productive soil resources and encourage appropriate management practices to protect against soil conversion. According to the Productive Soils Resource Map of the General Plan, the project parcels consist of soils with agricultural capability; specifically suited for irrigated rowcrops and soil dependent floriculture (i.e., artichokes, Brussels sprouts, field flowers) and dryland farming (i.e., peas, pumpkins, Christmas trees, hay, oats, other grains). The CoC (Type B) process to legalize parcels is considered a "land division," but the three (3) parcels receiving a single CoC will subsequently combine all three parcels into one legal parcel. Thus, the project will result in the consolidation of agricultural land in compliance with the soil resource and agricultural policies of the General Plan.

#### 2. Conformance with the Local Coastal Program (LCP)

##### a. Locating and Planning New Development

Policy 1.29 (*Legalizing Parcels*) and Policy 1.30 (*Coastal Permit Standards of Review for Legalizing Parcels*) require a Coastal Development Permit (CDP) when issuing a Certificate of Compliance (Type B) to legalize parcels and provide standards of review when legalizing parcels. Subsections (a) through (e) all require a CDP and that the project shall also comply with any applicable LCP resource protection policies, depending on whether or not the "parcel" is developed, and/or whether or not the parcel was created before

Proposition 20 (effective date January 1, 1973) or the Coastal Act of 1976. A CDP is included as an element of this project. Other than legalizing the subject parcels into one parcel, no development or change in land use is proposed at this time (save for the required and pending CDP/Grading Permit to legalize some road grading that had occurred as previously cited). Additionally, the subject CoC does not trigger, at this time, the requirement to formally construct access, provide a potable water source or other improvements, as discussed in Section A. 4 of this report. Any future development on the legalized and merged parcel would require further review and approval by the County for compliance with all applicable LCP Policies at the time of development.

b. Agriculture

Policies 5.5 (*Permitted Uses on Prime Agricultural Lands Designated as Agriculture*), 5.6 (*Permitted Uses on Lands Suitable for Agriculture Designated as Agriculture*), 5.8 (*Conversion of Prime Agricultural Land Designated as Agriculture*), 5.9 (*Division of Land Suitable for Agriculture Designated as Agriculture*), 5.10 (*Conversion of Land Suitable for Agriculture Designated as Agriculture*) and 5.11 (*Maximum Density of Development Per Parcel*) are applicable here. As discussed in Section A.3 (below) of this report regarding PAD zoning compliance, only one of the three parcels (APN 086-061-080) includes two small patches of prime soils. The remainder of the entire subject property (all three parcels combined) is comprised of "Lands Suitable for Agriculture." The subject CoC application includes no new development (except for the legalization of a graded roadway as discussed in the Setting Section of this report). While technically a CoC is a type of land division, the approval would result in all three parcels being consolidated as one legal parcel. Upon legalization, the 110.47-acre parcel could not be subdivided in the future. This is because a 1990 Density Analysis, done on both the subject three parcels and the 64.89-acre parcel to the north (APN 086-061-060) yielded only two density credits (DCs), one of which was utilized when that northern parcel itself was legalized with a CoC (PLN 2013-00085) and recorded in 2013. Thus, of the two DC's calculated, the subject three parcels (together as one parcel) captures the second remaining density credit. Taken all together, the project is compliant with the cited LCP Policies.

3. Conformance with Planning Agricultural District (PAD) Zoning Regulations

The project parcels are located within the PAD. While the parcels are designated as Prime Agricultural Lands according to the General Plan Agricultural Lands Map, only a small portion of prime soils is located on one of the three parcels. While no development or change in use is proposed as

part of this project, and given that the prime soils are so limited, the legalized parcel could accommodate agricultural associated development without a PAD permit, pursuant to Sections 6352.A and 6352.B (*Uses Permitted Prime Agricultural Lands on Lands Suitable for Agriculture and Other Lands*) of the PAD Regulations. If such future development includes a single-family residence, such development would require a PAD permit (and CDP), pursuant to Section 6353.B. Given the resultant size of the single legalized parcel (110 acres), it would not be subdividable in the future.

Pursuant to Section 6354 (*Land Divisions*) of the PAD regulations, all land divisions permitted in the PAD are subject to the issuance of a PAD permit. The proposed CoC process constitutes a "land division;" therefore, a PAD permit is required subject to the applicable criteria in Section 6355 of the PAD Regulations, as discussed below. Nonetheless, the project proposes to consolidate, rather than divide, parcels consisting of prime agricultural land in compliance with the agricultural criteria of the Planning Agricultural District. Once legalized, a merger would consolidate the three parcels into one parcel.

