



# Staff Report to the Agricultural Policy Advisory Commission

Application Number: **28338**

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**Applicant:** Matthew Slatter

**Owner:** Slatter

**APN:** 104-041-19

**Address:** 126 Fern Street, Santa Cruz, CA 95062

**Date:** April 20, 2023

**Agenda Item #:** 9

**Time:** 1:30 p.m.

**Project Description:** Proposal to construct a 2,392 square foot structure with a 1,196 square foot agricultural storage building at the lower floor and a 1,196 square foot ADU at the second floor, recognize a curved stacked-block retaining wall built at the base of the driveway along with an iron gate and associated fencing, and recognize two retaining walls built along driveway (220 feet and 230 feet long, respectively), on site with an existing SFD.

**Location:** Property located on the west side of Glen Haven Road (7337 Glen Haven Road), opposite the intersection with Ginger Lane.

**Permits Required:** Agricultural Buffer Determination to reduce the required buffer from 200 feet to 20 feet.

## Staff Recommendation:

- Recommend the Planning Department Approve of Application 28338, based on the attached findings and conditions.

## Analysis and Discussion

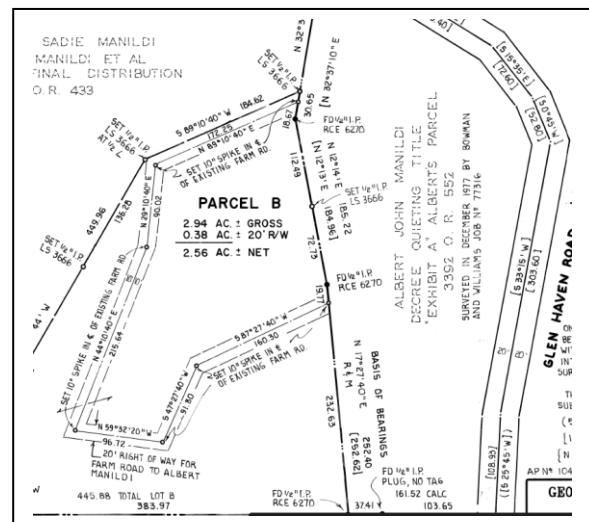
The proposed project before the Agricultural Policy Advisory Commission (APAC) is to construct a two-story structure with a 1,196 square foot Accessory Dwelling Unit on the first floor and a 1,196 square foot garage on the second floor, on a parcel of approximately 2.437 acres. The project is located at 7337 Glen Haven Road in Soquel. The building site is within 200 feet of Commercial Agricultural land to the west. The applicant is requesting a reduction in the 200-foot agricultural buffer setback to 20 feet from APN 104-041-23.

The parcel is located outside the Urban Services Line and can be characterized as a rural neighborhood. The parcel is located within the R-R (Rural Residential) General Plan designation and zoned CA (Commercial Agriculture). Commercial Agriculture zoned land is situated within 200 feet at the side of the parcel at Assessor's Parcel Number 104-041-23. Both the subject site and the adjoining parcel are designated as agricultural resource land, AG-2B, described in the County General Plan as "Limited Agricultural Land – Geographically Isolated." The adjoining parcel is currently under agricultural production. The subject parcel and contiguous CA-Zoned parcel to the west are currently under common ownership.

The development site is at the base of a 30-50% slope with the closest cultivated area about 35 feet to the northwest on the adjoining parcel. Immediately west of the site on the adjoining parcel is a riparian area with a constructed pond, earthen dam and riparian vegetation. A riparian pond and vegetation are also present on the subject site about 10 feet to the south of the proposed building footprint. A riparian exception (Application 211164) is under concurrent review.



A reduced agricultural buffer is required because no construction site would be available on the parcel if the 200-foot setback was imposed. The proposed ADU would be less than 100 feet from the primary dwelling and as required by Santa Cruz County Code § 16.50.095(E), the proposed location would cluster development and maintain more of the subject site available for cultivation. Until the early 2000's, the site was used for orchard production. Although the arable sections of the subject parcel are separated by a steep slope, a right-of-way was established (inset at right) across the adjoining parcel to facilitate farming on both sections.



Alternative development sites were considered on the parcel and determined to be unsuitable. Development sites on the southern one-third of the parcel would be located on 15-30 percent slopes, and inaccessible from the existing site driveway due to steep slopes. The parcel does not have access to the private right-of-way along the southern boundary, so the lower parcel would be accessible only directly from Glen Haven Road, requiring construction of a driveway through roadcuts greater than 50% or an entrance placed on a blind curve. Development of a separate driveway would significantly increase grading and construction costs and would entail a much larger disturbance envelope in the center of former orchard areas. Any site in the lower third of the parcel would be greater than 100 feet from the existing dwelling, inconsistent with the requirements of Santa Cruz County Code 13.10.681.



