



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
 TOM BURNS, PLANNING DIRECTOR

November 14, 2006

AGENDA DATE: December 5, 2006

Board of Supervisors
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

SUBJECT: UPDATE ON NEIGHBORHOOD COMPATIBILITY POLICY ISSUES

Members of the Board:

Since late 2005 staff has presented a number of reports to your Board with regard to the issue of compatibility of proposed new homes in coastal neighborhoods. Through those discussions a range of policy approaches have been discussed. Ultimately, the Board approved pursuing the issue on two levels. The first, a package of basic policy changes, is the matter before you today. The second will result from additional discussions scheduled for next Spring.

Background

Board members may recall that late last year, after considering two appeals of coastal permits related to the issue of compatibility of new home design with the surrounding neighborhood, you directed staff to bring forward proposals to improve the clarity of a number of County regulations and to more closely review pending applications for a period of time to determine if further modifications to the standards for compatibility should be explored.

The first phase of regulatory changes was initially proposed to address a number of key issues, including:

- Amending Chapter 13.11 (Design Review), establishing a hierarchy of site and building standards with primary elements (e.g. bulk, massing and scale) and secondary elements (e.g. architectural style and detail).
- Amending the Coastal regulations (Chapter 13.20) to cross-reference to the proposed hierarchy of standards in Chapter 13.11.
- Add a definition of "Neighborhood" to Chapter 13.11.
- Amending the Residential site regulations to:
 - o Increase the maximum lot coverage allowed on lots of 5,000 to 15,000 square feet from 30% to 40% to make it possible to reduce the scale of second story additions.
 - o Amend the site regulations to once again allow front yard averaging.

- o Revise the definition of “Net Site Area” for residential properties to exclude certain areas not available for development – such as coastal bluffs, arroyos, riparian areas, lakes or the ocean – from being included in the lot size when calculating maximum allowable lot coverage and floor area ratio within the Urban Services Line.

As you are aware, changes to the Net Site Area definition became more complex as staff spent more time developing the regulations and interacting with the public to better understand the consequences of the changes. In particular, we received public comments at a Planning Commission meeting and at a public meeting organized by concerned architects. The focus of the discussions was on the definition of “arroyo” in the General Plan and County Code and the implications of excluding arroyos from Net Site Area. As a result, staff brought this issue back to your Board this past September to clarify the purpose of the proposed policy.

In addition to the Net Site Area issue, in the September report staff recommended that two additional issues that were part of the initial proposal be deferred for consideration as part of the next phase of this effort – currently scheduled for the Spring of 2007. Those two items included establishing a hierarchy of design standards and a definition for “neighborhood”, both in Chapter 13.11.

As a result of the September Board discussion, the components of the initial phase of changes to address compatibility issues were reduced to:

- Cross-referencing definitions between Chapters 13.11 and 13.20;
- Expanding allowed lot coverage on larger parcels;
- Re-establishing front yard averaging; and
- Revising the definition of Net Site Area.

Planning Commission Review

Pursuant to your Board’s direction, staff returned to the Planning Commission with a proposed amendment to the Net Site Area definition that addressed only properties containing coastal bluffs, beaches, and submerged Monterey Bay areas.

The issue of what is a beach and public versus private ownership of submerged lands was raised by a number of local architects at the Planning Commission. As a result, the Commission directed staff to modify the proposed Net Site Area language regarding “beaches” and “submerged Monterey Bay areas.” The modified language is in the proposed definition as shown in Exhibit A to Attachment 1. Instead of using “beaches” and “submerged Monterey Bay areas;” the proposed definition states “the area from the top of a coastal bluff to the bayward property line, not including coastal arroyos.” We believe that this definition adds considerable clarity to this issue.

In addition to comments on the Net Site Area issue, the Commission also reviewed the other proposed changes. While the Planning Commission recommended approving the proposed changes to increase the allowed lot coverage on parcels of certain sizes in the R-1 and RM zone districts from 30 percent to 40 percent, they did raise some concerns with the front yard averaging proposal. In particular, the Planning Commission was concerned that the amendment would result in two story front facades as close as 10 feet from the front property

line. As a result, the Planning Commission recommended including language that would only allow single story building elements to take advantage of the front yard averaging, requiring that second stories would be required to abide by the standard setback for the respective zone district. Staff believes that this change too provides a significant improvement to the original proposal.

Conclusion and Recommendation

Staff believes that the packet of regulatory changes proposed, and especially the revised Net Site Area definition, will appropriately focus attention on the area of most concern—the coastline. As well, as previously directed by your Board, staff will return early next year with additional observations and suggestions for amendments to the design review section of the County Code. Deferring those parts of the neighborhood compatibility ordinance revisions concerning the definition of “Neighborhood” and the hierarchy of standards to early in 2007 will give staff the additional time needed to bring informed recommendations to your Board.

It is, therefore, RECOMMENDED that your Board take the following actions:

- Hold a public hearing on this item;
2. Certify the CEQA Notice of Exemption;
3. Adopt the attached Resolution and ordinance approving the proposed amendments to County Code Chapter 13.10 regarding neighborhood compatibility issues, as shown in Exhibit A to Attachment 1; and
4. Direct the Planning Director to submit the amendments to the Coastal Commission as part of the final Coastal Rounds of the year.

Sincerely,



Tom Burns
Planning Director

RECOMMENDED:



SUSANA. MAURIELLO
County Administrative Officer

Attachments:

1. Resolution for Coastal Commission
Exhibit A: Strikethrough Proposed Ordinance Amendments
2. Clean Proposed Ordinance Amendments
3. CEQA Notice of Exemption
4. Planning Commission Resolution
5. Planning Commission Minutes
6. Correspondence

cc: Architects Association of Santa Cruz County
Cove Britton
Hugh Carter
Patricia Curtin
Lauren Greene and Glen Ceresa
Mike Guth
Viva I Harris
Martin Hess
Ellen Mellon
Susan and Barry Porter
Burnie Thomason
Matthew Thompson

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

0321

RESOLUTION NO. _____

On the motion of Supervisor
duly seconded by Supervisor
the following Resolution is adopted:

BOARD OF SUPERVISORS RESOLUTION REGARDING PROPOSED
AMENDMENTS TO EXISTING COUNTY CODE SECTIONS 13.10.323(b),
13.10.700-S, AND TO ADD NEW COUNTY CODE SECTION 13.10.323(e)(7)

WHEREAS, the California Coastal Commission has certified the County's Local Coastal Program, including County Code Chapter 13.10 as consistent with and legally adequate to carry out the California Coastal Act; and

WHEREAS, County Code Chapter 13.10, Zoning Regulations, provides standards for residential development; and

WHEREAS, several proposed residential developments governed by County Code Chapters 13.10, 13.11, or 13.20 have resulted in contentious appeals to the Board of Supervisors and have raised issues related to the compatibility of those proposed developments, and by extension, future residential development proposals, with existing development; and

WHEREAS, it is the desire of the County of Santa Cruz to ensure that new development proposals are compatible with the neighborhoods within which they are proposed; and

WHEREAS, on November 8, 2006, the Planning Commission held a duly noticed public hearing to consider proposed amendments to existing County Code Section 13.10.323(b), 13.10.700-S, and to add new County Code Section 13.10.323(e)(7); and

WHEREAS, the Planning Commission found that the proposed amendments are consistent with the policies of the General Plan and Local Coastal Program; and

WHEREAS, the Planning Commission found that the proposed amendments are consistent with the California Coastal Act; and

WHEREAS, the Planning Commission found that the proposed amendments are categorically exempt from further environmental review under CEQA Guidelines Section 15265 and Public Resources Code Section 21080.9, CEQA Guidelines Section 15308, and Section 1805 of the County's CEQA Guidelines (Attachment 2).

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors approves the amendments to County Code Chapter 13.10 as shown in Exhibit A and that the amendments be submitted to the California Coastal Commission for certification as part of Coastal Rounds 3 of 2006.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2006 by the following vote: 0322

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chair of the Board of Supervisors

ATTEST: _____
Clerk of the Board of Supervisors

APPROVED AS TO FORM:



COUNTY COUNSEL

cc: County Counsel
Planning Department

ORDINANCE NO. _____

0323

ORDINANCE AMENDING SECTIONS 13.10.323 and 13.10.700-S OF THE SANTA CRUZ COUNTY CODE AND ADDING SUBSECTION (e) (7) TO SECTION 13.10.323 OF THE SANTA CRUZ COUNTY CODE ALL RELATING TO NEIGHBORHOOD COMPATIBILITY

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Site and Structural Dimensions Charts for the R-1 Single Family Residential Zone Districts and RM Multi-Family Residential Zone Districts in Subdivision (b) of Section 13.10.323 of the Santa Cruz County Code are hereby amended to read as follows:

1. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Condition of "Parcels >5,000 sq. ft." within the Zone District of "R-1-3.5 to R-1-4.9 0 to <5,000 sq. ft." is revised to read "40%" instead of the current "30%".
2. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements" and "Corner lots" within the Zone District of "R-1-5 to R-1-5.9 5,000 to <6,000 sq. ft." are each revised to read "40%" instead of the current "30%".
3. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements", "Corner lots", and "Parcels >4,000 to <5,000 sq. ft." within the Zone District of "R-1-6 to R-1-9.9 6,000 to <10,000 sq. ft." are each revised to read "40%" instead of the current "30%".
4. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "PARCEL SPECIFIC CONDITION" described as "Parcels >4,000 to <5,000 sq. ft." within the Zone District of "R-1-6 to R-1-9.9 6,000 to 40,000 sq. ft." is revised to read "Parcels >4,800 to <5,999 sq. ft." instead of the current "Parcels >4,000 to < 5,000 sq. Ft."
5. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements" and "Corner lots" within the Zone District of "R-1-10 to R-1-15.9 10,000 to <16,000 sq. ft." are each revised to read "40%" instead of the current "30%".

6. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART, the "MAXIMUM PARCEL COVERAGE****" 0324 percentage designated for the Parcel Specific Condition of "Parcels >5,000 sq. ft." within the Zone District "RM-1.5 to RM-4.9 0 to <5,000 sq. ft." is revised to read "40%" instead of the current "30%".

7. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE****" percentage designated for the Parcel Specific Conditions of "General Requirements and for all parcels >6,000 sq. ft." and "Corner lots" within the Zone District of "RM-5 to RM-5.9 ~~5,000~~ to <6,000 sq. ft." are each revised to read "40%" instead of the current "30%".

8. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART, the Zone District described as "RM-6 to RM-9.9 ~~5,000~~ to <6,000 sq. ft." is revised to read "RM-6 to RM-9.9 6,000 to < 10,000 sq.ft." instead of the current "RM-6 to RM-9.9 5,000 to < 6,000 sq. ft."

9. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE****" percentage designated for the Parcel Specific Conditions of "General Requirements" and "Corner lots" within the Zone District of "RM-6 to RM-9.9 6,000 to <10,000 sq. ft." are each revised to read "40%" instead of the current "30%".

SECTION II

The Santa Cruz County Code is hereby amended by adding Subsection (e) (7) to Section 13.10.323 to read as follows:

(7) Front Yard Averaging

(A) On a site situated between sites improved with buildings, the minimum front yard for the first floor of structures other than garages or carports may be the average depth of the front yards on the improved sites adjoining the side lines of the site but in no case shall be less than 10 feet.

(B) Where a site is not situated between sites improved with buildings and where sites comprising forty percent (40%) of the frontage on a block are improved with buildings, the minimum front yard for the first floor of structures other than garages or carports may be the average of the existing front yard depths on the block but in no case shall be less than 10 feet.

(C) In computing average front yard depths, the figure thirty (30) feet shall be used in lieu of any front yard depth greater than thirty (30) feet.

(D) Proposed garages or carports shall meet the minimum front yard setbacks shown in Section 13.10.323 Site and Structure Dimensions Charts or as allowed by Section 13.10.323(d)(5) Parcel with Steep Slopes. The required front yard setback for other accessory structures may be reduced as allowed by Section 13.10.323(e)(6).

SECTION III

The definition of "Site Area, Net" found in Santa Cruz County Code Section 13.10.700-S is hereby amended to read as follows:

0322

Site Area, Net. Outside the Urban Services Line the total site area less any all public or private rights-of-way designated for vehicle access. Inside the Urban Services Line, the total site area less all public or private rights-of-way designated for vehicle access and the area from the top of a coastal bluff to the bayward property line, not including coastal arroyos.

SECTION IV

This ordinance shall become effective outside of the coastal zone on the 31st day following adoption and inside the coastal zone upon certification by the California Coastal Commission.

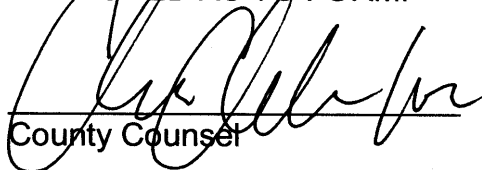
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2006, by the following vote:

AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

CHAIR OF THE BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:



County Counsel

Copies to: Planning
County Counsel

ORDINANCE NO. _____

0326

ORDINANCE AMENDING SECTIONS 13.10.323 and 13.10.700-S OF THE SANTA CRUZ COUNTY CODE AND ADDING SUBSECTION (e) (7) TO SECTION 13.10.323 OF THE SANTA CRUZ COUNTY CODE ALL RELATING TO NEIGHBORHOOD COMPATIBILITY

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Site and Structural Dimensions Charts for the R-1 Single Family Residential Zone Districts and RM Multi-Family Residential Zone Districts in Subdivision (b) of Section 13.10.323 of the Santa Cruz County Code are hereby amended to read as follows:

1. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Condition of "Parcels >5,000 sq. ft." within the Zone District of "R-1-3.5 to R-1-4.9 0 to <5,000 sq. ft." is revised to read "40%" instead of the current "30%".
2. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements" and "Corner lots" within the Zone District of "R-1-5 to R-1-5.9 5,000 to <6,000 sq. ft." are each revised to read "40%" instead of the current "30%".
3. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements", "Corner lots", and "Parcels >4,000 to <5,000 sq. ft." within the Zone District of "R-1-6 to R-1-9.9 6,000 to <10,000 sq. ft." are each revised to read "40%" instead of the current "30%".
4. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "PARCEL SPECIFIC CONDITION" described as "Parcels >4,000 to <5,000 sq. ft." within the Zone District of "R-1-6 to R-1-9.9 6,000 to 40,000 sq. ft." is revised to read "Parcels >4,800 to <5,999 sq.ft." instead of the current "Parcels >4,000 to < 5,000 sq. Ft."
5. In the "R-1 SINGLE FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements" and "Corner lots" within the Zone District of "R-1-10 to R-1-15.9 10,000 to <16,000 sq. ft." are each revised to read "40%" instead of the current "30%".

0327

6. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Condition of "Parcels >5,000 sq. ft." within the Zone District "RM-1.5 to RM-4.9 0 to 6,000 sq. ft." is revised to read "40%" instead of the current "30%".

7. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements and for all parcels >6,000 sq. ft." and "Corner lots" within the Zone District of "RM-5 to RM-5.9 5,000 to <6,000 sq. ft." are each revised to read "40%" instead of the current "30%".

8. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the Zone District described as "RM-6 to RM-9.9 5,000 to <6,000 sq. ft." is revised to read "RM-6 to RM-9.9 6,000 to < 10,000 sq. ft." instead of the current "RM-6 to RM-9.9 5,000 to < 6,000 sq. ft."

9. In the "RM MULTI-FAMILY RESIDENTIAL ZONE DISTRICTS SITE AND STRUCTURAL DIMENSIONS CHART", the "MAXIMUM PARCEL COVERAGE***" percentage designated for the Parcel Specific Conditions of "General Requirements" and "Corner lots" within the Zone District of "RM-6 to RM-9.9 6,000 to <10,000 sq. ft." are each revised to read "40%" instead of the current "30%".

SECTION II

The Santa Cruz County Code is hereby amended by adding Subsection (e) (7) to Section 13.10.323 to read as follows:

(7) Front Yard Averaging

(A) On a site situated between sites improved with buildings, the minimum front yard for the first floor of structures other than garages or carports may be the average depth of the front yards on the improved sites adjoining the side lines of the site but in no case shall be less than 10 feet.

(B) Where a site is not situated between sites improved with buildings and where sites comprising forty percent (40%) of the frontage on a block are improved with buildings, the minimum front yard for the first floor of structures other than garages or carports may be the average of the existing front yard depths on the block but in no case shall be less than 10 feet.

(C) In computing average front yard depths, the figure thirty (30) feet shall be used in lieu of any front yard depth greater than thirty (30) feet.

(D) Proposed garages or carports shall meet the minimum front yard setbacks shown in Section 13.10.323 Site and Structure Dimensions Charts or as allowed by Section 13.10.323(d)(5) Parcel with Steep Slopes. The required front yard setback for other accessory structures may be reduced as allowed by Section 13.10.323(e)(6).

SECTION III

0328

The definition of "Site Area, Net" found in Santa Cruz County Code Section 13.10.700-S is hereby amended to read as follows:

Site Area, Net. Outside the Urban Services Line the total site area less all public or private rights-of-way designated for vehicle access. Inside the Urban Services Line, the total site area less all public or private rights-of-way designated for vehicle access and the area from the top of a coastal bluff to the bayward property line, not including coastal arroyos.

SECTION IV

This ordinance shall become effective outside of the coastal zone on the 31st day following adoption and inside the coastal zone upon certification by the California Coastal Commission.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2006, by the following vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

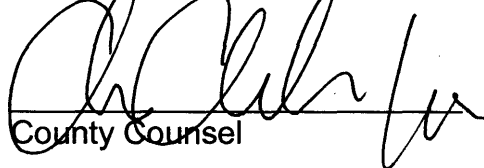
ABSENT: SUPERVISORS

ABSTAIN: SUPERVISORS

CHAIR OF THE BOARD OF SUPERVISORS

ATTEST: _____
Clerk of the Board

APPROVED AS TO FORM:


County Counsel

Copies to: Planning
County Counsel

ATTACHMENT

CALIFORNIA ENVIRONMENTAL QUALITY ACT
NOTICE OF EXEMPTION

3

0329

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: N/A
Assessor Parcel Number: N/A
Project Location: County-wide

Project Description: Proposal to amend County Code Chapter 13.10 to:

- a) modify County Code Section 13.10.323(b), the Residential Site and Structural Dimensions Chart, to increase the maximum lot coverage from 30% to 40% on residential lots that are 5,000 to 15,000 square feet in size;
- b) add new County Code Section 13.10.323(e)7 to allow front yard averaging on residential lots; and
- c) modify County Code Section 13.10.700-S by amending the definition of "Site Area, Net" for residential properties to exclude coastal bluffs and the area from the base of the coastal bluff to the mean high tide line, or other property line within the waters of Monterey Bay, from being considered in a parcel's size when determining lot coverage and floor area ratio maximums.

The proposed amendments to County Code Chapter 13.10 are amendments to the Local Coastal Program implementing ordinances.

Person or Agency Proposing Project: County of Santa Cruz

Staff Contact and Phone Number: Steven Guiney, (831)454-3172

- 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).
Section 15265 CEQA compliance rests with the Coastal Commission
- E. ☒ **Categorical Exemption**
Class 8. Actions by Regulatory Agencies for Protection of the Environment (Section 15308)

F. Reasons why the project is exempt: The proposed amendments are amendments to the County's Local Coastal Program, the certification of which by the Coastal Commission is the functional equivalent of the environmental review required by CEQA, and the proposed amendments will reduce development impacts on environmentally sensitive areas.

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

Staff Planner: Steven Guiney Date: November 15, 2006

39

BEFORE THE PLANNING COMMISSION
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 12-06

On the motion of Commissioner Shepherd & Bremner
duly seconded by Commissioner Gonzalez & Shepherd
the following Resolution is adopted:

PLANNING COMMISSION RESOLUTION REGARDING PROPOSED
AMENDMENTS TO EXISTING COUNTY CODE SECTIONS 13.10.323(b),
13.10.700-S, AND TO ADD NEW COUNTY CODE SECTION 13.10.323(e)(7)

WHEREAS, the California Coastal Commission has certified the County's Local Coastal Program, including County Code Chapter 13.10 as consistent with and legally adequate to carry out the California Coastal Act; and

WHEREAS, County Code Chapter 13.10, Zoning Regulations, provides standards for residential development; and

WHEREAS, several proposed residential developments governed by County Code Chapter 13.10 have resulted in contentious appeals to the Board of Supervisors and have raised issues related to the compatibility of those proposed developments, and by extension, future residential development proposals, with existing development; and

WHEREAS, it is the desire of the County of Santa Cruz to ensure that new development proposals are compatible with the neighborhoods within which they are proposed; and

WHEREAS) on November 8, 2006, the Planning Commission held a duly noticed public hearing to consider proposed amendments to existing County Code Section 13.10.323(b), 13.10.700-S, and to add new County Code Section 13.10.323(e)(7); and

WHEREAS, the Planning Commission finds that the proposed amendments are consistent with the policies of the General Plan and Local Coastal Program; and

WHEREAS, the Planning Commission finds that the proposed amendments are consistent with the California Coastal Act; and

WHEREAS, the Planning Commission finds that the proposed amendments are categorically exempt from further environmental review under Section 1805 of the County's CEQA Guidelines and Section 15305 of the State CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED) that the Planning Commission recommends that the amendment to County Code Chapter 13.10 as shown in Exhibit B be approved by the Board of Supervisors and submitted to the Coastal Commission as part of the Local Coastal Program Update.

PASSED AND ADOPTED by the Planning Commission of the County of Santa Cruz, State of California, this 8th day of November, 2006 by the 0331 following vote:

AYES: COMMISSIONERS Bremner, Aramburu, Holbert, Gonzalez, and Shepherd
NOES: COMMISSIONERS None
ABSENT: COMMISSIONERS
ABSTAIN: COMMISSIONERS

Memue D. Holbert
Chairperson

ATTEST: Cathy Graves (md)
Cathy Graves, Secretary

APPROVED AS TO FORM:

Chick Chiles for
COUNTY COUNSEL

cc: County Counsel
Planning Department

39

EXHIBIT A

0332

Planning Commission Minutes- 11/08/06

Proceedings of the Santa Cruz County
Planning Commission

Volume 2006, Number 20

November 8, 2006

Location: Board of Supervisors, County Government Center,
701 Ocean Street, Room 525, Santa Cruz, CA 95060

Action Summary Minutes

Voting Key

Commissioners: Bremner, Aramburu, Chair Holbert, Gonzalez, and Shepherd
Alternate Commissioners: Messer, Hancock, Hummel, and Britton

Commissioners present were Bremner, Aramburu, Holbert, Gonzalez, Shepherd and Hummel (for item 7).