While the subject COC includes no development at this time, the project is still reviewed against Section 6355 (*Substantive Criteria for Issuance of a Planned Agricultural Permit*). Pursuant to Subsection A (*General Criteria*), the encroachment of any future development onto land suitable for agricultural use would have to be minimized and clustered, as well as conform with the applicable Development Review Criteria of Chapter 20A.2. Pursuant to Subsection B (*Water Supply Criteria*), any future development proposals would have to include a potable water source (e.g., a well). Since prime soils are limited to a small portion of the westerley parcel (of the three), and since the subject CoC represents a "Land Division," Subsections C (*Criteria for the Division of Prime Agricultural Land*), D (*Criteria for the Conversion of Prime Agricultural Lands*), and E (*Criteria for the Division of Lands Suitable for Agriculture and Other Lands*) do apply to this project. Given that Prime Agriculture Land does not cover the entire parcel (consolidated as one legal parcel); it actually only occurs in limited areas of one of the three subject parcels. Neither this area nor a future building site (though not presently proposed) would be affected by the "Land Division." The CoC includes no development that would convert the Prime Agricultural Land as cited, nor would it diminish the productivity of any adjacent agricultural land. Finally, while the overwhelming proportion of the subject property being legalized is comprised of "Lands Suitable for Agriculture and Other Lands," the legalization does not further divide such lands, nor is any future subdivision of the subject property possible. Thus, the project complies with cited Subsections C, D and E. Pursuant to Subsection F (*Criteria for the Conversion of Lands Suitable for Agriculture and Other*

*Lands*), any future development would have to minimize conversion and effect on productivity of such lands.

Pursuant to Section 6356 (*Maximum Density of Development*), the subject three parcels, together as one legal parcel, yield only one density credit, as previously discussed in Section A.2.b. of this report.

#### 4. Conformance with Subdivision Regulations

Pursuant to Section 7134, a Conditional Certificate of Compliance (CoC) (Type B) is required to legalize parcels in compliance with provisions of the County and State subdivision laws in effect at the time of their creation. This process is required prior to the sale, lease or finance, development, or merger of such parcels. Specifically, the requested CoC is required because the project parcels were not conveyed separately from the surrounding adjacent land until after July 20, 1945, the effective date of the County's first Subdivision Ordinance.

Pursuant to Section 7134.2 (*Conditional Certificate of Compliance to Legalize Parcels*), Subsection b(1), the parcels' creation by deed in 1966 (which together created the subject property), represented a procedural violation whereby, although a subdivision map was not filed, the land division conformed to the General Plan and Zoning Standards in effect at the time the division occurred. In 1966, the zoning of the area comprising the subject parcels was A-1/B-5, which would have likely allowed the original "parent" parcel to have been subdivided into three parcels. In fact, the three parcels adjacent and just south of the subject parcels were created via an approved subdivision (File No X6E2756; recorded March 8, 1965) of a 59.8-acre "parent" parcel in 1965, with identical zoning. While access was required to have been provided to those parcels, the County Environmental Health Department required neither proof of a potable water supply nor septic capabilities at the time, allowing them to be delayed until such time as future development was proposed. The parcel to the north (APN 086-061-060) was issued a CoC (PLN 2013-00085; recorded May 7, 2013).

Section 7134.2.c. allows for the approval and recordation of Conditional CoC (Type B) subject to a public hearing and the imposition of conditions of approval to ensure that eventual development on the resulting merged parcel complies with public health and safety standards. The Community Development Director, pursuant to Subsection (c) of the above-cited Section, may impose "any conditions which would be applicable to a current division of the property." In this case, while a typical subdivision would require the review, approval and construction of access to the property, drilling of a well to establish an approved potable water source, preliminary geotechnical review and septic drain field percolation testing and system design review, the Community Development Director allows for those

requirements to be delayed until such time that any future development is proposed and/or prior to any approvals of such development.

B. ENVIRONMENTAL REVIEW

The proposed parcel legalization is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15305, Class 5 (Minor Alterations in Land Use Limitations), where the legalization of the subject parcel would be considered an example.

