



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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ALVIN JAMES, DIRECTOR

BOARD OF SUPERVISORS AGENDA: JANUARY 8, 2002

December 21, 2001

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

SUBJECT: CONTINUED PUBLIC HEARING TO CONSIDER:

1. PLANNING COMMISSION'S DENIAL OF APPLICATION #98-0148 TO CONSTRUCT 12 SEMI-DETACHED *AND* 46 DETACHED HOMES IN THREE PHASES, ON A COMMON PARCEL WITH A MINIMUM RESTRICTED COMMON AREA OF 3,000 SQUARE FEET MINIMUM PER DWELLING UNIT; THREE NEW ROADS; "BOWMAN COURT", "BOWMAN CIRCLE,, AND AN EMERGENCY ACCESS DRIVE; FIVE PARKING AREAS TALLING 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; AND

2. THE DEVELOPER'S REVISED PROPOSAL TO CONSTRUCT (4) SEMI-DETACHED HOMES AND (29) DETACHED HOMES, IN TWO PHASES, ON A COMMON PARCEL WITH A MINIMUM RESTRICTED COMMON AREA OF 3,000 SQUARE FEET MINIMUM PER DWELLING UNIT; TWO NEW PRIVATE STREETS *AND AN* EMERGENCY ACCESS DRIVE; FOUR PARKING AREAS TOTALING (19) SPACES; DRAINAGE SYSTEMS DISCHARGING INTO *AN* EXISTING GULLY ALONG PORTER GULCH CREEK; TWO RETAINING WALLS UP TO FOUR FEET IN HEIGHT AND ONE RETAINING WALL UP TO **SIX** FEET IN HEIGHT. GRADING ON APN 037-251-21 CONSISTS OF **7,690** CUBIC YARDS OF CUT AND FILL, BALANCED ON THE SITE. THE REAR (**RIPARIAN** WOODLAND) OF THE PARCEL, AN AREA TOTALING 8.5 ACRES, **TO** BE MAINTAINED AS OPEN SPACE. A PROPOSED LOT LINE ADJUSTMENT BETWEEN

APN 037-251-21 AND 037-251-22 RESULTS IN THE TRANSFER OF 5.05 ACRES TO APN 037-251-22. THE PROJECT REQUIRES A SUBDIVISION, ROADWAY/ROADSIDE EXCEPTIONS, RIPARIAN EXCEPTION, PRELIMINARY GRADING APPROVAL, AND A LOT LINE ADJUSTMENT. PROPERTY LOCATED ON THE SOUTH SIDE OF CABRILLO COLLEGE DRIVE AND SOUTH SIDE OF SOQUEL DRIVE, JUST EAST OF ATHERTON DRIVE, IN APTOS.

Members of the Board:

Background:

On April 11, 2001, the Planning Commission took action to deny Application #98-0148, a proposal to construct 12 semi-detached and 46 detached homes on the north side of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive. At the public hearing held on March 14, 2001, the Planning Commission determined that the project could not be approved as proposed due to environmental impacts, that the site is unsuitable for the density of the project as proposed due to environmental impacts, and that the scale of proposed grading conflicts with General Plan policies, and type of housing proposed raises General Plan consistency issues and type of housing proposed raises general plan consistency issues (Attachment 3).

A letter of Appeal was filed on April 12, 2001 (Attachment 4) and an evening hearing was held on May 8, 2001 and continued to June 5 (Attachment 5). At the June 5 hearing, project revisions were discussed that would better utilize the site as well as reduce both grading and traffic impacts associated with project density. The applicant was also directed to show progress in efforts to obtain an easement for access over an adjacent, privately owned parcel and the revised project referred back to the Environmental Coordinator for review of traffic impacts associated with the project (Attachment 6). The revised project was reviewed by the Environmental Coordinator and a Mitigated Negative Declaration was issued on October 31, 2001. The Environmental Coordinator determined that additional traffic studies were not necessary. The project was set for hearing January 8, 2002 to accommodate an evening agenda date.

Conclusion:

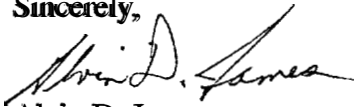
The proposed project has been recommended for denial on the basis that the site development configuration and density is below the range specified by the General Plan and zoning designation of the site, and that the amount of grading is not minimized on the site, in conflict with General Plan policy. Included for consideration by your Board is a staff report that sets forth, in detail, the rationale utilized in support of this conclusion.

It is, therefore, recommended that your Board:

1. Determine that the proposed Negative Declaration for Application #98-0148 should not be adopted, per the Findings in Attachment 2; and
2. Adopt the recommended Findings for denial of Application #98-0148, without prejudice, in that the site is not physically suitable for the type and density of development and

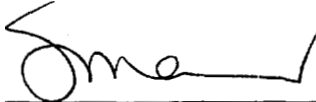
does not maximize housing opportunities, and that the proposed site design and improvements are not consistent with General Plan policies which require the minimizing of grading and clustering of development.

Sincerely,



Alvin D. James
Planning Director

RECOMMENDED



Susan A. Mauriello
County Administrative Officer

Attachment: Board of Supervisors Staff Report dated January 8, 2002

cc: Brad Bowman, First Federal, 2516 Samaritan Drive, Suite K, San Jose, CA 95124
Richard Beale, Land Use Planning, Inc. 100 Doyle St., Suite E, Santa Cruz 95060
Charlene B. Attack, Law Offices of Bosso, Williams P.O. Box 1822, Santa Cruz CA 95061
Wendy Richardson, 6362 Baseline Drive, Aptos CA 95003
Ken Hart, Environmental Coordinator, County of Santa Cruz
Tom Bums, Redevelopment Director, County of Santa Cruz
County Counsel

STAFF REPORT TO THE BOARD OF SUPERVISORS

APPLICATION NO.: 98-0148

APN: 037-251-21 & -22

APPLICANT: Richard Beale Land Use Planning

OWNERS: Atherton Place Development LLC

PROJECT DESCRIPTION: Proposal to construct (4) semi-detached townhomes and (29) detached homes, in two phases, on a common parcel with a minimum "restricted common area" of 3,000 square feet minimum per dwelling unit; (2) new private streets: "Bowman Court" and "Bower Court" and an emergency access drive; (4) parking areas totaling (19) spaces; drainage systems discharging to an existing gully along Porter Gulch Creek; two retaining walls up to four feet in height, and one retaining wall up to six feet in height. Grading on Parcel 037-251-21 consists of 7,690 cubic yards of cut and 7,690 cubic yards of fill. The rear (riparian woodland) of the parcel, an area totaling 8.5 acres, would be maintained as open space. The proposed Lot Line Adjustment between APN 037-251-21 and 037-251-22 results in the transfer of 5.05 acres to APN 037-251-22.

LOCATION: Property located on the side of Cabrillo College drive and the south side Soquel Drive, just east of Atherton Drive.

PERMITS REQUIRED: Subdivision, Roadway/Roadside Exceptions, Riparian Exception for the drainage systems releasing to the riparian corridor; preliminary grading approval, and a Lot Line Adjustment.

ENVIRONMENTAL DETERMINATION: Negative Declaration with Mitigations.

COASTAL ZONE: ____ yes X no

PARCEL INFORMATION

PARCEL SIZE: 17.8 acres total.

APN 037-251-22 is 8.436 acres and would be 14.5 acres after the proposed lot line adjustment;

APN 037-251-21 is 9.446 acres and would be 3.382 acres after the proposed lot line adjustment.

EXISTING LAND USE:

PARCEL: Vacant

SURROUNDING: Single- and Multi-Family Residential; Neighborhood Parks; Cabrillo College; and the Twin Lakes Baptist Church.

PROJECT ACCESS: Atherton Drive to Bowman Court and Cabrillo College Drive to Bowers Court across APN 037-241-39 (under separate ownership).

PLANNING AREA: Soquel

LAND USE DESIGNATION: Urban High Density Residential (R-UH) 2,500 to 4,000 square feet of net developable parcel area per unit for attached housing, 3,500 to 4,000 square feet of net developable parcel area per unit for creation of new single-family residential lots & Urban Open Space (O-U)

ZONING DISTRICT: "RM-3" (Multi-Family Residential; minimum 3,000 square feet/unit)

SUPERVISORIAL DISTRICT: Second District

ENVIRONMENTAL INFORMATION

<u>Item</u>	<u>Comments</u>
a. Geologic Hazards	a. No mapped hazards.
b. Soils	b. USDA Soil Type 133 , Elkhorn Sandy Loam, 2-9% slope USDA Soil Type 174, Tierra-Watsonville Complex, 15 - 30% slopes. USDA Soil Type 177, Watsonville Loam, 2 - 15% slopes. USDA Soil Type 179, Watsonville Loam, thick surface, 2-15% slopes. Soils report submitted, reviewed and accepted.
c. Fire Hazard	C Low
d. Slopes	d. No development on slopes greater than 30 percent.
e. Env. Sen. Habitat	e. Biotic reports for on-site flora and fauna submitted, reviewed and accepted. Biotic mitigations required. Required open space of 8.5 acres includes: coast live oak woodland, willow riparian woodland, coyote brush scrub, non-native and all native grasslands, eucalyptus, Monterey Pine, and seasonal wetland habitats
f. Grading	f. Balanced grading on site: 7,690 cubic yards of cut and fill on Parcel 037-251-21.
g. Tree Removal	g. Three trees over 6", d.b.h. are proposed to be removed: two 24" oaks, and one walnut. Replacement at a 3:1 ratio required.
h. Scenic	h. Mapped as Scenic Resource. Landscaping mitigates visibility from the designated scenic corridor, Highway 1.
i. Drainage	i. Within Zone 5 Drainage District. Increased drainage directed to Porter Gulch.
j. Traffic	j. Traffic Studies submitted, reviewed and accepted. Payment of TIA fees, and on- and off-site traffic mitigations required.
k. Roads	k. Two new private roads and an emergency access drive to be constructed.
l. Parks	l. Park fees are required.
m. Sewer Availability	m. Sewer service is available for the proposed development; Sewer will be extended to serve all lots.
n. Water Availability	n. Municipal water is available from the Soquel Creek Water District, for both domestic use and fire protection. Water will be extended to serve all lots.
o. Archeology	o. Not located within a mapped Archeological Resource Area.

SERVICES INFORMATION

W/in Urban Services Line: X yes — ~~no~~

Water Supply: Soquel Creek Water District
Sewage Disposal: Santa Cruz County Sanitation District
Fire District: Central Fire Protection District
Drainage District: Zone 5 Drainage District

ANALYSIS & DISCUSSION

Background

On March 12, 1998, the County Planning Department accepted application No. 98-0148 for a Subdivision, Roadway/Roadside Exceptions, Riparian Exception for the drainage systems releasing to the riparian corridor, and a preliminary grading approval. In accordance with the California Environmental Quality Act (CEQA) and the County Environmental Review Guidelines, the project was considered by the County Environmental Coordinator on December 15, 1999 and March 21, 2000. A Negative Declaration with Mitigations was issued on April 13, 2000.

The project was denied by the Planning Commission on April 11, 2001 due to the physical unsuitability of the site for the density of the development as designed, which applied an essentially single-family residential model to physically constrained parcels zoned for mixed, multi-family development. The Planning Commission found that this design resulted in excessive grading that was inconsistent with General Plan policies. A copy of the Planning Commission's findings for denial is included as Attachment 3. A letter of Appeal was filed on April 12, 2001 (Attachment 4) and an evening hearing before the Board set for May 8, 2001. The project appealed was the original proposal for 58 units (see Attachment 13).

The Board hearing was continued to June 5, 2001 (see Attachment 5). At the June 5 hearing, potential project revisions were discussed that would reduce the number of housing units from 58 to 33 units and reduce grading from 10,000 cubic yards to 7,690 cubic yards (see Attachment 6). This report evaluates the revised proposal for 33 units. A new access road was proposed that would connect the southern portion of the development to Cabrillo College Drive, for the purpose of attempting to avoid new traffic impacts on neighboring development. The applicant was directed to show what efforts have been made to obtain an easement for the new exit road onto Cabrillo Drive (Minute Order, Item 67, June 5, 2001, Attachment 6) and the Planning Department was directed to return the revised project to the Environmental Coordinator to determine if a new traffic study would be required. The revised project was reviewed by the Environmental Coordinator and a Mitigated Negative Declaration issued on October 31, 2001. The Environmental Coordinator determined that additional traffic studies were not necessary. On December 11, 2001 a continued public hearing was scheduled for January 8, 2002.

Project Setting & Surroundings

The project site is approximately 17.8 acres in area and is in the Soquel Planning area. The site spans two contiguous parcels, APN 037-251-21 and -22. The parcels are located on the north and west sides of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive, in the Soquel Planning Area. Both parcels are currently undeveloped. The most level areas of the parcels occur along their western frontages to Atherton Drive. The parcels are vegetated primarily with meadow grasses and mature evergreen trees. The rear (eastern edge) of the parcels slopes down towards Porter Gulch Creek and is mapped as riparian woodland.

The portion of the parcels proposed for development at this time is approximately 14.5 acres in area. Because a portion of the site consists of riparian corridor, slopes over 30%, and sensitive biotic

habitat, the actual amount of developable land is approximately 6 acres, not including a parcel of 3.3 acres that is not proposed to be developed at this time (Parcel A).

Surrounding development includes multi-family residential, neighborhood parks, commercial, Cabrillo College, and the Twin Lakes Baptist Church.

Project Description

The applicant requests approval to construct four semi-detached townhouses and twenty nine detached homes, in two phases, on a common parcel with a minimum "restricted common area" of 3,000 square feet minimum per dwelling unit; two new private streets: Bowman Court (Northbrook Court) and Bowers Court and an emergency access drive connecting Atherton Drive to Bowers Court; four parking areas totaling 19 spaces; drainage systems discharging to an existing gully along Porter Gulch Creek; retaining walls ranging from four to six feet in height; and an overlook. Grading consists of 7,690 cubic yards of cut and fill, balanced on the site. The rear (riparian woodland) of the parcels, an area totaling 8.537 acres, would be maintained as open space. A lot line adjustment would transfer approximately 5.05 acres from APN 037-251-21 (fronting on Soquel Drive) to APN 037-251-22 (fronting on Cabrillo College Drive), resulting in two parcels of 3.382 acres and 14.5 acres respectively. The proposed development would take place on the 14.5-acre parcel while the 3.3 acre parcel would remain undeveloped at this time.

Construction phasing includes:

Phase I (Lots 1-14): 4 affordable, semi-detached homes;
 10 market-rate, detached homes;
 14 Subtotal

Phase II (Lots 15-33): 16 market-rate, detached homes; and
 3 affordable, detached homes.
 19 Subtotal

33 TOTAL: 5 affordable & 28 market-rate

As part of the proposed subdivision, the applicant proposes construction of two new private streets, Bowman (Northbrook) Court and Bowers Court, and an emergency access drive connecting Atherton Drive to Bowers Court. Bowman Court, Bowers Court and the Atherton Road frontage would be improved with curb, gutter and sidewalk. Off-site improvements include the sight distance improvements at the southwest corner of Atherton Drive and Soquel Drive and at the north side of the intersection of Cabrillo College Drive at Willowbrook Lane.

General Plan & Zoning Consistency

The project site has a General Plan land use designation of "R-UH" (Urban High Density Residential) and "O-U" (Urban Open Space). A map of General Plan designations is included in Attachment 45 to Attachment 10 (Initial Study). The "R-UH" designation allows a density range, 10.9 to 17.4 units per net developable acre, which corresponds to a requirement of 2,500 square feet to 4,000 square feet of net developable parcel area per dwelling unit, and 3,500 square feet to 4,000 square feet of net developable parcel area for the creation of new lots. This land use designation provides higher density residential development in areas within the Urban Services Line that have a full range of urban services. Housing types appropriate to the Urban High Density designation may

include small detached houses, "zero lot line" houses, duplexes, townhouses, garden apartments, and congregate senior housing. Although the proposed homes are characterized by the applicant as townhomes, due to the parcel configuration and surrounding common area, the development would appear to consist of single-family homes, with front setbacks of 20 feet, setbacks of five feet on each side, and rear setbacks of 15 feet (with the exception of the four attached units).

As proposed, the 33-unit development would result in a density of 6,777 square feet of net developable parcel area per unit. This density is not consistent with the General Plan density, which corresponds to 2,500 to 4,000 square feet of net developable parcel area per unit or 3,500 square feet to 4,000 square feet of net developable parcel area for the creation of new lots. General Plan Policy 2.10.4 specifically does not preclude an applicant from voluntarily filing an initial application for development at less than the lowest allowed density, but it does not require that County decision makers approve an application at a reduced density. In fact, one of the key findings that must be made for every development project is that the project is consistent with the General Plan, including density and all other applicable policies. As you know, projects which exceed the density range require General Plan amendments and it is staff's conclusion that such a process is also necessary for projects below the density range.

The objective of the Urban Open Space designation is to preserve areas, which are not suited to development due to the presence of natural resources or physical development hazards. In the case of the proposed development, the "O-U" designation is intended to preserve the riparian corridor and buffer adjacent to Rodeo Creek and to locate development away from slopes in excess of 30 percent, which occur within the riparian corridor, and away from native grass preservation areas. All proposed building envelopes are located outside the riparian corridor and buffer, and no disturbance of that area is proposed, with the exception of minor excavation to install two drainage outlets into the riparian corridor, which also serves as the drainage facility for the area. This work requires approval of a Riparian Exception.

The project is in the "RM-3" Zone District (Multi-Family residential; minimum of 3,000 square feet of net developable land area per dwelling unit). A map of Zoning Designations is included as Attachment 45 of the Initial Study, Attachment 10. The proposed division of land complies with the zoning ordinance as the property is intended for residential use and the height, setbacks, lot coverage and floor area ratio will be consistent with the minimum zoning ordinance requirements. Although the average lot size proposed would be significantly larger than the required 3,000 square feet of net developable area, density is determined by the General Plan designation, not by the zoning, and the zoning ordinance establishes minimum lot sizes, not density range. The project is consistent with County Code Section 17.10.030, Inclusionary Housing Requirements for Residential Projects, in that 15 percent of the project or five units are designated to be constructed and sold as affordable under Chapter 17.10 of the County Code.

All of the proposed new dwellings meet development standards for the "RM-3" zone district. Each home meets the required setbacks of 15 feet from the front parcel boundary, 20 feet to the garage, 15 feet from the rear parcel boundary, 5 feet from the side parcel boundaries, and 15 feet from the street side parcel boundaries. The proposed dwellings cover less than 40 percent of the total developable area, and the proposed floor area ratio is less than 50 percent. The site plan and proposed architectural plans are included in Attachment 1 by Thatcher & Thompson, Architects.

Design Review Issues

Because the project is a land division located inside the Urban Services Line, it is subject to the provisions of County Code Chapter 13.11; Site, Architectural and Landscape Design Review. A primary purpose of the Design Review ordinance, as defined by General Plan Objective 8.1, is to achieve functional high quality development through design review policies that recognize the diverse characteristics of the area, maintain design creativity, and preserve and enhance the visual fabric of the community. Because the proposed project is an urban infill development, the applicant has submitted a perspective drawing and architectural floor plans and elevations (Attachment 1, Sheet A1 1).

The applicant proposes to construct (33) homes on one common parcel, consisting of (4) semi-attached townhouses and (29) detached homes. Each homeowner would have a private open space easement, a minimum of 3,000 square feet, surrounding each residence consistent with County Code Section 13.10.323(f). The front yard and common area landscaping would be maintained by the Home Owners Association. Residents would be free to landscape the fenced "rear yard" to their personal preference.

Architectural floor plans and elevations for the proposed homes are included in Attachment 1. The site and landscape plan and a perspective drawing is included in Attachment 1. Homes are proposed to be two-story with a variety of siding and accent treatments. Proposed materials include stucco, horizontal wood siding, and wood shingles. Roofing materials are proposed to be composition shingle of a neutral color. The size of the proposed homes ranges from 1,360 square feet to 1,665 square feet (exclusive of garages). All plans include design features such as porches and varied roof-lines for additional visual interest. Color combinations are interspersed throughout the development. The proposed project is consistent with Section 13.11.073 of the County Code as it relates to the compatibility of the design of the homes with the adjacent area.

The proposed development is inconsistent with Section 13.11.072 of the County Code as it relates to site design, as it appears that the site plan could be better designed to relate to the topography and natural site amenities. Although the current proposal reduces the amount of grading proposed by 23 percent, a total of 7,690 cubic yards of grading is still proposed. This would result in a need for retaining walls from four to six feet in height to accommodate the proposed home design and usable open space. Although the proposed homes would be located on the most level portion of the site, the housing type would result in the appearance of a more conventional single-family development, in an area where clustering is encouraged. Clustering might be better accomplished on this site through a mixture of housing types that could include additional attached units, to achieve the minimum General Plan density for this location and which could also further reduce grading volumes.

The proposed development is consistent with Section 13.11.075 of the County Code, relating to landscaping. Street trees are proposed that meet the requirements of the County Urban Forestry Master Plan. The Landscape Plans specify a mix of 15-gallon size street trees, including Flowering Plum, Golden rain Tree, Brisbane Box, and Strawberry Tree. Landscape Plans also includes a variety of shrubs and groundcover throughout the development, and a densely planted vegetative privacy screen along the western boundary of the southern parcel comprised of Strawberry Trees and tall-growing shrubs. Native coast live oaks and redwoods are planted at the southern extremity of the proposed development to mitigate project visibility from the scenic corridor of Highway One.

