



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

TOM BURNS, PLANNING DIRECTOR

October 28, 2004

AGENDA DATE: DECEMBER 8, 2004

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

SUBJECT: APPEAL OF COASTAL DEVELOPMENT PERMIT 03-0430
Coastal Development Permit for the construction of a second story addition of 900 square feet and a first floor addition of 88 square feet.

Members of the Commission:

The purpose of this letter is to address the appeal of the Conditions of Approval for Coastal Development Permit 03-0430 by the applicant and to address issues brought up in an attempted appeal by a neighbor to the California Coastal Commission. The appeal letter from the Applicant is included as Attachment 3 and the letter from the neighbor is included as Attachment 4.

BACKGROUND

The Zoning Administrator approved Coastal Development permit 03-0430 for the construction of a second story addition to a single-family dwelling at the October 1, 2004 public hearing with amendments to the recommended conditions of approval. Mr. Austin Comstock, the attorney representing the property owners, filed an appeal on October 5, 2004 contesting condition of approval I.D. to record an Affidavit to Combine Parcels 043-152-12 and -13.

In addition to the above-mentioned appeal, a neighbor on Cliff Drive, Mr. Les McCargo, attempted to file an appeal of the approval to the California Coastal Commission. The primary issues brought up in this appeal were impacts to neighbor's ocean views brought about by the addition and coastal access via a stairway on the property. The Coastal Commission did not accept the appeal as the project had already been appealed to the Planning Commission.

Existing conditions

The subject property is divided into two parcels; APN's 043-152-12 and 13 (parcels 12 and 13). Parcel 13 is a flag lot with a one bedroom single-family dwelling (formerly a guesthouse) on the bluff edge (624 Bay View Drive). Parcel 12 fronts Bay View Drive and contains an existing 1,715 square foot one-story single-family dwelling with an attached two-car garage that encroaches onto parcel 13 (622 Bay View Drive).

PARCEL MERGER/ NON-CONFORMING STRUCTURE ISSUES

The applicant specifically objects to Condition of Approval LD., which reads “sign, date, and record an Affidavit to Combine Parcels for APN’s 043-152-12 and 043-152-13, and return a copy of the Affidavit to the Planning Department.”

Creation of two separate lots

The subject property was originally one lot created by the Rio del Mar Country Club subdivision in 1936 (on file with the County Recorder’s Office in Map 26, Page 10). According to Assessor’s records, the existing single-family dwelling on parcel 12 was constructed in 1939 and the rear guesthouse constructed in 1941. In 1967, parcel 12 was created as a separate parcel by a Grant Deed from Santa CNZ Land Title Company to Muriel T. Schuetz, and two new Assessor’s Parcel Numbers were assigned (043-151-76 and 043-151-77, later changed to 043-152-12 and 043-151-13).

Planning staff approved a Residential Development Permit and Variance (4597-U) in 1973 to allow the construction of a living room to the former guesthouse, now a single-family dwelling on parcel 13 separate from the dwelling on parcel 12. In the findings for this permit, the Planner stated, “although used in conjunction with a larger single-family dwelling, this house is on a separate lot.” Both properties remained under common ownership. In the opinion of County Counsel, granting a development permit for the addition on parcel 13 effectively recognized that parcel as a separate, legal lot.

Building oermit granted for garage encroachment

In 1985, the property owner received approval for the construction of an addition to a garage attached to the dwelling on parcel 12 (the main dwelling). The plans submitted for this permit represent parcels 12 and 13 as one lot, and identify the single-family dwelling on parcel 13 as a “guesthouse.” The addition resulted in a two-car garage that straddles the property line between parcels 12 and 13, effectively blocking the corridor access to parcel 13. The County would not have approved the garage addition if the plans had been correct in showing the garage encroaching on another, separate parcel, absent approval of a Variance for the elimination of the required side yard setback.

Addition to a significantly non-conforming structure

Under the current configuration of two lots, the main dwelling on parcel 12 is a “significantly non-conforming dwelling” under the County Code as the attached garage encroaches over the property line onto parcel 13. To allow the construction of the proposed addition, specific findings are required for an addition to a significantly non-conforming structure in Section 13.10.265(j) of the County Code (Attachment 5). Three of these findings cannot be made, as follows:

Finding 1: That the existing structure and the conditions under which it would be operated and maintained is not detrimental to the health, safety or welfare of persons residing or working in the vicinity or the general public, or be materially injurious to

properties or improvements in the vicinity.

Finding 2: That the retention of the existing structure will not impede the achievement of the goals and objectives of the County General Plan, or of any Specific Plan which has been adopted for the area.

Finding 3: That the retention of the existing structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of the neighborhood.

The first finding cannot be made, as the garage, deck, and hot tub encroach over the property line and block access for fire trucks and emergency equipment to the dwelling on parcel 13. The impediment of access potentially compromises the health and safety of residents.

Finding 2 cannot be made, as the location of the attached garage, decking, and hot tub fails to comply with General Plan Policies 8.2.4 and 8.2.5 (Attachment 6) regarding site and circulation design. General Plan Policy 8.2.4 states that parcels should be encouraged to be combined to allow for an efficient layout of building envelopes and infrastructure (including driveways and parking), while General Plan Policy 8.2.5 encourages circulation design that is “safe, convenient, readily understandable, **and coordinated with development on surrounding properties.**” The location of the garage, decking, and hot tub impedes vehicular circulation to the dwelling on parcel 13, and are therefore not coordinated with the development on the rear parcel.

Finding 3 cannot be made, as retaining the garage, decking, and hot tub at their present locations conflict with requirements for access to the rear dwelling, and therefore cannot be considered to be complementary to the existing land uses in the vicinity (the rear unit) and is not compatible with the physical design aspects of the neighborhood. If the plans for the original building permit for the garage addition had reflected the presence of two separate lots, the Planning Department would not have granted approval even though both were under common ownership, absent approval of a variance.