Consent Agenda

6. Approval of minutes
To approve the minutes of the October 25, 2006 Planning Commission meeting as submitted by the Planning Department.

Approved minutes. Bremner made the motion and Aramburu seconded. Voice Vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

- 6.1 Approval of minutes
To approve the minutes of the October 11, 2006 Planning Commission meeting as submitted by the Planning Department.

Approved minutes. Bremner made the motion and Aramburu seconded. Voice Vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

- 6.2 **04-0089** **4401 Yardarm Ct., Soquel** **APN: 102-441-19**
Findings for denial for an application to construct a 6-foot masonry wall with 6 foot 8 inch stone piers and to construct 1 vehicular gate with decorative pilasters to a maximum height of 8 feet 8 inches and a pedestrian gate with a wrought iron arch to 8 feet 8 inches. Requires a Residential Development Permit to exceed the maximum 3-foot height limit for walls within the required 40-foot front yard setback. Property located on the Southwest side of the intersection of Yardarm Court and Mainsail Place (4401 Yardarm Court).
Project Denied by Zoning Administrator April 7, 2006.
Applicant Appealed decision April 14, 2006.
Provisionally denied by Planning Commission on October 25, 2006, pending findings for denial.
Owner: Hess, Martin L etal
Appellant/Applicant: Matson Britton Architects

0333

Supervisory District: 1
Project Planner: Robin Bolster-Grant, 454-5357
Email: pln11@co.santa-cruz.ca.us

Adopt findings to approve application and deny appeal. Bremner made the motion and Aramburu seconded. Voice Bremner made the motion and Aramburu seconded. Voice Vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

Continued Items

There were no continued items

Scheduled Items

7. **05-0813(**)** **2-3515** East Cliff Drive, Santa Cruz **APN: 032-223-09**
Appeal of the Zoning Administrator's September 17, 2006 action to deny application **05-0813**, a proposal to demolish an existing one-bedroom single-family dwelling and construct a two-bedroom single-family dwelling with attached garage. Requires a Coastal Development Permit. Property located on the north side of East Cliff Drive, about 60 feet east of 35th Ave.
Appellant/Owner: William & Alane Swinton
Applicant: Martha Matson
Supervisory District: 1
Project Planner: Randall Adams, 454-3218
Email: pln515@co.santa-cruz.ca.us

Continued to January 10, 2007 for redesign of southwest corner (to soften) and findings for approval. Bremner made the motion and Shepherd seconded. Roll call vote carried 4-1, with ayes from Bremner, Hummel, Shepherd and Gonzalez. Aramburu voted no.

8. **01-0572** **1399** Olive Springs Road, Soquel **APNs: 099-171-03 & 099-251-01**
Permit Review for compliance with conditions of Mining Approval **88-0233**. A proposal to amend Mining Approval **88-0233** to modify conditions of approval that require certain drainage and operating activities and to delete conditions that have been satisfied. Update of the 1992 Revegetation Plan is also included. Requires a Minor Amendment to Mining Approval **88-0233**.
Owner: CHY Company
Applicant: Powers Land Planning
Supervisory District: 1
Project Planner: Dave Carlson, 454-3173
Email: pln144@co.santa-cruz.ca.us

Continued to January 24, 2007 for neighborhood meeting on traffic issues and revised conditions. Bremner made the motion and Shepherd seconded. Voice vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

9. **05-0797** **2541 & 2615** Soquel Avenue, Santa Cruz **APNs: 025-131-14, 15, & 16**
Proposal to combine Assessor's Parcel Numbers **025-131-14** and **025-131-16**, to demolish an existing 960 square foot retail flower shop, to construct a mixed use building consisting of 2,049 square feet of retail on the first floor, one 1,822 square foot residential unit on the second floor and residential parking at the basement level, to grade approximately 5,000 cubic yards, to rezone the properties (parcels **025-131-14**, **025-131-15**, & **025-131-16**) from the **C-4** zone district to the **C-2** zone district, and to amend the General Plan land use designations for the three parcels from Service Commercial (C-S) to Community Commercial (C-C). Requires a General Plan Amendment,

Rezoning, Commercial Development Permit, Riparian Exception, and an exception to the onsite driveway width standards (from 18feet to 12feet)
Owner: Henry Nguyen, Hanh Vo Thi, and Robert Davidson
Applicant: Powers Land Planning
Supervisory District: 3
Project Planner: Robin Bolster-Grant, 454-5357
Email: pln111@co.santa-cruz.ca.us

Approved staff recommendation with amended conditions and adopted resolution recommending approval to the Board of Supervisors. Aramburu made the motion and Bremner seconded. Voice vote carried 4-0, with ayes from Bremner, Aramburu, Holbert, and Gonzalez. Commissioner Shepherd was absent.

10. 06-0452(**) No Situs APN: 038-081-36
Proposal to divide a 2.95-acre parcel into two parcels of 1.70 acres and 1.25 acres, in order to create two separate future sites for affordable housing and a park. Requires a Minor Land Division; a General Plan/LCP Amendment to change the land use designation from C-V (Commercial-Visitor Accommodations) to R-UH (Urban High Density Residential) on 1.70 acres and to the O-R (Parks, Recreation and Open Space) on 1.25 acres and to revise the Coastal Priority Site designations of APNs 038-081-34, -35, -36; an amendment to the Seacliff Village Plan; a Rezoning from the VA-D (Visitor Accommodations - Designated Park Site) to RM-2.5 (Multi-family residential, 2,500 sf/unit) on 1.70 acres and to PR (Parks, Recreation and Open Space) on 1.25 acres; and a Design Review waiver. Property located on the northwest corner of Searidge Road and McGregor Drive in Seacliff.
Owner: South County Housing Corporation
Applicant: County of Santa Cruz
Supervisory District: 2
Project Planners:
Steve Guiney, 454-3172
Email: pln950@co.santa-cruz.ca.us
Randall Adams, 454-3218
Email: pln515@co.santa-cruz.ca.us

Approved staff recommendation and adopted resolution recommending approval to the Board of Supervisors. Aramburu made the motion and Gonzalez seconded. Voice vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

- ➔ 11. Public Hearing to consider proposed ordinance amendments to County Code Chapter 13.10 that would:
- a) modify County Code Section 13.10.323(b), the Residential Site and Structural Dimensions Chart, to increase the maximum lot coverage from 30% to 40% on residential lots that are **5,000** to 15,000 square feet in size;
 - b) add new County Code Section 13.10.323(e)7 to allow front yard averaging on residential lots; and
 - c) modify County Code Section 13.10.700-S by amending the definition of "Site Area, Net" for residential properties to exclude coastal bluffs, beaches, and submerged Monterey Bay areas from being considered in a parcel's size when determining lot coverage and floor area ratio maximums.
- The Proposed amendments to County Code Chapter 13.10 are amendments to the Local Coastal Program implementing ordinances.
Applicant: County of Santa Cruz
Supervisory District: County Wide
Project Planner: Steve Guiney, 454-3172
Email: pln950@co.santa-cruz.ca.us

0335

Approved staff recommendation and adopted resolution recommending approval to the board of supervisors. Section a, Shepherd made the motion and Gonzalez seconded. Voice vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd. Section b, approved concept with amendment for first floor only. Bremner made the motion and Shepherd seconded. Voice vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd. Section c, approved staff recommendation with the direction to add a definition of "beaches." Shepherd made the Motion and Gonzalez seconded. Voice vote carried 5-0 with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

12. Public Hearing to consider ordinance amendments to sections 13.10.215 and 17.10.030 of the Santa Cruz County Code regarding adding a very low income affordability component for housing units created by conversion of non-residential land to residential land. (County Code Chapters 13.10 and 17.10 are Coastal Program implementing ordinances).
Applicant: County of Santa Cruz
Supervisory District: County Wide
Project Planner: Sarah Neuse 454-3290
Email: pln320@co.santa-cruz-ca-us

Approved staff recommendation and adopted resolution recommending approval to the board of supervisors. Aramburu made the motion and Gonzalez seconded. Voice vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

13. Public hearing to consider revisions to Chapters 13.03, 14.01, and 14.02 of the Santa Cruz County Code regarding the conversions of residential units to condominiums or townhouses. County Code Chapters 13.03 and 14.02 are Local Coastal Program implementing ordinances.
Applicant: County of Santa Cruz
Supervisory District: County Wide
Project Planner: Don Bussey, 454-3182
Email: pln401@co.santa-cruz.ca.us

Approved staff recommendation and adopted resolution recommending approval to the board of supervisors. Shepherd made the motion and Gonzalez seconded. Voice vote carried 5-0, with ayes from Bremner, Aramburu, Holbert, Gonzalez, and Shepherd.

Petition In Support of Proposed Ordinance Amendments

Item 11, Planning Commission Meeting 11/08/06

0336

We the undersigned support the County Planning Department Staff recommendations for the proposed ordinance amendments to County Code Chapter 13,10 that would:

- A) modify County Code Section 13.10.323(b), the Residential Site and Structural Dimensions Chart, to increase the maximum lot coverage from 30% to 40% on residential lots that are 5,000 to 15,000 square feet in size;
- B) add new County Code Section 13.10.323(e)7 to allow front yard averaging on residential lots; and
- C) modify County Code Section 13.10.700-S by amending the definition of "Site Area, Net" for residential properties to exclude coastal bluffs, beaches, and submerged Monterey Bay areas from being considered in a Parcel's size when determining lot coverage and floor area ratio maximums.

The proposed amendments to County Code Chapter 13.10 are amendments to the Local Coastal Program implementing ordinances

-- Print Name SUE BRUEMMER Rio del Mar Address 411 SEAVIEW DR.
 Signature [Signature] City APTOS Zip Code 95003

-- Print Name Mark Vandenburg Rio del Mar Address 567 Cuesta Drive
 Signature [Signature] City Rio del Mar Zip Code 95003-530367

-- Print Name MARLYN A. HOYT Rio del Mar Address 518 Cliff Drive, Aptos
 Signature [Signature] City Aptos Zip Code 95003

-- Print Name Michael Abbett Rio del Mar Address 103 Granada Drive
 Signature [Signature] City Aptos, CA Zip Code 95003

-- Print Name ROBERT HOYT Rio del Mar Address 518 Cliff Dr
 Signature [Signature] City APTOS Zip Code 95003

-- Print Name E. LAVONNE SAMIS Rio del Mar Address 626 Bay View Dr
 Signature [Signature] City Aptos Zip Code 95003

-- Print Name IRENE E EVANS Rio del Mar Address 326 Los Altos Dr
 Signature [Signature] City Aptos Zip Code 95003

-- Print Name PETER F. MILLINGER Rio del Mar Address 355 Los Altos Dr 95003
 Signature [Signature] City APTOS Zip Code 95003

Petition In Support of Proposed Ordinance Amendments

Item 11, Planning Commission Meeting 11/08/06

0337

- Print Name TOM Barber Rio del Mar Address 619 CLIFF DR
 Signature T Barber City APTOS Zip Code 95003

- Print Name Annemarie Sorenelli Rio del Mar Address 200 Granada Dr.
 Signature Anne Marie Sorenelli City Aptos Zip Code 95003

- Print Name PAT EMARO Rio del Mar Address 207 TOLEDO DR
 Signature Pat Emaro City Aptos Zip Code 95003

- Print Name JOHN J SHOOK Rio del Mar Address 427 SEAVIEW DRIVE
 Signature [Signature] City APTOS Zip Code 95003

- Print Name CAROLINE K. SHOOK Rio del Mar Address 427 Sea View DRIVE
 Signature Caroline K. Shook City APTOS Zip Code 95003

- Print Name Michael Mellen Rio del Mar Address 107 Farley Drive
 Signature Michael Mellen City Aptos Zip Code 95003

- Print Name PAUL WAGENER Rio del Mar Address 427 CLIFF DR
 Signature Paul Wagener City APTOS Zip Code 95003

- Print Name PATRICK KELLEY Rio del Mar Address 609 BAY VIEW DR.
 Signature [Signature] City APTOS Zip Code 95003

- Print Name Caroline Kelley Rio del Mar Address 609 Bayview Dr.
 Signature Caroline Kelley City Aptos Zip Code 95003

- Print Name Elaine Rexroad Rio del Mar Address 627 Bay View Dr.
 Signature Elaine W. Rexroad City Aptos Zip Code 95003

- Print Name Robert Rexroad Rio del Mar Address 627 Bay View Dr
 Signature [Signature] City Aptos Zip Code 95003

- Print Name Lise Yothers Rio del Mar Address 627 Bayview Dr.
 Signature Lise Yothers City Aptos Zip Code 95003

- Print Name Rita Barber Rio del Mar Address 619 Cliff Dr
 Signature [Signature] City Aptos Zip Code 95003

- NATALIE GREENBERG 617 Cliff 95003
[Signature] Aptos

Petition In Support of Proposed Ordinance Amendments

Item 11, Planning Commission Meeting 11/08/06

0 38

- Print Name DOUGLAS DEEVER Rio del Mar Address 615 U DR
 Signature Douglas R Deever City APTOS Zip Code 95003
- Print Name Diane Deaver Rio del Mar Address 615 Bay View Dr
 Signature Diane K. Deaver City Aptos Zip Code 95003
- Print Name Martha Latta Rio del Mar Address 109 Farley Dr.
 Signature Martha Latta City Aptos Zip Code 95003
- Print Name Robert Witham Rio del Mar Address 109 Farley Dr
 Signature Robert Witham City Aptos Zip Code 95003
- Print Name William J. Comfort II Rio del Mar Address 674 Bay View Drive
 Signature William J. Comfort II City Aptos Zip Code 95003
- Print Name ANNE CHARTERED ^{DEACLED} Rio del Mar Address 512 MIDDLEFIELD DR
 Signature Anne City APTOS Zip Code 95003
- Print Name Maryanne Tong ^{DEACLED} Rio del Mar Address 512 Middlefield DR
 Signature Maryanne Tong City Aptos Zip Code CA
- Print Name MARY B COMFORT Rio del Mar Address 674 BAYVIEW DR
 Signature Mary B Comfort City Aptos Zip Code 95003
- Print Name _____ Rio del Mar Address _____
 Signature _____ City _____ Zip Code _____
- Print Name _____ Rio del Mar Address _____
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ATTACHMENT 6

39

Petition In Support of Proposed Ordinance Amendments

Item 11, Planning Commission Meeting 11/08/06

0540

We the undersigned support the County Planning Department Staff recommendations for the proposed ordinance amendments to County Code Chapter 13.10 that would:

- A) modify County Code Section 13.10.323(b), the Residential Site and Structural Dimensions Chart, to increase the maximum lot coverage from 30% to 40% on residential lots that are 5,000 to 15,000 square feet in size;
- B) add new County Code Section 13.10.323(e)7 to allow front yard averaging on residential lots; and
- C) modify County Code Section 13.10.700-S by amending the definition of "Site Area, Net" for residential properties to exclude coastal bluffs, beaches, and submerged Monterey Bay areas from being considered in a Parcel's size when determining lot coverage and floor area ratio maximums.

The proposed amendments to County Code Chapter 13.10 are amendments to the Local Coastal Program implementing ordinances

Print Name Robert C. Sanchez Rio del Mar Address 176 Creek Drive
 Signature Robert C. Sanchez City Aptos Zip Code 95003

Print Name THOMAS J. PISTONE Rio del Mar Address 425 CLUBHOUSE DR.
 Signature Thomas J. Pistone City APTOS Zip Code 95003

Print Name MARGARET L. HILLIS Rio del Mar Address 204 TOLEDO DR
 Signature Margaret L. Hillis City Aptos Zip Code 95003

Print Name LOIS CHANCE Rio del Mar Address 219 Farley Dr
 Signature Lois Chance City Aptos Zip Code 95003

Print Name Jen Brachett Rio del Mar Address 102 Marina Ave
 Signature Jen Brachett City Aptos Zip Code 95003

Print Name JACOB WOLFF Rio del Mar Address 102 Marina Ave
 Signature Jacob Wolff City Aptos Zip Code 95003

Print Name Paul M. Carrick Rio del Mar Address 240 Meadowbrook Ln
 Signature Paul M. Carrick City Aptos Zip Code 95003

Print Name Paul Mitchell Carrick Rio del Mar Address 240 Meadowbrook Ln
 Signature Paul M. Carrick City Aptos Zip Code 95003

Petition In Support of Proposed Ordinance Amendments

Item 11, Planning Commission Meeting 11/08/06

0341

- Print Name T. M. WHALEY Rio del Mar Address 450 VISTA DEL MAR
 Signature [Signature] City APTOS Zip Code 95003

- Print Name NANCY WHALEY Rio del Mar Address 450 VISTA DEL MAR
 Signature Nancy Whaley City APTOS Zip Code 95003

- Print Name Elizabeth Sprinkle Rio del Mar Address 418 Cliff Drive
 Signature [Signature] City APTOS Zip Code 95003

- Print Name PAUL TINDLE Rio del Mar Address 418 Cliff Dr
 Signature [Signature] City APTOS Zip Code 95003

- Print Name Ellen Mellon Rio del Mar Address 107 Farley Dr.
 Signature Ellen Mellon City APTOS Zip Code 95003

- Print Name Margaret Fraser Rio del Mar Address 429 Sea View Dr.
 Signature Margaret Fraser City APTOS Zip Code 95003

- Print Name MALEOLM V FRASER Rio del Mar Address 429 Sea View Dr
 Signature Malcolm V Fraser City APTOS Zip Code 95003

- Print Name Judy D. Spence Rio del Mar Address 440 Seaview Dr
 Signature [Signature] City APTOS Zip Code 95003

- Print Name Judy Spence Rio del Mar Address 440 Seaview Dr.
 Signature Judy Spence City APTOS Zip Code 95003

- Print Name Kellie BIRKHOFER Rio del Mar Address APTOS 95003
 Signature Kellie Birkhofer City APTOS 414 Zip Code 95003

- Print Name Steven Birkhofer Rio del Mar Address 414 Cliff Dr.
 Signature Steve Birkhofer City APTOS Zip Code 95003

- Print Name JOHN KACHS Rio del Mar Address 414 CLIFF DR.
 Signature [Signature] City APTOS Zip Code 95003

- Print Name DEBBIE DIERSCH Rio del Mar Address 415 SEAVIEW DR. APT
 Signature Debbie Diersch City APTOS Zip Code 95003

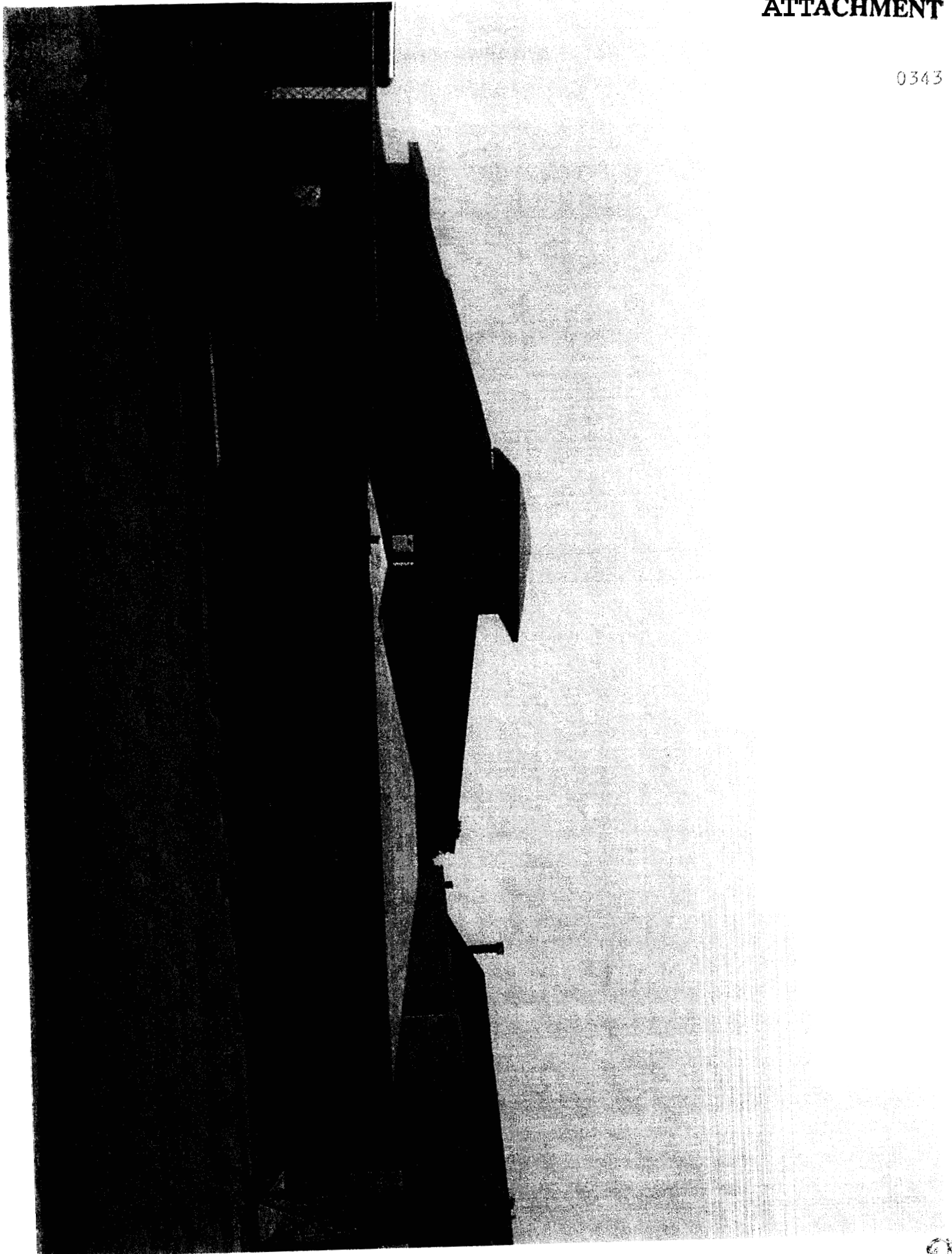
Petition In Support of Proposed Ordinance Amendments

