
PLANNING DEPARTMENT



C O U N T Y O F S A N T A C R U Z

GOVERNMENTAL CENTER

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August 3, 1998

AGENDA: August 25, 1998

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: JURISDICTIONAL HEARING TO CONSIDER THE PLANNING COMMISSION'S DECISION TO APPROVE COASTAL ZONE PERMIT #97-0622, PROPOSAL TO DEMOLISH AN EXISTING GARAGE AND TO CONSTRUCT A TWO-STORY, SINGLE FAMILY DWELLING WITH A GARAGE BELOW CONSTITUTING A THREE-STORY DWELLING ON PROPERTY LOCATED AT 413 BEACH DRIVE, APTOS.

Members of the Board:

On June 24, 1998, the Planning Commission held a public hearing to consider an appeal of a Coastal Zone Permit approved by the Deputy Zoning Administrator on May 1, 1998. The Commission's determination, which is described below, was appealed to your Board by Douglas Marshall, attorney for Jim and Judy Craik of 415 Beach Drive, on July 2, 1998 (see Attachment 1). The matter is now before your Board to consider whether or not to take jurisdiction of the appeal pursuant to Section 18.10.340 of the County Code.

BACKGROUND

On August 29, 1997 Norma Odenweller applied for a Coastal Zone Permit to demolish an existing garage and to construct a two-story, 2,252 square foot single-family dwelling with a garage below, constituting a three story dwelling. In order to construct the residence, the project requires a variance to reduce the required minimum 20 foot front setback to about 16 feet to the dwelling and 8 feet to the edge of the first floor cantilevered deck, to increase the maximum 28-foot height limitation to about 32 feet, and to allow the parking area to exceed a maximum of 50 percent of the required front yard. Coastal Zone Permit #97-0622 was approved by the Zoning Administrator on May 1, 1998. The project is categorically exempt from CEQA under Section 1803(a). The proposed project is located on a 5,794 square foot lot with a 35 foot wide frontage and approximately 165 foot depth of parcel. The lot is adjacent to Rio del Mar Beach, separated from the ocean by Beach Drive, and is mapped as lying within the storm wave

runup zone of the Pacific Ocean. The rear of the lot rises to about 110 feet above sea level with an 80 percent gradient behind the proposed home-site.

The project site lies within the appealable area of the Coastal Zone. The property is designated as Urban Low Residential in the County General Plan, and is consistent with low density residential development within the Urban Services Line having a full range of urban services. The implementing zoning is Single-family Residential with an 8,000 square foot minimum parcel size (R-1-8). The project involves construction of a 3 story, 32 foot high single-family dwelling of 2,252 square feet. The lower level would consist of a one-car garage and stairway. Federal Emergency Management Administration regulations and Chapter 16.10 of the County Code prohibit any habitable features on this lower level. The first habitable level has a living room, dining room, half bath and kitchen area of 1,025 square feet with a front yard deck of 170 square feet which is cantilevered to within 8 feet from the front property line setback. The second habitable level consists of 3 bedrooms and 2 bathrooms and is 1,123 square feet in area with an exterior deck of 175 square feet, set back about 13 feet from the front property line. The project also involves the construction of a 12 foot high rear and side yard retaining wall, engineered to retain potential slope failure from above.

The proposed project complies with required development regulations pertaining to lot coverage and floor area ratio requirements, on-site parking, and side and rear setbacks. The project would encroach into the required 20 foot front setback by 4 feet and would exceed the maximum 28 foot height by about 4 feet. The proposed retaining wall would exceed the maximum 6 foot height to comply with the engineered design of 12 foot height required to contain potential slides.

JURISDICTIONAL CRITERIA

County Code Section 18.10.330 specifies that the Board may take jurisdiction of an appeal if it finds that any of the following criteria are met:

- 1 . That there was an error or abuse of discretion on the part of the Planning Commission;
2. That there was a lack of a fair and impartial hearing;
3. That the decision appealed from is not supported by the facts presented and considered at the time of the Commission's decision;
4. That significant new evidence relevant to the decision has been presented; or
5. That there is either error, abuse of discretion, or some other factor which renders the Commission's decision unjustified or inappropriate to the extent that a further hearing before the Board is necessary.

The jurisdictional process places the burden of proof on the appellant to convince your Board to take jurisdiction by demonstrating that one or more of the jurisdictional criteria have been met. As your Board is aware, the criteria are narrow in scope. Our report and analysis is necessarily limited to the appellant's letter. Your Board should consider this material, plus any testimony given by the appellants at the jurisdictional hearing in reaching your decision.

ANALYSIS AND DISCUSSION OF APPEAL ISSUES

The letter of appeal sets forth specific reasons that the appellants believe constitute grounds for your Board taking jurisdiction of this matter. In general, the appellants contend that there was an error or abuse of discretion and an absence of supporting evidence at both the Zoning Administrator and Planning Commission levels (see Attachment 1).

1. **Geotechnical Issue:** Prior to scheduling the proposed project before the Zoning Administrator, the County Geologist reviewed and accepted the Engineering Geology Report dated June 1997 and October 3, 1997 by Foxx, Nielsen and Associates and the Geotechnical Engineering Reports by Haro, Kasunich and Associates dated June 1997 and October 10, 1997 for the project. Due to concern over the potential use of the rear yard, the Zoning Administrator continued the April 17, 1998 hearing to May 1, 1998 in order that an update be prepared by the project engineering geologist. The letter from Hans Nielsen dated April 20, 1998 specifically states that the rear yard is to be kept free of decks and should not be used for a recreational area. The rear yard is reserved for storage of landslide debris and the open space is needed to allow a landslide to flow through the underfloor of the residence. The County geologist, and both the engineering geologist and geotechnical engineer were present at the Planning Commission hearing of June 24, 1998 to satisfy questions leading to recommendation of approval for the project.

2. **Variance Issue:** A variance is recommended in order that this property may obtain a level of use consistent with other properties in the immediate vicinity. The special circumstances applicable to this property to warrant the granting of a variance include the narrow 35 foot width of the property, the location below an eroding coastal bluff to the rear of the lot, and location in a coastal wave run-up and/or flooding zone which requires elevation of any new structure above 23 feet mean sea level at the front of the lot which together serve to limit the area for development. The variance would provide a remedy for the proposed infill development of a single-family residence consistent with the existing surrounding residential development. Other variances have been granted in the immediate vicinity.

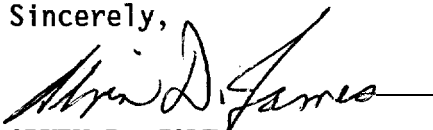
3. **General Plan Issues:** The project has been designed to comply with General Plan policies relating to Flood Hazards (Chapter 6.4) and Slope Stability (Chapter 6.2). Although the proposed project includes three levels for the single-family residence, the lower level is considered to be an under-floor, used to elevate the residence above the FEMA requirements for flood-proofing new construction, and with no habitable features other than an access stairway, the project is consistent with the two-story limitation specified in policy 8.6.3 of the General Plan.

CONCLUSION AND RECOMMENDATION

Both the Planning Commission and Zoning Administrator considered all relevant comments and ordinances and based the recommendation for project approval of this coastal zone permit on findings and conditions of the staff report. The decision to approve the project is justified and supported by the facts presented for consideration and found in the administrative record.

It is therefore **RECOMMENDED** that your Board not take jurisdiction of this appeal to the Conditions of Approval for Coastal Development Permit #97-0622, based on the fact that the appellant has not established sufficient grounds for the Board to take jurisdiction for further review.

Sincerely,



ALVIN D. JAMES
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Attachments:

- 1.
2. Letter of Appeal of 7/2/98
Planning Commission Staff Report of 6/24/98
3. Planning Commission Minutes of 6/24/98
4. Location Map
5. Mailing List
6. Project Plans

cc: Norma Odenweller & Bob Fleck
Tracy Robert Johnson
Jim and Judy Craik
Douglas Marshall
California Coastal Commission

ADJ/SAM/JVDH

DOUGLAS E. MARSHALL
ATTORNEY AT LAW
108 Locust Street, Suite 11
(The I.D. Building)
Santa Cruz, California 95060

ATTACHMENT 1
557

(408) 425-7900

July 2, 1998

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

HAND DELIVERED

**RE: JURISDICTIONAL APPEAL FROM PLANNING COMMISSION
APPLICATION NO. 97-0622
APN 43-105-07 (413 BEACH DRIVE)**

Members of the Board of Supervisors:

This is an appeal from a Planning Commission decision to uphold the Zoning Administrator's approval of the above-referenced application. It is submitted on behalf of Jim and Judi Craik, who own a home at 315 Beach Drive, next to the subject property.

In general, the Board of Supervisors should take jurisdiction of this appeal for all the reasons stated in County Code Section 18.10.340(c). In particular, the appellants object to the Zoning Administrator's approval of this project for the reasons stated in the May 11th appeal letter to the Planning Commission (Attachment 1), and as more specifically addressed in my June 23rd letter to the Planning Commission (Attachment 2). The appellants object to the Planning Commission's decision to uphold the Zoning Administrator's approval for the same reasons stated in these two (attached) letters. These letters show error, abuse of discretion, and the absence of supporting evidence in the decisions made to date. Additional reasons to take jurisdiction are provided in this letter.

Although some geotechnical arguments were presented to the Planning Commission by the applicant's consultants in response to one of the objections to approval raised by the appellants, the issues in dispute mostly involve whether there is compliance with certain state and local planning regulations. As to the geotechnical issue - which generally involves whether there can ever be any safe use of the back yard of properties located along Beach Drive - the County geologist has still not commented on the arguments presented by the applicant's consultants, other than what he apparently told the Zoning Administrator. This issue effects staffs justification for approval of the applicant's proposed front yard variance. A written response by the County geologist would help identify what additional information is needed to resolve this issue.

The more important issues for your consideration are those involving regulatory compliance. There are basically two such issues, which include: 1) whether it is permissible to grant the applicant's front yard variances when the constraints used to justify these variances are also applicable to the other properties in the vicinity; and 2) whether the applicant's proposal for a three-story dwelling is permissible based on Santa Cruz County General Plan Policy 8.6.3. These issues were addressed in some detail in my June 23rd letter to the Planning Commission (Attachment 2); and, I believe, they are especially important because they not only effect the County's decision here, but they could also effect decisions to grant front setback and height variances on the other parcels that exist along Beach Drive, over 40 of which are presently improved with only two-story dwellings.

Variance Issue

Without restating what was stated in my June 23rd letter (Attachment 2, pg. 3/"fourth" point), the policy problem with the front yard variances - and, for that matter, the height variance - is that they are based on constraints shared in common with everyone's property along Beach Drive. Thus, if the constraints cited by staff are sufficient, everyone along Beach Drive could also get these variances. But, this is inconsistent with the rules governing variances which, generally, speak to the need to show unique circumstances on the subject property in comparison with other property "in the vicinity."

The problem here is that there is nothing unique about the subject property. Looking at the parcel map (Exhibit C in the Planning Commission staff report), the subject property is similar in size and shape to other properties along Beach Drive. As to wave run-up and landslide debris flow constraints, staff states that "*slope failure and flood hazard affect each parcel on Beach Drive.*" (Planning Commission staff report, pg. 4). Jerry Weber, a Ph.D. Engineering Geologist, supports staff's opinion on this point in a letter dated May 8, 1998 (Attachment 2, second letter). Even the owners of the subject property agree with this, stating in a letter to the Planning Commission dated June 12, 1998, "*We agree with Geologist Jerry Weber's letter dated 5/8/98. Yes, all property along Beach Drive face the same geological risks.*" For the applicant or the County Planning Commission to then say that the unique constraint is the application of FEMA rules to new development does not solve this problem since FEMA rules, or other rules, are not what makes a given property unique; and, in any event, FEMA rules would be applicable to any other property in the vicinity to the same degree they are applicable here if, for whatever reason, a property owner chose to build what has been proposed in this case. And, why this is so is because "*... all property along Beach Drive face the same geological risks.*"

As one court has suggested, if the County wants to approve what is proposed in this case, the County needs to adopt special rules that essentially avoid the need for variances in these circumstances. Certainly, the County could adopt special front setback and height rules for Beach Drive properties due to their shared constraints caused by the potential for wave run-up and landslide debris flow. But, this will require legislative action, as well it should so that everyone along Beach Drive can speak freely about the pros and cons of the rules governing development in their neighborhood without feeling that their comments will put them on one side or the other of what one of their neighbors may want to do on their property.

The point here is that variances are inappropriate for similar **properties**. What is needed instead is one set of rules that make sense for this neighborhood, and to only grant variances when a given property is not similar to those in the vicinity.

General Plan Issue

As to the General Plan issue, the problem here is that the mandatory two-story requirement of General Plan Policy 8.6.3 prohibits the approval of the applicant's proposed three-story dwelling. The reason it is prohibited is self-evident, but if an explanation is needed one is provided in my June 23rd letter to the Planning Commission (Attachment 2, pgs. 4, 5). Here, too, if the County wants to approve what has been proposed, this also will first require legislative action by your Board.

Frankly, I find it amazing that I am even having to address this issue at the Board level in that having addressed this issue at the Planning Commission level, I am surprised that the Commission proceeded to uphold the Zoning Administrator's approval.

Possibly even more surprising was staff's comments at the Planning Commission stating, in essence, that the proposal is not a three-story dwelling, but a two-story dwelling. This was surprising because all the public notices for this proposal and all of the staff reports for this proposal characterize it as a three-story dwelling; and, the Zoning Administrator also adopted variance findings for a three-story dwelling. Furthermore, I suggest you look at the plans for the proposal, and the photographic renderings, and just trust what your eyes tell you - it is obviously a three-story dwelling.

Since the staff reports never mentioned General Plan Policy 8.6.3 at the Zoning Administrator level, I assume the reason staff prepared variance findings for a three-story dwelling was because of the County Code's two-story limitation for the subject property. What was overlooked, however, was that while it is possible to grant a variance from the County Code, it is not possible to grant a variance from the applicable General Plan policies that staff failed to bring to the Zoning Administrator's attention. This was a serious mistake, wasting time and money on everyone's part; and, to now concoct an explanation that the proposal is really a two-story dwelling is even more disturbing.

Offering this two-story explanation for the first time at the Planning Commission hearing without any notice or discussion of this prior to the Planning Commission hearing was truly surprising, depriving the appellants of a reasonable opportunity to investigate and respond to this change. Such conduct deprives the appellants of their right to due process and a fair hearing. Once more, while the staff planner has told me that she alone made the decision to redefine this proposal as a two-story dwelling, it is at least true that her superiors also considered a "policy" to allow a three-story structure shortly after filing the May 11th Planning Commission appeal in this case, which discussed the General Plan's two-story limitation. Such a "policy" change was apparently being considered by David Lee, the Assistant Planning Director, as indicated in the attached E-Mail note from Martin Jacobson, dated May

15th (Attachment 3). Martin Jacobson reviewed the staff planner's report to the Planning Commission, as indicated on page 6 of that report. But, again, no such "policy" change was indicated in the Planning Commission staff report, and it was not until the middle of the appellants' presentation to the Planning Commission on June 24th that it became apparent that staff had invented a new justification for approval that I, regrettably, can only characterize as nothing more than a blatant effort to cover up their General Plan mistake.

The problem, of course, is that staffs "policy" interpretation has no legitimate basis since local policy is the sole prerogative of your Board based on legislation actually adopted by your Board. More specifically, staffs policy interpretation defies the plain meaning and intent of the applicable rules in this case, it defies what the applicant's plans clearly show, and it defies common sense.

First, the plain meaning and intent of General Plan Policy 8.6.3 is addressed in the "objective" for all the policies in Section 8.6 of the General Plan. The "objective" is:

"To encourage building design that addresses the neighborhood and community context; utilizes scale appropriate to adjacent development; and incorporates design elements that are appropriate to surrounding uses and the type of land use planned for the area."

Since this General Plan objective focuses on "design" and "scale appropriate to adjacent development" and the "surroundings," the intent of the two-story building limitation in General Plan Policy 8.6.3 is to regulate the visual impacts of the proposed dwelling's size and mass. The intent here has nothing to do with any kind of technical or engineering distinction as to what constitutes a "floor" or "habitable space." Since the stated intent is to address the impacts on "adjacent" or "surrounding" development, it is immaterial that the applicant's first level is only for a garage, storage and stairs, and that only the top two levels are for living space. The applicant's use of the interior area of their dwelling has nothing to do with whether the "scale" is "appropriate to adjacent development," which is purely a visual consideration based on the dwelling's exterior.

Second, the definitions of what constitutes a "story" and what constitutes the "first" story in County Code Section 13.10.700 are as follows:

"Story. For planning and zoning purposes, that portion of a building included between the upper surface of any floor and the lower surface of the floor or ceiling above. An attic, busemen t, mezzanine, or under floor does not count as a story (Ord. 4159, 12/1 0/92).

Story, First. ***The lowest story in a building which qualifies as a story, as defined herein, except that the floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than 4 feet below grade, as defined herein, for more than 50 percent of the total perimeter, or not more than 8 feet below grade, as defined herein, at any point.***

Based on the definition of a "story," the applicant's plans are for a three-story dwelling because they show three floors - i.e., the "lower floor," the "main floor," and the "upper floor" - each having an upper and lower "surface," and, none of these floors are exempted from the definition of what constitutes a "story" since none of these floors is an "attic," "basement," "mezzanine," **or** "under floor."

What the applicant's plans identify as the "lower floor" is the "first" story because it is the "lowest" story, as described above.

Furthermore, what the applicant's plans show as the "lower floor" is the first floor because it includes "floor area," as this term is defined in the County Code. County Code Section 13.10.700 defines "floor area" as follows:

"Floor Area. ***floor area is that area within the surrounding exterior walls of a building, including the wall thickness and is the total of each story, mezzanine, and basement. Uncovered courtyards, or atriums which are open to the sky above do not count as floor area. (4159, 12/10/91).***"

The "lower floor" includes "floor area" because it includes area surrounded by walls, and this area is not exempted from the definition of "floor area" because it is not an "uncovered courtyard" or "atrium."

Third, staffs characterization of the applicant's proposal as a two-story dwelling based on how the interior space is used is not only inconsistent with the stated objective of General Plan Policy 8.6.3 (discussed above), it is also inconsistent with a reasoned analysis based on nearly all the applicable Local Coastal Plan issues; scenic issues, and privacy and view concerns of adjacent property owners. All of these issues - which have been specifically addressed at the Zoning Administrator and Planning Commission levels - require an analysis of the visual impacts caused by the height, location and mass of the proposed dwelling's exterior and front yard decks. As such, staffs interpretation of the applicant's proposal as a two-story dwelling based on how its interior space is used undermines the intent of the applicable regulatory rules in this case and serves no legitimate or logical purpose.

Conclusion

For whatever reason staff, the Zoning Administrator, and the Planning Commission have been willing to do whatever was needed to approve the applicant's proposal, despite local and state regulatory requirements. And, therefore, what we are now faced with is a legal dispute that only seems to be escalating. However, I believe it is important to understand where all of this began - and, that was simply that the proposal is "too much" for the site and the adjacent homes. It is too big. -Neighboring homes are about 1350 to 1500 square feet, and the applicant's is about 2690 square feet, including garage space. It is too high. The neighboring homes are two-story, and the closest three-story home is seven parcels to the northwest of the applicant's property. It is too close to the street. Its second floor deck is 8 feet from the front property line, and the Craiks' second floor living area (next door) is 25 feet from the front property line. And, the Craiks have no second floor deck next to the applicant's property. Its a big "box," lacking the architectural character of the existing homes in the vicinity, many of which have staggered front yard setbacks and bay windows that break up the building mass. It needs variances from about every site regulation in the County Code, unlike its neighbors.' It is, in short, over compensation for the constraints everyone faces on Beach Drive.

It is, therefore, requested that the Board take jurisdiction of this appeal and deny the proposal without prejudice so that a more appropriate two-story dwelling could then be approved.

Respectfully Submitted:



Douglas E. Marshall, Esq.
Attorney for Mr. & Mrs. Craik

RECEIPT # 29806
DATE 7/2/98
INITIAL DM

DM:kf
cc: Mr. & Mrs. Craik

DOUGLAS E. MARSHALL
ATTORNEY AT LAW
108 Locust Street, Suite 11
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ATTACHMENT 1 .

563

COPY

(408) 425-7900

May 11, 1998

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

RE: APPEAL OF ZONING ADMINISTRATOR DECISION
APPLICATION NO. 97-0622
APN 43-105-07 (BEACH DRIVE)

Dear Commissioners:

This is an appeal of a Zoning Administrator decision to approve the above-referenced application. It is submitted on behalf of Jim and Judi Craik who own a home next to the subject property.

In general, the reason for this appeal is that the Zoning Administrator has approved height and front yard variances for a three-story dwelling adjacent to existing two-story dwellings which, if built, would be materially injurious to the privacy and enjoyment of the adjacent dwellings. For example, upper floor decks on the approved dwelling would provide a birds-eye view of the private second floor decks on adjacent dwellings. Also, the front yard variances allow the approved dwelling to extend further toward the street than the existing dwellings next to it, obstructing the view of these existing dwellings. The size of the approved dwelling will give the appearance that the subject property is over built. The height and front yard variances are based on geologic constraints, including the potential for coastal flooding and landslide debris flow, which restrict the use of the subject dwelling's first floor and rear yard. But, the potential for coastal flooding and debris flow are constraints shared with all the properties along Beach Drive. Since the adjacent properties share these same constraints, there appear to be no special circumstances to justify variances for the subject property that exceed what has been allowed on the adjacent properties.

More specifically, the reasons for this appeal are as follows.

First, the special circumstances finding fails to state why this property is any different from any other property next to it for purposes of front yard variances. In this regard, the enclosed May 8th letter from Jerry Weber, a Ph.D. Engineering Geologist, indicates that all the properties along Beach Drive have the potential for landslide debris in their rear yards. As such, why should any property subject to having landslide debris in its rear yard be allowed to extend any further into its front yard than adjacent dwellings which are also subject to having landslide debris in their rear yards? The Zoning Administrator staff report findings mention the subject property's shape and topography, but there is no explanation why its shape and topography justifies a setback that is any different than the adjacent properties. Oncemore, since its shape and topography are characteristics it shares in common with adjacent properties, these factors support permit denial, not permit approval.

Second, the special circumstances finding for front yard variances is flawed in that the above-mentioned letter from Jerry Weber concludes that the loss of use of the rear yard is generally limited to the rainy season. In his opinion, the rear yard could still be used during the rest of the year. This would at least indicate that a variance for a front yard deck (to make up for the loss of use of the rear yard) would not make any sense since a front yard deck in the rainy season would seem to be about as useless as the rear yard in the rainy season.

Third, the special circumstance findings for the third floor and dwelling height lack a factual basis in that we are not told why the loss of use of the first floor as living space, due to the potential for coastal flooding and debris flow, justifies three floors. As the above-mentioned letter from Jerry Weber tells us, all the properties along Beach Drive have the potential for coastal flooding and debris flow. So, why do these factors support approving a dwelling any higher than the adjacent two-story dwellings? Why is a two-story dwelling not adequate? This has not been addressed despite General Plan Policy 8.6.3, which specifically limits residential structures to two stories on property like the subject property. In order to approve a three-story structure, General Plan Policy 8.6.3 requires this to be "explicitly" provided for in the Residential Site and Development Standards Ordinance. But, what "explicit" basis for a third story exists here? Surely, the second floor could be fully utilized as living space, with parking on the floor below. Also, since several adjacent properties on both sides of the subject property are two stories, what are the "privileges enjoyed by other property in the vicinity" that justify a three-story dwelling?

Fourth, the Zoning Administrator's variance findings, Coastal Zone findings and development permit findings all fail to address the impact of the proposal on the privacy of adjacent properties. Adequate privacy is specifically mentioned in County Code Section 13.10.321(a)(5) as one of the purposes of the residential zone district where the subject property is located. The problem here is that the upper decks of the approved three-story dwelling provide a view of the private second floor decks on adjacent properties. This is particularly a problem for properties in this area of Beach Drive since these second floor decks are often the only area they have to sit in the sun and privately enjoy their beach property. The approved dwelling is, therefore, inconsistent with the purposes of the zone district where it is located, as well as being incompatible with and injurious to other properties in the vicinity.

Fifth, approving a three-story dwelling and an upper deck to extend further toward the street than the existing two-story dwellings next to it appears to violate General Plan Objective 8.6 in that the "scale" of the approved dwelling is inappropriate in comparison to adjacent development. The approved dwelling will dwarf the dwellings next to it, as shown in the two photographic renderings submitted with this appeal. These photographs and others were also submitted at the Zoning Administrator level. However, the Zoning Administrator findings fail to address the visual impacts of the greater amount of development on the subject property despite General Plan Policy 8.6.1, which directs staff to "recognize the potential for significant impacts to community character from residential structures which are not well-proportioned to the site ..." In any event, the approval of such a dwelling in the Coastal Zone violates County Code Section 13.20.130(b)(1), which requires the design of new development to be "... visually compatible and integrated with the character of surrounding neighborhoods" which, here, are predominately two-story dwellings.

Sixth, since the height and front yard variances here exceed the scope of development enjoyed by similarly situated properties next to the subject property, they should be denied as a grant of special privileges. They are simply unnecessary in order for the subject property to be used for residential purposes in a manner that is compatible with neighboring properties.

In sum, the approved variances exceed what **is** appropriate to compensate the subject property for the constraints shared by everyone on Beach Drive. These constraints may properly justify development approval consistent with what, in fact, has been allowed on adjacent properties. But, variances to allow development in excess of what has been allowed on adjacent properties are detrimental to the neighborhood and can not be supported by the required findings. Therefore, the application should be denied without prejudice so that a more appropriate two-story design can then be approved.

Respectfully Submitted,

Douglas E. Marshall, Esq.
Attorney for Mr. & Mrs. Craik

Enclosures: 1) Letter from Jerry Weber to Judi & Jim Craik, dated May 8, 1998
2) (2) Photographs

DM:kf
cc: Mr. & Mrs. Craik

ATTACHMENT 1
Page 3 of 5

Gerald E. Weber
Consulting Engineering Geologist
614 Graham Hill Road
Santa Cruz, California 95060
(408) 426-1367 Fax (408) 426-5340

May 5, 1995

Judi and Jim Craik
413 Beach Drive
Rio Del Mar, CA 95003

Subject: Geologic report by Foyx, Nielsen for APN 43-105-07 - Beach Drive, Rio Del Mar, Santa Cruz County

Dear Mr. And Mrs. Craik:

At your request I have reviewed both the "engineering geologic" and "geotechnical engineering" reports on the above referenced property, along with the Santa Cruz county Planning Department's file on the proposed development. Both the Engineering Geologic Report and the Geotechnical Engineering Report adequately address the geologic conditions on the property and provide adequate mitigating measures for the debris avalanche/flow and coastal flooding hazards. The level of hazard to the subject property from both debris avalanches/flows and coastal flooding is essentially the same as for all of the other homes along Beach Drive

My only disagreement is in respect to the usage of the back yard of the subject property. Foyx, Nielsen and Associates apparently contend that the back yard should not be used, period. Their letter suggests that the back yard should not be used at any time for any purpose because it is to act as a reservoir for debris avalanche/flow material. I believe this is an overly conservative conclusion. Since debris avalanches and flows tend to occur under specific weather and/or seismic conditions, it seems that the back yard could be used for other purposes for the majority of the year - the non-rainy season.

Rainfall Induced Debris Avalanches and Flows: Debris avalanches and flows typically occur within the loose weathered debris and soils that occur on steep hillsides. In addition they are generally shallow slab failures within surficial materials, with the slope failure removing only a thin layer of material from the face of the hillside. Finally, they generally occur in response to high intensity rainfall during major storms, typically following some threshold level of precursory rainfall. Without question, landslides of this type are what we have historically observed to occur on the slopes above Beach Drive.

It is reasonable to conclude that this type of slope failure will occur primarily, if not exclusively, during the rainy season. Since some precursory threshold of total rainfall must be reached for debris flows to occur, the pattern of rainfall is important in analyzing the potential for the generation of these types of slope failures. Typically, precursory rainfall totals in Santa Cruz County do not reach the critical threshold for debris avalanches and flows until late December or early January, again, depending on the pattern and intensity of rainfall. In some years the

threshold is reached earlier, say early to mid December, while in drought years the threshold may never be reached.

As slopes drain during and after the rainy season the water saturation drops below the threshold level, reducing dramatically the potential for this type of slope failure to occur. This generally occurs sometime between early April and mid May, although it may occur much earlier during low rainfall years.

This suggests that the back yard will be exposed to a very low potential for debris avalanches during the bulk of the year. Even during exceedingly wet years the back yard should be useable from early May through early December - approximately 7 months. During drought years the back yard should be useable for most of the year, probably 11-12 months.

Seismically Induced Debris Avalanches and Flows: Avalanches and flow landslides can also be triggered on steep slopes by intense seismic shaking. Obviously, the subject property is subject to this type of failure. The 1989 Loma Prieta Earthquake triggered numerous landslides on the face of the sea cliff at both Beach Drive and Las Olas Drive. These slope failures occurred despite the fact that the earthquake occurred during an extended drought. Unfortunately, it is not yet possible to accurately predict large earthquakes, and one could occur at any time. However, once again, the hazard to the subject property is approximately the same as that for all other homes along Beach Drive and countless other properties in California.