To rectify the existing non-conforming situation, the applicant has the following options:

- 1) Combine parcels 12 and 13 as recommended per the approved conditions.
- 2) Demolish the portion of the garage, decking, and hot tub that encroaches over the property line and obtain a Variance for the remaining portion of the garage within front yard and side yard setbacks if these setbacks cannot be maintained.
- 3) Completely demolish the garage, encroaching decking, and hot tub, and re-construct the garage in a location that conforms to all setbacks and site standards.

Option 2 requires a Coastal Development Permit for the demolition of the garage (or portion thereof) and decking in addition to the Variance. Option 3 requires a Coastal Development Permit for the demolition of the garage and decking and for the construction of a new garage at a conforming location.

NEIGHBORS CONCERNS

Neighbors present at the October 1, 2004 Zoning Administrator hearing cited numerous concerns about the proposed addition. Their primary concerns were preserving the architectural integrity of the existing residence, impacts to private views and sunlight, and coastal access.

Architectural Integrity

Staff evaluated the project for compliance with Sections 13.11 (the County's Design Review Ordinance) and 13.20.130 (Coastal Zone Design Criteria) of the County Code and determined the addition to be compatible with the neighborhood. Recommended changes to the design were intended to harmonize the proposed addition with the existing dwelling, not to address compatibility with surrounding structures. The neighborhood contains an eclectic mix of architectural styles, and most homes in the vicinity have *two* story elements, if not full second stories.

The existing residence is not a historic resource, as it does not meet the criteria set forth in Section 16.42.080(c) of the County Code (Historic Resource designation criteria). Construction of the garage and modifications to the rear of the dwelling have already compromised the original architectural character of the dwelling.

Impacts to private views and sunlight

Loss of access to ocean views and sunlight for neighboring residences was also a concern expressed by neighbors. Though Section 13.11.072 of the County Code encourages development that minimizes impacts to private views, it does not require the County to protect private views. The second story will be perpendicular to Bay View Drive, preserving more private views than a second story addition that is parallel to Bay View Drive. Shadows from the proposed addition will only affect the neighboring property to the northwest, with the largest shadows cast during the early morning hours. Access to sunlight will be maintained to properties on the opposite side of Bay View Drive, as all setbacks will be met.

Coastal Access

A stairway down the bluff to Beach Drive exists on parcel 13, which neighbors' claim is a public access point due to prescriptive rights. However, access is blocked by a locked gate and is only permitted for use by neighbors and friends of the owner through a gentleman's agreement, not the neighborhood as a whole. Public prescriptive rights over these parcels have not been legally established. The construction of a minor addition to an existing single-family dwelling does not constitute a nexus to require the development of a public access point.

The addition will not be visible from the beach as it will be located about 100 feet from the edge of the coastal bluff.

RECOMMENDATION

Based on staffs research and analysis, staff recommends the following course of action:

- A. DENY the appeal of 03-0430 based on the findings for the construction of an addition to a significantly non-conforming dwelling in Section 13.10.265(j) of the County Code and continue to require both parcels to be combined as outlined in Condition of Approval I.D.

Sincerely,



David Keyon
Project Planner
Development Review

Reviewed By:



Cathy Graves
Principal Planner
Development Review

Attachments:

1. Findings for approval of additions to significantly non-conforming structures.
2. Staff Report to the Zoning Administrator for the 10/1/04 hearing.
3. Letter of Appeal from Austin Comstock, dated October 5, 2004
4. Attempted letter of appeal from Les McCargo to the California Coastal Commission, dated October 12, 2004.
5. Section 13.10.265 of the County Code (Nonconforming Structures)
6. General Plan Policies 8.2.4 and 8.2.5

Addition to Significantly Non-conforming Structure Findings

1. That the existing structure and the conditions under which it would be operated and maintained is not detrimental to the health, safety or welfare of persons residing or working in the vicinity or the general public, or be materially injurious to properties or improvements in the vicinity.

This finding cannot be made unless the parcels are combined, as the garage, deck, and hot tub encroach over the property line and block access for fire trucks and emergency equipment to the dwelling on parcel 13. The impediment of access potentially compromises the health and safety of residents of the house on parcel 13.

2. That the retention of the existing structure will not impede the achievement of the goals and objectives of the County General Plan, or of any Specific Plan which has been adopted for the area.

This finding cannot be made unless the parcels are combined, as retention of the existing attached garage, decks, and hot tub fails to comply with General Plan Policies 8.2.4 and 8.2.5 (Attachment 6) regarding site and circulation design. General Plan Policy 8.2.4 encourages parcels to be combined to allow for an efficient layout of building envelopes and infrastructure (including driveways and parking), while General Plan Policy 8.2.5 encourages circulation design that is “ safe, convenient, readily understandable, and coordinated with development on surrounding properties.” The location of the garage, decking, and hot tub is not coordinated with development on the rear parcel, as they impede vehicular access to the rear dwelling.

3. That the retention of the existing structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of the neighborhood.

This finding cannot be made unless the parcels are combined, as the retention of the existing attached garage, decks, and hot tub conflicts with requirements for access to the rear dwelling. Due to this impediment to access, the existing structures are not complementary to the existing land uses in the vicinity and are not compatible with the physical design aspects of the neighborhood (specifically the existing unit on parcel 13). If the plans for the original building permit for the garage had reflected the presence of two separate lots, the Planning Department would not have granted approval even though both were under common ownership, absent approval of a variance.

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APN's 043-152-12 and 043-152-13
Owner: Elmer and Barbara McNece

4. That the proposed project will not increase the nonconforming dimensions of the structure unless a Variance Approval is obtained.

This finding *can* be made, in that the proposed second story addition will not increase any of the existing non-conforming portions of the structure. The addition will meet all applicable site standards of **the** R-1-6 zone district, including Floor Area Ratio and lot coverage.