Item 11, Planning Commission Meeting 11/08/06

0342

- Print Name Deborah L. Vanderwood Rio del Mar Address 567 Cuesta Dr.
Signature Deborah L. Vanderwood City Rio del Mar Zip Code 95003
- Print Name JOSEPH A. BENEDICT Rio del Mar Address 215 Kingsbury Dr
Signature Joseph A. Benedict City APTOS Zip Code 95003
- Print Name MARGARET T. BENEDICT Rio del Mar Address 215 Kingsbury Dr.
Signature Margaret T. Benedict City APTOS Zip Code 95003
- Print Name Julie Chapin Rio del Mar Address 139 Bennett Rd
Signature Julie Chapin City Aptos Zip Code 95003
- Print Name DAVID S. DONAHUE Rio del Mar Address 139 Bennett Rd
Signature David S. Donahue City Aptos Zip Code 95003
- Print Name Cheryl D. Donahue Rio del Mar Address 139 Bennett Rd
Signature Cheryl D. Donahue City Aptos Zip Code 95003
- Print Name Gronne Stone Jacobs Rio del Mar Address 457 Sea View
Signature Gronne Stone Jacobs City Aptos Zip Code 95003
- Print Name Ann D. Morey Rio del Mar Address 630 Seawall Dr
Signature Ann D. Morey City Apto Zip Code 95003
- Print Name Donald K. Morey Rio del Mar Address 430 Sea View Dr
Signature Donald K. Morey City Aptos Zip Code 95003
- Print Name Victoria Erickson Rio del Mar Address 335 Kingsbury Dr.
Signature Victoria Erickson City Aptos Zip Code 95003
- Print Name CLIFF ERICKSON Rio del Mar Address 335 Kingsbury Dr.
Signature Cliff Erickson City Aptos Zip Code 95003
- Print Name Judy M. Collough Rio del Mar Address 202 Aptos CA 95003
Signature Judy M. Collough City Aptos CA Zip Code 95003
- Print Name Marilyn Cantlay Rio del Mar Address 628 Cliff Dr., Apt 902
Signature Marilyn Cantlay City Aptos Zip Code 95003

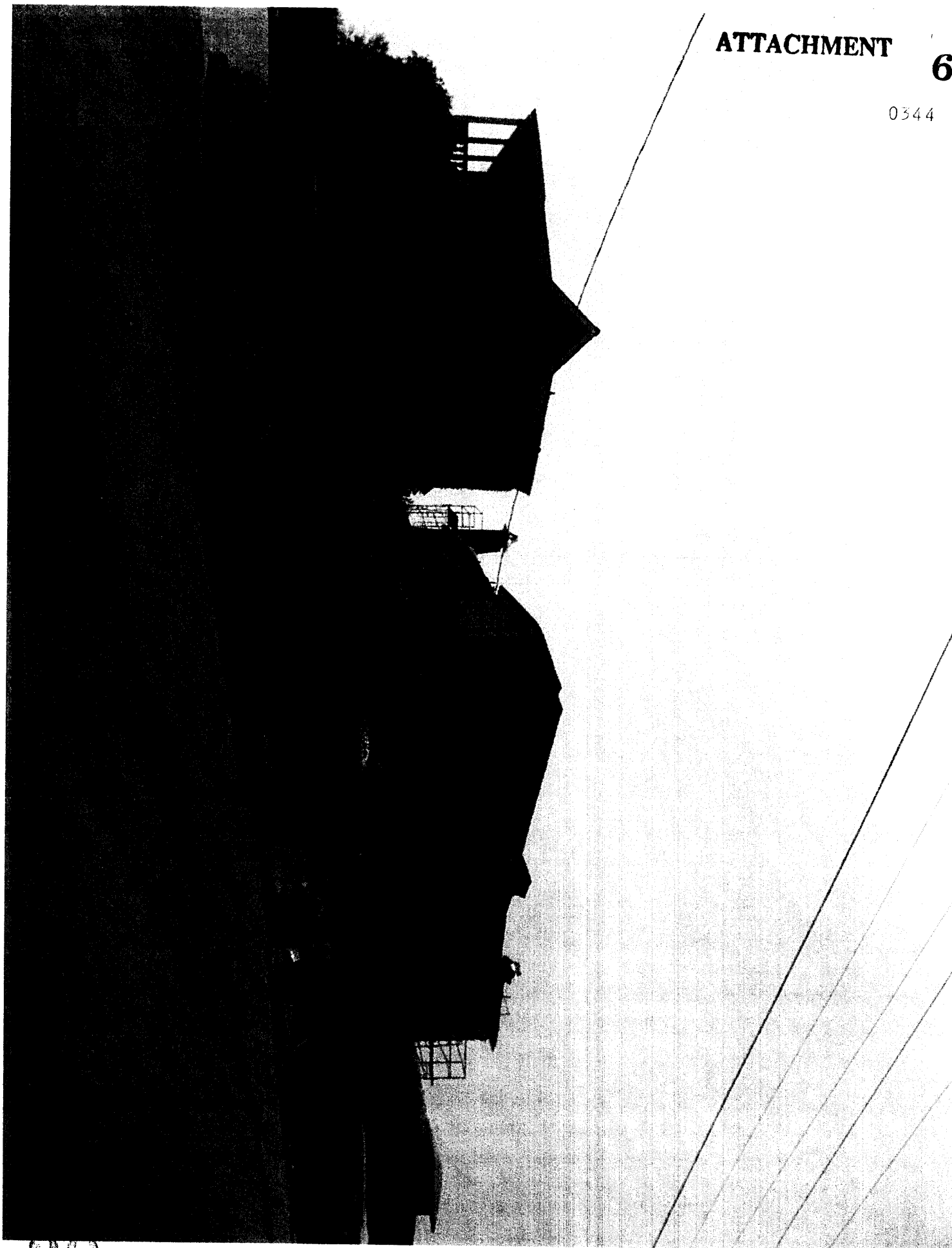
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ATTACHMENT

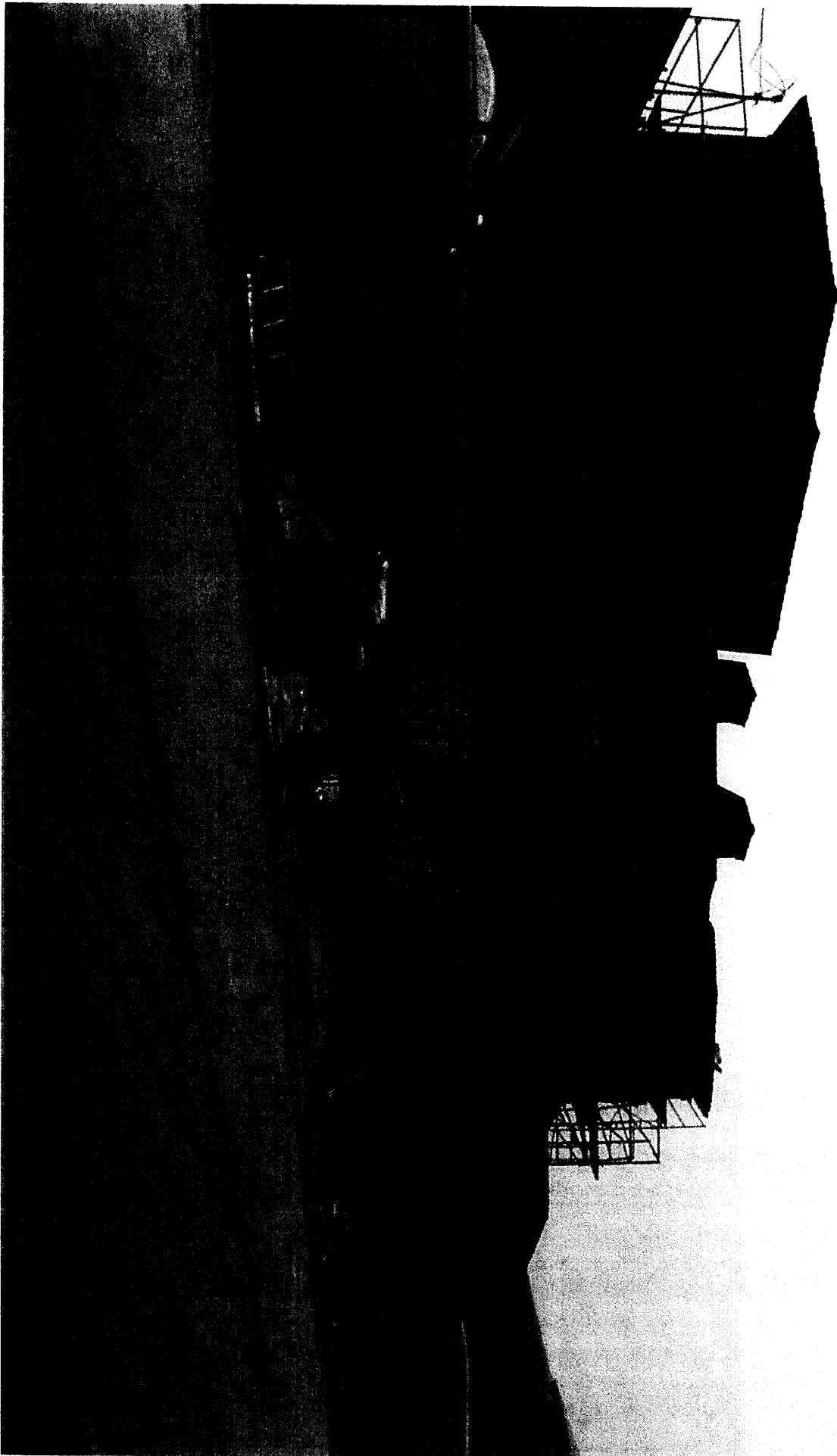
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ATTACHMENT 6,

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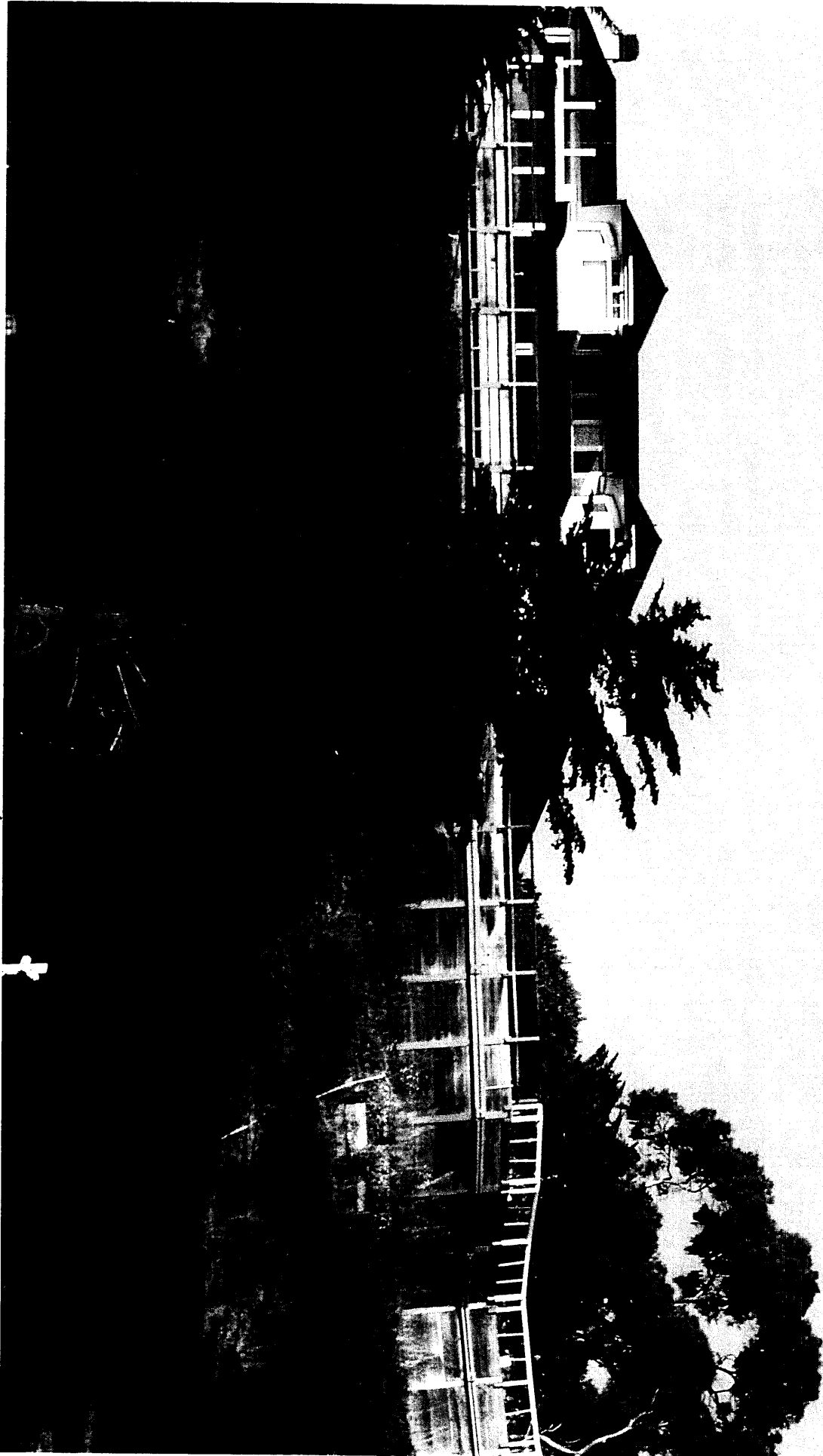
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Pin Del Mar bluffs



ATTACHMENT 6

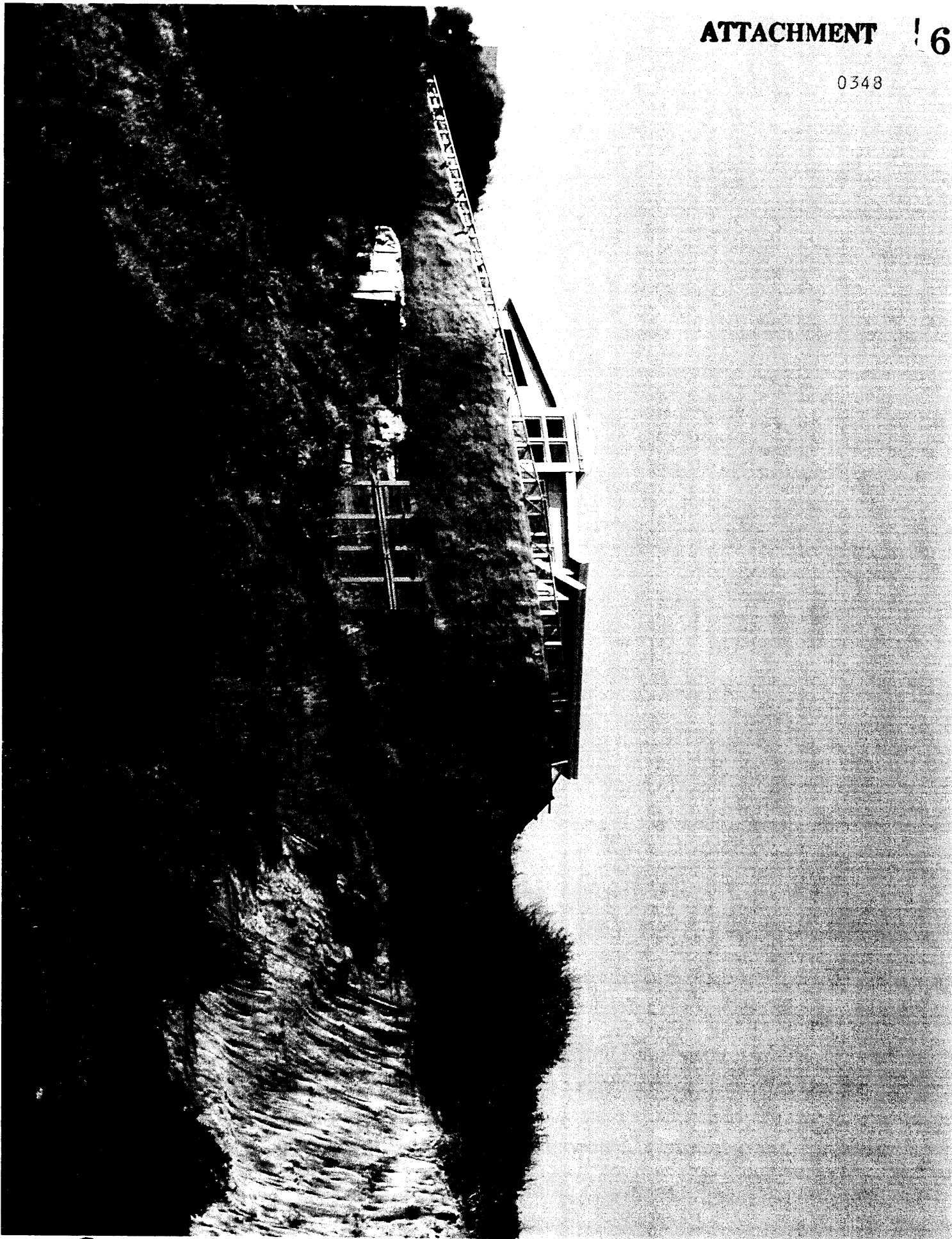
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Rio Del Mar bluffs

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0348



Rio Del Mar h. hills

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ATTACHMENT 6

Brian Maridon
A R C H I T E C T

0349

November 1, 2006

Mr. Tom Bums, Planning Director
County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Subject:

Proposed Change to Net Site Area Requirements

Dear Mr. Bums:

As I understand the proposal, the Net Site Area will be reduced for parcels with steep slopes and environmentally sensitive areas by subtracting these areas from the lot area. Building in these areas is already prohibited and often special setbacks are required. What is the point of further penalizing homeowners with unique parcels?

It seems to me that the proposed change in calculations for Net Site Area will only serve to add cost, time, confusion and frustration to an already difficult planning process. In addition, the change will further burden the planning staff with new responsibilities. It is not clear to me what the change is intended to accomplish or will accomplish. It only appears to be expensive and pointless.

Sincerely,



Brian Maridon

118 Union Street

Santa Cruz, CA

95060

Tel 831 425 4549

Fax 631 425 4579

10/26/06

0350

County of Santa Cruz
Planning Commission
701 Ocean Street, Room 400
Santa Cruz, CA. 95060

Regarding: November 8, 2006 Public Hearing
To consider changes to County Code Chapter 13.10

Dear Planning Commissioners:

I strongly oppose agenda item 11. c, the proposal to change County Code 13.10.700-S, to not allow some areas of land to be considered in a parcel area.

I believe that this proposal is in response to a small, vocal group that would like to tell their neighbors what they can and cannot do on their (the neighbors) own property.

This proposal will definitely take property use and property value away from some people. However, this proposal will not improve the quality of our community or the quality of our neighborhoods. There is no guarantee that forcing people to build smaller houses will equal a better, high quality design.

I also do not favor this proposal because it does not seem fair to take property use and value away from some people. And it will not be treat everyone equally as some people will lose some property use and lose property value, while others will not.

I hope that you will not approve this proposal.

Thank you for your time and consideration!

Best regards,

Bert Lemke

Bert Lemke, Architect AIA

258 Farallon Court ■ Aptos, California 95003 ■ (831)688-6642

ATTACHMENT**6**

0351

Lani Freeman

From: PLN AgendaMail
 Sent: Monday, November 06, 2006 2:14 PM
 To: PLN AgendaMail
 Subject: Agenda Comments

Meeting Type : Planning Commission**Meeting Date** : 11/8/2006**Item Number** : 11.00**Name** : Ellen Mellon**Email** : Not Supplied**Address** : 107 Farley Dr.
Aptos, CA.**Phone** : Not Supplied**Comments** :

Members of the Planning Commission:

I am requesting that you APPROVE item #11 (Nov. 8 agenda), proposed ordinance amendments to County Code Chapter 13.10. As per directive from the BOS in late 2005 the County Planning Dept. set about to improve the clarity of regulations dealing with neighborhood compatibility issues. I was part of a task force that gave input, through several meetings, to the Planning Dept. This is an issue of great concern to me and my RioDelMar neighbors. We feel that the recommended amendments to the land ordinances are a good start in addressing what is a growing concern, houses that defy the concept of neighborhood compatibility, thus destroying the existing character of our neighborhoods.

The primary concern for most residents in the coastal area of RioDelMar is size. We are seeing new homes of 8,000 sq. ft. currently being built (as well as in the proposal stage) on bluff top lots. These structures are triple the size of the average home in the area. In addition these oversized houses are stressing the coastal bluffs, requiring immense retaining walls that are unsightly from the beach area below. They also have little or no yard space so there is nowhere for water to penetrate during storms. This leads to increased water runoff onto neighboring properties or down the sides of the bluffs and arroyos with the potential for major erosion and damage. The reason these extremely large homes can currently be built is because they are on large parcels containing a great deal of unbuildable land. All that unbuildable land is factored into the calculations for house size. Part c) of the proposed amendments will address this issue by excluding coastal bluffs, beaches, and submerged Monterey Bay areas from being considered in a parcel's size when determining lot coverage and FAR maximums. This is a positive step forward in preserving the integrity and safety of our neighborhoods, neighborhoods of single family houses, not "family compounds" or "B & B's".

I strongly urge the Planning Commission to support the efforts of the Planning Dept. to address the community's concerns and APPROVE the proposed amendments.

Sincerely,
 Ellen Mellon

11/7/2006

39

ATTACHMENT 6**Lani Freeman**

0352

From: PLN AgendaMail
Sent: Monday, November 06, 2006 5:49 PM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission**Meeting Date :** 11/8/2006**Item Number :** 11.00**Name :** Lisa Sprinkle**Email :** lsprinkl@pacbell.net**Address :** 418 Cliff Drive
Aptos, CA 95003**Phone :** 685-1180**Comments :**

I am writing to support the proposed ordinance amendments to County Code Chapter 13.10. I am most in favor of the amendments to increase the maximum lot coverage [13.10.323(b)] and the amendment to redefine the Net Site Area [13.10.700-SI]. Based on the experience with new development in our neighborhood, I believe that those two changes to the code would have made a big difference in helping to preserve our neighborhood integrity. As it is, we have lost the sense that there is any space beyond our bluff (since the houses are so big and so crammed together), and we are seeing a rash of big, boxy two story structures that are out of character with our neighborhood.

Please register my support these amendments.

Lisa Sprinkle

39

11/7/2006

0353

Lani Freeman

From: PLN AgendaMail
Sent: Monday, November 06, 2006 11:10 PM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission**Meeting Date :** 11/8/2006**Item Number :** 11.00**Name :** Michael Mellon, Director RDMIA**Email :** Not Supplied**Address :** Not Supplied**Phone :** Not Supplied**Comments :**

Members of the Planning Commission:

I am representing the Board of Directors of the Rio del Mar Improvement Association, RDMIA, and we ask that you adopt the resolution, Exhibit A (Item #1 1) recommending that the proposed amendments to the County Code Chapter 13.10 be approved by the Board of Supervisors.