C. REVIEWING AGENCIES

San Mateo County Planning Department  
San Mateo County Counsel

ATTACHMENTS

- A. Recommend Findings and Conditions of Approval
- B. Vicinity Location and Parcel Map
- C. Excerpt from 1965 Subdivision Map Showing Subject Property (Currently Comprised of Three Parcels)

PB:DJH:pac - PSBY0874\_WPU

County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2014-00030      Hearing Date: December 4, 2014

Prepared By: Pete Bentley  
Project Planner

For Adoption By: Zoning Hearing Officer

**RECOMMENDED FINDINGS**

For the Environmental Review, Find:

1. That the project is categorically exempt under provisions of Class 5, Section 15305 of the California Environmental Quality Act Guidelines (Minor Alterations to Land Use Limitations).

For the Conditional Certificate of Compliance (Type B), Find:

2. That the processing of the Certificate of Compliance (CoC) (Type B) is in full conformance with (a) the County Subdivision Regulations Section 7134 (Legalization of Parcels; Certificate of Compliance) particularly Section 7134.2, and (b) Government Code Section 66499 et seq. (State Map Act).

For the Coastal Development Permit, Find:

3. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.7, and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program (LCP), since the project will consolidate as one legal parcel a property currently comprised of three parcels.
4. That the project conforms to the specific findings required by policies of the San Mateo County LCP related to the protection of agricultural land, since the project does not interfere with existing or future agriculture on the site, due to the small scale of the project.



Regarding the Planned Agricultural District Permit, Find:

5. That the proposed project, as described in the application and accompanying materials, complies with all applicable criteria for issuance of a Planned Agricultural District Permit contained in Section 6350 of the Zoning Regulations, since the parcels' legalization as one single parcel will have no impact to prime soils or to the property's agricultural viability and productivity, and no development is proposed at this time.

**RECOMMENDED CONDITIONS OF APPROVAL**

Current Planning Section

1. This approval applies only to the proposal, documents and plans described in this report and submitted to and approved by the Zoning Hearing Officer on December 4, 2014. Minor revisions or modifications to the project may be approved by the Community Development Director, if they are consistent with the intent of and in substantial conformance with this approval. This approval does not include any future development on the parcel, which will be subject to a separate planning review.
2. This approval shall be valid for one year from the date of final approval and shall expire at that time. Extensions may be granted, when submitted in writing and with the applicable extension fee paid.
3. The applicant/owner is advised that the outstanding grading violation shall be addressed via submittal of a Grading/ Coastal Development Permit application (PLN 2014-00445) to legalize and complete the road construction, and that permit shall be approved, prior to the recording of the subject Certificate of Compliance. Upon such recording, the Grading Permit may be issued and completed, subject to its "conditions of approval."
4. The Certificate of Compliance (Type B) shall be recorded prior to the issuance of any other future development or approvals on the subject parcel (other than the CDP/Grading Permit to legalize the road construction.)