Staff Report to the Zoning Administrator

Application Number: **03-0430**

Applicant: Matson-Britton Architects

Agenda Date: September 17, 2004
(Continued to October 1, 2004)

Owner: Barbara and Elmer McNece

Agenda Item #: 11 (Item 2 on 1011104)

APN: 043-152-12, -13

Time: After 10:00 a.m.

Project Description: Proposal to remodel and construct a second story addition to an existing single-family dwelling, resulting in the addition of two bedrooms and one family room. Requires a Coastal Development Permit and a Residential Development Permit to construct an addition greater than 800 sq. ft. to a non-conforming structure.

Location: Property located on the bluff side of Bayview Drive about 500 feet southeast of the intersection of Bayview Drive and Toledo Dr. (622 Bay View Drive).

Supervisory District: 2nd District (District Supervisor: Ellen Pine)

Permits Required: Coastal Development Permit, Residential Development Permit to construct an addition greater than 800 sq. ft. to a non-conforming structure.

Staff Recommendation:

- Approval of Application 03-0430, based on the attached findings and conditions.
- Certification that the proposal is exempt from ~~further~~ Environmental Review under the California Environmental Quality Act.

Exhibits

- | | |
|---|------------------------------|
| A. Project plans. | E. Assessor's parcel map |
| B. Findings | F. Zoning map |
| C. Conditions | G. Urban Designer's Comments |
| D. Categorical Exemption (CEQA determination) | H. Comments & Correspondence |

Parcel Information

Parcel Size: About 24,074 sq. ft. (Approx. 7,434 sq. ft. for APN 043-152-12 and 16,640 sq. ft. for APN 043-152-13)

Existing Land Use - Parcel: Once single-family dwelling and one second unit

County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060

Existing Land Use - Surrounding: Single-family dwellings
Project Access: Bayview Drive, a County Road
Planning Area: Aptos
Land Use Designation: R-UL (Urban Low Residential)
Zone District: R-1-6 (Single-family residential, 6,000 sq. ft. minimum)
Coastal Zone: ☒ Inside ☐ Outside
Appealable to Calif Coastal Comm. ☒ Yes ☐ No

Environmental Information

Geologic Hazards: Coastal bluff
Soils: Elkhorn Sandy Loam (index no. 133)
Fire Hazard: Not a mapped constraint
Slopes: 2% to 50%+
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: No grading proposed
Tree Removal: No trees proposed to be removed
Scenic: Scenic resource at top of coastal bluff.
Drainage: Existing drainage adequate
Traffic: No significant increase
Roads: Existing roads adequate
Parks: Existing park facilities adequate
Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: ☒ Inside ☐ Outside
Water Supply: Soquel Creek Water District
Sewage Disposal: Santa Cruz County Sanitation District
Fire District: Aptos/La Selva Fire Protection District
Drainage District: Zone 6

History

According to assessor's records; the existing single-family dwelling on parcel 043-152-12 (parcel -12) was constructed in 1939, and the second unit on parcel 043-152-13 (parcel -13) constructed in 1941. In 1973, Planning granted a variance to allow the construction of a living room in the second unit and established parcel -13 as a separate lot from parcel -12 (Development Permit 4597-U). However, in 1985 a building permit was issued for a garage addition over the property line for both parcels, which were represented on the site plan as one parcel (building permit 7739). The construction of this garage effectively eliminated access to parcel -13. Current deeds describe both properties as one parcel, so for the purposes of this report parcels -12 and -13 will be considered one lot.

Project Setting

The project site is located within a neighborhood of both one and two-story single-family dwellings of varying sizes; with the largest homes on the bluff side of Bayview Drive (in the range of 2,000 square feet to 4,000 square feet in the vicinity).

Zoning & Site Standards

The proposed addition, as conditioned, will comply with all site standards (setbacks, height, lot coverage, and floor area ratio) of the R-1-6 zone district. The existing dwelling is non-conforming with regards to the northern side yard setback due to the location of a walk-in closet within 2 feet of the property line. The addition will not increase the existing non-conformity. The following table details compliance with all applicable site standards assuming both parcels -12 and -13 are one lot as described in the current deed and represented on the plans for building permit 7739.

Site Standards	R-1-6 Zone District Standard	Proposed (setbacks to addition)
Front yard setback	20'	30'
Side yard setbacks	5' & 8'	8' to north, about 60' to the south
Rear yard setback	15'	About 100' to coastal bluff
Maximum height	28'	26' 4"
Maximum % lot coverage	30%	About 14%
Maximum % Floor Area Ratio	50%	About 17%

Figure 1: Site Standards Chart

The addition will maintain the residential use of the site, and will therefore be compatible with the purpose of the R-1-6 zone district in that the use of the site will remain one single-family dwelling.

Local Coastal Program Consistency

As conditioned, the proposed addition complies with the County's certified General Plan/Local Coastal Program, in that the addition is residential in nature and does not increase the density of the site beyond that allowed in the R-UL (Urban Low Residential) General Plan/Local Coastal Program Land Use Designation and the structure will be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood upon completion of Conditions of Approval II.5 and II.6. These conditions ensure the design will be more compatible with "Old California" style of the existing single-family dwelling. As conditioned, the addition will be compatible with the existing range of architectural styles in the neighborhood.

The project site is located between the shoreline and the first public road above a coastal bluff, but will not interfere with public access to the beach as the property is not identified as a priority acquisition site in the County's Local Coastal Program. The addition will not impact public views from the beach it is about 100 feet from the edge of the coastal bluff.

Design Review

This project is subject to Section 13.20.130 because it is in the Coastal Zone, and it is also subject to Section 13.11 because it is located on coastal bluff (a "sensitive site" by definition in the ordinance – Section 13.11.030u). The County's Urban Designer visited the site and reviewed the project plans and found the design of the addition is out of character with the existing residence (See Exhibit G, Urban Designer's Comments). The addition has a larger scale, different architectural motif and does not repeat any features of the existing house except for the stucco siding and tile roofing.