For the past two years RDMIA has targeted the issue of neighborhood compatibility as a major focus. The destruction of the integrity of our neighborhoods under the current ordinances has become a major concern for the greater majority of our members and residents of Rio del Mar.

We applaud the direction of the Planning Department and their attention to developing the proposed ordinance amendments that will resolve compatibility issues while not creating other problems. We would like to see the process move along as it is part of a larger directive given the Planning Department by the Board of Supervisors to address neighborhood compatibility issues which have continued to plague our communities as evidenced in public hearings.

There has been input that has shaped the proposed amendments before you. Input has come from informational meetings, various groups in Live Oak and Rio del Mar, committees, a representative task force of architects, planners and citizens, individuals, as well as elected officials. There have been feature articles in the Sentinel, letters to the editor, opinions on radio and petitions. From our perspective there is overwhelming public support to recommend approval of the amendments before you to the Board of Supervisors.

Frustration is building in our neighborhoods due to the perceived lack of a resolution to these issues. In order to relieve some of the frustration, we would like to be able to report positive action to our members, and we do not wish to have the process derailed by special interest groups with personal gain motives.

Sincerely,

Michael R. Mellon
 Director, Rio del Mar Improvement Association
 Governmental Affairs,

11/7/2006

39

Planning and Zoning Chair

ATTACHMENT 6

0354

39

11/7/2006

Lani Freeman

From: PLN AgendaMail
Sent: Monday, November 06, 2006 11:35 AM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Planning Commission

Meeting Date : 11/8/2006

Item Number : 6.00 11

Name : Susan Porter

Email : susan22155@comcast.net

Address : 2860 Fresno St.
Santa Cruz

Phone : Not Supplied

Comments :

November 4, 2006

Planning Commission
Santa Cruz County
11/08/06 Agenda, Item 11

Dear Commissioners:

This proposal is ill-conceived and punitive to certain of the landowners in this county. Because the areas you propose to eliminate for Net Site Area are not clearly defined, these landowners will be required to spend significant extra time and money that others do not have to, just to determine an allowable building site. That is not right, nor fair.

Also, this is a potentially significant change to not only property values of many people in this county, but to their potential to be able to remodel or even sell their homes. How much would you be willing to pay for a house you can't remodel? Many people could face that very situation.

Finally, the staff is in error that this proposal does not require an EIR. The citation of CEQA guideline 15308 refers to projects whose purpose is protection of the environment. Nowhere does it state that that is a purpose of this proposal. As stated in the staff report "staff was directed to proceed with a number of changes to the current regulations...to determine if further modifications to the standards for compatibility should be explored." A number of other references were made to neighborhood compatibility - no references were made to protection of the environment.

Staff has used this CEQA guideline as a justification for their action, but their own report does not support it. Stating that something is so does not make it so. An EIR should be prepared for this proposal, as required by CEQA.

Sincerely,

Susan Porter

11/7/2006

2860 Fresno St.
Santa Cruz

ATTACHMENT 6

Page 2 of 2

0356

39

11/7/2006



November 5, 2006

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: Item 11 November 8, 2006
Net Site Area Definition.

Dear Planning Commissioners,

With respect, there are a number of technical flaws contained in the proposed ordinance change in regards to the net site area.

1. Monterey Bay submerged lands are the property of the State of California and the Federal Government of the United States. The County of Santa Cruz cannot eliminate said lands from the net site area (please find enclosed a partial copy of the Submerged Lands Act and definitions of submerged lands and Submerged Lands Act contained in the 1978 version of "Definitions of Surveying and Associated Terms", *American Congress on Surveying and Mapping*).
2. Beaches are not defined in County of Santa Cruz code. The proposed net site area definition will require surveyors and geologists to determine the exact area. Said professionals require specific definitions, which, as stated, are not given. Please find enclosed three separate definitions of beach, also a definition of Mean High Tide Line with a graphic describing Submerged Lands, Tide Lines, etc... This may be helpful as most property lines on the ocean front are determined by the Mean High Tide Line (MHTL), not historic locations of bluff tops. It may be more technically clear to use Ordinary High Tide Line versus beach... the reasons for this can be expanded upon **if** the Commission wishes.
3. There is a definition of Coastal Bluff, but the Commission may well be advised to consult with the County Geologist and Surveyor what that definition specifically is prior to incorporating into this proposed change. I would be happy to expand on that based on our office's experience with this particular definition with Coastal Commission staff and **the** Coastal Commission, but it involves bisecting the angle of arroyos, streams, rivers, etc... where those features intersect the coastal bluff formed by wave action in the last two hundred years... and there is still some interpretation involved of that particular definition that would need to

be clarified and made specific. Note that a geologist and a surveyor shall be required to determine where the location of the coastal bluff is, and that location will change (in some cases rapidly) in time.

4. The CEQA exemption (15308) noted in the staff report is not valid as this proposal does not protect the environment. Factually the proposed ordinance will result in a cumulative *negative effect* on the environment; *potential* of said negative effect requires an EIR (15064). New homes are required to be brought up to current standards. Those standards include (but not limited to) better drainage systems (thus better water quality), higher efficiency in energy use, and ultimately higher standards of public health safety and welfare. The direct objective of many of these standards is to reduce impacts to the environment. The proposed down-zoning of thousands of existing properties effectively discourages existing homes from being replaced, as many, if not most, of the effected existing homes will then be larger than allowed under the proposed ordinance change. Thus the proposed ordinance change discourages the replacement of existing homes resulting in a significant cumulative negative impact upon the environment, an impact that in many cases is directly adjacent to environmentally sensitive areas.

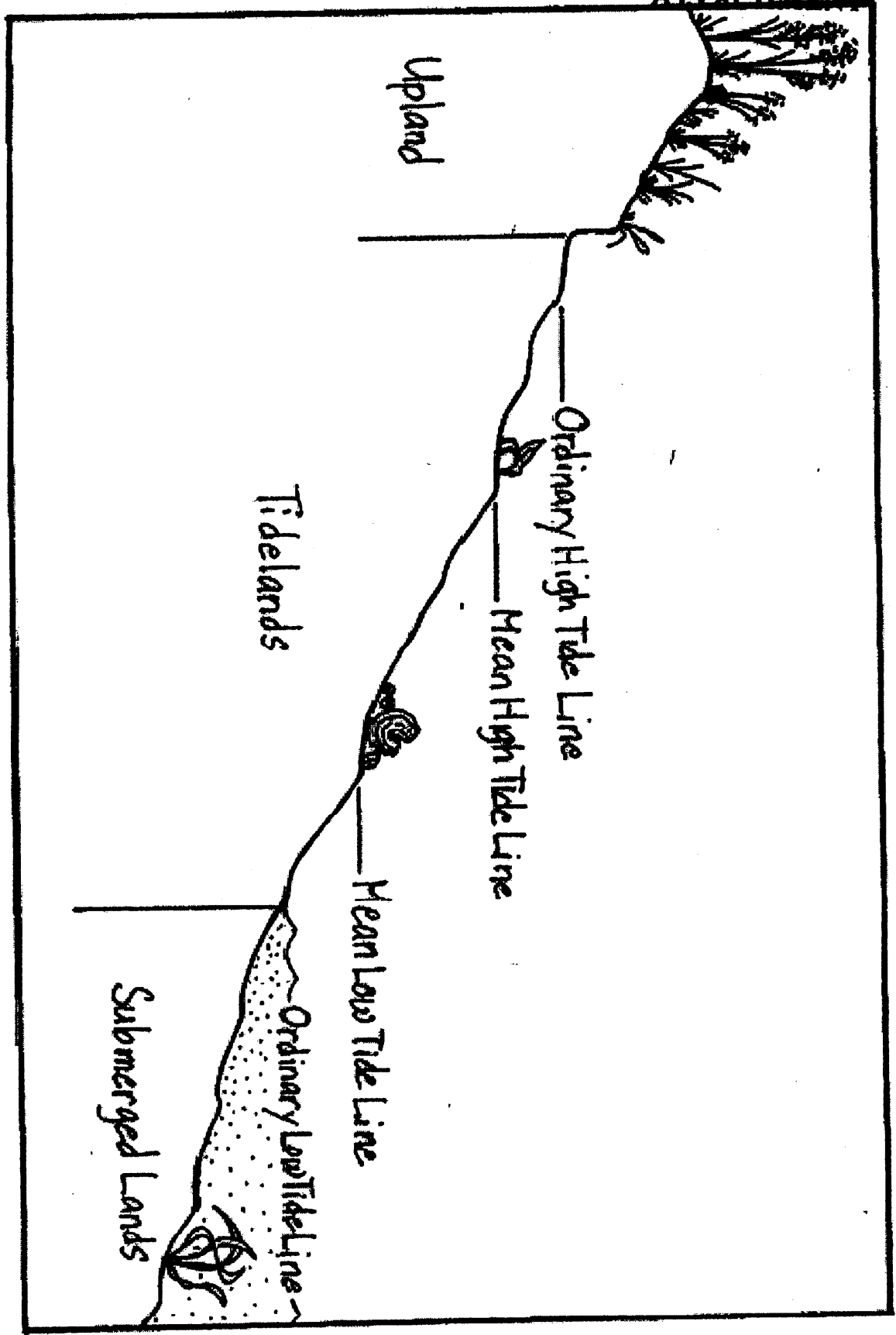
I personally believe that this proposed ordinance change is just one more link in a chain of bad ordinances. Like the chain of Bob Marley's ghost, it only furthers the grief of bad ordinances that the citizens of this county already suffer under. But if we are to have such another link, at least it should be well and honestly forged. That means; notify those effected; clear up misinformation and misunderstandings (for example, the 3030 Pleasure Point home had no area "under water" the property line is at the MHTL which is *typical* for most ocean front property in this country); consult with community Surveyors, Geologists, Engineers, and Architects, on how to implement the technical aspect of this proposed ordinance change; recognize that City of Santa Cruz, Capitola, the Rio del Mar Esplanade, Pajaro Dunes, San Francisco, Venice Italy, *all* ocean front properties in the world, would be effected by this ordinance if it applied to them...there is absolutely nothing extraordinary in these type of lands counting toward net site area, the extraordinary thing is *not* counting them; recognize that much of the controversy noted in the Planning Commission Resolution text, centered around the process, the majority of the public supported the projects I am aware of; and ultimately, follow the CEQA requirements recognizing that the proposed ordinance change will negatively effect the environment.

Thank you for the Commission's consideration.

Sincerely,

Cove Britton
Architect





Lands subject to the ebb and flow of the tides are public trust lands.

0360
ATTACHMENT 6

Table of Contents. These two papers include "*Naming 20,000 Rocks? Challenges and Opportunities for Naming Rocks and Islands Along California's Coast*," presented at the Council of Geographic Names Authorities in the United States 2003 annual meeting on September 30, 2003, at Pacific Grove, California, and "*Rocks, Buttons, Ecosystems, and Partnerships: Developing a Management Approach for the California Coastal National Monument*," at the Sixth California Islands Symposium on December 3, 2003, in Ventura, California. The CCNM website can be found at www.ca.blm.gov/pa/coastal_monument/.

Catalina Island's Offshore Rocks & Islets. In reviewing a recently released book on Santa Catalina Island, the CCNM Manager noted that it shed some light on the questions of whether or not there are any CCNM rocks around Santa Catalina Island. The book is *Catalina Saga: An Historical Cruise Around Santa Catalina Island*, written by Richard and Marjorie Buffum (Abracadabra Press, Balboa Island, CA, 2003). Based on the authors' findings, there are no CCNM offshore rocks around Catalina Island. The authors state that this is documented in the Santa Catalina Island Company archives. In discussing Santa Catalina Island's privately-owned Bird Rock (a.k.a. White Rock), the Buffum's mentioned that in 1925, Henry Kirchmann Jr., and his colleagues Fred Morton and William Warrington, "discovered that the Wrigley's title included all lands outside Avalon and all rocks and islets around the island, except for Bird Rock" (Bird Rock was held in Federal ownership by the General Land Office). The three partners acquired Bird Rock four years later (1929) using some old Valentine scrip.



What is the Definition of "Mean High Tide"? Various people have asked the question, "What is the definition of 'mean high tide'?" The Presidential Proclamation of January 11, 2000, establishing the CCNM uses the term "above mean high tide" but provides no definition. When California was ceded to the U.S. from Mexico through the Treaty of Guadalupe-Hidalgo in 1848, the Federal government had ownership of all of the land, including the offshore rocks and islands that were not part of a recognized land grant. However, since 1950 when Congress quitclaimed all the Federal interest in tideland and seabed areas 3 miles from the coastline to the states, "mean high tide" has been the delineating marker between submerged lands and surface ownership. The States were given the jurisdiction from below the mean high tide line out 3 nautical miles, while the Federal government retained title to the area beyond the 3-mile limit. Nevertheless, the Federal government retained ownership of its holdings above mean high tide (Le., from the shoreline out 12 nautical miles). Therefore, mean high tide has become the "jurisdictional boundary" marker along the coast.

Although the Presidential Proclamation does not provide a definition, "mean high tide" is formally defined as **the average height of the higher of two unequal daily high tides over a 19-year period**. Due to the pull of the Sun and the Moon, two high tides per day are created and in California we experience a higher high tide and a lower high tide usually each day, with each tidal bulge (high tide) being about 50 minutes later each day. It is the height of the higher tide for each day that is averaged out over a 19-year period to determine the mean high tide for any given portion of the California coast. With over 1,100 miles of California coastline and a wide variety of exposures, there is no single mean high tide measurement for California. One could, however, take 19 years of daily tide table data for a specific portion of the California coastline and determine the mean high tide mark for that specific portion.

This demonstrates why the CCNM can only be managed effectively through partnerships and a cooperative management approach. The boundaries between Federal, State, and local governmental and tribal jurisdictions, and even private ownership, are next to impossible to clearly delineate. Collectively, however, we can

ATTACHMENT 6,

SUBMERGED LANDS ACT

Acronym: SLA

Citation: 43 U.S.C. §§1301-1315 (2002).

Legislative Purpose:

In passing the Submerged Lands Act, Congress sought to return the title to submerged lands **to** the states and promote the exploration and development of petroleum deposits in coastal waters.

Summary:

The Submerged Lands Act **was** enacted in response to litigation that effectively transferred ownership of the first 3 **miles** of a state's coastal submerged lands to the federal government. In the case *United States v. California* (1947), the United States successfully argued that the three nautical miles seaward of California **belonged** to the federal government, primarily finding **that** the federal government's responsibility for the defense of the marginal seas and the conduction of foreign relations outweighed the interests of **the** individual states.

In response, Congress adopted the SLA in 1953, granting title to the natural resources located within three miles of their coastline (three marine leagues for Texas and the Gulf coast of Florida). For purposes of the SLA, the **term** "natural resources" includes oil, gas, and all other minerals.

Title II addresses the rights and claims **by** the States to the lands and resources beneath navigable waters within their historic boundaries and provides for their development by the States. Title III preserves the control of the seabed and resources therein of the Outer Continental Shelf beyond State boundaries and to the federal government and authorizes leasing **by** the Secretary of the Interior in accordance **with** certain specified **terms** and conditions.

The SLA was upheld in **1954 by** the U.S. Supreme Court (*Alabama v. Texas*) emphasizing that Congress could relinquish to the states the federal government's property rights over the submerged lands without interfering with U.S. national sovereign interests.

MANUAL OF HYDROGRAPHIC SURVEYING

ATTACHMENT 6

B

backshore (also called backbeach): That part of a beach which is usually dry, being reached only by the highest tides.

bank: An elevation of the sea floor located on a continental or an island shelf and over which the depth of water is relatively shallow but sufficient for safe surface navigation. See shoal.

barrier reef: A coral reef fronting, but at some distance from the shore and separated from the shore by a lagoon. See atoll, fringing reef, lagoon, and reef.

basic survey (hydrographic): A comprehensive and complete hydrographic survey adequate to supersede all prior hydrographic surveys covering the common area and to verify or discredit/disprove the existence of all charted or reported features. (See section 4.1.2 of the Hydrographic Manual.)

bathymetry: The science of measuring water depths in order to determine the configuration of bottom topography.

bayou: A small sluggish stream or estuarial creek, with a slow or imperceptible current in coastal swamps or river deltas. See marsh, slough and swamp.

→ **beach:** (1) The area between the extreme high-water and extreme low-water lines extending from such water lines inland to a marked change in physiographic form or material or to the line of permanent vegetation. (2) That area of the shore upon which the waves break and over which shore debris accumulates. A beach includes backshore and foreshore. (3) To intentionally run a craft ashore, as a landing ship,

beacon: (1) A fixed aid to navigation. (2) Anything serving as a signal or conspicuous indication, either for guidance or warning. See topmark.

berth: A place in which a ship is, or can be, moored,

blow-up: An expression commonly used either to refer to the act of enlarging a given document or to the actual enlarged version of a given document.

boat grid: See careening grid.

boat sheet (obsolete term): The work sheet used in the field for plotting the field observations of a hydrographic or wire drag survey. This work sheet is presently referred to as a "field sheet." See field sheet.

bottom characteristics: A designation used in hydrographic surveying and on nautical charts to describe the nature of bottom materials/sediments; i.e., to indicate the size/consistency, color and

Version Number 1: June 11, 1985

street line

DEFINITIONS OF SURVEYING TERMS

public use generally in a city, town or village. The street includes the traveled way, parkway and sidewalks.

street line—A lot line dividing a lot or other area from a street; or more specifically, a side boundary (or end boundary of a dead end) of a street, defined by the instrument creating that street as having a stated width. Street lines may be created inside a lot and not be coincident with lot lines.

strength of ebb—See *tidal current*.

strength of figure—A number expressing the relative strength of a triangle as a function of its shape; a smaller number indicates greater relative strength. The strength of figure is independent of the size of the triangle or of the precision of angle measurements.

striding level—See *level, striding*.

strike—(geology and mining) The direction of a line formed by the intersection of a bedding plane, vein, fault, slaty cleavage, schistosity, or similar geological structure, with an horizontal plane. It is at right angles to the dip.

strip adjustment—Similar to a block adjustment, but limited to a single strip of photographs. See also *block adjustment*.

strip radial plot—See *radial triangulation (photogrammetry)*.

strip radial triangulation—See *radial triangulation (photogrammetry)*.

subchord—Any chord of a circular curve whose length is less than that of the chord adopted for laying out the curve. In a railroad curve, for example, a subchord is a chord less than 100 feet in length. Also, any chord of a circular curve which is less than the long chord between the extremities of the curve.

subdivision—(real estate) An unimproved tract of land surveyed and divided into lots for purposes of sale. In some localities it is distinguished from a development, upon which improvements are made before sale; in other localities the terms are synonymous.

subdivision (USPLS)—The subdivision of a township, such as a section, half-section, quarter-section, quarterquarter or sixteenth-section, or lotting, including the lot, section, township, and range numbers, and the description of the principal meridian to which referred, all according to the approved township plat.

subdivision ordinances—See *subdivision regulations*.

subdivision plat—See *plat, subdivision*.

subdivision regulations—Locally adopted laws governing the process of converting raw land into building sites.

subdivision survey—See *survey, subdivision*.

subgrade—Designating, or pertaining to, a layer next under the uppermost principal one.

→ submerged lands—Lands covered by water at any stage of the tide, as distinguished from tidelands which are attached to the mainland or an island and cover and uncover with the tide. Tidelands presuppose a high-water line as the upper boundary; submerged lands do not.

subsidiary station—See *station, subsidiary*.

subtangent—The length of a line tangent to the arc of a circle from an extremity of said arc to its intersection with a similar line tangent to the other extremity of said arc; also termed *semi-tangent*.

subtense bar—A horizontally held bar of precisely determined length, used to measure distances by observing the angle it subtends at the distance to be measured.

subtense-bat traverse—See *traverse, subtense-bar*.

Sumner line—See *circle of position*.

ATTACHMENT 6

STRADDLE STAKES *Com.*

straddle the point, surveyors call them "straddle stakes."

STRAIGHT BASE LINE—A system for placement of the line that divides the inland waters from the marginal sea in which straight lines connect salient points on outermost limits and fringe islands. See **BASELINE**.

STREET—Any public thoroughfare (street, avenue, boulevard, or park) or space more than 20 ft wide which has been dedicated or deeded to the public for public use.

STREET LINE—A lot line dividing a lot or other area from a street; or more specifically, the side or end boundary of a street, defined by the instrument creating that street as having a stated width.

STRIKE—In geology and mining, the direction of a line formed by the intersection of a stratum with a horizontal plane.

STRONG BEARING—A survey slang term for a bearing which departs markedly from cardinal. A bearing of 2 or more degrees from cardinal may be considered a "strong" bearing. "Heavy bearing" is used synonymously.

ST. STEPHENS MERIDIAN—The principal meridian governing surveys in southern Alabama and south eastern Mississippi; it was adopted in 1805.

SUBDIVISION—(verb) 1) Subdivision of a township into sections. 2) Subdivision of a section into half-sections, quarter-sections, sixteenth-sections or sixty-fourth-sections, or into lots, according to the Manual of Surveying Instructions. 3) The process of surveying such subdivisions. 4) In the private practice of land survey, subdivision is the division of an area into lots, streets, rights-of-way, easements and accessories, usually according to State law and local regulations. —(noun) A particular aliquot part, lot, or parcel of land described according to the official plat of its cadastral survey. See **SUBDIVISION**, **SMALLEST LEGAL**, **URBAN SUBDIVISION** and **MINOR SUBDIVISION**.

SUBDIVISION-OF-SECTION SURVEY—A survey which subdivides a previously surveyed section into the required aliquot parts or lots, using methods which are legally prescribed. See **REGULAR SECTION SUBDIVISION**.

SUBDIVISION, SMALLEST LEGAL—For general purposes under the public-land laws, a quarter-quarter section or one lot. Under certain of these laws and under special conditions, applicants, claimants, etc., can select subdivisions smaller than a quarter-quarter section or lot. See **MINOR SUBDIVISIONS** and **ALIQUOT PARTS**.

SUBJECT TO SURVEY—Open to public land survey. See **LANDS SUBJECT TO SURVEY**.

► **SUBMERGED LANDS ACT**—Also called Public Law 31. The act passed during the 1st session of the 83rd Congress and signed into law May 22, 1953. Confirms and establishes the titles of the states to lands beneath navigable water within their boundaries and to the natural resources within such lands and water. The act also establishes jurisdiction and control of the United States over the natural resources of the seabed on the continent shelf seaward of state boundaries. See **CONTINENTAL**

SUBMERGED LANDS ACT *Com.*

TAL SHELF, OUTER CONTINENTAL SHELF, and OUTER CONTINENTAL SHELF LANDS ACT.