*Lower parcel area, viewed from Glen Haven Road.*

The proposed building site is situated on a slope of less than 15%, accessible from the current driveway and clustered right next to other development on the parcel, which is preferable from an environmental and structural standpoint. The existing dwelling and developed yard area are about 95 feet from the cultivated area on the adjoining parcel, so the proposed agricultural buffer would also serve to mitigate potential agricultural/residential use conflicts associated with the primary dwelling. The proposed equipment storage and tractor parking area underneath the ADU would support agricultural use of the parcel without intruding on the arable area.

The applicant proposes to install a 20-foot-wide agricultural buffer (three times wider than the standard practice) comprised of a two-row, evergreen hedge of flannel bush (*Fremondadendron californica*), coffeeberry (*Frangula californica*), Coast Silktassel (*Garrya elliptica*) and sugar bush (*Rhus ovata*) – fast growing, native plantings that reach a height of 6’-20’ at maturity, all from the County’s recommended agricultural buffer plant list, to reduce the impact of agricultural activities on the proposed residential use and protect the agricultural interests on the adjacent cultivated ag-resource parcel. In addition to the proposed buffer planting, the Conditions of Approval would require installation of a 6-foot tall, solid wood fence to provide an additional barrier to potential use conflicts. The applicant will also be required to record a Statement of Acknowledgement regarding the issuance of a building permit in an area determined by the County of Santa Cruz to be subject to Agricultural-Residential use conflicts.

### **Recommendation**

- Staff recommends that your Commission recommend the Planning Department **APPROVE** the Agricultural Buffer Reduction from 200 feet to about 20 feet to the proposed ADU from the adjacent CA zoned property known as APN 104-041-23, proposed under Application 28338, based on the attached findings and recommended conditions.

**Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Division, 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.sccoplanning.com](http://www.sccoplanning.com)**

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Development Review

### **Exhibits**

- A. Exhibit Reserved
- B. Findings
- C. Conditions
- D. Project plans
- E. Assessor's, Location, Zoning and General Plan Maps
- F. Parcel information

**Required Finding(s) for Agricultural Buffer Setback Reduction  
County Code Section 16.50.095(D)**

***“An agricultural setback distance of less than 200 feet may be established for ...habitable uses when one of the following findings is made in addition to the required findings in subsection (E) of this section:”***

1. Significant topographical differences exist between the agricultural and non-agricultural uses which eliminates or minimizes the need for a 200-foot agricultural buffer setback; or

The proposed ADU site is downhill of the nearest adjoining cropland – about 15 vertical feet lower. Therefore, this finding is non-applicable.

2. Permanent substantial vegetation (such as a Riparian Corridor or Woodland protected by the County’s Riparian Corridor or Sensitive Habitat Ordinances) or other physical barriers exist between the agricultural and non-agricultural uses which eliminate or minimize the need for a two hundred (200) foot agricultural buffer setback; or

An existing riparian woodland, reservoir and residential buildings exist directly adjacent to the proposed construction site and south along the property line. The presence of the riparian habitat and tall woodland trees – and of the residential development farther south – partly mitigates the location of the proposed habitable structure adjacent to the woodland. However, no natural buffer exists between the proposed site and the corner of existing vineyard to the northwest.

3. A lesser setback is found to be adequate to prevent conflicts between the non-agricultural development and the adjacent agricultural development and the adjacent agricultural land, based on the establishment of a physical barrier (unless it is determined that the installation of a barrier will hinder the affected agricultural use more than it would help it, or would create a serious traffic hazard on a public or private right of way) or the existence of some other factor which effectively supplants the need for a two hundred (200) foot agricultural buffer setback; or

The proposed barrier consisting of evergreen shrubs would extend for approximately 160 feet above the dwelling along the cultivated area upslope. Below the dwelling, the planted barrier would extend about 80 feet below the proposed site, although the property line in this location is adjacent to residential development and riparian habitat. The proposed double-planted barrier and solid fence would be adequate to mitigate potential conflicts between the non-agricultural development and the adjacent agricultural land of APN 104-041-23. This barrier, as proposed, would not create a hazard in terms of the vehicular sight distance necessary for safe passage of vehicles along the connecting driveway between the two parcels.