The front elevation is the façade that most of the neighborhood will see and contains features so different from the original residence, that they make the combination of old and new discordant. The applicant may intend to remodel or rebuild the existing residence to match the existing, in which case it would be critical to present the whole project, while only approving this portion under the current application.

As proposed however, the Urban Designer does not support an addition that does not fully address the existing residence. He suggests three possibilities for improving the compatibility of the scale and character of this addition in relation to the front facade:

- a. Lower the floor to ceiling height of at least the lower floor.
- b. Remove the shutters from the elevation.
- c. Remove the arched top from the window.

These recommendations have been added as Conditions of Approval. The project's architect may want to present other methods to achieve the same result.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- **APPROVAL** of Application Number **03-0430**, based on the attached findings and conditions.
 - a Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

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.

Application #: 03-0430
APN: 043-152-12, -13
Owner: Barbara and Elmer McNece

Prge 5

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

Report Prepared By: David Keyon
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-3561
E-mail: david.keyon@co.santa-cruz.ca.us

Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts, other than the Special Use (SU) district, listed in section 13.10.170(d) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the addition is residential in nature and therefore a principal permitted use within the R-1-6 zone district (subject to approval of a Coastal Development Permit at this location) and consistent with the R-UL (Urban Low Residential) General Plan/Local Coastal Program Land Use designation.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

No easements or special development restrictions (beyond R-1-6 site standards and setbacks from the coastal bluff) apply to this project.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to section 13.20.130 et seq.

This finding can be made. The proposed addition will complement and harmonize with the existing residence and will meet all applicable provisions of Chapter 13.20.130 of the County Code.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the General Plan and Local Coastal Program land use plan, specifically Chapter 2: figure 2.5 and Chapter 7, and, as to any development between and nearest public road and the sea or *the* shoreline of any body of water located within the coastal zone, such development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act commencing with section 30200.

This finding can be made, in that no public access points exist across the property and a public access point already exists in the neighborhood about 900 feet southeast of the project site at the end of Bayview Drive. Consequently, the single-family dwelling will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

5. That the proposed development is in conformity with the certified local coastal program.

This finding can be made, in that the addition is sited and as conditioned will be visually compatible, in scale with, and integrated with the existing dwelling and the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the R-1-6 zone district of the area, as well as the General Plan and Local Coastal Program land use designation.

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that addition will be required to meet all applicable building, electrical, plumbing, and energy codes at the time of building permit application to ensure structural safety. The location of the addition will shadow the property to the immediate north, but the extent of the shadow will not be materially injurious as access to light and air will continue to be maintained as the addition is forward of the existing dwelling on the affected property.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed addition as designed and conditioned meets all site standards of the R-1-6 zone district (see figure 1), is a residential use consistent with the uses allowed in the R-1-6 zone district, and meets all applicable Coastal regulations if all conditions of approval are met.

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made, in that the addition conforms to the use and density requirements specified for the Urban Low Residential (R-UL) land use designation in the County General Plan.

The proposed addition will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties as all applicable site standards will be met and most of the addition will be located forward of the existing single-family dwelling on the property to the immediate north of the project site, allowing adequate solar exposure to be maintained (Policy 8.1.3, Residential Site and Development Standards Ordinance).

As conditioned, the proposed addition will not be improperly proportioned to the parcel size or the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the addition will comply with the site standards for the R-1-6 zone district (including setbacks, floor area ratio, height, and number of stories) and will not increase the existing non-conforming side yard setback.

A specific plan has not been adopted for this portion of Aptos.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that adequate utility services exist for an addition of the size proposed and the trips generated by the one additional bedroom will be minimal and easily absorbed into the existing street system.

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made upon implementation conditions of approval 11.5 and 11.6, which will make the addition in scale with and architecturally compatible with the existing dwelling, and therefore compatible with the architectural character of the surrounding neighborhood. No increase in residential density is proposed.

6. 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 addition does not require Design Review under Chapter 13.11. See Coastal Development Permit Finding 3 for specific design review findings under Chapter 13.20.130 of the County Code.

Conditions of Approval

Exhibit A: Project plans, seven sheets, sheets 1 through 5 drawn by Cove Britton and dated March 20, 2004, sheet 6 drawn by K.A.P. and dated February 10, 2003, and sheet 7 drawn by Matthew D. Ward and dated February 25, 2004.

- I. This permit authorizes the construction of a second story addition *to* an existing single-family dwelling and an interior remodel on the first floor. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 - C. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County road right-of-way for the proposed driveway.
 - D. Sign, date, and record an Affidavit to Combine Parcels for APN's 043-152-12 and APN 043-152-13, and return a copy of the Affidavit to the Planning Department.
 - E. Provide evidence that a building permit has been issued for the hot tub and decks greater than 18" in height. If no building permits have been obtained, these shall be included in the building permit for the addition.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
 - B. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include the following additional information:
 1. Identify finish of exterior materials and color of roof covering for Planning Department approval. Any color boards must be in 8.5" x 11" format.
 2. A drainage plan showing existing and proposed area drainage (location of ravines: drainage courses and pathways of off-site drainage), device construction details, including retaining wall back drains, culverts, storm drains, energy dissipators, etc., and the total amount of new impervious surface.
 3. An erosion control plan which indicates the disposition of any proposed

excavated material and notes showing how exposed areas will be maintained during the rainy season (straw/mulch, etc.).

4. Details showing compliance with fire department requirements.
 5. Submit revised elevations for approval by the Planning Department showing:
 - a. Changes to the roof pitch of the addition to match the existing dwelling.
 - C. Meet all requirements of and pay Zone 6 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increased impervious area.
 - D. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
 - E. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
 - F. Pay the current fees for Parks and Child Care mitigation for two bedrooms. Currently, these fees are, respectively, \$1,000 and \$109 per bedroom (note: are due to increase at the end of August 2004).
 - G. Pay the current fees for Roadside and Transportation improvements for two bedrooms. Currently, these fees are, respectively, \$667 and \$667 per bedroom (note: fees are due to increase at the end of August 2004).
 - H. Provide required off-street parking for four cars (three for the main dwelling and one for the second unit). Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
 - I. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the

satisfaction of the County Building Official.