Roadway and Roadside Improvement Issues

Project frontage exists along Atherton Drive and Cabrillo College Drive, public roads. Proposed driveway access to 4 semi-detached units and 3 detached units would be directly off of Atherton Drive. A 7-space parking area is located along Atherton Drive. A new proposed road, Bowman (Northbrook) Court, serving 7 detached units would be accessed from Atherton Drive.

Bowers Court would be accessed from Cabrillo College Drive by way of an easement over APN 037-241-39, 2505 Cabrillo College Drive, which is owned by the Imperial Star. The owner of this parcel has not granted an easement for the proposed road, and does not wish to grant an easement if it would negatively affect their plans to expand the commercial building on site. Board Minute Order dated June 5, 2001 (Attachment 6) directed the developer to show that efforts have been made to obtain an easement to provide access to Bowers Court for the 19 detached units that would use this access point. To date, this information has not been provided.

Bowman (Northbrook) Court is proposed as a 40-foot wide right-of-way with separated sidewalk (with 3.5 foot planting strip) on both sides and a 24-foot paved roadway. A right-of-way less than 56 feet in width requires a roadway exception. Additionally, a landscaping strip less than 4 feet in width requires a roadside exception.

Bowers Court is proposed as a 40-foot wide right-of-way with separated sidewalk (with 3.5 foot planting strip) on both sides for most lengths of the proposed roadway and a 24-foot paved roadway. The western side of the 12-foot turf block emergency access road provides a vegetative screen between the road and existing residential development. A right-of-way less than 56 feet in width requires a roadway exception.

The applicant submitted comparative cross-sections which show the full roadway roadside cross-section required by County Design Standards, and the roadway roadside cross-section as proposed; and a letter from the project landscape architect demonstrating that the proposed, reduced width landscape strip will support the plantings specified.

Given that County Code Section 15.10.050(f)(4) allows for exceptions to roadway and roadside improvements when the improvements would be located in an environmentally sensitive area as shown on file with the Planning Department, and because construction of full improvements would cause impacts which could not be mitigated on the lands surrounding the open space area, the exception request is in conformance with County policies.

Alternative Access Issues

To date, the applicant has not established that an alternative access from the project site to Cabrillo College Drive is either necessary or appropriate. The proposed road over APN 037-241-39, for which eminent domain may be required, would serve a total of nineteen single-family dwellings, three of which would be affordable. This road would not provide access to surrounding development and would not provide additional fire safety access. Furthermore, there is little evidence that such an access is required to improve circulation in the area or mitigate potential traffic impacts.

In consultation with County Counsel, staff believes that the applicant has not demonstrated that an

easement has been obtained from the owner of APN 037-241-39. Although the County does have authority to acquire, through eminent domain, land for road construction, there are certain requirements for exercise of that authority. Pursuant to Section 1240.030 of the Code of Civil Procedure (Attachment 12) the power of eminent domain may be exercised only if the public interest and necessity require the project, the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury, and the property to be acquired is necessary for the project.

Because there is no evidence that the alternative access is necessary, or that the proposed location over APN 037-241-39 is even the most appropriate location, it is difficult to determine whether eminent domain requirements could be satisfied for the proposed project. Because other potential access exists, and a redesign utilizing alternative housing types has not been considered, it is not possible to definitely determine that acquisition of the adjacent property through the use of the County's eminent domain power would be necessary for the project.

Affordable Housing Issues

The proposed project would construct 33 homes on a five-acre site, for a residential density of 6.4 units per acre. This project is proposed on a site designated for a density of up to 17.4 units per acre, where a project of up to 85 units could be constructed, or over 100 units with use of a density bonus as provided for by county and state law. This site is one of the few remaining undeveloped Urban High density parcels in the county. This year, the Board of Supervisors has taken a number of actions related to the current affordable housing crisis, which stems largely from the severe shortage of affordable units in the County and the high rents and sales prices of market-rate units.

Research produced for the Board earlier this year indicated that the average sale price of newly built homes over the last year or so was just under \$700,000. This research also revealed that since 1996, four properties zoned for multi-family, medium to high density housing were developed at low densities, producing only 46 single family homes on sites which could have accommodated approximately twice that number of units, or more with use of density bonuses. Only one small multi-family housing development was built during that period, other than a few projects built by non-profit developers. If this development trend continues, it will result in build-out of the few remaining higher density zoned sites with single family homes such as those proposed by this project, with sales prices that will be far above what most of the local workforce can afford (\$160,000 to \$215,000 is affordable to moderate income households). At the same time, no significant numbers of units affordable to low, moderate or even above moderate income households will have been added to the local housing stock on this site, and the county's stock of developable vacant land will have been nearly exhausted.

The trend is at variance with the Board's recent direction on November 6, 2001 to staff to "discuss strategies for preserving multi-family residential [zoned] sites for maximum use possible", and to examine the potential for increasing the number of affordable housing opportunities on existing multi-family zoned properties.

Environmental Review

The revised project with reduced grading and lower density was reviewed by the Environmental Coordinator on September 10, 2001. A Mitigated Negative Declaration was issued on October 31, 2001. Required mitigation measures include: installation of protective fencing adjacent to riparian and native grass areas; pre-construction biologic studies to determine the presence of Loggerhead shrike, Yellow warbler or raptor bird nests; installation of drainage improvements to be monitored by the project biologist to protect riparian areas; temporary fencing to be installed to protect riparian and native grass areas; erosion control plans are to be implemented; drainage discharges shall not contaminate natural water courses; a mowing plan for the native grasses shall be implemented; the project acoustic consultant shall verify that noise levels for units 26 & 27 (closest to Highway One) comply with General Plan limits; sight-distance improvements at Cabrillo College and Willowbrook Drives and at Atherton and Soquel Drives shall be implemented, stop signs shall be installed at Atherton Drive/Bowman Court and Cabrillo College Drive/Bowers Court, and curb returns at Atherton Drive/Bowman Court shall be deleted; and Transportation Improvement Area fees are to be levied for the project. No comments were received from the regional or state clearinghouses on the Initial Study.

Major Environmental Issues

Major environmental issues related to this project include biotic resources, noise and traffic. Reference Attachment 10, Initial Study, for a full discussion of all environmental issues, and technical study attachments.

Biotic Resources:

Focused biotic studies were conducted on the subject properties. No special status plant species are present on site. Three types of birds of special concern, Loggerhead shrike, Yellow warbler, and various species of raptors, may be present on site. Pre-construction surveys are required to determine if any nests of these birds are present, and additional mitigation measures apply if nesting are found.

Additionally, approximately 8.5 acres of the **14.5** acre project area would be maintained as open space. This area includes coast live oak woodland, willow riparian woodland, coyote brush scrub, non-native and native grasslands, eucalyptus, Monterey Pine, and seasonal wetland habitats. Measures to protect these habitats include: measures to minimize disturbance of the riparian buffer and corridor during installation of the drainage infrastructure and site grading; 3:1 tree replacement for three, mature trees to be removed; maintenance and enhancement of native grassland area; and pre-treatment of drainage to be received by Porter Gulch.

Noise:

The project site is located within the noise corridors of Soquel Drive to the north and Highway 1 to the south. The County General Plan Noise Element requires all new residential development to conform to a noise exposure standard of 60 dB Ldn (day/night average noise level) for outdoor noise and **45** dB Ldn for indoor noise. Acoustical measurements taken on site found elevated outdoor noise levels for the southerly-most parcels nearest Highway 1. The project acoustical engineer

recommended enclosed "outdoor" living spaces for these parcels. The project architect has added glazed greenhouse spaces on the rear of the impacted parcels. Interior noise level standards can be met by using industry-standard building materials.

Traffic:

Focused traffic studies were conducted for the proposed project. The traffic impact of the 33 townhouses is estimated to be the same as that of single-family dwellings, totaling approximately 330 vehicle trips per day. The County threshold for acceptable level of service is LOS D, with LOS A representing free-flow conditions and LOS F representing forced flow conditions. The results of the traffic study indicate that all intersections will operate at a level of service of LOS D or better after the project is developed.

Traffic-related mitigation for this project includes the payment of earmarked TIA fees at the rate of \$4,000.00 per unit to be used to fund construction of intersection improvements. Additional required off-site traffic improvements include lengthening the sight distance at the southwest corner of Atherton Drive and Soquel Drive, and at the north side of Cabrillo College Drive at Willowbrook Lane, and construction of a bus stop on Soquel Drive at the Sesnon House. The Homeowners Association for this project would be responsible for funding the warrant study for the left hand turn lane from Willowbrook onto Cabrillo College Drive .

Grading:

Grading plans and volumes were submitted for the proposed project. Although the environmental effects of the proposed grading could be adequately mitigated, environmental review does not address a project's consistency with General Plan policies, other than to require mitigation of impacts. Although the environmental impacts of grading can be minimized, the proposed project is not consistent with General Plan policies that require grading to be minimized and development to relate to the topography, and that encourage clustering to minimize adverse impacts on landforms and other natural amenities.

Public Correspondence:

Staff received a large volume of public correspondence in opposition to the initial project from surrounding neighbors on the initial project reviewed by the Board on May 8, 2001. No further public correspondence has been received since that time with regard to the revised project.

Conclusion

Required findings cannot be made to approve this application. The project is inconsistent with the General Plan in that the project does not comply with the recommended density of 2,500-4,000 square feet per dwelling unit and 3,500 square feet to 4,000 square feet of net developable parcel area for the creation of new lots, in that the proposed 6,777 square foot per unit project density does not maximize housing opportunities on the site. The project is also inconsistent with General Plan policy 6.3.9, which requires projects to be designed so as to minimize grading, and to cluster structures to achieve this goal within permissible density limits. It also appears that the proposed access road connecting to Cabrillo College Drive could not be constructed without exercise of

eminent domain, which would not serve a public interest.

Please see Attachment 2 (Findings) for a complete listing of findings and evidence related to the above discussion.

RECOMMENDATION

Staff recommends that the Board of Supervisors take the following action:

1. Deny Application Number 98-0148, without prejudice, based on the attached findings, Attachment 2.

ATTACHMENTS

1. Project Plans:
Architectural Plans prepared by Thatcher & Thompson, Sheets A1-A-2, dated 8/14/01; Sheets A3-A11 dated 6/20/01; Bowers Court Extension & Parking Plan Sheet A-12 dated 11/5/01;
Landscape Plans, prepared by Gregory Lewis, Sheets L1-L2 dated 8/14/01;
Tentative Map and Preliminary Improvement plans prepared by Ifland Engineers, Sheets 1-8 dated 8/15/01
Lot Line Adjustment, Ifland Engineers dated 8/15/01
(Originals on file with the Planning Department)
2. Findings (Subdivision, Roadway/Roadside Exception & Riparian Exception, Lot Line Adjustment)
3. Planning Commission Minutes & Findings for Denial, Resolution 7-01, dated April 11, 2001
4. Letter of Appeal by Charlene B. Attack, dated April 12, 2001
5. Board Letter & Minute Order May 8, 2001, Agenda Item #55
6. Board Agenda June 5, 2001 Item #67
7. Letter of Charlene B. Attack dated June 4, 2001
8. Board letter June 5, 2001, Redevelopment Agency
9. Board Agenda August 21, 2001 letter, Planning Department
10. Mitigated Negative Declaration dated October 31, 2001 and Initial Study
11. Affordable Housing Action Plan, Board Agenda November 6, 2001 Item #63
12. Section 1240.010 – 050, Code of Civil Procedure
13. Planning Commission staff report of March 14, 2001 (Attachments on file with the Planning Department)

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.

SUBDIVISION FINDINGS

1. THAT THE PROPOSED SUBDIVISION MEETS ALL REQUIREMENTS OR CONDITIONS OF THE SUBDIVISION ORDINANCE AND THE STATE SUBDIVISION MAP ACT.

The proposed division of land meets all requirements and conditions of the County Subdivision Ordinance and the State Map Act in that the project meets all of the technical requirements of the Subdivision Ordinance. The project is inconsistent with the County General Plan and the Zoning Ordinance as set forth in the findings below.

2. THAT THE PROPOSED SUBDIVISION, ITS DESIGN, AND ITS IMPROVEMENTS, ARE CONSISTENT WITH THE GENERAL PLAN, AND THE AREA GENERAL PLAN OR SPECIFIC PLAN, IF ANY.

The proposed subdivision is **not consistent** with the General Plan policy regarding infill development. The subdivision is not in a hazardous area, the preservation of open space protects the most environmentally sensitive portions of the property, and the project is sited in an area designated for this type of development, although not the proposed density of development.

The proposed division of land, its design, and its improvements, **are inconsistent** with the General Plan in that the proposed density of 6,777 square feet per net developable parcel area per unit is significantly lower than the minimum General Plan density range designation for the location. The project creates thirty-three homes and is located in the Residential, Urban High Density (R-UH) General Plan designation, which allows a density of one dwelling for each 2,500 to 4,000 square feet of net developable parcel area. The proposed project density is 6,777 square feet per unit. General Plan Policy 2.10.4 allows the developer to voluntarily file an initial application for development at less than the lower limit of the density range, but does not require that the decision making body approve the lower density. Development within the R-UH density range of 2,500-4,000 square feet is limited by environmental constraints associated with the parcel including sensitive grasslands, riparian areas, slopes more than 30 percent, freeway noise impacts, and scenic corridor protection standards. Utilization of innovative architectural and site designs such as multi-story buildings, clustered or earth sheltered structures with stepped foundations, could potentially allow up to 85 units to be constructed on the entire project site given the net developable land available and using the minimum threshold density specified by the General Plan. This would be consistent with existing patterns of some development in the project vicinity, and would increase opportunities for affordable housing on a large, existing multi-family zoned

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property.

The project **is consistent** with the General Plan in that the full range of urban services is available and will be extended to the new parcels created, including municipal water and sewer service. The subdivision is on an existing street, which can potentially provide satisfactory access to the project once access to Cabrillo Drive over APN 037-241-39 has been obtained for the 19 southern lots. However, APN 037-241-39 is currently under separate ownership. The applicant has not demonstrated the ability to acquire an appropriate easement for proposed access to Bowman Court. Also, acquisition of sufficient acreage to accommodate access improvements for the project via the County's use of Eminent Domain has not been evaluated for feasibility. The proposed subdivision is similar to the pattern and density of some surrounding development, is near commercial shopping facilities and recreational opportunities, and, with proposed road improvements, will have adequate and safe vehicular access.

The project is **not consistent** with General Plan grading policies in that grading has not been minimized. Grading on the western half of the parcel would be balanced with fill on the eastern half of the parcel to provide level building pads. The proposed 7,690 cubic yards of grading, although reduced from the original submittal of approximately 10,000 cubic yards of grading, does not minimize grading and is therefore inconsistent with General Plan Policy 6.3.9 which requires that structures be clustered, that foundation design should minimize excavation or fill, and that access roads not cross slopes greater than 30 percent. Utilization of housing types such as earth-sheltered housing, or housing with stepped foundations which is clustered, for example, would have the effect of minimizing grading.

3. THAT THE PROPOSED SUBDIVISION COMPLIES WITH ZONING ORDINANCE PROVISIONS AS TO USES OF LAND, LOT SIZES AND DIMENSIONS AND ANY OTHER APPLICABLE REGULATIONS.

The proposed division of land complies with the zoning ordinance provisions as to uses of land, lot sizes and dimensions and other applicable regulations in that the use of the property will be residential in nature, lot sizes meet the minimum dimensional standards for the "RM-3" Zone District where the project is located, and all setbacks will be consistent with the zoning standards. The proposed new dwellings will comply with the development standards in the zoning ordinance as they relate to setbacks, maximum parcel coverage, minimum site width and minimum site frontage. Density is determined by the General Plan and not by the zoning classification.

4. THAT THE SITE OF THE PROPOSED SUBDIVISION IS PHYSICALLY SUITABLE FOR THE TYPE AND DENSITY OF DEVELOPMENT.

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The site of the proposed subdivision is physically suitable for the type of development in that no challenging topography affects the portion of the site to be developed adjacent to Atherton Drive, the development area is adequately shaped to ensure efficiency in the conventional development of the property, and the proposed site plan offers an arrangement and shape that insures development without the need for variances or site standard exceptions. A higher project density could be achieved through the design of a less conventional layout using clustered, multi-story, earth sheltered or stepped foundation design, or zero lot lines. Housing types such as congregate senior housing could be specified for the property in that this type of housing typically requires less parking and would benefit from location along a major arterial, Soquel Drive, which provides access to public transportation. No environmental constraints exist which would necessitate that the area remain completely undeveloped, although 8.5 acres of the 14.5 acre parcel must remain as open space due to environmental constraints such as slope, native grasslands, riparian areas, and the scenic corridor.

5. THAT THE DESIGN OF THE PROPOSED SUBDIVISION OR TYPE OF IMPROVEMENTS WILL NOT CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE NOR SUBSTANTIALLY AND AVOIDABLY INJURE FISH OR WILDLIFE OR THEIR HABITAT.

The design of the proposed division of land and its improvements will not cause environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. No mapped or observed sensitive habitat or threatened species impede development of the site as proposed.

The project received a mitigated Negative Declaration on April 13, 2000, and a second revised mitigated Negative Declaration on October 31, 2001 pursuant to the California Environmental Quality Act and the County Environmental Review Guidelines (Attachment 10).

6. THAT THE PROPOSED SUBDIVISION OR TYPE OF IMPROVEMENTS WILL NOT CAUSE SERIOUS PUBLIC HEALTH PROBLEMS.

The proposed division of land or its improvements will not cause serious public health problems in that municipal water and sewer are available to serve all proposed parcels, and these services will be extended as part of the improvement plan for the subdivision. Noise impacts associated with traffic volumes along adjacent Highway One are required to be mitigated for Lots 26 and 27 by a combination of design elements in the building shells. Impacts associated with increases in traffic volume in the neighborhood, estimated at an additional 330 trips per day, are to be mitigated with off-site improvements and the payment

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of Transportation Improvement Area fees.

7. THAT THE DESIGN OF THE PROPOSED SUBDIVISION OR TYPE OF IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS, ACQUIRED BY THE PUBLIC AT LARGE, FOR ACCESS THROUGH, OR USE OF PROPERTY WITHIN THE PROPOSED SUBDIVISION.

The design of the proposed division of land and its improvements will not conflict with public easements for access in that no easements are known to encumber the property. Access to all lots will be from existing public roads or from the proposed new private driveways, Bowman (Northbrook) Court and Bowers Court. Access to Bowers Court is proposed as an easement over APN 037-241-39 at 2505 Cabrillo College Drive. The Subdivision Map Act in Government Code Section 66462.5 expressly authorizes a County to condition a subdivision on the provision of off-site improvements, including, if necessary, all costs involved in an eminent domain action. The County Code expressly provides for such off-site improvement agreements for subdivisions in Section 14.01.513 and for other development projects in Section 18.10.240(d). The authority of a jurisdiction to use eminent domain is limited by the provisions of the Code of Civil Procedure, Section 1240.010 – 050, however, and may not be appropriate in this case. Secondary access from Bower Court to Atherton Drive is provided by the proposed project.

8. THE DESIGN OF THE PROPOSED SUBDIVISION PROVIDES, TO THE EXTENT FEASIBLE, FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES.

The design of the proposed division of land provides to the fullest extent possible, the ability to use passive and natural heating and cooling in that the resulting parcels are oriented in a manner to take advantage of solar opportunities. All proposed residences are conventionally configured and meet the minimum setbacks as required by the zone district for the property and County code. Earth sheltered housing designs would have the additional benefit of reducing grading while providing passive energy savings.

9. THE PROPOSED DEVELOPMENT PROJECT IS CONSISTENT WITH THE DESIGN STANDARDS AND GUIDELINES (SECTIONS 13.11.070 THROUGH 13.11.076) AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER.

The proposed development is not consistent with the Design Standards and Guidelines of the County Code in that the proposed development density, although complying with the standards for the "RM-3" zone district, does not meet the minimum General Plan density threshold for the Urban High Density Residential (R-UH) land use designation nor does it

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maximize housing opportunities by utilizing high density housing types such as zero lot line homes, duplexes, garden apartments, mobile home parks or congregate senior housing as stated in Objective 2.10 of the County General Plan. Homes are proposed to be two-story with a variety of siding and accent treatments.

Proposed materials include stucco, horizontal wood siding, and wood shingles. Roofing materials are proposed to be composition shingle and shall be a neutral color. The proposed paint palette is earth tones for the wall, trim and accent colors. The size of the proposed homes ranges from 1,330 square feet to 1,665 square feet (exclusive of the garage). All plans include design features such as porches and varied roof lines for additional visual interest.

The proposed project has been designed to complement and harmonize with some of the existing and proposed land uses in the vicinity. The adjacent neighborhood is a mixed-use area with both detached single-family residences and high-density condominiums. It will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the single-family residences in the neighborhood.

The proposed development is inconsistent with Section 13.11.072 of the County Code as it relates to site design, as it appears that the site plan could be better designed to relate to the topography and natural site amenities. Although the current proposal reduces the amount of grading relative to the previous proposal which was 10,000 cubic yards, a total of 7,690 cubic yards of grading is still proposed. The current proposal would still result in a need for retaining walls from four to six feet in height to accommodate the proposed home design and usable open space, thus the proposed project does not fit the natural contours of the site. Although the proposed homes would be located on the most level portion of the site, the housing type would result in the appearance of a more conventional single-family development, in an area where clustering is encouraged. Clustering might be better accomplished on this site through a mixture of housing types that could include additional attached units, which could also further reduce grading volumes.