4. The imposition of a two hundred (200) foot agricultural buffer setback would preclude building on a parcel of record as of the effective date of this chapter, in which case a lesser buffer setback distance may be permitted, provided that the maximum possible setback distance is required, coupled with a requirement for a physical barrier (e.g. solid fencing and/or vegetative screening) to provide the maximum buffering possible, consistent with the objective of permitting building on a parcel of record.

Requiring a two hundred (200) foot agricultural buffer setback would preclude building an ADU, allowed by right on the parcel under the County Zoning Ordinance. The proposed structure would be located as far as possible from the property line (20 feet) while avoiding steeper slopes and minimizing potential conflicts with arable areas of the parcel. The proposed ADU would be 35 feet from the nearest cropland on adjoining APN 104-041-23, which is less than the 200-foot standard agricultural barrier, but the proposed two-row barrier consisting of evergreen shrubs and trees, coupled with a required 6-foot fence, would be adequate to prevent conflicts between the non-agricultural development and the adjacent Commercial Agriculture zoned land of APN 104-041-23. Additionally, the proposed agricultural storage building / tractor barn below the proposed ADU would support cultivation of the subject parcel.

**Required Finding for Agricultural Buffer Setback Reduction on Commercial Agriculture (CA) Zoned Land County Code Section 16.50.095(E)**

1. In the event that an agricultural buffer setback reduction is proposed and the proposed non-agricultural development is located on Type 1, Type 2, or Type 3 commercial agricultural land, the non-agricultural development shall be sited so as to minimize possible conflicts between the agricultural use on the subject parcel; and the non-agricultural development shall be located so as to remove as little land as possible from production or potential production.

The proposed ADU and agricultural storage building is sited to maximize separation from potentially arable areas on the subject parcel, thereby minimizing potential use conflicts between residential use and future agricultural uses, and would be partially buffered by an existing pond and existing and potential riparian vegetation between the development site and agricultural area. The placement of the ADU over the storage structure, along with the location adjacent to the existing dwelling, would minimize the footprint of the structure. The proposed location of the structure – situated between an existing pond and a hill slope behind – would minimize the amount of land removed from potential agricultural production.

**Required Findings for Development on Land Zoned Commercial Agriculture or Agricultural Preserve County Code Section 13.10.314(A)**

1. The establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

The subject parcel is less than 2.5 acres but historically cultivated. The proposed structure would be located as far as possible from the arable area of the parcel – and no closer than the existing dwelling – to minimize potential conflict between residential and ag uses on the subject parcel. The proposed vegetative buffer would adequately mitigate potential agricultural land use conflicts between the subject site and the nearby agricultural operation on the adjoining parcel, which would be situated

approximately 35 feet away.

2. The use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or no other agricultural use of the parcel is feasible for the parcel; or the use consists of an interim public use which does not impair long-term agricultural viability, **or** consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of Section 13.10.635; **or**
3. Single family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.

No. 3 above is applicable: The proposed ADU would be cited to avoid conflicts with agricultural activity on the same parcel, and the other use – a storage shed and equipment garage beneath – would support agricultural activity on the parcel. No. 2 is partly applicable in that the parcel is too small to be considered a viable agricultural unit. Nonetheless, the site may be cultivated in the future as it has been in the recent past.

4. The use will be sited to remove no land from production (or potential production) if any non-farmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

The use will be sited to remove no land from potential production, as the proposed building location between an existing pond and hillslope would be unlikely to support cultivation.

## Conditions of Approval

- I. This permit authorizes an Agricultural Buffer Setback as indicated on the approved Exhibit "D" for this permit. 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 Santa Cruz County Planning one copy of the approval to indicate acceptance and agreement with the conditions thereof.
  - B. Obtain a Building Permit and Grading Permit from the Santa Cruz County Building Official.
    1. Any outstanding balance due to Santa Cruz County Planning must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
  - A. Submit final architectural plans for review and approval by Santa Cruz County Planning. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with Santa Cruz County Planning. 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. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
    2. A development setback of a minimum of 20 feet from the single-family dwelling to the adjacent Commercial Agriculture zoned parcel APN 104-041-23.
    3. Final plans shall show the location of a 20' wide vegetative buffer strip composed of drought tolerant shrubbery, and a six foot, solid fence for the purpose of buffering adjacent agricultural land. The fence shall run at least 25 feet along the property line to either side of the habitable improvements. The shrubs utilized shall attain a minimum height of six feet upon maturity. Species type, plant sizes, spacing and length of buffer shall be indicated on the final plans for review and approval by Santa Cruz County Planning staff, and shall be substantially compliant with the approved plans (Exhibit D).
    4. A solid fence at least six feet (6') in height shall be constructed along the property line for at least 25 feet in either direction adjacent to the proposed



ADU.