- C. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.


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

Please note: This permit expires **two** years **from** the effective date unless you obtain the required permits and commence construction.

Approval Date: 10/1/04

Effective Date: 10/15/04

Expiration Date: 10/15/06


Don Bussey
Deputy Zoning Administrator


David Keyon
Project Planner

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

The Santa **Cruz** County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 03-0430

Assessor Parcel Number: 043-152-12, -13

Project Location: 622 Bay View Drive

Project Description: Minor addition to an existing dwelling

Person or Agency Proposing Project: **Cove Britton**

Contact Phone Number: (831) 425-0544

- A. ☐ The proposed activity is not a project under CEQ.4 Guidelines Section 15378.
B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060(c).
C. ☐ Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment.
D. ☐ Statutory Exemption other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

- E. ☒ Categorical Exemption

Specify type: Existing Structures Exemption (Section 15301)

F. Reasons **why** the project is exempt:

Construction of an addition of less than 2,500 square feet or 50% of the total floor area of existing structure

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


David Keyon, Project Planner

Date: 10/1/04

NE. 1/4 SEC. 19, & N.W. 1/4 SEC. 20, T.11S., R.1E. M.D.B. & M.

Tax Area Code
69-048 69-273

43-15

54PM7
4/2/96

RIO DEL MAR COUNTRY CLUB
SUB. NO. 10
26MBIO 12/18/36

87RS1
5/21/93

BAY VIEW

~~69-273~~
~~69-048~~

27PM25
10/13/17

20

MONTEREY

34

BAY

48MB27
10/20/67

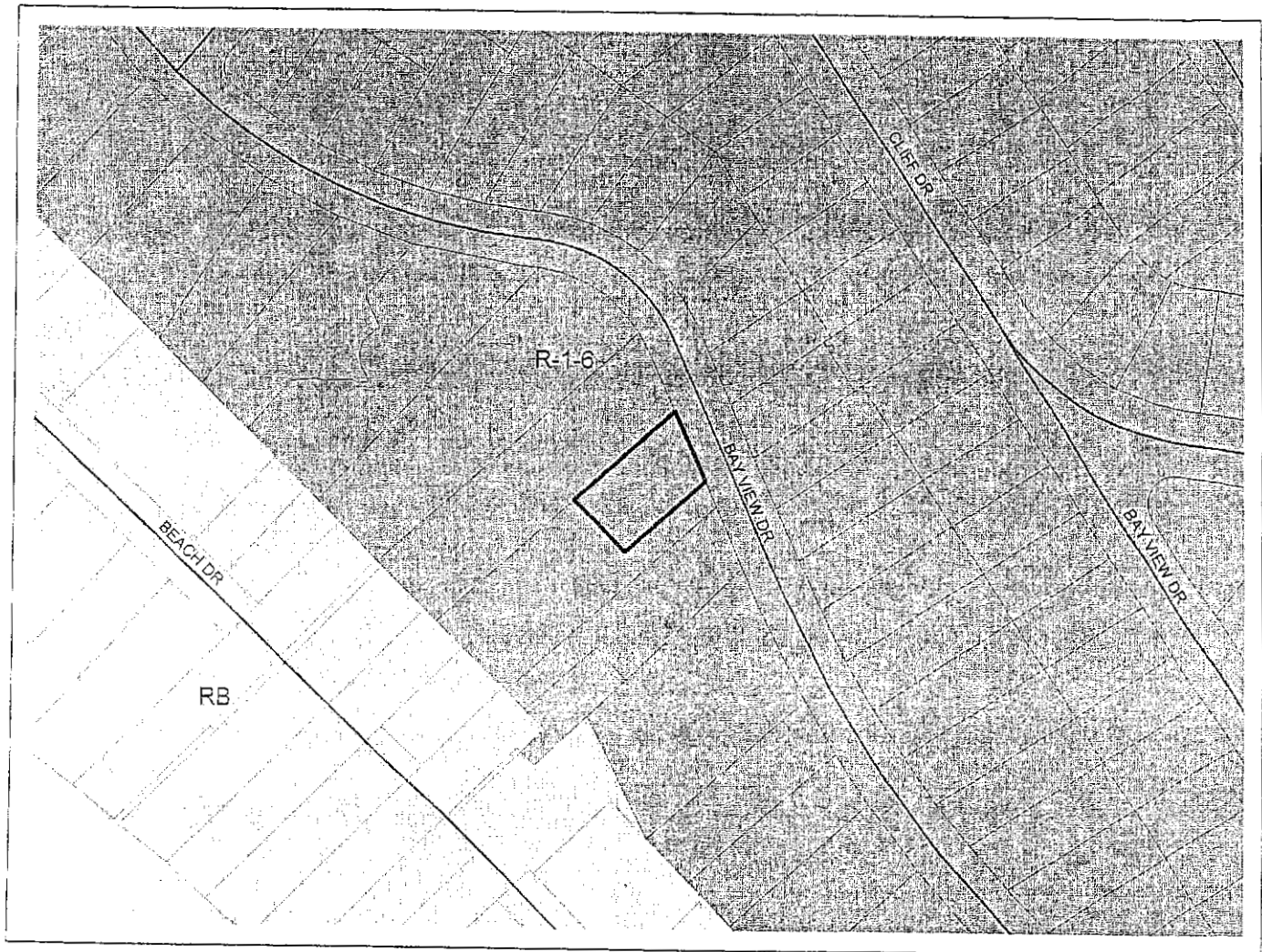
48MB27
10/20/67

7PM56
8/17/72

Assessor's Map No. 43-15
County of Santa Cruz, Calif.
Feb. 1999






Note - Assessor's Parcel & Block
Numbers Shown in Circles.