Since large earthquakes tend to occur infrequently, the potential for this type of event to occur should be judged as low. Consider that the interval between the great San Francisco Earthquake of 1906 and the Loma Prieta Earthquake was 83 years. The risk associated with an earthquake induced ground failure in the back yard of a home along Beach Drive is certainly less than the risk associated with driving a car for a lifetime, where your chances of death are about 1 in 50, or 2%. Obviously, this does not mean that a catastrophic seismic event cannot occur at the site, only that it is improbable and the risk posed is relatively low.

In summation, I think the year-around restriction of the usage of the back yard is overly conservative and not supported by our understanding of the processes in question. Debris avalanches and flows occur primarily during high intensity storms during the rainy season. They require saturation of the soil and therefore, do not commonly occur year-around.

If you have any questions regarding this brief analysis please contact me.

Very truly yours,

Gerald E. Weber, Ph.D.
Certified Engineering Geologist #1205

DOUGLAS E. MARSHALL
 ATTORNEY AT LAW
 108 Locust Street, Suite 11
 (The I.D. Building)
 Santa Cruz, California 95060

COPY

(408) 425-7900

June 23, 1998

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

HAND DELIVERED

RE: APPLICATION NO. 97-0622
APN 43-105-07 (413 BEACH DRIVE)
JUNE 24th PC HEARING, ITEM No. 2

Dear Commissioners:

This letter is written on behalf of the appellants in response to the staff report prepared for the above-referenced Planning Commission hearing.

Having approved this item at the Zoning Administrator level, it is understood that it is Planning Department policy to defend this approval at the Planning Commission level. Therefore, it was not anticipated that staff would change their recommendation, despite whatever merit they found in the appeal of this approval. However, it was anticipated we would receive some additional explanation for their recommendation in light of the issues raised in the appeal. This would also seem reasonable given the Planning Department's \$1,431.00 fee for the appeal. And, while the staff report does provide some rather detailed descriptive information, its response to the issues raised in the appeal are stated in conclusionary terms that still fail to explain why the facts staff mentions support the Zoning Administrator's findings, and why the adopted findings support the Zoning Administrator's approval. Accordingly, it is the appellants' position that the issues raised in their appeal have not been narrowed as a result of the staff report.

However, without restating all six of the issues raised in the appellants' May 11th appeal, this letter focuses on just two of these issues, either one of which require permit denial. These two issues include: 1) the inadequacy of the findings for the second story front yard variance; and, 2) why the proposed three-story dwelling is inconsistent with the mandatory two-story requirement set forth in Santa Cruz County General Plan Policy 8.6.3.

Inadequacy of Findings for Second Story Front Yard Variance

First, each of the Zoning Administrator's findings for the second story front yard variance are uncertain and difficult to understand because each finding applies to four completely different variances. These four variances are for height, parking, number of stories, and reduced front yard setbacks for the proposed dwelling

and deck(s). Given this method, it is unclear where the findings for any one of these variances end and the findings for any one of the other variances begin. It is even unclear whether there are two or three front yard variances. This method effectively prevents scrutiny of these findings for compliance with the findings requirements of Government Code Section 65906 and, as such, this method violates the intent and purpose of this code section as explained by our State Supreme Court in Topanga Assn. for a Scenic Community v. County of Los Angeles (1974) 11 C3d 506.

Second, looking at the findings together with the rest of the staff report, it appears - although I can not say for certain - that the factual support for the second story front yard variance is based solely on a letter from Hans Nielsen, the applicant's Geologist, a copy of which is attached to the staff report and marked as Exhibit D. The Hans Nielsen letter states that "... *the rear yard should be kept free of decks and should not be used for a recreational area... [because] this area is reserved for storage of landslide debris in the unfortunate event that a slope failure occurs above the site and flows into the rear yard.*" Presumably, therefore, a second story front yard variance is needed to make up for the loss of the rear yard. But, the opinion of Hans Nielsen was not shared by the County geologist at the time of the Zoning Administrator hearings, as evidenced by what the Zoning Administrator stated on the record at these hearings. Apparently, the County geologist has stated that the applicant's rear yard can be used for a ground level deck. For this reason it is not surprising that the County's geologist has not provided written support for the Hans Nielsen letter in the staff report for your commission. Furthermore, the opinion of Hans Nielsen was qualified and, in part, rejected in a letter from Jerry Weber, a Ph.D. Engineering Geologist. The letter from Jerry Weber was submitted with the appeal in this case, and his letter and the appeal letter are both marked as Exhibit A. No evidence has been submitted in response to Jerry Weber's letter.

Third, the special circumstance finding fails to explain why the applicant's property is any different from any other property adjacent to it for purposes of a second story front yard variance and, for similar reasons, this variance is a grant of special privilege. This is so because staff believes, as is also indicated in the above-mentioned letter from Jerry Weber, that "*slope failure and flood hazard affect each parcel on Beach Drive*" (staff report, pg. 4). Therefore, findings that rely on these constraints do not support a variance that exceeds what exists on adjacent properties. The Zoning Administrator's findings also mention the subject property's shape, topography and size, but here, too, since these are factors shared in common with adjacent properties these factors do not support a variance that exceeds what exists on adjacent properties. Notably, there are no other factors cited that speak to unique site conditions, which are the focus of variance findings. Furthermore, the Zoning Administrator fails to quantify or qualify his findings by not comparing the extent of the front, yard development rights enjoyed by others next to the applicant's property, and by not explaining the relative impact of the proposed second story front yard variance on adjacent properties.

The objections noted above are illustrated by a comparison of the applicant's proposed second floor front yard variance with the second floor development existing on each side of the applicant's property. The applicant's proposed second floor has a deck which would extend across nearly the entire frontage of the applicant's

dwelling at a distance of 8 feet from the front property line. The living space on the applicant's second floor also extends across the entire frontage of the applicant's dwelling at a distance of 16 feet from the front property line. In comparison, immediately to the southeast of the applicant's property, the Craik property (located at 415 Beach Drive) has no second floor deck next to the applicant's property, and the living space on the Craiks' second floor is at least 25 feet back from the front property line. The Craiks do have a deck on the southeasterly portion of their second floor, which extends over-only 40% of their property at a distance of 11 feet from their front property line. This means that the applicant's living space is about 9 feet in front of the northwesterly side of the Craiks' home, and their deck is about 17 feet in front of the northwesterly side of the Craiks' home. This is a considerable disparity in setbacks. In addition to privacy concerns, this significantly blocks the Craiks' existing ocean views, in violation of County Code Section 13.11.072(b)(2)(ii), which states that "[d]evelopment should minimize the impact on private views from adjacent parcels, wherever practicable." And, to the northwest of the applicant's property the second floor of the home on that parcel (located at 411 Beach Drive) is 10 to 11 feet from the front property line. The second floor setbacks of the two homes on each side of the applicant's property generally characterize the existing development of homes adjacent to the applicant's property. Fourteen of these (contiguous) homes are two stories. Basically, the applicant's proposal is a three-story "box" that extends further toward the street than adjacent properties and, as to its second floor, it also differs from adjacent properties in that its entire frontage fails to comply with current setback requirements. Since these adjacent homes are also subject to landslide debris flow in their rear yards, why should the applicant's second floor deck be allowed to extend any further toward the street than they do? This is a question of degree, and it is not answered by general findings that merely list constraints to justify variances without detailed comparisons with adjacent properties, and without a careful assessment of the impact on adjacent properties.

Fourth, and most importantly, where the constraints on the subject property do not differ substantially with the constraints on adjacent properties, an appellate court of this State has held that a variance may not be justified due to a desire to achieve compliance with other regulatory goals. Orinda Assn. v. Board of Supervisors (1986) 182 CA3d 1145, 1165-1167. Put another way, variances must stand on their own based on unique site conditions. As such, a variance should not be granted in this case to compensate the property owner for compliance with wave run-up and debris flow constraints when these same constraints are applicable to adjacent properties. To do so would, essentially, mean that similar variances could be granted just for the asking by any property owner on Beach Drive. This is contrary to the purpose of our State variance statute, which "... contemplates that at best only a small fraction of any one zone can qualify for a variance." Orinda, supra, pg. 1166. Therefore, if your Commission wants to uphold what has been approved by the Zoning Administrator, this will first require legislative action by our Board of Supervisors to change the rules governing site regulations for all properties along Beach Drive so as to eliminate the need for the type of variances we see here. Nothing less is permissible.

Inconsistency with the Mandatory Two-Story Requirement of General Plan Policy 8.6.3

Santa Cruz County General Plan Policy 8.6.3 states the following:

“Story Limitation

Residential structures shall be limited to two stories in urban areas and on parcels smaller than one acre in the rural areas except where explicitly stated in the Residential Site and Development Standards ordinance.” (emphasis added)

This General Plan Policy was adopted by our Board of Supervisors on May 24, 1994, and made effective on December 19, 1994. Since the applicant purchased the property in 1996, as indicated on the attached copy of the deed marked as Exhibit 1, this General Plan Policy has been applicable to the subject property the entire time she has owned this property.

Unfortunately, staff failed to address this General Plan Policy at the Zoning Administrator level, where variance findings were approved for the applicant's proposed three-story dwelling. Staff now attempts to dismiss the importance of this General Plan Policy by pointing out the need to comply with General Plan Flood Hazard Policies 6.4.3 and 6.4.8 which, they infer, should allow a three-story dwelling in this case (staff report, pg. 4).

However, there is no mechanism in local or State land use regulations to authorize a variance from a County General Plan Policy; and, while it is possible that General Plan compliance may not be required to approve a variance in some jurisdictions, this is not true in Santa Cruz County. To approve the proposal before your Commission requires compliance with General Plan Policy 8.6.3; and, for the Zoning Administrator to approve a variance from this policy is an act in excess of his jurisdiction.

More specifically, consistency with General Plan Policy 8.6.3 is required because:

1. In the Authority and Purpose section of Chapter 8 of the General Plan it states that "*all projects shall be consistent with the policies of this chapter,*" which include Policy 8.6.3;

2. The terms of General Plan Policy 8.6.3 make it applicable in that the subject property is within an "urban area" (since it is within the Urban Services Line) and, even if it was not in an urban area, it is "smaller than one acre" (staff report, Exhibit C);

3. There is no exception from General Plan Policy 8.6.3 in that there is no "explicit" provision in the Residential Site and Development Standards Ordinance authorizing an exception from this policy given the location of the subject property;

4. County Code Section 13.01.130(a) states that "*no discretionary land use project, public or private, shall be approved by the County unless it is found to be consistent with the adopted General Plan,*" and a variance to build a residential structure is clearly a discretionary project. Also, County Code Section 13.10.230, which regulates variance approvals, expressly states in subsection "a" of this code section that variances are "discretionary;" and

5. Because the subject property is in a mapped Coastal Scenic Resource Area and within the viewshed of a scenic corridor (staff report, Exhibit C) and therefore meets the definition of a "sensitive site" per County Code Section 13.11.030(u), design review is required per County Code Section 13.11.040(a) and, as such, County Code Section 13.11.070(d) requires compliance with the General Plan for this project.

The Zoning Administrator's General Plan consistency findings are inadequate and are not supported by substantial evidence. Furthermore, no such findings can be made for a three-story residence at the subject property because of the specific and mandatory language in General Plan Policy 8.6.3. Nor is there any precedent for such findings along Beach Drive. While staff is correct in stating that 19 of the 61 homes on Beach Drive between the Esplanade and the gated access are three stories in height, none of these homes were built following the adoption of General Plan Policy 8.6.3 in 1994. Indeed, none of these homes were built in the 1990's. The dates these 19 homes were built is indicated in Exhibit 2, attached hereto. Also, none of these three-story homes are adjacent to the applicant's property. Homes on both sides of the applicant's property are two stories, and the closest three-story home is seven parcels to the northwest of the applicant's property.

"Under State law, virtually any local decision affecting land use and development must be consistent with the applicable general plan and its elements." Harroman Co. v. Town of Tibcron (1991) 235 CA3d 388,395. While, as a general rule, a given project need not be in perfect compliance with each and every General Plan Policy, our State courts have held that there must be consistency with specific and mandatory General Plan Policies, such as we have in this case. See, for example, Families Unafraid to Uphold Rural Etc. County v. Board of Supervisors (1998) 62 CA4th 1332, 1341-1343; and, San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino (1984) 155 CA3d 738,753.

Here, too, if your Commission wants to uphold what has been approved by the Zoning Administrator, this will first require legislative action by our Board of Supervisors to change the General Plan Policies applicable to the properties on Beach Drive.

Conclusion

Without legislative action and adequate findings, as discussed herein, the proposal must be denied.

Respectfully Submitted:

Douglas E. Marshall, Esq.
Attorney for Mr. & Mrs. Craik

Enclosures

DM:kf
cc: Mr. & Mrs. Craik
County Counsel

ATTACHMENT 2
Page 6 of 9

574

RECORDING REQUESTED BY
 Old Republic Title Company VOL. 5957 PAGE 874
 178708-ASD
 043-105-07
 WHICH RECORDED MAIL TO

NORMA ODENWELLER & ROBERT W. FLECK
 101 FIRST ST., SUITE 461
 LOS ALTOS, CA 94022

5957 PAGE 874

1996-0068699

Recorded
 Official Records
 County Of
 SANTA CRUZ
 RICHARD W. BEDAL

REC FEE 10.00
 TAX 211.75

08:00AM 24-Dec-1996

cdc
 Page 1 of 2

SPACE ABOVE THIS LINE FOR RECORDERS USE

Grant Deed

The undersigned grantor(s) declare(s):
 Documentary transfer tax is \$ 211.75
 computed on full value of property conveyed, or
 computed on full value less value of liens and encumbrances remaining at time of sale.
 Unincorporated area: () City of _____
 Realty not sold.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.
 ROBERT S. REID A MARRIED MAN

herby GRANT(S) to NORMA P. ODENWELLER, an unmarried women, as to an undivided 50%
 interest and ROBERT W. FLECK, an unmarried man, as to an undivided 50% interest,
 as Tenants in Common

that property in SANTA CRUZ County, State of California, described as:
 See Exhibit "A" attached hereto and made a part hereof

Mail Tax Statements to Grantee at address above

Date December 20, 1996

ROBERT S. REID

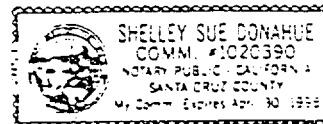
STATE OF CALIFORNIA
 COUNTY OF Santa Cruz

On December 20, 1996 before me the
 undersigned, a Notary Public in and for said State, personally appeared
ROBERT S. REID

personally known to me (or proved to me on the basis of satisfactory
 evidence) to be the person(s) whose name(s) is/are subscribed to the within
 instrument and acknowledged to me that he/she/they executed the same in
 his/her their authorized capacity(ies), and that by his/her their signature(s) on
 the instrument the person(s), or the entity upon behalf of which the person(s)
 acted, executed the instrument.

WITNESS my hand and official seal

Signature [Signature]
 Name SHELLEY SUE DONAHUE
 (typed or printed)



(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

VOL. 5957 PAGE 875

Order No. : 178708-h

EXHIBIT "A"

The land referred to is situated in the State of California, County of Santa Cruz, in the unincorporated area, and is described as follows:

Lot 5, in Block 97, as shown upon that certain map entitled, "Map of Subdivision Number 8, Aptos Beach Country Club Properties, Aptos, Santa Cruz County, California", filed for record August 24, 1928, in Volume 24 of Maps, at Page 26, Santa Cruz County Records.

EXCEPTING therefrom all mineral rights, as reserved by Santa Cruz Land Title Company in the deed recorded June 16, 1936 in Book 311, Page 133, Official Records, Santa Cruz County.

Assessor's Parcel Number: 043-105-07

Exhibit 2
(Three-Story Homes on Beach Drive)

	<u>Owner</u>	<u>Address</u>	<u>APN</u>	<u>Year Built</u>
1.	Franich	313	043-082-06	1985
2.	O'Brien	315	043-082-07	1 9 8 9
3.	Lomonaco	317	043-082-08	1973
4.	Crowley	337	043-095-34	1986
5.	Branson	339	043-095-33	1986
6.	McNally	340	043-095-32	1974
7.	Simons	345	043-095-29	1973
8.	DeSimas	347	043-095-28	1981
9.	Brunner	353	043-095-26	1948
10.	Fielding	357	043-095-24	1966
11.	Cane10	359	043-095-23	1965
12.	Harland	363	043-095-22	1961
13.	Goscila	367	043-095-20	1962
14.	Waterman	369	043-095-19	1962
15.	Vaudagna	379	043-095-14	1963
16.	Lane	386	043-095-10	1965
17.	Popplewell	387	043-095-09	1965
18.	Monia	395	043-105-38	1986
19.	Nomellini	437	043-105-22	1963

577

VIEW THE NOTE

EO1

From: PLN415 --SCRUZA
To: PLN140 --SCRUZA

Date and time 05/15/98 14:44:38

From : Martin J. Jacobson, AICP
Principal Planner

Subject: Appeal

Don't make any commitments to a hearing date on the Beach Drive appeal until I return from vacation. Dave Lee wants to have a policy discussion regarding allowing 3-story structures in this part of the County. Thanks. Martin

E N D O F N O T E

PF1 Alternate PFs PF2 File NOTE PF3 Keep PF4 Erase PF5 Forward Note
PF6 Reply PF7 Resend PF8 Print PF9 Help PF10 Next PF11 Previous PF12 Return

 PLANNING DEPARTMENT



 COUNTY OF SANTA CRUZ 578

GOVERNMENTAL CENTER

 701 OCEAN STREET ROOM 400 SANTA CRUZ, CALIFORNIA 95060
 (408) 454-2580 FAX (408) 454-2131 TDD (408) 454-2123

June 10, 1998

Agenda Date: June 24, 1998

ITEM NUMBER: 2

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

RE: APPEAL OF THE ZONING ADMINISTRATOR'S DECISION ON A PROPOSAL TO DEMOLISH AN EXISTING GARAGE AND TO CONSTRUCT A TWO-STORY SINGLE FAMILY DWELLING WITH A GARAGE BELOW, CONSTITUTING A THREE STORY DWELLING. REQUIRES A COASTAL ZONE PERMIT AND A VARIANCE TO REDUCE THE REQUIRED 20 FOOT FRONT YARD TO ABOUT 16 FEET TO THE DWELLING AND ABOUT 8 FEET TO THE EDGE OF THE CANTILEVERED DECK ABOVE THE FIRST FLOOR; TO CONSTRUCT A SECOND STORY ROOF TOP DECK; TO INCREASE THE MAXIMUM 28 FOOT HEIGHT LIMITATION TO ABOUT 32 FEET; TO ALLOW 3 STORIES; AND TO ALLOW THE PARKING AREA TO EXCEED 50 PERCENT OF THE REQUIRED FRONT YARD. THE APPLICATION INCLUDES A RESIDENTIAL DEVELOPMENT PERMIT TO INCREASE THE MAXIMUM 6 FOOT HEIGHT LIMITATION OF A RETAINING WALL WITHIN THE REQUIRED 5 FOOT SIDE YARDS - TO ABOUT 12 FEET IN HEIGHT. PROPERTY LOCATED ON THE NORTH SIDE OF BEACH DRIVE (413 BEACH DRIVE), ABOUT 3/4 MILE SOUTHEAST OF THE ESPLANADE AND RIO DEL MAR BOULEVARD.

**APPLICANT: Tracy Robert Johnson for Norma Odenweller
 APPELLANT: Douglas E. Marshall for Jim and Judi Craik
 APPLICATION NUMBER: 97-0622
 APN: 043-105-07**

Dear Members of the Planning Commission:

Introduction:

Application #97-0622 was accepted by the Planning Department on August 29, 1997 and first scheduled before the Zoning Administrator on April 3, 1998. The item was continued for hearing to April 17, 1998 with the applicant directed to redesign the building to visually reduce its mass, with additional direction to staff to revise the variance findings. The project was continued to May 1, 1998 to obtain further clarification from the project engineering geologist regarding the potential use of the rear yard. The project was approved with revised findings and conditions on May 1, 1998.

On May 11, 1998, an Appeal of the approval was filed in a timely manner by Douglas E. Marshall on behalf of Jim and Judi Craik, owners of 415 Beach Drive.

Appeal Issues:

The May 11, 1998 letter of appeal (Exhibit A) challenges the approval by the Deputy Zoning Administrator of Coastal Zone Permit Number 97-0622 on May 1, 1998. The reason for the appeal is that the appellant states that approval of height and front setback variances to allow construction of a single-family residence would be materially injurious to the privacy and enjoyment of the adjacent dwellings.

The appellant states that:

1. A reduced front setback should not be allowed solely for the reason of averting potential rear yard landslides and that all of the properties along Beach Drive have common shapes and topography. Correspondence from Certified Engineering Geologist, Gerald Weber, concludes that the potential loss of the use of the rear yard is limited to the rainy season when the highest incidence of landslides occurs. It is his opinion that the rear yard could be used during the rest of the year.
2. The construction of a 32 foot high building and a three story building is not justified as the many existing Beach Drive properties have developed first floors that are used as living spaces, and General Plan Policy 8.6.3 limits residential structures to two stories.
3. Protection of privacy under County Code Section 13.10.321(a)5 is problematic in that the upper level decks provide a view of the adjacent property decks. These second floor decks are often the only area that residents have to sit in the sun and privately enjoy their beach property.
4. The project will further violate General Plan Objective 8.6 in that the approved dwelling is out of scale with adjacent development (refer to the two attached photographic renderings in Exhibit A), as the surrounding neighborhood is predominantly two-story dwellings;

Site and Project Description

The proposed project is located on a 5,794 square foot lot with a 35 foot wide frontage and approximately 165 foot depth of parcel. The lot is adjacent to Rio del Mar Beach, separated from the ocean by Beach Drive, and is mapped as lying within the storm wave runup zone of the Pacific Ocean. The rear of the lot rises to about 110 feet above sea level with an 80 percent gradient behind the proposed homesite.

The project site lies within the appealable area of the Coastal Zone. The property is designated as Urban Low Residential in the County General Plan, and is consistent with low density residential development within the Urban Services Line having a full range of urban services. The implementing zoning is Single-family Residential with an 8,000 square foot minimum parcel size (R-1-8). The project involves construction of a 3 story, 32 foot high single-family dwelling of 2,252 square feet. The lower level would consist of a one-car garage and stairway. Federal Emergency Management Administration regulations and Chapter 16.10 of the County Code prohibit any habitable features on this lower level. The first habitable level has a living room, dining room, half bath and kitchen area of 1,025 square feet with a front yard deck of 170 square feet which is cantilevered to within 8 feet from the front property line setback. The second habitable level consists

of 3 bedrooms and 2 bathrooms and is 1,123 square feet in area with an exterior deck of 175 square feet, set back about 13 feet from the front property line. The project also involves the construction of a 12 foot high rear and side yard retaining wall, engineered to retain potential slope failure from above.

The proposed project complies with all required development regulations including lot coverage and floor area ratio requirements, on-site parking, and side and rear setbacks. The project would encroach into the required 20 foot front setback by 4 feet and would exceed the maximum 28 foot height by about 4 feet. The proposed retaining wall would exceed the maximum 6 foot height to comply with the engineered design of 12 foot height required to contain potential slides.

Response to Issues of the Appeal

The primary basis of the May 11, 1998 appeal letter is that the proposed single-family dwelling shall be materially injurious to the privacy and enjoyment of the adjacent dwellings. The project architect has designed the structure subject to environmental guidelines which require elevation of the structure 23 feet above mean sea level in response to FEMA regulations relating to the project location in the storm wave run up zone of the Pacific Ocean, and construction of a 12 foot high retaining wall to contain potential debris flow from the slope above the project site.

Both of the adjacent residences have built up to the limit of their east side property lines (zero setbacks), so that even meeting the required 5 foot side setbacks, any new development would impact the privacy of these 35 foot wide lots. The new building has been designed to incorporate several features which serve to reduce the impact on the existing adjacent development. Among these details are: placement of the exterior stairway to the west side of the property adjacent to the side of 411 Beach Drive which has no window openings on the zero setback line; the use of translucent windows within the stairwell along the east side of the building adjacent to 415 Beach Drive; redesign of the first floor deck to delete a portion of the eastern edge in order to reduce viewshed intrusion of the deck from 415 Beach Drive; and a required recordation of a Declaration of Restriction limiting the use of the rear yard.

The first specific reason for the appeal is that this property should not be allowed a front yard variance based on a determination that the parcel is subject to slope failure, as all of the adjacent properties share this hazard. The majority of homes along Beach Drive were built prior to the adoption of zoning regulations. For example, the immediately adjacent residences at 411 and 415 Beach Drive were constructed in 1935 and 1929 respectively, and neither home complies with existing development regulations, including the required 20 foot front setback. Clarification of the potential use of the rear yard from Certified Engineering Geologist, Hans Nielsen, dated April 20, 1998 (Exhibit D) clearly states that "the back yard area is reserved for storage of landslide debris in the unfortunate event that a slope failure occurs above the site and flows into the rear yard".

The second reason given by the appellant for denying the project is that a letter from Certified Engineering Geologist, Jerry Weber, dated May 8, 1998 (Exhibit A) states that loss of the use of the rear yard is limited to the rainy season. Seismic events are not seasonal and are known to contribute to slope failure. Thus, elevation of the structure is necessary to avoid this possible event.

The third reason for the appeal is that adjacent properties are two stories in height and that General Plan policy 8.6.3 limits residential structures to two stories in urban areas. General Plan Flood Hazards policies 6.4.3 and 6.4.8 require elevation of residential structures above the 100-year flood level and that foundations do not cause floodwater displacement as necessary mitigations as determined by the County Geologist (see Exhibit F, Geologic and Geotechnical report acceptance letter of October 22, 1997 by Certified Engineering Geologist, Joe Hanna, County Planning, contained in Exhibit C, Zoning Administrator staff report). All new construction in this area is characterized by the lowest level being non-habitable with break-away walls as per County Code Section 16.10.070(e). The two story homes were all built prior to these floodplain regulations and do not comply with existing regulations. Other properties in the vicinity enjoy two levels of habitable space, as is proposed for this 2,252 square foot project.

Slope failure and flood hazard affect each parcel on Beach Drive. If any of these properties is proposed for re-development similar to the proposal, the same development standards would apply to avoid these constraints.

The fourth reason for the appeal is that the proposed decks would encroach upon the privacy of the existing adjacent properties. County Code Section 13.10.321(a)5 specifies that residential districts provide for light, air, privacy and solar access. The proposed project maintains the required five foot side setbacks separating the new residence from existing structures which have zero east side setbacks. The existing upper floor deck at 411 Beach Drive is concealed by a solid wall which protects privacy, and the existing upper floor deck at 415 Beach Drive is over 30 feet distant from the proposed decks at 413 Beach Drive (see Sheet 1, Group Site Plan, Sheet 1 of the project plans, Exhibit G).

The fifth reason for the appeal is that the proposed project exceeds the scale and proportion of adjacent development (see two attached photographic renderings, Exhibit A). Of the 61 homes between the Esplanade and gated access, 19 homes are three stories in height. The project was redesigned to reduce building mass by adding curved features above the garage and entry on Beach Drive, and the decking and horizontal stucco control joints serve to further visually break up the facade of the single-family residence (see revised staff report of 4/17/97, Exhibit F).

The sixth and final reason for the appeal is that the height and front setback variances exceed the scope of development enjoyed by similar situated properties and should be denied as a grant of special privilege. Due to the narrow 35 foot width of the lot, FEMA flood elevation requirements and potential slope failure hazards above the project site, the most feasible development alternative is to locate the project towards the front of

the lot, and at 23 feet. above mean sea level. Field surveys indicate that 93 percent of the existing homes in the area have a front setback less than 10 feet. The development proposal would establish the front setback at 16 feet to the front of the house and 8 feet to the cantilevered first floor deck.

Issues to Consider

As noted, many structures along Beach Drive are not developed according to current development standards that are intended to avoid constraints associated with bluff failures and flood hazards. When the life span of these structures nears an end or they are damaged or destroyed by natural events, owners are likely to respond with requests to rebuild these properties. And construction on these properties will be required to conform to the standards being imposed on this proposal. While we will review these future applications on a case-by-case basis, comparisons to past development approvals, including this project, will be inevitable.

For example, although staff is recommending approval of a variance to allow a three-story structure (two of which are habitable), based on the surrounding properties being developed with three-story (two of which are habitable) and two-story dwellings and the previously identified physical constraints, the owner does not enjoy a matter-for-right privilege to construct a three-story dwelling. Thus, the applicant could be directed to eliminate the third-story and restrict habitable space to a single floor on the second-story above the carport. However, that direction would deny the applicant the same use of their property enjoyed by the existing two- and three-story dwellings on Beach Drive.

For these reasons, your Commission should take a broader view in considering this proposal and its effects on the future appearance of Beach Drive.

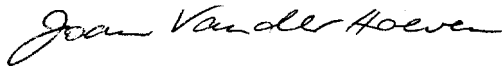
Conclusion

In making his decision, the Deputy Zoning Administrator considered all relevant comments and ordinances and based his decision to approve the Coastal Permit subject to the findings and conditions of the staff report. In addition, this decision is justified and supported by the facts presented for consideration and found in the administrative record. This decision is not tainted by errors or abuse of discretion on the part of the Deputy Zoning Administrator. Finally, fair and impartial hearings were conducted by the Deputy Zoning Administrator.