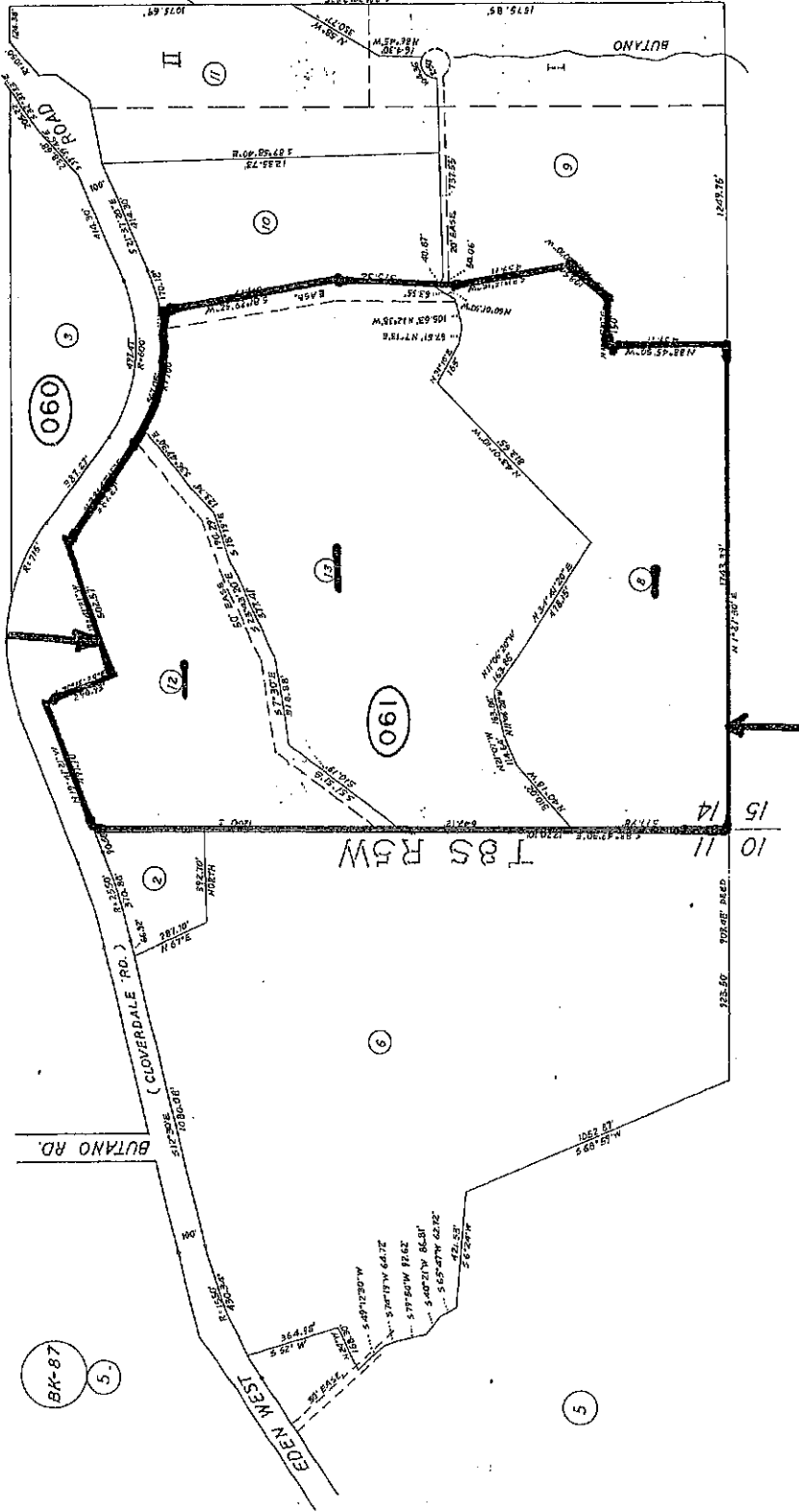
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86-6

1" = 400'

TAX CODE AREA

BK-87 8



LA HONDA PESCADERO UNIFIED SCHOOL DISTRICT

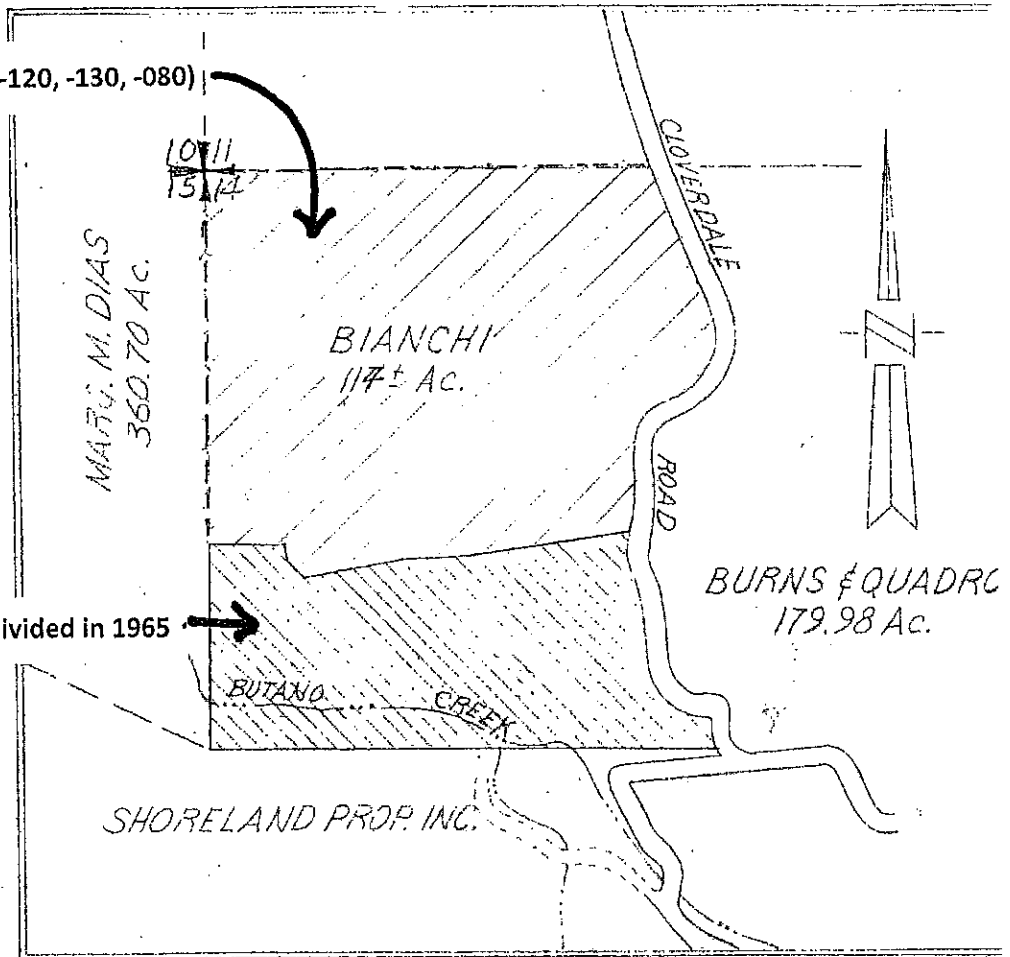
ASSESSORS MAP COUNTY OF SAN MATEO CA.