5. The irrigation system for the ag buffer shall extend entire length of the planted ag buffer.
  6. The plans shall include a surveyed roof plan for the barn / ADU structure to demonstrate compliance with the max height of 28 feet. For a description of a surveyed roof plan and procedure to measure height, please see County guidance at:  
<http://www.sccoplanning.com/Portals/2/County/Planning/policy/landusepolicy/HT-PW-01.pdf> . Handout is linked off the County Planning Department Homepage. Note that the building permit plans will be required to depict existing and proposed grade on elevations and sections.
  7. A Water Efficient Landscape Plan prepared in accordance with the requirements of the Water Efficient Landscape Ordinance (County Code Chapter 13.13) by a certified/licensed landscape architect, landscape contractor, civil engineer, landscape irrigation designer, landscape irrigation auditor, or water manager. WELO-exempt projects, residential projects of up to two units, or landscapes where at least 30% of the water use is provided by graywater, recycled water or captured rainwater may provide either a signed Water Efficient Landscape Checklist or a Water Efficient Landscape Plan. The proposed agricultural buffer planting in not subject to WELO compliance.
    - a. Any landscape plan submitted to comply with SCCC Ch. 13.13 shall include a Water Efficient Landscape Plan Submittal Compliance Statement.
- B. All requirements of Environmental Planning shall be met, including without limitation the following:
1. Submit a detailed engineered grading/drainage plan for review and approval. The plan must include all elements reviewed in Application 28338 (Accessory Dwelling Unit (ADU), retaining walls, etc.). The grading plan shall provide a grading volume estimate for all retaining walls that were constructed without proper permitting.
  2. Obtain a riparian exception for the Accessory Dwelling Unit (ADU). Application 211164 is currently pending.
  3. Provide Project Conformance Plan Review Letters from both the project geologist and geotechnical engineer.
- C. All requirements of the Department of Public Works Stormwater Management shall be met, including without limitation the following:
1. The application submittal shall adhere to Part 3 Section C of the CDC and

County Code 7.79. Pre-development runoff patterns shall be maintained, and safe stormwater overflow shall be incorporated into the project design.

2. Final stormwater management plans and final construction cross-section details shall be submitted with the building permit application.
- D. All requirements of the Department of Public Works Encroachment Section shall be met, including without limitation the following: Any necessary encroachment permit as applicable, if not already obtained at the time of project approval.
- E. All requirements of the Department of Environmental Health shall be met, including without limitation the following:
1. Environmental Planning review and acceptance of geologic investigation required prior to sewage disposal permit application approval.
  2. Obtain an approved upgrade sewage disposal permit application.
  3. An approved EH Building Clearance is required prior to applying for a building permit. Contact Debbie Kessler, Land Use District Inspector at (831) 454-2734, for more information.
  4. Submit a copy of the shared well agreement to Environmental Health. Contact Debbie Kessler at 454-2734.
- F. All requirements of the Central Fire Protection District shall be met, including without limitation the following:
1. Please ensure designer/architect reflects equivalent notes and requirements on velums as appropriate when submitting for Application for Building Permit.
  2. The following NOTES must be corrected and/or added to notes on velums by the designer/architect in order to satisfy District requirements:
  3. NOTE on the plans that these plans are in compliance with California Building and Fire Codes (2019) as amended by the Central Fire District.
  4. NOTE on the plans construction classification as determined by the building official and outlined in Part IV of the California Building Code.
  5. NOTE on the plans the occupancy classification as determined by the building official and outlined in Part III of the California Building Code.
  6. NOTE on the plans whether the building will be either SPRINKLERED as outlined in the 2019 California Building Code and via District Amendment.
  7. NOTE ON PLANS: New/upgraded hydrants, water storage tanks, and/or upgraded roadways shall be installed PRIOR to and during time of

construction (CFC 901.3).