Recommendation

Staff recommends that your Commission deny the appeal and uphold the Deputy Zoning Administrator's approval of Application #97-0622, based on the Findings and Conditions adopted by the Deputy Zoning Administrator on May 1, 1998 (Exhibit B).

Sincerely,



Joan Van der Hoeven, AICP
Planner III

Reviewed by:



MARTIN J. JACOBSON, AICP
Principal Planner
Development Review

EXHIBITS:

- A. Appeal letter of Douglas E. Marshall, dated May 11, 1998
- B. Findings and Conditions
- C. Zoning Administrator Staff Report of May 1, 1998
- D. Foxx, Neilsen letter of 4/20/98 regarding use of the rear yard
- E. Craik Meeting Notes of 4/17/98 and 5/1/98 and letter of 4/2/98
- F. Staff report of 4/17/98 with neighborhood petitions
- G. Project Plans dated 4/13/98 by Tracy Johnson

DOUGLAS E. MARSHALL
ATTORNEY AT LAW
108 Locust Street, Suite 11
(The I.D. Building)
Santa Cruz, California 95060

ATTACHMENT 2
584

(408)425-7900

May 11, 1998

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

RE: APPEAL OF ZONING ADMINISTRATOR DECISION
APPLICATION NO. 97-0622
APN 43-105-07 (BEACH DRIVE)

Dear Commissioners:

This is an appeal of a Zoning Administrator decision to approve the above-referenced application. It is submitted on behalf of Jim and Judi Craik who own a home next to the subject property.

In general, the reason for this appeal is that the Zoning Administrator has approved height and front yard variances for a three-story dwelling adjacent to existing two-story dwellings which, if built, would be materially injurious to the privacy and enjoyment of the adjacent dwellings. For example, upper floor decks on the approved dwelling would provide a birds-eye view of the private second floor decks on adjacent dwellings. Also, the front yard variances allow the approved dwelling to extend further toward the street than the existing dwellings next to it, obstructing the view of these existing dwellings. The size of the approved dwelling will give the appearance that the subject property is over built. The height and front yard variances are based on geologic constraints, including the potential for coastal flooding and landslide debris flow, which restrict the use of the subject dwelling's first floor and rear yard. But, the potential for coastal flooding and debris flow are constraints shared with all the properties along Beach Drive. Since the adjacent properties share these same constraints, there appear to be no special circumstances to justify variances for the subject property that exceed what has been allowed on the adjacent properties.

More specifically, the reasons for this appeal are as follows.

First, the special circumstances finding fails to state why this property is any different from any other property next to it for purposes of front yard variances. In this regard, the enclosed May 8th letter from Jerry Weber, a Ph.D. Engineering Geologist, indicates that all the properties along Beach Drive have the potential for landslide debris in their rear yards. As such, why should any property subject to having landslide debris in its rear yard be allowed to extend any further into its front yard than adjacent dwellings which are also subject to having landslide debris in their rear yards? The Zoning Administrator staff report findings mention the subject property's shape and topography, but there is no explanation why its shape and topography justifies a setback that is any different than the adjacent properties. Oncemore, since its shape and topography are characteristics it shares in common with adjacent properties, these factors support permit denial, not permit approval.

Second, the special circumstances finding for front yard variances is flawed in that the above-mentioned letter from Jerry Weber concludes that the loss of use of the rear yard is generally limited to the rainy season. In his opinion, the rear yard could still be used during the rest of the year. This would at least indicate that a variance for a front yard deck (to make up for the loss of use of the rear yard) would not make any sense since a front yard deck in the rainy season would seem to be about as useless as the rear yard in the rainy season.

Third, the special circumstance findings for the third floor and dwelling height lack a factual basis in that we are not told why the loss of use of the first floor as living space, due to the potential for coastal flooding and debris flow, justifies three floors. As the above-mentioned letter from Jerry Weber tells us, all the properties along Beach Drive have the potential for coastal flooding and debris flow. So, why do these factors support approving a dwelling any higher than the adjacent two-story dwellings? Why is a two-story dwelling not adequate? This has not been addressed despite General Plan Policy 8.6.3, which specifically limits residential structures to two stories on property like the subject property. In order to approve a three-story structure, General Plan Policy 8.6.3 requires this to be "explicitly" provided for in the Residential Site and Development Standards Ordinance. But, what "explicit" basis for a third story exists here? Surely, the second floor could be fully utilized as living space, with parking on the floor below. Also, since several adjacent properties on both sides of the subject property are two stories, what are the "privileges enjoyed by other property in the vicinity" that justify a three-story dwelling?

Fourth, the Zoning Administrator's variance findings, Coastal Zone findings and development permit findings all fail to address the impact of the proposal on the privacy of adjacent properties. Adequate privacy is specifically mentioned in County Code Section 13.10.321(a)(5) as one of the purposes of the residential zone district where the subject property is located. The problem here is that the upper decks of the approved three-story dwelling provide a view of the private second floor decks on adjacent properties. This is particularly a problem for properties in this area of Beach Drive since these second floor decks are often the only area they have to sit in the sun and privately enjoy their beach property. The approved dwelling is, therefore, inconsistent with the purposes of the zone district where it is located, as well as being incompatible with and injurious to other properties in the vicinity.

Fifth, approving a three-story dwelling and an upper deck to extend further toward the street than the existing two-story dwellings next to it appears to violate General Plan Objective 8.6 in that the "scale" of the approved dwelling is inappropriate in comparison to adjacent development. The approved dwelling will dwarf the dwellings next to it, as shown in the two photographic renderings submitted with this appeal. These photographs and others were also submitted at the Zoning Administrator level. However, the Zoning Administrator findings fail to address the visual impacts of the greater amount of development on the subject property despite General Plan Policy 8.6.1, which directs staff to "recognize the potential for significant impacts to community character from residential structures which are not well-proportioned to the site . . ." In any event, the approval of such a dwelling in the Coastal Zone violates County Code Section 13.20.130(b)(1), which requires the design of new development to be "... visually compatible and integrated with the character of surrounding neighborhoods" which, here, are predominately two-story dwellings.

Sixth, since the height and front yard variances here exceed the scope of development enjoyed by similarly situated properties next to the subject property, they should be denied as a grant of special privileges. They are simply unnecessary in order for the subject property to be used for residential purposes in a manner that is compatible with neighboring properties.

In sum, the approved variances exceed what is appropriate to compensate the subject property for the constraints shared by everyone on Reach Drive. These constraints may properly justify development approval consistent with what, in fact, has been allowed on adjacent properties. But variances to allow development in excess of what has been allowed on adjacent properties are detrimental to the neighborhood and can not be supported by the required findings. Therefore, the application should be denied without prejudice so that a more appropriate two-story design can then be approved.

Respectfully Submitted,



Douglas E. Marshall, Esq.
Attorney for Mr. & Mrs Craik

Enclosures: 1) Letter from Jerry Weber to Judi & Jim Craik, dated May 8, 1998
2) (2) Photographs

DM:kf
cc: Mr. & Mrs. Craik

Gerald E. Weber
Consulting Engineering Geologist
614 Graham Hill Road
Santa Cruz, California 95060
(408) 426 - 1367 Fax (408) 426-5340

May 8, 1998

Judi and Jim Craik
413 Beach Drive
Rio Del Mar, CA 95003

Subject: Geologic report by Foxx, Nielsen for APN 43-105-07 - Beach Drive, Rio Del
Mat-, Santa Cruz County

Dear Mr. And Mrs. Craik:

At your request I have reviewed both the "engineering geologic" and "geotechnical engineering" reports on the above referenced property, along with the Santa Cruz county Planning Department's file on the proposed development. Both the Engineering Geologic Report and the Geotechnical Engineering Report adequately address the geologic conditions on the property and provide adequate mitigating measures for the debris avalanche/flow and coastal flooding hazards. The level of hazard to the subject property from both debris avalanches/flows and coastal flooding is essentially the same as for all of the other homes along Beach Drive

My only disagreement is in respect to the usage of the back yard of the subject property. Foxx, Nielsen and Associates apparently contend that the back yard should not be used, period. Their letter suggests that the back yard should not be used at any time for any purpose because it is to act as a reservoir for debris avalanche/flow material. I believe this is an overly conservative conclusion. Since debris avalanches and flows tend to occur under specific weather and/or seismic conditions, it seems that the back yard could be used for other purposes for the majority of the year - the non-rainy season.

Rainfall Induced Debris Avalanches and Flows: Debris avalanches and flows typically occur within the loose weathered debris and soils that occur on steep hillsides. In addition they are generally shallow slab failures within surficial materials, with the slope failure removing only a thin layer of material from the face of the hillside. Finally, they generally occur in response to high intensity rainfall during major storms, typically following some threshold level of precursory rainfall. Without question, landslides of this type are what we have historically observed to occur on the slopes above Beach Drive.

It is reasonable to conclude that this type of slope failure will occur primarily, if not exclusively, during the rainy season. Since some precursor threshold of total rainfall must be reached for debris flows to occur, the pattern of rainfall is important in analyzing the potential for the generation of these types of slope failures. Typically, precursory rainfall totals in Santa Cruz County do not reach the critical threshold for debris avalanches and flows until late December or early January, again, depending on the pattern and intensity of rainfall. In some years the

threshold is reached earlier, say early to mid December, while in drought years the threshold may never be reached.

As slopes drain during and after the rainy season the water saturation drops below the threshold level, reducing dramatically the potential for this type of slope failure to occur. This generally occurs sometime between early April and mid May, although it may occur much earlier during low rainfall years.

This suggests that the back yard will be exposed to a very low potential for debris avalanches during the bulk of the year. Even during exceedingly wet years the back yard should be useable from early May through early December - approximately 7 months. During drought years the back yard should be useable for most of the year, probably 11 - 12 months.

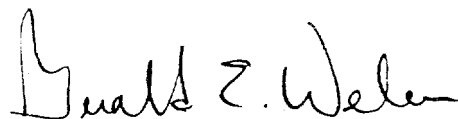
Seismically Induced Debris Avalanches and Flows: Avalanches and flow landslides can also be triggered on steep slopes by intense seismic shaking. Obviously, the subject property is subject to this type of failure. The 1989 Loma Prieta Earthquake triggered numerous landslides on the face of the sea cliff at both Beach Drive and Las Olas Drive. These slope failures occurred despite the fact that the earthquake occurred during an extended drought. Unfortunately, it is not yet possible to accurately predict large earthquakes, and one could occur at any time. However, once again, the hazard to the subject property is approximately the same as that for all other homes along Beach Drive and countless other properties in California.

Since large earthquakes tend to occur infrequently, the potential for this type of event to occur should be judged as low. Consider that the interval between the great San Francisco Earthquake of 1906 and the Loma Prieta Earthquake was 83 years. The risk associated with an earthquake induced ground failure in the back yard of a home along Beach Drive is certainly less than the risk associated with driving a car for a lifetime, where your chances of death are about 1 in 50, or 2%. Obviously, this does not mean that a catastrophic seismic event cannot occur at the site, only that it is improbable and the risk posed is relatively low.

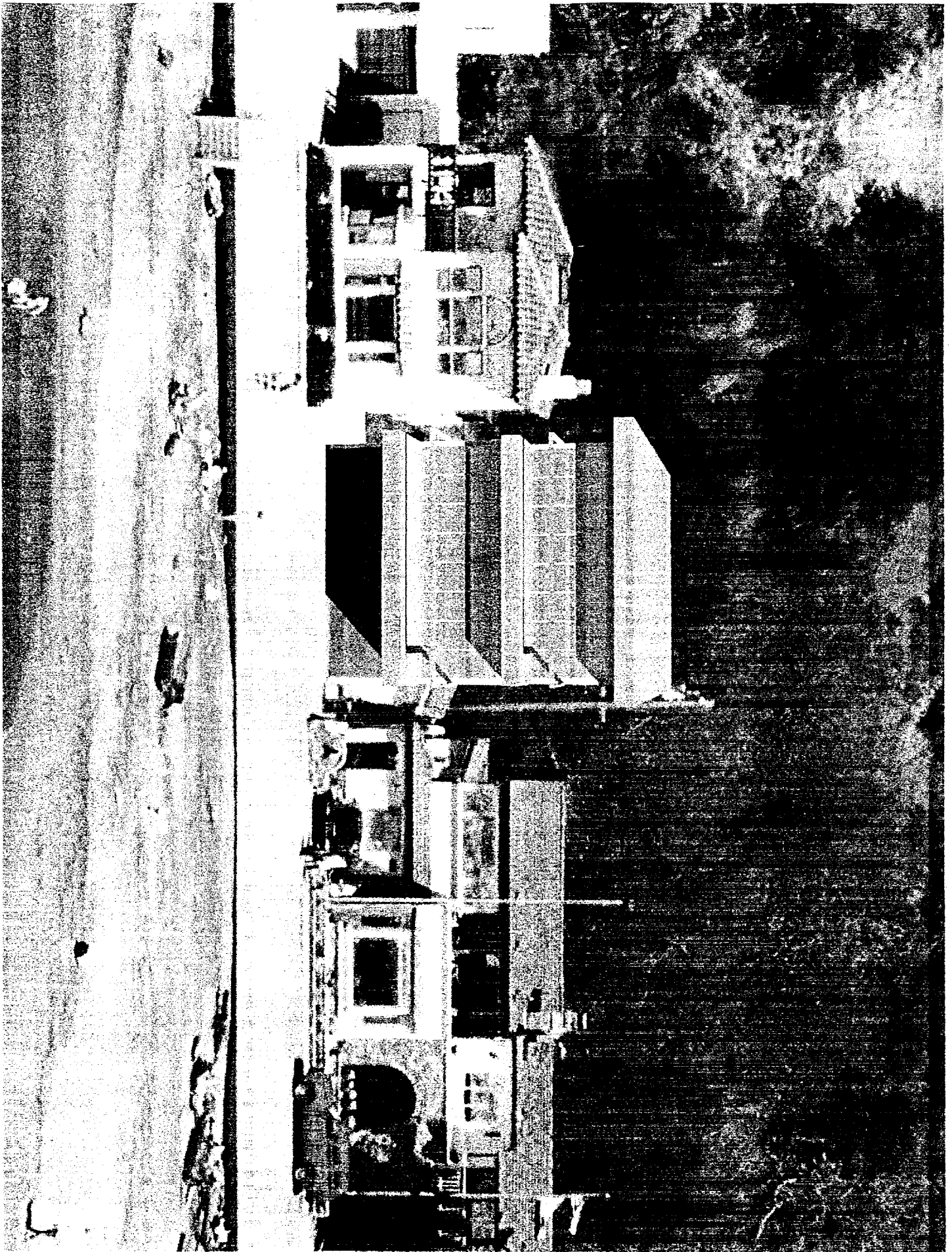
In summation, I think the year-around restriction of the usage of the back yard is overly conservative and not supported by our understanding of the processes in question. Debris avalanches and flows occur primarily during high intensity storms during the rainy season. They require saturation of the soil and therefore, do not commonly occur year-around.

If you have any questions regarding this brief analysis please contact me.

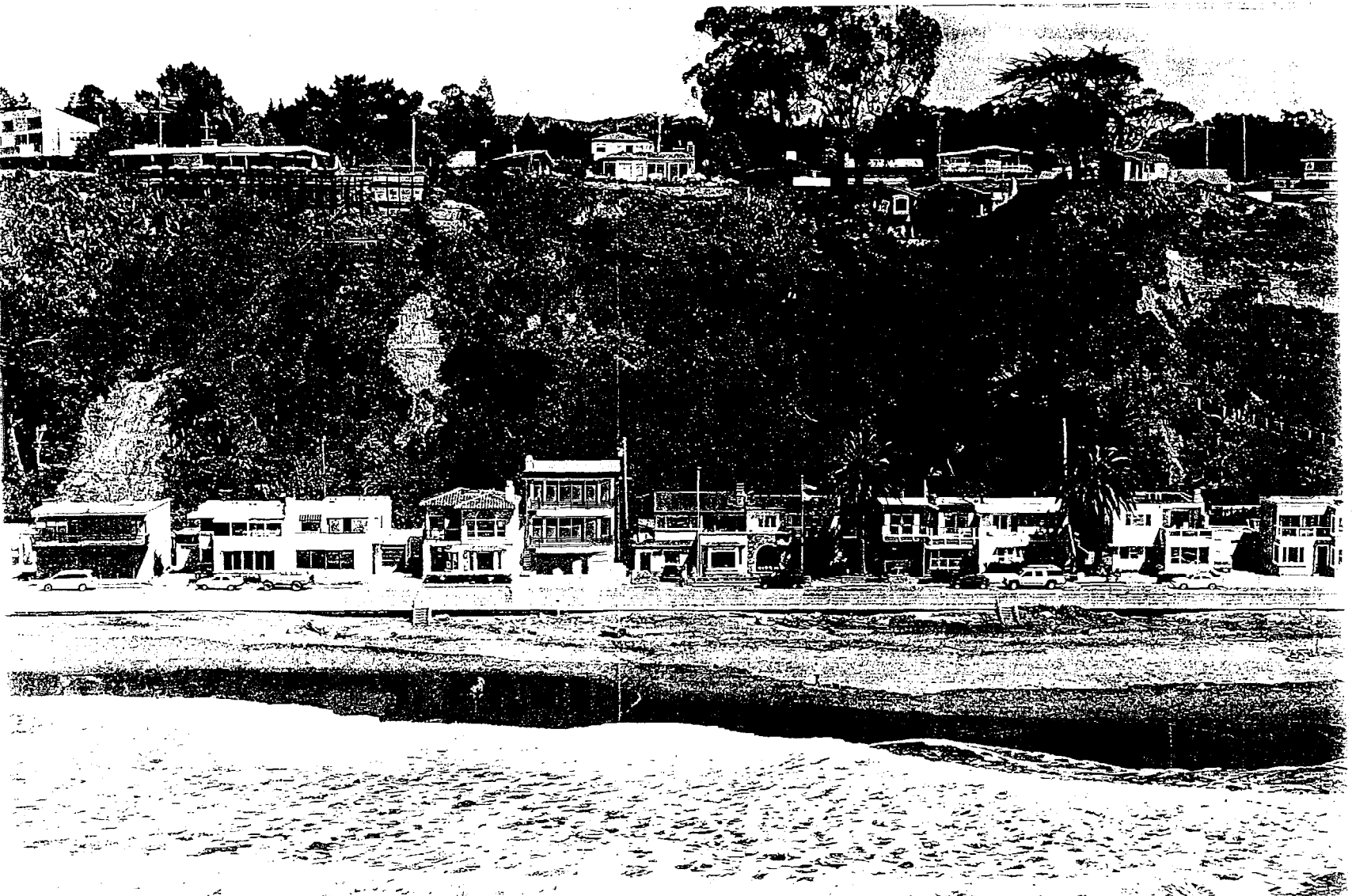
Very truly yours,



Gerald E. Weber, Ph.D.
Certified Engineering Geologist #1495



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VARIANCE FINDINGS:

1. THAT BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, OR EXISTING SURROUNDING STRUCTURES, THE STRICT APPLICATION OF THE ZONING ORDINANCE DEPRIVES SUCH PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTY IN THE VICINITY AND UNDER IDENTICAL ZONING CLASSIFICATION.

Special circumstances applicable to this property to justify the granting of a variance to development regulations concerning the height, number of stories, parking on more than 50 percent of the front setback, and a reduced front setback, include the shape of the parcel. A narrow 35 foot property width provides limited area for development as required 5 foot side setbacks leave a 25 foot wide building envelope.

The project site is further constrained by existing topography. It is located below an eroding coastal bluff to the rear of the lot, and in a coastal wave run-up and/or flooding zone which requires elevation of any structure above 23 feet mean sea level at the front of the lot. The proposed structure would exceed the 28 foot height limit by four feet and exceed the two story height limit, so that the first level would provide the necessary flood elevation required by the geologic report completed for the property and by General Plan policies 6.4.2 and 6.4.3, which regulate development in flood hazard areas. Due to the steep coastal bluff at the rear of the property, proposed to be retained by a 12 foot high engineered wall to deflect potential slides, the entire back yard is unsuitable for a deck/patio or recreational area as this area is reserved for storage of landslide debris in the event of a slope failure above the site which would flow into the rear yard.

Required on-site parking takes up more than 50 percent of the 35 foot wide front yard, but provides a total of three spaces on-site so that this property does not compete with coastal visitors for access to public on-street parking on Beach Drive. The proposed deck encroachment to within 8 feet of the front property line and 16 feet to the residence, provides needed open space area for the single-family dwelling. The vast majority of existing surrounding structures enjoy reduced front and/or side setbacks and the strict application of the zoning ordinance would prevent the property owners from utilizing their property to the same extent as other properties in the vicinity and under identical R-1-8 zoning.

2. THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF ZONING OBJECTIVES AND WILL NOT BE MATERIALLY DETRIMENTAL TO PUBLIC HEALTH, SAFETY, OR WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY.

Compliance with mitigation measures required by technical studies

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accepted by the Planning Department (Exhibits E, F, and G of 4/03/98 staff report) will insure that the granting of a variance to construct the proposed single-family dwelling shall not be materially detrimental to the public health, safety or welfare or be injurious to property or improvements in the vicinity. The residence is required to be elevated above 23 feet mean sea level with no habitable features on the ground floor and constructed with breakaway walls and a collapsible garage door. No mechanical, electrical or plumbing equipment shall be installed below the base flood elevation. An engineered 12 foot high retaining wall is to be constructed behind the house to stabilize the base of the coastal bluff above the residence. The rear yard is to be free of obstructions so that there is nothing substantial to deflect slide debris onto adjacent properties.

3. THAT THE GRANTING OF SUCH VARIANCES SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES INCONSISTENT WITH THE LIMITATIONS UPON OTHER PROPERTIES IN THE VICINITY AND ZONE IN WHICH SUCH IS SITUATED.

The granting of a variance to reduce the front setback from the required 20 feet to about 16 feet to the dwelling and about 8 feet to the edge of the cantilevered second floor deck; to increase the maximum height from 28 feet to about 32 feet; to allow three stories; and to allow parking to exceed a maximum of 50 percent of the required front yard, will not constitute a grant of special privilege to this parcel as similar variances have been granted in the zone and immediate vicinity. The variance would provide a remedy for the proposed **infill** development of a single-family residence consistent with the existing surrounding development.

The County has considered and approved similar variance requests. Reduced setbacks have been granted at APN's 043-105-03, -06, and -22 for example, under Applications #97-0387 (reduced side setback from 5 feet to 3 feet), #86-45-V (reduced 5 feet setbacks to 3 feet and zero feet), and #4780 (reduced front setback from 10 feet to 5 feet). A permit for a fence greater than 6 feet in the required side yard was also granted at APN 043-105-15 under Application #91-0608. A field survey and aerial photographs indicate that the majority of existing homes along Beach Drive have a front setback of ten feet or less, so that the proposed project being set back 16 feet to the proposed residence and 8 feet to the second level deck, would not constitute a grant of special privilege inconsistent with existing surrounding development.

COASTAL ZONE PERMIT FINDINGS

1. THAT THE PROJECT **IS** A USE ALLOWED **IN** ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED **IN SECTION 13.10.170(d)** AS CONSISTENT WITH THE LUP **DESIGNATION**.

The proposed residence is an allowed use within the Single-family Residential, "R-1-8" zone district and is consistent with the "Urban Low Residential" Land Use Plan designation of the General Plan.

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, **UTILITY**, OR OPEN SPACE EASEMENTS.

The subject property is not affected by any development restrictions that would hinder development of the proposed project.

3. THAT THE PROJECT **IS** CONSISTENT WITH THE DESIGN **CRITERIA** AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT **TO SECTION 13.20.130** ET SEQ.

Subject to the concurrent approval of the proposed variances, the proposed project is consistent with all applicable regulations under County Code Section 13.20.130 for development within the coastal zone. The structure follows the natural topography of the site as much as possible. The proposed project will be visually compatible with the character of the area given the use of natural materials and **colors**. These design characteristics will minimize impacts on the site and the surrounding neighborhood.

4. THAT THE **PROJECT** CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY CHAPTERS 2 AND 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT **IS IN** CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION **POLICIES** OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH **SECTION 30200**.

The proposed project is not subject to the public access requirements given the location of the property beyond the first public road, Beach Drive, and the sea. In addition, the property is not designated for public recreation or visitor serving facility requirements.

5. THAT THE PROPOSED DEVELOPMENT **IS** IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The proposed project conforms to the "Urban Low Residential" land use plan designation of the Local Coastal Program and is consistent with the development standards applicable to parcels within the Coastal Zone.

General Plan Policy 6.2.15 allows for new development on existing lots of record in areas subject to storm wave inundation or beach or bluff erosion within existing developed neighborhoods where a technical report demonstrates that the potential hazard can be mitigated over the **100-year** lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, friction pier or deep caisson foundation; and where mitigation of the potential hazard is not dependent on shoreline protection structures except on lots where both adjacent parcels are already similarly protected; and where a deed restriction indicating the potential hazards on the site and the level of prior investigation. This project is subject to conditions of approval based upon the Planning Department's acceptance of the geologic and geotechnical reports dated **10/22/97**, (Exhibit F) and **3/4/98** (Exhibit E).

The proposed project is visible from the Scenic Corridor within the Coastal Zone consistent with the Local Coastal Program, and is conditioned to minimize visual intrusion.

DEVELOPMENT PERMIT FINDINGS:

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE **CONDITIONS** UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY **INJURIOUS** TO PROPERTIES OR IMPROVEMENTS IN THE **VICINITY**.

The location of the proposed project will not be materially detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, or be materially injurious to properties or improvements in the vicinity in that the proposed project complies with all development regulations applicable to the site. Project approval is subject to meeting conditions of providing breakaway walls and garage door collapse on the ground floor, with no plumbing, mechanical or electrical equipment installed below the base flood elevation of 23 feet above mean sea level.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE **SITE IS** LOCATED.

The proposed project is an allowed use within the "Single-family Residential" zone district. Subject to the concurrent approval of the proposed variance, the location of the project complies with the applicable regulations of the "R-1-6" zone district under County Code Section 13.10.323. Particularly, the proposed project complies with the maximum 30 percent lot coverage on site, required setbacks, with the exception of the front setback, and required parking standards. The project exceeds the 28 foot maximum height standards by about 4 feet and exceeds the two story limit within the Urban Services line to be three stories in height, as no habitable features are permitted on the ground floor due to required flood mitigation measures (Exhibit G). The retaining wall exceeding the six foot height limit is required to stabilize the coastal bluff above the property and will not obstruct coastal views or block light or air to the adjoining properties in that a minimum 5 foot side setback shall be maintained.

3. THAT THE PROPOSED USE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The proposed project is consistent with the "Urban Low Residential" General Plan Land Use Plan designation. Compliance with mitigations of the Geologic study prepared for the project by Foxx, Nielsen and Associates in **June 1997** and the Geotechnical study by Haro, Kasunich and Associates in **June 1997** as accepted by the Planning Department in October 1997, insure that the project demonstrates a **100-year** lifetime of the structure as required by General Plan Policy 6.2.15.

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

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The proposed use will not overload utilities or generate more than the acceptable level of traffic expected for the proposed residence.

5. THAT THE PROPOSED PROJECT WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed project will complement and harmonize with the existing use of the property and surrounding uses. The proposed structure will be compatible with the character of the area given the utilization of natural earth tone materials and colors.

CONDITIONS OF APPROVAL

Coastal Zone Permit No. 97-0622

Applicant and Property Owner: Tracy Johnson for Norma Odenweller
 Assessor's Parcel No. 043-105-07
 Property location and address: 413 Beach Dr., Aptos
 Aptos planning area

EXHIBITS:

- A. Architectural Plans prepared by Tracy Johnson dated 1/27/1998, revised 2/17/98, revised 4/13/98.

- I. This permit authorizes the construction of a single-family dwelling. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
- A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Demolition Permit and Building Permit from the Santa Cruz County Building Official.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
- A. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include, but not be limited to, the following:
 1. Exterior elevations identifying finish materials and colors. The colors shall be earthen tone, shall blend in with the coastal bluff (the intent being to minimize the visual impacts), and shall be submitted to the Zoning Administrator for review and approval.
 2. Floor plans identifying each room and its dimensions.
 3. A site plan showing the location of all site improvements, including, but not limited to, points of ingress and egress, parking areas, and accessory structures.

4. A final Landscape Plan. This plan shall include the location, size, and species of all existing and proposed trees, plants, and turf areas, and irrigation system.
5. Final plans shall note that Soquel Creek Water District will provide water service and shall meet all requirements of the District including payment of any connection and inspection fees. Final engineered plans for water connection shall be reviewed and accepted by the District.
6. Final plans shall note that Santa Cruz County Sanitation District will provide sewer service and shall meet all requirements of the District including payment of any connection and inspection fees. Final engineered plans for the sewer system shall be reviewed and accepted by the District.
7. Meet all requirements and pay the appropriate plan check fee of the Aptos/La Selva Fire Protection District as stated in their letter/memorandum dated 9/15/97.
8. Follow all recommendations of the geotechnical/geologic reports prepared by Foxx, Nielsen & Assoc. and Haro, Kasunich & Assoc. for this project dated 6/97, regarding the construction and other improvements on the site. All pertinent geotechnical/geologic report recommendations shall be included in the construction drawings submitted to the County for a Building Permit. All recommendations contained in the County acceptance letter(s) dated 10/22/97, shall be incorporated into the final design. A plan review letter from the geotechnical engineer/project geologist shall be submitted with the plans stating that the plans have been reviewed and found to be in compliance with the recommendations of the geotechnical/geologic report.
9. The project shall comply with all requirements of the 3/4/98 memo from Senior Civil Engineer, Rachel Lather including:
 - a) All breakaway walls and the garage door shall be certified by a registered civil engineer or architect and meet the following conditions:
 - i) Breakaway wall and garage door collapse shall result from a water load less than that which would occur during the base flood, and
 - ii) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of a base flood.
 - b) Any walls on the ground floor not designated as breakaway shall be demonstrated to be needed for shear or structural support and approved by Environmental Planning.
 - c) The storage room on the ground floor shall be designed with breakaway walls.