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ATTACHMENT "B"

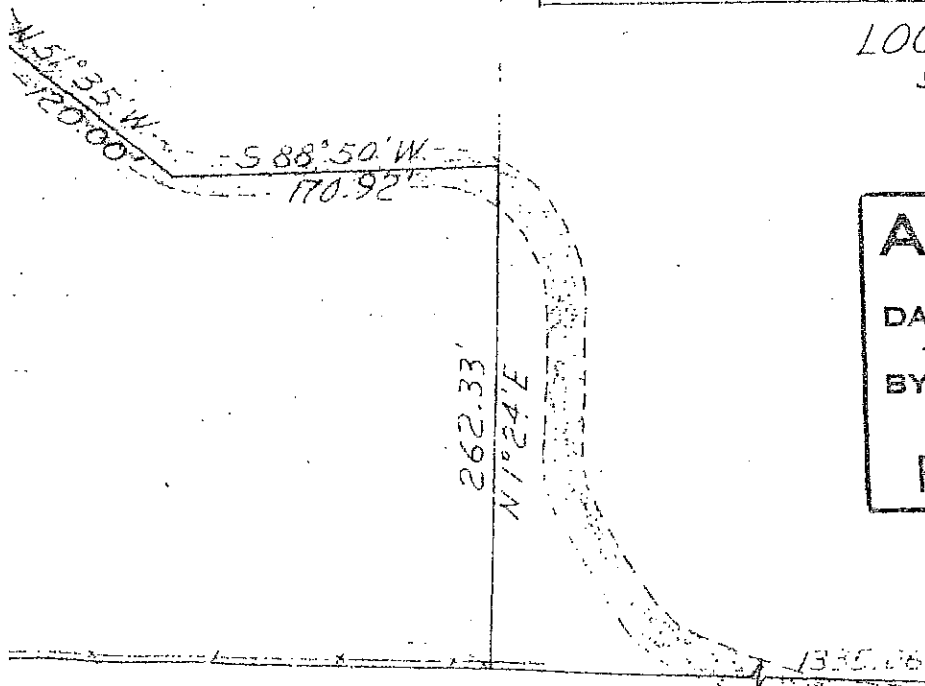
3-80

Subject Property (Parcels: 086-061-120, -130, -080)



Adjacent 59.8-acre Property Legally Subdivided in 1965

LOCATION MAP  
SCALE: 1"=1000'



**APPROVED**  
 DATE 3-8-65  
 BY *Leo Sullivan*  
 SAN MATEO COUNTY  
 PLANNING COMMISSION

2" iron pipe (capped)

EXTINGUISHING LINE

Excerpt from Approved 1965 Subdivision Map of  
Property to South of Subject Parcels

965-