Street trees are proposed that meet the requirements of the County Urban Forestry Master Plan. The Landscape Plans specify a mix of 15-gallon size street trees, including Flowering Plum, Golden Rain Tree, Brisbane Box, and Strawberry Tree. Native coast live oaks and redwoods shall be planted along the southernmost extremity of development to mitigate visual impacts from the Highway One scenic corridor. The Landscape Plans also includes a variety of shrubs and groundcover throughout the development, and a densely planted vegetative privacy screen along the western boundary of the southern parcel comprised of Strawberry Trees and tall-growing shrubs.

ROADWAY/ROADSIDE EXCEPTION FINDINGS

Section 15.10.050(f) Santa Cruz County Code

1. IMPROVEMENTS ARE NOT APPROPRIATE BECAUSE THE REQUIRED IMPROVEMENTS WOULD ENCROACH ON PRIVATE PROPERTY IN WHICH THE COUNTY WOULD NOT HAVE AN INTEREST SUFFICIENT TO ALLOW THE IMPROVEMENT TO BE CONSTRUCTED OR INSTALLED (COUNTY CODE SECTIONS 15.10.050(f)5.

Bowers Court is proposed as a 40-foot wide right-of-way with separated sidewalk on both sides for most lengths of the proposed roadway and a 24-foot paved roadway. There shall be a vegetative screen between the proposed and existing residential development along the emergency access road between the Bowers Court cul-de-sac and Atherton Drive. A right-of-way less than 56 feet in width requires a roadway exception. Additionally, elimination of a segment of separated sidewalk and a landscaping strip less than 4 feet in width requires a roadside exception. The applicant submitted comparative cross-sections which show the full roadway/roadside cross-section required by County Design Standards, and the roadway/roadside cross-section as proposed; and a letter from the project landscape architect demonstrating that the proposed, reduced width landscape strip will support the plantings specified.

Bowers Court is proposed to gain access to Cabrillo Drive by means of access across APN 037-241-39. The Subdivision Map Act in Government Code Section 66462.5 expressly authorizes a County to condition a subdivision on the provision of off-site improvements, including, if necessary, all costs involved in an eminent domain action. The County Code expressly provides for such off-site improvement agreements for subdivisions in Section 14.01.513 and for other development projects in Section 18.10.240(d). The County has previously utilized such agreements for the acquisition of right-of-ways for development projects.

County Code Section 15.10.050(f)(4) allows for an exception to roadway and roadside improvement standards when the improvements would be located in an environmentally sensitive area as shown by information on file with the Planning Department, where construction of full improvements would cause impacts which could not be satisfactorily mitigated if the project is developed to a density which approaches the zoning of "RM-3" on the lands outside of the open space area.

An emergency access road is proposed as a 12-foot wide **turf** block right-of-way which would connect Bowers Court with Atherton Drive (see Attachment A, Island Sheet 4 of 8). The west side of this emergency access will be landscaped to provide a visual screen for the

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existing residential development. Removable bollards would be placed at both ends of the emergency access.

To date, the applicant has not provided evidence that an easement has been obtained from the owner of adjacent parcel No. 037-241-39, for the proposed road that would connect Bowers Court with Cabrillo College Drive. Although the County does have authority to acquire, through eminent domain, land for road construction, there are certain requirements for exercise of that authority. Pursuant to Section 1240.030 of the Code of Civil Procedure (Attachment 12) the power of eminent domain may be exercised only if the public interest and necessity require the project, the project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury, and the property to be acquired is necessary for the project.

It cannot be determined at present if the above requirements could be satisfied for the proposed project. The proposed road easement, for which eminent domain may be required, would serve a total of nineteen single-family dwellings, three of which would be affordable. This road would not provide access to surrounding development, would not improve circulation in the area, and would not provide additional fire safety access. It appears that the public necessity and interest may not be served by the access road.

RIPARIAN EXCEPTION FINDINGS

1. THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE PROPERTY.

The special circumstance that affects this property is the location of the adjacent riparian corridor which serves as the drainage collector for this area. The only development and disturbance proposed within the riparian corridor and biotic reserve is the installation and maintenance of a drainage system.

2. THAT THE EXCEPTION IS NECESSARY FOR THE PROPER DESIGN AND FUNCTION OF SOME PERMITTED OR EXISTING ACTIVITY ON THE PROPERTY.

This exception is necessary for the proper design and function of the drainage system.

3. THAT THE GRANTING OF THE EXCEPTION WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO OTHER PROPERTY DOWNSTREAM OR IN THE AREA IN WHICH THE PROJECT IS LOCATED.

Granting this exception will not be detrimental to the public welfare or injurious to downstream properties as all drainage from the project will be diverted to the natural course utilized in the area, thereby directing run-off away from neighboring properties.

4. THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF CHAPTER 16.30 OF THE COUNTY CODE, AND WITH THE OBJECTIVES OF THE GENERAL PLAN AND ELEMENTS THEREOF.

The granting of this exception is in accordance with the purpose of Chapter 16.30, to minimize impacts to the riparian corridor as placement of the storm drain within the riparian corridor and buffer has been sited to avoid significant riparian vegetation. In addition, the exception is consistent with Chapter 16.30, in that a purpose of the Riparian Corridor Protection Ordinance is to protect these areas for the transportation and storage of floodwaters.

LOT LINE ADJUSTMENT FINDINGS

1. THE LOT LINE ADJUSTMENT WILL NOT RESULT IN A GREATER NUMBER OF PARCELS THAN ORIGINALLY EXISTED.

The proposed lot line adjustment will occur between two existing parcels, APN's 037-251-21 and -22, both vacant parcels. The proposed transfer will not result in the creation of an additional parcel or an additional building site.

2. THE LOT LINE ADJUSTMENT CONFORMS WITH THE COUNTY ZONING ORDINANCE (INCLUDING, WITHOUT LIMITATION, COUNTY CODE SECTION 13.10.673) AND THE COUNTY BUILDING ORDINANCE (INCLUDING, WITHOUT LIMITATION, COUNTY CODE SECTION 12.01.070).

In accordance with County Code Sections 13.10.300 and 13.10.320, the proposed lot line adjustment is consistent with the Single-family Residential (RM-3) zoning designation which requires a minimum 3,000 square foot parcel size required by the zone district. The lot line adjustment transfers approximately 5.05 acres of land from APN 037-251-21 to APN 037-251-22, resulting in two parcels of 3.382 acres (APN 037-251-21) and 14.5 acres (APN 037-251-22). The proposed project for 33 dwelling units is consistent with the county zoning ordinance in that the 14.5 acre site, minus 8.5 acres of open space, leaves 5.134 acres of net developable area, or 6,777 square feet per unit, which exceeds the minimum 3,000 square foot parcel size. No development has been proposed for the 3.3 acre parcel, APN 037-251-21, however, net developable area is 2.668 acres, deducting riparian area.

3. NO AFFECTED PARCEL MAY BE REDUCED OR FURTHER REDUCED BELOW THE MINIMUM PARCEL SIZE REQUIRED BY THE ZONING DESIGNATION, ABSENT THE GRANT OF A VARIANCE PURSUANT TO COUNTY CODE SECTION 13.10.230.

County Code Section 13.10.323 requires minimum developable lot size in the RM-3 zone district to be 3,000 square feet. The transfer of 5.05 acres of land from APN 037-251-21 reduces that parcel from 8.436 acres to 3.382 acres and increases APN 037-251-22 from 9.446 acres to 14.5 acres, leaving both parcels above the minimum 3,000 square feet per dwelling unit required by the RM-3 zone district. The proposed 33-unit subdivision on APN 037-251-22 is consistent with the minimum parcel size in that the net developable parcel size is 6,777 square feet per dwelling unit. No development has been proposed for APN 037-251-21.

**COUNTY OF SANTA CRUZ PLANNING COMMISSION
MINUTES
(DAY & EVENING SESSION)**

DATE: March 14, 2001

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

COMMISSIONERS PRESENT: ROBERT BREMNER, TED DURKEE, DENISE HOLBERT (CHAIRPERSON), DENNIS OSMER, RENEE SHEPHERD TEALL MESSER (INSTEAD OF BREMNER IN EVENING)

STAFF MEMBERS PRESENT: CATHY GRAVES, DON BUSSEY, MELISSA ALLEN, KIM TSCHANTZ, JOE HANNA, KEN HART, JACK SOHRIAKOFF, ALLISON TOM, PAIA LEVINE

COUNTY COUNSEL PRESENT: JIM LEWIS

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, Durkee, Holbert, Osmer, and Shepherd present at 9:00 a.m.
Commissioners Messer, Durkee, Holbert, Osmer, and Shepherd present at 7:00 p.m.
- B. **PLANNING DIRECTOR'S REPORT:** None.
- C. **COUNTY COUNSEL'S REPORT:** None.
- D. **ADDITIONS AND CORRECTIONS TO THE AGENDA:** None.
- E. **ORAL COMMUNICATIONS:** None.
- F. **CONSENT ITEMS:**

No consent items on this agenda.

VOICE VOTE: 5-0

MOTION CARRIED AND SO ORDERED.

THIS ITEM WILL BE HEARD AT 7:00 PM

G 5 98-0148 (1) NO SITUS APN(S): 037-251-21 037-251-22

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; (3) new roads: "Bowman Circle", "Bower Court" and an emergency access drive; (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.

OWNER: ATHERTON PLACE DEVELOPMENT LLC

APPLICANT: ATHERTON PLACE DEVELOPMENT LLC

SUPERVISORIAL DIST: 2

PROJECT PLANNER: JOAN VAN DER HOEVEN, 454-3140

OPEN PUBLIC HEARING

CATHY GRAVES: Short presentation of staff report & update on recent submittals.

RESIDENT: Support of project, parking needs should be addressed for Willowbrook.

BEVERLY MESKIE: Also supports project. Student parking impacts Atherton Drive.

ERTCK RTCHARDSON: Concerns about access for emergency vehicles on HWY 1 & Soquel Drive. Additional traffic will increase response time. Concerned about runoff & pollution of pond & fire access.

CHARLES PAULDEN: Feels that visual resource should be preserved.

JOEL POLLOCK: Cabrillo enrollment planned for 20,000 students. Concerns about traffic study.

LINDSAY RICHARDSON: Concerned about loss of wildlife habitat & increase in traffic on

residential streets.

MARTIN SWEET: Supports construction of affordable units.

TRACY FERRIS: In favor of project & provision of affordable units.

JANELLE RICE: Supports project & construction of affordable housing.

KAREN BONAHER: Wants return to environmental review to assure it is thorough.

DOUGLAS KYLE: Supports project & provision of affordable housing.

JIM CLACK: Opposes project, prefers open space. Traffic is excessive & could impair emergency response.

PAMELA STANLY: Opposes project - traffic will affect neighborhood & cause dangerous situation for children.

WENDY RICHARDSON: Wants environmental issues addressed. Showed slides of site.

DIANE HUNTER: Supports EIR on project.

JULIE MCGLAUGHLIN: Streets are not wide enough and are configured incorrectly for safety. Additional traffic would be hazardous.

STEVE GROMGA: Opposes project, thinks it is the wrong place.

JACK TRINNER: Opposes project because of traffic. Comprehensive plan needed for area traffic.

JOHN VIDDIE: Concerned about wildlife and traffic.

JENNIFER HACKLEY: Concerned with traffic and safety but supports provision of affordable housing for Cty. Residents.

DIANE EVANS: Concerned about traffic on Baseline & Atherton Drive. New development should not detract from existing neighborhood.

KATHY DEAN: Opposes project because it will impact parking & traffic.

JANET MARTIN: Recent increases in traffic are bad and will only be worse.

SERL WITOWSKI: Concerned about fire access & density of development.

ISABELLE MARINER: Opposes loss of open space.

TED DURKEE: Questions about traffic study. How does analysis relate to what is actually happening now ?

DAN TACKAS: Existing counts, trip generation, and traffic movements are described in reports. Morning Peak is 7:30 - 8:30; Evening Peak is 5:00 - 6:00. Intersections were recounted last week to verify prior counts. Traffic on Soquel Dr. has increased over last 2 years.

JACK SOHRIAKOFF: Budget includes signal at intersection. **TIA** fees will be set aside for contribution to signal.

RICH BEALE: Wishes to address issues raised at this & last meeting. Site is designated for **high** density in General Plans. Roads are adequate & allow parking on both sides. Have will serve better from Soquel Creek. Soils review letter- piers will be deeper, but pier & grade beam foundation can be used. Engineer believes that pond will work, but on-site detention under roads can also work. Water quality can be addressed with condition that requires more frequent cleaning of grease traps. GP designation of UH was adopted in 1980, zoning designation in **1994**. Developer has agreed to provide affordable housing on site. Project will improve existing line-of-sight problems. **Parking** issues can be addressed with other means such as a parking district or use of guest **parking** for residents at Willowbrook.

TED DURKEE: Many questions were raised at last hearing & **many** questions raised in new materials that were submitted. Feels EIR should have been required at time of initial study. Last big parcel left in the area. Has been left, in part, because it is a difficult site. Riparian corridor will be squeezed between existing & proposed development. Needs to be considered more carefully & look at more options for development.

DENNIS OSMER: Agrees that there are restrictions to development, but does not agree that negative declaration is wrong. Mitigation measures are effective and could be the same even with EIR. Could be there is no effective alternative or that commissioners could come up with alternative.

DENISE HOLBERT: Would be willing to go along with EIR, but more honest approach would be to deny project. Would support 100% affordable, high density project on small portion with remainder in open space.

RENE SHEPHERD: Project is too dense over site. Affordable housing is not a reason to approve defective project.

TEALL MESSER: Questions about advantage to EIR. GP & zoning is for high density. Something could be well be built, and it may be higher density, Conducted own parking study of area. More cars parked on Atherton Drive and Baseline on weekends than on weekdays when Cabrillo is in session. Question about access to riparian corridor has not been addressed. Questions about line-of-sight improvements.

JACK SOHRIAKOFF: Improvements should accommodate 50 mph speeds during wet conditions. Improvements would be benefit of project.

TED DURKEE: Could BOS make improvements without project.

JACK SOHRIAKOFF: Some minor improvements could be made.

TEALL MESSER: Grading on southern portion is "brutal". Drop in grade Durkee.

TED DURKEE moved to deny based on traffic& impacts to riparian corridor. Guidance that commission would be willing to consider smaller affordable project.

JIM LEWIS: Staff could come back with findings for denial that address physical unsuitability of site.

DENNIS OSMER: Has trouble with findings based on traffic.

PUBLIC HEARING CLOSED

MOTION

COMMISSIONER _____ MOVED TO DENY PROSECT AND RETURN
WITH FINDINGS FOR DENIAL. SECONDED BY COMMISSIONER _____

VOICE VOTE: 4-1

MOTION CARRIED AND *SO* ORDERED.

PLEASE NOTE: THESE MINUTES HAVE BEEN APPROVED BY THE PLANNING
COMMISSION AS OF APRIL 25, 2001.

KRISTY MILLER
PLANNING DEPARTMENT

COUNTY OF SANTA CRUZ PLANNING COMMISSION MINUTES

DATE: April 11, 2001

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

COMMISSIONERS PRESENT: ROBERT BREMNER, TED DURKEE, JIM DEALBA, DENISE HOLBERT (CHAIRPERSON), DENNIS OSMER.

STAFF MEMBERS PRESENT: CATHY GRAVES, DAVID JOHNSTON, MARK DEMING

COUNTY COUNSEL PRESENT: JIM LEWIS

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, Durkee, DeAlba, Holbert, and Osmer present at 9:00 a.m.
- B. PLANNING DIRECTOR'S REPORT:** None.
- C. COUNTY COUNSEL'S REPORT:** None.
- D. ADDITIONS AND CORRECTIONS TO THE AGENDA:** None
- E. ORAL COMMUNICATIONS:** None.
- F. CONSENT ITEMS:**

**F-1 00-0277 3135 GROSS ROAD (WEST SIDE OF GROSS ROAD SOUTH OF THE
INTERSECTION WITH VIRGIL LANE) APN(S): 031-031-09/15**

Proposal to amend approval of Subdivision 99-0130, to add habitable square footage to Plan A, B, C, and E, to change the roof pitch on Plan D, and to construct an additional retaining wall at Lot 3. Requires an Amendment to Subdivision 99-0130. Property located on the west side of Gross Road (at 3135 Gross Road), south of the intersection with Virgil Lane.

~~OWNER: HOLCOMB CORPORATION~~

~~APPLICANT: HOLCOMB CORPORATION~~

~~SUPERVISORIAL DIST: 2~~

H-2 98-0148 98-0148 (1) NO SITUS APN(S): 037-251-21 037-251-22

Planning Commission review of findings for denial for 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; (3) new roads: "Bowman Circle", "Bower Court" and an emergency access drive; (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, an 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.

OWNER: **ATHERTON PLACE DEVELOPMENT**

APPLICANT: RICHARD BEALE LUP

SUPERVISORIAL DIST: 2

PROJECT PLANNER: CATHY **GRAVES**, 454-3141

COMMISSIONER HOLBERT: Asks that item **H-2** be taken out of order.

COMMISSIONER OSMER Asks for continuance until there are 5 votes.

COMMISSIONER HOLBERT: Requests vote be taken today.

MOTION

COMMISSSIONER DURKEE MOVES APPROVAL OF RECOMMENDATION, COMMISSIONER HOLBERT SECONDED.

VOICE VOTE 3-0

MOTION CARRIED AND SO ORDERED. PASSED 3-0

~~**H-1 00-0328 120 DEBERNARDO LANE APTOS APN: 040-022-29**~~

~~Proposal to revise a landscape plan to plant bamboo in addition to other landscaping. Requires an Amendment to Residential Development Permit 96-0237. Property located on the north side of DeBernardo Lane.~~

~~OWNER: ROSSI DONALD J TRUSTEE~~

~~APPLICANT: DDM LANDUSE CONSULTANTS~~

~~SUPERVISORIAL DIST: 2~~

~~PROJECT PLANNER: DAVE JOHNSTON, 454-3097~~

~~**DAVE JOHNSTON:** Introduction, history of original project. Review of past commission actions that~~

ATTACHMENT 3

Applicant: Richard Beale for Atherton Place Development LLC
Application No. 98-0148
APN: 037-251-21 & -22

REVISED CONDITION

111 M. Enter into a Certification and Participation Agreement with the County of Santa Cruz to meet the Affordable Housing Requirements specified by Chapter 17.10 of the County Code. Nine ~~of the~~ 58 units (Units 1, 3, 6, 20, 30, 38, 40, 46 and 56) are shown on the tentative map as the designated affordable units, but the developer may satisfy the affordable obligation through any one of the acceptable alternatives set forth in Chapter 17.10 of the County Code and the developer agrees to construct said units on site and to offer the units to those who qualify on a first come (as of date of inquiry) - first served basis.

111 M. Enter into a Certification and Participation Agreement with the County of Santa Cruz to meet the Affordable Housing Requirements specified by Chapter 17.10 of the County Code, Nine of the 58 units (Units 1, 3, 6, 20, 30, 38, 40, 46 and 56) are shown on the tentative map as the designated affordable units, and the developer agrees to construct said units on site and to offer the units to those who qualify on a first come (as of date of inquiry) - first served basis.

RESOLUTION NO. 7-01RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF
SANTA CRUZ RECOMMENDING DISAPPROVAL OF SUBDIVISION
(Application No. 98-0148)

WHEREAS, on February 28, 2001, and March 14, 2001, the Planning Commission of the County of Santa Cruz convened duly noticed public hearings in order to consider a proposed Negative Declaration, and related approvals, for the construction of 22 semi-detached and 46 detached townhouses on the north side of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive, property of ATHERTON PLACE DEVELOPMENT LLC; and

WHEREAS, the subject approvals included a Subdivision, Roadway/Roadside Exceptions, a Riparian Exception relating to the design of the drainage system, and preliminary grading approval; and

WHEREAS, at those meetings the Commission received testimony and documentary evidence relating to potentially significant impacts arising from the proposed development, including adverse traffic and traffic safety impacts arising from likely circulation patterns, adverse biotic and soil stability impacts arising from the use of the riparian corridor as a drainage retention facility, adverse impacts on protected riparian areas arising from the design and construction of retaining walls, and associated adverse impacts arising from the scale of grading needed to incorporate the design of the project as proposed; and

WHEREAS, on March 14, 2001, upon consideration of the testimony and documentary evidence before it, the Planning Commission voted to send an unfavorable recommendation to the Board of Supervisors regarding the proposed subdivision, and referred its deliberations to County staff for the preparation of findings.

NOW, THEREFORE, based on the testimony and documentary evidence received at its February 28, 2001, and March 14, 2001, meetings, the Planning Commission finds as follows:

1. This project comprises the proposed development of 12 semi-detached townhouses and 46 detached townhouses on parcels totaling approximately 17.8 acres, approximately 9.2 acres of which comprise a riparian woodland which is required to be maintained as undisturbed open space. On the remaining 8.6 acres of the site, a total

of approximately 10,000 cubic yards of cut and fill is proposed, 5200 cubic yards of which is planned for the smaller, southern portion of the project, in order to accommodate the sites for predominantly detached townhouses. The construction of two retaining walls up to 4 feet in height, and one retaining wall up to 8 feet in height, is also required in order to locate the planned structures within the developable area of the site.