- d) No mechanical, electrical, or plumbing equipment shall **be installed** below the base flood elevation.
 - e) All fences shall comply with FEMA standards. No solid fence is allowed. The fence shall comply with the 20 foot front setback.
10. The lowest habitable floor area must be elevated 2 feet above flood level for a total of 23 feet above mean sea level.
- B. Pay the Santa Cruz County Park Dedication fee in effect at the time of Building Permit issuance. On **4/3/98** this fee would total **\$2,790.00, (\$930/bedroom, Aptos Planning Area)**.
 - C. Pay the Santa Cruz County Transportation Improvement fee in effect at the time of Building Permit issuance. On **4/3/98**, this fee would total **\$2,000.00**.
 - D. Pay the Santa Cruz County Roadside Improvement fee in effect at the time of Building Permit issuance. On **4/3/98** this fee would total **\$2,000.00**.
 - E. Pay the Santa Cruz County Child Care fee in effect at the time of Building Permit issuance. On **4/3/98** the fee would total \$327.00, (**\$109.00** per bedroom).
 - F. Meet all requirements of the Department of Public Works and pay all fees for Zone 6 Santa Cruz County Flood Control and Water Conservation District including plan check and permit processing fees as stated in their memorandum dated **9/24/97**.
 - G. Obtain an Encroachment Permit from the Department of Public Works, as necessary, for any work performed in the public right-of-way. All work shall be consistent with the Department of Public Works Design Criteria.
 - H. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district in which the project is located.
 - I. Record a Declaration of Acknowledgement, on a form provided by the Planning Department, in the Office of the County Recorder, providing notice of a Geologic Hazard relating to location adjacent to an unstable coastal bluff/location adjacent to a landslide/location subject to storm wave inundation.
 - J. A Declaration of Restriction limiting the use of the rear yard shall be submitted to staff for review and approval prior to recordation.

- K. Only translucent windows within the stairwell shall be utilized along the east side of the building.
- III. All construction shall be performed in accordance with the approved plans. Prior to final building inspection and building occupancy, the applicant/owner shall meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- C. The soils engineer/project geologist shall submit a letter to the Planning Department verifying that all construction has been performed according to the recommendations of the accepted **geo-**technical report. A copy of the letter shall be kept in the project file for future reference.
- IV. Operational Conditions.
- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

PLEASE NOTE: THIS PERMIT EXPIRES TWO YEARS FROM DATE OF APPROVAL UNLESS YOU OBTAIN YOUR BUILDING PERMIT AND COMMENCE CONSTRUCTION.

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: 4/03/98
Agenda Item: 1
Time: After 10
A.M

STAFF REPORT TO THE ZONING ADMINISTRATOR

APPLICATION NO. : 97-0622

APN: 043-105-07

APPLICANT: Tracy Robert Johnson

OWNER: Norma E. Odenweller

PROJECT DESCRIPTION: Proposal to demolish an existing garage and to construct a two story single-family dwelling with a garage below constituting a three story dwelling. Requires a Variance to reduce the required minimum 20 foot front yard to about 16 feet to the dwelling and about 8 feet to the edge of the cantilevered deck above the first floor; to construct a second story roof top deck; to increase the maximum 28 foot height limitation to about 32 feet; to allow three stories; and to allow the parking to exceed a maximum of 50 percent of the required front yard. This application includes a Residential Development Permit to increase the maximum 6 foot height limitation of a retaining wall within the required 5 foot side yards to about 12 feet in height.

LOCATION: Property located on the north side of Beach Drive (413 Beach Drive), about 3/4 mile southeast from the Esplanade and Rio del Mar Boulevard.

FINAL ACTION DATE: 7/3/98 (per the Permit Streamlining Act)

PERMITS REQUIRED: Coastal Zone permit, Variance, Residential Development permit.

ENV. DETERMINATION: Exempt per CEQA Section 1803(a)

COASTAL ZONE: yes ___ o APPEALABLE TO CCC yes ___ o

PARCEL INFORMATION

PARCEL SIZE: 5,794 square feet

EXISTING LAND USE: PARCEL: Non-habitable accessory structure

SURROUNDING: Single-family dwellings, State beach

PROJECT ACCESS: Beach Drive

PLANNING AREA: Aptos

LAND USE DESIGNATION: Urban Low Residential

ZONING DISTRICT: R-1-8

SUPERVISORIAL DISTRICT: Second District

ENVIRONMENTAL INFORMATION

Item
a. Geo. Hazards
b. Soils**
c. Fire Hazard
d. Slopes**
e. Env. Sen. Habitat

Comments
a. Floodzone V & Floodplain
b. 109, Beaches
c. N/A
d. Steep slope at rear of lot
e. N/A

- f. Grading
- g. Tree Removal
- h. Scenic
- i. Drainage
- j. Traffic
- k. Roads
- l. Parks
- m Sewer Avail.
- n. Water Avail.
- ** Report was required.

- f. N/A
- g. N/A
- h. Mapped coastal scenic resource
- i. Adequate
- j. No significant impact
- k. Adequate
- l. Adequate
- m Yes
- n. Yes

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SERVICES INFORMATION

Win Urban Services Line: XX s ____no
 Water Supply: Soquel Creek Water District
 Sewage Disposal: Santa Cruz County Sanitation District
 Fire District: Aptos/La Selva Fire Protection District
 Drainage District: Zone 6 Flood Control/Water Conservation District

DISCUSSION

This application seeks the demolition of an existing 440 square foot detached garage and the construction of a single-family residence of approximately 2,697 square feet. The project requires a variance to existing developmental regulations with regard to exceeding the maximum 28 foot height limit by four feet, allowing three stories, reducing the required 20 foot front property line setback to about 16 feet to the dwelling and 8 feet to the edge of the cantilevered deck above the first floor, constructing a second story roof top deck, and allowing the parking area to exceed 50 percent of the front yard. The project also requires a Residential Development permit to increase the maximum 6 foot height limitation of a retaining wall within the required 5 foot side yards to about 12 feet in height.

The 5,794 square foot parcel is constrained by significant slope instability at the rear of the lot. The slope rises to about 110 feet above sea level with an 80 percent gradient behind the proposed homesite. In addition, the property is mapped as lying within the storm wave runup zone of the Pacific Ocean. An existing seawall extends several hundred feet up and down the coast of the property and serves to protect Beach Drive from erosion and significantly reduces the potential for waves to inundate the property during severe winter storms.

A Geologic Investigation prepared for the property by Foxx, Nielsen and Associates and a Geotechnical Investigation Report by Haro, Kasunich and Associates, in June 1997, were reviewed and accepted by the Planning Department on October 22, 1997 under Application #97-0512. Mitigation of the slope instability and wave attack issues include the requirement that the home be raised on piers that extend to bedrock and that the lowest floor shall incorporate break away walls intended to collapse under wind and water loads without causing structural damage to the elevated portion of the building or the support foundation system, and that the rear walls of

the structure be reinforced and a retaining wall constructed to deflect slide material from a potential debris flow (see Exhibits E, F and G).

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The project site is designated as Urban Low Residential in the County General Plan. This designation provides for low density residential development in areas within the Urban Services Line which have a full range of urban services. The implementing zoning is Single-family Residential with an 8,000 square foot parcel size (R-1-8). The 5,794 square foot lot is less than 80 percent of the minimum site area required for the R-1-8 zone district and so Section 13.10.323(d)2, Nonconforming Parcels, requires setbacks to be equal to those in the zone district having a minimum site area or dimensions which most closely correspond to those of the substandard lot, i.e. R-1-6. Due to the narrow frontage of the lot, 35 feet in width, side setbacks are 5 feet from the property lines. The project complies with the lot coverage and floor area ratio requirements, but exceeds the 50 percent maximum parking area allowed within the front yard setback under County Code Section 13.10.554(d). This situation is typical of the Beach Drive vicinity due to the narrow lots. It is preferable to have the required parking on site to ensure that limited on-street parking is available to coastal visitors. The project exceeds the 28 feet height limit by about 4 feet and also has three stories which exceeds the two story limit inside the Urban Services Line. Compliance with the elevation requirements of the Geologic and Geotechnical investigations would necessitate a variance to the zoning regulations in order to accommodate a three bedroom residence. A variance to the standard 6 foot height limitation for the side and rear retaining walls is required so that the proposed 12 foot high retaining wall is strong enough to withstand potential debris flows of slide material building up beneath and at the rear of the structure. Variances from these zoning regulations have been granted for adjacent structures in the immediate vicinity.

General' Plan Policy 6.2.15 allows for new development on existing lots of record in areas subject to storm wave inundation or beach or bluff erosion within existing developed neighborhoods where a technical report demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, friction pier or deep caisson foundation; and where mitigation of the potential hazard is not dependent on shoreline protection structures except on lots where both adjacent parcels are already similarly protected; and where a deed restriction indicating the potential hazards on the site and the level of prior investigation conducted is recorded on the property deed with the County Recorder.

The project lies within the scenic area of the coastal zone and is subject to Design Criteria under County Code Section 13.20.130. The project is visually compatible and integrated with the surrounding neighborhood. The structure is designed to fit the topography of the site with minimal cutting, grading or filling for construction. Natural materials and colors are utilized, which harmonize with existing development in the neighborhood and minimize visual intrusion.

Please see Exhibit B ("Findings") for complete listing of findings and evidence related to the above discussion.

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RECOMMENDATION

Staff recommends approval of Application No. 97-0622 based on the attached findings and conditions.

EXHIBITS

- A. Project Plans (On file in the Planning Department)
- B. Findings
- C. Conditions
- D. Environmental Determination
- E. Memo of 3/4/98 from Senior Civil Engineer, Rachel Lather
- F. Geology/Geotechnical report acceptance letter of 10/22/97
- G. Environmental Planning memo dated 9/16/97
- H. Aptos/La Selva Fire Protection District memo of 9/15/97
- I. Santa Cruz County Sanitation District memo of 9/9/97
- J. Public Works Drainage memo of 9/24/97
- K. Letter of Special Circumstances by applicant, undated
- L. Location Map
- M. Assessor's Map .
- N. Zoning Map

SUPPLEMENTARY REPORTS AND INFORMATION REFERRED TO IN THIS REPORT ARE ON FILE AND AVAILABLE FOR VIEWING AT THE SANTA CRUZ COUNTY PLANNING DEPARTMENT, AND ARE HEREBY MADE A PART OF THE ADMINISTRATIVE RECORD FOR THE PROPOSED PROJECT.

Report Prepared By: Joan Van der Hoeven, AICP
Phone Number: (408) 454-3140
Santa Cruz County Planning Dept.
701 Ocean St., 4th Floor
Santa Cruz, CA 95060

VARIANCE FINDINGS:

1. **THAT BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, OR EXISTING SURROUNDING STRUCTURES, THE STRICT APPLICATION OF THE ZONING ORDINANCE DEPRIVES SUCH PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTY IN THE VICINITY AND UNDER IDENTICAL ZONING CLASSIFICATION.**

Special circumstances applicable to this property to justify the granting of a variance to development regulations concerning the height, number of stories, parking on more than 50 percent of the front setback, and a reduced front setback, include the shape of the parcel. A narrow 35 foot property width provides limited area for development as required 5 foot side setbacks leave a 25 foot wide building envelope.

The project site is further constrained by existing topography. It is located below an eroding coastal bluff to the rear of the lot, and in a coastal wave run-up and/or flooding zone which requires elevation of any structure above 23 feet mean sea level at the front of the lot. The proposed structure would exceed the 28 foot height limit by four feet and exceed the two story height limit, so that the first level would provide the necessary flood elevation required by the geologic report completed for the property and by General Plan policies 6.4.2 and 6.4.3, which regulate development in flood hazard areas. Due to the steep coastal bluff at the rear of the property, proposed to be retained by a 12 foot high engineered wall to deflect potential slides, the entire back yard is unsuitable for a deck/patio or recreational area as this area is reserved for storage of landslide debris in the event of a slope failure above the site which would flow into the rear yard.

Required on-site parking takes up more than 50 percent of the 35 foot wide front yard, but provides a total of three spaces on-site so that this property does not compete with coastal visitors for access to public on-street parking on Beach Drive. The proposed deck encroachment to within 8 feet' of the front property line and 16 feet to the residence, provides needed open space area for the single-family dwelling. The vast majority of existing surrounding structures enjoy reduced front and/or side setbacks and the strict application of the zoning ordinance would prevent the property owners from utilizing their property to the same extent as other properties in the vicinity and under identical R-1-8 zoning.

2. **THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF ZONING OBJECTIVES AND WILL NOT BE MATERIALLY DETRIMENTAL TO PUBLIC HEALTH, SAFETY, OR WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY.**

Compliance with mitigation measures required by technical studies

accepted by the Planning Department (Exhibits E, F, and G of 4/03/98 staff report) will insure that the granting of a variance to construct the proposed single-family dwelling shall not be materially detrimental to the public health, safety or welfare or be injurious to property or improvements in the vicinity. The residence is required to be elevated above 23 feet mean sea level with no habitable features on the ground floor and constructed with breakaway walls and a collapsible garage door. No mechanical, electrical or plumbing equipment shall be installed below the base flood elevation. An engineered 12 foot high retaining wall is to be constructed behind the house to stabilize the base of the coastal bluff above the residence. The rear yard is to be free of obstructions so that there is nothing substantial to deflect slide debris onto adjacent properties.

3. **THAT THE GRANTING OF SUCH VARIANCES SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES INCONSISTENT WITH THE LIMITATIONS UPON OTHER PROPERTIES IN THE VICINITY AND ZONE IN WHICH SUCH IS SITUATED.**

The granting of a variance to reduce the front setback from the required 20 feet to about 16 feet to the dwelling and about 8 feet to the edge of the cantilevered second floor deck; to increase the maximum height from 28 feet to about 32 feet; to allow three stories; and to allow parking to exceed a maximum of 50 percent of the required front yard, will not constitute a grant of special privilege to this parcel as similar variances have been granted in the zone and immediate vicinity. The variance would provide a remedy for the proposed infill development of a single-family residence consistent with the existing surrounding development.

The County has considered and approved similar variance requests. Reduced setbacks have been granted at APN's 043-105-03, -06, and -22 for example, under Applications #97-0387 (reduced side setback from 5 feet to 3 feet), #86-45-V (reduced 5 feet setbacks to 3 feet and zero feet), and #4780 (reduced front setback from 10 feet to 5 feet). A permit for a fence greater than 6 feet in the required side yard was also granted at APN 043-105-15 under Application #91-0608. A field survey and aerial photographs indicate that the majority of existing homes along Beach Drive have a front setback of ten feet or less, so that the proposed project being set back 16 feet to the proposed residence and 8 feet to the second level deck, would not constitute a grant of special privilege inconsistent with existing surrounding development.

COASTAL ZONE PERMIT FINDINGS

1. **THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE LUP DESIGNATION.**

The proposed residence is an allowed use within the Single-family Residential, "R-1-8" zone district and is consistent with the "Urban Low Residential" Land Use Plan designation of the General Plan.

2. **THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.**

The subject property is not affected by any development restrictions that would hinder development of the proposed project.

3. **THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 ET SEQ.**

Subject to the concurrent approval of the proposed variances, the proposed project is consistent with all applicable regulations under County Code Section 13.20.130 for development within the coastal zone. The structure follows the natural topography of the site as much as possible. The proposed project will be visually compatible with the character of the area given the use of natural materials and colors. These design characteristics will minimize impacts on the site and the surrounding neighborhood.

4. **THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY CHAPTERS 2 AND 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORE-LINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.**

The proposed project is not subject to the public access requirements given the location of the property beyond the first public road, Beach Drive, and the sea. In addition, the property is not designated for public recreation or visitor serving facility requirements.

5. **THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM**

The proposed project conforms to the "Urban Low Residential" land use plan designation of the Local Coastal Program and is consistent with the development standards applicable to parcels within the Coastal Zone.

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General Plan Policy 6.2.15 allows for new development on existing lots of record in areas subject to storm wave inundation or beach or bluff erosion within existing developed neighborhoods where a technical report demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, friction pier or deep caisson foundation; and where mitigation of the potential hazard is not dependent on shoreline protection structures except on lots where both adjacent parcels are already similarly protected; and where a deed restriction indicating the potential hazards on the site and the level of prior investigation. This project is subject to conditions of approval based upon the Planning Department's acceptance of the geologic and geotechnical reports dated 10/22/97, (Exhibit F) and 3/4/98 (Exhibit E).

The proposed project is visible from the Scenic Corridor within the Coastal Zone consistent with the Local Coastal Program and is conditioned to minimize visual intrusion.

DEVELOPMENT PERMIT FINDINGS:

1. **THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.**

The location of the proposed project will not be materially detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, or be materially injurious to properties or improvements in the vicinity in that the proposed project complies with all development regulations applicable to the site. Project approval is subject to meeting conditions of providing breakaway walls and garage door collapse on the ground floor, with no plumbing, mechanical or electrical equipment installed below the base flood elevation of 23 feet above mean sea level.

2. **THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.**

The proposed project is an allowed use within the "Single-family Residential" zone district. Subject to the concurrent approval of the proposed variance, the location of the project complies with the applicable regulations of the "R-1-6" zone district under County Code Section 13.10.323. Particularly, the proposed project complies with the maximum 30 percent lot coverage on site, required setbacks, with the exception of the front setback, and required parking standards. -The project exceeds the 28 foot maximum height standards by about 4 feet and exceeds the two story limit within the Urban Services line to be three stories in height, as no habitable features are permitted on the ground floor due to required flood mitigation measures (Exhibit G). The retaining wall exceeding the six foot height limit is required to stabilize the coastal bluff above the property and will not obstruct coastal views or block light or air to the adjoining properties in that a minimum 5 foot side setback shall be maintained.

3. **THAT THE PROPOSED USE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.**

The proposed project is consistent with the "Urban Low Residential" General Plan Land Use Plan designation. Compliance with mitigations of the Geologic study prepared for the project by Foxx, Nielsen and Associates in June 1997 and the Geotechnical study by Haro, Kasunich and Associates in June 1997 as accepted by the Planning Department in October 1997, insure that the project demonstrates a 100-year lifetime of the structure as required by General Plan Policy 6.2.15.

4. **THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.** 610

The proposed use will not overload utilities or generate more than the acceptable level of traffic expected for the proposed residence.

5. **THAT THE PROPOSED PROJECT WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.**

The proposed project will complement and harmonize with the existing use of the property and surrounding uses. The proposed structure will be compatible with the character of the area given the utilization of natural earth tone materials and colors.

CONDITIONS OF APPROVAL

Coastal Zone Permit No. 97-0622

**Applicant and Property Owner: Tracy Johnson for Norma Odenweller
Assessor's Parcel No. 043-105-07
Property location and address: 413 Beach Dr., Aptos
Aptos planning area**

EXHIBITS:

- A. Architectural Plans prepared by Tracy Johnson dated 1/27/1998, revised 2/17/98, revised 4/13/98.**
-

- I. This permit authorizes the construction of a single-family dwelling. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:**
- A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.**
 - B. Obtain a Demolition Permit and Building Permit from the Santa Cruz County Building Official.**
- II. Prior to issuance of a Building Permit the applicant/owner shall:**
- A. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include, but not be limited to, the following:**
 - 1. Exterior elevations identifying finish materials and colors. The colors shall be earthen tone, shall blend in with the coastal bluff (the intent being to minimize the visual impacts), and shall be submitted to the Zoning Administrator for review and approval.**
 - 2. Floor plans identifying each room and its dimensions.**
 - 3. A site plan showing the location of all site improvements, including, but not limited to, points of ingress and egress, parking areas, and accessory structures.**

4. A final Landscape Plan. This plan shall include the location, size, and species of all existing and proposed trees, plants, and turf areas, and irrigation system 612
5. Final plans shall note that Soquel Creek Water District will provide water service and shall meet all requirements of the District including payment of any connection and inspection fees. Final engineered plans for water connection shall be reviewed and accepted by the District.
6. Final plans shall note that Santa Cruz County Sanitation District will provide sewer service and shall meet all requirements of the District including payment of any connection and inspection fees. Final engineered plans for the sewer system shall be reviewed and accepted by the District.
7. Meet all requirements and pay the appropriate plan check fee of the Aptos/La Selva Fire Protection District as stated in their letter/memorandum dated 9/15/97.
8. Follow all recommendations of the geotechnical/geologic reports prepared by Foxx, Nielsen & Assoc. and Haro, Kasunich & Assoc. for this project dated 6/97, regarding the construction and other improvements on the site. All pertinent geotechnical/geologic report recommendations shall be included in the construction drawings submitted to the County for a Building Permit. All recommendations contained in the County acceptance letter(s) dated 10/22/97, shall be incorporated into the final design. A plan review letter from the geotechnical engineer/project geologist shall be submitted with the plans stating that the plans have been reviewed and found to be in compliance with the recommendations of the geotechnical/geologic report.
9. The project shall comply with all requirements of the 3/4/98 memo from Senior Civil Engineer, Rachel Lather including:
 - a) All breakaway walls and the garage door shall be certified by a registered civil engineer or architect and meet the following conditions:
 - i) Breakaway wall and garage door collapse shall result from a water load less than that which would occur during the base flood, and
 - ii) The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of a base flood.
 - b) Any walls on the ground floor not designated as breakaway shall be demonstrated to be needed for shear or structural support and approved by Environmental Planning.
 - c) The storage room on the ground floor shall be designed with breakaway walls.

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- d) No mechanical, electrical, or plumbing equipment shall be installed below the base flood elevation.
 - e) All fences shall comply with FEMA standards. No solid fence is allowed. The fence shall comply with the 20 foot front setback.
10. The lowest habitable floor area must be elevated 2 feet above flood level for a total of 23 feet above mean sea level.
- B. Pay the Santa Cruz County Park Dedication fee in effect at the time of Building Permit issuance. On 4/3/98 this fee would total \$2,790.00, (\$930/bedroom, Aptos Planning Area).
 - C. Pay the Santa Cruz County Transportation Improvement fee in effect at the time of Building Permit issuance. On 4/3/98, this fee would total \$2,000.00.
 - D. Pay the Santa Cruz County Roadside Improvement fee in effect at the time of Building Permit issuance. On 4/3/98 this fee would total \$2,000.00.
 - E. Pay the Santa Cruz County Child Care fee in effect at the time of Building Permit issuance. On 4/3/98 the fee would total \$327.00, (\$109.00 per bedroom).
 - F. Meet all requirements of the Department of Public Works and pay all fees for Zone 6 Santa Cruz County Flood Control and Water Conservation District including plan check and permit processing fees as stated in their memorandum dated 9/24/97.
 - G. Obtain an Encroachment Permit from the Department of Public Works, as necessary, for any work performed in the public right-of-way. All work shall be consistent with the Department of Public Works Design Criteria.
 - H. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district in which the project is located.
 - I. Record a Declaration of Acknowledgement, on a form provided by the Planning Department, in the Office of the County Recorder, providing notice of a Geologic Hazard relating to location adjacent to an unstable coastal bluff/location adjacent to a landslide/location subject to storm wave inundation.
 - J. A Declaration of Restriction limiting the use of the rear yard shall be submitted to staff for review and approval prior to recordation.

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- K. Only translucent windows within the stairwell shall be utilized along the east side of the building.
- III. All construction shall be performed in accordance with the approved plans. Prior to final building inspection and building occupancy, the applicant/owner shall meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The soils engineer/project geologist shall submit a letter to the Planning Department verifying that all construction has been performed according to the recommendations of the accepted geotechnical report. A copy of the letter shall be kept in the project file for future reference.
- IV. Operational Conditions.
- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

PLEASE NOTE: THIS PERMIT EXPIRES TWO YEARS FROM DATE OF APPROVAL UNLESS YOU OBTAIN YOUR BUILDING PERMIT AND COMMENCE CONSTRUCTION.

NOTICE OF EXEMPTION
FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT

ATTACHMENT 2
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The County of Santa Cruz has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15329 of CEQA for the reason(s) which have been checked on this document.

Application No.: 97-0622

Assessor Parcel No.: 043-105-07

Project Location: N side of Beach Dr about 3/4 mile SE of the Esplanade, Aptos.

Project Description: Proposal to demolish an existing garage and construct a 3 story SFD with garage. Requires a Variance to reduce the required 20 ft front setback to about 16 ft to the dwelling and 8 ft to the cantilevered deck, to increase the height to 32 ft, and allow parking to exceed 50% of front yard. Requires a Res Dev permit to increase the maximum 6 foot height limit of the retaining wall within the req. 5 ft side yards to about 12 feet in height.

Person or Agency Proposing Project: Tracy Johnson

Phone Number: 408-722-5462

- A. _____ The proposed activity is not a project under CEQA Guidelines, Sections 1928 and 501.
- B. _____ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgement.
- C. _____ Statutory Exemption other than a Ministerial Project.
Specify type:

D. Categorical Exemption

- | | |
|---|--|
| ___ 1. Existing Facility | ___ 17. Open Space Contracts or Easements |
| ___ 2. Replacement or Reconstruction | ___ 18. Designation of Wilderness Areas |
| XX ___ 3. New Construction of Small facilities/
Structure | ___ Lots for Exempt Facilities |
| ___ 4. Minor Alterations to Land | ___ 20. Changes in Organization of Local
Agencies |
| ___ 5. Alterations in Land Use
Limitation | ___ 21. Enforcement Actions by Regulatory
Agencies |
| ___ 6. Information Collection | ___ 22. Educational Programs |
| ___ 7. Actions by Regulatory Agencies
for Protection of the
Environment | ___ 23. Normal Operations of Facilities
for Public Gatherings |
| ___ 8. Actions by Regulatory Agencies
for Protection of Nat. Resources | ___ 24. Regulation of Working Conditions |
| ___ 9. Inspection | ___ 25. Transfers of Ownership of
Interests in Land to Preserve
Open Space |
| ___ 10. Loans | ___ 26. Acquisition of Housing for Housing
Assistance Programs |
| ___ 11. Accessory Structures | ___ 27. Leasing New Facilities |
| ___ 12. Surplus Govt. Property Sales | ___ 28. Small Hydroelectric Projects at
Existing Facilities |
| ___ 13. Acquisition of Land for Wild-
Life Conservation Purposes | ___ 29. Cogeneration Projects at Existing
Facilities |
| ___ 14. Minor Additions to Schools | |
| ___ 15. Functional Equivalent to EIR | |
| ___ 16. Transfer of Ownership of
Land to Create Parks | |

E. Lead Agency Other Than County: N/A

Staff Planner Jean Vander Hoeven
Jean Van der Hoeven, AICP

Date: 4/03/98

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

ATTACHMENT 2

Date: March 4, 1998 **616**
To: Joan Van der Hoeven, Project Planner
From: Rachel Lather, Senior Civil Engineer *RLH*
Subject: Conditions of Approval for Application #97-0622 @ 413 Beach Dr. in Aptos

1. All breakaway walls and the garage door shall be certified by a registered civil engineer or architect and shall meet the following conditions:

a. Breakaway wall and garage door collapse shall result from a water load less than that which would occur during the base flood, and

b. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

2. Any walls on the ground floor not designated as breakaway shall be demonstrated to be needed for shear or structural support and approved by Environmental Planning.

3. The storage room located on the ground floor shall be designed with breakaway walls.

4. No mechanical, electrical, or plumbing equipment shall be installed below the base flood elevation.

5. All work and the design of the structure shall be performed in accordance with the recommendations of the Geotechnical Engineer and the Certified Engineering Geologist as presented in the following reports: (1) Geotechnical Investigation Report for Lot 8, 4 13 Beach Drive by Haro, Kasunich & Associates dated June 23, 1997 and October 10, 1977; and (2) Geologic Investigation for a Proposed Single Family Home by Foxx, Nielsen and Associates dated June 16, 1997 and October 3, 1977. These reports were accepted as meeting County requirements by the County Geologist on October 22, 1997.

PLANNING DEPARTMENT



COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET ROOM 400 SANTA CRUZ, CALIFORNIA 95060
(408) 454-2580 FAX (408) 454-2131 TDD (408) 454-2123

October 22, 1997

Tracy Robert Johnson
11988 Amesti Rd.
Watsonville, CA 95076

SUBJECT: Acceptance Letter 97-0622
Application #97-0512
APN: 043-105-07

Dear Mr. Johnson:

The Engineering Geology Report dated June 1997 and October 3, 1997 by Foxx, Nielsen and Associates and Geotechnical Engineering Reports by Haro, Kasunich & Associates, Inc. dated June 1997 and October 10, 1997 are accepted as meeting the County Reports Guidelines.