8. NOTE on the plans that an UNDERGROUND FIRE PROTECTION SYSTEM WORKING DRAWING must be prepared by the designer/installer. NOTE that the WORKING DRAWINGS shall comply with the District UNDERGROUND FIRE PROTECTION SYSTEM INSTALLATION POLICY HANDOUT.
  9. NOTE on the plans that the building shall be protected by an approved automatic sprinkler system complying with the edition of NFPA 13 currently adopted in Chapter 35 of the California Building Code.
  10. NOTE on the plans that the designer/installer shall submit three (3) sets of plans and one (1) set of calculations for the automatic sprinkler system to this agency for approval. Installation shall follow our guide sheet.
  11. SHOW location of fire extinguishers.
  12. SHOW where address numbers will be posted and maintained, plainly visible from the street. Numbers shall be a minimum of four (6) inches in height and of a color contrasting to their background.
  13. NOTE roof coverings to be no less than Class "B" rated roof.
  14. The job copies of the building and fire systems plans and permits must be on-site during inspections.
- G. The owner shall record a Statement of Acknowledgement, as prepared by Santa Cruz County Planning, and submit proof of recordation to Santa Cruz County Planning. The statement of Acknowledgement acknowledges the adjacent agricultural land use and the agricultural buffer setbacks.
- 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. The agricultural buffer setbacks shall be met as verified by the County Building Inspector.
  - B. The required vegetative (planted barrier) and physical barriers (fence) shall be installed. The applicant/owner shall contact the planner or planning staff a minimum of three working days in advance to schedule an inspection to verify that the required barrier (vegetation and fence) has been completed.
  - C. Planting of ag buffer shall not damage root systems of existing trees within or adjacent to the proposed ag buffer.
  - D. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official and/or the County Senior Civil Engineer.

#### IV. Operational Conditions

- A. The vegetative and physical barrier shall be permanently maintained.
- B. All required Agricultural Buffer Setbacks shall be maintained.
- C. A Landscape Installation Certificate prepared in accordance with the Water Efficient Landscape Ordinance (County Code Chapter 13.13) shall be provided for any non-exempt landscape installations.
- D. In the event that future County inspections of the subject property disclose non-compliance 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, up to and including permit revocation.

#### V. Indemnification

The applicant/owner shall indemnify, defend with counsel approved by the COUNTY, and hold harmless the COUNTY, its officers, employees, and agents from and against any claim (including reasonable attorney's fees, expert fees, and all other costs and fees of litigation), against the COUNTY, its officers, employees, and agents arising out of or in connection to this development approval or any subsequent amendment of this development approval which is requested by the applicant/owner, regardless of the COUNTY's passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the COUNTY. Should the COUNTY in its sole discretion find the applicant's/owner's legal counsel unacceptable, then the applicant/owner shall reimburse the COUNTY its costs of defense, including without limitation reasonable attorney's fees, expert fees, and all other costs and fees of litigation. The applicant/owner shall promptly pay any final judgment rendered against the COUNTY (and its officers, employees, and agents) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this development approval.

- A. The COUNTY shall promptly notify the applicant/owner of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. The COUNTY shall cooperate fully in such defense.
- 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 applicant/owner shall not be required to pay or perform any settlement unless such applicant/owner has approved the settlement. When representing the COUNTY, the applicant/owner 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. The “applicant/owner” shall include the applicant and/or the owner and the successor’(s) in interest, transferee(s), and assign(s) of the applicant and/or the owner.

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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 or if additional discretionary permits are required for the above permitted project, this permit shall expire on the same date as any subsequent approved discretionary permit(s) unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.**

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

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

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

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Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of County Code Chapter 16.50, may appeal the act or determination to the Board of Supervisors in accordance with chapter 18.10 of the Santa Cruz County Code.

## Parcel Information

### Services Information

Urban/Rural Services Line:     \_\_\_ Inside     X Outside  
Water Supply:                    Well  
Sewage Disposal:                Septic System  
Fire District:                    Central FPD  
Drainage District:                Outside

### Parcel Information

Parcel Size:	3.37 acres
Existing Land Use - Parcel:	Residential
Existing Land Use - Surrounding:	Agricultural and Residential
Project Access:	Public road (Glen Haven).
Planning Area:	Summit
Land Use Designation:	R-R (Rural-Residential)
Zone District:	CA (Commercial Agriculture)
Coastal Zone:	___ Inside <u>X</u> Outside

### Environmental Information

Geologic Hazards:     Geologic report provided  
Fire Hazard:            Not a mapped constraint  
Slopes:                 Upper area, 30%-50% and above 50%  
                           Lower area, 0-15% and 15-30% primarily  
Env. Sen. Habitat:     Pond located 10 feet from proposed deck – riparian exception  
                           required.  
Grading:                Minor cut and fill around building pad, less than 2' depth of cut or fill  
Tree Removal:         No trees proposed to be removed  
Scenic:                 Not a mapped resource  
Archeology:             Not mapped/no physical evidence on site