2. Numerous potentially significant adverse environmental impacts arising from the proposed project have been identified in the public hearings regarding this project, including:

a. Adverse traffic and traffic safety impacts associated with likely circulation from the project, particularly along Baseline Drive, Willowbrook Lane and Cabrillo College Drive;

b. Adverse biotic and soil stability impacts arising from the proposed drainage plan, including the use of the wetland area behind the project as a retention facility;

c. Adverse impacts on protected riparian areas arising from required grading associated with the design and construction of retaining walls;

d. Adverse visual and aesthetic impacts associated with the degree of grading required, particularly on the smaller, southern portion of the project, and with the proposed nature of the project, which incorporates a predominance of detached townhouse structures.

3. In order to assure that potentially significant project impacts had been adequately addressed prior to the public hearings regarding this project, the proposed Negative Declaration for this project had required the receipt of numerous reports approving specific aspects of the project's proposed engineering and design prior to public hearing. Receipt of a complete and adequate letter from the project geotechnical consultant regarding each of these concerns was of particular importance to an adequate environmental analysis of the project, because of:

Resolution of Planning Commission
 Application 98-0148
 Page 3

- a. the nature and scale of proposed grading on this physically constrained site;
- b. the scale and engineering of proposed retaining walls (which abut protected open space areas of the site); and
- c. potential soil stability and biotic impacts associated with the proposed drainage system, including the use of the wetland area of the site as a retention facility.

The required geotechnical letter was not timely received, nor has it adequately addressed each of these potentially significant impacts of the proposed design of the project.

4. For the foregoing reasons, the proposed Negative Declaration is inadequate under the California Environmental Quality Act ("CEQA"), and the Planning Commission cannot discharge its mandatory obligations under CEQA by adopting it in its present form.

5. Further, the Planning Commission finds that the proposed project cannot be approved as it is now proposed, as the site is physically unsuitable for the density of the project as it is now conceived and planned, and the resulting scale of grading conflicts with General Plan policies:

- a. The General Plan designation for the project site is "R-UH," High Density Urban Residential, which permits residential development at densities equivalent to 2,500 to 4,000 square feet of developable area per unit. The site's zoning designation is "RM-3," Multi-Family Residential District, with a minimum of 3,000 square feet per dwelling unit. The purpose of the RM zoning district under County Code is "[T]o provide for areas of residential uses with a variety of types of dwellings in areas which are currently developed to an urban density or which are inside the Urban Services Line or Rural Services Line and have a full range of urban services." County Code §13.10.321(f).

b. The proposed project provides 4,033 square feet per dwelling unit, and thus falls within the minimum density provisions under both the General Plan and zoning designations of the project site. By planning the subdivision so that the predominance of the dwelling units are detached townhouses (46 of a total of 58), however, the proposed project overwhelms the physical limitations of the project site. The project site is physically unsuitable for this density of planned development, because the project applies an essentially single-family residential model to the subdivision of lands which are physically constrained, and are zoned for mixed, multi-family residential development. By distributing detached townhouses along the two developable portions of the project site, the planned development requires excessive amounts of grading in order to accommodate individual homesites, particularly in the southern portion of the site, in which approximately 5200 cubic yards of cut and fill are proposed. This excessive grading conflicts with General Plan policy 6.3.9, which requires projects to be designed so as to minimize grading, and to cluster structures to achieve this goal within permissible density limits.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the County of Santa Cruz, that the proposed Negative Declaration for a proposal to construct 12 semi-detached and 46 detached townhouses on parcels totally approximately 17.8 acres (APN Nos. 037-251-21, 037-251-22), Application No. 98-0148, not be adopted, as substantial evidence supports a fair argument that potentially significant adverse environmental impacts may result from the proposed project, including adverse traffic and traffic safety impacts arising from likely circulation patterns, adverse biotic and soil stability impacts arising from the use of the riparian corridor as a drainage retention facility, adverse impacts on protected riparian areas arising from the design and construction of retaining walls, and associated adverse impacts arising from the scale of grading needed to incorporate the design of the project as proposed; and

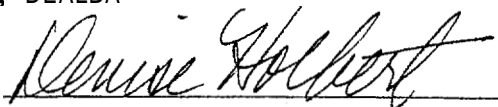
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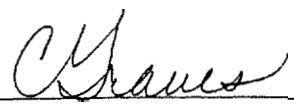
Resolution of **Planning** Commission
 Application 98-0148
 Page 5

BE IT FURTHER RESOLVED, that the Planning Commission send to the Board of Supervisors a recommendation for disapproval of the proposed tentative map, on the grounds that the site is physically unsuitable for the density of the project as it is now conceived and planned, and the resulting scale of associated grading conflicts with the General Plan [Government Code §§66474(2), 66474(4); County Code §§14.01.403(b), 14.01.403(d)]. .

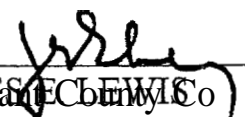
PASSED AND ADOPTED this ~~14th~~ day of April, 2001, on the following vote:

AYES: Commissioners DURKEE, HOLBERT, OSMER,
 NOES: Commissioners
 ABSENT: Commissioners
 ABSTAIN: Commissioners BREMNER, DEALBA


 DENISE HOLBERT, Chair
 PLANNING COMMISSION

ATTEST: 
 Clerk of the Planning Commission

Approved as to form:


 Assistant County Counsel
 Assistant County Counsel

FROM : RICHARD BEALF LUP
APR. 12. 2001 3:44PM

FAX NO. :
BOSSO WILLIAMS LAW

ATTACHMENT 4

LAW OFFICES OF
**BOSSO, WILLIAMS, SACHS,
ATAK & GALLAGHER**
AND
PETER L. SANFORD
AN ASSOCIATION OF PROFESSIONAL CORPORATIONS

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

MAILING ADDRESS P.O. Box 1822
LOCATION 133 MISSION STREET, SUITE 280
SANTA CRUZ, CA 95061-1822
TELEPHONE (831) 425-8484
FACSIMILE (831) 423-2838

PETER L. SANFORD, APC
SAN JOSE OFFICE:
288 W. SANTA CLARA ST. #812
SAN JOSE, CA 95113
TEL: (408) 288-3700
FAX: (408) 288-9403
PLEASE REPLY TO SANTA CRUZ

* CERTIFIED SPECIALIST IN TARRANT
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.

ATTACHMENT 4

April 12, 2001

Page 2

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 three site 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.

ATTACHMENT 4

April 12, 2001

Page 3

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 6-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.

ATTACHMENT 4

April 12, 2001

Page 4

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.

ATTACHMENT 4

April 12, 2001
Page 5

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.

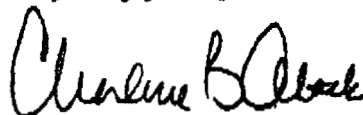
The proposed grading is consistent with the General Plan in that grading is minimized and the housing is clustered on less than 50% of the site. The proposed grading of the southern portion of the project is the least amount of grading necessary for any development of this portion of the property. The 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

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA

AT THE BOARD OF SUPERVISORS MEETING

On the Date of June 5, 2001

REGULAR AGENDA Item No. 067



ATTACHMENT 5

(Continued public hearing to consider appeal filed by
(Richard Beal Land Use Planning on behalf of Atherton
(Place Development LLC regarding Application No. 98-
(0148;
(continued public hearing to August 28, 2001 at 7:30
(p.m., with additional directives that **the** project **be**
(reviewed by the environmental coordinator group, at
(which time they would decide whether a traffic study
(is needed on the new exit road onto Cabrillo Drive,
(the developer return to show efforts that have been
(made to obtain an easement, and County Counsel return
(with information on how to split the project **and how**
(to get the easement for the developer should the
(project be approved...

Continued public hearing to consider appeal filed by Richard
Beal Land Use Planning on behalf of Atherton Place Development LLC
regarding Application No. 98-0148;

Upon the motion of Supervisor Pirie, duly seconded by Supervi-
sor Wormhoudt, the Board, by unanimous vote, continued public hear-
ing to August 28, 2001 at 7:30 p.m., with additional directives that
the project be reviewed by the environmental coordinator group, at
which time they would decide whether a traffic study is needed on
the new exit road onto Cabrillo Drive, the developer return to show
efforts that have been made to obtain an easement, and County Coun-
sel return with information on **how to** split the project and how
to get the easement for the developer should the project be approved

CC:

County Administrative Office
Planning Department
County Counsel
Atherton Place Development LLC
Richard Beale Land Use Planning, Inc.
Charlene Attack; Bosso, Williams et.al,
Wendy Richardson

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

Page 1 of 1

by Sharon Mitchell, Deputy Clerk, ON June 8, 2001.

42

55

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA

ATTACHMENT 5

AT THE BOARD OF SUPERVISORS MEETING

On the Date of May 8, 2001

REGULAR AGENDA Item No. 055



(Public hearing held to consider appeal filed by
(Richard Beal Land Use Planning on behalf of Atherton
(Place Development LLC regarding Application No. 98-
(0148;
(continued to June 5, 2001 public hearing to consider
(appeal filed by Richard Beal Land Use Planning on
(behalf of Atherton Place Development LLC regarding
(Application No. 98-0148, with an additional direction
(that the hearing be held at 1:30 P.M.

Public hearing held to consider appeal filed by Richard Beal
Land Use Planning on behalf of Atherton Place Development LLC re-
garding Application No. 98-0148;

Upon the motion of Supervisor Pirie, duly seconded by Supervi-
sor Beautz, the Board, by unanimous vote, continued to June 5, 2001
public hearing to consider appeal filed by Richard Beal Land Use
Planning on behalf of Atherton Place Development LLC regarding Ap-
plication No. 98-0148, with an additional direction that the hearing
be held at 1:30 P.M.

cc:

CAO
Planning Department
County Counsel
Atherton Place Development LLC
Richard Beale Land Use Planning, Inc.
Charlene Attack; Bosso, Williams et.al.
Wendy Richardson

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

Page 1 of 1

by Alicia Mauriello, Deputy Clerk, ON May 11, 2001.



County of Santa Cruz

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 400, SANTA CRUZ, CA 950604073

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

BOARD OF SUPERVISORS AGENDA :MAY 8,2001

April 25, 2001

AGENDA: May 8,2001

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

SUBJECT: Public hearing to consider an Appeal of the Planning Commission's Denial of Application #98-0 148 (Atherton Place).

APN: 037-251-21,22

Owner: Atherton Place Development LLC

Applicant: Richard Beale Land Use Planing, Inc.

Members of the Board:

Background

On April 11 2001, the Planning Commission took action to deny Application #98-0148, a proposal to construct 12 semi-detached and **46** detached townhouses on the north side of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive. At the public hearing held on March 14, the Planning Commission determined that the project could not be approved as proposed, that the site is unsuitable for the density of the project as proposed, and that the scale of proposed grading conflicted with General Plan Policies. (See Attachments 1 & 2.)

A Letter of Appeal was filed on April **12**, 2001 by Charlene B. Atack on behalf of Richard Beale Land Use Planning, Incorporated, pursuant to Section 14.01.312 of the County Code. (See Attachment 1.)

The applicant contends that the Planning Commission erroneously determined that there were four (4) potential significant adverse impacts arising from the project: adverse traffic and safety impacts; adverse biotic and soil stability impacts; adverse impacts on the riparian areas; and adverse visual and aesthetic impacts. Their arguments are contained in the letter of their attorney, Charlene Attack, dated 4/12/01.

a) Traffic. The County has adopted a threshold for acceptable level of service (LOS) of D under General Plan Objective 3.12. The traffic study performed by Higgins and Associates (Attachment 8) determined that the project will not change the existing LOS at any intersection, and that two intersections, after project development will operate at Level 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. The future cumulative impact is mitigated to a level of less than significant by payment of required Transportation Improvement Area (TIA) fees which have been designated for installation of a traffic signal at this intersection.

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, the Planning Commission 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 three sight distances at two intersections (Cabrillo College Drive & Willowbrook intersection and Atherton and Soquel Drive intersection).

With regard to traffic safety, in addition to the Higgins Study, the County's own Public Works Traffic Engineering staff commented at the hearing that remarks from neighbors indicating traffic safety was poor and numerous accidents has 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.

b) 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 riparian vegetation is disturbed by the placement of 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 of 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 Planning 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.

c) 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.

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

The response of the Planning Department to Ms. Atack's comments are:

a) Traffic Impacts: The proposed construction of 58 townhouses would result in 580 additional vehicle trips per day. Transportation Improvement Area (TIA) fees in the amount of \$232,000.00 (\$4,000 per unit) are required to mitigate the impact of constructing the proposed dwellings. The County threshold for acceptable level of service is LOS D and the results of the traffic study indicate that all intersections will operate at a level of service D or better after the project is developed. The County Traffic Engineer has recommended regrading the existing slope and removing shrubs on the north side of Cabrillo College Drive at Willowbrook Lane to improve existing stopping sight distance to **430** feet for a design speed of 50 mph. Improvement of sight distance at Atherton Drive and Soquel Drive shall also be borne by the applicant. The project shall be responsible for signal improvements and a right turn lane at Willowbrook Lane and Soquel Drive.

On site parking is required with a minimum of three spaces per dwelling unit. Four spaces are provided for each unit in the project and an additional **28** off-street guest parking spaces are provided throughout the project site. Proposed new road cuts for Bowman Circle and 16 driveway encroachments on the east side of Atherton Drive effectively eliminate **18** existing on-street parking spaces.

b) Adverse Biotic and Soil Stability Impacts: Three types of birds which are of special concern (Loggerhead Shrike, Yellow Warblers and Raptors) may be present on the project site. Grading and removal of coyote brush/scrub habitat has the potential to destroy shrike nests if they are present at the time of clearing. Noise from construction can disrupt all three types of birds. Pre-construction surveys shall be conducted within 30 days prior to the beginning of construction to determine if nesting of these three bird types has occurred on the project site. If active nests are found, construction shall either be delayed until after nesting season or prohibited within 200 feet from nests

until all young have fledged. No red-legged frogs were observed on the property. Pacific tree frogs, aboreal salamander, bobcats and deer were observed but are not protected species. The site was not identified as an overwintering site for Monarch butterflies (See Attachment 4, Initial Study).

Existing seasonal wetlands, riparian woodland and existing native grass stands shall be protected from construction disturbance by installation of a four-foot tall chain link fence. Existing grasslands shall be mowed to discourage the spread of non-native grasses and encourage the growth of native grasses and forbs. Three significant trees (two oaks and one walnut) are proposed to be removed and shall be required to be replaced with native trees at a 3:1 ratio.

No buildings or roads are proposed on slopes greater than 30 percent. Preliminary grading estimates for the northern section of the site (APN 037-251-21) are 4,800 cubic yards of cut and 4,800 cubic yards of fill. The cut would occur on the western half of the parcel and the fill would be placed on the eastern half of the parcel. This would necessitate construction of the retaining wall up to four feet in height along the rear (eastern-most) edge of the developable area. Preliminary grading estimates for the southern section of the site (APN 037-251-22) are 5,200 cubic yards of cut and 5,200 cubic yards of fill. The cut would occur on the western half of the parcel and the fill would be placed on the eastern edge of the parcel. This would necessitate the construction of a series of three retaining walls, each four feet in height. Adverse impacts on the protected riparian areas arising from required grading associated with the design and construction of retaining walls is anticipated. Adverse visual and aesthetic impacts associated with the degree of grading required are anticipated, particularly on the smaller, southern portion of the project visible from the scenic corridor of Highway One. Potential soil stability and biotic impacts associated with the proposed drainage system, including use of the wetland area as a retention facility would have an adverse impact.

c) Retaining walls. Revisions to retaining wall designs are included as Attachment 9, Sheets 7 & 8 dated 4/6/01. The retaining wall on the northern parcel closest to Soquel Drive remains unchanged at 4 feet in height. Drainage shall not be allowed to free flow over the eastern-most retaining walls into the riparian/open space easement. A series of three 4-foot high retaining walls are proposed for the southern-most parcel. The central retaining wall adjacent to the parking lot has been decreased in height from 8 feet to 4 feet. Adverse impacts are anticipated on protected riparian areas arising from associated grading for construction of the retaining walls.

d) Adverse visual and aesthetic impacts. The southern portion of the project is potentially visible from scenic State Highway One. The view of Porter Gulch from Atherton Drive, a public street, is a valuable visual resource that will be blocked by the new homes. This negative impact has been partially mitigated by the inclusion of a public viewing area accessed by way of Bowman Circle. Native oaks replacing removed significant trees shall be planted in this overlook area. (See Landscape Plan, Attachment 9, Sheets L1-L5).

II. Required Geotechnical Letter was Properly Submitted. A letter from Harza Engineering Company, 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 Planning 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 (Attachment 9). 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 to deny the project. The letter addressed the amount of grading, proposed retaining walls and drainage site, including use of the pond, and resulted in discussions between Harza Engineering and County staff which led to the alternative proposal. The letter was timely received as requested by the Planning Commission, and the drainage issues were addressed as requested.

Response: A letter from Harza Engineering was mailed to the project planner on March 8, 2001 stating that the project plans were prepared in substantial conformance with the recommendations of the geotechnical report but introduced further implications for the design of retaining walls associated with the project. Another letter from Harza dated April 12, 2001 and received April 25 also stated that the project plans were prepared in conformance with the geotechnical recommendations presented in the Harza Geotechnical Investigation. Footings for retaining walls have been revised so as not to impact riparian areas. The originally proposed eight foot retaining wall in the southern parcel has been reduced to 4-feet in height. Pier and grade beam or reinforced retaining walls will no longer be necessary due to the 4 foot maximum retention height. The materials have been forwarded to Planning staff to review prior to the May 8, 2001 hearing but formal analysis has not been completed for public review. The required geotechnical letter was not timely received and revisions have not been incorporated into the Negative Declaration in its present form.

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 Planning 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 Planning Commission's Finding that the proposed density overwhelms the site. Under the General Plan and Local Coastal Plan (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 proposed 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 percent 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 50 percent of the property as designated open space.

The proposed 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 a significantly underfunded housing inventory.

Response: The General Plan designation for the project site is Residential Urban High "R-UH", which permits residential developments at densities equivalent to 2,500 to 4,000 square feet of developable area per unit. The site's zoning designation is Multi-Family Residential with a minimum lot size of 3,000 square feet per dwelling unit "RM-3". The purpose of the RM zoning district under county code Section 13.10.321(f) is "to provide for areas of residential uses with a variety of types of dwellings in areas which are currently developed to an urban density or which are inside the Urban Services Line or Rural Services line and have a full range of urban services".

The proposed project provides 4,033 square feet per dwelling unit, and thus exceeds the minimum density provisions under both the General Plan and zoning designations of the project site. By planning the subdivision so that the predominance of the dwelling units are detached townhouses (46 of a total of 58), however, the proposed project overwhelms the physical limitations of the project site. The project site is physically unsuitable for this density of planned development because the project applies an essentially single-family residential model to the subdivision of lands which are physically constrained, and are zoned for mixed, multi-family residential development. By distributing detached townhouses along the two developable portions of the project site, the planned development requires excessive grading in order to accommodate individual home sites, particularly in the southern portion of the site in which approximately 5,200 cubic yards of cut and fill are proposed. This excessive grading conflicts with General Plan Policy 6.3.9 which requires projects to be designed so as to minimize grading and to cluster structures to achieve this goal within permissible density limits.

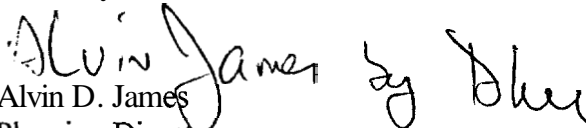
Conclusion

The proposed project has been recommended for denial on the basis that the site development configuration is unsuitable for the density of the project as proposed and the amount of grading is in conflict with General Plan policies.

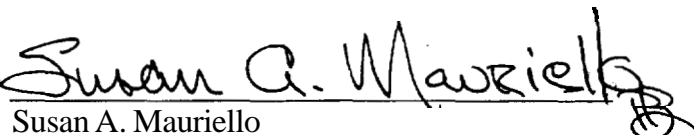
It is, therefore, recommended that your Board:

1. Determine that the proposed Negative Declaration for Application #98-0148 should not be adopted, per the Findings in Attachment 3; and
2. Consider the Planning Commission's recommendation that you deny Application No. 98-0148 without prejudice in that the site is not physically suitable for the type and density of the proposed development, and, its' proposed design and improvements are not consistent with the applicable General Plan policy with regard to minimizing of grading and clustering of development;
3. If you are inclined not to accept the Planning Commission's recommendation, then direct staff to either:
 - a) Refer the matter back to the Planning Commission to consider new information received since the Planning Commission hearing and, at today's hearing held by your Board; or
 - b) Refer the matter to staff to develop findings and conditions to support approval of the application.

Sincerely,


Alvin D. James
Planning Director

RECOMMENDED


Susan A. Mauriello
County Administrative Officer

Attachments:

1. Letter of Appeal by Charlene Atack; Bosso, Williams et.al., dated 4/12/01
2. Planning Commission Report dated 4/4/01
3. Planning Commission Resolution 7-01
4. Planning Commission Staff Report dated 3/14/01
5. Planning Commission Minutes (unadopted) dated 3/14/01
6. Planning Commission Minutes (unadopted) dated 4/11/01
7. Proposed Revised Condition of Approval III.M
8. Higgins Associates Traffic Engineers Study dated 3/13/01
9. Harza Engineering Co. letters dated 3/8/01 and 4/12/01
10. Project plans

cc: Atherton Place Development LLC, 2980 Stevens Creek Blvd., San Jose 95128
Richard Beale Land Use Planning, Inc., 100 Doyle St., Santa Cruz 95062
Charlene Attack; Bosso, Williams et.al., 133 Mission St. Suite 280, Santa Cruz 95060
Wendy Richardson, 6362 Baseline Drive, Aptos, CA 95003

LAW OFFICES OF
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ATAK & GALLAGHER**

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ATTACHMENT 1 5

PETER L. SANFORD, APC •
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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.

