



County of Santa Cruz

0049

CLERK OF THE BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060

(831) 454-2323 FAX: (831) 454-2327

GOVERNMENTAL CENTER

April 16, 2001.

Agenda date: April 24, 2001

BOARD OF SUPERVISORS

County of Santa Cruz

701 Ocean Street

Santa Cruz, CA 95060

Re: Scheduling a hearing on appeal filed by Richard Beale Land Use Planning on behalf of Atherton Place Development LLC regarding Application No. 98-O 148

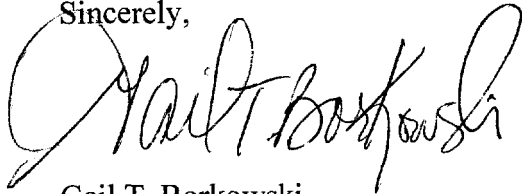
Dear Members of the Board:

Pursuant to Section 14.01.3 12 of the Santa Cruz County Code, Richard Beale Land Use Planning, Incorporated has filed an appeal of the Planning Commission's decision regarding Application No. 98-0148. The application is a proposal to construct (12) semi-detached townhouses and (46) detached townhouses, in three phases, on a common parcel with a minimum "restricted common area" of 3,000 square feet minimum per dwelling unit; (2) new roads: "Bowman Circle" and "Bower Court"; (5) parking areas totaling (28) spaces; drainage systems discharging to an existing pond and to an existing gully along Porter Gulch Creek; two retaining walls up to four feet in height and one retaining wall up to eight feet in height and an overlook. Grading on Parcel 037-251-21 consists of 4,800 cubic yards of cut and fill, and grading on Parcel 037-251-22 consists of 5,200 cubic yards of cut and fill. The rear of both parcels would be retained as open space. The project requires a Subdivision, Roadway/Roadside Exceptions, a Riparian Exception for the drainage systems releasing into the riparian corridor, and Preliminary Grading Approval. Property is located on the north and west sides of Cabrillo College Drive, south of Soquel Drive, east of Atherton Drive, in the Soquel Planning Area.

SERVING THE COMMUNITY – WORKING FOR THE FUTURE

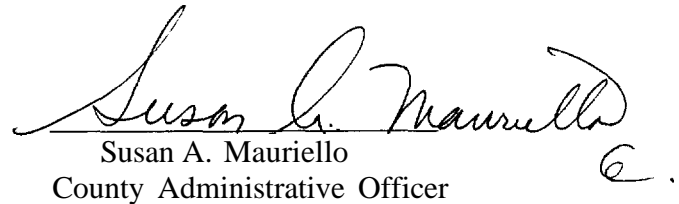
It is therefore recommended that a public hearing be scheduled for Tuesday, May 8, 2001 at 1:30 p.m. for your Board to consider this matter.

Sincerely,



Gail T. Borkowski
Chief Deputy Clerk
Clerk of the Board

RECOMMENDED:



Susan A. Mauriello
County Administrative Officer

Cc: Attorney Charlene Atack
Richard Beale Land Use Planning, Inc.
Planning: Joan Vanderhoven
County Counsel

SERVING THE COMMUNITY-WORKING FOR THE FUTURE

**BOSSO, WILLIAMS, SACHS,
ATAK & GALLAGHER
AND**

PETER L. SANFORD
AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

MAILING ADDRESS P.O. Box 1822
LOCATION 133 MISSION STREET, SUITE 280
SANTA CRUZ, CA 95061 - 1822
TELEPHONE (831) 426-8484
FACSIMILE (831) 423-2839

0051

ROBERT E. BOSSO
LLOYD R. WILLIAMS
PHILIP M. SACHS
CHARLENE B. ATAK
JOHN M. GALLAGHER
PETER L. SANFORD
CATHERINE A. PHILIPOVITCH
PASCHA R. STEVENS
MICHELLE E. ANDERSON
EDWARD L. CHUN
SUZANNE P. YOST

PETER L. SANFORD, APC.
SAN JOSE OFFICE:
333 W. SANTA CLARA ST. #612
SAN JOSE, CA 95113
TEL: (408) 286-9700
FAX: (408) 286-9403
PLEASE REPLY TO SANTA CRUZ

* CERTIFIED SPECIALIST IN TAXATION
LAW, THE STATE BAR OF CALIFORNIA,
BOARD OF LEGAL SPECIALIZATION

April 12, 2001

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



**Re: Appeal of Planning Commission Action
Atherton Place - Application # 98-0148**

Dear Chairperson and Board Members:

On behalf of the applicant of the above-referenced application, I am appealing the decision of the Planning Commission taken on April 11, 2001. The basis for the appeal is that the decision of the Planning Commission is not supported by the facts presented and considered at the time the decision was made. An abuse of discretion on the part of the Planning Commission in making the decision without further Staff consideration was in error, and therefore the determination of the Commission was unjust and inappropriate.

