

Planning & Zoning Committee of the MidCoast Community Council

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November 12, 2001

3 Pages + attachments

To: **Jim Eggemeyer**

San Mateo County Planning and Building Division

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re: Follow up to PLN2001-00538: Coastal Development Permit to allow installation of culvert along Date St. to allow access for an approved, new SFR located at the southeast corner of Edison and Date in Montara. APN 036-152-270.

cc: Lily Toy, San Mateo County Planning and Building Division

Larry Ross, owner of parcel APN 036-152-270

Jim:

At our meetings of 10/3/01, the Planning & Zoning Committee of the MCC had reviewed the above referenced application. In the comments we supplied to Project Planner Mike Schaller, we noted that we thought the applicant had been unfairly blamed for the diversion of the seasonal creek that runs past his property. This letter is a follow-up to try and resolve this situation.

As I understand it, when a County Planner visited the site on October 6, 2000, it was pointed out what had happened, noting the culvert, the diversion ditch, the freshly removed significant tree by the well on the parcel behind Mr. Ross's, the damage to the two significant trees next to the ditch, and the second culvert at a point further to the south along Date Street.

On October 25, 2000, you issued a memo to the Planning Commission discussing this violation and others, and what actions were being taken. In that memo, you mention that "... the stream appeared to be on APN 036-152-270, owned by Larry Ross." The memo continued to state that a stop work notice would require Mr. Ross to "... stop all work and apply for the required permits within ten calendar days" and that a hold would be placed on the building permit for the already approved residence until the violation is resolved.

From this memo I assumed that the matter was being handled, and when I received the application referral for a culvert on Mr. Ross' property, I naturally assumed it was a result of this process.

It was somewhat of a surprise when Karen Wilson and I visited the site with Mr. Ross in September and discovered that the application was for a new culvert at the far end of his property. As we reviewed the project and noted where the survey stakes were for Larry's parcel, we came to believe that he was being unfairly held responsible for the diversion.

I returned to the site to make some further measurements and observations, and compiled the attached map and took the pictures I've included. As can be noted, the original path of the creek is not on Mr. Ross's property, as is neither the culvert nor diversion ditch, but entirely on the ROW for Date street, which at 80' is unusually wide. This is shown on the map, and in photos A, C, and E.

It was obvious when I first saw the site last year, and still obvious now, that the culvert and diversion were done in order to construct an access road to install the well on the neighboring parcel, APN 036-152-280 (indicated in photo A). The 84" (circumference) pine tree that was removed without permits is on this parcel adjacent to that well. This road, which, as shown on the map, partly cuts across Mr. Ross' property, was constructed without his knowledge or permission.

The diversion ditch also seems to have been constructed to allow the installation of a second culvert to build an access road into APN 036-152-300, which was used to install a well on that parcel. This diversion ditch cut through the root systems of the two significant trees along Date St., a 74" Eucalyptus and a 96" Cypress. From our discussion with Mr. Ross and other neighbors in the area, this work was apparently done sometime in August or September of 2000. I know that when I first looked at it in October of that year, the work was fairly fresh. A check of the records as to when the wells on these two parcels were installed should give a more exact date.

The map I've included also delineates to some degree the wetland/riparian area to the north of the culvert. This area is partially surveyed in the biological report that Mr. Ross was required to prepare – the main channel is well populated with *Juncus effusus*, an easily identified wet area native plant, along with groupings of Arroyo Willow and Creek Dogwood. The mature populations of Red Elderberry and Twinberry, though not considered exclusively wetland or riparian species, are noted because they are plants that require more than usual moisture for propagation, and the successful re-establishment of these plants in such a disturbed area is indicative of the highly favorable condition of a high water table and/or seasonal surface flow.

I mention this area because it is the last semi-natural remnant of the old seasonal tributary creek of the Montara Creek watershed that flowed through this area. We had documented this drainage in work earlier this year with Planning and Public Works on flooding problems along Cedar Street. I've included a map that was constructed as part of this work – it should be noted that, because of the misinterpretation of the width of Date St., it shows the channel on Mr. Ross's property, which appears now to be incorrect. The channel had run up to the intersection of Cedar and Drake until a couple years ago, when residential construction on that corner eradicated the creek channel and redirected it into culverts that emptied onto Date St.

I feel the preservation of any natural part of this drainage, and the restoration of any other parts possible, should be a very high priority for its natural water retention capabilities that will help alleviate flooding in the area, and the preservation of a disappearing sensitive natural habitat. Mr. Ross and other property owners in the area have expressed an interest in assisting with the preservation and restoration of this drainage.

In summary, I think that Mr. Ross has been forced to unfairly shoulder the burden of unpermitted work that he did not perform, and the County should redirect its investigation towards the installation of the wells on APNs 036-152-260 & 300. This should also include determination of the responsibility for the removal of the 84" Pine on 036-152-260, as well as an evaluation of the damage done to the two trees along Date St., consideration of the destruction of an environmentally sensitive habitat area on County property, and an assessment of the contribution to flooding and drainage problems further downstream. If this investigation does determine that Mr. Ross is not the responsible party, I would hope the County can make restitution of any unnecessary fines or permit fees he might have had to pay.

Thank you for your attention to this matter, and I look forward to getting this cleared up soon. Please keep us informed of any further developments concerning this matter.



Chuck Kozak, MCC Planning and Zoning Committee Chair
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Attached: Date & Edison Map
 Photos A through E
 Map of "Cedar Street Drainage"