SUPPLEMENTAL MASTER TITLE PLAT—An extension of the Master Title Plat, it depicts a congested section, or sections, within a township, drawn to a scale larger than the master title plat in order to adequately show land status in the area. See **MASTER TITLE PLAT** and **USE PLAT**.

SUPPLEMENTAL PATENT—A patent issued to modify one previously issued, such as a patent issued without a mineral reservation clause, covering coal, to supersede in whole or in part a patent which had been issued with coal reserved to the United States. In the above described case, the patent would be referred to as a "supplemental non-coal patent."

SUPPLEMENTAL PLAT—A plat prepared entirely from office records designed to show a revised subdivision of one or more sections without change in the section boundaries and without other modification of the record. Supplemental plate are required where the plat fails to provide units suitable for administration or disposal, or where a modification of its showing is necessary. They are also required to show the segregation of alienated lands from public lands, where the former are included in irregular surveys of patented mineral or other private claims made subsequent to the plat of the subsisting survey, or where the segregation of the claims was overlooked at the time of its approval. In the past, Supplemental Plats were called "diagrams" or "MAPS." See **PLAT**, **MASTER TITLE PLAT**, **USE PLAT** and **STATUS DIAGRAM**.

SUPRA—Above. When used in text it refers to matter in a previous part of the publication. See **INFRA** and **OP. CIT. SUPRA**.

SUPREME COURT OF THE UNITED STATES—The highest court in the land. The court of last resort in the federal and state judiciaries. Its jurisdiction is essentially appellate, but it has irrevocable original jurisdiction in cases affecting ambassadors, public ministers and consuls or in cases in which a state is a party. The court is composed of a Chief Justice and eight Associate Justices. See **UNITED STATES DISTRICT COURTS** and **UNITED STATES COURTS OF APPEALS**.

SURFACE RIGHTS—All rights in the land excepting the oil, gas and mineral rights to underground deposits.

SURVEY—1) The plat and the field-note record of the observations, measurements, and monuments descriptive of the work performed. Occasionally used as implying that the official plat is "The Survey." Commonly, any survey but, specifically, an original survey. 2) The process of recording observations, making measurements, and marking the boundaries of tracts of lands. See **RESURVEY** and **SURVEY**.

SURVEYING INSTRUCTIONS—Various regions of the United States have been surveyed under amended or differing instructions from the passage of the first Land Ordinance to the present. The Ordinance of May 20, 1785, gave explicit cadastral

In use, a base tape is subject to certain physical conditions which influence its effective length, and which must be taken into account in computing the length of a measured base line. These conditions include tension, temperature, method of support, sag, grade, alignment, and standardization length. See *correction, tape*.
At one time, base tapes were made of steel, a metal having a high coefficient of thermal expansion. They are now made of invar, nickel, or some other alloy having a very small coefficient of thermal expansion. See also *invar; tape*.

base tilt—See *orientation, basal*.

basic control—See *control, basic*.

basis meridian—See *meridian, principal*.

bathymeter—An instrument used for determining ocean depths. Any deep-sea sounding apparatus. There are a number of designs of such instruments.

bathymetric chart—See *chart, bathymetric*.

bathymetric map—See *chart, bathymetric*.

bathymetry—The art or science of determining ocean depths.

batter boards—Boards set across a trench or otherwise placed so as to carry wire or cord grade lines. Usually set on a center line for pipe work and on an offset in building work, and at a convenient height above or below grade of the structure or at grade of the structure.

better pile—A pile driven at an inclination from the vertical. Also termed *brace pile* or *spur pile*.

betture—An elevation of the bed of a river, under the surface of the water. "It is however sometimes used to denote the elevation of the bank when it has risen above the surface of the water, or is as high as the land on the outside of the bank." In this latter sense it is synonymous with *alluvion*, and means in common law language land formed by accretion. (New Orleans v Morris, 18 Fed. Cas. 10, 182, 3 Woods 103.)

bay—An indentation, well-marked, whose penetration is in such proportion to the width of its mouth as to contain landlocked waters and constitute more than a mere curvature of the coast. The area of such an indentation must be as large as, or larger than the semicircle whose diameter is a line drawn across the mouth of the indentation.

bay, closed—A bay indirectly connected with the sea through a narrow pass.
bay, open—An indentation of a coast that is part of the open sea; one that does not conform to the geometric criteria adopted for the determination of bays as inland waters.

bayou—A minor, sluggish waterway or estuarial creek, generally tidal or with a slow or imperceptible current, and with its course generally through lowlands or swamps, tributary to or connecting with other bodies of water. Various specific meanings have been implied in different parts of the southern United States. Sometimes called *slough*.

beach—The belt or zone along the shore usually with a gentle slope toward the water, occupied by unconsolidated material, moving sand, or shore drift. The zone from the waterline to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation (usually the effective limit of normal storm waves). See *shore*.

beam compass—A drafting instrument for drawing circles with a long radius. The point and the pen, or pencil tip, are separate units, mounted to slide and clamp on a long bar or "beam" so that the distance between them is equal to the desired radius.

Beaman arc—A specially graduated arc attached to the vertical circle of an alidade or transit to simplify computing elevation difference for inclined

stadia sights. The arc, designed by W. M. Beaman, of the U. S. Geol. Survey, is so graduated that each division on the arc is equal to 100 (1/2 A), where A is the vertical angle. In use, the index is set exactly to graduation and the difference in elevation along an inclined line of sight obtained by multiplying the stadia intercept by the number of Beaman divisions.

bearing—The direction of one point or object, with respect to another, with the direction of the line is expressed by the acute angle with respect to the reference meridian. The reference direction can be North or South and bearings are N 60° 10' E, S 31° 17' W, N 17° 22' W.

bearing, astronomic—See *bearing; azimuth, astronomic*.

bearing, back—See *bearing; azimuth, back*.

bearing, back (USPLS)—The reverse direction of a line as corrected for curvature of the line from the forward bearing at the preceding station. Important on control lines such as the secant and tangent and on triangulations. Thus, the forward bearing of the secant at a township corner in latitude 45° is N 89° 57' 24" W (when the line is running westerly); miles from the starting point the back bearing is east, the forward bearing west; at the next township corner, 6 miles from the starting point, back bearing is N 89° 57' 24" E. These are the true bearings in angle measure from the meridian at the point of record.

bearing, forward—See *bearing*.

bearing, geodetic—See *bearing; azimuth, geodetic*.

bearing, grid—See *azimuth, grid*.

bearing, magnetic—See *bearing; azimuth, magnetic*.

bearing, true—See *bearing; North, true*.

bearing tree (USPLS)—A tree used as a corner accessory; its distance direction from the corner being recorded.

Bearing trees are identified by prescribed marks cut into their trunks. The species and sizes of the trees are also recorded.

beat—In some of the southern states (as Alabama, Mississippi, South Carolina) the principal legal subdivision of a county, corresponding to townships in other states; or a voting precinct.

bed of stream—The area within the high-water lines of a stream or river. The area which is kept practically bare of vegetation by the wash of waters of the stream from year to year.

bed of water—1) The bottom of a water course, or any body of water. 2) seam or deposit later in origin than the rock below, a regular member of the series of formations, and not an intrusion.

bedrock—A stratum of rock in the earth's crust which has been formed in approximately horizontal position. Large, deeply embedded boulders, upper surfaces planed and leveled through exposure, are sometimes erroneously reported as bedrock in descriptive writing.

beginning, point of—In metes and bounds descriptions the first point on boundary of the property being described. After passing through successive courses the description returns "to the point of beginning." When descriptions start at a reference point not contiguous to boundary being described, the point of commencing should be used. See *commencing, point of*.

bench mark—A relatively permanent material object, natural or artificial, bearing a marked point whose elevation above or below an adopted datum is known. Usually designated as a B.M., such a mark is sometimes qualified as a P.B.M. (permanent bench mark) to distinguish it from a T.B.

Hatonnier /hə'tɒniyev/. The chief of the French bar in its various centres, who presides in the council of discipline.

Hattel /hædəl/. Trial by combat; wager of hattel. See **Wager of hattel**.

Battered child. A child who is suffering serious physical or emotional injury resulting from abuse inflicted upon him including sexual abuse, or from neglect, including malnutrition, or who is determined to be physically dependent upon an addictive drug at birth. See also **Child abuse**.

Battery. Criminal battery, defined as the unlawful application of force to the person of another, may be divided into its three basic elements: (1) the defendant's conduct (act or omission); (2) his "mental state," which may be an intent to kill or injure, or criminal negligence, or perhaps the doing of an unlawful act; and (3) the harmful result to the victim, which may be either a bodily injury or an offensive touching. What might otherwise be a battery may be justified; and the consent of the victim may under some circumstances constitute a defense. *Com. v. Hill*, 237 Pa Super. 543, 353 A.2d 870. The consummation of an unlawful assault.

The actual offer to use force to the injury of another person is **assault**; the use of it is **battery**, which always includes an assault; hence the two terms are commonly combined in the term "assault and battery."

See also **Assault and battery**.

Aggravated battery. An unlawful act of violent injury to the person of another, accompanied by circumstances of aggravation, such as the use of deadly weapon, great disparity between the ages and physical conditions of the parties, or the purposeful infliction of shame and disgrace.

Simple battery. One not accompanied by circumstances of aggravation, or not resulting in grievous bodily injury.

Technical battery. A technical battery occurs when a physician or dentist, in the course of treatment, exceeds the consent given by a patient. Although no wrongful intent is present, and in fact there may be a sincere purpose to aid the patient, recovery is permitted unless there is an emergency. However, if the patient benefits from the battery only nominal damages may be recovered.

Battle of the forms. Term used to describe effect of multitude of forms used by buyers and sellers to accept and to confirm terms expressed in other forms. U.C.C. § 2-207.

Batture /bə'tiɪr/. A marine term, used to denote a bottom of sand, stone, or rock, mixed together, and rising towards the surface of the water; as a technical word and also in common parlance, an elevation of the bed of a river, under the surface of the water. The term is, however, sometimes used to denote the same elevation of the bank, when it has risen above the surface of the water, or is as high as the land on the outside of the bank. *Conkey v. Knudsen*, 143 Neb. 5, 8 N.W.2d 538, 541. In this latter sense it is synonymous with "alluvion." It means, in common-law language, land formed by accretion. The term is

used in Louisiana, and is applied principally to certain portions of the bed of the Mississippi river which are uncovered at time of low water but are covered annually at time of ordinary high water.

Bawd /hɔːd/. One who procures opportunities for persons of opposite sexes to cohabit in an illicit manner; who may be, while exercising the trade of a bawd, perfectly innocent of committing in his or her own proper person the crime either of adultery or of fornication. A madam.

Bawdy-house. A house of ill fame; a house of prostitution; a brothel. A house or dwelling maintained for the convenience and resort of persons desiring unlawful sexual connection. A place for convenience of people of both sexes in resorting to lewdness, a place many may frequent for immoral purposes or a house where one may go for immoral purposes without invitation. *Riley v. U. S., D.C.App.*, 298 A.2d 228, 231.

Bay. A pond head made of a great height to keep in water for the supply of a mill, etc., so that the wheel of the mill may be turned by the water pushing thence, through a passage or flood gate. (This is generally called a forebay.)

A bending or curving of the shore of the sea or of a lake, so as to form a more or less inclosed body of water. An opening into the land, or an arm of the sea, where the water is shut in on all sides except at the entrance.

Baygull. A low lying wet land matter with vegetable fibres and often with galberry and other thick-growing bushes.

Bayley /bɛɪli/. In old English law, bailiff. This term was used in the laws of the colony of New Plymouth, Mass., A.D. 1670, 1671.

Bayou /bayuw/bayow/. A species of creek or stream common in Louisiana and Texas. An outlet from a swamp, pond, or lagoon, to a river, or the sea.

B.C. An abbreviation for "before Christ," "bail court," "bankruptcy cases," and "British Columbia."

B.E. An abbreviation for "Baron of the Court of Exchequer."

Beach. This term, in its ordinary signification, when applied to a place on tide waters means the space between ordinary high and low water mark, or the space over which the tide usually ebbs and flows. It is a term not more significant of a sea margin than "shore." In common parlance designates that portion of shore consisting generally of sand and pebbles, resulting usually from the action of water, as distinct from the upland, to which it often extends above normal high-water mark. Beach is synonymous with "shore," "strand," or "flats." The term may also include the sandy shore above mean high water which is washed by storms and exceptionally high tides.

To "beach" a ship is to run it upon the beach or shore; this is frequently found necessary in case of a fire, leak, etc.

See **Foreshore**; **Seashore**.

0367

A A S C C

ARCHITECTS ASSOCIATION OF SANTA CRUZ COUNTY

Post Office Box 7462 Santa Cruz California 95061

County of Santa Cruz Board of Supervisors
701 Ocean Street 5th floor
Santa Cruz, California 95060

27 November 2006

Dear Honorable Board Members:

The AASCC continues to oppose the concept of reducing Net Site Area (NSA), on parcels zoned for a single family residence.

Unfortunately, neither the **general** or technical **questions asked** in **our earlier letter** to Planning Staff and the Planning Commission **were** answered, or **even** addressed, **in the** Commission's hearing on the item. There was no attempt to do so **even** though our letter **was** provided well in **advance** of the hearing. We think that **this was in** error. Please refer to the attached copy.

We **believe** it is short sighted not to consider, **and** address, *the* many concerns that the NSA reduction proposal has **elicited** from concerned members **of** the public and the professions. We **also feel** that a Negative Declaration is not **really** correct. **There** will be environmental impacts that should be **addressed**.

Remember, this NSA reduction proposal **arose out** of a desire by the **Supervisors** to do something about the perception **of** overbuilding on **coastal** properties. In fact, the current proposal **would** not have had an impact on any **of the** recently **contested** projects that **were** its genesis. So why are we proceeding with a **solution** that **would** not have had any impact on the stated **problem**?

Moreover, it will require a series of new definitions, interpretations, and adjudication **by senior staff and others, including** the **Board**. **The** worst aspect, **besides** the expenditure of time and money **to** no **measurable** impact on the **design** quality of individual buildings, **is** that it will likely have the greatest impact on the **average** size **lots**. The **very** *lots* which this is intended to protect.

Thus, ironically, this NSA reduction proposal, while touted as protecting the neighborhood from overbuilding, may have the **opposite** effect of **penalizing** the average **owner** of an **average** size lot, preventing them from building an average **size** house, or turning **their existing average size house into a non-conforming one**.

***Coastal Property Owners Association
of Santa Cruz County***
500 41st Avenue, Santa Cruz, CA 95062 831.479.4200
www.CoastalPropertyOwners.org

November 29, 2006

**Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, CA 95062
Fax 831-454-3262**

RE: Proposed ordinance amendment to County Code Section 13.10.700-S

Dear Supervisors:

The Coastal Property Owners Association of Santa Cruz County ~~opposes~~ amending the definition of "Site Area, Net" for residential properties which would exclude coastal bluffs, beaches, and submerged Monterey Bay areas from being considered in a parcel's size when determining lot coverage and floor area ratio maximums for the following reasons.

Coastal property owners have not been notified by the County of this proposed amendment and therefore many have been denied or barred from participating in the public process. This proposed change will substantially affect the usage of their coastal properties. In the interest of good public process and above board ethical objectives, input from property owners is needed. Noticing hearings on this amendment by only the local newspaper assures that most of property owners who reside out of town are unaware of this proposed change and therefore unable to comment.

Because the proposed change is targeted at coastal properties we request that all Santa Cruz County coastal property owners be notified at their mailing addresses prior to this amendment being considered for adoption. We also request that all Santa Cruz County coastal property owners be notified at their mailing addresses on all future amendments which will impact the usage of their property.

There has been no information or analysis available to the public about how many homes will now become legal non-conforming, how many buildable lots will now become non-buildable, how many home owners will be prevented from re-modeling, constructing an addition, or re-building with today's more environmentally friendlier standards.

The Negative Declaration on this proposed amendment glosses over the environmental impacts of discouraging the replacement of older homes.

39

Page 2

The definition of "beaches" apparently includes all land from the ocean to the toe of the bluff. This definition would include hundreds of homes along the coast. Since the "Site Area, Net" would exclude beaches, this proposed amendment is basically a taking of property by Santa Cruz County without compensation. The County needs to take a hard look at the continuing impact of legal fees and lost property tax revenue as a result of this proposed amendment on residential properties.

The exclusion of "coastal bluffs" from the "Site Area, Net" will also have a significant impact on usage of coastal properties which again amounts to a taking of property by Santa Cruz County. The County's desire to exclude bluffs from the "Site Area, Net" is focused only on coastal properties and falls to address all other land in the County which may have a bluff or an arroyo.

No public information has been made available regarding an analysis of the impact of this proposed amendment on the Planning Department or the property owners. Once the impact of this proposed amendment on coastal properties has been analyzed, it would seem prudent to determine the increase staffing, office space, time, and expense of the County to process the anticipated surge in variances which will be requested by owners with legal non-conforming properties. This analysis should also include the increased time and expense that the property owners will be burdened with.

Finally, it appears that this proposed amendment will not meet the objective of preventing large box homes from being built along the coast. Large box homes are built on the few large lots owned by a few people. This proposed amendment appears to not protect our neighborhoods from over building. It will only penalize owners of average sized lots from building or remodeling an average sized home on an average sized lot. It will also penalize home owners of existing average sized homes on the beach and on the bluff top side of our streets by making their homes non-conforming.

Please reject this proposed amendment and craft an ordinance which will meet the County's concerns about large box homes without unnecessarily penalizing all coastal properties.

Thank you.

Sincerely,



Keith Adams
President

President: Keith Adams, Vice President/Treasurer: James Marshall, Secretary: Bill Osberg
Directors: James Beckett, Richard Berg, Gene Bernald, Dave DeBoer, Susan Rose

Terry Dorsey

From: Ellen Pirie
Sent: Friday, December 01, 2006 3:19 PM
To: Terry Dorsey
Subject: FW: Planning Commission's proposed ammendments

-----Original Message-----

From: Lisa Sprinkle [mailto:lsprinkl@pacbell.net]
Sent: Friday, December 01, 2006 3:24 PM
To: Ellen Pirie
Subject: Planning Commission's proposed ammendments

Dear Supervisor Pirie,

I am writing to support the Planning Commission's proposed amendments to the land ordinances (Item 39 on Tuesday's agenda). While I support all of the changes, I would like to focus on the net site area changes. As I understand them, the proposed changes would limit the buildable area on a property site to the area that is truly most appropriate for building - the flattest area. This would probably reduce the size of the house that could be built on the site.

As a resident of a coastal bluff neighborhood, I am all for the changes. Today, the rampant march of McMansions on the bluff has all but extinguished our sense that we are near the sea - houses are so tall and boxy, so close to the edge of the street and so close together that a person walking along the road never even gets a glimpse of sea or sky. What a shame.

I have heard opposing arguments that the proposed amendments would reduce property values along the coastal bluffs. Those arguments are disingenuous at best: coastal property will always be in scarce supply and will always be more valuable than inland properties. The only people affected by this change are short term speculators.

Please do the right thing for the long term benefit of the neighborhoods and approve the Planning Commission's proposed changes. Thank you.

Sincerely,

Lisa Sprinkle
418 Cliff Drive
Aptos

#39

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Friday, December 01, 2006 1:16 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Paul Riehle

Email : paul.riehle@sdma.com

Address : 4260 Opal Cliff Drive
Santa Cruz, CA 95062

Phone : Not Supplied

Comments :

I write in opposition to the proposed ordinance insofar as it redefines the calculation of "Site Area, Net." While **I am** not fan of big box houses, the proposed legislation goes too far in restricting the building rights of property owners along the coast. Please vote no on this issue.

Thank you for your consideration.

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Friday, December 01, 2006 9:52 AM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Michael Abbett

Email : mike@theabbetts.com

Address : 103 Granada Drive
Aptos, CA 95003

Phone : Not Supplied

Comments :

1 December 2006

Board of Supervisors of Santa Cruz County
701 Ocean Street
Santa Cruz, CA 95060

Subject: Proposed amendments to the County Code, Chapter 13.10, Item 39 on the agenda of 05 December 2006

Dear Members of the Board of Supervisors;

This letter is in support of the proposed amendments to the County Code, Chapter 13.10 that would:

- a) modify County Code Section 13.10.323(b), the Residential Site and Structural Dimensions Chart, to increase the maximum lot coverage from 30% to 40% on residential lots that are 5,000 to 15,000 square feet in size;
- b) add new County Code Section 13.10.323(e)7 to allow front yard averaging on residential lots; and
- c) modify County Code Section 13.10.700-S by amending the definition of "Site Area, Net" for residential properties to exclude the areas "from the top of coastal bluffs to the bayward property line, not including coastal arroyos" from being considered in a parcel's size when determining lot coverage and floor area ratio maximums.

My wife and I both support inclusion of these amendments in the County Code, as doing so will result in architectural designs that are more compatible with our existing, cherished neighborhoods.

Relative to c) above, which addresses the issue of incompatible mega homes that have recently been built, are being built, or have plans in the submittal/approval process, it is

12/1/2006

39

interesting that many of these structures are being built, or attempted to be built, by couples whose children have matured and left home or by developers. In more than one instance one of the reasons given for desiring a very large house is that "we have a large family and we want a home so that everyone will be able to be together at the same time." That intent is no less than the intent to have a family B&B. As you are aware, the lots in which these mega homes are located (or to be located) are in neighborhoods that are zoned for single family residences, not multiple family homes, and not B&Bs, even if they are for one extended family. If these families want a family B&B, they should put it on a suitable lot. The lots on the bluff are not suitable for this purpose.

Very truly yours,

Michael Abbett
103 Granada Drive
Aptos, CA 95003 mike@theabbetts.com

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Friday, December 01, 2006 3:22 PM
To: CBD BOSMAIL
Subject: .Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Lisa Sprinkle & Paul Tindle

Email : lsprinkl@pacbell.net

Address : 418 Cliff Drive
Aptos, CA

Phone : 831-685-1180

Comments :

I am writing to support the Planning Commission's proposed amendments to the land ordinances (Item 39 on Tuesday's agenda). While I support all of the changes, I would like to focus on the net site area changes. **As** I understand them, the proposed changes would limit the buildable area on a property site to the area that is truly most appropriate for building - the flattest area. This would probably reduce the size of the house that could be built on the site.