ANALYSIS/DISCUSSION

The reports indicate a site that is constrained by significant slope instability and wave attack. To mitigate these problems the home will be raised on piers that extend to bedrock, and the rear walls of the structure will be reinforced. These improvements will allow the structure to be struck by landsliding, and sustain storm wave attack without damaging the structure. Even with these mitigations, this development will increase the need for public services during a disaster, and will pose an increased risk to users of the property over those occupying a property located away from coastal hazards. Further, the project will require extensive and costly clean up after bluff failure or coastal wave actions. The issue of who will pay for the cost of public safety issues must be addressed through the Environmental Review process (if necessary) or through the conditioning of the project. Your project planner, Joan Van Der Hoeven, will consider these issues in the development of the project Development and Coastal findings, and if, necessary, the Environmental Coordinator will review all project impacts during CEQA compliance.

COASTAL ISSUE

Based upon the consultant reports, the project design can mitigate for 100 year storm wave inundation by elevation and founding the piers into Purisma sandstone. These foundations are also used to allow a landslide to flow beneath the home. Consequently, no obstructions, except those necessary to access the second floor of the home, are allowed.

The project must meet all of the requirements of General Plan 6.2.15 and 6.2.16. In this case, the pier will be considered the shoreline protection structure.

The home could be impacted by a landslide during the next 100 years. This landslide will be accommodated by reinforcing the home and raising the structure to accommodate the landslide under the home.

The following conditions are applied to your permit:

I. Conditions to assure compliance with the technical reports:

Geology/Engineering

1. All the report conditions of Haro, Kasunich and Associates (June 1997 et. al) and Foxx, Nielsen and Associates (June 1997) are applied as permit conditions.
2. After construction and prior to final building permit inspection compliance with all provisions and conditions of their reports must be certified by the engineering geologist and geotechnical engineer.
3. A topographic map of the site must be developed that shows site drainage and proposed retaining wall construction. This topographic must have a scale of approximately 1" = 40' and should have at a minimum 2' contour intervals on slopes less than 30% and 5' contour on slopes over 30%.
4. The retaining wall is an integral part of the slope stability mitigation and must comply with the General Plan's Coastal Bluff provisions. Specifically, either the licensed architect or registered civil engineer must certify that the wall will stay in place and not deteriorate during the 100 year period as required by 6.2.16.

II. Coastal Flood Issues

The following are the conditions applied as part of the flood issues:

1. All conditions of the geologic and soils report reviews.
2. Recordation of a Declaration of Geologic Hazards prior to building permit approval
3. The structure shall be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excusing the pilings' or. columns) and elements that function as part of the structure, such as furnace, hot water heater, etc., are elevated to or above the base flood level.

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4. The pile or column foundation shall be anchored and structure attached thereto to prevent floatation, collapse and lateral movement due to the effect of wind and water loads, acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).
5. A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Conditions 3 and 4 of this section prior to permit issuance.
6. 'The space below the lowest floor shall either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screen intended to collapse under wind and water loads without causing collapse,' displacement or other structural damage to the elevated portion of the building or support foundation system. For the purposes of this section, a breakaway wall shall be of non-masonry construction and have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which do not meet the above material and strength criteria may be permitted only if a registered professional engineer or architect certifies that the designs proposed will permit the breakaway wall to collapse under a water load less than that which would occur during the base floor and that the elevated portion of the building or supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components. Such enclosed space shall be usable solely for vehicle parking, building access or storage, shall not be a finished area used for human habitation and shall not exceed 300 square feet in area.
7. The use of fill for structural support or building is prohibited. (Ord 4071, 7/17/90)
8. Compliance with the provisions of conditions 3 and 4 above shall be certified by a registered professional engineer or architect and submitted to the Planning Director when the foundation work has been completed. Failure to submit elevation and structural certification may be cause to issue a stop-work notice of the project.

III. General Project Geotechnical and Geology Conditions

The following are the County's general conditions of approval. Please note that you may excavate the fill from the slope from the retaining wall, but no other grading will be allowed. All fill from the site's excavation will need to be removed from the site.

1. All report recommendations must be followed.
2. An engineered foundation plan is required. This plan must incorporate the design recommendations for a pier and grade beam foundation.
3. Final plans shall show the drainage system as detailed in the soils report including outlet locations and appropriate energy dissipation devices.
- 4 . Final plans shall reference the approved engineering geologist and soils engineering report and state that all development shall conform to the report recommendations.
5. Prior to building permit issuance, the engineering geologist and soil engineer must submit a brief building, grading and drainage plan review letter to Environmental Planning stating that the plans and foundation design are in general compliance with the report recommendations. If, upon plan review, the engineer requires revisions or additions, the applicant shall submit to Environmental Planning two copies of revised plans and a final plan review letter stating that the plans, as revised, conform to the report recommendations.
6. The soil engineer must inspect all foundation excavations and a letter of inspection must be submitted to Environmental Planning and your building inspector prior to pour of concrete'.
7. For all projects, the soil engineer and engineering geologist must submit a final letter report to Environmental Planning and your building inspector regarding the compliance with all technical recommendations of the soil report prior to final inspection.

Please note: In order to comply with the Development and Coastal Findings your project planner may need to develop conditions to mitigate higher public impacts of this development. Similar situated new beach construction have required insurance or other financial assurances in order to make required General Plan and Ordinance findings.

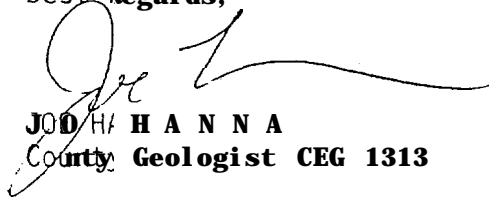
Other Conditions:

1. Prior to the issuance of the building permit, the registered civil engineer must certify that the combined mitigation represent protecting the home for at least a 100 year life span.
2. A Declaration of Geologic Hazard is attached. The Declaration must be recorded prior to permit issuance.

If you have any questions, please call me at (408) 454-3175.

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Best regards,



JOHANNA
County Geologist CEG 1313

DATE: September 16, 1997
 TO: Joan Van Der Hoeven, Project Planner
 FROM: Cathleen Carr, Resource Planner *CCarr*
 SUBJECT: ENVIRONMENTAL PLANNING COMMENTS FOR 97-0622, APN 043-105-07,
 PROPOSED SINGLE-FAMILY DWELLING

622

Please deem this project incomplete pending resolution of the following:

- Completion of the Soil and Geologic Report reviews.
- Redesign of the proposed single-family dwelling.
- Submission of information on **proposed site** grading.

The proposed single-family dwelling does not appear to meet the requirements of Chapter 16.10 and FEMA flood regulations for the "V Zone" (wave run up hazard zone). Please have the applicant provide the existing and proposed grades on the exterior elevations and provide preliminary grading plans with existing and proposed topography on the site plan and provide cross sections perpendicular to Beach Drive and parallel to Beach Drive through the building site. Please note that below (existing) grade garages are not allowed in the V zone. This may not be an issue. More information should make this clear.

The bathroom is considered a habitable feature and is not permitted in the garage under any circumstances. The garage bathroom must be deleted from the plans. In addition, the storage areas within the garage cannot be enclosed unless breakaway walls are used.

The lowest habitable floor area must be elevated 1-foot above flood level for a total of 22 feet above mean sea level (m.s.l.). The plans do not show the **22-foot m.s.l.** level. Additional elevation may be required to allow debris flows from the bluff behind the building site to pass under the habitable portions of the home.

The applicants must have the existing native grade surveyed with respect to mean sea level, and submit 2 copies of the survey. The project plans must then show the existing grade with respect to mean sea level, the proposed grade and the 22-foot m.s.l. line. All habitable portions of the single-family dwelling, including bathroom, hot water heaters, furnaces, etc., must be located at or above the 22-foot m.s.l.

All portions of the structure below 22 feet m.s.l. must be free-of obstruction or **if enclosed** must have non-supporting breakaway walls. In addition, the structure must be supported on pilings and columns which are designed to withstand wave and debris impacts.

The applicant must clearly show locations and heights of the retaining walls on plot plans and cross sections.

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Applicant must submit preliminary grading plans (as noted previously) with volumes and calculations. A grading permit may be required. The information submitted is inadequate and too ambiguous to make a determination.

Additional requirements and design modifications may be required as a result of the Geologic and soils report reviews.

Please reroute revised plans for further evaluation and comments. Additional permit conditions may be required, based on review of revised plans.

Please include the following as conditions of this development permit:

1. All conditions of the geologic and soils report reviews.
2. Recordation of a Declaration of Geologic Hazards prior to building permit approval.
3. The structure shall be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) and elements that function as part of the structure, such as furnace, hot water heater, etc., are elevated to or above the base flood level.
4. The pile or column foundation shall be anchored and structure attached thereto to prevent floatation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equalled or exceeded in any given year (100-year mean recurrence interval).
5. A registered professional engineer or architect shall develop or review the structural design; specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Conditions 3 and 4 of this section prior to permit issuance.
6. The space below the lowest floor shall either be free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work or insect screen intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or support foundation system. For the purposes of this section, a breakaway wall shall be of non-masonry construction and have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which do not meet the above material and strength criteria may be permitted only if a registered professional engineer or architect certifies that the designs proposed will permit the breakaway wall to collapse under a water load less than that which would occur during the base flood and that the elevated portion of the building or supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components. Such enclosed space shall be usable solely for vehicle park-

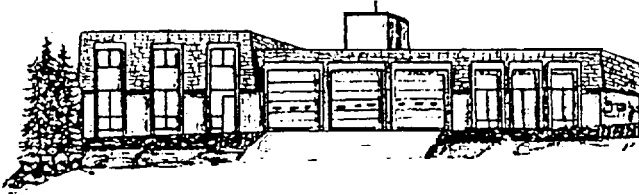
ing, building access or storage, shall not be a finished area used for human habitation and shall not exceed 300 square feet in area.

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7. The use of fill for structural support or building is prohibited. (Ord 4071, 7/17/90)
8. Compliance with the provisions of conditions 3 and 4, above, shall be certified by a registered professional engineer or architect and submitted to the Planning Director when the foundation work has been completed. Failure to submit elevation and structural certification may be cause to issue a stop-work notice for the project.

97-0622/811

attachment



**APTOS/LA SELVA
FIRE PROTECTION DISTRICT**

6934 Soquel Drive, Aptos, California 95003
(408) 6856690 • FAX (408) 6856699

September 15, 1997

County of Santa Cruz
Planning Department
Attention: Ms. Joan Vander Hoeven
701 Ocean Street
Santa Cruz, CA 95060

Subject: APN: 043-105-07 / Appl # 97-0622
413 Beach Drive

Dear Ms. Vander Hoeven:

The Aptos/La Selva Fire Department has reviewed the plans for the above cited project and has no objection as presented.

- Any other requirements will be addressed in the Building Permit phase.
- Plan check is based upon plans submitted to this office. Any changes or alterations shall be re-submitted for review prior to construction.

- DESIGNER shall add appropriate NOTES and DETAILS showing this information on the plans that are submitted for BUILDING PERMIT:
- These plans are in compliance with California Building and Fire Codes (1995) and District Amendment.
- The OCCUPANCY CLASSIFICATION, BUILDING CONSTRUCTION TYPE / FIRE RATING and SPRINKLERED or NON-SPRINKLERED as determined by the building official and outlined in Part IV of the California Building Code.

e.g. R-3, Type V-N, Sprinklered

APN 043-105-07
Appl# 97-0622
page 2

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- FIRE FLOW requirements for the subject property are 1000 gallons. NOTE on the plans the REQUIRED and AVAILABLE FIRE FLOW. The AVAILABLE FIRE FLOW information can be obtained from the water company.
- A public fire hydrant within 250 feet of any portion of the building meeting the minimum required fire flow for the building. This information can be obtained from the water company.
- NOTE on the plans that all buildings shall be protected by an approved automatic sprinkler system complying with the edition of NFPA 13D currently adopted in Chapter 35 of the California Building Code.
- NOTE that the designer/installer shall submit three (3) sets of plans and calculations for the underground and overhead Residential Automatic Sprinkler System to this agency for approval. Installation shall follow our guide sheet.
- The smoke detectors shall be installed according to the following locations and approved by this agency as a minimum requirement.
- One detector adjacent to each sleeping area (hall, foyer, balcony, or etc.)
- One detector in each sleeping room.
- One at the top of each stairway of 24" rise or greater and in an accessible location by a ladder.
- There shall be at least one smoke detector on each floor level regardless of area usage.
- There shall be a minimum of one smoke detector in every basement area.
- Building numbers shall be provided. Numbers shall be a minimum of four (4) inch in height on a contrasting background and visible from the street. Where numbers are not visible from the street, additional numbers shall be installed on a directional sign at the property driveway and the street.
- An approved spark arrester shall be installed on the top of the chimney. The wire mesh shall not exceed 1/2 inch.

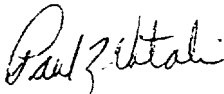
APN 043-105-07
Appl# 97-0622
page 3

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- NOTE on the plans that the roof covering shall be no less than Class "C" rated roof.
- NOTE on the plans that a 30 foot clearance shall be maintained with non-combustible vegetation around all structures or to the property line (whichever is a shorter distance). Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided they do not form a means of rapidly transmitting fire from native growth to any structure are exempt.

Note: As a condition of submittal of these plans, the submitter, designer and installer certify that these plans and details comply with applicable Specifications, Standards, Codes and Ordinances, agree that they are solely responsible for compliance with applicable Specifications, Standards, Codes and Ordinances, and further agree to correct any deficiencies noted by this review, subsequent review, inspection or other source, and, to hold harmless and without prejudice, the reviewer and reviewing agency.

Sincerely,



Paul Z. Vitali, Fire Marshal
Fire Prevention Division
Aptos/La Selva Fire Protection District

cc: Norma Odenweller
101 1st Street, Suite 461
Los Altos, CA 94022

Tracy Johnson
1198-B Amesti Road
Watsonville, CA 95076

COUNTY OF SANTA CRUZ

ATTACHMENT 2

INTER-OFFICE CORRESPONDENCE

628

DATE: September 9, 1997

TO: Planning Department, ATTENTION: Joan Van Der Hoeven

FROM: Santa Cruz County Sanitation District

SUBJECT: SEWER AVAILABILITY AND DISTRICT'S CONDITIONS OF SERVICE FOR THE FOLLOWING PROPOSED DEVELOPMENT

APN: 43-105-07 APPLICATION NO.: 97-0622

PARCEL ADDRESS: 413 BEACH DRIVE, APTOS

PROJECT DESCRIPTION: DEMOLISH EXISTING GARAGE AND CONSTRUCT SINGLE FAMILY DWELLING

Sewer service is available for the subject development upon completion of the following conditions. This notice is effective for one year from the issuance date to allow the applicant the time to receive tentative map, development or other discretionary permit approval. If after this time frame this project has not received approval from the Planning Department, a new sewer service availability letter must be obtained by the applicant. Once a tentative map is approved this letter shall apply until the tentative map approval expires.

Proposed location of on-site sewer lateral(s), clean-out(s), and connection(s) to existing public sewer must be shown on the plot plan of the building permit application.

Existing lateral(s), if any, must be properly abandoned (including inspection by District) prior to issuance of demolition permit or relocation or disconnection of structure. An abandonment permit for disconnection work must be obtained from the District.

Show all existing and/or proposed plumbing fixtures on floor plans of building application.

S.M. Harper

S.M. Harper
Sanitation Engineering

SMH:slc/313

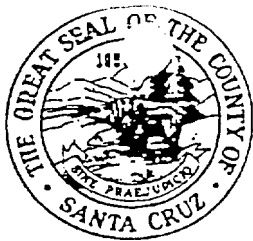
c: Applicant: Tracy Johnson
1198-B Amesti Road
Watsonville, CA 95076

Property Owner: Norma P. Odenweller
101 First Street, Suite 461
Los Altos, CA 94022

EXHIBIT, C

PLANNING DEPARTMENT

COUNTY OF SANTA CRUZ



GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
(408) 454-2580 FAX (408) 454-2131 TDD: (408) 454-2123

629

PROJECT COMMENT SHEET

DATE: 9-4-97

TO:

IN DEPARTMENT:

IN BUILDING:

TO BE MAILED:

ACCESSIBILITY/BUSH

DEPT. OF PUBLIC WORKS:

CITY OF _____

CODE COMPLIANCE/WILLIAMS

DRAINAGE DISTRICT

CAL TRANS

1 ENV. PLANNING/CARLSON, CARR, LEVINE OR NELSON

1 DRIVEWAY/ENCROACHMENT

DEPT. OF FISH & GAME

2 FIRE DISTRICT Aptos-La Selva

1 RD. ENG./TRANSPORTATION

PG&E

HOUSING/DEMING

1 SANITATION

PACIFIC BELL

LONG RANGE PLANNING/DEMING

SURVEYOR

PARKS DEPARTMENT

2 PROJECT REVIEW

ENVIRONMENTAL HEALTH

SCHOOL DIST. _____

OTHER _____

REDEVELOPMENT AGENCY

TRANSIT DISTRICT

OTHER _____

1 SUPERVISOR FOR DIST Symons

WATER DIST. _____

OTHER _____

OTHER _____

OTHER _____

97-0622

FROM: DEVELOPMENT REVIEW DIVISION

SUBJECT: APN: 043-105-07

APPLICATION NO: 97-0622

PROJECT DESCRIPTION: SEE ATTACHED

THE ATTACHED APPLICATION FOR A DEVELOPMENT PERMIT, LAND DIVISION PERMIT, GENERAL PLAN AMENDMENT HAS BEEN RECEIVED BY THE PLANNING DEPARTMENT.

If you have any comments, please contact the planner or submit written comments below:

ZONE 6: A \$0.60 / SQ. FT. FEE WILL BE ASSESSED ON THE NET INCREASE IN IMPERVIOUS AREAS (DIFFERENTIATE NEW FROM EXISTING) SHOW EXISTING & PROPOSED DRAINAGE ON PLANS.

Reviewer's name (not initials): Robert I. Bryan

TRANSMITTED 9/24/97

Return to: Joan Vander Heeven by this date: 9-25-97

TRACY ROBERT JOHNSON
RESIDENTIAL DESIGN AND PLANNING
 1198 B. Amesti Road
 Watsonville, CA 95076
 (408) 722-5462

REGARDING:

APPLICATION NO.: 97-0622
PARCEL NO.: 043-I OS-07
ADDRESS: 413 Beach Dr., Aptos, CA
OWNER(S): Robert Fleck and Norma Odenweller
APPLICANT: Tracy Robert Johnson

To Whom It May Concern:

We believe that the variance(s) requested with this application should be approved based on the findings required pursuant to Chapter "18.10".

SPECIAL CIRCUMSTANCES:**No. One:**

This site is 35'-0" in width. The buildable area is defined by the proximity of the existing topography (bluff/uphill slope) at the rear portion of the property. Per the suggestion of our consulting geologist and soils engineer(s) a maximum 12'-0" high retaining wall at the base of the existing slope is included in our proposal. This retaining wall is to stabilize the base of the slope as well as to provide additional distance between the base of the slope and the proposed residence. This distance is calculated to provide "storage" for potential landslide material as per the geologic report recommendations. This retaining wall is to be angled back with the slope and will be brown in color. This retaining wall will not be readily visible from the street or from the beach. This site is also subject to potential coastal wave run-up and/or flooding. As such, the first floor is required to be elevated as indicated by the plans.

We are proposing two stories of living space above a ground level garage. We are also proposing a small entry and bathroom at the ground level. The entire lower (ground) level of the proposed residence will be designed, engineered, and constructed to be significantly unaffected by any impact or water damage due to flooding or landslides.

No. Two:

We believe the granting of the requested variances will be in harmony with the general intent and purposes of applicable zoning objectives and will not be materially detrimental to public health, safety or welfare, or injurious to property or improvements in the vicinity.

No. Three:

We believe the granting of these variances will not constitute a grant of special privileges. We are requesting to construct a detached, single family dwelling on an existing parcel intended for this purpose. The proposed residence is to be 2,252. gross sq. ft. of living area with an attached one car garage of 455 gross sq. ft. of area and total attached deck area of 375 gross sq. ft.

The overall width of the proposed residence is 25'-0", the overall length, (including deck(s), is 57'-0", and the overall height is 32'-0" ±.

There are currently sixty-four existing residences on the northeast side of Beach Dr. between the Rio Del Mar Esplanade to the northwest, and the private gate to the southeast. Of these sixty four existing residences, eighteen are of three story configuration. This is 28% of the existing residences. Many of these existing residences are built without any side yard setbacks, and with significant reductions to the currently required front yard setbacks. In some cases the existing residences and/or attached decks are built right to the front property lines.

It is also quite common that existing paved portions of the front yard areas exceed 50%, and in many cases the entire front yard areas are paved.

We believe the residence we have proposed falls into the "moderate average" range of what is existing in this area.

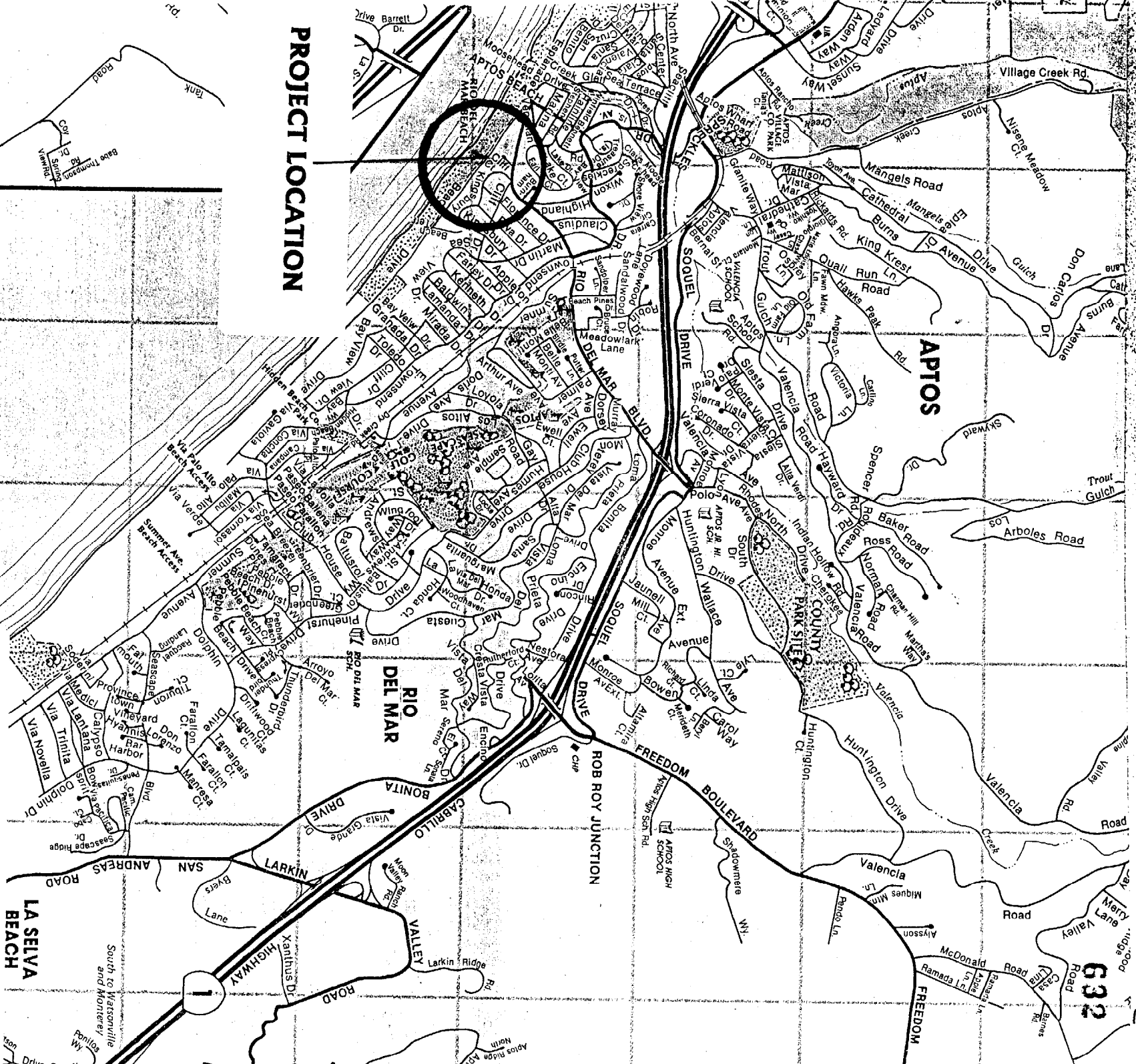
In closing, we request approval of the variances we have stated herein, based on the appropriate findings.

Sincerely,



Tracy Robert Johnson
for
Robert Fleck and Norma Odenwaller

632



PROJECT LOCATION

20 21 22 23

LOCATION MAP

413 Beach Drive, Aptos

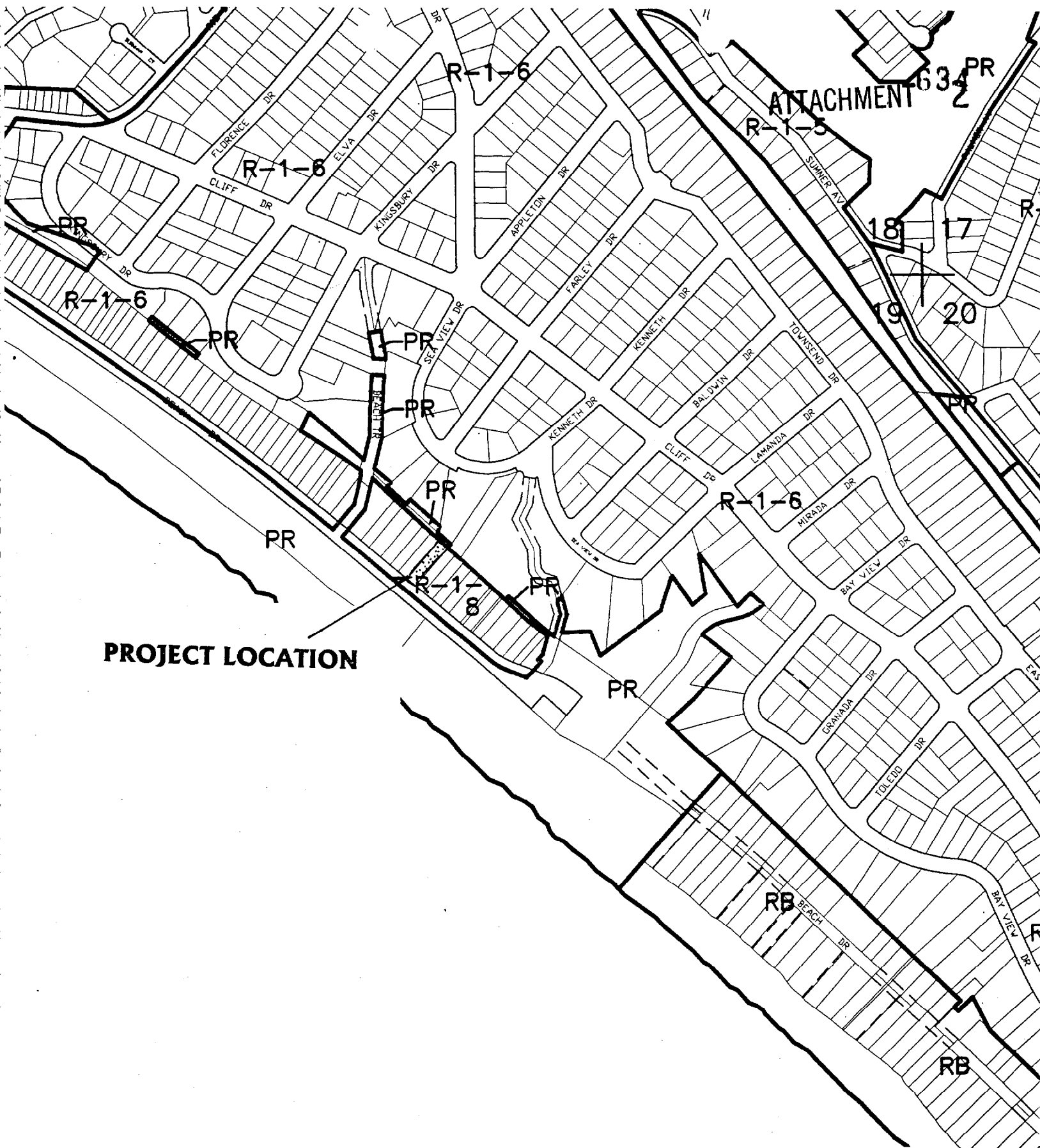
#97-0622

LA SELVA BEACH

55

55

EXHIBIT C



ATTACHMENT 634

PROJECT LOCATION

ZONING MAP

R-1-8, Single-family Residential

FOXX, NIELSEN AND ASSOCIATES 635

ENGINEERING GEOLOGY AND ENVIRONMENTAL CONSULTING

20 April 1998

Job No. SCr-792-G

Bob Fleck and Norma Odenweller
2600 El Camino Real, Suite 41 1
Palo Alto, California 94306

SUBJECT: Geologic opinion about use of the rear yard at the property

REFERENCE: Assessors Parcel Number 043-105-07, Beach Drive, Rio Del Mar, Santa Cruz
County, California.