The Commission's decision was in error as follows:

I

NO POTENTIALLY SIGNIFICANT ADVERSE IMPACTS

The Commission erroneously determined that there were four (4) potential significant adverse impacts arising from the Project: (1) adverse traffic and traffic safety impacts; (2) adverse biotic and soil stability impacts; (3) adverse impacts on riparian areas; and (4) adverse visual and aesthetic impacts. This determination was unsupported by the testimony and the evidence presented. As set forth more fully below, any impacts from the project were mitigated to a less than significant level by the required conditions of the project.

1. Traffic. The County has adopted a threshold for acceptable level of service (LOS), General Plan Objective 3.12. The acceptable minimum LOS is Level D. The traffic study performed by Higgins and Associates determined that the project will not change the existing LOS at any intersection, and that two of the intersections, after project development will operate at a level of A and one at level B, well above the minimum threshold. The County's traffic engineer similarly determined that the "traffic study has indicated that all study intersections and roadway segments will operate at acceptable levels of service except for the northbound left-turn movement from Willowbrook to Soquel Drive." (September 15, 1999 John Presleigh memo). With respect to this left-turn lane, the level will be acceptable post-project, but future traffic due to other projects would require a traffic signal. This future cumulative impact is mitigated to a level of less than significant by payment of required TIA fees which are designated for the signal.

Section 15064(h)(1)(A) of the CEQA Guidelines requires that a change in the environment is not a significant effect if the change complies with the threshold standard. Since the project complies with the threshold standard and is, in fact, well below the acceptable minimum level, the Board has erred in finding that traffic is a significant impact.

The project not only does not have any significant impacts from traffic or traffic safety, but actually will improve the existing pre-project traffic conditions by making improvements to increase sight distances at two intersections.

With regard to traffic safety, in addition to the Higgins Study, the County's own Public Works staff commented at the hearing that remarks from neighbors indicating traffic safety was poor and numerous accidents had occurred at the intersections was unsubstantiated by traffic accident reports which showed no accidents had occurred at the intersections. (Oral report by Jack Sohriakoff). Staff also noted that this particular traffic area has been designed and improved by the County to meet high density development and the corresponding high volumes of traffic as contemplated by the General Plan and zoning.

2. Adverse Biotic and Soil Stability Impacts. There are no special plant species present on site nor endangered species within the development area of the project. The riparian corridor and the buffer will remain undeveloped except for installation of drainage pipes, which would take place under the supervision of a biologist. If any riparian vegetation is disturbed by the placement of the pipes, it is a temporary disturbance which is mitigated by required restoration, under the supervision of a professional biologist, at a ratio of 3: 1. To further ensure protection and unintentional disturbance to the riparian area during construction, the buffer area to the riparian area will be protected by a chain link fence until construction is completed. Grading activities near the riparian buffer are scheduled to occur outside the nesting season for protected species and noise disturbances are controlled by prohibiting site work within 200 feet of nesting areas.

There are no soil stability impacts caused by the proposed drainage plan. The drainage plan was revised prior to the final hearing to provide a superior alternative for drainage. County Staff requested the Commission to take no action until Staff could further review this drainage alternative. However, the Planning Commission did not continue the hearing until further review was complete. The alternative proposed is more effective because it completely eliminates use of the existing pond as a retention area for the project.

3. Impacts From Retaining Walls on Riparian Areas. The retaining walls and related grading for the walls will not impact the Riparian Areas, as they are completely outside of the Riparian Area as well as outside the fifty foot buffer zone to the Riparian Area.