April 12, 2001
Page 2

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.

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Page 3

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.

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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.

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Page 5

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.

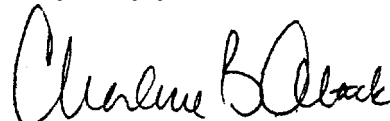
The proposed grading is consistent with the General Plan in that grading is minimized and the housing is clustered on less than 50% of the site. The proposed grading of the southern portion of the project is the least amount of grading necessary for any development of this portion of the property. The 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



County of Santa Cruz ATTACHMENT 5

PLANNING DEPARTMENT

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

ALVIN D. JAMES, DIRECTOR
CATHY GRAVES, PRINCIPAL PLANNER

ATTACHMENT 2

April 4, 2001

Agenda Date: April 11, 2001 ..

PLANNING COMMISSION

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

SUBJECT: Agenda Item H-2
Application No. 98-0148, Atherton Place
Assessor's Parcel No. 037-251-21

Members of the Commission:

On February 28, 2001 and March 14, 2001, your Commission heard testimony relating to the above application for the construction of 12 semi-detached and 46 detached townhouses on the north side of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive. At the meeting of March 14, your Commission determined that the proposed project could not be approved as proposed, the site is unsuitable for the density of the project as proposed, and that the scale of proposed grading conflicted with General Plan Policies.

Staff was directed to return to your Commission with findings reflecting your previous determination. Those findings are attached as Exhibit "A."

RECOMMENDATION

Staff recommends that the Commission take the following actions:

1. Determine that the proposed Negative Declaration for Application 98-0148 should not be adopted, per the Findings in Exhibit "A;" and
2. Deny Application No. 98-0148, based on the findings in Exhibit "A;" and
3. Adopt the Resolution recommending disapproval of Subdivision Application No. 98-0148 (Exhibit "A").

Sincerely,

Cathy Graves
Principal Planner
Development Review

ATTACHMENT
ATTACHMENT

5
2

Exhibits:

- A. Resolution of the Planning Commission of the County of Santa Cruz Recommending Disapproval of subdivision Application No. 98-0148.

RESOLUTION NO. 7-01

RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF
SANTA CRUZ RECOMMENDING DISAPPROVAL OF SUBDIVISION
(Application No. 98-0148)

WHEREAS, on February 28, 2001, and March 14, 2001, the Planning Commission of the County of Santa Cruz convened duly noticed public hearings in order to consider a proposed Negative Declaration, and related approvals, for the construction of 12 semi-detached and 46 detached townhouses on the north side of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive, property of ATHERTON PLACE DEVELOPMENT LLC; and

WHEREAS, the subject approvals included a Subdivision, Roadway/Roadside Exceptions, a Riparian Exception relating to the design of the drainage system, and preliminary grading approval; and

WHEREAS, at those meetings the Commission received testimony and documentary evidence relating to potentially significant impacts arising from the proposed development, including adverse traffic and traffic safety impacts arising from likely circulation patterns, adverse biotic and soil stability impacts arising from the use of the riparian corridor as a drainage retention facility, adverse impacts on protected riparian areas arising from the design and construction of retaining walls, and associated adverse impacts arising from the scale of grading needed to incorporate the design of the project as proposed; and

WHEREAS, on March 14, 2001, upon consideration of the testimony and documentary evidence before it, the Planning Commission voted to send an unfavorable recommendation to the Board of Supervisors regarding the proposed subdivision, and referred its deliberations to County staff for the preparation of findings.

NOW, THEREFORE, based on the testimony and documentary evidence received at its February 28, 2001, and March 14, 2001, meetings, the Planning Commission finds as follows:

1; This project comprises the proposed development of 12 semi-detached townhouses and 46 detached townhouses on parcels totaling approximately 17.8 acres, approximately 9.2 acres of which comprise a riparian woodland which is required to be maintained as undisturbed open space. On the remaining 8.6 acres of the site, a total

Resolution of Planning Commission
Application 98-0148
Page 2

of approximately 10,000 cubic yards of cut and fill is proposed, 5200 cubic yards of which is planned for the smaller, southern portion of the project, in order to accommodate the sites for predominantly detached townhouses. The construction of two retaining walls up to 4 feet in height, and one retaining wall up to 8 feet in height, is also required in order to locate the planned structures within the developable area of the site.

2. Numerous potentially significant adverse environmental impacts arising from the proposed project have been identified in the public hearings regarding this project, including:

a. Adverse traffic and traffic safety impacts associated with likely circulation from the project, particularly along Baseline Drive, Willowbrook Lane and Cabrillo College Drive;

b. Adverse biotic and soil stability impacts arising from the proposed drainage plan, including the use of the wetland area behind the project as a retention facility;

c. Adverse impacts on protected riparian areas arising from required grading associated with the design and construction of retaining walls;

d. Adverse visual and aesthetic impacts associated with the degree of grading required, particularly on the smaller, southern portion of the project, and with the proposed nature of the project, which incorporates a predominance of detached townhouse structures.

3. In order to assure that potentially significant project impacts had been adequately addressed prior to the public hearings regarding this project, the proposed Negative Declaration for this project had required the receipt of numerous reports approving specific aspects of the project's proposed engineering and design prior to public hearing. Receipt of a complete and adequate letter from the project geotechnical consultant regarding each of these concerns was of particular importance to an adequate environmental analysis of the project, because of:

Resolution of Planning Commission
Application 98-0148
Page 3

- a. the nature and scale of proposed grading on this physically constrained site;
- b. the scale and engineering of proposed retaining walls (which abut protected open space areas of the site); and
- c. potential soil stability and biotic impacts associated with the proposed drainage system, including the use of the wetland area of the site as a retention facility.

The required geotechnical letter was not timely received, nor has it adequately addressed each of these potentially significant impacts of the proposed design of the project.

4. For the foregoing reasons, the proposed Negative Declaration is inadequate under the California Environmental Quality Act ("CEQA"), and the Planning Commission cannot discharge its mandatory obligations under CEQA by adopting it in its present form.

5. Further, the Planning Commission finds that the proposed project cannot be approved as it is now proposed, as the site is physically unsuitable for the density of the project as it is now conceived and planned, and the resulting scale of grading conflicts with General Plan policies:

- a. The General Plan designation for the project site is "R-UH," High Density Urban Residential, which permits residential development at densities equivalent to 2,500 to 4,000 square feet of developable area per unit. The site's zoning designation is "RM-3," Multi-Family Residential District, with a minimum of 3,000 square feet per dwelling unit. The purpose of the RM zoning district under County Code is "[T]o provide for areas of residential uses with a variety of types of dwellings in areas which are currently developed to an urban density or which are inside the Urban Services Line or Rural Services Line and have a full range of urban services." County Code §13.10.321(f).

Resolution of Planning Commission
 Application 98-0148
 Page 4

b. The proposed project provides 4,033 square feet per dwelling unit, and thus falls within the minimum density provisions under both the General Plan and zoning designations of the project site. By planning the subdivision so that the predominance of the dwelling units are detached townhouses (46 of a total of 58), however, the proposed project overwhelms the physical limitations of the project site. The project site is physically unsuitable for this density of planned development, because the project applies an essentially single-family residential model to the subdivision of lands which are physically constrained, and are zoned for mixed, multi-family residential development. By distributing detached townhouses along the two developable portions of the project site, the planned development requires excessive amounts of grading in order to accommodate individual homesites, particularly in the southern portion of the site, in which approximately 5200 cubic yards of cut and fill are proposed. This excessive grading conflicts with General Plan policy 6.3.9, which requires projects to be designed so as to minimize grading, and to cluster structures to achieve this goal within permissible density limits.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the County of Santa Cruz, that the proposed Negative Declaration for a proposal to construct 12 semi-detached and 46 detached townhouses on parcels totally approximately 17.8 acres (APN Nos. 037-251-21, 037-251-22), Application No. 98-0148, not be adopted, as substantial evidence supports a fair argument that potentially significant adverse environmental impacts may result from the proposed project, including adverse traffic and traffic safety impacts arising from likely circulation patterns, adverse biotic and soil stability impacts arising from the use of the riparian corridor as a drainage retention facility, adverse impacts on protected riparian areas arising from the design and construction of retaining walls, and associated adverse impacts arising from the scale of grading needed to incorporate the design of the project as proposed; and

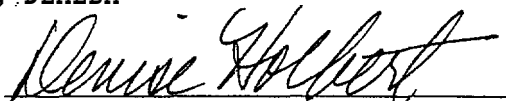
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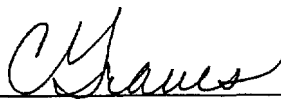
Resolution of Planning Commission
Application 98-0148
Page 5

BE IT FURTHER RESOLVED, that the Planning Commission send to the Board of Supervisors a recommendation for disapproval of the proposed tentative map, on the grounds that the site is physically unsuitable for the density of the project as it is now conceived and planned, and the resulting scale of associated grading conflicts with the General Plan [Government Code §§66474(2), 66474(4); County Code §§14.01.403(b), 14.01.403(d)].

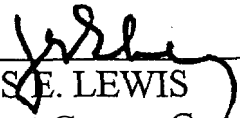
PASSED AND ADOPTED this 11th day of April, 2001, on the following vote:

AYES: Commissioners DURKEE, HOLBERT, OSMER,
NOES: Commissioners
ABSENT: Commissioners
ABSTAIN: Commissioners BREMNER, DEALBA


DENISE HOLBERT, Chair
PLANNING COMMISSION

ATTEST: 
Clerk of the Planning Commission

Approved as to form:


JAMES E. LEWIS
Assistant County Counsel



County of Santa Cruz

0795

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 400, SANTA CRUZ, CA 950604073

(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

BOARD OF SUPERVISORS AGENDA : JUNE 5, 2001

May 30, 2001

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

SUBJECT: Continued public hearing to consider an Appeal of the Planning Commission's Denial of Application #98-0148 (Atherton Place).

APN: 037-251-21,22

Owner: Atherton Place Development LLC

Applicant: Richard Beale Land Use Planning, Inc.

Members of the Board:

On May 8th, your Board held a public hearing to consider an appeal of the Planning Commission's denial of Application #98-0148, Atherton Place. Following public testimony and discussion by your Board, the matter was continued to June 5, at the applicant's request.

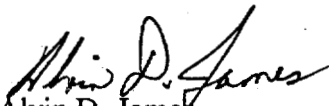
At your May 8th hearing, your Board had indicated that you would not take final action on the appeal on June 5th but would continue the matter to a subsequent Board of Supervisor's meeting.

The Planning Department has not received any additional submittal from the applicant, and therefore we have no further information to report. Elsewhere on today's agenda, there is a report from the Redevelopment Agency on this project.


It is, therefore, recommended that your Board:

1. Take testimony from the applicant's representative and any other interested member of the public; and
2. Continue the matter for final consideration to June 12, 2001.

Sincerely,


Alvin D. James
Planning Director

RECOMMENDED:

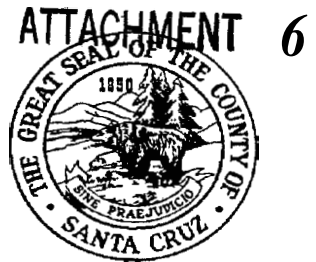

SUSAN A. MAURIELLO
County Administrative Officer

Attachments:

-
1. Minute Order for Agenda Item #55 dated May 8, 2001

cc: Atherton Place Development LLC, 2980 Stevens Creek Blvd., San Jose 95128
Richard Beale Land Use Planning, Inc., 100 Doyle St., Santa Cruz 95062
Charlene Attack; Bosso, Williams et.al., 133 Mission St. Suite 280, Santa Cruz 95060
Wendy Richardson, 6362 Baseline Drive, Aptos, CA 95003

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



AT THE BOARD OF SUPERVISORS MEETING

On the Date of June 5, 2001

REGULAR AGENDA Item No. 067

(Continued public hearing to consider appeal filed by
(Richard Beal Land Use Planning on behalf of Atherton
(Place Development LLC regarding Application No. 98-
(0148;
(continued public hearing to August 28, 2001 at 7:30
(p.m., with additional directives that the project be
(reviewed by the environmental coordinator group, at
(which time they would decide whether a traffic study
(is needed on the new exit road onto Cabrillo Drive,
(the developer return to show efforts that have been
(made to obtain an easement, and County Counsel return
(with information on how to split the project and how
(to get the easement for the developer should the
(project be approved...

Continued public hearing to consider appeal filed by Richard
Beal Land Use Planning on behalf of Atherton Place Development LLC
regarding Application No. 98-0148;

Upon the motion of Supervisor Pirie, duly seconded by Supervi-
sor Wormhoudt, the Board, by unanimous vote, continued public hear-
ing to August 28, 2001 at 7:30 p.m., with additional directives that
the project be reviewed by the environmental coordinator group, at
which time they would decide whether a traffic study is needed on
the new exit road onto Cabrillo Drive, the developer return to show
efforts that have been made to obtain an easement, and County Coun-
sel return with information on how to split the project and how
to get the easement for the developer should the project be approved

cc:

County Administrative Office
Planning Department
County Counsel
Atherton Place Development LLC
Richard Beale Land Use Planning, Inc.
Charlene Attack; Bosso, Williams et.al,
Wendy Richardson

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

Page 1 of 1

by

Sharon Mitchell

Deputy Clerk, ON June 8, 2001.

66

55

LAW OFFICES OF

**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

ATTACHMENT

7

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) 286-8700
FAX: (408) 286-8403
PLEASE REPLY TO SANTA CRUZ

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

June 4, 2001

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

Re: Atherton Place - Application #98-0148

Dear Chairperson and Board Members:

Pursuant to the Board's request, the applicant and owner of the property has reviewed possible options for an affordable housing project for the northern portion of the subject property. Preliminary discussions have been positive. The applicant has also reviewed additional revisions relating to neighborhood traffic circulation, open space and grading.

We request that the Board take the following direction:

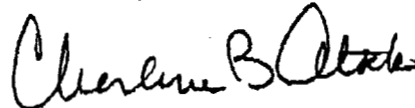
1. Continue this matter to the first available Board meeting in August for further action and deliberation.

With regard to this requested continuance, the applicant hereby waives any rights, actions or claims under the Permit Streamlining Act (Govt. Code 65950) that may arise out of this continuance from June 3, 2001 to the next available meeting in August.

2. Direct that the staff environmental coordinator review the revisions to the project at the meeting of the environmental coordinator to be held on June 18, 2001.

Thank you for your consideration of this request.

Very truly yours,



Charlene B. Atak

CBA/kj
cc: Brad Bowman
Rich Beale



County of Santa Cruz

REDEVELOPMENT AGENCY

701 OCEAN STREET, ROOM 510, SANTA CRUZ, CA 950604000

(831) 454-2280 FAX: (831) 454-3420 TDD: (831) 454-2123

TOM BURNS, AGENCY ADMINISTRATOR

May 30, 2001

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

APPROVED AND FILED
BOARD OF SUPERVISORS

DATE: 6/5/01
COUNTY OF SANTA CRUZ
SUSAN A. MAURIELLO
CLERK OF THE BOARD
BY: [Signature] DEPUTY

Agenda: June 5, 2001

Atherton Lane Project

Dear Members of the Board:

Your Board conducted a public hearing on the proposed Atherton Lane Project on May 8, 2001. At the conclusion of that meeting some Board members questioned the appropriateness of the project design and its compatibility with various County policies. In particular, issues were raised about the single lot design and its suitability with the urban high general plan land use designation and RM-3 zoning, County policies requiring minimization of grading, and the potential for a more clustered design. As well, public comments had focused on potential traffic impacts and the project design's visual impacts. At the request of the developer, the hearing was continued to this agenda. With the benefit of that additional time, you directed Redevelopment staff to meet with the developer of the project to explore potential development alternatives which better addressed these various issues, and to discuss possible approaches to enhance the affordability of the units.

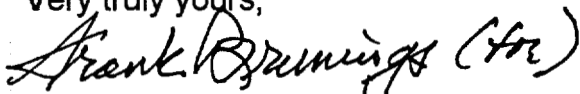
Several discussions have taken place with the developer since your Board's May 8 meeting. While they included a fruitful exploration of some of these site design issues and possible alternative development scenarios, it became clear that methods to enhance unit affordability cannot be fully addressed under the current project design. It was clear from those discussions that greater unit affordability can only be achieved through a redesign of at least a portion of the current proposal.

Board members should be aware that enhanced unit affordability can be achieved without formal Agency involvement and still result in a project that meets many of the concerns raised at the May 8 meeting. For example, a clustered townhouse/condominium for-sale project, through more efficient use of the site, could provide for an equal or greater number of units while reducing grading, expanding visual corridors, and enhancing access to open space areas. As well, such a project, while perhaps not providing traditional Measure J levels of affordability, could result in a sales price far more within the reach of the average Santa Cruz working family.

Given that the current project is pending, it would be staffs recommendation that the Board accept this report and 'proceed with the review of the pending application. Since the applicant requested continuance to further review the County Planning Department staff report, your Board should provide the applicant with an opportunity to comment on these matters.

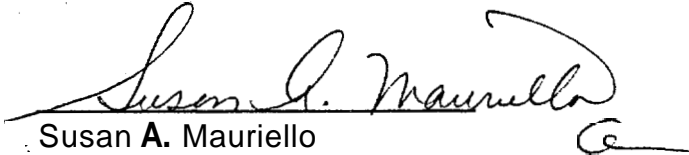
It is therefore RECOMMENDED that your Board accept and file this report.

Very truly yours,



Tom Burns
Redevelopment Agency Administrator

RECOMMENDED:



Susan A. Mauriello
County Administrative Officer

cc. RDA
✓ Planning Department
Rich Beale, Land Use Consultant

S:\BOARDPND\latherton.wpd



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, SUITE 310, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
ALVIN D. JAMES, DIRECTOR

BOARD OF SUPERVISORS AGENDA: AUGUST 21, 2001

August 7, 2001

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

APPROVED AND FILED
BOARD OF SUPERVISORS
DATE: 8/21/01
COUNTY OF SANTA CRUZ
SUSAN A. MAURIELLO
CLERK OF THE BOARD
BY: *[Signature]* DEPUTY

SUBJECT: Continued public hearing to consider an Appeal of the Planning Commission's Denial of Application No. 98-0148 (Atherton Place)
APN: 037-251-21, 22
Owner: Atherton Place Development LLC
Applicant: Richard Beale Land Use Planning, Inc.

Members of the Board:

On May 8, 2001, your Board held a public hearing to consider an appeal of the Planning Commission's denial of Application No. 98-0148, Atherton Place. Following public testimony and discussion by your Board, the matter was continued to June 5, at the applicant's request.

At your June 5, 2001 hearing, your Board indicated that you would continue the hearing to August 25, 2001, at 7:30 p.m. to allow the developer additional time to revise the project and have it reviewed by the Environmental Coordinator. Revised plans and other materials were not received by the Planning Department until July 18, and reviewing departments and agencies are now in the process of formulating comments on the proposal.

Your Board also asked County Counsel to advise whether the County could condition approval of the Atherton Place project on the use of an access across property owned by a third party. County Counsel advises that the State Subdivision Map Act in Government Code Section 66462.5 expressly authorizes a County to condition a subdivision on the provision of offsite improvements on land owned by third parties, and to require the subdivider to bear all costs of the acquisition of the necessary easement or other property interest for the off-site improvements, including, if necessary, all costs involved in an eminent domain action. The County Code expressly provides for such off-site improvement agreements for subdivisions in Section 14.01.513 and for other development projects in Section 18.10.240(d). The County has

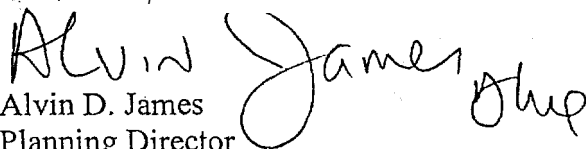
previously utilized such agreements for the acquisition and use of right-of-ways for development projects.

The project is now scheduled for review by the Environmental Coordinator on Monday, August 27, 2001. Pending successful environmental review, with mitigation of environmental impacts associated with the project and additional public comment, the Planning Department will reschedule the project for review by your Board at a future date.

It is, therefore, recommended that your Board:

1. Cancel the public hearing scheduled for your August 28, 2001 agenda and direct the Clerk of the Board to notice the public of the cancellation;
2. Continue the public hearing to **an** evening meeting at the earliest possible date following completion of the environmental review process; and
3. Direct the Planning Department and the Clerk of the Board to notice the public of the new public hearing date.

Sincerely,


Alvin D. James
Planning Director

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

Attachments:

1. Minute Order for Agenda Item No. 67, dated June 5, 2001

cc: Atherton Place Development LC, 2950 Stevens Creek Blvd., San Jose, CA 95128
Richard Beale Land Use Planning, Inc., 100 Doyle St., Santa Cruz, CA 95062
Charlene Attack, Bosso, Williams, et al, 133 Mission St., Suite 280, Santa Cruz, CA 95060
Wendy Richardson, 6362 Baseline Drive, Aptos, CA 95003
Ken Hart, Environmental Coordinator

Environmental Document
on file with the
Clerk of the Board

CODE OF CIVIL PROCEDURE

SECTION 1240.010-1240.050

ATTACHMENT 11

1240.010. The power of eminent domain may be exercised to acquire property only for a public use. Where the Legislature provides by statute that a use, purpose, object, or function is one for which the power of eminent domain may be exercised, such action is deemed to be a declaration by the Legislature that such use, purpose, object, or function is a public use.