As a resident of a coastal bluff neighborhood, I am all for the changes. Today, the rampant march of McMansions on the bluff has all but extinguished our sense that we are near the sea - houses are so tall and boxy, so close to the edge of the street and so close together that a person walking along the road never even gets a glimpse of sea or sky. What a shame.

I have heard opposing arguments that the proposed amendments would reduce property values along the coastal bluffs. Those arguments are disingenuous at best: coastal property will always be in scarce supply and will always be more valuable than inland properties. The only people affected by this change are short term speculators.

Please do the right thing for the long term benefit of the neighborhoods and approve the Planning Commission's proposed changes. Thank you.

Sincerely,

Lisa Sprinkle
418 Cliff Drive
Aptos

12/4/2006

39

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Friday, December 01, 2006 7:20 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006**Item Number : 39****Name :** Charles Paulden-People for the Preservation of
Pleasure Point**Email :** Not Supplied**Address :** Not Supplied**Phone :** Not Supplied**Comments :**

I am writing in support of agenda item 39, 12/5/06

"Site Area, Net".

In support of not counting undevelopable property in figuring lot coverage.

Not doing so leads to bulky buildings, that are out of scale for their surroundings, and lead to disharmony in the neighborhoods.

I agree with those who say that too many homes are being built that are not in character with the community.

I agree with the opponents of this proposal, in that if we built in scale, bulk and style of the surrounding development, we would not see this issue before the board today.

I see the problem as one of Architects not respecting the community and trying to maximize development at the expense of the community.

These overzealous developments take value away from the community by reducing its desirability to the residents.

This type of overbuilding has destroyed many small coastal communities.

Please save the precious few that remain.

These communities of not too big houses are very desirable and add value that needs to be preserved.

Overbuilt and out of character structures can be developed in the other areas that have lost their charm, because no one would protect them from these obvious affronts to the existing character.

I agree that this would not be an issue if the Planning Department were given greater support in protecting our communities. Unfortunately, when this came before your Board, even a "sore thumb" was approved, with slight tweaking.

I also think that Architect's material pointed to the fact that the tidal land belongs to the State and is held in trust for the people.

When seawalls are built to prevent the expansion of the tidal lands, as the land erodes, it is a taking from the people.

When the beach is lost underwater from sea level rising, it prevents lateral access.

I propose that any seawalls that are permitted, in defiance of best ecological practice, be

12/4/2006

39

mitigated, by building an esplanade in front.

These walkways would eventually provide public access along the coast, from Natural Bridges to New Brighton State Parks, and add an important link to the Coastal Trail.

This pathway would be accessible to and from the Sea, allowing access to the Monterey Bay National Marine Sanctuary.

Please pass this item and give greater support to the Planning department when it seeks to enforce protection of community character.

Thank you

Charles Paulden

People of the Preservation of Pleasure Point

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Saturday, December 02, 2006 1:20 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Sue Bruemmer

Email : Not Supplied

Address : 411 Seaview Drive
Rio del Mar, Aptos

Phone : Not Supplied

Comments :

Dear Supervisor:

I am writing to support the Planning Department's proposed amendments to the land ordinances (Item 39) on Tuesday's agenda. Similar changes and limits are being debated and litigated along our California coast. Santa Barbara City, Coronado, and Seal Beach are only some examples of current or recent changes to their land ordinances in response to community outcry against over-sized mansions that are destroying the character of existing neighborhoods. Size is the crucial issue in the neighborhood compatibility debate. These three proposed amendments will address this concern.

I hope you will act in the best interests of the community at large and approve these amendments. Those in opposition are a minority and most do not even live in the communities affected, which leads me to question their motives.

Sincerely,
Sue Bruemmer
411 Seaview Drive
Rio del Mar, Aptos

12/4/2006

39

NEWMAN, MARCUS & CLARENBACH, LLP

EDWARD W. NEWMAN
HOWARD S. MARCUS (1941-1998)
SARA CLARENBACH

ATTORNEYS
331 CAPITOLA AVENUE
SUITE K
CAPITOLA, CA 95010

AREA CODE 831
TELEPHONE 476-6622
TELEFAX 476-1422
E-MAIL sarac@nmcllp.com

December 4, 2006

Board of Supervisors
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060

**Re: Board of Supervisors' Agenda 12/5/06
Agenda Item 39:
Public Hearing re Proposed Amendments to Zoning Ordinance 13.10 etc.**

Our Client: Sea Cliff Beach Association

Dear Board of Supervisors:

This office represents the Sea Cliff Beach Association (the "Association"), the homeowners' association comprised of twenty-nine residential lots on Las Olas Drive, being 725 Las Olas Drive through and including 797 Las Olas Drive, along the beach below the bluff between Sea Cliff State Park and Pot Belly beach in the Aptos area.

The Association opposes the proposed amendments to the Santa Cruz County Code, Sections 13.10 et seq., which amendments are set forth in agenda item 39 on the Board's agenda for 12/5/06. The Association has particular opposition to the amendment of 13.10.700-S, which would modify the definition of Site Area, Net as follows: "Inside the Urban Services Line, the total site area less all public or private rights-of-way designated for vehicle access and the area from the top of a coastal bluff to the bayward property line, not including coastal arroyos." The effect of this amendment would be to exclude coastal bluffs and the area from the base of the coastal bluff to the mean high tide line, or other property line within the waters of Monterey Bay, from being considered in a parcel's size when determining lot coverage and floor area ratio maximums.

The Association has the following requests, and takes the following positions, both procedural and substantive.

1. **No Notice/Postpone The Hearing.** The Association requests that the Board postpone this public hearing to a date certain, 60 to 90 days hence, to enable representatives of the Association to be properly prepared and submit fully-developed opposition to the proposed amendments. The Association and its members did not receive any actual, direct notice of the proposed amendment nor of this hearing, nor of the Planning Commission hearing which the Association now understands was held on 11/8/06. The Association can provide its membership mailing list to the Board. Notification of this public hearing should also be sent to all affected owners in similarly situated properties. These amendments will significantly affect the rights of property owners, and notice of the hearing and a meaningful opportunity to participate are imperative.

#39

The Board's consideration of these amendments is not an emergency and a 60-90 day continuance is not prejudicial at all to the process.

2. **Prejudice/"Non-Conforming"**. These amendments substantially prejudice the rights of the owners of the Association, in that it appears that their properties would become non-conforming if the amendments are adopted. The change in language limits the potential use of their properties and thus the Association opposes the amendments.

3. **Prejudice/Need for Variance**. It appears that adoption of the amendments would require that the owner of the affected property apply for and obtain a variance to do work on his or her property. This adds a layer of cost, complexity and uncertainty, and is an additional basis on which the Association opposes the amendments.

4. **"Taking" Issues**. The operative effect of the proposed ordinance amendments constitutes a "taking" of property without compensation, and raises significant legal issues. The Association opposes the amendments for this reason as well.

5. **Beaches/Bluffs Should Be Treated Separately**. Coastal bluffs and coastal beaches should not be clumped together for purposes of calculating developable area (net site area, NSA). If the Board is intent on pursuing an amendment to the definition of NSA, the Association asks that the Board direct staff to redraft the proposed 13.10.700-S definition, to separate the treatment of bluff property from the treatment of beach property.

6. **Staff Interpretation**. The Association understands that there is some question as to how the proposed new definitions would be interpreted at the staff level within the Planning Department. The Association requests time to meet and confer with staff on these issues before the Board conducts a hearing and votes on the amendments (see request number 1 above as well.)

In short, these amendments result in significant changes which very negatively impact our clients' property rights and the value of their property. The Association both opposes these amendments and also requests a postponement of this agenda item to further prepare its arguments, and to meet and confer with appropriate parties. Thank you for your attention to these requests.

Sincerely,



SARA CLARENBACH

Attorney at Law

SC/kb

cc: Sea Cliff Beach Association President, Rick Bianchina
Sea Cliff Beach Association Business Manager, Nikki Henninger

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, December 04, 2006 1:10 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Gayle Topping

Email : gayletopping@aol.com

Address : 436 Day Valley Road
Aptos, CA 95003

Phone : (831) 662-9288

Comments :

December 4, 2006
Board of Supervisors
Agenda date; December 5, 2007
Agenda Item: 39
Letter from Gayle Topping,

Board of Supervisors:

Tom Burns states in his letter to the Board of Supervisors (BOS) dated November 14th, 2006 that the proposed ordinance changes before you today are in response to a directive from the BOS to "improve the clarity of a number of regulations" so that planners may "more closely review pending applications".

The technical questions posed in the letters from Cove Britton and the AASCC are paramount to "clarifying" the terms of these proposed changes. These questions have not been addressed or answered.

Historically, vague and undefined language in existing ordinances has led to ill-conceived designs, neighborhood misunderstandings and most likely are the root of the grievances that have led to this attempt at promoting "neighborhood compatibility".

I urge you to table the Net Site Area (NSA) amendment until staff has answered the already asked technical questions and has come up with a generalized plan to clarify ALL existing County regulations.

There are lawsuits pending that deal with houses built too tall, too close and outside of the parameters of the approved plans. There are more lawsuits on the way. There are projects approved, built and under construction that do not comply with existing ordinances. Building inspectors are not equipped to nor advised on how to monitor existing ordinances and in some cases building codes are not enforced. Similarly plan checkers and building officials are not appropriately educated or supervised in maintaining compliance with existing ordinances and other building regulations.

12/4/2006

39

Until the County Board of Supervisors can explain why this is happening, I as a tax payer, ask that you direct staff to "Clarify All County regulations". Ordinances, regulations and codes should be written with technical certainty such that your staff can administer equitably. Only after the current and existing ordinances are clarified and examined as a whole interactive functioning (or not) system for effectiveness can you move forward and address the need for further ordinances to "reduce impacts on environmentally sensitive areas" and improve neighborhood compatibility.

EXAMPLE: Riparian Set Back Ordinance, requires a 100' set back from riparian corridors. It is not specified in the ordinance the method of determining where that set back line stops or starts. The plan checkers do not have an effective method to confirm if the set back line provided by the applicant is correct, or close to correct. The building inspectors are not equipped in the field to determine where that line is or if the builder has respected that line.

RESULT: Applicant/builder can state the location of the line on the application arbitrarily. Riparian corridor (read environmentally sensitive area) is violated. Neighbor discovers discrepancy by happenstance during adjacent property owners licensed survey, Riparian set back line was misrepresented by 35 feet. Violation is reported, nothing the County can do about it.. This is a true and current situation.there are others.

We already have ordinances on the books, even for coastal set backs, that address "neighborhood compatibility" issues. Environmentally sensitive areas are already protected. Current County Regulations lack clarity, technical definition and are not enforced!

Sincerely,

Gayle Topping
248 Ninth Avenue
Santa Cruz, CA 95062

436 Day Valley Road
Aptos, CA 95003
(831) 662-9288



STEPHEN GRAVES & ASSOCIATES

Environmental and Land Use Consulting

December 4, 2006

Board of Supervisors
County of Santa Cruz
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060

RE: DEC 5th -AGENDA ITEM - Update on Neighborhood Compatibility

Dear Supervisor,

We are writing this letter on behalf of the Sea Cliff Beach Association, a group of 29 property owners located on Las Olas Drive in Aptos. Our clients are extremely concerned over the implications that the proposed revisions to the definition of "Net Site Area" will have on the properties located on Las Olas Drive. We urge you to reconsider the definition, particularly as it is applied to beachfront parcels.

The revised definition describes net site area for coastal properties as excluding "the area from the top of a coastal bluff to the bayward property line..." While this definition may be sensible for properties located on the top of a coastal bluff, it does not adequately address properties at the base of a coastal bluff or on the beachfront. Beachfront homes along Las Olas Drive, Beach Drive and several other locations will suffer dramatic and negative impacts as a result of **this** new definition. Beachfront parcels will now have a net site area of zero. County staff has confirmed the interpretation that beachfront and base-of-bluff properties will have a net site area of zero if **this** definition is approved. How can the County process a Coastal Development permit of on a property that now is defined as having a net site area of zero?

Before you approve this revised definition, we urge you to seriously consider the ramifications of **this** revision on beachfront parcels. The majority of these affected properties are developed with residences that were legally permitted and most likely meet current zoning regulations and policies. If the revised definition is approved, these properties will now be rendered nonconforming and any future upgrading of these homes may be severely limited. In addition, there is no criteria or framework for staff, property owners, or decision-makers to evaluate future development proposals on parcels with no net area.

The Geologic Hazards Ordinance has an established process for beachfront properties applications. **This** includes a 100-year setback for any structure and other geologic and geotechnical considerations. We understand that the Board has requested that the Planning Department provide a report addressing development at the base of the bluff (i.e. "bunker houses"). Given the magnitude of the impact that this "definition" will have, it would seem to be more prudent to consider **this** in the context of an overall evaluation of the Geologic Hazards Ordinance, as it relates to beachfront and base of bluff properties.

2735 Porter Street
Soquel, CA 95073

Phone (031)465-0677 Fax (831) 465-0670

39

Page 2

Letter to the Board of Supervisors

Dated 12/4/06

Neighborhood Compatibility Agenda Item

Therefore, if you chose to move forward **with** the revised definition, we would urge you to specifically exclude beachfront parcels from the policy and establish separate criteria for beachfront parcels, at a later time. In addition, existing legally permitted beachfront residences should not be rendered non-conforming. An option would be to exclude areas seaward of the mean high tide line on beachfront net area calculations.

Thank you for your consideration. We look forward to working with you to find a fair **and** clear policy framework for addressing your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Graves", written in a cursive style.

Stephen P. Graves
Principal

Cc: Sea Cliff Beach Association

Sea Cliff Beach Association

P.O. Box 103 ♦ Aptos, CA 95001
831-423-7875

December 4, 2006

Board of Supervisors
County of Santa Cruz
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060

Dear Supervisor,

I am writing this letter as president of the Sea Cliff Beach Association. Our association is comprised of twenty-nine property owners who own beachfront homes along Las Olas Drive in Aptos. It has come to our attention that the revision to the definition of Net Site Area that has been proposed by Planning staff will have a significant, negative impact on properties on the bayward of a coastal bluff. It is our understanding that the definition will result in our parcels and residences becoming non-conforming. As you know, it is already extremely difficult to obtain permits for even modest additions and remodels on coastal beach properties. This definition is unfair, unclear, and will result in even more confusion and ammunition for projects to be denied.

Clearly, coastal bluffs and beachfront parcels should be treated differently. We should be afforded the same development rights as other properties in the County. Surely, the Board can find other means to ensure that future development of coastal parcels occurs in a manner that is compatible with existing neighborhoods that doesn't involve rendering beachfront properties non-conforming with NO net area? While it might make sense to eliminate bluff land which has fallen to the sea from the net area, our homes sit on flat land protected by a legally permitted seawall and contain areas that are not submerged or in public ownership. Why shouldn't we be able to use these areas to calculate "net area"?

We urge you to continue this item for further consideration. We take exception to the fact that no homeowners on Las Olas Drive were notified of this potentially catastrophic policy change. Clearly, every beachfront property owner is effected and should have been notified of this proposed change. We urge the Board to take a step back and reevaluate how beachfront parcels including those with existing development are treated. Please treat this issue carefully, and allow full public input by notifying all beachfront property owners before reconsidering this item. Thank you for considering our position and taking steps to ensure that a reasonable policy is ultimately adopted.

Sincerely,



Rick Bianchina
President Sea Cliff Beach Association

39



11/15/06

County of Santa Cruz
Board of Supervisors
701 Ocean Street,
Santa Cruz, CA. 95060

Regarding: December 5, 2006 Public Hearing
To consider changes to County Code Chapter 13.10.700-S

Dear Board of Supervisors:

I oppose agenda item c), the proposal to amend County Code 13.10.700-S, which will not allow some areas of land to be considered in a parcel area.

I trust that some proponents of this proposed code change sincerely hope that it will improve our neighborhoods. Although they may not realize it, I believe that this proposal is in response to a small, yet vocal group that would like to dictate what their neighbors can do with their property.

There is no objective benefit to the community if this proposed code change is approved. If approved, this proposed code change would simply force the subjective values of some onto everyone.

This proposal will take away property use and property value without improving the quality of our neighborhoods or community. There is no guarantee that forcing people to build smaller houses will create a better neighborhood, or result in a higher quality of design.

Also, I oppose this proposal because it seems unjust to take property use and value away. It will not be treat everyone equally and there is no compensation for those who lose property area and value.

I hope that you will not approve this proposal.

Thank you for your time and consideration!

Best regards,

Bert Lemke

Bert Lemke, Architect AIA

258 Farallon Court ■ Aptos, California 95003 ■ (831) 688-6642



November 20, 2006

Santa Cruz County Board of Supervisors
Attn: Supervisor Mark Stone
701 Ocean Street, Room 525
Santa Cruz, California 95060

Re: Public Hearing on Tuesday, December 5, 2006 to Consider Amendments to County Code Chapter 13.10

Dear Supervisor Stone:

The Santa Cruz Association of Realtors® (SCAOR) writes this letter in regards to the notice of public hearing on Tuesday, December 5, 2006. The purpose of this hearing is to consider proposed ordinance amendments to the County Code Chapter 13.10.

SCAOR respectfully requests that this public hearing be **postponed** for reasons detailed below.

Of particular concern to SCAOR is the proposal to amend County Code Section 13.10.323 (b), the Residential Site and Structural Dimensions Chart, to increase the maximum lot coverage from 30% to **40%** on residential lots that are 5,000 to 15,000 square feet in size.

SCAOK believes that any consideration of amendments to this ordinance should be delayed until:

- The parcels that would be affected by this ordinance are clearly identified;
- Adequate notice is provided to the public, particularly to those individuals who own parcels in the affected area; and
- The definitions used in the proposed amendments are made clear

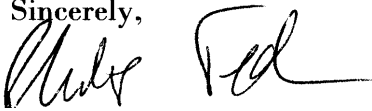
The Association would also ask the Board to address the need for an EIK or, in the alternative, issue a negative declaration prior to putting this issue on the agenda for further consideration.

SCAOR has worked with the Board of Supervisors on a number of land use issues in the past. As always, the Association is pleased to work collaboratively with the Board. However, in our view, these proposed amendments, which would significantly impact a number of homes in the County, are being considered without proper notice

issue to the public and affected landowners. In prior discussions, the most recent of which was October **24,2006**, **SCAOR** was informed that these amendments would not be brought before the Board for consideration until March of **2007**.

We thank the Board in advance for its consideration of our request for a postponement, until the concerns listed above are addressed. Should you have any further questions please feel free to contact me at **831.464.2000**.

Sincerely,

A handwritten signature in black ink, appearing to read "Philip Tedesco". The signature is fluid and cursive, with the first name "Philip" and last name "Tedesco" clearly distinguishable.

Philip Tedesco, **RCE, CAE**
Chief Executive Officer



ZINN GEOLOGY

3085 Carriker Lane, Suite B

Soquel, California 95073

Tel. 831.476.8443 Fax 831.476.1491

enzinn@cruzio.com

4 December 2006

County of Santa Cruz Board of Supervisors
701 Ocean Street, 5th Floor
Santa Cruz, CA 95060
Fax 831.454.3262

Re: 5 December 2006 Meeting
Agenda Item No. 39
Newly proposed definitions for "Net Site Area"

Dear Honorable Board Members:

I have just reviewed the revised proposed definitions for "Net Site Area" by the staff of the Planning Department. I have done so with a jaundiced eye from the perspective of a consulting engineering geologist. I am opposed to the current definitions for the following reasons:

1. Calculations of allowed house sizes will rely upon analysis of areal calculations of landscape features such as coastal bluffs. Defining the precise location of a coastal bluff will be difficult, particularly when using the poorly-scaled existing maps utilized by the County of Santa Cruz and California Coastal Commission. The location of coastal bluffs becomes even more difficult to ascertain when a property is near the intersection of a coastal bluff and a river bluff or the sides of an arroyo. If the current language involving analysis of coastal bluffs is adopted, future applicants may end up caught in a bureaucratic nightmare similar to that experienced by Lauren Greene and Glen Ceresa at 106 Farley Drive. It was extremely clear from that experience that using interpretive and transient boundaries, such as coastal bluffs, typically leads to confusion during the planning process, even when experts at landscape analysis, such as geologists, are consulted.
2. Even if a reliably accurate and precise map portraying the position of the top of the coastal bluff is generated *today*, the map and the line depicting the top of the coastal bluff will become outdated immediately, unless the entire bluff is armored from top to bottom. Coastal bluffs are transient features in a state of constant retreat and poor choices upon which to anchor planning calculations. Adoption of the current language will likely end up forcing applicants and the Planning Department to utilize geologists and surveyors for all development projects along the coastal bluff, which will add extra costs and processing time to permits.
3. Adoption of the current definition of NSA will probably serve to freeze improvements of existing houses located seaward of the coastal bluff. Prime examples of residences that might be negatively affected are the string of houses along Beach Drive and Las Olas Drive. Houses in

Terry Dorsey

From: Ellen Pirie
Sent: Monday, December 04, 2006 1:35 PM
To: Terry Dorsey
Subject: FW: Item 29 on agenda for Tuesday the 5th

-----Original Message-----

From: Witham, Bobby [mailto:bobby.witham@plantronics.com]
Sent: Monday, December 04, 2006 1:30 PM
To: Jan Beautz; Ellen Pirie; Mardi Wormhoudt; Tony Campos; Mark Stone
Subject: Item 29 on agenda for Tuesday the 5th

Dear Supervisor,

Please support the Planning Department's proposed amendments to the land ordinances (item 29 on Tuesday's agenda). I support all the changes including net site area changes. **As** a 15 year resident property owner in the Rio Del Mar coastal bluff area at 109 Farley Dr. I have seen the enormous changes to the surrounding neighborhoods by the building of unnecessarily large houses. The gross blocking of views of trees and sky obviously diminishes the quality of life for other property owners so developers, architects, & realtors can "maximize their investments". I have heard arguments against the proposals saying property owners would lose value in their properties but that would likely be limited to real estate professionals whose primary concern is "maximizing an investment" for profit rather than what the long term impact to an area or neighborhood is. Please do the right thing for the long term benefit of the neighborhoods and approve the Planning Departments proposed changes.