Dear Mr. Fleck and Ms. Odenweller:

We were contacted by Tracy Johnson, your project planner, regarding our opinion about the use of the rear yard at the property. Apparently a question has arisen about whether it is appropriate to located any decks or patios in the rear yard relative to recreational use. It is our professional opinion that the rear yard should be kept free of decks and should not be used for a recreational area, Our geologic report clearly states that this area is reserved for storage of landslide debris in the unfortunate event that a slope failure occurs above the site and flows into the rear yard Decks and patios are clearly forbidden because of the need for a open space to allow a landslide to flow through and not affect the residence.

If there are any other questions, please do not hesitate to contact us

Sincerely,



Hans Nielsen
C.E.G. 1390



My name is Judi Craik - My husband and I have owned the residence next door to this project @ 415 Beach Drive since October, 1996.

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First, I would like to say that it has been explained to us several times, subsequent to the April 3rd meeting, that the decisions and outcome for the variances were already a done deal prior to the public meeting on April 3rd, 1998.

Tracy Johnson, and the owners of the property, have told us that they had been working behind the scenes (these are not my words) with the planning department and/or the zoning administrator for many months. Upon hearing this, we were discouraged by the fact that the work we put in for preparing for the meeting was in vain as the 3 story 32' height variance was already verbally agreed upon. We understand that at this point, the only decision to be made, is whether the front setback will be approved with a 6' or 8' deck.

I do not feel that our concerns were met or addressed in the planning meeting that was held on April 3rd. The Staff Report did not appear to find one negative thing relative to this application. Everything looked pretty rosey.

At the meeting held on April 3rd, we submitted a petition signed by 16 homeowners, representing 11 of the 17 houses in our neighborhood. These neighbors opposed the 16' setback, the addition of a 3rd story and the height variance of 32'. In our correspondence we addressed some valid concerns and negative views pertaining to local codes, all of this seemed to be overlooked and ignored as being insignificant to this application.

In regards to the petition, although we are probably impacted the most by this project, we only solicited one signature on the petition, and that was for the neighbor at 411 who lives in Georgia.

Special circumstances for the 16' setback will be addressed today by Tracy Johnson, most likely pointing out that there are other houses with little or no setback on Beach Drive. Without having prior access to the special circumstances that are addressed today, I am unable to question these issues.

However, it is our understanding that **a property owner's** "view" should not be a consideration. Although, Tracy Johnson has told us and also stated at the public meeting, that one of the main reasons they are asking for the 16' setback and 8' deck is so they are able to improve their **view** by getting our further than the existing residence at 411 Beach Drive.

I would like to state my opposition not only to the front yard setback, but also to the 3 story variance and 32' variance already approved by the zoning administrator. I feel this structure will be very unsightly, not only in size, but in design, and does not preserve the character of the existing neighborhood. Under the Coastal Zone Regulation #13.20.130, i.e. Design Criteria for Coastal Zone Developments it states: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas - And, if the structure is located in an existing cluster of building, colors and materials shall repeat or harmonize with those in the cluster.

Certainly there are many examples along Beach Drive where this type of structure would be more suitable. However, I must restate our position that this portion of Beach Drive is unique, in that it is an older section that was built in the late 1920's and early 1930's - and the planning department should recognize the diverse characteristics of this area, to minimize visual intrusion in this older neighborhood.

There is a line of 18 houses consisting of 17 houses that are 2 story homes. Allowing a 3 story building in this area would stick out like a sore thumb. We have not seen any county or coastal code alluding to special circumstances to allow for a 3 story residence.

I would also like to state my opposition to the blue tiled roof that is planned for this residence.- A blue tile pitched roof would not be visually compatible with the surrounding neighborhood, as most pitched roofscapes are either shake, or tiled terra cotta or mission red in color. Although, I would like to see a pitched roof with a harmonizing earthtone color.

It has been suggested to us several times by Tracy Johnson and the owners that we knew a house was going to be built next door and that our opposition is because we would rather have a vacant lot with additional parking spaces available to us. This statement is so condescending to us, and so far from the truth, that I must address this patronizing statement or argument.

Both the vacant lot and our house were owned by the same family, and both properties were purchased around the same

time. We knew that anyone purchasing this lot, would not be planning a parking lot for us, or the coastal visitors. Jim and I have adequate parking in front of our house.

We were also aware of the building codes: Two stories, 28' in height, no livable space on the ground level and 20' setback. If a compatible/harmonizing structure was going to be built next door to us, we wouldn't be here today.

At no time, during the year or so that this was in the planning stage, were we, or any of the immediate neighbors, ever contacted by the owners; to ask if we felt their project would, in any way, impact our houses. After receiving the public notice, we saw a copy of the front and both sides of the elevations. Out of courtesy, we contacted them to discuss our opposition, to prevent a hostile atmosphere at the meeting. This week, my husband met with Tracy Johnson and the owners, to try and reach a compromise on the design. Little progress was made to lessen the impact of this huge rectangular box, mostly because they already feel, after months of negotiations in the planning department, that their application, as submitted, is already in for a slam dunk approval.

I feel this project should not be approved as submitted because, as designed, it is:

1. Too big (impacting our solar access),
2. Too boxy, unsightly and not integrated to the surrounding neighborhood
3. The blue roof does not repeat or harmonize with the existing cluster of building

4. Our privacy would be greatly impacted in our enclosed 2nd story sun deck, bedroom and private back courtyard area with the inclusion of the third story decks and ask that at the very least, a 3rd story deck not be allowed, if, in fact the 3 stories, and 32' variance are a done deal.

We would also ask that all windows on the south/east elevations be opaque, not transparent.

Judi Craik - May 1, 1998

I would like to submit a copy of the notes that I am reading today, my "Planning Meeting Notes" that I read at the meeting held on April 17th - and two "before and after" pictures of our house to show what we recently did to make our house blend better with the existing cluster of homes.

Currently, at issue, is whether the rear yard area can be used as a patio. The "special circumstances" that Tracy Johnson and the owners are using as their justification for "the 'encroachments' into the required front setback" are the "geologic concerns". Tracy's statement at the meeting held on April 17th addresses the geologic concerns by pointing out that the rear yard area, between the proposed building and base of the bluff is "to provide a buffer/storage area for any potential landslide material". I'd like to make you aware that there was activity on the bluff behind the adjoining property @ 411 this year.

In the Staff Report to the Zoning Administrator, the 3rd paragraph in the "Discussion" area refers to the geologic reports that were "reviewed and accepted by the Planning Department" and includes the requirement that the retaining wall be "constructed to deflect slide material from a potential debris flow".

The correspondence from Foxx, Nielsen and Associates dated April 20, 1998 indicates the retaining wall does not deflect landslide debris, because their correspondence states that the rear yard is "reserved for storage of landslide debris in the unfortunate event that a slope failure occurs above the site and flows into the rear yard". I understand deflect to mean, "to turn, or **cause** to turn aside, swerve, avert (to prevent, to ward off). I was unable to find any

dictionary, or thesaurus that defines deflect to mean “to store, or storage” .

A letter dated 4-10-98 has been submitted to The Planning Department, and Zoning Administrator, on behalf of the owners, from William F. Hedrix of Prudential Real Estate in Half Moon Bay, stating his “full support of the proposed home” . - although he admits that his work in Capitola and Aptos has been limited to consultation o n l y .

We don't know what Mr. Hedrix has to do with this application, other than possibly being a friend of the applicants. We have not met with or had any opportunity to discuss any of our concerns with Mr. Hedrix, but he writes that he is “aware of the specifics of this property and the proposed home”, and in his “many years involved in coastside construction and real estate transactions, he has “seen every issue raised to stop people from building on their own property.” He also writes that “While growth, view and quality of life are often quoted by an objecting neighbor,” he has ***“all to (sic) often found the real objection to be the neighbors (sic) personal use of the property - as a place to park their car, dumping area or some other reason*** all with the intent of preventing the legal owners from using the property as it was intended”. He also believes “that if you look closely at this issue, you will find the neighbors (sic) complaint completely groundless and without merit” and encourages the support of the staff planner by recommending this home be approved, and to “not let the personal pettiness of one party destroy the dreams and aspirations of another.”

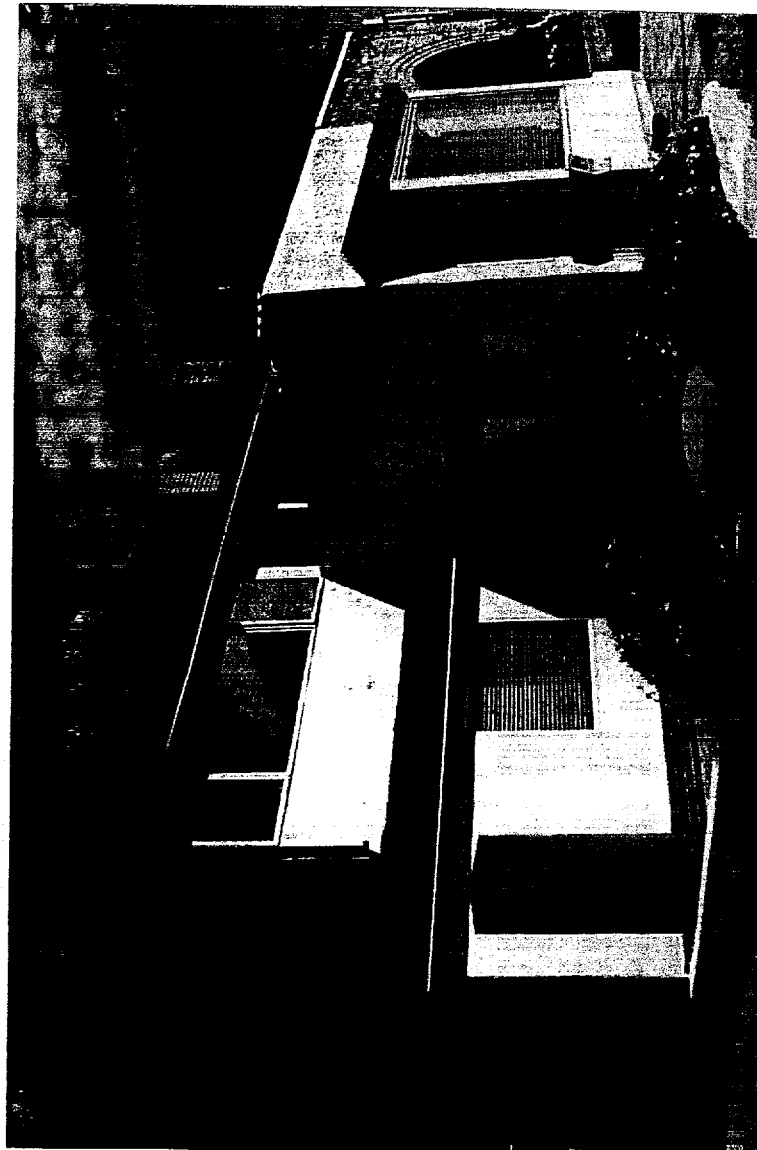
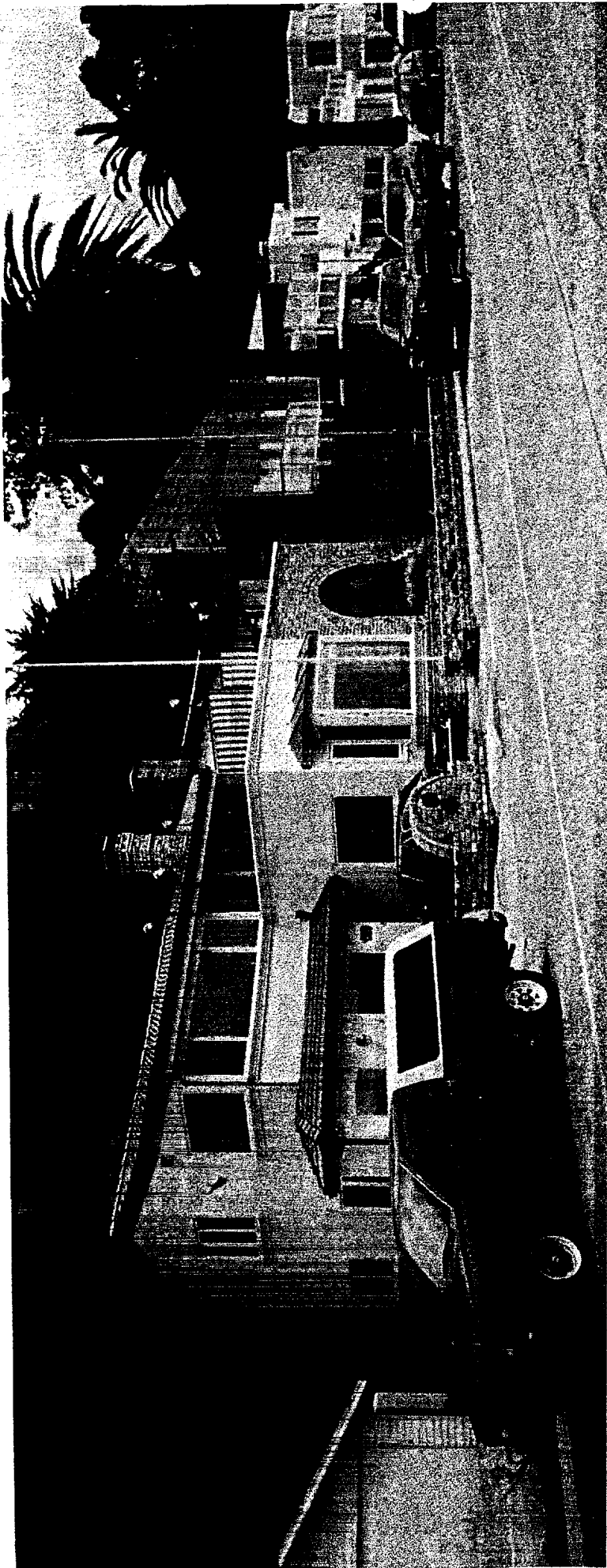
I won't get into my obvious objections to this letter, but because parking always seems to be at issue regarding this project, I would like to point out that, by approving the design of this house, it appears that two on-street parking spaces - for coastal visitors - will be lost to

their driveway. As the applicants know, there is more than “one party” against the proposed project. I know of no one that is against them building a house, only ~~What they build~~ applicants tell Mr. Hedrix that there is only “one party” against this project, that we’re against growth and that this effects our quality of life - they have not told him the truth. And, in fact, the only parties that have referred to view, are the applicants and Tracy Johnson in trying to get their view past the house at 411.

For us personally, our opposition is not “groundless and without merit”. Our position has been very clear from the first meeting held on April 3rd. No variances, just build to code, preserve the character of the existing neighborhood, design the structure so as to be visually compatible and integrated with the character of the surrounding neighborhood, and cluster of buildings. And, have the colors and materials repeat to harmonize with those in the cluster. As you can see by the pictures we’ve included today, we’ve gone to considerable expense to make our house harmonize with those in the cluster.

While I will acknowledge Tracy Johnson’s efforts to modify the plans to diminish “the facade and mass of the proposed residence”, by the “strong horizontal elements” used on the deck “to ‘diminish the verticality’ of the building”, there’s no way of getting away from “the mass” of a 32’ structure forced into a two story neighborhood.

Again, we ask that this project not be approved as submitted...





Johnson's Letter

Johnson's 4-14-98 letter submitted to the Planning Department, states that "the gross living area of the entire residence is only 2252 sq. ft. total", and "most of the other homes in this neighborhood are larger than 2,252 sq. ft.". Through the Santa Cruz County Assessor's Office we looked up the square footage of each house on the hill side of Beach Drive, not to include "The Gated Community". According to the records in the assessor's office, 70% of the houses on Beach Drive would actually be smaller than the proposed 2252 square foot structure. The average square footage of our neighborhood, from 401 through 435 Beach Drive is 1524 square feet. The average age of the homes along this stretch is 56 years (1942). The house at 4 13 would, on average, be 48% larger than these existing older homes.

Also, Johnson states in his letter that our second story front setback is 8'6", in actuality, our second story front setback is 11'. If the 8' front setback variance for the deck is allowed, the applicants would have less of a front setback than the houses at 411 or 415. This doesn't seem equitable. In addition, the 8' first floor setbacks at 411 and 415 are to accommodate only the bay window protrusions, whereas their 8' setback would cover almost the entire 25' width of the front of their house.

Also, the letter states that we utilize the entire front yard area as a patio, and that we have no off-street parking. This is not true, we have an off street parking spot directly in front of our house, and rarely, if ever, have we used this as a patio area.

Hans Nielsen Letter

We're in receipt of a copy of a letter from the applicants' Geologist, Hans Nielsen, dated 4-20-98, which has been submitted to show that since the property's rear yard is reserved for landslide debris flow, there is justification for the proposed front yard variance for a second floor deck. We disagree...

Like the applicants' property, properties on both sides of this property and extending up and down Beach Drive all have risks of landslide debris flow in their rear yards. But, unlike these other properties, the applicants want to have a much smaller front yard setback for the second floor deck because of the risks involved in using their rear yard. For example, the front yard setback for our second floor deck is 11', and the front setback for the second floor deck at 411 is 10', as opposed to the applicants' request for an 8' setback. The applicants' proposed setback variance is therefore a request for a special privilege not enjoyed by others similarly situated; and, for this reason alone, it should be denied.

Also, the applicants' geologist has offered no explanation as to why a bigger and stronger wall cannot be built in the rear yard that would alleviate the risk of debris flow in the rear yard. Without some assessment of the applicants' ability to prevent debris flow in the rear yard, the applicant has not shown that there are, in fact, special circumstances to justify any kind of front yard variance.

Furthermore, since the above mentioned letter from the applicants' geologist indicates a possible risk to life for any use of the applicants' rear yard, there must be at least some analysis of what can be done to eliminate this risk (unless this area is to be sealed off from access).

Surely, a risk to life for even a brief or occasional entry into the applicants' rear yard is an unacceptable risk. If it **is** an unacceptable risk, the applicant should be required to mitigate this risk to acceptable levels, such as building a bigger and stronger retaining wall.

If this is not done, the applicants' proposal should be denied pursuant to County General Plan Policy #6.2.4. This General Plan Policy provides as follows: "Deny the location of a proposed development or permit for a grading project if it is found that geologic hazards cannot be mitigated to within acceptable risk levels..."

And, Chapter 16.10.100, Geologic Hazards, Variance, reads as follows: "A variance shall not be granted if the variance would have the effect of allowing the construction of a project which would otherwise without the variance, not be possible under the provisions of the County Code.

Jim Craik - 5-1-98

ATTACHMENT 2
649

To: Planning Department

Re: Front Setbacks @ 415 Beach Drive

On 40% of the width of our house, the front setback on our second story deck is eleven feet. On 60% of the width of our house, our enclosed sun deck is twenty five feet. This enclosed sun deck is six feet by thirteen feet, and is furnished with four director's chairs. The proposed house would be built on the side of our house with the twenty five foot setback. If their variances are allowed, this will place 60% of our 2nd story sun deck 17 feet behind theirs and it will place the other 40% of our second story three feet behind them.

On April 13th I met with the planner, Joan Van Der Hoeven, to discuss the above setbacks. She pulled out an aerial view of Beach Drive and pointed out to me that she showed a 14 foot set back across the width of our property, and stated that "aerial views don't lie", and that was the end of that discussion.

Our setbacks are as stated. I would hope that the planners take the neighbors' setbacks into consideration before making a decision as to whether or not to recommend a project for approval. If that's true, part of the information she used to make a decision was incorrect.

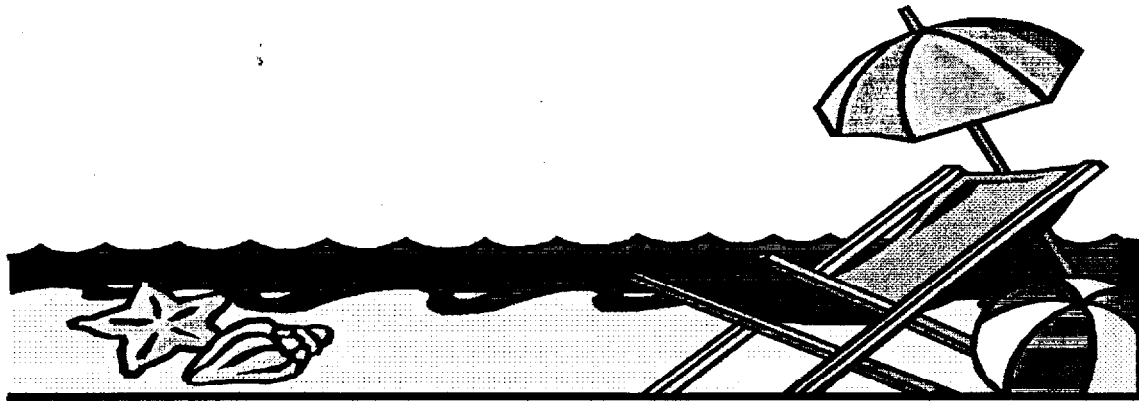
Jirn Craik 5-1-98 - Building Concerns

We had a Structure Engineer review the project, some of his issues are:

1. Exterior Exit Stairs - too close to property line - required minimum should be 3' to sideyard.
2. Fireplace - Appears to be drawn incorrectly, i.e. finish floor and bottom of fireplace are shown as same - depth of joists are minimum 18' therefore the bottom of fireplace to top of stair treads are less than the 6'8" minimum required.
3. Upper Floor - Is the wood wall adequate for debris impact thrust being that 3rd floor above is cantilevered? Will this support middle floor wall...
4. Garage Wall opening run out area at rear: Concern that the 11' width is not adequate -for debris flow run out to front of property..
5. Landslide debris flow - Landslide = 500 cubic feet x 1' of width (ffow) 35' = **17,500** cubic feet which equals 648 cubic yards. Seismic = 775 cubic feet - 1' of width (ffow) x 35' equals 27,125 cubic feet which equals 1000 cubic yards. What is storage capacity, and where are they going to store debris? The engineer does not feel this was adequately addressed.
6. Sheerwalls - not adequately addressed in the plans, more structural information needed.

In the Haro, Kasunich & Associates report of June 1997 it does not address the possibility of having a taller more massive retaining wall...

Judi & Jirn Craik



415 Beach Drive - Aptos CA 95003
Phone (408) 6854244 Fax (408) W 5467
EmailName@Snapper21@aol.com

April 2, 1998

County of Santa Cruz
Attention: Mr. Don Bussey
Zoning Administrator

Application No.: 97-0622
Applicant: Tracy Robert Johnson
Owner: Norma E. Odenweller
Project Address: 413 Beach Drive

The purpose of this letter is to express our concerns and opposition to the design, height variance, and setback variances being asked for by the property owner at 413 Beach Drive. To corroborate and support our concerns and opposition, we refer you to the following county codes:

☞ Objectives in "1994 General Plan and Local Coastal Program for the County of Santa Cruz, California" - "ADOPTED by the BOARD of SUPERVISORS 5/24/94 are as follows:

◆ "Objective 8.1 Quality Design: To achieve functional high quality development through design review polices **which recognize the diverse characteristics of the area**, maintains design creativity, and **preserves and enhances the visual fabric of the community.**

◆ 'Policies 8.1.3 Residential Site and Development Standards Ordinance: Maintain a Residential Site and Development Standards ordinance **for the purpose of protecting light, solar opportunities, air and open space for public and private properties; and require all residential projects to comply with the standards of maximum structural height, maximum number of stories, minimum structural setbacks, maximum ratios of building floor area-to-parcel size, and other criteria therein.**"

- ◆ “Objective 8.4 Residential Neighborhoods: **To preserve the residential use and character of existing urban neighborhoods,**”

☞ The “County of Santa Cruz, Planning Department Chapter 13.20, i.e. Coastal Zone Regulations”, “13.20.130 DESIGN CRITERIA FOR COASTAL ZONE DEVELOPMENTS” states:

- ◆ **“(b) Entire Coastal Zone.** The following Design Criteria shall apply to projects sited anywhere in the coastal zone:

1. **Visual Compatibility.** **All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.”**

- ◆ **“(c) Rural Scenic Resources.”**

“3. **Building Design.** Structures shall be designed to fit the topography of the site with minimal cutting, grading, or filling for construction. *Pitched, rather than flat roofs*, which are surfaced with non-reflective materials except for solar energy devices shall be encouraged. Natural materials and colors which blend with the vegetative cover of the site shall be used, or *if the structure is located in an existing cluster of building, colors and materials shall repeat or harmonize with those in the cluster.*”

☞ The “County of Santa Cruz Planning Department - 13.10.321 PURPOSES OF RESIDENTIAL DISTRICTS.

“(a) **General Purposes.** In addition to the general objectives of this Chapter (13.10.120) the residential districts are included in the Zoning Ordinance in order to achieve the following purposes:”

“4. To achieve patterns of residential settlement that are compatible with the physical limitations of the land’

“5. To ensure adequate light, air, privacy, solar access, and open space for each dwelling unit.”

“9. To protect residential properties **from** nuisances, such as noise, vibration, illumination, glare, heat, unsightliness,”

“(d) **Specific ‘R-1’ Single-Family Residential District Purposes. (sic)** To provide for areas of predominantly single-family residential development in areas which are currently developed to an urban density or which are inside the Urban Services Line”

☞ Quoting **from** the “STAFF REPORT TO THE ZONING ADMINISTRATOR”, dated 4-03-98. The last paragraph of page 3, “**Staff**” refers to the same County Code Section 13.20.130 listed above. The staff report states: “The project lies within the scenic area of the coastal zone and is subject to Design Criteria under County Code Section 13.20.130. **The project is visually compatible and integrated with the surrounding neighborhood.**” The structure is designed to fit the topography of the site with minimal cutting, grading or filling for construction. Natural materials and colors are utilized, **which harmonize with existing development in the neighborhood and minimize visual intrusion.**” This staff opinion is repeated in the “COASTAL ZONE PERMIT FINDINGS, item #3 and #5, and DEVELOPMENT PERMIT FINDINGS, item #5.

☞ **Response:** This is an older section of Beach Drive and is unique in the surrounding neighborhood in that there are a line of 18 houses consisting of 17 two story homes, and one single story home. The only vacant lot, in this section of the neighborhood, is located at 413 Beach Drive. We feel allowing a 32' three story building would not be visually compatible and integrated with the **surrounding** neighborhood. The flat, blue tile roof also would **not** appear to “harmonize with existing development” as the houses in this area typically have pitched, earthtone, Terra Cotta, Spanish/Mission Red tiles or shake roofscapes. Approving the variances for the overwhelming size of this structure would **not** “minimize visual intrusion” in this area.

In comparing the surrounding neighborhood, our home at #415 is approximately 1310 square feet, the home at #411 is approximately 1350 square feet. The home attached to ours at #417 is approximately 1300 square feet. The home at #419 is approximately 1500 square feet. The proposed square footage at #413 is 2697 square feet. **We** feel that allowing a 2697 square foot structure, which is almost twice the square footage in the surrounding neighborhood, would constitute “Special Privileges”.

☞ The height of our home is between 22 and 23'. As you can see by the accompanying aerial photo, the houses in the surrounding area are of approximately the same height as ours. Please note that the top of our flag pole, which is 31 to 32', shows the approximate height of the proposed structure.

☞ The rectangular design, along with the 32' height variance will look highly incompatible with the neighboring houses. We have recently remodeled our home and one of our primary objectives was to have our home blend and be more harmonious in design to the adjoining properties, i.e. 417 and 411.

☞ Exhibit B - Coastal Zone Permit Findings it is stated in the last paragraph: **“The proposed project” “is conditioned to minimize visual intrusion.”**

☞ **“Objectives in the General Plan”, e.g. “To ensure adequate light, air, privacy, solar access, and open space for each dwelling unit.”**

☞ **Height Concerns to the General Plan:** In the Staff Report under **“DEVELOPMENT PERMIT FINDINGS and VARIANCE FINDINGS:**

☞ In the Development Findings, as partial justification for the retaining wall variance, the last sentence in item #2 states, “The retaining wall exceeding the six foot height limit is required to stabilize the coastal bluff above the property and will not obstruct coastal view or block light or air to the adjoining properties in that a minimum 5 foot side setback shall be maintained.

☞ In the Variance Findings the partial justification for the height variance, at the end of Item #3 on Page 2 it states, “This does not impact view or access to light and air because of the elevation of the slope behind these houses”.

The light, air and coastal view observations were made on the north/hillside portion of the proposed structure. It is apparent that light and air are important considerations when determining whether or not to allow a variance. The staff report does not address the issues of light, and air on the east, west or south exposures of the proposed structure. We feel that our light, air and solar access will be greatly diminished on the north/west side of our house, which includes an enclosed sun deck, bedroom and private back courtyard area.

Privacy & Setback Concerns to the General Plan:

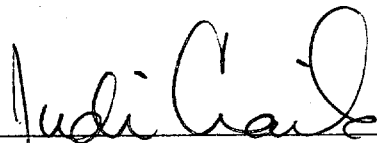
↳ Allowing a 3 story building and 3rd story front deck, "because of special circumstances" referred to in Exhibit B, i.e., Variance Findings, would be particularly injurious to houses on either side of this parcel, e.g. depriving such property privileges we now enjoy, such as privacy, light and solar access, allowed to us under the General Plan Policy 13,10.32 1 - Purposes of Residential Districts.