1240.020. The power of eminent domain may be exercised to acquire property for a particular use only by a person authorized by statute to exercise the power of eminent domain to acquire such property for that use.

1240.030. The power of eminent domain may be exercised to acquire property for a proposed project only if all of the following are established:

- (a) The public interest and necessity require the project.
- (b) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- (c) The property sought to be acquired is necessary for the project.

1240.040. A public entity may exercise the power of eminent domain only if it has adopted a resolution of necessity that meets the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4.

1240.050. A local public entity may acquire by eminent domain only property within its territorial limits except where the power to acquire by eminent domain property outside its limits is expressly granted by statute or necessarily implied as an incident of one of its other statutory powers.



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

November 1, 2001

Agenda: November 6, 2001

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

Affordable Housing Action Plan

Dear Members of the Board:

On October 2, 2001, your Board held an Affordable Housing Workshop which addressed a broad range of issues impacting housing costs in our community. While many of the issues addressed in the workshop involved external and regional factors well outside the purview of the Board of Supervisors, your Board directed staff to pursue over 20 items spanning a variety of issues that can begin to be addressed by your Board at a local level. Your Board directed staff to present an action plan on today's agenda. (See October 2nd Board letter and minute order, Attachment 1.)

For the purposes of fashioning an organized response to your Board's direction, staff from the Planning Department, the RDA and the CAO's Office have grouped your Board's directives into several categories.

- Multi-Family Housing Sites and the Potential for Increased Affordable Housing Opportunities Throughout the County
- Second Units
- Affordable Housing Ordinance (17.10) and related issues
- Miscellaneous Program Areas and Additional Reports
- County Counsel Legal Opinions on a Variety of issues

We are pleased to present your Board with a proposed action plan to respond to your October 2nd directives. Given the wide range of issues raised by your Board, and that some of these issues will require extensive staff evaluation and analysis, the recommended Affordable Housing Plan includes an implementation schedule which calls for a series of actions over the next six months. In addition, it is recommended that some of these issues are better addressed in the next update

of the County's Housing Element and General Plan. Attachment 2 is the itemized Action Plan and Implementation Schedule. What follows is a more detailed discussion of the key components of the proposed action plan.

The Potential for Increased Affordable Housing Opportunities Throughout the County

Your Board's direction on October 2nd included a request for staff to pursue a variety of issues involving the potential for increasing the number of affordable housing opportunities on existing multi-family zoned properties and identifying other large parcels throughout the County for rezoning to maximize affordable housing opportunities. In addition, Board members expressed concern about the approval of single family subdivisions on parcels zoned for multi-family housing and the high purchase price (\$695,000 average price) of new homes built in recently approved subdivisions in the County. At that time, your Board provided the following direction to staff:

- Conduct a preliminary report on potential re-zoning to multi-family residential uses of various large suitable parcels in various parts of the County.
- To discuss strategies for preserving multi-residential sites for maximum use possible, taking into consideration existing constraints, and including consideration of sites located near transportation corridors throughout the County.
- To consider increasing the percentage of affordable units to be required of larger developments.
- To identify any remaining high density properties and consider the possibility of purchasing identified parcels.
- Evaluate the advantages/disadvantages of re-instituting county-wide H-site designations.

In response to these directives, Planning staff has evaluated the preliminary development potential of properties zoned "Residential Multi-Family" which can accommodate more than 5 additional units, as well as that of other vacant/underutilized residentially zoned property greater than one acre. This analysis of our existing zoning revealed the following:

- ▶ there is a total of 79 acres of land zoned for multi-family residential uses in the County which have a development potential of more than five units. The combined development potential of these parcels, without factoring in development constraints, is 856 multi-family units.
- ▶ there is a total of 320 urban acres of land zoned for other residential uses (i.e., single family) which contain at least one acre that is underutilized or vacant. These parcels may be appropriate for accommodating additional development.

In addition to these acres within the urban services line, the Board requested that staff consider possible rezonings outside of the urban areas, particularly those located near transportation corridors. It should be understood, that under Measure J and the County's General Plan, areas

outside of the urban services line (which includes primarily the Live Oak, Soquel and Aptos planning areas) are generally not allowed to be developed at higher densities. This is due to a variety of factors including the availability of urban services, terrain, environmental and resource issues and the like. A copy of the county map delineating the urban services line is provided as Attachment 3. However, there may be limited opportunities inside the rural services line that could be developed at urban densities which would require further staff efforts to identify.

If the Board were interested in pursuing greater geographic distribution of affordable housing throughout the County, modifications to the policies in the General Plan would be required. As demonstrated in attachment 10, the number of affordable units by planning area varies widely, with the preponderance of units in the Live Oak (962) and Pajaro Planning Areas (510). In an effort to increase the numbers of units in other areas, the Board could examine, in a supplemental report, what general plan policies would require modification in order to permit future development of affordable housing at densities appropriate for such developments. Planning staff can provide a further report on these issues on December 11, 2001.

It is also worth noting that Planning staff has reviewed the development project approvals that have occurred on RM-zoned properties over the past five years. This analysis indicates that since 1996, aside from the Redevelopment Agency assisted projects, only one project has been built as a multi-family project. During this time period, four single-family developments were built on parcels zoned for multi-family residential use, producing 46 single-family homes. The average home size of units built on these properties was 2,400 square feet and average lot size of 6,814 square feet.

In an effort to address your Board's stated concern and consider approaches to maximize the potential affordable housing opportunities on appropriately zoned sites, your Board could consider measures designed to:

1. Encourage the development of multi-family housing on RM-zoned properties throughout the County thereby discouraging development at lower densities on these sites.
2. Increase the percentage of affordable housing on appropriate sites through the identification of suitable parcels for possible purchase by the County or a non-profit developer as affordable housing sites.
3. Increase the 15% affordability requirement to trigger density bonus options available in the current zoning/General Plan for these parcels.

These strategies are more fully discussed below:

Encourage better utilization of RM-zoned properties and maximize housing opportunities. Your Board's suggestion to discuss strategies for to potentially preserve multi-family residential sites for maximum possible affordable housing use raises a critical question about whether to insure that the remaining RM-zoned properties are used to increase affordable housing opportunities.

In an effort to encourage multi-family zoned residential sites to generate maximum affordable housing opportunity sites, your Board could establish a policy which would require, as part of approval of any residential development proposed for RM-zoned property that is below the General Plan density range, that the Approving Body could make certain findings that the proposed use is consistent with the General Plan and appropriate given the need for housing in the community. In addition, this approach could be extended to all projects which are proposed to be developed at a

density level below the General Plan density. If this policy approach is acceptable, staff recommends that your Board direct County Counsel and the Planning Department to return to your Board on December 11, 2001 with a specific recommendation to implement this approach.

In addition, as a more long term initiative, based on the Board's concern about the limited amount of housing opportunities available throughout the County, as part of the General Plan update, Planning staff could be directed to make every effort to identify additional properties county-wide that could be zoned for multi-family housing.

"Housing"(H)-Site Program: Your Board's suggestion that staff consider re-activating the H-site program provides an opportunity to respond to a number of issues raised by your Board. The H-site program has been used very effectively to identify suitable parcels for affordable housing development and to increase the percentage of affordable housing on appropriate sites. Since 1983, five properties with 339 units were developed under this program.

The H-site program, which is currently specified in Section 13.10431 of the Santa Cruz Zoning Ordinance, is a combining district which the Board used to implement the Local Coastal Program Land Use Plan (LCP) housing policies. (See Attachment 4)

Similar to the County's park site acquisition program, the H-site program allows for the possible acquisition of the designated parcels for affordable housing. The implementation of the program requires that your Board designate certain properties by rezoning them to add the H combined zone district to the existing zoning. The H-site program would be triggered by a development application on the designated parcels. In the case of an application for a project on an H-site that is anything other than a 100% affordable housing project, the County has up to 12 months to determine whether it wished to purchase the site, or arrange for the purchase of the site, for an affordable housing project. A report regarding the acquisition is prepared for review by the Board. The report would address funding sources, development potential, time lines, and other pertinent issues of concern to your Board. If your Board decides to proceed with a project, negotiations with the property owner, and potentially with an affordable housing developer, for the acquisition of the property would commence. If the County decides not to pursue an affordable housing project on the site, the property would be subject to a 35% affordable requirement rather than the standard 15% requirement. Any project developed on the proposed H-site would also be eligible for a density bonus and development incentives, as allowed for in State law and our local density bonus program.

The re-activation of this program could address issues raised by your Board. In order to proceed, the Planning staff would need to review the existing sites suitable for higher density residential development with a goal of identifying sites equally distributed throughout the County that could accommodate potential new units. It is recommended that staff return to your Board on December 11th with recommended sites for your Board to consider designating as "H-sites".

Increase 15% inclusionary requirement to 20%

Your Board directed staff to explore increasing the percentage of required affordable housing for larger development projects. While subjecting only larger projects to an increased requirement may

have some appeal given the economies of scale, Staff is concerned that developers would seek to develop projects beneath the threshold where the affordability requirement increases, thereby inadvertently encouraging the development of fewer units. As a result, staff would suggest that any increased affordability requirement apply to all projects subject to the inclusionary requirement.

Based on a generalized discussions among planning professionals, it appears that many jurisdictions are evaluating the effectiveness of the inclusionary programs in their communities. With skyrocketing housing costs, many have begun to consider the impact of increasing the inclusionary percentage, and there are a number of jurisdictions which have required an inclusionary percentage greater than 15%. In order to address our own housing cost crisis, we would suggest that the Board consider increasing the percentage in our community to 20%. Planning staff could return to your Board on December 11, 2001 with a specific ordinance revision to accomplish this goal. It is worth noting that the 20% requirement would trigger the density bonus provisions of State and local law, thereby increasing the number of units that could potentially be built.

Second Units

Your Board focused on two general strategies to possibly increase the development of second units in the County:

1. The possibility of expanding the second unit program to allow for farm worker housing to be developed as second units on parcels that are designated for agricultural use; and
2. The development of a subsidized financing program that would facilitate the construction of second units.

A discussion of these two strategies follows:

Second Units on Agriculturally Zoned land: On April 25, 2001, your Board conceptually approved the development of an ordinance to allow for second units to be developed on agricultural zoned land. (See Attachment 5). The program described to your Board at that time would permit second units on agricultural land with the following conditions:

- the units must be occupied by family members or farm workers (farm workers must earn at least half of their annual income from agriculture);
- the maximum size of the units would be 800 square feet rather than 1,200 square feet regardless of the size of the parcel
- the units must be sited adjacent to existing structures to minimize the impact on the agricultural use of the site; and
- the units must meet other development standards that are sensitive to and appropriate for rural sites.

In an effort to move this program forward, it is recommended that your Board direct Planning staff to return to your Board on November 20, 2001 with a proposed ordinance amendment and that your Board initiate the public review process at that time, with a final ordinance returning back to your Board on or before April 9, 2002.

Second Unit Subsidy Program: Your Board asked staff to explore potential approaches for expanding interest in the County's Second Unit Program. In particular, there was interest in the potential to provide financial assistance as a means to encourage the construction of more small affordable rental units. Attachment 6 provides a detailed discussion of this item. In summary, that report suggests that a subsidy program which provides \$10-15,000 of subsidy in exchange for long term commitments to rent the unit to a lower income household could be feasible. RDA staff will need additional time to develop a formal recommendation on how such a program would work, and is suggesting that this item return to the Board in the context of your Board's consideration of the ordinance amendments described above.

Affordable Housing Ordinance (17.10) and related issues

There were a number of additional program areas pertaining to the County's affordable housing programs that were addressed by your Board on October 2nd. These program areas are discussed below:

In Lieu Fees/17.10:

Staff has reviewed the HAC recommendations and completed an analysis of the in-lieu fee program and other associated changes to the County's Affordable Housing Program (County Code Section 17.10. (Attachment 7). Based on their input, staff suggests that the Board consider a number of changes designed to:

1. increase the number of affordable units produced by this program;
2. Eliminate the in-lieu fee program;
3. Increase flexibility for developers to meet the affordable housing requirements by creating a new program to allow developers to acquire and convert market rate units into Measure J units, so long as the developer provides for a minimum of two affordable units for every inclusionary unit that would otherwise be required to be built.
4. Adjust program operations to better mitigate the loss of units through demolition of existing units.

The key recommendations included in this analysis are:

- Eliminate the in-lieu fee option.
- Expand the inclusionary requirement to include all minor land divisions.

- Eliminate the "rounding" method of establishing the inclusionary requirement and calculate the number of affordable units subject the inclusionary requirement to be exactly equal to the inclusionary percentage, including any fractional amounts more or less than a whole unit.
- Establish a new Developer Financed Measure J Housing Fund to acquire and convert a greater number of existing units to Measure J units than would otherwise be created through the inclusionary program. Proposed program guidelines for the Fund are:
 - A developer's contribution to the Fund would be based on the 15 or 20% proportional requirement that is tied to each eligible market rate unit. This would allow for a development that is not required to construct an affordable unit (2-7 unit projects) or where there is a fractional obligation above a whole unit (e.g. a 2.5 unit obligation) to fulfill program requirements.
 - The contribution amount would be based on a formula which would 1) encourage the construction of inclusionary units in modestly priced developments while providing for an incentive for higher end developers to contribute to the Fund; and 2) ensure that, at a minimum, the contribution amount must result in the acquisition and conversion of at least two market rate units for each inclusionary unit that would have been required. Depending on the price of the market rate unit and the corresponding contribution amount to the Fund, it is anticipated that this program would yield two to five affordable units for each inclusionary unit that would have otherwise been required to be built.
 - All units acquired through this program would meet criteria established by the County, include income and occupancy restrictions consistent with the Measure J program, and be occupied prior to final occupancy of the approved development.
- Require development projects to obtain approval from the Approving Body of how the project will meet its affordable housing obligation. Any changes would require approval by the Approving Body.

Loss of Units Through Demolition of Existing Homes.

Staff has conducted a review of current Planning Department residential development review Practices and has identified two key issues related to the removal of existing units which warrant specific direction from your Board to improve program effectiveness:

- Currently, for each existing unit removed from a project site, an equal number of new, market-rate units built in the project are exempted from the inclusionary requirements, even though the replacement unit is typically more expensive than the

demolished unit. This results in the loss of an existing unit and the reduction in the affordable housing obligation for the developer. Your Board should consider no longer exempting demolished units from the inclusionary requirements.

- State and local laws require a developer in the Coastal Zone to provide replacement housing on a one-to-one basis when a threshold number of units occupied by low and moderate income households are demolished. However, in the case of projects which involve the demolition of units beneath the threshold¹, the replacement housing requirements are not required but are subject to the discretion of the Approving Body. (Attachment 8 includes applicable County Code and State Government Code provisions.) Based on a review of development applications, replacement housing requirements in the Coastal Zone associated with the demolished units have not been imposed on projects to the full extent permitted by local and state law. Your Board could direct staff to thoroughly evaluate the potential applicability of replacement housing provisions in the case where local discretion is permitted.

To address the issues discussed above, Planning staff, working with County Counsel, RDA, and the CAO's Office, proposes to return to your Board on December 11, 2001 with specific programmatic and administrative recommendations concerning the issues discussed above. In the event your Board increases the 15% inclusionary obligation, the corresponding changes will be incorporated in the changes discussed above.

Miscellaneous Program Areas and Additional Reports

Your Board also initiated a request for staff to review a number of other program areas and furnish your Board with additional information about a variety of matters. What follows is a brief discussion of each of these items and a proposed time line.

Reduction of Floor Area Ratio from 50% to 40%

The reduction of FAR limits from 50% to 40% would reduce the maximum size of newly built units in the unincorporated County and create other significant consequences concerning non-conforming use and other planning issues. You will recall, that the Board also directed the Planning Department to return with an analysis of the large house provisions of the codes. The reduction in floor areas could be reviewed in conjunction with this effort. The Planning Department proposes to evaluate this proposal and return to your Board on April 9, 2002 with a further report on this issue.

Increasing the Percentage of Affordability Required on Annexed Lands:

¹ Replacement housing is subject to the discretion of the Approving Body if the demolished or converted structure contains less than three units, or if more than one residential structure is involved, if 10 or fewer units are proposed for demolition.

This issue was discussed by your Board in the context of the recent Franich Annexation, where 50% of the units were required to be affordable. A more detailed discussion of this topic is included in Attachment 6. In summary, the Board could request **LAFCO** to adopt a policy requiring minimum levels of affordability for all new annexations of vacant land.

Expansion of mobile home parks

Your Board's interest in exploring the potential for new mobile home parks will be evaluated by the Planning Department and a report will be submitted to your Board on April 9, 2002.

Increasing the use of manufactured housing

Your Board's interest in exploring the potential for increasing the use of manufactured housing will be evaluated by the Planning Department and a report will be submitted to your Board on April 9, 2002.

Constructing More Agricultural Housing

This is an item that your Board directed staff to review in light of the findings of the recent Farmworker Survey. A report was presented to the Board on October 2, 2001, on this item. Attachment 6 provides a more detailed discussion on the proposed new directions, particularly focused on developing an approach for utilizing the State's Employee Housing Act. It is recommended that **RDA** staff report back on this program on January 29, 2002.

Increasing the **RDA** housing set-aside from 20% to 25%. based on the City of Santa Cruz's program:

The Board directed staff to evaluate the potential to expand the housing funds provided through the Redevelopment Agency's Low and Moderate Income Housing Set Aside Fund. Attachment 6 provides a more detailed discussion on this issue.

As your Board is aware, over the past two years, the Agency has allocated an unprecedented amount of funds to assist a wide variety of housing projects throughout the County. This year, for the first time in the Agency's history, we are on the verge of receiving proposals for meritorious projects for which we may not have adequate funds available.

As a result, we are now investigating additional focal funding sources. Your Board's directive to consider increasing the housing set aside from 20% to 25% would present a possible funding source to augment resources available to address housing needs in the community.

Increasing the set aside from 20% to 25% would result in a transfer of approximately \$800,000 from capital projects to housing projects annually. It appears that such a transfer would be possible within the project and bonded indebtedness commitments of the Agency. However, the report suggests that it may be more appropriate to make such a transfer annually as part of the budget process rather than adopt a re-appropriation of tax increment revenues. One benefit of the annual

budget approach includes confirming augmentations annually in the context of outstanding project commitments which allows your Board to address competing priorities in the context of the budget needs. But more importantly, such an approach would provide far greater flexibility in how financed projects operate, given that the projects funded through capital funds would not be subject to the restrictions imposed on projects which receive Low and Moderate Income Housing Fund financing. If your Board is interested in this approach, staff could be directed to provide an annual budget allocation from capital projects to housing projects in an amount which would total a 25% housing set aside, based on existing formulas, and that this amount be included in future recommended RDA Budgets, beginning in FY 02-03 to support the creation of low and moderate income housing opportunities countywide. The FY 2002-03 baseline amount is estimated at \$800,000 with the idea that future year allocations grow in proportion to the Agency's tax increment growth.

Report on the possibility of establishing linkage fees, based on the City of Watsonville's program:

Your Board's interest in considering the potential of assessing linkage fees on non-residential development will be explored by County staff. It is worth noting that the County has very limited commercial and non-residential development activity that would be impacted by a proposal based on the program established in the City of Watsonville. The Planning Department will prepare a report on this issue in February 12, 2002.

Planned Unit Developments (PUDs) in the County.

The County Code was amended in 1962 to create a process for reviewing and approving certain types of projects that met the objectives of the Zoning Ordinance but did not meet all of the specific requirements of the residential or commercial site standards. This process, and the permits that were issued as a result of the process, were called Planned Unit Developments or PUDs. The PUD ordinance allowed for the development of mixed use projects (residential and commercial) as well as for projects such as townhouse developments where required setbacks and separation between structures could not otherwise be approved. In practice, PUDs were almost exclusively used for the development of residential only projects where there was a need to vary from the strict application of the specific zone district.

The 1982 Zoning Ordinance was the last year the PUD program was included in the County Code. The PUD ordinance established standards, findings and procedures for the review of special permits. Most notably, the procedures required the PUD permit to be approved by the Board of Supervisors, based on a recommendation from the Planning Commission, through the adoption of an ordinance. Examples of PUDs include Sand Dollar Beach, Canon del Sol, Woodland Heights, Willowbrook Village, and Paradise Park. Because the PUD was adopted by the Board of Supervisors as an ordinance, amendments to the PUD were processed as ordinance amendments.

In 1983, as a part of the implementation of the Local Coastal Program Land Use Plan, the PUD ordinance was eliminated and language was added to the County Code to allow flexibility in the design of residential land division projects. This language, Section 13.10.324(d)1(i) of the County Code, is as follows:

7. Parcels Created from New Land Divisions

(i) Within any new land division project, all development standards on all lots or parcels which abut the periphery of the project site are subject to all the restrictions stated in this section unless a variance is obtained. No parcel shall be created smaller than 3,500 square feet in area. On individual lots or parcels within any land division project not abutting the periphery of the project site, site and structural dimensions may vary from the General Requirements for the zone district, provided that the approved standards and dimensions for each new lot or parcel are specifically indicated on the approved tentative map.