Zoning Map



500 500 Feet

Legend

-  APN 043-152-12
-  Parcel boundaries
-  Streets
-  RB
-  R-1-X



Map created by Santa Cruz County
Planning Department:
October 2003

INTEROFFICE MEMO

APPLICATION NO : 03-0430 (2nd routing)

Date: August 27, 2004

To: David Keyon, Project Planner

From: Larry Kasparowitz, Urban Designer

Re: Design Review for an addition to a single family residence at 622 Bayview Drive. Aptos (Eimer and Barbara Mc Niece / owner, Cove Britton / applicant)

GENERAL PLAN / ZONING CODE ISSUES**Design Review Authority**

13.20.130 The Coastal Zone Design Criteria are applicable to any development requiring a Coastal Zone Approval.

Design Review Standards

13.20.130 Design criteria for coastal zone developments

Evaluation Criteria	Meets criteria In code (✓)	Does not meet criteria (✓)	Urban Designer's Evaluation
Visual Compatibility			
All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas		✓	<i>The scale of this addition is out of character with the existing residence, making the combination not compatible with the neighborhood</i>

Grading, earth moving, and removal of major vegetation shall be minimized.			N/A
Developers shall be encouraged to maintain all mature trees over 6 inches in diameter except where circumstances require their removal, such as obstruction of the building nuisance species.			N/A
Special landscape features (rock outcroppings, prominent natural landforms, tree groupings) shall be retained.			N/A
Ridgeline Development			
Structures located near ridges shall be sited and designed not to project above the ridgeline or tree canopy at the ridgeline			N/A
permitted			N/A
unreviewed			
be compatible with surrounding vegetation and shall be suitable to the climate, soil, and ecological characteristics of the area			N/A
			N/A

Screening and landscaping suitable to the site shall be used to soften the visual impact of development in the viewshed			N/A
Building design			
Structures shall be designed to fit the topography of the site with minimal construction			N/A
			N/A
Natural materials and colors which blend with the vegetative cover of the site shall be used, or if the structure is located in an existing cluster of buildings, colors and materials shall repeat or harmonize with those in the cluster			N/A
The visual impact of large agricultural structures shall be minimized by locating the structure within or near an existing group of buildings			N/A
The visual impact of large agricultural structures shall be minimized by using materials and colors which blend with the building cluster or the natural vegetative cover of the site (except for greenhouses).			N/A
The visual impact of large agricultural structures shall be minimized by using landscaping to screen or soften the appearance of the structure			N/A
Restoration			
Feasible elimination or mitigation of unsightly, visually disruptive or degrading elements such as junk heaps, unnatural obstructions, grading scars, or structures incompatible with the area shall be included in site development			N/A
The requirement for restoration of visually blighted areas shall be in scale with the size of the proposed project			N/A
Signs			
Materials, scale, location and orientation of signs shall harmonize with surrounding elements			N/A

Directly lighted, brightly colored, rotating, reflective, blinking, flashing or moving signs are prohibited			NIA
Illumination of signs shall be permitted only for state and county directional and informational signs, except in designated commercial and visitor serving zone districts			NIA
In the Highway 1 viewshed, except within the Davenport commercial area, only CALTRANS standard signs and identification signs, shall be permitted to be visible from the highway. These signs shall be of natural unobtrusive materials and colors			NIA
Beach Viewsheds			
Blufftop development and landscaping (e.g., decks, patios, structures, trees, shrubs, etc.) in rural areas shall be set back from the bluff edge a sufficient distance to be out of sight from the shoreline, or if infeasible, not visually intrusive			N/A
materials are preferred			

Design Review Authority**13.11.040** Projects requiring design review.

- (a) Single home construction, and associated additions involving 500 square feet or more, within coastal special communities and sensitive sites as defined in this Chapter.

13.11.030 Definitions

- (u) "Sensitive Site" shall mean any property located adjacent to a scenic road or within the viewshed of a scenic road as recognized in the General Plan; **or located on a coastal bluff**, or on a ridgeline.

Design Review Standards**13.11.072** Site design.

Evaluation Criteria	Meets criteria In code (✓)	Does not meet criteria (✓)	Urban Designer's Evaluation
Compatible Site Design			
Location and type of access to the site	✓		
Building siting in terms of its location and orientation	✓		
Building bulk, massing and scale		✓	See comments below.
Parking location and layout	✓		
Relationship to natural site features and environmental influences	✓		
Landscaping	✓		
Streetscape relationship			N/A
Street design and transit facilities structures		✓	N/A See comments below.
Natural Site Amenities and Features			
Relate to surrounding topography	✓		
Retention of natural amenities	✓		
Siting and orientation which takes advantage of natural amenities			
Ridgeline protection			N/A
Views			
Protection of public viewshed	✓		
Minimize impact on private views			
Safe and Functional Circulation			
Accessible to the disabled, pedestrians, bicycles and vehicles			N/A

Solar Design and Access			
Reasonable protection for adjacent properties	✓		
Reasonable protection for currently occupied buildings using a solar energy system	✓		
Noise			
Reasonable protection for adjacent properties	✓		

	Meets criteria	Does not meet	Urban Designer's
Compatible Building Design			
Massing of building form	✓		
Buildings silhouette	✓		
Spacing between buildings	✓		
Street face setbacks	✓		
Character of architecture		✓	<i>Many of the elements of this design, i.e. windows,</i>
Building scale		✓	<i>The addition of rooms</i>
Proportion and composition of projections and recesses, doors and windows, and other features		✓	<i>In relation to the misting residence there is little attempt to compose the</i>
levels		✓	
interest			

Building Articulation			
Variation in wall plane, roof line, detailing, materials and siting	✓		
Solar Design			
Building design provides solar access that is reasonably protected for adjacent properties	✓		
Building walls and major window areas are oriented for passive solar and natural lighting			N/A

-
- *I recommend that the architect redesign the front elevation (as a minimum) to be more compatible with the existing residence.*

David Keyon

From: Liz Karzag [ramonaliz@sbcglobal.net]
Sent: Friday, October 01, 2004 8:45 AM
To: David Keyon
Subject: Public Hearing 622 & 624 Bay View Drive

Dear Mr. Keyon,

We have reviewed the Coastal Commission Act and some subsequent cases concerning our California coastal bluff zone.