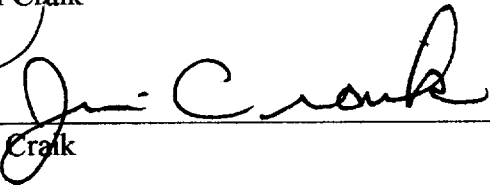
↳ We have only one 2nd story sun deck that is 11' high. The proposed 3rd story deck, which is approximately 21' high, would look directly down on our one 11' high sun deck, the proposed 2nd story deck would extend 3' past our deck.

↳ We would also oppose the inclusion of *transparent* windows on the south/east wall

It is our opinion, that the approval of the height and setback variances would be materially injurious to the value of our home. Our goal is to preserve the residential use and character of this existing urban neighborhood and retain our privacy, light and solar access and ask that the plans be modified to follow the 'Purposes of Residential Districts', "To provide adequate light, air, privacy, solar access", and to maintain the visual integrity of our surrounding neighborhood.

Sincerely yours,



Judi Craik


Jim Craik

Submitted: 4-2-98

◆ Includes: Aerial photo; assorted photos of surrounding neighborhood; correspondence from Len Stromfeld, Cal-Western Property Management; Petition (4pages) with 15 original signatures, representing 10 houses on Beach Drive.

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: 4/17/98
Item: A
Time: 8:30 a.m.

REVISED VARIANCE FINDINGS FOR CONTINUED AGENDA

APPLICATION NO.: 97-0622 APN: 043-105-07
APPLICANT: Tracy Robert Johnson
OWNER: Norma E. Odenweller

This item was heard before the Zoning Administrator on 4/03/98 and continued to 4/17/98 with the planner directed to revise required variance findings to justify the granting of a variance, and the applicant required to redesign the building to visually reduce the building mass.

The revised building plans are attached as Exhibit A, variance findings are attached as Exhibit B, and a further clarification of the stated reasons for a variance by the applicant are attached as Exhibit C.

A petition circulated by Jim Craik (immediately adjacent neighbor at APN 043-105-08, 415 Beach Drive), in opposition to the project is attached as Exhibit D.

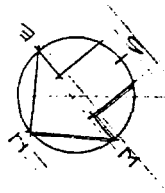
A petition circulated by the property owner, Bob Fleck, in support of the project, as Exhibit E.

A further petition submitted by Bob Fleck on 4/16/98, as Exhibit F.

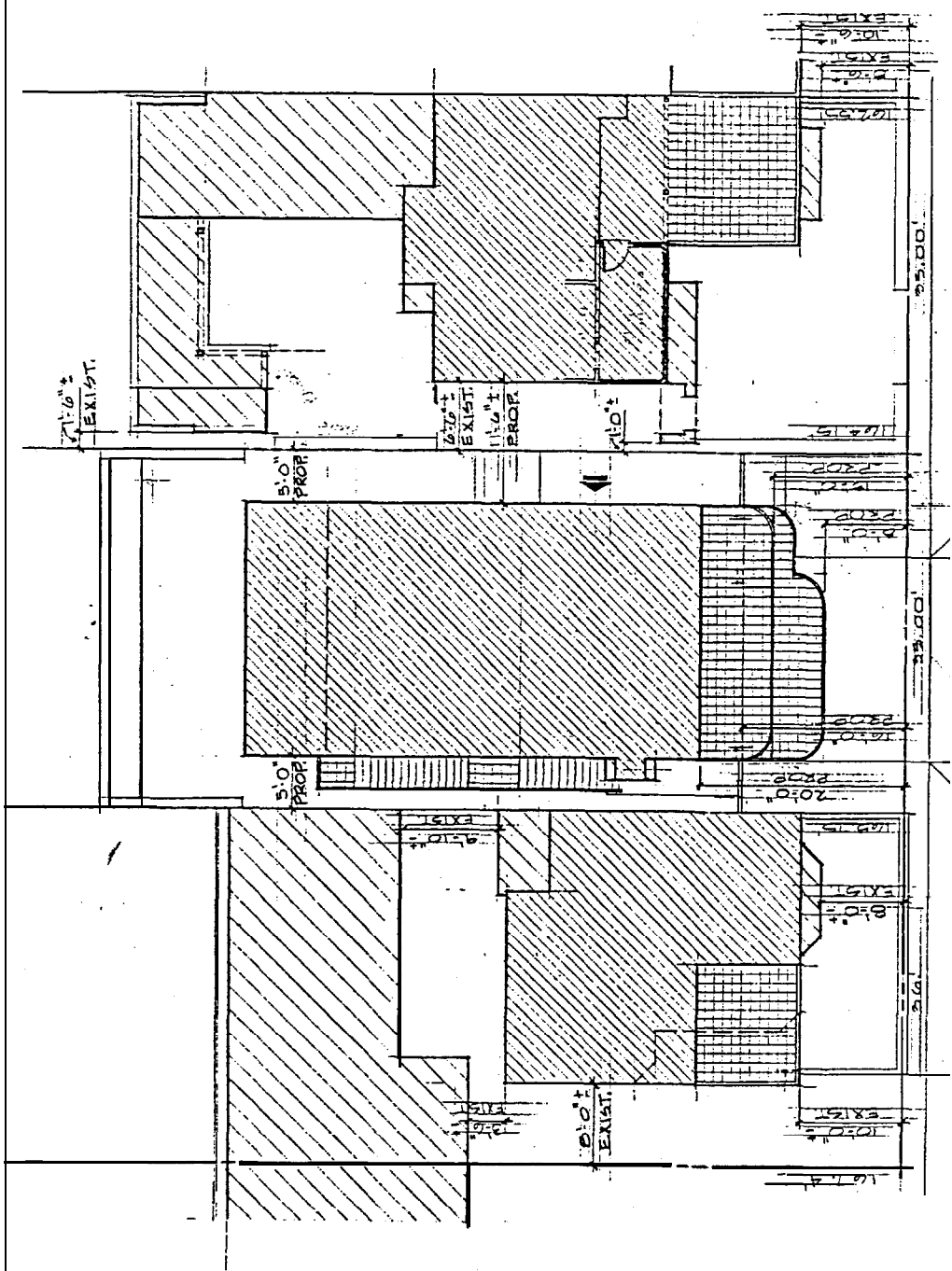
OWNERS: ROBERT FLECK, JORMA ODEWELLER
 3600 EL CAMINO REAL, SUITE 411 PALO ALTO, CA. 94306
 A.P.N. 043-005-07

1000 725-5482

ATTACHMENT 562



THE CONTRACTOR, THE ARCHITECT OR ENGINEER, SHALL VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL UTILITIES, EXISTING AND PROPOSED, BEFORE ANY CONSTRUCTION BEGINS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES, EXISTING AND PROPOSED, AND SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES, EXISTING AND PROPOSED, AND SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES, EXISTING AND PROPOSED.



412

412

B E A C H D R I V E
 CENTER LINE OF PAVED ROAD

VARIANCE FINDINGS:

1. **THAT BECAUSE OF SPECIAL CIRCUMSTANCES APPLICABLE TO THE PROPERTY, INCLUDING SIZE, SHAPE, TOPOGRAPHY, LOCATION, OR EXISTING SURROUNDING STRUCTURES, THE STRICT APPLICATION OF THE ZONING ORDINANCE DEPRIVES SUCH PROPERTY OF PRIVILEGES ENJOYED BY OTHER PROPERTY IN THE VICINITY AND UNDER IDENTICAL ZONING CLASSIFICATION.**

Special circumstances applicable to this property to justify the granting of a variance to development regulations concerning the height, number of stories, parking on more than 50 percent of the front setback, and a reduced front setback, include the shape of the parcel. A narrow 35 foot property width provides limited area for development as required 5 foot side setbacks leave a 25 foot wide building envelope.

The project site is further constrained by existing topography. It is located below an eroding coastal bluff to the rear of the lot, and in a coastal wave run-up and/or flooding zone which requires elevation of any structure above 23 feet mean sea level at the front of the lot. The proposed structure would exceed the 28 foot height limit by four feet and exceed the two story height limit to three stories, so that the first level would provide the necessary flood elevation required by the geologic report completed for the property. Due to the steep coastal bluff at the rear of the property, proposed to be retained by a 12 foot high engineered wall to deflect potential slides, the entire back yard is unsuitable for a deck or patio.

Required on-site parking takes up more than 50 percent of the 35 foot wide front yard, but provides a total of three spaces on-site so that this property does not compete with coastal visitors for access to public on-street parking on Beach Drive. The proposed deck encroachment to within 8 feet of the front property line and 16 feet to the residence, provides needed open space area for the single-family dwelling. The vast majority of existing surrounding structures enjoy reduced front and/or side setbacks and the strict application of the zoning ordinance would prevent the property owners from utilizing their property to the same extent as other properties in the vicinity and under identical R-1-8 zoning.

2. **THAT THE GRANTING OF THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL INTENT AND PURPOSE OF ZONING OBJECTIVES AND WILL NOT BE MATERIALLY DETRIMENTAL TO PUBLIC HEALTH, SAFETY, OR WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS IN THE VICINITY.**

Compliance with mitigation measures required by technical studies accepted by the Planning Department (Exhibits E, F, and G of 4/03/98 staff report) will insure that the granting of a variance to construct the proposed single-family dwelling shall not be materially detrimental to the public health, safety or welfare or be injurious to property or improvements in the vicinity. The residence is required to be elevated above 23 feet mean sea level with no habitable features on

the ground floor and constructed with breakaway walls and a collapsible garage door. No mechanical, electrical or plumbing equipment shall be installed below the base flood elevation. An engineered 12 foot high retaining wall is to be constructed behind the house to stabilize the base of the coastal bluff above the residence.

3. **THAT THE GRANTING OF SUCH VARIANCES SHALL NOT CONSTITUTE A GRANT OF SPECIAL PRIVILEGES INCONSISTENT WITH THE LIMITATIONS UPON OTHER PROPERTIES IN THE VICINITY AND ZONE IN WHICH SUCH IS SITUATED.**

The granting of a variance to reduce the front setback from the required 20 feet to about 16 feet to the dwelling and about 8 feet to the edge of the cantilevered second floor deck; to increase the maximum height from 28 feet to about 32 feet; to allow three stories; and to allow parking to exceed a maximum of 50 percent of the required front yard, will not constitute a grant of special privilege to this parcel as similar variances have been granted in the zone and immediate vicinity. The variance would provide a remedy for the proposed infill development of a single-family residence consistent with the existing surrounding development.

Reduced setbacks have been granted at APN's 043-105-03, -06, and -22 for example, under Applications #97-0387 (reduced side setback from 5 feet to 3 feet), #86-45-V (reduced 5 feet setbacks to 3 feet and zero feet), and #4780 (reduced front setback from 10 feet to 5 feet). A permit for a fence greater than 6 feet in the required side yard was also granted at APN 043-105-15 under Application #91-0608. A field survey and aerial photographs indicate that the majority of existing homes along Beach Drive have a front setback of ten feet or less, so that the proposed project being set back 16 feet to the proposed residence and 8 feet to the second level deck, would not constitute a grant of special privilege inconsistent with existing surrounding development.

FEMA flood regulations require elevation above the base flood level and do not permit habitable features on the ground floor and so newly constructed homes in the vicinity typically exceed the 28 foot maximum height and the two story limit. A field survey by the applicant indicates that of the 61 homes between the Esplanade and gated access, 19 homes are three stories in height (see Exhibit C, page 5). This does not impact view or access to light and air because of the elevation of the slope behind these houses. The project has been redesigned to eliminate a southeasterly portion of the main floor deck to preserve viewshed at APN 043-105-08 (415 Beach Drive). A required exterior stairway has been located on the western property line to further protect privacy. The 2,252 square foot, 3 story, building mass has been redesigned to add curved features above the garage and entry on Beach Drive, and the decking and horizontal stucco control joints further serve to visually break up the facade of the single-family residence.

Due to the narrow 35 foot width of the lot, it is not possible to

accommodate the required three parking spaces in less than 50 percent of the lot width. Parking -on the site is required, and ensures that limited available parking along Beach Drive is available to coastal visitors. Landscaping planters on the property serve to soften the visual impact of the required parking spaces.

RE: APP.-# 9.0622

1 OF 5 ATTACHMENT 2
4/14/98

APN - 043.105.07 413 BEACH DR., APTOS CA. 660

WHY WE ARE REQUESTING THE "ENCROACHMENTS" INTO THE REQUIRED FRONT SETBACK.

- DUE TO GEOLOGIC CONCERNS (AS PER REPORT(S) REVIEWED AND ACCEPTED BY THE COUNTY) THE ENTIRE REAR YARD AREA BETWEEN THE PROPOSED BUILDING AND BASE OF THE BLUFF IS REQUIRED TO REMAIN FREE OF OBSTRUCTION(S) TO PROVIDE A BUFFER/STORAGE AREA FOR ANY POTENTIAL LANDSLIDE MATERIAL. THIS CAUSES THE ENTIRE REAR YARD AREA TO BE UNUSEABLE FOR DECK OR PATIO.

PLEASE NOTE THAT THE VAST MAJORITY OF EXISTING RESIDENCES HAVE USE OF THEIR "BACK YARDS" AND IF YOU REFER TO THE GROUP SITE PLAN (4/13/98) YOU WILL SEE THAT BOTH 415 AND 411 HAVE USE OF THEIR ENTIRE REAR YARD AREA(S) FOR BUILDING(S) AND PATIO(S).

IN FACT 415 (THE CRAIKS) HAVE RECENTLY REBUILT AND EXPANDED THE STRUCTURE(S) AND PATIO AREA IN THE REAR YARD AREA.

IN ADDITION TO THE REAR YARD USE, 415 ALSO UTILIZES THE ENTIRE FRONT YARD AREA AS PATIO. (415 HAS NO OFF STREET PARKING)

411 USES MOST OF THE FRONT YARD AREA AS PATIO.

OUR PROPOSED RESIDENCE @ 413 IS "REQUIRED" TO USE THE FRONT "YARD" AREA PRIMARILY FOR PARKING, TWO CAR OFF STREET PARKING AT THE DRIVEWAY, AND ONE CAR IN THE GARAGE, FOR A TOTAL OF ~~THREE~~ THREE CAR OFF STREET PARKING.

TO SUMMARIZE:

OUR REASONABLE CAUSE FOR HARDSHIP TO ALLOW THE ENCROACHMENT OF THE PROPOSED DECK(S) AND MAIN FLOOR LIVING AREA INTO THE "REQUIRED" 20' FRONT SETBACK IS THAT THIS SITE DUE TO THE PROXIMITY TO THE SUBSTANTIAL BLUFF, THE LIMITED BUILDABLE "FOOTPRINT", AND THE GEOLOGIC CRITERIA DOES NOT ALLOW THE OWNERS THE USE OF THEIR REAR OR FRONT YARD AREAS (AS THE OTHER HOMES IN THIS NEIGHBORHOOD DO)

THEREFORE THE ~~ONLY~~ ONLY OUTDOOR AREAS THAT CAN BE USED ARE THE DECK(S) AS PROPOSED.

THE REQUESTED "LIVING AREA" ENCROACHMENT INTO THE FRONT SETBACK IS 4'-0" X 25'-0" - A TOTAL OF 100 SQ. FT. PLEASE NOTE THIS IS PROPOSED AT THE MAIN FLOOR LEVEL ONLY, AND THAT THE TOTAL GROSS LIVING AREA OF THE ENTIRE RESIDENCE IS ONLY 2,252. **55**
SQ. FT. TOTAL.

ATTACHMENT 2

MOST OF THE OTHER HOMES IN THIS NEIGHBORHOOD ARE LARGER THAN 2,252 SQ. FT.

MOST OF THE OTHER HOMES IN THIS NEIGHBORHOOD ENCRACH INTO THE (20'-0") FRONT SETBACK WITH DECK(S) AND LIVING AREA(S).

IN FACT BY OUR CALCULATIONS, 93% OF THE EXISTING HOMES HAVE A FRONT SETBACK OF 10'-0" OR LESS.

THE CRAIKS RESIDENCE @ 415 HAS A FRONT SETBACK OF 8'-6" ± TO THE FIRST FLOOR LIVING AREA AND THE SECOND FLOOR ROOF DECK.

THE RESIDENCE @ 411 HAS A FRONT SETBACK OF 8'-0" ± TO THE FIRST FLOOR LIVING AREA, AND A FRONT SETBACK OF 10'-0" ± TO THE SECOND STORY LIVING AREA AND DECK.

— PLEASE SEE THE GROUP SITE PLAN —

REVISIONS TO PLANS -

PLEASE NOTE THAT THE DECKS HAVE BEEN MODIFIED TO "SOFTEN THE EDGES" - ~~THE~~ ALL DECK CORNERS ~~ARE~~ NOW HAVE A 3'-0" RADIOUS, AND THE DECK AT THE MAIN FLOOR LEVEL ~~HAS~~ HAS BEEN REDUCED BY 30. SQ. FT. ON THE "CRAIKS" SIDE. THIS SHIFTS THE FURNISHABLE PORTION OF THE DECK AWAY FROM THE CRAIKS, AND ALSO SERVES TO BREAK UP THE MASS OF THE

THIS PROVIDES 32'-0" ± BETWEEN THE PROPOSED MAIN DECK AREA AND THE CRAIKS (415) EXISTING DECK.

THE PROPOSED UPPER DECK IS 25'-6" FROM THE CRAIKS EXISTING ~~DECK~~ DECK AT THE NEAREST POINT HORIZONTALLY.

THE PROPOSED DISTANCE BETWEEN THE CRAIKS RESIDENCE (415) AND OUR PROPOSED RESIDENCE (413) IS 11'-6" ±

THESE DISTANCES BETWEEN BUILDINGS AND DECKS IS IN MOST CASES, MUCH GREATER THAN WHAT EXISTS BETWEEN OTHER HOMES IN THE NEIGHBORHOOD.

THE PROPOSED (MODIFIED) DECK(S) AS SHOWN ON THE GROUP SITE PLAN AND FLOOR PLANS ALLOW THE CRAIKS ~~VIEW~~ VIEW TO REMAIN ACROSS THE FRONT "YARD" AREA OF 413 TO THE WEST.

REGARDING THE FACADE AND MASS OF THE PROPOSED RESIDENCE —

PLEASE NOTE THE MODIFICATIONS TO THE DECK(S) AS MENTIONED, THE DECKS ARE INTENDED TO PROVIDE STRONG HORIZONTAL ELEMENTS TO ~~REINFORCE~~ "DIMINISH" THE "VERTICALITY" OF THE BUILDING. IN ADDITION, THE REVISED MAIN LEVEL DECK IS NOW "MASSED" TO CENTER ON THE OFFSET GARAGE DOOR BELOW.

ALSO, WE HAVE ADDED AN ARCH DETAIL AT THE (NOW RECESSED) GARAGE DOOR AND AT THE ENTRY GATE.

WE HAVE ALSO ADDED 6' HIGH FENCE/WALLS AT THE FRONT OF THE SIDE YARD AREAS (THESE ARE PROPOSED TO BE 16'-0" FROM THE FRONT PROPERTY LINE)

WE HAVE INCLUDED STRONG HORIZONTAL ELEMENTS THROUGH THE INCLUSION OF ~~#~~ INDENTED "CHARACTER" LINES AT THE LOWER WALL(S) ~~AND~~ AND AT THE ROOF AND UPPER FLOOR LINES. - PLEASE SEE THE ELEVATIONS AS REVISED 4/13/98 -

THESE REVISED DETAILS, AS WELL AS THE HORIZONTAL SHADING TO BE PROVIDED BY THE PROPOSED DECK(S) WILL GREATLY IMPROVE THE APPEARANCE OF THE PROPOSED RESIDENCE, AND SERVE TO "DIMINISH" THE HEIGHT ~~#~~ AND GEOMETRY OF THE BUILDING.

LASTLY -

THE EXISTING NEIGHBORHOOD (THE BUFF SIDE OF ~~THE~~ BEACH DR. BETWEEN THE ESPLANADE AND THE GATE) IS COMPRISED OF 61 EXISTING

- HOUSES - 1 - ONE STORY
 - 41 - TWO STORY
 - 19 - THREE STORY
- } 61

Petition - Item #97-0622

665

ATTACHMENT 2

Re: APN #043-105-07 / 4 13 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback.

Signed *[Signature]* Address: 465 Beach Drive

Signed *[Signature]* Address: 415 Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

55

EXHIBIT F

ATTACHMENT

2

666

Petition - Item #97-0622

Re: APN #043- 105-07 / 4 13 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has **only** two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the **required** 20' front yard setback.

Signed *Donna & Al* Address: 405 Beach Drive

Signed *John & Mary* Address: 411 Beach Drive

signed _____ Address: _____ Beach Drive


Signed _____ Address: _____ Beach Drive

Signed- _____ Address: _____ Beach Drive

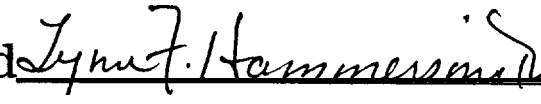
Signed _____ Address: _____ Beach Drive

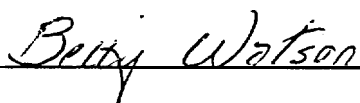
Re: APN #043-105-07 / 413 Beach Drive Aptos CA

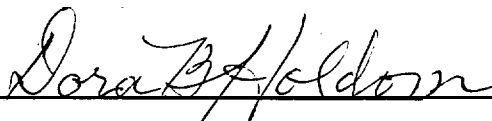
We, the undersigned owners of property on Beach Drive, are opposed to the planned variances **outlined** in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback..

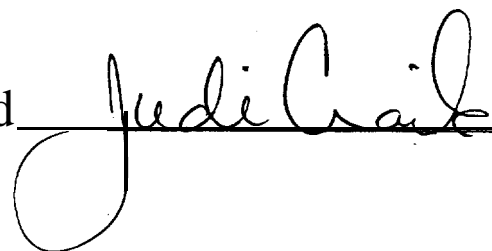
Signed  Address: 421 Beach Drive

Signed  Address: 421 Beach Drive

Signed  Address: 41 Beach Drive

Signed  Address: 419 Beach Drive

Signed  Address: 419 Beach Drive

Signed  Address: 415 Beach Drive

Re: APN #043-105-07 / 413 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback..

Signed *Clem Perucci* Address: 407 Beach Drive

Signed *Giuseppa Perucci* Address: 407 Beach Drive

Signed *Paula* Address: 307 Beach Drive

Signed *Pauly Perucci* Address: 307 Beach Drive

Signed *Marie Gumsley* Address: 309 Beach Drive

Signed *J.P. Perucci* Address: 427 Beach Drive

Petition - Item #97-0622

ATTACHMENT 669²

Re: APN #043-105-07 / 413 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback.

Signed Scott Key Address: 423 Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive

ATTACHMENT 2
670**FAXCOVERPAGE****PREPARED FOR IMMEDIATELY DELIVERY
TO JOAN VAN DER HOEVEN, AICP**

DATE: 4/14/98

PAGES: 7

FAX: Santa Cruz Planning Dept. 408.454-2131

PHONE: 408.454-3140

FROM: Bob Fleck 650.493-0111

REGARDING: 413 Beach Drive, Aptos, CA - APN #043-105-07

Joan,

Tracy Johnson called me from his cell phone and asked me to fax this to you. He will be out of town until Thursday night, but will be checking messages.

At the April 3, 1998 Public Hearing Mr. Craik presented a Petition with 15 signatures opposing the planned building on 413 Beach Drive. We have since learned that these signatures were obtained with incorrect information on the setback. We are trying to contact those people who signed to show them a diagram of the actual setbacks. In reviewing the Petition we have also discovered the following:

- 1) One, and possible two signature are not the owners of the property.
- 2) Of the remaining signatures ten (10) represent only five (5) different properties.
- 3) Enclosed are four (4) signatures of property owners, represent two properties that upon seeing a site plan have signed a Petition (enclosed), rescinding their signature & objection to the proposed residence.

I have enclosed a Petition indicating no objections to the proposed residence and a copy of a letter we received that was mailed to Don Bussey in support of approval. Please call me if you have any questions. Thank you.

ATTACHMENT 2
671**Petition - Item #97-0622****Re: APN #043-105-07 / 413 Beach Drive Aptos, CA**

I have had an opportunity to see a site plan prepared by Tracy Johnson showing the proposed residence of Norma Odenweller & Bob Fleck.

I understand that the proposal is for two living stories and that the County & FEMA require them to build above flood elevation, approximately 7'6" above ground level. In order to build the residence they have request a height variance of 4' which is consistent with many other homes on Beach Drive and is commonly granted in a flood zone.

I also understand that 93% of the residence on Beach Drive have setbacks of 10 feet or less (including the homes on both sides of the proposed residence) and that Norma & Bob have requested a variance to have a deck that would give them the same setback as their neighbors living area. I have no objections to the proposed home.

Name: *Bob Bailey*

Address: *106 APTOS Beach DR.
APTOS CA 95003*

ATTACHMENT 2
672

Petition - Item #97-0622

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I recently signed a petition opposing the planned building of a residence at 413 Beach Drive. Since the signing of that petition I have had an opportunity to see a site plan of Norma & Bob's proposed residence and would like to rescind my previous objection.

Name: *Richard Renucci*

Address: *707 Beach Drive
Aptos, CA*

Petition - Item #97-0622

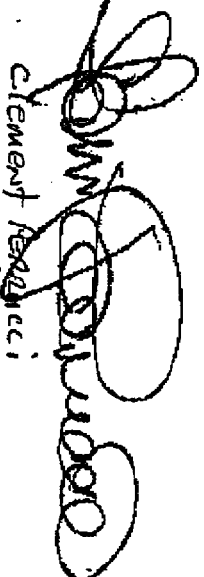
ATTACHMENT

273

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I recently signed a petition opposing the planned building of a residence at 413 Beach Drive. Since the signing of that petition I have had an opportunity to see a site plan of Norma & Bob's proposed residence and would like to rescind my previous objection.

Name:


Robert A. Clement

Address:

407 Beach Drive
Aptos, CA

TOTAL P.02

Petition - Item #97-0622

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I recently signed a petition opposing the planned building of a residence at 413 Beach Drive. Since the signing of that petition I have had an opportunity to see a site plan of Norma & Bob's proposed residence and would like to rescind my previous objection.


Name: *Holly Pennucci*
Holly Pennucci

Address: *307 Beach Dr*
apptos CA 95003

Petition - Item #97-0622 ATTACHMENT ⁶⁷⁵ 2

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I recently signed a petition opposing the planned building of a residence at 413 Beach Drive. Since the signing of that petition I have had an opportunity to see a site plan of Norma & Bob's proposed residence and would like to rescind my previous objection.

Name: 
MARK PERRUCCI

Address: 307 Beach Dr.
Aptos, CA 95003

MARK PERRUCCI



Prudential
Real Estate

ATTACHMENT
Prudential California Realty
40 Stone Pine Rd., Suite H, Half Moon Bay CA 94019
Tel 650 712-0188 Fax 650 712-0877

2
676

4/10/98

Attn: Don Bussey
Planning Dept., Zoning Administrator
701 Ocean Street, Room 400
Santa Cruz, Ca. 95060
Ret 413 Beach Dr., Aptos, Ca. (Application # 97-0622)

Dear Mr. Bussey,

I am writing this letter in full support of the proposed home of Norma Odenweller & Robert Fleck.

I have been a resident of the coastside for more than 12 years. I have been actively involved with issues that affect quality of life, including issues of open space, historical preservation, schools, infrastructure improvements and personal property rights.

Prior to being a Realtor, I was a General Contractor specializing in major renovations to historical projects in Santa Cruz, Half Moon Bay, and into San Francisco. Although my work in Capitola and Aptos has been limited to consultation only, I am aware of the specifics of this property and proposed home. This is an infill lot and the project enhances the overall area by replacing an old garage that is an eyesore, with the proposed home.

In my many years involved in coastside construction and real estate transactions, I have seen every issue raised to stop people from building on their own property. The neighbor complaining about the proposed home purchased their property knowing that a presite development proposal had already been filed on this property and yet they purchased the property anyway. Now, after being in their vacation home less than two years they object to the proposed new home.

While growth, view and quality of life are often quoted by an objecting neighbor, I have all too often found the real objection to be the neighbors personal use of the property - as a place to park their car, dumping area or some other reason all with the intent of preventing the legal owners from using the property as it was intended. I believe that if you look closely at this issue, you will find the neighbors complaint completely groundless and without merit.

I encourage you to support the staff planner that recommended this home be approved. Please do not let the personal pettiness of one party destroy the dreams and aspirations of another.

Respectfully,

William F. Hedrix

"Unique Properties of Character and Distinction"
(650) 712-0188 ext. 238

CAL-WESTERN PROPERTY MANAGEMENT

March 31, 1998

County of Santa Cruz
Planning Department
Application #97-0622
APN #043-105-07

Re: 411 Beach Drive

To whom it may concern:

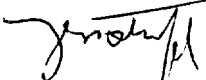
Our firm overseas the management of the home located at the above referenced location. My client, Mr. Keith Ignatz, has been notified on the proposed construction of the unit at 413 Beach Drive.

We are opposed to the height and setback variances proposed for the new construction at 413 Beach Drive. We are confident that the height variation will negatively impact both the physical appearance of the neighborhood and the typical conformity of the residences on that part of Beach Drive.

Additionally, the aftereffect of allowing both the height and setback variances will negatively alter the privacy, light and sun access to the front seating area of the dwelling. There will also be significant light and sun loss to the enclosed back courtyard area. As a result, this proposed addition will greatly reduce the value of my client's property.

If you have any questions, please contact me at (408) 554-1818.