This section has been used to approve many projects in the County, including the Chanticleer apartments, Merrill Street project, the Farm Project and Vista Verde, all apartment projects. It was also used to approve the Pajaro Lane project, a mixed apartment and townhouse project with differing densities. It has not, however, been used extensively by the private sector.

The PUD program provided for added flexibility in site design similar to the language provided for in the current County Code for residential development. PUDs however, offered added design flexibility as well as a mechanism to "lock-in" site specific design standards through the adopted of a PUD ordinance. While additional flexibility was added to our local codes in the mid 1980's, there are some features of the PUD program which may foster the development of affordable housing. In order to promote further review of the value of reenacting ordinance provisions similar to those of the 1980's, a proposed draft ordinance is provided which could be forwarded to the Planning Commission for review and recommendation (Attachment 9). This proposal is similar to the one that was in effect previously and has been updated by Planning staff to reflect current development review practices.

Evaluation of the County's First Time Home Buyer Program:

The Board expressed an interest in targeting the Redevelopment Agency's First Time Home Buyer Program to public employees, initially focusing on County employees. As you know, on August 28, 2001 your Board received a report from the RDA which discussed a number of complex issues associated with developing a program with other jurisdictions that would benefit local governmental employees. Nonetheless, the Agency has developed a First Time Home Buyer program that staff believes will be extremely attractive to moderate income home purchasers who are willing to commit to the program's current requirement to require long term resale restrictions in exchange for assistance in unit purchase. Attachment 6 provides more details on this program and a proposed outreach program. Staff is suggesting that, once this new program is fully operational, that special presentations be given to County employees and other employee groups educating potential program participants about the availability of this program. It is suggested that staff report back to the Board on the effectiveness of this marketing approach on April 9, 2002. It is worth noting that Senator McPherson's SB-459, which was requested by the Board, was recently approved by the Governor and will increase the price range of units eligible for this program.

Identify strategies to attract employers to our community that pay higher wages.

The status of the University of California in relation to local ordinances.

The University is not subject to local land use regulations when it is utilizing its property in a manner consistent with its educational mandate.

The County's authority to regulate the temporary use of residences for short term vacation rentals:

The County does have the authority to regulate the use of residential property for short-term commercial use. The Planning Department, Assessor's Office and Treasurer/Tax Collector will return to your Board on February 12, 2002 with a report on this issues, at which time, further direction regarding the development of an ordinance may be appropriate.

Anti-Retaliatory Eviction Ordinance

It **is** within the Board's power to enact an anti-retaliation ordinance and it is suggested that County Counsel work with staff to develop an ordinance for Board consideration on February 5, 2002.

Conclusion/Recommendations

This report includes a wide variety of proposed actions for consideration by your Board. The combined impact of the proposed recommendations provides for a greatly expanded housing program to address the issues that are within the purview of the Board of Supervisors. It is therefore recommended that your Board take the following actions:

1. Accept and file this report;
2. Consider the Proposed Affordable Housing Action Plan and Implementation Schedule (Attachment 2) and determine whether to take action on any of the following items:
 - a. Approval of a policy to require the Approving Body must make certain findings as part of approval of a residential development that is below the General Plan density range and that the proposed use is consistent with the General Plan and appropriate, given the need for housing in the community, and return to the Board on December 11, 2001 with specific program recommendations;
 - b. Direct staff to identify potential H-sites county-wide and return to the Board on December 11, 2001 to discuss site options;
 - c. Direct Planning staff, as part of the General Plan update, to make every effort to identify additional properties county-wide that could be zoned for multi-family housing and to provide a further report on December 11, 2001 on general plan policies that would require modification in order to permit future development of affordable housing at appropriate densities throughout the County;
 - d. Direct staff to return to your Board on December 11, 2001 with proposed recommendations to increase the inclusionary affordability requirement from 15%

There are a wide variety of factors, largely determined by regional and macro economic forces, which determine wage structure and the types of employers that locate in Santa Cruz County. It is recommended that this proposal be referred to the Workforce Investment Board (WIB), which is staffed by the Human Resources Agency. The WIB will evaluate this proposal in the context of their overall and on-going strategic efforts to address a variety of workforce development issues in the community.

Statistical information on renters and the number of units rented and those used by homeowners:

Based on 2000 census information, there are a total of **55,942** housing units in the unincorporated County with 50,351 occupied housing units. There are **34,283** (68.1%) owner occupied units and 16,068 (31.9%) renter occupied units. It is worth noting that the updated Housing Element will include a more detailed analysis of the housing needs in the community, including the rental and ownership housing needs of various income groups.

Economic modeling information re. the elasticity of market pricing versus what is generated and how we can maximize our opportunities:

The updated Housing Element will consider a wide range of issues pertaining to housing prices, relationships between supply and demand and the extent to which local land use regulations impact housing costs in the community.

Provide information relative to vacation rentals versus permanent housing

Analysis to be conducted by the Planning Department, the Assessor's ~~Office~~ and Treasurer/Tax Collector and will be presented to your Board on February 12, 2002.

Information on the size of the general plan area and the actual acreage covered in relation to the number of homes and the number of affordable units;

Information addressing the distribution of affordable units by Plan Area, taking into account the total number of housing units in the Plan Area as well acreage and population densities, are included in Attachment 10.

County Counsel Legal Opinions

Your Board also requested County Counsel to provide legal opinions on the following issues. (See Attachment 11).

The County's authority to limit the occupancy of single family dwellings.

The cannot limit the number of occupants of a single family dwelling based on whether the occupants are unrelated persons. However, the County may continue to enforce other provisions of the County Code that establishes minimum standards for addressing particular impacts related to residential uses. (Off-street parking, minimum lot widths, set-backs, etc.)

- e. to 20%
Direct the Chair of the Board to write to LAFCO requesting LAFCO adopt a policy requiring a minimal level of affordability for annexed properties;
- f. Direct the RDA to:
 - i. return to your Board on January 29, 2002 with a status report on the potential for increasing agricultural housing under the State Employee Housing Act program;
 - ii. return to your Board on April 9, 2002 with a status report on the Down payment Assistance Program; and
 - iii. Direct the RDA Administrator to provide an annual budget allocation from capital projects to housing projects in an amount which would total a 25% housing set aside, based on existing formulas, and that this amount be included in future recommended RDA Budgets, beginning in FY 02-03 to support the creation of low and moderate income housing opportunities countywide.
- g. Refer consideration of strategies to attract employers to our community that pay better wages to the Workforce Investment Board as part of their overall and on-going strategic efforts to address a variety of workforce development issues in the community.
- h. Direct the Planning Department to return to your Board on November 20, 2001 with a proposed ordinance amendment to permit second units on agriculturally zoned land and to initiate the public review process, with a final ordinance approval on or before April 9, 2002;
- i. Direct the RDA to evaluate a pilot program to provide subsidies to encourage the development of second units, to be developed in conjunction with the Board's consideration of the final ordinance on or before April 9, 2002;
- j. Refer the proposed PUD ordinance (Attachment 9) to the Planning Commission for review and recommendation;
- k. Approve the following changes to the County's Affordable Housing programs and direct Planning staff to work with the CAO, RDA and County Counsel, and return to your Board on December 11, 2001 with specific changes and administrative recommendations:
 - i. Eliminate In Lieu Fee;
 - ii. Eliminate "rounding" inclusionary unit obligation and calculate the number of affordable units to be exactly equal to the inclusionary percentage of the number of eligible market units; and
 - iii. Approve the creation of a Developer Financed Measure J Home Purchase Fund as described in this letter.
 - iv. Expand the inclusionary percentage requirement to projects with two units or more

Board of Supervisors
Affordable Housing Action Plan

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- v. Delete current provision which exempts demolished units from inclusionary requirement. and encourage the imposition of replacement housing requirements for demolished units,
- l. Direct Planning staff to report back to your Board on April 9, 2002 on issues pertaining to 1) the impact of reducing the floor area ratio from 50% to 40%; 2) the expansion of mobile home parks, 3) the increased use of manufactured housing; and 4) the possibility of establishing linkage fees for non-residential development;.
- m. Direct the Planning Department to include in the updated Housing Element information pertaining to housing needs and housing pricing issues;
- n. Direct the Planning Department, the Assessor's Office and Treasurer/Tax Collector to report back to the Board on February 12, 2001 with information relative to vacation rentals versus permanent housing; and
- o. Direct County Counsel to work with the Planning Department and the CAO's Office to develop an anti-retaliatory eviction ordinance and to return to your Board on February 5, 2002 with a proposed ordinance.

Very truly yours,



Susan A. Mauriello
County Administrative Officer

ES:SM

attachments:

1. October 2, 2001 Board letter and Minute Order
2. Affordable Housing Action Plan and Implementation Schedule
3. Map of Urban Services Line
4. H Sites - Santa Cruz County Zoning Ordinance
5. Report on Second Units on Agricultural Land
6. RDA Report
7. Report on the Affordable Housing Ordinance and Related Issues
8. County Code and State Government Code sections re. Replacement Housing
9. Proposed PUD Ordinance
10. Plan Area Data
11. County Counsel Memorandum, October 24, 2001

cc: Planning Department
Redevelopment Agency
County Counsel
Planning Commission
Housing Advisory Commission

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: March 14, 2001
Agenda Item: G-5
Time: Mer 7:00 p.m.
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STAFF REPORT TO THE PLANNING COMMISSION

APPLICATION NO.: 98-0148

APN: 037-251-21 & -22

APPLICANT: Richard Beale Land Use Planning

OWNERS: Atherton Place Development LLC

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; (3)(2) new private streets: "Bowman Circle" and "Bower Court" and an emergency access drive; (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 4,800 cubic yards of fill, and grading on Parcel 037-251-22 consists of 5,200 cubic yards of cut and 5,200 cubic yards of fill. The rear (riparian woodland) of both parcels, an area totaling 9.2 acres, would be maintained as open space.

LOCATION: Property located on the side of Cabrillo College drive and the south side Soquel drive, just east of Atherton Drive.

PERMITS REQUIRED: Subdivision, Roadway/Roadside Exceptions, Riparian Exception for the drainage systems releasing to the riparian corridor; and a preliminary grading approval.

ENVIRONMENTAL DETERMINATION: Negative Declaration with Mitigations.

COASTAL ZONE: ___ yes X no

PARCEL INFORMATION

PARCEL SIZE: 17.8 acres

EXISTING LAND USE:

PARCEL: Vacant

SURROUNDING: Single- and Multi-Family Residential; Neighborhood Parks; Cabrillo College; and the Twin Lakes Baptist Church.

PROJECT ACCESS: Atherton Drive, "Bowman Circle" and "Bowers Court" and emergency access drive

PLANNING AREA: Soquel

LAND USE DESIGNATION: Urban High Density Residential (R-UH) &
Urban Open Space (O-U)

ZONING DISTRICT: "RM-3" (Multi-Family Residential; min. 3,000 sf/unit)

SUPERVISORIAL DISTRICT: Second District

Applicant: Richard Beale for Atherton Place Development LLC
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ENVIRONMENTAL INFORMATION

<u>Item</u>	<u>Comments</u>
a. Geologic Hazards	a. No mapped hazards.
b. Soils	b. USDA Soil Type 133, Elkhorn Sandy Loam, 2-90! slope USDA Soil Type 174, Tierra-Watsonville Complex, 15 - 30% slopes. USDA Soil Type 177, Watsonville Loam, 2 - 15% slopes. USDA Soil Type 179, Watsonville Loam, thick surface, 2-15% slopes. Soils report submitted, reviewed and accepted.
c. Fire Hazard	c. Low
d. Slopes	d. No development on slopes > 30% .
e. Env. Sen. Habitat	e. Biotic reports for on-site flora and fauna submitted, reviewed and accepted. Biotic mitigations required. Required open space of 9.2 acres includes: coast live oak woodland, willow riparian woodland, coyote brush scrub, non-native and all native grasslands, eucalyptus, Monterey Pine, and seasonal wetland habitats
f. Grading	f. Balanced grading on site: 4,800 cubic yards of fill, 4,800 cubic yards of cut on Parcel 037-251-21 ; and 5,200 cubic yards of fill, 5,200 cubic yards of cut on Parcel 037-251-22 .
g. Tree Removal	g. Three trees over 6", d.b.h. are proposed to be removed: two 24" oaks , and one walnut. Replacement at a 3:1 ratio required.
h. Scenic	h. Mapped as Scenic Resource. Not visible from the designated scenic corridor, Highway 1 .
i. Drainage	i. Within Zone 5 Drainage District. Increased drainage directed to Porter Gulch.
j. Traffic	j. Traffic Studies submitted, reviewed and accepted. Payment of TIA fees, and on- and off-site traffic mitigations required.
k. Roads	k. Two new private driveways and an emergency access drive to be constructed.
l. Parks	l. Park fees are required.
m. Sewer Availability	m. Sewer service is available for the proposed development. Sewer will be extended to serve all lots.
n. Water Availability	n. Municipal water is available from the Soquel Creek Water District, for both domestic use and fire protection. Water will be extended to serve all lots.
o. Archeology	o. Not located within a mapped Archeological Resource Area.

Applicant: Richard Beale for Atherton place Development LLC
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SERVICES INFORMATION

W/in Urban Services Line: X yes —no
 Water Supply: Soquel Creek Water District
 Sewage Disposal: Santa Cruz County Sanitation District
 Fire District: Central Fire Protection District
 Drainage District: Zone 5 Drainage District

ANALYSIS & DISCUSSION

Background

On March 12, 1998, the County Planning Department accepted this application for a Subdivision, Roadway/Roadside Exceptions, Riparian Exception for the drainage systems releasing to the riparian corridor, and a preliminary grading approval. In accordance with the California Environmental Quality Act (CEQA) and the County Environmental Review Guidelines, the project was considered by the County Environmental Coordinator on December 15, 1999 and March 21, 2000. Comments received on the initial study during the comment period are attached as Exhibit "E". A Negative Declaration with Mitigations was issued on April 13, 2000 (Exhibit "D"). "Prior to public hearing" action items outlined in the Initial Study continue to be received up to the date of the writing of this report.

Project Setting & Surroundings

The project site is approximately 17.8 acres in area and is in the Soquel Planning area. The site includes two parcels, APN 037-251-21 and -22. The subject properties are contiguous and total approximately 17.8 acres (Surveyor's Estimate). The parcels are located on the north and west sides of Cabrillo College Drive and the south side of Soquel Drive, just east of Atherton Drive, in the Soquel Planning Area. Both parcels are currently undeveloped. The most level areas of the parcels occur along their western frontages, and are vegetated primarily with meadow grasses and some mature trees. The "rear" (eastern edge) of the parcels slope down towards Porter Gulch Creek. The rear of both parcels is mapped as riparian woodland.

Surrounding development includes single- and multi-family residential, neighborhood parks, Cabrillo College, and the Twin Lakes Baptist Church.

Project Description

The applicant requests approval 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; (3) (2) new private streets: "Bowman Circle" and

Applicant: Richard Beale for Atherton place Development LLC
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 APN: 037-251-21 & -22

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"Bower Court" ~~and an emergency access drive~~; (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 4,800 cubic yards of fill, and grading on Parcel ~~037-251-22~~ consists of 5,200 cubic yards of cut and 5,200 cubic yards of fill. The rear (riparian woodland) of both parcels, an area totaling 9.2 acres, would be maintained as open space.

Construction phasing includes:

Phase I (Lots 2-5 and 28-39): (3) market-rate, semi-detached townhouses;
 (1) affordable, semi-detached townhouses;
 (10) market-rate, detached townhouses; and
 (2) affordable, detached townhouses.
 (16) Subtotal

Phase II (Lots 1, and 6-27): (6) market-rate, semi-detached townhouses;
 (2) affordable, semi-detached townhouses;
 (14) market-rate, detached townhouses; and
 (1) affordable, detached townhouses.
 (23) Subtotal

Phase III (Lots 40-58): (16) market-rate, detached townhouses; and
 (3) affordable, detached townhouses.
 (19) Subtotal

(58) TOTAL: (9) affordable & (49) market-rate

As part of the proposed subdivision, the applicant proposes construction of two new private streets, "Bowman Circle" and "Bowers Court", ~~and an emergency access drive connecting to Cabrillo College Drive~~. "Bowman Circle", "Bowers Court" and the Atherton Road frontage would be improved with curb, gutter and sidewalk. Off-site improvements include the sight distance improvements at the southwest corner of Atherton Drive and Soquel Drive and at the north side of Cabrillo College Drive at Willowbrook.

General Plan & Zoning Consistency

The project site has a General Plan land use designation of "R-UH" (Urban High Density Residential) and "O-U" (Urban Open Space). A map of General Plan designations is included in Attachment 1 to Exhibit "D". The "R-UH" designation allows a density range, 10.9 to 17.4 units per net developable acre, which corresponds to lot size requirements of 2,500 square feet to 4,000 square feet of net developable parcel area. The objective of this land use designation is to provide higher density

residential development in areas within the Urban Services Line that have a full range of urban services. Housing types appropriate to the urban **High** Density designation **may** include: small detached houses, "zero lot line" houses, duplexes, townhouses, garden apartments, mobile home parks, and congregate senior housing. The construction of townhouses at the proposed density is consistent with the requirements of the General Plan.

The objective of the Urban Open Space designation **is** to preserve areas which are not suited to development due to the presence of natural resources **or** physical development hazards. In the case of the proposed development, the "O-U" designation is intended to preserve the riparian corridor and **buffer** adjacent to Rodeo Creek and to locate development away **from slopes** in **excess** of 30%, which **occur** within the riparian corridor. All proposed building envelopes are located outside the riparian corridor and buffer, and no disturbance of that area **is** proposed, with the exception of minor excavation to **install** two drainage outlets into the riparian corridor, which also serves **as** the drainage facility for the area. This work requires approval of a Riparian Exception.

The project is in the "RM-3" Zone District (Multi-Family residential; 3,000 square feet of net developable land area per dwelling unit). A map of Zoning Designations is included as Attachment 2 to Exhibit "D." The proposed division of land complies with the zoning ordinance **as** the property is intended for residential use, the development meets the density standard for the "RM-3" Zone District, and the setbacks will be consistent with the minimum zoning ordinance requirements.

All of the proposed new dwellings meet development standards for the "RM-3" zone district. Each home meets the required setbacks of 15 feet from the front parcel boundary, 20 feet to the garage, 15 feet **from** the rear parcel boundary, 5 feet from the side parcel boundaries, and 15 feet from the side parcel boundaries along a street. The proposed dwellings cover less than 40% of the total developable area, and the proposed floor area ratio is less than 50%. The site plan and proposed architectural plans are included in Exhibit "A", Thatcher & Thompson.

Design Review Issues

Because the project is a land division located inside the Urban Services Line, it is subject to the provisions of County Code Chapter 13.11; Site, Architectural and Landscape Design Review. A primary purpose of the Design Review ordinance, as defined by General Plan Objective 8.1, is to achieve functional high quality development **through** design review policies that recognize the diverse characteristics of the area, maintain design creativity, and preserve and enhance the visual fabric of the community. Because the proposed project is an urban infill development, the applicant has submitted a perspective drawing and architectural floor plans and elevations.

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The applicant proposes to construct **(58)** homes on one common parcel, consisting of (12) **semi-**attached townhouses and **(46)** detached townhouses. Each homeowner would have **a** private open space easement, a minimum of 3,000 square feet, surrounding each residence. The **front** yard and common area landscaping would be maintained by the **HOA**. Residents would be **free** to landscape the fenced "rear yard" to their personal preference.

Architectural floor plans and elevations for the proposed homes are included in Exhibit "A." The site and landscape plan and a perspective drawing is also included in Exhibit "A." Homes are proposed to be two story **with** a variety of siding and accent treatments. Proposed materials include stucco, horizontal wood siding, and wood shingles. Roofing materials are proposed to be composition shingle of a neutral color. The size of the proposed homes ranges from 1,500 square feet to 2,100 square feet (exclusive of garages). **All** plans include design features such **as** porches and varied **roof** lines for additional visual interest.

To assure that the **final** construction is in conformance **with** the information submitted, a condition **of** approval **has** been included that requires **all** construction to be **as** presented in Exhibit "A." **An** additional condition of approval has been incorporated that prohibits changes in the placement of windows that face directly towards existing residential development without review and approval by the Planning Commission. Conditions of approval have been also been included to require the use **of** siding materials **as** presented, and to require that color combinations be interspersed throughout the development.

The proposed project has been designed to complement and harmonize with the existing and proposed land uses in the vicinity. It will be compatible with the physical design aspects, land use intensities, and dwelling unit densities **of** the neighborhood. Home designs are consistent **with** the existing, surrounding development.

Street trees are proposed that meet the requirements of the County's Urban Forestry Master Plan. The Landscape **Plans** specify a **mix** of 15-gallon size street trees, including Flowering Plum, Goldenrain Tree, Brisbane Box, and Strawberry Tree. Also proposed are nine, 5- and **15-gallon** live **oak** trees, to be located within in the open space along the east boundary of the overlook, which are replacement trees for the three trees to be removed for construction of the proposed improvements on the northern parcel. The Landscape Plans **also** includes a variety of shrubs and groundcover throughout the development, and **a** densely planted vegetative privacy screen along the western boundary of the southern parcel comprised of Strawberry Trees and tall-growing shrubs.