4. Adverse Visual and Aesthetic Impacts. The proposed grading to the southern portion of the project will result in two 4-foot high and one 8-foot high retaining wall. The threshold of significance for adverse visual impacts is whether there is a loss of a public view from a significant public vista itself which has special physical qualities (General Plan 5.10.3). In this case the retaining walls do not impact a special public viewing area.

II

REQUIRED GEOTECHNICAL LETTER WAS PROPERLY SUBMITTED

A letter from Harza, one of the applicant's geotechnical firms was to be available at the time of the hearing in order to confirm the findings of the project's engineer with respect to the drainage issue. The letter was not available at the time the hearing began, and the Commission and Staff specifically required the project applicant to produce said letter at the time of the next continued hearing. The letter was provided to Staff prior to the second hearing. In response to the letter, County Staff requested additional time for further review of the drainage plan and the proposed superior alternative, and requested the Commission to continue the hearing before final action by the Planning Commission. However, the Commission did not allow the continuance, and instead took action. The letter addressed the amount of grading, proposed retaining walls and drainage site, including use of the pond, and resulted in discussions between Harza and staff which led to the alternative proposal. The letter was timely received as requested by the Commission, and the drainage issues were addressed as requested.

III

PROJECT IS CONSISTENT WITH THE GENERAL PLAN

The Proposed Project meets all County mandates for density and requirements for grading. The proposed project also meets the purpose of the zoned district and provides a mix of residential uses including both single-family detached and attached townhouses. Far from overwhelming the site, the proposed project is at the lowest density possible under the General Plan and zoning. The Commission found the proposed density of the project consistent with the density provisions under the General Plan and zoning designations (Finding 5.b), however, the Commission then found that the project overwhelms the physical limitations of the project site. This is inaccurate in that the proposed density is at the lowest possible level consistent with the General Plan and all development is outside the constrained areas of the property, leaving more than one half of the acreage as open space.

There is no basis to support the Commission's finding that the proposed density overwhelms the site. Under the General Plan and LCP, for which there was an Environmental Impact Report, the allowable density which the existing infrastructure can support is projected at 139 units. The allowable density under the zoning for the net developable area is 105 units. The subject project is for only 58 units. Further, consistent with the zoning which requires a variety of residential dwellings, the units are a mix of detached and attached townhouses.

The proposed grading is consistent with the General Plan in that grading is minimized and the housing is clustered on less than 50% of the site. The proposed grading of the southern portion of the project is the least amount of grading necessary for any development of this portion of the property. The grading is similar to many other projects recently approved by the County and is not excessive. The design clusters housing within 8.6 acres of the property, leaving 9.2 acres, over fifty percent of the property, as designated open space.

CONCLUSION

This project is within an established residential neighborhood and is consistent with the surrounding area. Approval of this project would allow 58 housing units, of which 9 would be affordable, to be added to significantly underfunded housing inventory.

It is respectfully requested that you grant the appeal and approve the project as proposed.

Very truly yours,



Charlene B. Attack

CBA/kj

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



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

701 OCEAN STREET SANTA CRUZ. CALIFORNIA 95060

FAX (831) 454-2131

TDD (831) 454-2123 0056

DEVELOPMENT PERMIT APPLICATION

PHONE: (831) 454-2130

PRINT DATE: 04/13/2001

APPLICATION DATE: 03/12/1998

APPLICATION NO.: **98-0148**

PARCEL NO.	SITUS ADDRESS
037-251-21	NOT AVAILABLE
037-251-22	NOT AVAILABLE

PROJECT DESCRIPTION:

Proposal to construct (12) semi-detached townhouses and (46) detached townhouses, in three phases, on a common parcel with a minimum "restricted common area" of 3,000 square feet minimum per dwelling unit: (2) new roads: "Bowman Circle", and "Bower Court" (5) parking areas totaling (28) spaces: drainage systems discharging to an existing pond and to an existing gully along Porter Gulch Creek; two retaining walls up to four feet in height, and one retaining wall up to eight feet in height; and an overlook. Grading on Parcel 037-251-21 consists of 4,800 cubic yards of cut and fill, and grading on Parcel 037-251-22 consists of 5,200 cubic yards of cut and fill. The rear of both parcels would be retained as open space. The project requires a Subdivision, Roadway/Roadside Exceptions, a Riparian Exception for the drainage systems releasing into the riparian corridor, and Preliminary Grading Approval. Property is located on the north and west sides of Cabrillo College Drive, south of Soquel Drive, east of Atherton Drive, in the Soquel Planning Area.