Bobby Witham
Facilities Supervisor
Ext. 831-458-7813
Cell 831-234-9231
Fax 831-458-7453

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39

12/4/2006

Dear Supervisor,

Please support **the** Planning Department's proposed amendments to the land ordinances (item 29 on Tuesday's agenda). I support all the changes including net site area changes. **As** a 15 year resident **property** owner in the Rio Del Mar coastal bluff area I have seen the enormous changes to the surrounding neighborhoods by the building of unnecessarily large houses. The gross blocking of views of trees and **sky** obviously diminishes the quality of life **for** other property **owners so** developers, architects, **& realtors** can "**maximize** their investments". I have heard arguments against the proposals **saying** property owners would **lose** value **in** their **properties** but that would **likely be limited** to **real estate** professionals **whose primary** concern **is** "maximizing an **investment**" **for** profit rather than what the long term impact to an **area** or neighborhood is. Please do the right thing for the long term benefit of the neighborhoods and approve the Planning Department's proposed changes.

Martha Latta
109 Farley Dr.
Aptos. CA 95003

39

Terry Dorsey

From: Ellen Pirie
Sent: Monday, December 04, 2006 12:40 PM
To: Terry Dorsey
Subject: FW: SCC Code 13.10.700-S

-----Original Message-----

From: Mike Mayon [mailto:mhmayon@yahoo.com]
Sent: Monday, December 04, 2006 9:40 AM
To: Ellen Pirie
Subject: SCC Code 13.10.700-S

re: Santa Cruz County Code Section 13.10.700-S

Dear Supervisor Pirie:

The proposed Section 13.10.323 amendments appear reasonable and responsible, as we need to bring the coastal development under controls that work for all parties. As a member of the Surfrider Foundation, a non profit organization dedicated to coastal preservation and clean water, I believe that controlled development of our coastline and bay is essential for coastal ecology as well as a vibrant Monterey Bay. However, the proposed change to the Section 13.10.700-S, "Site Area, Net", appears rather egregious from my prospective. I see no protection for the coastal residents that currently reside or own property along, on or below the coastal bluff to the bayward property line. If passed, this ordinance change could, effectively take away our ability to restore, rebuild or improve our property in the event of a natural disaster, fire or flood. This would render most properties, affected by the "Site Area, Net" change ruling, worthless over time. In essence, this is "free" eminent domain for Santa Cruz County. This is just plain wrong for the families who have lived and enjoyed the coast for generations. We must have the right to protect and rebuild our properties. I see nothing that addresses my/our concerns in this critical ordinance revision. This is a serious concern of hundreds of your La Selva Beach and surrounds constituents. We are counting on you to represent our best interests. As written you must vote NO on this ordinance change until it addresses all of the current residents and their properties in a fair and equitable manner. Please advise me if my understanding of this ordinance change is not accurate. Thank you for your time and consideration of this matter.

Regards,

Michael H. Mayon
300 Oceanview Drive #101
La Selva Beach, CA 95076
831 761-8459
650 642-5097 (mobile)

39

Terry Dorsey

From: Ellen Pirie
Sent: Monday, December 04, 2006 1:36 PM
To: Terry Dorsey
Subject: FW: Opposed to "Site Area, Net" amendment, Public Hearing, 12/5/06 Item #39

-----Original Message-----

From: Laura S [mailto:lmsantana59@msn.com]
Sent: Monday, December 04, 2006 12:51 PM
To: Jan Beautz; Ellen Pirie; Mardi Wormhoudt; Tony Campos; Mark Stone
Subject: Opposed to "Site Area, Net" amendment, Public Hearing, 12/5/06 Item #39

Dear Supervisor:

We are opposed to amending the "Site Area, Net" to exclude the area from the top of a coastal bluff to the bayward property line.

We are coastal property homeowners. We are concerned because this amendment does not solve the issue surrounding large bulking homes, but instead penalizes coastal property homeowners by making our houses non-conforming.

Many of our houses are built on the very areas that would be excluded from "Site Area, Net" or are already required to be set back from a bluff's edge. This amendment would result in all the homes along the beach in Rio Del Mar and many of the coastal bluff top homes throughout the County becoming non-conforming homes.

Please address the desires of neighbors who are concerned about large homes with an ordinance that is fair without penalizing the wrong homeowners.

Please provide some type of "grandfather" clause in your final amendment so that homeowners will be able to rebuild their existing home without a variance if it is damaged or destroyed.

Thank you.

Paul and Laura Santana
349 Coates Drive
Aptos, CA 95003
(831) 662-8875

39

12/4/2006

December 4, 2006
Board of Supervisors
Agenda date; December 5, 2007
Agenda Item: 39
Letter from Gayle Topping, 2 pages

Board of Supervisors:

Tom Burns states in his letter to the Board of Supervisors (BOS) dated November 14th, 2006 that the proposed ordinance changes before you today are in response to a directive from the BOS to "improve the clarity of a number of regulations" so that planners may "more closely review pending applications". The technical questions posed in the letters from Cove Britton and the AASCC are paramount to "clarifying" the terms of these proposed changes. These questions have not been addressed or answered. Historically, vague and undefined language in existing ordinances has led to ill-conceived designs, neighborhood misunderstandings and most likely are the root of the grievances that have led to this attempt at promoting "neighborhood compatibility".

I urge you to table the Net Site Area (NSA) amendment until staff has answered the already asked technical questions and has come up with a generalized plan to clarify ALL existing County regulations.

There are lawsuits pending that deal with houses built too tall, too close and outside of the parameters of the approved plans. There are more lawsuits on the way. There are projects approved, built and under construction that do not comply with existing ordinances. Building inspectors are not equipped to nor advised on how to monitor existing ordinances and in some cases building codes are not enforced. Similarly plan checkers and building officials are not appropriately educated or supervised in maintaining compliance with existing ordinances and other building regulations.

Until the County Board of Supervisors can explain why this is happening, I as a tax payer, ask that you direct staff to "Clarify All County regulations". Ordinances, regulations and codes should be written with technical certainty such that your staff can administer **equitably**. Only **after** the current and existing ordinances are clarified and examined as a whole interactive functioning (or not) system for effectiveness can you move forward and address the need for further ordinances to "reduce impacts on environmentally sensitive areas" and improve neighborhood compatibility.

EXAMPLE: Riparian Set Back Ordinance, requires a 100' set back from riparian corridors. It is not specified in the ordinance the method of determining where that set back line stops or starts. The plan checkers do not have an effective method to confirm if the set back line provided by the applicant is correct, or even

#39

-page 2- (Topping)

close to correct. The building inspectors are not equipped in the field to determine where that line is or if the builder has respected that line.

RESULT: Applicant/builder can state the location of the line on the application arbitrarily. Riparian corridor (read environmentally sensitive area) is violated. Neighbor discovers discrepancy by happenstance during adjacent property owners licensed survey, Riparian set back line was misrepresented by 35 feet. Violation is reported, nothing the County can do about it.... This is a true and current situation...there are others...

We already have ordinances on the books, even for coastal set backs, that address "neighborhood compatibility" issues. Environmentally sensitive areas are already protected. Current County Regulations lack clarity, technical definition and are not enforced! The vague nature of the existing regulations allows unscrupulous applicants to manipulate the system and create projects that are not "compatible" and overly challenging to the environment. The NSA amendment before you as item 39 on the December 5, 2006 agenda is one more undefined ordinance subject to manipulation and misuse. Please take it off the agenda until staff provides technical clarity to the Planning Process. We might just ~~see~~ find out we already have enough regulation to achieve the "compatibility" objectives.

Sincerely,

Gayle Topping
248 Ninth Avenue
Santa Cruz, CA 95062

436 Day Valley Road
Aptos, CA 95003
(831) 684-9288

COUNTY OF SANTA CRUZ
Inter-Office Correspondence

DATE: December 4, 2006
TO: Board Members
FROM: Supervisor Ellen Pirie *EP*
RE: ITEM 39

The attached materials were hand-delivered to me by some Rio del Mar residents on Monday, December 4, 2006, for inclusion in the Board packet.

EP:ted

3836A2

Coronado tallies show Prop. J, Ovrom ahead

Both races were so close they may be subject to re-

tain areas of the city. Proponents hope to stop property

to

per-

Santa Barbara limits home sizes

SANTA BARBARA — The City Council has voted unanimously in favor of proposed regulations limiting the size of remodeled homes on lots smaller than 15,000 square feet.

Tuesday's vote came after a five-hour meeting during which more than 50 residents spoke, mostly against the regulations.

The vote marks the latest chapter in the city's years-long effort to find a compromise on the issue of protecting property rights while attempting to preserve its architectural style.

City leaders are attempting to satisfy critics of new development, who say their neighborhoods are being overrun by mansions.

The new rules include floor-to-lot area ratios that would limit a home built on a 6,000-square-foot lot to an area of 2,700 square feet, including a garage.

Proponents argued that was enough to build a house with six bedrooms and four and a half bathrooms. Critics warned that may not be enough for families with children.

"I think it's going to make it really difficult for people to build a house that's going to suit their needs," said Michelle Giddens, president of the Citywide Homeowners Association.

S.C. Sentinel 8/11/06 Pg. A 4

45% FAR

B4

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The San Diego Union-Tribune • Saturday, November 25, 2006

► CORONADO

CONTINUED FROM PAGE B1

If lead holds, Prop. J backers headed to court

If the measure passes, it will become a city ordinance and go into effect 10 days after the official vote count is certified. The Registrar's Office may certify the vote by next week.

Story Vogel, who co-wrote the measure, said the three-vote gap would have been much larger if he could have gotten more information out to voters.

"Despite all the money they spent, we got enough people to win and that's the bottom line," Vogel said.

Assuming the vote holds until certified, Vogel said he and other Proposition J supporters

will be in court Dec. 5 for a scheduled hearing on a lawsuit filed by the city in August to remove the measure from the ballot or to delete parts it considers "illegal and unenforceable."

"I'm pretty confident the court will uphold the initiative," Vogel said. "I spent a lot of time doing the legal research and I think it will be OK."

In the council race, the top two vote-getters got the two open seats. Incumbent Casey Tanaka easily won another term. Ovrom and Fagan battled for second place.

Ovrom received 2,688 votes and Fagan received 2,677, the registrar reported. Councilman Frank Tierney lost his reelection bid.

Ovrom's lead was never very wide. After the initial count, 44 votes separated the two candidates. As absentee and provisional ballots were counted, Ovrom's lead dwindled to, at

one point, fewer than 10 votes.

County Registrar Mikel Haas said that after this week's count, he "wouldn't expect it to change" but added that the election is not yet certified. Anyone may request a recount but must pay for it.

Haas said no one in the registrar's office can remember any recounts in recent years changing the outcome of a race.

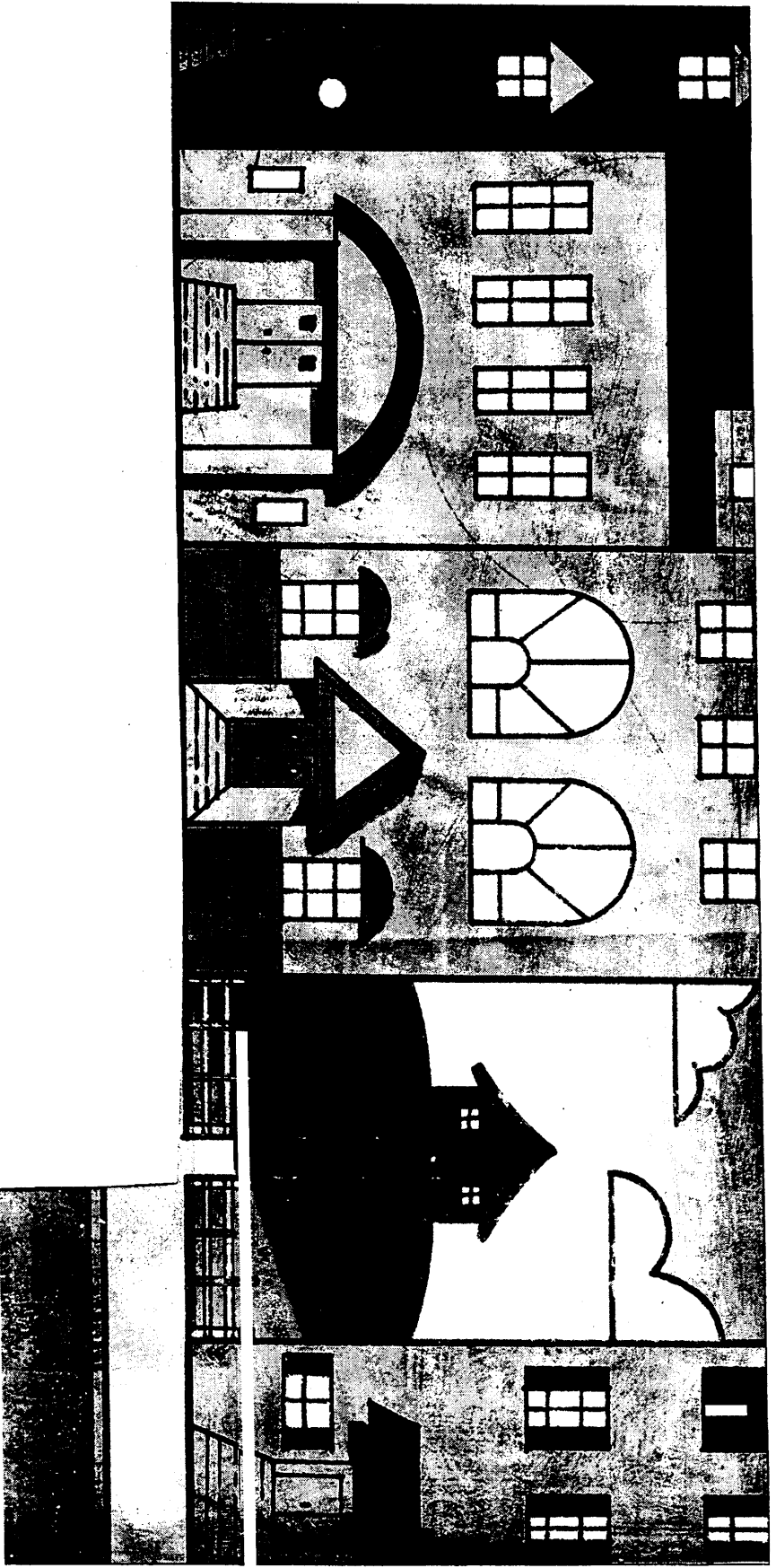
Though he couldn't be reached for comment yesterday, Dave Gillingham, who opposed Proposition J, has said if the loss was "by a handful of votes, we would probably ask for a recount and we are prepared to pay for it if we have to."

Ovrom and Fagan did not return calls for comment but have said previously they did not want to comment until the race was official.

Janine Zuniga: (619) 498-6636;
janine.zuniga@uniontrib.com

OPINION

LOS ANGELES TIMES *Friday*, Nov 24, 2006



PETER BENNETT For The Times

L.A. Times Friday, Nov. 24, 2006

By Edward Humes

OR THE LAST FEW WEEKS here in Seal Beach, you couldn't go to the supermarket for a carton of milk without being body-tackled by gaggles of angry citizens intent on defending their inalienable right to construct towering Tuscan villas on beach-shack-sized lots.

They'd wave clipboards in your face and flog a nearly a century, when Seal Beach was the petition to overrule the City Council, which last first Orange County beach community served month imposed a ban on 35-foot-tall, three- by the Red Car Line and featured a renowned story McMansions in the town's signature pier, dance pavilion, roller-coaster and 24-hour casino located next to its own airstrip.

Apparently the prospect of being All that glitz and gambling is long-gone now, forced by government fiat to settle for only replaced by Seal Beach's post-Prohibition five bedrooms and four baths nestled inside incarnation as a family-friendly community, but mere 25-foot-tall, two-story behemoths the argument is eternal: the desire, for bigger (where half-pint bungalows once stood with and better and doing as you please with your actual yards) was just too much to bear for property versus the longing of citizens to some property owners. Others, however, preserve their community's precious history fearing they'll wake up one day in the and character (as long as they get their own remon-

Titanic-sized shadow of new mansions that vatons approved first, of course). Similar bans and building limits are being block their ocean breezes, take a dim view of freedom, democracy and square-footage beyond. Anyone familiar with the transformation of Huntington Beach or the outside the local Pavilions.

And so one of Southern California's last unsullied gem that was Crystal Cove (I just authentic beach towns - a place mandatorily can't drive down that once-magical, now there are no parking meters on Main Street, without mourning) can tell you which side is and where Genie at the Old Town post office most often victorious in this battle.

magically appears with her regulars' Seal Beach is one of the last holdouts in packages without being asked - has a war this war, with the city's general plan making on its hands. Call it the War on Terra, as repeated and emphatic references to preserving in terra firme, the solid land on which we our small-town atmosphere. But it's a strange live - or to be more precise, the land on which and twisted war, waged by owners of multimillion-dollar properties who wish to we remodel.

This is an argument dating back

make

them worth millions more by building structures capable of inducing a solar eclipse pitted against other owners of multimillion-dollar properties next door and nearby who want their roses to continue to get sun and their property values to continue to bloom.

As with most such small-town conflicts, this one is rife with misinformation. The controversy began this summer when attorney Scott Levitt, the son of Councilman Michael Levitt, sought to build a three-story condominium that spanned two prime lots a block from the beach. When he went before the city planning commission for approval, a number of residents took that occasion to decry the mansionization of Seal Beach and to call for the three-story ban in Old Town, to avoid creating, in Charwoman Elley Deaton's words, "a cookie cutter, Truman Show-style town."

Perhaps someone should have thought of this 32 years ago - which is when the city began allowing similar three-story construction and the even more pernicious practice of allowing mega-homes to be erected that occupy nearly every square inch of Old Town's 25-foot-wide lots. The only reason Levitt needed planning commission approval at all was because he wanted a condo permit; everything else about his project was within regulations, including the height and the number of stories.

Dozens of similar three-story buildings in the Old Town have been rubberstamped over the years with little notice or controversy, but the hearing on the condo permit seems to have finally galvanized the city's attention. Levitt ended up dropping the condo application from his project and called it a duplex instead, then broke ground on exactly the same building.

But by then, neighborhood buzz about a local boy erecting his self-de-

scribed "dream house" (with rental units attached) had morphed into a tale of rapacious out-of-town developers strangling Seal Beach's quaintness. The fear is now palpable, if belated, that the town might go the way of coastal Huntington Beach, where the view from PCH might best be described as Vista del Condo. Still, better late than

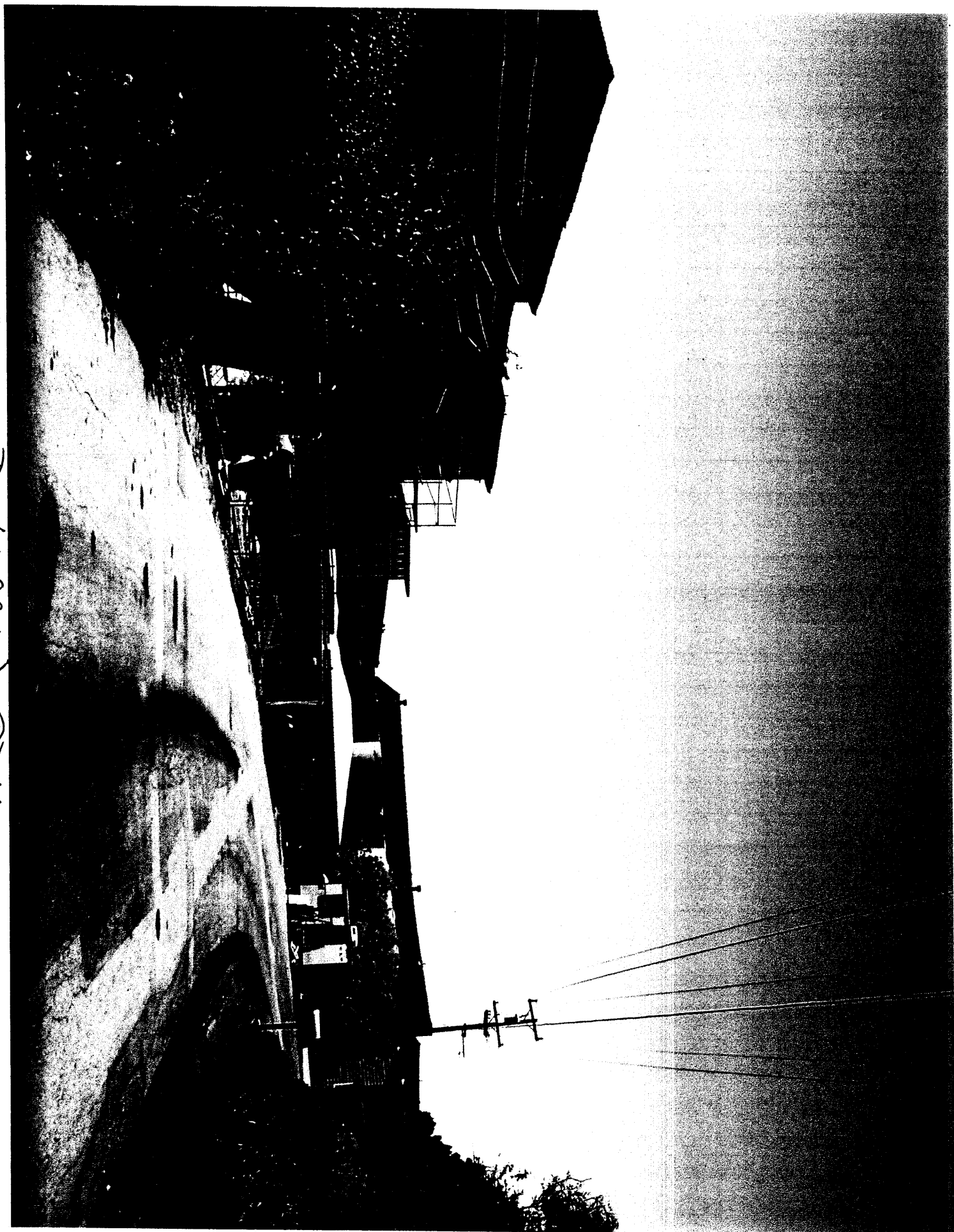
The City Council's normally glacial pace for dealing with such concerns was uncharacteristically accelerated by Proposition 90, the initiative on the Nov. 7 ballot that would have held cities liable for any new regulations that might lower property values - a nightmare proposal that Californians wisely rejected. But fear of its passage led the council to meet on a Sunday before the election to adopt the three-story ban on future construction.

Enter the petitioners, who have gathered enough signatures (assuming they are verified) to put the of the ban on the ballot in the next city election. And there the issue stands, with the ban in place (effective next spring), even as the construction crews work on Levitt's three-story "duplex."

When I declined to sign the petition earlier this month, the signature-gatherers seemed scandalized by my attitude. But my position in support of the ban is simple. There are plenty of coastal communities with massive new homes that rise high above the streets, with their faux columns and four-car garages - go live there if that's your thing. But there is only one Seal Beach, and preserving its charm, its way of life, its "quaintness" is the right thing to do. I'd like to put that on the ballot too.