Sincerely,



Len Strbmfeld
Property Manager

ATTACHMENT 678

FAX COVER PAGE

PREPARED FOR IMMEDIATELY DELIVERY
TO JOAN VAN DER HOEVEN, AICP

DATE: 4/15/98

PAGES: 9

FAX: Santa Cruz Planning Dept. 408.454-2131

PHONE: 408.454-3140

FROM: Bob Fleck 650.493-0111

REGARDING: 413 Beach Drive, Aptos, CA - APN #043-105-07

Joan,

I have enclosed a copy of the Petition prepared by the Craik's, opposing the planning variances. This Petition was circulated and signatures obtained with misinformation. We have been attempting to contact these individual's to show them a site plan. By each signature I wrote any change in the current status of each Petitioner (i.e. Rescinded, Not The Legal Owner etc.). Of those I have marked "Rescinded" I have presented either in my previous fax to you or enclosed with this fax their signatures on a Petition rescinding their previous objection to the proposed residence.

Some of people signing the Craik's Petition were apparently told that the proposed residence would come to the sidewalk (zero setback) and at least one believed that we were proposing a third story sun deck (when in fact the residence is to have a slightly pitched roof).

In summary of the Craik's Petition, opposing the planned residence - of the 6 signatures on page 1, 4 have rescinded and 2 are not the signatures of the legal owners. On page 2 - of the 6 signatures 2 represent the Same residence and Another represents a residence on page 3 (the Craik's). On page 3 (the last @age) - of the 3 signatures - 1 is not the signature of the legal owner, 1

ATTACHMENT 2
679

has Rescinded their objection upon seeing the site plan and the other is Mr. Craik's whose residence is also represented and signed on page 2.

To Date: ,

- 5 out of the 15 signatures have signed a Petition - Rescinding their previous objections to the proposed residence.
- 3 other signatures are not that of the legal owner (as indicated by Title Reports)
- Of the remaining 7 signatures - 6 represent only 3 different properties and of the 3 - 1 is the Craik's.
- Of the 6 people we have been able to contact to date - 5 have Rescinded their signatures to the Craik's Petition and their objections to the proposed home after seeing the site plan and the other one wants to discuss it with the person that had her sign the Craik's Petition before she decides.

I have enclosed a Petitions with 3 new signatures, represent 3 different residences that have stated they have no objections to the proposed home. The enclosed is in addition to the previous fax with 4 Petitions rescinding their signature on the Craik's Petition and another Petition that signed in support of the residence. This brings the total number of property owners supporting the proposed residence, with the variances as recommended by the Staff Planner to 9 (represent 7 different properties Vs the signatures of the 4 properties opposing - including the Craik's - on the Craik's Petition). Given enough time I believe most of the individuals who signed the Craik's Petition would rescind their signatures.

If you have any questions please do not hesitate to call me. Thank you for your time and consideration of this fax.

Petition - Item #97-0622

Re: APN #043-105-07 / 413 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback.

Rescinded

Signed *[Signature]* Address: 407 Beach Drive
Clement PO Box 880
5/92 \$353K S. J. 95106

Rescinded

Signed *[Signature]* Address: 407 Beach Drive

Rescinded

Signed *[Signature]* Address: 307 Beach Drive
MARK PERRUCCI

Rescinded

Signed *[Signature]* Address: 307 Beach Drive *
mark 45003
7/93 \$334K

NOT THE LEGAL OWNER

Signed *[Signature]* Address: 309 Beach Drive
giovanna Brelli not name on
1878 Park Ave St 12/92
Hollywood 95023 \$345K

NOT THE LEGAL OWNER

Signed *[Signature]* Address: 427 Beach Drive
antony morici
1855 Park ave
5 j 95126
12/92 \$1212K

Petition - Item #97-0622

ATTACHMENT 2

Re: APN #043-105-07 / 413 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback.



SAME RESIDENCE

Signed Robert LaLonde Address: 421 Beach Drive
Robert LaLonde

Signed Mellicent Clark Address: 421 Beach Drive
Mellicent Clark 214 32nd ave San Fran - 941
3/96 \$377K

Signed Lynne Hammerman Address: 417 Beach Drive
Lynne 228 32nd ave SF
11/92 \$129K

SAME RESIDENCE

Signed Betty Watson Address: 419 Beach Drive
apts 9500 3d
1/94 \$246K

Signed Dora Folden Address: 419 Beach Drive

SAME RESIDENCE on page 3

Signed Judi Craik Address: 415 Beach Drive
Judi Craik

Petition - Item #97-0622

ATTACHMENT 822

Re: APN #043-105-07 / 413 Beach Drive Aptos CA

We, the undersigned owners of property on Beach Drive, are opposed to the planned variances outlined in the Notice of Public Hearing. We ask that whatever is approved on this site has only two stories at a maximum height of 28' to be compatible with the neighboring residences in this vicinity. And not be allowed to build within the required 20' front yard setback.

NOT THE LEGAL OWNER

Signed Scott Kay Address: 423 Beach Drive
lives in Palo Alto - 94302
PO Box 1740

Blank line (no signature)

Signed _____ Address: _____ Beach Drive

RESCINDED

Signed [Signature] Address: _____ Beach Drive
405

Same residence on PAS 2

Signed Jim Crank Address: 415 Beach Drive
22959 Hidden View Ln
Saratoga #575K 10/96

Signed _____ Address: _____ Beach Drive

Signed _____ Address: _____ Beach Drive


Signed _____ Address: _____ Beach Drive

Petition - Item #97-0622

683
ATTACHMENT 2

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I recently signed a petition opposing the planned building of a residence at 413 Beach Drive. Since the signing of that petition I have had an opportunity to see a site plan of Norma & Bob's proposed residence and would like to rescind my previous objection.

Name: Donald E. Allen 
405 Beach Dr., Aptos CA 95003

Address: San Jose address: 1641 University Way, San Jose, Ca 95126

According to the attached plot plan you sent, the proposed front of your new house appears to be in conformity with your neighbors.

For that reason I withdraw my opposition.

However, I want to make it clear that I would oppose a sun deck on top of the third floor roof.

Rec 4/15/98

Petition - Item #97-0622 ATTACHMENT 684

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I have had an opportunity to see a site plan prepared by Tracy Johnson showing the proposed residence of Norma Odenweller & Bob Fleck.

I understand that the proposal is for two living stories and that the County & FEMA require them to build above flood elevation, approximately 7'6" above ground level. In order to build the residence they have request a height variance of 4' which is consistent with many other homes on Beach Drive and is commonly granted in a flood zone.

I also understand that 93% of the residence on Beach Drive have setbacks of 10 feet or less (including the homes on both sides of the proposed residence) and that Norma & Bob have requested a variance to have a deck that would give them the same setback as their neighbors living area. I have no objections to the proposed home.

Name:

Robert Neeschen
[Handwritten signature]

Address:

202 Beach Dr
Aptos

Petition - Item #97-0622 ATTACHMENT 285

Rec 4/15/98

Re: APN #043-105-07 / 413 Beach Drive Aptos, CA

I have had an opportunity to see a site plan prepared by Tracy Johnson showing the proposed residence of Norma Odenweiler & Bob Fleck.

I understand that the proposal is for two living stories and that the County & FEMA require them to build above flood elevation, approximately 7'6" above ground level. In order to build the residence they have request a height variance of 4' which is consistent with many other homes on Beach Drive and is commonly granted in a flood zone.

I also understand that 93% of the residence on Beach Drive have setbacks of 10 feet or less (including the homes on both sides of the proposed residence) and that Norma & Bob have requested a variance to have a deck that would give them the same setback as their neighbors living area. I have no objections to the proposed home.

Name:

J. Paul Wayne
J. Paul Wayne

Address: 270 Beach Dr Aptos CA

Rec 4/15/98

Petition - Item #97-0622

ATTACHMENT

2 686

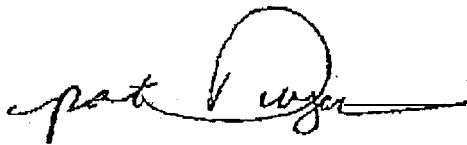
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Name:



Address:

4-14-98

214 BEACH DR
APTOS,

**COUNTY OF SANTA CRUZ PLANNING COMMISSION
MINUTES**

687

DATE: 6-24-98

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

COMMISSIONERS PRESENT: ROBERT BREMNER, DENISE HOLBERT, LEO RUTH,
RENEE SHEPHERD, DALE SKILLICORN(CHAIRPERSON).

STAFF MEMBERS PRESENT: CATHY GRAVES, BOB STAKEM, JOAN VAN DER
HOEVEN, JOE HANNA, MICHAEL FERRY, MARK
DEMING.

COUNTY COUNSEL PRESENT: RAHN GARCIA

All legal requirements for items set for public hearing on the Santa Cruz County Planning Commission agenda for this meeting have been fulfilled before the hearing including publication, mailing and posting as applicable.

A. ROLL CALL:

Commissioners Bremner, Holbert, Ruth, Shepherd and Skillicorn present at 9:00 a.m.

B. PLANNING DIRECTOR'S REPORT: Alvin James discussed the Board's action on the Planning Department's budget. Also noted the Supplemental budget was approved by the Board which included a mid-County permit center.

C. COUNTY COUNSEL'S REPORT: None.

**D. ADDITIONS AND CORRECTIONS
TO THE AGENDA:** None.

E. ORAL COMMUNICATIONS: None.

F. CONSENT ITEMS

NO CONSENT ITEMS SCHEDULED

G. CONTINUED AGENDA

ITEM G-1

CONTINUED CONSIDERATION TO APPEAL THE ZONING ADMINISTRATORS DECISION ON A PROPOSAL TO CONSTRUCT A TWO-STORY, SINGLE-FAMILY DWELLING. REQUIRES A COASTAL ZONE PERMIT, A GRADING PERMIT, A VARIANCE TO REDUCE THE REQUIRED 40-FOOT FRONT YARD TO ABOUT 14.5 FEET, AND A RIPARIAN EXCEPTION. PROPERTY LOCATED ON THE EAST SIDE OF PASO CIELO, SOUTH OF THE INTERSECTION WITH CAMINO AL MAR.

OWNER: GELBART DAVID R MD TRUSTEE
APPLICANT: THOMAS RAHE
SUPERVISORIAL DIST: 2
PROJECT PLANNER: JOAN VAN DER HOEVEN, 454-3 140
APN(S): 045-022-25

MOTION

COMMISSIONER BREMNER MOVED TO CONTINUE TO JULY 8, 1998. SECONDED BY COMMISSIONER HOLBERT.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 5-0.

ITEM G-2

PROPOSAL TO DIVIDE TWO EXISTING LOTS EACH DEVELOPED WITH A SINGLE-FAMILY DWELLING INTO 4 SINGLE-FAMILY RESIDENTIAL PARCELS AND A REMAINDER LOT. REQUIRES A MINOR LAND DIVISION. LOCATED ON THE NORTH SIDE OF BROMMER STREET (AT 1247 AND 1311 BROMMER STREET) APPROXIMATELY 400 FEET EAST OF EL DORADO AVENUE.

OWNER: FLYNN CORPORATION
APPLICANT: RICK RINALDI
SUPERVISORIAL DIST: 1
PROJECT PLANNER: JOAN VAN DER HOEVEN, 454-3 140
APN(S): 026-255-05 026-255-1 1

MOTION

COMMISSIONER BREMNER MOVED TO CONTINUE TO JULY 22, 1998. SECONDED BY COMMISSIONER HOLBERT.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 5-0.

ITEM G-3

PROPOSAL TO TRANSFER APPROXIMATELY 42 ACRES FROM ASSESSOR'S PARCEL NO. 086-21 1-03 TO ASSESSOR'S PARCEL NO. 086-21 1-04 AND REZONE ASSESSOR'S PARCEL NO. 086-21 1-04 FROM THE "SU" SPECIAL USE ZONE DISTRICT TO THE "TP" TIMBER PRODUCTION ZONE DISTRICT. REQUIRES A LOT LINE ADJUSTMENT AND REZONING. PROPERTY LOCATED ON THE NORTH SIDE OF JAMISON CREEK ROAD, ABOUT 3/4 MILES WEST OF HIGHWAY 237.

OWNER: KIRCH MARY ANN S/W
APPLICANT: JOHN SWIFT
SUPERVISORIAL DIST: 5
PROJECT PLANNER: MICHAEL FERRY, 454-3226
APN(S): 086-21 1-03,04

MOTION

COMMISSIONER BREMNER MOVED TO ACCEPT AND FILE STAFF'S RECOMMENDATION. SECONDED BY COMMISSIONER HOLBERT.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 5-0.

H. SCHEDULED ITEMS:**ITEM H-1**

PROPOSAL TO CREATE 3 SINGLE-FAMILY RESIDENTIAL PARCELS. REQUIRES A MINOR LAND DIVISION. PROPERTY LOCATED ON THE SOUTH SIDE OF ORCHARD VIEW DRIVE (AT 375 ORCHARD VIEW DRIVE), APPROXIMATELY 350 WEST OF AMESTI ROAD.

OWNER: MYERS ROSLYN L TRUSTEE
APPLICANT: RICHARD BEALE, LAND USE PLANMNG INC.
SUPERVISORIAL DIST: 4
PROJECT PLANNER: CATHY GRAVES, 454-3 141
APN(S): 050-351-16

CATHY GRAVES: Gave staff presentation; discussed land use issues including APAC review; matrix; showed slides; and gave recommendation for action.

COMMISSIONER HOLBERT: Asked about comments from Environmental Planning and soils types.

CATHY GRAVES: Responded that clay soils were present.

COMMISSIONER HOLBERT: Asked what LAFCO approval is needed.

CATHY GRAVES: Project is within the water district no LAFCO action needed.

COMMISSIONER HOLBERT: Noted two meeting at APAC. Staff's first recommendation was that site is viable for agricultural use. APAC disagreed with staff.

COMMISSIONER BREMNER: Asked about APAC finding; wants APAC minutes.

BOB STAKEM: Discussed APAC findings -- no set findings except those in the General Plan. APAC does not have to make each finding.

PUBLIC HEARING OPENED

BETTY COST(Representing Owner): Residential uses will be clustered near the-road. Noted soil types and high ground water. Discussed APAC'S action and agricultural buffer. Owner has tried to lease property for agricultural use but has not been successful.

ROSLYN MEYERS(Owner): Available to answer questions.

JODY LOUDERBACK: Concerned over traffic on Orchard View Road. Large trucks on road present safety problem. Speed should be regulated on the road.

BETTY COST: Road is private with dips in pavement. There will be more traffic if its agricultural use.

PUBLIC HEARING CLOSED

COMMISSIONER HOLBERT: Asked about exhibit "J."

CATHY GRAVES: Described the map and it's details.

RENEE SHEPHERD: Wants a "children-at-play" sign.

JODY LOUDERBACK: Asked people to slow down. Wants speed bumps in front of her house.

CATHY GRAVES: No road association to maintain the road.

COMMISSIONER RUTH: Speed dips are defective; additional signing should be added.

MOTION

COMMISSIONER HOLBERT CAN'T SUPPORT MOTION; NOT ENOUGH EVIDENCE TO DECIDE THAT SITE IS NOT VIABLE

COMMISSIONER BREMNER WANTS A SPEED BUMP ADDED TO MOTION. STILL NOT GOING TO SUPPORT PROJECT. AGREES WITH COMMISSIONER HOLBERT.

COMMISSIONER RUTH MOVED TO APPROVE STAFF RECOMMENDATION WITH DIRECTION TO WORK ON SIGNAGE AND ADD A SPEED BUMP ON THE ROAD. SECONDED BY COMMISSIONER SHEPHERD.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 3-2.

ITEM H-2

APPEAL OF THE ZONING ADMINISTRATORS DECISION ON A PROPOSAL TO DEMOLISH AN EXISTING GARAGE AND TO CONSTRUCT A TWO-STORY, SINGLE-FAMILY DWELLING WITH A GARAGE BELOW CONSTITUTING A THREE-STORY DWELLING. REQUIRES A COASTAL ZONE PERMIT AND A VARIANCE TO: REDUCE THE REQUIRED MINIMUM 20 FOOT FRONT YARD TO ABOUT 16 FEET TO THE DWELLING AND ABOUT 8 FEET TO THE EDGE OF THE CANTILEVERED DECK ABOVE THE FIRST FLOOR; TO CONSTRUCT A SECOND STORY DECK; TO INCREASE THE MAXIMUM 28 FOOT HEIGHT LIMITATION TO ABOUT 32 FEET, TO ALLOW THREE-STORIES; AND TO ALLOW THE PARKING AREA TO EXCEED A MAXIMUM OF 50% OF THE REQUIRED FRONT YARD. THIS APPLICATION INCLUDES A RESIDENTIAL DEVELOPMENT PERMIT TO INCREASE THE MAXIMUM 6 FOOT HEIGHT LIMITATION OF A RETAINING WALL WITHIN THE REQUIRED 5 FOOT SIDE YARDS TO ABOUT 12 FEET IN HEIGHT. PROPERTY LOCATED ON THE NORTH SIDE OF BEACH DRIVE (413 BEACH DRIVE), ABOUT 3/4 MILE SOUTHEAST OF THE ESPLANADE AND RIO DEL MAR BOULEVARD.

OWNER: ODENWELLER NORMA P U/W ETAL TC
APPLICANT: TRACY JOHNSON
SUPERVISORIALDIST: 2
PROJECT PLANNER: JOAN VAN DER HOEVEN, 454-3 140
APN(S): 043-105-07

JOAN VAN DER HOEVEN: Gave staff presentation; discussed design changes, issues of appeal; showed slides of project; and gave recommendation for action.

PUBLIC HEARING OPEN

DOUGLAS MARSHALL(Appellant): Noted the owner wanted to show slides and present a petition in opposition to project.

JIM CRAIK: Responded to letter from applicant. Read a letter in opposition to project. Letters in support of project are Realtors or don't live in the area. Disputed variance findings.

COMMISSIONER RUTH: Asked if Mr. Craik is full-time resident and how many others live till-time.

JIM CRAIK: Showed slides of neighborhood and gave narrative. Also disputed letters received from some neighbors and from Tracy Johnson. Found project was not consistent with General Plan.

DOUG MARSHALL: Rule change should accommodate redevelopment of street not bend current rules. Proposal is inconsistent with the General Plan. Needs legislative changes for development of area. Project site in the middle of two story homes.

COMMISSIONER SKILLICORN: This arguments does not address the issues; not a legitimate arguments.

DOUG MARSHALL: Project requires a variance from the General Plan policy which the law prohibits. Existing three story homes were built before the current General Plan was adopted. First floor is a story for planning purposes; this is a three story structure. Variance findings are hard to follow. County should follow rules.

TRACY JOHNSON: Discussed various issues of the proposed permit request including the retaining wall, parking for off-street parking, and set backs. Surrounding structures are not mitigated against constraints; they enjoy the use of a ground floor. Home has been designed to minimize impacts to surrounding residents. For planning purpose it's a 2-story structure not a 3-story building. Roof is flat; slight pitch for drainage purposed also noted that private views are not protected.

LUNCH BREAK 12:00PM**RETURN AT 1:35PM**

TRACY JOHNSON: Available for any questions. Introduces project owner.

NORMA ODENWELLER: Required to build at this height; this is there dream house.

JUDIE CRAIK: Responded to arguments made by applicants including set backs and parking.

DOUGLAS MARSHALL: Private views are protected. Deck is closer to street than Craiks. Variance findings do not support deck encroachment. Visual impacts due to scenic corridor and Coastal zone. Argued 3-story issue. Staff has changed their mind in claiming it's a 2-story home.

PUBLIC HEARING CLOSED

COMMISSIONER RUTH: Wants description of location of retaining wall.

JOHN KASUMICH(Project Engineer): Site will experience land slides. Excavation of site and project volume dictated location and height of retaining wall. Dry landslides occur thus restrict use of rear yard.

JOAN VAN DER HOEVEN: Confirmed Zoning Administrator will give final approval.

COMMISSIONER BREMNER: Site is constrained; can't support the appeal. Can support the variance. Critical of some signers of petition. Noted set back of appellant's home. No merit to appeal.

COMMISSIONER SHEPHERD: Can't support appeal. Intelligent design. Story and under story should be cleared-up. Not a 3-story home. Interesting neighborhood; carefully examined project.

COMMISSIONER SKILLICORN: Also Can't Support appeal. Nothing out of line with Variance.

COMMISSIONER BREMNER: Board should look at different standards for Beach Drive.

MOTION

COMMISSIONER RUTH MOVED TO APPROVE STAFF RECOMMENDATION TO DENY APPEAL.,
SECONDED BY COMMISSIONER SHEPHERD.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 4-0.

ITEM H-3

PROPOSAL TO DEMOLISH TWO SINGLE-FAMILY DWELLINGS AND A BARN, AND TO
RECOGNIZE APPROXIMATELY 76,000 CUBIC YARDS OF FILL MATERIAL FOR A
CLOSURE PLAN. REQUIRES A GRADING PERMIT AND A COASTAL ZONE PERMIT.
LOCATED ON THE SOUTHWEST SIDE OF AIRPORT BLVD. (852 AIRPORT BLVD.) AND
RAMPART ROAD.

OWNER: WATSONVILLE CITY OF
APPLICANT: DON FRENCH
SUPERVISORIAL DIST: 2
COUNTY GEOLOGIST: JOSEPH HANNA, 454-3 175
APN(S): 052-011-46

JOSEPH HANNA: Described history of property and finding; violations occurring on property;
City of Watsonville purchased property and conducted testing and clean-up; showed slides,
gave recommendation for action.

COMMISSIONER BREMNER: Any testing of soils entering site?

JOSEPH HANNA: City Engineer will review and inspect all soil entering site.

COMMISSIONER RUTH: Vast improvements for history of property.

PUBLIC HEARING OPENED

PUBLIC HEARING CLOSED

MOTION

COMMISSIONER RUTH MOVED TO APPROVE STAFF RECOMMENDATIONS. SECONDED BY
COMMISSIONER SHEPHERD.

VOICE VOTE

MOTION CARRIED AND SO ORDERED. PASSED 4-0.

ITEM H-4

PROPOSAL TO AMEND THE 1994 GENERAL PLAN DESIGNATIONS FOR THESE PROPERTIES (APNS 025-201-42,-44,-49 AND -50) FROM URBAN MEDIUM DENSITY RESIDENTIAL (R-UM) TO NEIGHBORHOOD COMMERCIAL (C-N) AND AMEND THE ZONING FOR THESE PROPERTIES FROM MULTIFAMILY RESIDENTIAL, 4,000 SQ. FT. PER DWELLING UNIT (RM-4) TO THE NEIGHBORHOOD COMMERCIAL (C-1) ZONE DISTRICT. REQUIRES A GENERAL PLAN AMENDMENT AND A REZONING. PROPERTY IS LOCATED ON THE SOUTHWEST CORNER OF SOQUEL DRIVE AND MATTISON LANE, LIVE OAK AREA.

OWNER: ARTHUR & GLORIA MARSH
SUPERVISORIAL DIST: 1
APPLICANT: COUNTY OF SANTA CRUZ
PROJECT PLANNER: JOHN AKEMAN 454-3 172
APN(S): 025-201-42,-44,-49, & 50

MARK DEMING: Read item into the record. Discussed history of General Plan and zoning changes of property. Board directed these revisions.

JOHN AKEMAN: Showed slides and gave details of changes in land use designations and zoning.

MARK DEMING: Gave recommendation for action.

COMMISSIONER BREMNER: Key site near many important uses.

RAHN GARCIA: Suggested wording change to General Plan text amendment.

PUBLIC HEARING OPENED

PUBLIC HEARING CLOSED

MOTION

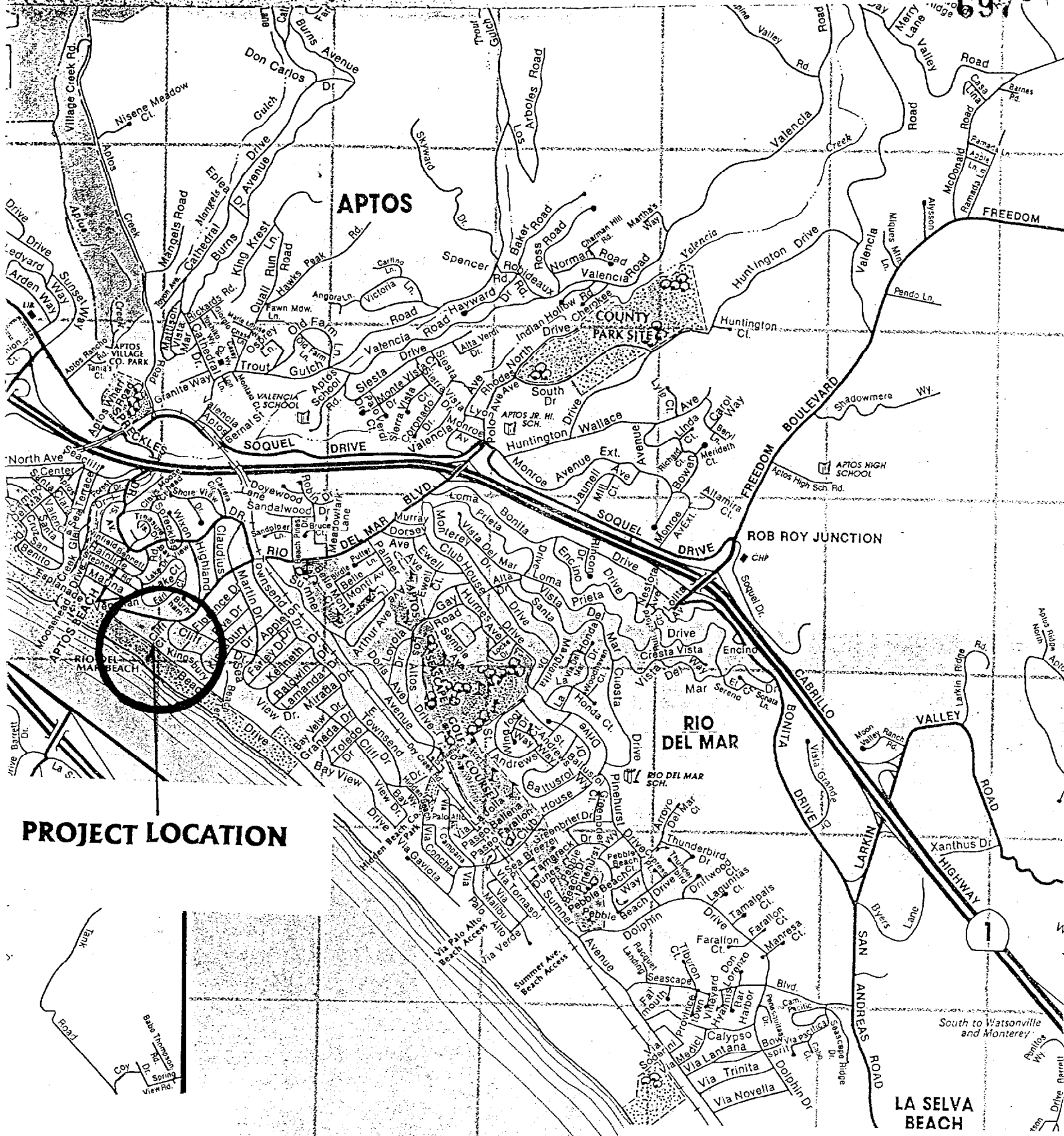
COMMISSIONER BREMNER MOVED TO APPROVE STAFF RECOMMENDATIONS.
SECONDED BY COMMISSIONER SHEPHERD.

VOICE VOTE

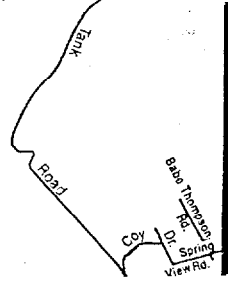
MOTION CARRIED AND SO ORDERED. PASSED 4-0.

PLEASE NOTE: THESE MINUTES HAVE NOT BEEN APPROVED BY THE PLANNING COMMISSION AS OF 7-29-98.

ANAMADRIGAL
PLANNING DEPARTMENT



PROJECT LOCATION



LOCATION MAP

#97-0622

21 22 23

413 Beach Drive, Aptos

Routing Form

Dropped off Materials

The **following** materials will not, be **accepted** without **pre-**screening at the Building and **Zoning** Counters:

1. Applications **for** new projects.
2. Applications **for** revisions of projects being reviewed which alter the permit description.
3. Applications for **revisions** of projects for-which a permit has been issued.
4. Any submittal which requires a fee to be paid.

We encourage you to have all materials **pre-screened**. However, we realize that you may not have the **time** to wait. If you wish to **drop off** an item, please fill out this routing form and attach it to any dropped off **materials**. Leave the materials in the box marked **"DROPPED OFF MATERIALS."** You will be contacted if they are subsequently found to be incomplete or inaccurate.

DATE 8-4-98

APPLICATION NO. 97-0512 APN NO. 043-105-07

NAME AND ADDRESS OF CONTACT PERSON

TRACY JOHNSON

1198-B AMESTI RD. WATSONVILLE, CA 95076

PHONE NUMBER OF CONTACT PERSON (831) 722-5462

DESCRIPTION OF MATERIAL SETS OF PLANS FOR

BOARD OF SUPERVISORS

DESTINATION FOR MATERIAL Joan Van der Hoeven