4/12/01: PC Action Appealed

DIRECTIONS TO **PROPERTY:** HIGHWAY 1 SOUTH TO PARK DRIVE EXIT, NORTH ON PARK DRIVE, RIGHT ON CABRILLO COLLEGE DRIVE, SITE IS ON THE LEFT AT ATHERTON DRIVE.

OWNER:	ATHERTON PLACE DEVELOPMENT LLC	2980 STEVENS CREEK BLVD SAN JOSE CA 95128
APPLICANT:	ATHERTON PLACE DEVELOPMENT LLC	2980 STEVENS CREEK BLVD SAN JOSE CA 95128
	BUS. PHONE: (408)-	
TO:	RICHARD BEALE LAND USE PLANNING. INC.	100 DOYLE STREET, SUITE E SANTA CRUZ CA 95062

APPLICATION FEES:	RECEIPT:	00027037	DATE PAID:	03/12/1998
APPLICATION INTAKE B				81.00
SUBDIVISION 20 OR + LOTS/TPZ				5000.00 #12885
DPW DEVELOPMENT REVIEW - SUBDIVISION				3000.00
FLAT FEE CONVERTED TO AT COST				2500.00 #12885
*** TOTAL ***				10581.00 ***

APPLICATION FEES:	RECEIPT:	00028156	DATE PAID:	04/30/1998
SOILS REPORT REVIEW - MINOR				569.00 #12885
SOILS REPORT REVIEW - MINOR				-569.00 #12885
*** TOTAL ***				.00 ***

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ORIGINAL - OFFICE

APPLICATION FEES:**RECEIPT:** 00036076**DATE PAID:** 03/24/1999SUBDIVISION 20 OR + LOTS/TPZ
*** TOTAL ***- 7500.00
00#12885
#12885

0057

APPLICATION FEES:**RECEIPT:** 00036848**DATE PAID:** 04/23/1999SUBDIVISION 20 OR + LOTS/TPZ
*** TOTAL ***7500.00
7500.00#12885
*****APPLICATION FEES:****RECEIPT:** 00054297**DATE PAID:** 04/13/2001APPEAL PLANNING COMMISSION AUTOMATIC
*** TOTAL ***1363.00
1363.00#12885
*****PARCEL CHARACTERISTICS FOR: 03725121**

ZONE DISTRICT(S): MULTI-FAMILY RESIDENTIAL - 3,000 SQUARE FOOT MINIMUM SITE AREA

GENERAL PLAN LAND USE DESIGNATION(S): URBAN OPEN SPACE

GENERAL PLAN LAND USE DESIGNATION(S): URBAN HIGH RESIDENTIAL

PLANNING AREA: SOQUEL

URBAN SERVICES LINE: WITHIN USL

GENERAL PLAN RESOURCES & CONSTRAINTS: ISTREAM

GENERAL PLAN RESOURCES & CONSTRAINTS: GW

GENERAL PLAN RESOURCES & CONSTRAINTS: RW

ASSESSOR LAND USE CODE: 5-19.9 ACRE/RURAL

DISTRICT SUPERVISOR: Ellen Pirie

PARCEL SIZE: 8.43 ACRES (ASSESSOR)

IF A MINIMUM PARCEL SIZE IS REQUIRED TO MEET COUNTY STANDARDS, YOU MAY NEED TO OBTAIN A SURVEY TO DEMONSTRATE THAT YOU HAVE SUFFICIENT LAND AREA.

ACTUAL CONDITIONS ON THIS PROPERTY MAY NOT COINCIDE WITH THE MAPPED RESOURCE/CONSTRAINT INFORMATION, WHICH IS SOMEWHAT GENERALIZED. THE APPLICATION OF SPECIFIC RESOURCE AND CONSTRAINT POLICIES IS DEPENDENT ON THE ACTUAL CONDITIONS ON THE PROPERTY AND IN THE AREA OF DEVELOPMENT.