We encourage the Zonign Administrator to uphold neighborhood integrity and public interest for a safe, natural environment for the beach-going public.

Any second story additions to houses already on the bluff do the following:

- obstruct the sky view and bluff for the public using the beaches
- erode and obscure any natural habitat of indigenous species (mostly the vegetation)
- cause social consternation and neighborhood structural anomalies
- further erode the delicate soil and rock base of the bluff areas

Our neighborhood objected to the Moms building on Bay View which has really offended the neighbors, looks like a hunk of cement from the beach and overall blocks more space from the viewing public on the beach per lot size than anyother house. This icomment is our visual appraisal from having walked the beach hundreds of times and from walking in front of that house.

We request that the structure noted for remodeling be "flagged or netted" for the public and neighbors to view.

We also suggest a single story structure be added on, since the property in question has much land to build upon.

We want to be sure that another Moms mistake does not take place.

Thank-you for this opportunity to respond to the notice.

Sincerely,
Elizabeth A. Karzag

03-0.30

Karen Pursell

From: PLN AgendaMail
Sent: Tuesday, September 14, 2004 7 10 PM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Zoning**Meeting Date :** 9/17/2004**Item Number :** 11.00**Name :** david guy**Email :** Not Supplied

Address : 629 bayview dr (SENT TO
aptos ca 95003 327 MARTIN

Phone : 831 6882479**Comments :**

i want to go on record to strongly oppose, as do four of my neighbors who will all be attending the hearing, the proposed addition. the consequences will dramatically affect the view and quality of life on the street. we are united to take whatever legal actions neccessary.
sincerely david guy

NOTICES SENT OUT?

Karen Pursell

From: PLN AgendaMail
Sent: Thursday, September 16, 2004 11:51 PM
To: PLN AgendaMail
Subject: Agenda Comments

Meeting Type : Zoning

Meeting Date : 9/17/2004

Item Number : 11.00

Name : Thomas Zia

Email : tomzia@aol.com

Address : 623 Bayview Dr
Aptos 95003

Phone : 408.390.5055

Comments :

To: Zoning Commission
RE: 03-0430 622 & 624 BAYVIEW DRIVE,
APN(S): 043-152-12&-13

I am opposed to the Commission approving the above application for the above reasons:

1. The two story addition would further block view and sunlight from all the neighbors accross the street on Bayview & Cliff Drives.
2. The staff report did not mention that the historic "Hacienda Del Mar" is only two lots away. The subject property is now visually, artistically, and architecturally compatible with that historic structure. Adding a second floor would make it incompatible with that property and the rest of the neighborhood.
3. The staff report did not evaluate the aestectic affect on the of adding addition height to the structure



September 14, 2004

Mr. Don Bussey
Deputy Zoning Administrator
County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

RE: Application #03-0430
APN: 043-152-12 & 13

Dear Mr. Bussey,

We have a few concerns in regards to the Urban Designer comments and associated conditions (page 4, Design Review).

a. Lower the floor to ceiling height of at least the lower floor.

Response: Due to the use of existing walls at the lower floor it would be less than desirable to lower the ceiling at the lower floor. The tentative structural system for this house would have beams spanning *the* existing structure. This may require deeper than 12"/14" beams and may also require floorjoists to rest above them in cantilever situations. The 9 foot 1 inch plate height allows for this likely potentiality. For example; the cantilevered decks have support beams that would drop into the room to a height of 7 feet, or less (if 8 foot plates/ceiling height were used) and require extensive wall demolition. This potentially would violate building code requirements and also effect planning ordinances in the area of to much of the exterior wall being removed. With out final construction documents we cannot be sure of this, but we are attempting to "build in" some flexibility in the design for this potential.

b. Remove the shutters from the elevation.

Response: Shutters *are* a typical detail for the Spanish Eclectic style (see enclosed copy of relevant information from Virginia & Lee McAlester's book "*A Field Guide to American Houses*"). Based on this book it is not uncommon for some windows to have shutters and others not to. It is also important to note that there are only two existing front elevation windows that are not changed (and those are not original). They could have shutters added – but we see little aesthetic benefit.

c. Remove the arched top from the window.

Response: The arched window (and associated treatment) is a typical detail for the Spanish Eclectic style (see enclosed copy of relevant information from Virginia & Lee McAlester's book "*A Field Guide to American Houses*"). Quote "Many examples have at least one large focal window", In addition, *this* detail is a counterpoint to the *existing arched* front door (also a common feature for this style).

Frankly we *are* somewhat perplexed by the Design review comments:

Regards: "The County's Urban Designer.....and found the design of the addition out of character with the existing residence."

A. Our office has not found any reference in ordinance that refers to the "character" of an existing residence to *itself*: This is not to be disingenuous, but this comment does not appear to be framed as part of the design review ordinance. Personally I could see this as a general concern, but my understanding is that Design Review comments should be framed within the ordinance frame work. There is little left of the visible portion of the existing home, other than its finishes – it would appear the "character" of the **new** would be the dominant character, but again there appears to be little (if any) discussion in ordinance about this particular situation to use as a guide.

Regards: "The addition has a larger scale, different architectural motif and does not repeat any features of the existing house except for the stucco siding and tile roofing" & "The front elevation is a the facade that *most* of the neighborhood will see and contains features so different from the original residence, that they make the combination of old and new discordant".

B. It might be helpful to list what our office *has* done (glass half full, maybe three quarters full, as it were) to tie together the new and old of this Spanish Eclectic style home.

1. Stucco finish to match existing.
2. Clay tile roof to match existing
3. Octagon columns to remain at remodeled covered porch area.
4. Exposed wood detailing at eaves (similar to existing).
5. Second floor balcony (s), a typical element of the Spanish Eclectic Style.
6. Shutters, a typical element of the Spanish Eclectic Style home.
7. A "focal" window which reflects the arch top of the existing door, typical elements of the Spanish Eclectic Style.