EDWARD HUMES is a Pulitzer Prize-winning journalist and author, most recently of "Over Here: How the GI Bill Transformed the American Dream."

Seaview Dr. (bluff-top) RDM



Rio Del Mar bluffs below Seaview Dr. (8,000 sq. ft. house on top)



Rio Del Mar bluffs below Bay View Dr.



Rio Del Mar bluffs below BayView Dr.



December 4, 2006

To The Board of Supervisors

Re: Proposed Affordable Housing in Felton Faire area

Please include in Board packet for Tuesday, December 5, 2005

Dear Supervisors:

I am writing you in response to the proposed Felton Faire development in Felton by South County Housing. I have never written a letter to representatives before, but after attending the forum at the Felton Community Hall I must express that I am passionately opposed to this proposal. I am disturbed at how dismissive South Valley Housing is to their own statements saying that they would not pursue this development if it did not have community support. It does not have much community support at all. The large number of signed petitions will support this statement. Now they are reneging on that position and proceeding full steam ahead even though this does not have community support. I question the integrity of SCH and any entity that aligns itself behind this proposal. Please do not support this development, as it is harmful to your constituency. My concerns are also the negative effect on the ecology that this will have - not just for Felton but the surrounding area. I sincerely hope that you will help to protect the area by acting to keep this "development" from being authorized. I use the word development in quotes because the land is already developed as a healthy ecosystem. Putting edifices and population demands on this land might develop it for builders but not necessarily maintain it for the health of humans in the immediate and surrounding areas. Simply put it is a poor place for a development especially considering the watershed issue. I have read many published letters that state several valid points with supporting data in a much more eloquent manner than I can express. Areas this small and rustic cannot and should not support this kind of expansion. Merely building more access roads is not the point either - this is a rural area and it must be protected.

Some have created a smokescreen stating that CORE does not want affordable housing in the area because of economic prejudice, I don't believe that to be the issue at all. The issue here is preserving a healthy environment for present and future generations. Please help to maintain Felton and the San Lorenzo Valley as rural, healthy areas for all its inhabitants human and otherwise. Please support the integrity of the valley and help keep the development from being built.

I greatly appreciate your consideration of this letter.

Very truly yours,


Sheryl Grover

39

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, December 04, 2006 4:00 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Richard Irish, PE

Email : richard@riengineering.com

Address : RI Engineering, Inc.
303 Potrero Street, Suite 42-202
Santa Cruz, CA 95060

Phone : 831.425.3901

Comments :

I am writing in opposition to the proposed amendments to the above noted ordinance. In particular the provision that would exclude properties between the coastal bluff to the bayward property line from being considered as developable properties. This amendment would create non-conforming lots for many existing properties that are located along the base of the coastal bluffs. The amendment will add a further layer of planning process (the need to obtain variances for any improvements), for owners attempting to improve their properties in these areas. Most of the subject properties were built prior to the most recent FEMA and California State Building Code requirements that require consideration beach erosion for the design of structure foundations. Adoption of this amendment as written will create a situation where owners of existing homes that do not meet current building code standards will be discouraged from making improvements that could bring them into conformance with the most current building codes.

Richard Irish, PE

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, December 04, 2006 2:48 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 121512006

Item Number : 39

Name : William J. Comfort III

Email : billcomfort@worldnet.att.net

Address : 674 Bay View Drive
Aptos, CA

Phone : 831.688.3982

Comments :

TO: County Board of Supervisors
FROM: William J. Comfort III
SUBJECT: Item 39 on the December 5 2006 Agenda

Dear Supervisors,

I encourage your support of the work of the Planning Department, Agenda Item 39. I believe that the Planning Department has been diligent and thoughtful in its actions and that the changes are sorely needed.

When we bought our house in 1987, the neighborhood contained many single story homes and sunlit streets. The change over the last 10 years has been dramatic-particularly near the bluffs. Gargantuan trophy **houses** have made some of our streets sunless canyons. This **is** not a neighborhood value.

While I support the individual to develop his/her property, I also expect that they will keep development in character with the neighborhood and if they don't, that County government will protect us and our neighborhood. Many of the trophy houses being built would be fine on a three-acre parcel but they are gross on small lots that are in close proximity to our fragile bluffs.

Sincerely,

Bill Comfort

12/4/2006

39

David Reetz

From: liveoakneighbors@yahoogroups.com on behalf of pleasure-point-l@yahoo.com
Sent: Saturday, December 02, 2006 3:00 PM
To: liveoakneighbors@yahoogroups.com
Subject: [liveoakneighbors]in support of

As I have appealed a number of developments to the Coastal Commission on the issue of Neighborhood Compatibility, I am glad we are trying to address this issue.

Their is supposed to be design based on adjacent Scale, Bulk and Style.

The overlarge houses overpower the not so big houses.

This is because one aspect of the permit process is the amount of house size related to lot size.

As we see, most of the lot is covered in this equation.

The charming coastal, garden cottages, leave space for sun and nature. The lot filling new houses do not.

I have promoted that Coastal Live Oak, from the Harbor to the Hook, be considered a special area with protection of its special quality.

I hope we continue to articulate what makes this area so appealing to those who value it.

Their are many areas that have lost their charm.

Some want to change oour character and say we are living in dilapidated hovels that need to be torn down, sent to the landfill and then replaced with the overbuilt structures.

Other value what we have. Like an antique that is cherished by the family. Cleaned, nurtured and protected. Irreplaceable.

I am of this latter persuasion and hope we can save a place for those who value living in nature in small, sun filled coastal garden cottages.

With this perspective, I wrote in support of agenda item 39, 12/5/06 "Site Area, Net".

As follows

"I am writing in support of agenda item 39, 12/5/06 "Site Area, Net"

In support of not counting undevelopable property in calculating lot coverage.

Not doing so leads to bulky buildings, that are out of scale for their surroundings, and lead to disharmony in the neighborhoods.

I agree with those who say that too many homes are being built that are not in character with the community.

I agree with the opponents of this proposal, in that if we built in scale, bulk and style of the surrounding development, we would not see this issue before the board today.

I see the problem as one of Architects not respecting the community and trying to maximize development at the expense of the community.

These overzealous developments take value away from the community by reducing its desirability to the residents.

This type of overbuilding has destroyed many small coastal communities.

Please save the precious few that remain.

These communities of not too big houses are very desirable and add value that needs to be preserved. Overbuilt and out of character structures can be developed in the other areas that have lost their charm, because no one would protect them from these obvious affronts to the existing character.

I agree that this would not be an issue if the Planning Department were given greater support in protecting our communities. Unfortunately, when this came before your Board, even a "sore thumb" was approved, with slight tweaking.

I also think that Architect's material pointed to the fact that the tidal land belongs to the State and is held in trust for the people.

When seawalls are built to prevent the expansion of the tidal lands, as the land erodes, it is a taking from the people.

When the beach is lost underwater from sea level rising, it prevents lateral access.

I propose that any seawalls that are permitted, in defiance of best ecological practice, be mitigated, by building an esplanade in front.

These walkways would eventually provide public access along the coast, from Natural Bridges to New Brighton State Parks, and add an important link to the Coastal Trail.

This pathway would be accessible to and from the Sea, allowing access to the Monterey Bay National Marine Sanctuary.

Please pass this item and give greater support to the Planning department when it seeks to enforce protection of community character."

Thank you
Charles

Any questions? Get answers on any topic at www.Answers.yahoo.com. Try it now.

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(Yahoo! ID required)
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David Reetz

From: Gary Filizetti[gfilizetti@devcon-const.com]
Sent: Monday, December 04, 2006 9:00AM
To: Jan Beautz
Subject: Board of Supervisors Meeting

Jan, In regard to the Board of Supervisors meeting to be held tomorrow, 12/5/06, I would like to voice my opinion on Agenda item #39.

I am against the front yard averaging on residential lots.

Gary Filizetti
103 24th Avenue
Santa Cruz, CA
408-942-8200

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, December 04, 2006 4:36 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Tom and Rita Barber

Email : ritabarber@sprynet.com

Address : Not Supplied

Phone : 831.685.0225

Comments :

This email was originally sent on 9/25/06, but has since been misplaced. It reads as follows:
This letter is in support of Item #24, policy revisions to address Neighborhood Compatibility. It's long overdue.

Thank you,

Tom and Rita Barber

PLEASE NOTE: For 12/05/2006 meeting, this is regarding Item #39.

Thank you



December 4, 2006

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: Item 39 December 5th Agenda "Net Site Area" definition

Dear Members of the Board:

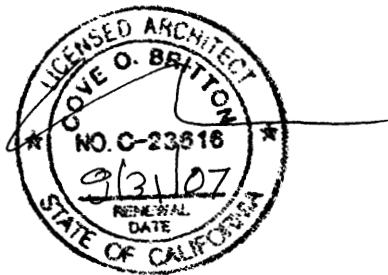
Please find enclosed documents for the record:

1. Letter from Morgan Miller and Blair.
2. Copy of CEQA Statutory Exemption Guidelines 15625 please note that Statutory Exemption 15625 does not apply as this a proposed ordinance at this time.

Thank you for the Board's Consideration.

Sincerely ,

Cove Britton
Architect



728 NORTH
BRANCIFORTE
SANTA CRUZ
CA 95062
877-877-3797

#39



1331 NORTH CALIFORNIA BOULEVARD, SUITE 200 WALNUT CREEK, CALIFORNIA 94596-4544
925.937.3600 925.943.1106 FAX w.mmlaw.com

BRYAN W. WENTER
(925) 979-3315
bwenter@mmlaw.com

December 4, 2006

VIA FACSIMILE

Christopher R. Cheleden
Assistant County Counsel
County of Santa Cruz
701 Ocean St #505
Santa Cruz, CA 95060

Re: Santa Cruz County Board of Supervisors
Public Hearing on December 5 to Consider Proposed
Amendments to County Code Chapter 13.10

Dear Mr. Cheleden:

The purpose of this letter is to ask for clarification on the County's determination that the proposed amendments to various sections of the County's Code regarding neighborhood compatibility are exempt from review under the California Environmental Quality Act (CEQA). Based upon our review of the proposed amendments, it is not clear that they are eligible for a Class 8 categorical exemption from CEQA.

On November 8, 2006, the County Planning Commission adopted a resolution recommending approval of the above-referenced item to the Board of Supervisors. Generally speaking, the proposed amendments would make three changes to the County's land use regulations: 1) revise the definition of "net site area" for residential properties; 2) increase the maximum lot coverage allowed on lots of 5,000 to 15,000 square feet from 30 percent to 40 percent; and 3) amend the site regulations to allow front yard averaging. The Planning Department reviewed the proposed amendments and determined that they are exempt from CEQA. The Board is now scheduled to consider the item at its regularly scheduled public hearing on December 5, 2006.

CEQA provides categorical exemptions for classes of projects that generally are considered not to have potential impacts on the environment. The County has determined that the proposed amendments are eligible for a Class 8 categorical exemption, which exempts

certain actions by regulatory agencies for the protection of the environment. In particular, Class 8 consists of the following:

actions taken by regulatory agencies, **as** authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities and relaxation of standards allowing environmental degradation are not included in this exemption.

CEQA Guidelines Section 15308.

In its Notice of Exemption, the County determined that "[t]he proposed amendments will reduce developments impacts on environmentally sensitive areas." However, the Planning Commission's staff report indicates that the purpose of the County's decision to pursue the proposed amendments is "related **to** the issue of compatibility of new home design with the surrounding neighborhood." We believe this purpose, on its face, does **not** qualify for a Class 8 exemption.

Although CEQA authorizes categorical exemptions, the exemptions are subject to several exceptions, including activities that may have a significant effect on the environment. CEQA Guidelines Section 15300.2(c) provides that "[a] categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

We are concerned that the proposed changes will have a significant environmental impact since the affect of the changes will result in reduced area for development which may be inconsistent with development contemplated under the General Plan. This displacement of development may cause development to occur in other areas that were not contemplated for development in the General Plan and further, may push development outside **the** County which may as a consequence result in adverse physical impacts on agricultural resources, biology, transportation and noise.

In order to **begin** to understand how the proposed changes may or may not result in environmental impacts, it is important to understand what lands will be affected by the changes. Even if it **is** difficult to identify each parcel that may be affected, at a minimum "areas" should be identified so it can be determined if these lands were identified for possible development in the General Plan. **Also**, this type of information is critical in determining how much potential development may be displaced in the County as a result of the proposed changes. Once this information is generated, the direct and indirect environmental impacts of the proposed changes can be analyzed.

CEQA

The California Environmental Quality Act

Title 14. California Code of Regulations
Chapter 3. Guidelines for Implementation of the
California Environmental Quality Act

Article 18. Statutory Exemptions

Sections 15260 to 15285

15260. General

This article describes the exemptions from CEQA granted by the Legislature. The exemptions take several forms. Some exemptions are complete exemptions from CEQA. Other exemptions apply to only part of the requirements of CEQA, and still other exemptions apply only to the timing of CEQA compliance.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080(b), Public Resources Code.

Discussion: This section serves as an introduction to this article on statutory exemptions. The section notes that the exemptions take basically three forms, being either complete exemptions, partial exemptions, or special timing requirements.

The court in *Western Municipal Water District of Riverside County v. Superior Court of San Bernardino County* (1986) 187 Cal. App. 3d 1104, pointed out that "the self-evident purpose of a [statutory] exemption is to provide an escape from the EIR requirement despite a project's clear, significant impact." This is in contrast to categorical exemptions which are disallowed if the project would otherwise have an environmental impact.

By way of example, the Supreme Court held in *Napa Valley Wine Train, Inc. v. Public Utilities Commission* (1990) 50 Cal 3d 370, that CEQA is a legislative act subject to legislative limitations and legislative amendment. Through that premise, the court held that statutory exemptions were enacted to avoid the environmental review process for an entire class of projects. In the specific case, an excursion train proposed for operation within an existing railroad right-of-way fell within the exemption language in Public Resources Code Section 21080(b)(11), even though the use might have potential environmental consequences. Subsequent legislation enacted Public Resources Code Section 21080.04 making the wine train project subject to CEQA.

15261. Ongoing Project

(a) If a project being carried out by a public agency was approved prior to November 23, 1970, the project shall be exempt from CEQA unless either of the following conditions exist:

(1) A substantial portion of public funds allocated for the project have not been spent, and it is still feasible to modify the project to mitigate potentially adverse environmental effects, or to choose feasible alternatives to the project, including the alternative of "no project" or halting the project; provided that a project subject to the National Environmental Policy Act (NEPA) shall be exempt from CEQA as an on-going project if, under regulations promulgated under NEPA, the project would be too far advanced as of January 1, 1970, to require preparation of an EIS.

(2) A public agency proposes to modify the project in such a way that the project might have a new significant effect on the environment.

(b) A private project shall be exempt from CEQA if the project received approval of a lease, license, certificate, permit, or other entitlement for use from a public agency prior to April 5, 1973, subject to the following provisions:

(1) CEQA does not prohibit a public agency from considering environmental factors in connection with the approval or disapproval of a project, or from imposing reasonable fees on the appropriate private person or entity for preparing an environmental report under authority other than CEQA. Local agencies may require environmental reports for projects covered by this paragraph pursuant to local ordinances during this interim period.

(2) Where a project was approved prior to December 5, 1972, and prior to that date the project was legally challenged for noncompliance with CEQA, the project shall be bound by special rules set forth in Section 21170 of CEQA.

(3) Where a private project has been granted a discretionary governmental approval for part of the project before April 5, 1973, and another or additional discretionary governmental approvals after April 5, 1973, the project shall be subject to CEQA only if the approval or approvals after April 5, 1973, involve a greater degree of responsibility or control over the project as a whole than did the approval or approvals prior to that date.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21169, 21170, and 21171, Public Resources Code; County of Inyo v. Yorty, 32 Cal. App. 3d 795.

Discussion: While not specifically mentioned among the statutory exemptions contained in CEQA, the ongoing project exemption is a result of the prospective application of statutes when they are enacted. Accordingly, CEQA clearly applies to governmental projects approved after November 23, 1970, the effective date of CEQA. This section seeks to codify case law interpreting the application of CEQA to projects which were in process at the time of CEQA's effective date but not yet finally approved or still capable of being changed to avoid environmental damage. This section is also complicated by the special rules that apply to private projects approved after the *Friends of Mammoth* decision in 1972 and before April 5, 1973, the end of the statutory moratorium on the application of CEQA to private projects. The special rules are included here with some administrative interpretation in the interest of completeness of the ongoing project exception.

15262. Feasibility and Planning Studies

A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21102 and 21150, Public Resources Code.

Discussion: This section provides an interpretation of the exception in CEQA for feasibility and planning studies. This section provides an interpretation holding clearly that feasibility and planning studies are exempt from the requirements to prepare EIRs or Negative Declarations. These studies must still include consideration of environmental factors. This interpretation is consistent with the intent of the Legislature as reflected in Sections 21102 and 21150. The section also adds a necessary limitation on this exemption to show that if the adoption of a plan will have a legally binding effect on later activities, the adoption will be subject to CEQA. This clarification is necessary to avoid a conflict with Section 15378(a)(1) that the adoption of a local general plan is a project subject to CEQA.

15263. Discharge Requirements

The State Water Resources Control Board and the regional boards are exempt from the requirement to prepare an EIR or a Negative Declaration prior to the adoption of waste discharge requirements, except requirements for new sources as defined in the Federal Water Pollution Control Act or in other acts which amend or supplement the Federal Water Pollution Control Act. The term "waste discharge requirements" as used in this section is the equivalent of the term "permits" as used in the Federal Water Pollution Control Act.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 13389, Water Code.

Discussion: This section identifies and interprets the exemption for waste discharge requirements from existing sources under the Federal Water Pollution Control Act. This exemption is contained in

the Water Code and would not be readily discovered by anybody reviewing CEQA. This Guideline section specifies that this partial exemption applies only to the preparation of EIRs and Negative Declarations. This is not a total exemption in CEQA. This section is included in the interest of completeness of this article and as part of the effort to bring together in one place the many different exemptions which are scattered throughout the codes.

15264. Timberland Preserves

Local agencies are exempt from the requirement to prepare an EIR or Negative Declaration on the adoption of timberland preserve zones under Government Code Sections 51100 et seq. (Gov. Code, Sec. 51119).

Note: Authority cited: Section 21083, Public Resources Code; Reference: Government Code Section 51119, Government Code.

Discussion: This exemption is also a partial exemption applying only to the requirement to prepare an EIR or Negative Declaration. This section repeats the exemption found in Section 51119 of the Government Code. The exemption located there would be difficult for people to find when they are reviewing the CEQA statute and trying to determine its application to the activity.

15265. Adoption of Coastal Plans and Programs

(a) CEQA does not apply to activities and approvals pursuant to the California Coastal Act (commencing with Section 30000 of the Public Resources Code) by:

(1) Any local government, as defined in Section 30109 of the Public Resources Code, necessary for the preparation and adoption of a local coastal program, or

(2) Any state university or college, as defined in Section 30119, as necessary for the preparation and adoption of a long-range land use development plan.

(b) CEQA shall apply to the certification of a local coastal program or long-range land use development plan by the California Coastal Commission.

(c) This section shifts the burden of CEQA compliance from the local agency or the state university or college to the California Coastal Commission. The Coastal Commission's program of certifying local coastal programs and long-range land use development plans has been certified under Section 21080.5, Public Resources Code. See: Section 15192.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Sections 21080.9, Public Resources Code.

Discussion: This section identifies and explains the exemption which applies to the certification of coastal plans and programs. The section shows that the exemption amounts to a shift in responsibility from local governments and the state university and college system to the California Coastal Commission. The section also notes that the process used by the Coastal Commission in approving the local coastal programs or the long-range land use development plans by the state university or colleges has been certified as a "functional equivalent" program so that the Coastal Commission can use a short form of CEQA compliance. This section is necessary to explain how CEQA applies to local coastal programs and long-range land use development plans.

15266. General Plan Time Extension

CEQA shall not apply to the granting of an extension of time by the Office of Planning and Research to a city or county for the preparation and adoption of one or more elements of a city or county general plan.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21080.10(a), Public Resources Code.

Discussion: This section is necessary to make it clear that CEQA does not apply at all to the actions of

CBD BOSMAIL

From: CBD BOSMAIL
Sent: Monday, December 04, 2006 8:03 PM
To: CBD BOSMAIL
Subject: Agenda Comments

Meeting Date : 12/5/2006

Item Number : 39

Name : Rose Marie McNair

Email : realrose@norcalbroker.com

Address : Not Supplied

Phone : 831 476 2102

Comments :
December 4, 2006

Honorable Supervisors:

For months on end, the County has been attempting changes to deal with "Neighborhood Compatibility" issues. Unfortunately, encapsulating all of the issues regarding the obtaining of permits to build NEW or remodel EXISTING structures creates a huge number of non-conforming structures and further eliminates some coastal properties from the right to build--all due to regulatory happenstance!

It is my firm belief that the very folks who signed petitions favoring these ordinance changes really do not clearly understand the ramifications of these changes. I believe that if asked, they will say that they just want the building of LARGE homes eliminated. This may very well do that, but it will also stop the needed remodeling and upgrades of existing older homes which become NONCONFORMING. Just getting a "variance" will become the ORDER OF THE DAY--because so many existing structures will be affected. Huge blocks of neighborhoods may be subject to a procedurally non-viable variance process!

Meanwhile, coming up with definitions of net site area without careful thought, will lead to problems later. If these ordinances are not crystal clear, there will be confusion and chaos all around. The lay person does not understand, nor comprehend the technical calculations of bluffs, arroyos, high and low tide lines--we need the professional understanding of architects, geologists and engineers to analyze these issues.

Meanwhile, staff has decide to defer parts of the neighborhood compatibility and design review revisions until the spring--and I really thought they were going to deal with net site area at that time as well! I direct your attention to the the very words in the last paragraph of the staff report: "Deferring those parts of the neighborhood compatibility ordinance revisions...will give staff the additional time needed to bring informed recommendations to your Board".

PLEASE POSTPONE these changes until they are clearly understood by the staff, the public and the Supervisors.

PLEASE INFORM AND NOTIFY the owners of the properties affected.

12/5/2006

PLEASE TAKE THE ADDITIONAL TIME to CLARIFY THE DEFINITIONS.

Thank you for the opportunity to comment on these very important issues.

Rose Marie McNair, Broker/REALTOR(R)
(831) **476-2102**