PARCEL CHARACTERISTICS FOR: 03725122

ZONE DISTRICT(S): MULTI-FAMILY RESIDENTIAL - 3,000 SQUARE FOOT MINIMUM SITE AREA

GENERAL PLAN LAND USE DESIGNATION(S): URBAN OPEN SPACE

GENERAL PLAN LAND USE DESIGNATION(S): URBAN HIGH RESIDENTIAL

PLANNING AREA: SOQUEL

URBAN SERVICES LINE: WITHIN USL

GENERAL PLAN RESOURCES & CONSTRAINTS: ISTREAM

GENERAL PLAN RESOURCES & CONSTRAINTS: GW

GENERAL PLAN RESOURCES & CONSTRAINTS: RW

GENERAL PLAN RESOURCES & CONSTRAINTS: SCENIC

GENERAL PLAN RESOURCES & CONSTRAINTS: BIOTIC

ASSESSOR LAND USE CODE: S-19.9 ACRE/RURAL

DISTRICT SUPERVISOR: Ellen Pirie

PARCEL SIZE: 9.44 ACRES (ASSESSOR)

IF A MINIMUM PARCEL SIZE IS REQUIRED TO MEET COUNTY STANDARDS, YOU MAY NEED TO OBTAIN A SURVEY TO DEMONSTRATE THAT YOU HAVE SUFFICIENT LAND AREA.

DEVELOPMENT PERMIT APPLICATION

PHONE: (831) 454-2130

PRINT DATE: 04/13/2001

APPLICATION NO.: 98-0148

APPLICATION DATE: 03/12/1998 0058

ACTUAL CONDITIONS ON THIS PROPERTY MAY NOT COINCIDE WITH THE MAPPED RESOURCE/CONSTRAINT INFORMATION, WHICH IS SOMEWHAT GENERALIZED. THE APPLICATION OF SPECIFIC RESOURCE AND CONSTRAINT POLICIES IS DEPENDENT ON THE ACTUAL CONDITIONS ON THE PROPERTY AND IN THE AREA OF DEVELOPMENT.

YOU WILL RECEIVE A LETTER OR LETTERS WITH THE RESULTS OF YOUR TECHNICAL REVIEW(S).

THE UNDERSIGNED PROPERTY OWNER(S) HEREBY AUTHORIZES THE FILING OF THIS APPLICATION, AND AUTHORIZES ON-SITE REVIEW BY AUTHORIZED STAFF. I CERTIFY TO THE BEST OF MY ABILITY THAT THE ABOVE AND ATTACHED INFORMATION IS TRUE AND CORRECT, AND THAT I HAVE READ AND UNDERSTOOD THE ABOVE INFORMATION.

SIGNATURE OF PROPERTY OWNER/OWNER'S AGENT

APPLICATION TAKEN BY

CATHY M GRAVES, PLANNING DEPARTMENT

SUBMITTED AT 701 OCEAN STREET

SIGNATURE OF PROPERTY OWNER/OWNER'S AGENT

* NOTICE TO DEVELOPMENT PERMIT APPLICANT:

- * You will be notified within five (5) working days of the name and phone number of your project planner. *
- * *
- * If your project is found to be extraordinarily complex, reviews normally charged a fixed development permit or technical *
* review fee may be charged on an actual cost basis. This determination may be made either at application acceptance or *
* during application review. Authority for these charges is found in the Planning Department Fee Schedule. *
- * *
- * Your application fees are not refundable, except as specified in the Planning Department Fee Schedule. *
- * *
- * If you have begun an activity or work requiring county review or approval without first obtaining a permit, you will be *
* charged fees equal to the cost of investigation and resolution of the violation. Authority for these charges is found *
* in Chapter 1.12 of the Santa Cruz County Code. *
- * *
- * You need to advise residents of property that Planning Department staff may be visiting the site. Site should be clearly *
* marked/staked for staff inspection. Incomplete directions or marking will delay review of the project. *
- * *

ORIGINAL - OFFICE

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OFFICIAL RECEIPT

COUNTY OF SANTA CRUZ
SANTA CRUZ, CALIFORNIA

0059

No C143269

Date April 12 2001

Received from Bosso, Williams, Sachs, etc

Address _____

The Sum of one thousand three hundred sixty three Dollars \$ 1363⁰⁰

For appeal of P.C. action selection PI 98-0148 OK

AUD 32

ORIGINAL - TO PAYEE

Planning Dept
DEPARTMENT OR OFFICE

By Marlyn James