Roadway and Roadside Improvement Issues

Project frontage exists along Atherton Road, a public road. Atherton Road is **County** maintained. Proposed driveway access to (4) semi-detached units and **(12)** detached units would be directly off of Atherton Drive. Additionally, two new proposed roads would be accessed from Atherton Drive via ~~three~~ encroachment points: two for "Bowman Circle" and one for "Bowers Court". Exhibit "A" (Ifland, Sheet **2**, Typical Street Sections; and Sheets **5** and **6**, Street Improvement Plans) illustrates the proposed street improvement plans for "Bowman Circle" and "Bowers **Court**".

"Bowman Circle" is proposed **as** a 40-foot wide right-of-way with separated sidewalk (~~with~~ **3.5** foot planting strip) on both sides and a **24-foot** paved roadway. A right-of-way less than **56** feet in width requires a roadway exception. Additionally, a landscaping strip less than 4 feet in width requires a roadside exception.

"Bowers **Court**" is proposed as a 45-foot wide right-of-way with separated sidewalk (with **3.5** foot planting strip) on both sides for most lengths of the proposed roadway and a 24-foot paved roadway. The western side along the entrance to "Bowers Court" proposes no separated sidewalk in order to provide a vegetative screen between the proposed and existing residential development. A right-of-way less than 56 feet in width requires a roadway exception. Additionally, elimination of a segment of separated sidewalk and a landscaping strip less than 4 feet in width requires a roadside exception.

The applicant submitted **comparative** cross-sections which show the **full** roadway/roadside cross-section required by County Design Standards, and the roadway/roadside cross-section as proposed; and a letter from the project landscape architect demonstrating that the proposed, reduced width landscape strip ~~will~~ support the plantings specified.

Given that County Code Section **15.10.050(f)(4)** allows for exceptions to roadway and roadside improvements when the improvements would be located in an environmentally sensitive area as shown on file with the Planning Department, and because construction of **full** improvements would cause impacts which could not be mitigated if the project **is** developed to a density which approaches the zoning of "**RM-3**" on the lands outside of the open space area, the exception request is in conformance with County policies.

Affordable Housing Issues

Because the proposed development would create fifty-eight new dwellings, it is subject to the requirements of Chapter 17.10 relating to the provision of affordable housing. The applicant has proposed that the nine required affordable units to be interspersed within the development,

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specifically Units 1, 3, 6, 20, 30, 38, 40, 46, and 56. Units 1, 3 and 6 are semi-detached dwelling, and Units 20, 30, 38, 40, 46, and 56 are detached dwellings. The proposed homes and site plan meet the requirements of Chapter 17.10 relating to house and parcel size.

Environmental Review

The project was considered by the County Environmental Coordinator on December 15, 1999 and March 21, 2000. A Negative Declaration with Mitigations was issued on April 13, 2000 (see Exhibit "D"). Comments received during the comment period for the preliminary CEQA determination are attached as Exhibit "E", responses to the "prior to public hearing" action items from the Initial Study are attached as Exhibit "F", and a CEQA Mitigation Monitoring Matrix is attached as Exhibit "G".

Major Environmental Issues

Major environmental issues related to this project include biotic resources, noise and traffic. Reference Exhibit "D", Initial Study, for a full discussion of all environmental issues, and technical study attachments.

Biotic Resources:

Focused biotic studies were conducted on the subject properties. No special status plant species are present on site. Three types of birds of special concern, Loggerhead shrike, Yellow warbler, and various species of raptors, may be present on site. Pre-construction surveys are required to determine if any nests of these birds are present, and additional mitigation measures apply if nesting are found (Condition IV.J).

Additionally, approximately 9.2 acres of the 17.8 acre project area would be maintained as open space. This area includes coast live oak woodland, willow riparian woodland, coyote brush scrub, non-native and native grasslands, eucalyptus, Monterey Pine, and seasonal wetland habitats. Several project conditions serve to protect these habitats, including: measures to minimize disturbance of the riparian buffer and corridor during installation of the drainage infrastructure (Conditions III.D. 10.f and IV.K) and site grading (Condition III.D.2); 3:1 tree replacement for three, mature trees to be removed (Condition II.E.5.d); maintenance and enhancement of native grassland area (Condition II.F.7); and pre-treatment of drainage to be received by Porter Gulch (Condition III.D.9).

Noise:

The project site is located within the noise corridors of Soquel Drive to the north and Highway 1 to the south. The County General Plan Noise Element requires all new residential development to

conform to a noise exposure standard of 60 **dB** Ldn (day/night average noise level) for outdoor noise and **45 dB** Ldn for indoor noise. **Acoustical** measurements taken on site found elevated outdoor noise levels for the northerly-most parcels nearest Soquel Drive and southerly-most parcel nearest Highway 1. The project acoustical engineer recommended enclosed "outdoor" living spaces for these parcels. The project architect has added glazed greenhouse spaces on the rear of the impacted parcels. Interior noise level standards *can* be met by using industry-standard building materials.

Traffic:

Focused traffic studies were conducted for the proposed project. The traffic impact of the **(58)** townhouses is estimated to be the same **as** that of single-family dwellings, totaling approximately **580** vehicle trips per day. The County threshold for acceptable level of service is LOS D, with LOS A representing free-flow conditions and LOS **F** representing forced flow conditions. The results of the **traffic** study indicate that all intersections will operate at a level **of** service of LOS D or better **after** the project is developed.

Traffic-related mitigation for this project includes the payment of earmarked TIA fees at the rate of \$4,000.00 per unit to be used to **fund** construction **of** intersection improvements, including a traffic light at the intersection of Willowbrook/Soquel Drive, and **a fair share** contribution toward the future construction of a **left** hand turn lane from Willowbrook onto Cabrillo Drive (Conditions III.J & III.K). Additional required off-site traffic improvements include lengthening the sight distance at the southwest corner of Atherton Drive and Soquel Drive, and at the north side of Cabrillo College Drive at Willowbrook according to Exhibit "A", Island, Sheet SD-1 and Exhibit "F-3", Photosimulation (Condition III.D.10.g.iii); and construction of a bus stop on Soquel Drive at the Sesnon House. Lastly, the HOA for this project would also be responsible for **funding** the warrant study for the **left** hand turn lane **from** Willowbrook onto Cabrillo College Drive (Condition III.F.8).

Public Correspondence

Staff received a large volume of public correspondence in opposition to the project from surrounding neighbors. Public Correspondence is attached as Exhibit "H".

Conclusion

All required findings can be made to approve this application. The project is consistent with the **General** Plan in that the project constitutes a residential use. The proposed density **is** compatible with the existing density and intensity of land use in the surrounding area, and is consistent **with** the zoning designation **of** the subject parcel. **The** project, as conditioned, **will not** have a significant effect on the environment.

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

RECOMMENDATION

Staff recommends that the Commission take the **following** actions:

1. Certify the Mitigated Negative Declaration as complying with the requirements of the California Environmental **Quality** Act (Exhibit "D") **and**
2. Approve Application No. 98-0148, based on the **findings**, (Exhibit "B") **and** subject **to** the attached conditions (Exhibit "C").

EXHIBITS

- A. Project Plans:
 Tentative Map and Preliminary Improvement plans prepared by Ifland Engineers, Sheet 1-8 & SD-1 (Sheet 1, dated 6-2-99; Sheets 2, 3, 6 & 7, dated 2-14-01; Sheets 4 & 5, dated 5-9-00; Sheet 8 dated 5-9-00; **and SD-1 dated 2-5-01**);
 Architectural Plans prepared by Thatcher & Thompson, Sheets AO-A13, dated 12-7-00; **and**,
 Landscape Plans, prepared by Gregory Lewis, Sheets L1-L5 (Sheets L1 & L5, dated 2-2-01; Sheet L2, dated 1-25-00; **and Sheets L3 & L4, dated 12-18-00**),
 (Originals on file with the Planning Department)
- B. **Findings** (Subdivision, Roadway/Roadside Exception & Riparian Exception)
- C. Conditions of Approval
- D. Mitigated Negative Declaration and Initial **Study**
- E. Initial **Study Comments**
- F. Initial **Study Action** Item Responses:
 - F-1 Maintenance & Mowing Plan for Grassland, Lyons, 7-6-00.
 - F-2 Acoustical Plan Review **Letter**, ECS, 5-3-00.
 - F-3 Sight Distance Improvements - Photosimulations.
 - F-4 Biotic Drainage Review **Letter**, Lyons, 11-17-99.
 - F-5 Landscape Strip Plan **review Letter**, Lewis, 2-2-01.
 - F-6 Secondary Access Deletion, **Swift/Lambert**, 8-2-00.
 - F-7 Material & **Color Boards**, Thatcher & Thompson.
- G. CEQA Mitigation Monitoring Matrix
- H. Public Correspondence

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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: Jackie Young, AICP

Contact: **Joan Van** der Hoeven, AICP
Santa Cruz County Planning Department
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Report reviewed by: _____
Cathy Graves, AICP
Principal Planner, Current Planning

SUBDMSION FINDINGS

1. THAT THE PROPOSED SUBDIVISION MEETS ALL REQUIREMENTS OR CONDITIONS OF THE SUBDMSION **ORDINANCE** AND THE STATE SUBDMSION **MAP ACT**.

The proposed division of land meets all requirements and conditions of the County Subdivision Ordinance and the State Map Act in that the project meets all of the technical requirements of the Subdivision Ordinance and is consistent with the County General Plan and the Zoning Ordinance as set forth in the findings below.

2. **THAT** THE PROPOSED SUBDMSION, ITS DESIGN, AND ITS IMPROVEMENTS, **ARE CONSISTENT WITH THE GENERAL, PLAN, AND THE AREA GENERAL PLAN OR SPECIFIC PLAN, IF ANY.**

The proposed division of land, its design, and its improvements, are consistent with the General Plan. The project creates fifty-eight townhouses and is located in the Residential, **Urban High** Density General Plan designation which allows a density of one dwelling for each 2,500 to 4,000 square feet of net developable parcel area.

The project is consistent with the General Plan in that the full range of urban services is available and will be extended to the new parcels created, including municipal water and sewer service. The subdivision is on an existing street, which provides satisfactory access to the project. The proposed subdivision is similar to the pattern and density of surrounding development, is near commercial shopping facilities and recreational opportunities, and, with proposed road improvements, will have adequate and safe vehicular access.

The subdivision, as conditioned, will be consistent with the General Plan regarding infill development in that the proposed semi-attached and detached townhouses will be consistent with the pattern of the surrounding development, and the design of the proposed residences is consistent with the character of the surrounding neighborhood. The subdivision is not in a hazardous area, the preservation of open space protects the most environmentally sensitive portions the property, and the project is sited in an area designated for this type and density of development.

EXHIBIT B

3. THAT THE PROPOSED SUBDIVISION COMPLIES **WITH** ZONING ORDINANCE PROVISIONS AS TO **USES** OF LAND, LOT SIZES AND DIMENSIONS AND ANY OTHER APPLICABLE REGULATIONS.

The proposed division **of** land complies with the zoning ordinance provisions as to uses of land, lot sizes and dimensions and other applicable regulations in that the use **of** the property **will** be residential in nature, lot **sizes** meet the minimum dimensional standards for the "RM-3" Zone District where the project is located, and all setbacks will be consistent with the zoning standards. The proposed new dwellings will comply with the development standards in the zoning ordinance as they relate to setbacks, maximum parcel coverage, minimum site width and minimum site frontage.

4. THAT THE **SITE** OF **THE** PROPOSED SUBDIVISION **IS** PHYSICALLY SUITABLE FOR THE TYPE AND DENSITY OF DEVELOPMENT.

The site of the proposed subdivision is physically suitable for the type and density **of** development in that no challenging topography affects the portion **of** the site to be developed, the development area is adequately shaped to ensure efficiency in the conventional development **of** the property, and the proposed site plan offers a traditional arrangement and shape to insure development without the need for variances or site standard exceptions. No environmental constraints exist which would necessitate the area remain undeveloped. Developing the northern and southern parcels concurrently **will** allow for a more efficient use of land and **will** provide a better design than could be attained by developing the two properties separately.

5. **THAT** THE DESIGN OF THE PROPOSED SUBDIVISION OR TYPE OF **IMPROVEMENTS** WILL NOT CAUSE SUBSTANTIAL ENVIRONMENTAL DAMAGE NOR SUBSTANTIALLY AND AVOIDABLY **INJURE FISH** OR WILDLIFE OR THEIR HABITAT.

The design of the proposed division of land and its improvements **will** not cause environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. No mapped or observed sensitive habitat or threatened species impede development **of** the site as proposed.

The project received a mitigated Negative Declaration on April 13, 2000, pursuant to the California Environmental **Quality** Act and the County Environmental Review Guidelines (Exhibit "D"), and is conditioned to comply with all mitigation measures.

EXHIBIT B

6. THAT THE PROPOSED SUBDIVISION OR TYPE OF IMPROVEMENTS WILL NOT CAUSE SERIOUS PUBLIC HEALTH PROBLEMS.

The proposed division of land or its improvements will not cause serious public health problems in that municipal water and sewer are available to serve all proposed parcels, and these services will be extended as part of the improvement plan for the subdivision.

7. THAT THE DESIGN OF THE PROPOSED SUBDIVISION OR TYPE OF IMPROVEMENTS WILL NOT CONFLICT WITH EASEMENTS, ACQUIRED BY THE PUBLIC AT LARGE, FOR ACCESS THROUGH, OR USE OF PROPERTY WITHIN THE PROPOSED SUBDIVISION.

The design of the proposed division of land and its improvements will not conflict with public easements for access in that no easements are known to encumber the property. Access to all lots will be from existing public roads or from the proposed new private driveways, "Bowman Circle" and "Bowers Court". ~~The project also provides a secondary emergency access drive to Cabrillo College Drive to serve the southern portion of the development~~

8. THE DESIGN OF THE PROPOSED SUBDIVISION PROVIDES, TO THE EXTENT FEASIBLE, FOR FUTURE PASSIVE OR NATURAL HEATING OR COOLING OPPORTUNITIES.

The design of the proposed division of land provides to the fullest extent possible, the ability to use passive and natural heating and cooling in that the resulting parcels are oriented in a manner to take advantage of solar opportunities. All proposed residences are conventionally configured and meet the minimum setbacks as required by the zone district for the property and County code.

9. THE PROPOSED DEVELOPMENT PROJECT IS CONSISTENT WITH THE DESIGN STANDARDS AND GUIDELINES (SECTIONS 13.11.070 THROUGH 13.11.076) AND ANY OTHER APPLICABLE REQUIREMENTS OF THIS CHAPTER.

The proposed development is consistent with the Design Standards and Guidelines of the County Code in that the proposed development density complies with the standards for the "RM-3" zone district, and all development standards for the zone district will be met. Homes are proposed to be two-story with a variety of siding and accent treatments. Proposed materials include stucco, horizontal wood siding, and wood shingles. Roofing materials are proposed to be composition shingle and shall be a neutral color. The proposed paint palette is earthtones for the wall, trim and accent colors.

EXHIBIT B

The size of the proposed homes ranges from **1,500** square **feet** to 2,100 square **feet** (exclusive **of** the garage). All plans include design features such as porches and varied roof lines for additional visual interest.

The proposed project **has** been to designed complement and harmonize **with** the existing and proposed land uses in the vicinity. It will be compatible with the physical design aspects, land use intensities, and dwelling **unit** densities of the neighborhood. Home designs **are** consistent with existing development as well as with the designs for the proposed minor land division to the south.

Street trees are proposed that meet the requirements of the **County's** Urban Forestry Master Plan. The Landscape Plans specify a *mix* of 15-gallon size street trees, including Flowering Plum, Goldenrain Tree, Brisbane **Box**, and Strawberry Tree. **Also** proposed **are** nine, **5-** and **15-**gallon live oak trees, to be located within in the open space along the **east boundary** of the overlook, which **are** replacement trees for **the** three trees to be removed for construction of the proposed improvements on the northern parcel. The Landscape **Plans** also includes a variety of shrubs and groundcover throughout the development, and a densely planted vegetative privacy screen along the western boundary of the southern parcel comprised of Strawbeny Trees and tall-growing **shrubs**.

EXHIBIT B

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ROADWAY/ROADSIDE EXCEPTION FINDINGS

1. THE IMPROVEMENTS ARE NOT APPROPRIATE DUE TO THE CHARACTER OF DEVELOPMENT IN THE AREA AND THE LACK OF SUCH IMPROVEMENTS ON SURROUNDING DEVELOPED PROPERTY (COUNTY CODE SECTION 15.10.050.f.1).

Project frontage exists along Atherton Road, a public road. Atherton Road is County maintained. Proposed driveway access to (4) semi-detached units and (12) detached units would be directly off of Atherton Drive. Additionally, two new proposed roads would be accessed from Atherton Drive via three encroachment points: two for "Bowman Circle" and one for "Bowers Court".

Exhibit "A" (Ifland, Sheet 2, Typical Street Sections; and Sheets 5 and 6, Street Improvement Plans) illustrates the proposed street improvement plans for "Bowman Circle" and "Bowers Court".

"Bowman Circle" is proposed as a 40-foot wide right-of-way with separated sidewalk on both sides and a 24-foot paved roadway. A right-of-way less than 56 feet in width requires a roadway exception. Additionally, a landscaping strip less than 4 feet in width requires a roadside exception.

The applicant submitted comparative cross-sections which show the full roadway/roadside cross-section required by County Design Standards, and the roadway/roadside cross-section as proposed; and a letter from the project landscape architect demonstrating that the proposed, reduced width landscape strip will support the plantings specified.

"Bowers Court" is proposed as a 45-foot wide right-of-way with separated sidewalk on both sides for most lengths of the proposed roadway and a 24-foot paved roadway. The western side along the entrance to "Bowers Court" proposes no separated sidewalk in order to provide a vegetative screen between the proposed and existing residential development. A right-of-way less than 56 feet in width requires a roadway exception. Additionally, elimination of a segment of separated sidewalk and a landscaping strip less than 4 feet in width requires a roadside exception.

The applicant submitted comparative cross-sections which show the full roadway/roadside cross-section required by County Design Standards, and the roadway/roadside cross-section as proposed; and a letter from the project landscape architect demonstrating that the proposed, reduced width landscape strip will support the plantings specified.

EXHIBIT B

County Code Section 15.10.050(f)(4) allows for an exception to roadway and roadside improvement standards when the improvements would be located in an environmentally sensitive area as shown by information on file with the Planning Department, where construction of full improvements would cause impacts which could not be satisfactorily mitigated if the project is developed to a density which approaches the zoning of "RM-3" on the lands outside of the open space area.

~~An emergency access road is proposed as a 12-foot wide paved right-of-way which would connect "Bowers Court" with Cabrillo College Drive (See Attachment 2, Island Sheet 4 of 8). Beginning at "Bowers Court", this emergency access road would share access with the driveway which would serve Lot 53, continue along the west edge of Lot 53 past the proposed garage, and cross the Imperial Courts Townhomes parcel via an existing drive which connects into Cabrillo College Drive. A locked gate would be located at the western property line of Lot 53. Construction of this drive would require that the applicant secure an easement from the owner of the Imperial Courts Townhomes parcel. The applicant submitted proof of this access.~~ The emergency access road originally proposed was deleted due to difficulty in obtaining easement rights across the Imperial Courts Townhomes parcel. The owner's agent met with Jeanette Lambert of the Central Fire Protection District on site to review alternative solutions for emergency vehicle access on "Bowers Court". In lieu of providing secondary access, the owner and Central Fire agreed that widening the one-way paved roadway at the end of "Bowers Court" to 24 feet and prohibiting on-street parking on this road would provide adequate emergency access.

Improvement of existing right-of-ways include construction of new curb, gutter, and sidewalks along Atherton Drive by abandoning an existing section of the right-of-way (See Exhibit "A", Sheet 3, Island). ~~No improvements have been proposed along Soquel Drive, the northern project boundary.~~ Finally, a bus stop has been requested on Soquel Drive at the Sesnon House.

EXHIBIT B

RIPARIAN EXCEPTION FINDINGS

1. THAT THERE ARE SPECIAL CIRCUMSTANCES OR CONDITIONS AFFECTING THE PROPERTY.

The special circumstance that affects this property is the location of the adjacent riparian corridor which serves as the drainage collector for this area. The only development and disturbance proposed within the riparian corridor and biotic reserve is the installation and maintenance of a drainage system.

2. THAT THE EXCEPTION IS NECESSARY FOR THE PROPER DESIGN AND FUNCTION OF SOME PERMITTED OR EXISTING ACTIVITY ON THE PROPERTY.

This exception is necessary for the proper design and function of the drainage system.

3. THAT THE GRANTING OF THE EXCEPTION WILL NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO OTHER PROPERTY DOWNSTREAM OR IN THE AREA IN WHICH THE PROJECT IS LOCATED.

Granting this exception will not be detrimental to the public welfare or injurious to downstream properties as all drainage from the project will be diverted to the natural course utilized in the area, thereby directing run-off away from neighboring properties.

4. THAT THE GRANTING OF THE EXCEPTION IS IN ACCORDANCE WITH THE PURPOSE OF CHAPTER 16.30 OF THE COUNTY CODE, AND WITH THE OBJECTIVES OF THE GENERAL PLAN AND ELEMENTS THEREOF.

The granting of this exception is in accordance with the purpose of Chapter 16.30, to minimize impacts to the riparian corridor as placement of the storm drain within the riparian corridor and buffer has been sited avoid significant riparian vegetation. In addition, the exception is consistent with Chapter 16.30, in that a purpose of the Riparian Corridor Protection Ordinance is to protect these areas for the transportation and storage of floodwaters.

EXHIBIT B

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