What we have not done:

8. Virtually all visible from the street window & doors are new. But we have not attempted to respond to the existing garage windows and doors (done in 1985 and not in the Spanish Eclectic Style). The owner may wish to replace the existing doors and windows (in the existing openings at the garage at some point, but it is my understanding that would *not* require a permit.

9. There are only four unmodified openings visible at the front elevation that is not garage related. Two "non-original" windows, a "non-original" side door, and the arched front door (which we did respond to with ~~an~~ arched "focal point" window).

10. Scale: The existing kitchen, dining, and living area is in good condition and are actually quite charming, the existing two bedrooms and bathrooms are in need of repair and currently one bedroom must be passed through *to* reach the other. The existing actual "habitable" floor area is 1715 square feet which the owner wished to expand. Our office and the owner felt the courtyard feel of the house is a positive thing. Due to these considerations the only practical area for the addition appeared to be a second floor on the existing bedroom wing. A two *story* portion of the residence is not atypical of this style. The existing entry at the living room does have a unusual feature in that the eave drops very low (which may be part of staffs issues) but this a atypical feature and it appears to be lower than would be allowed today. I readily admit that if we were starting from new I would probably have lowered the entry floor level down and had a taller roof at the living room' dining room' entry area. But I believe it is understandable that we are retaining this area relatively unchanged. So.,no we did not do the same one story "scale" as the existing home, but I believe for good reasons, and it certainly isn't out of character with the style of the existing residence, or the neighborhood.

I respectfully must disagree with the Urban Designer's design review, I believe that items one through seven above are positive, items 8 and 9 are insignificant, and that 10 is a reasonable response to the circumstances. The character of the proposed residence is predominantly Spanish Eclectic with details, materials, and architectural motifs that tie the old to the new. We respectfully request that the Urban Designer's recommendations not be a **part** of the Conditions of Approval.

In regards to the History section (page 2) of the staff report & Conditions of Approval [Page 9) Exhibit A: I D.:

Please note that the proposed project is on parcel 043-152-12 as described in 18.300.R.212. recorded July 26, 1967 in the County of Santa **Cruz**. Parcel 43-153-13 is a separate parcel and is shown in the plans for staff convenience. The remodel/addition to the residence was designed based on parcel 043-152-12 dimensions.

In regards to staffs questioning the existence of two lots, please note/see the following:

Enclosed recorded legal description(s).

Enclosed survey by Ward Surveying dated 2/25/04

Enclosed copy of permit 4587-U which states that it is for parcel 43-152-13 and that it is a single family dwelling on a 12,000 square foot parcel with the owner having two adjacent lots (both lots combined would be over 20,000 square feet). In addition it states under the findings (a.) "Although used in conjunction with a larger single-family dwelling, this house is on a separate lot."

Enclosed copy of building permit 78998 indicates two parcels. A garage on parcel 43-152-12 was expanded over the property line at that time, pedestrian access of less than a 150 feet was still available to the cottage located on parcel 43-152-12. In our opinion it does not appear to be any intent to "merge" the property by neither the county nor the owner at that time. Please note that both homes are larger than allowed for secondary dwelling units.

Ordinance 14.01.110 (a) #5 states ,... "dwelling or commercial structure or portion thereof has been built across the common boundary line of such lots or parcels" . The structure in question is a garage, which has a separate

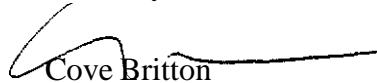
definition from dwelling and commercial structures under both building and planning definitions. This ordinance should not apply to this situation,

It appears to us that under Ordinance 14.01.109 **(a)** the parcels are qualified for a Unconditional Certificate of Compliance.

Due to the existing garage being over the property line we understand findings would need to be made under the significantly non-conforming ordinance. Possibly a deed restriction requiring demolishing the portion of garage added in 1985, prior to any sale separating the lots would suffice. We respectfully request that Condition I. (D) be removed as a condition of approval.

Thank you for your consideration.

Sincerely,


Cove Britton

Architect

ATTORNEYS
COMSTOCK, THOMPSON, KONTZ & BRENNER

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

AUSTIN B. COMSTOCK
JAMES C. THOMPSON*
THORNTON KONTZ
LAWRENCE M. BRENNER

340 SOQUEL AVENUE, SUITE 205
SANTA CRUZ, CALIFORNIA 95062

(831) 427-2727
FAX 458-1165

NATHAN C. BENJAMIN

(*JAMES C. THOMPSON, P.C.)

October 5, 2004

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

Re: Application 03-0430
622 and 624 Bayview Drive, Aptos
APN(S) 043-152-12 and 13

This letter will supplement my letter of October 4 concerning the captioned application. Enclosed is my client's check made payable to the County of Santa Cruz in the sum of \$2,343.00.

Although the ordinance does not require further specification, David Keyon advises that there should be an elaboration of the reasons why the applicants disagree with the requirement imposed by the Zoning Administrator to agree to the merger of both captioned parcels.

Records of the planning staff reflect that the single family dwelling on Parcel 12 was constructed in 1939 and that the smaller unit was constructed on Parcel 13 in 1941. Parcel 12 has 7,434 square feet, and Parcel 13 has 16,640 square feet. In 1973 the Planning Department granted a variance to allow construction of a living room in the guest house and established Parcel 13 as a separate lot from Parcel 12 (Development Permit 4597-U). Planning staff in its report to the Zoning Administrator claims that because a site plan for a garage addition submitted in 1985 reflects only one parcel, the properties were merged as a result. The flaw in this logic is that the building permit which was issued on June 4, 1985 (no. 78998) contains the description of two tax parcels at 622 Bayview Drive.

For more than 20 years these parcels have been shown as separate parcels on parcel maps. They were purchased by Mr. and Mrs. McNece as two parcels. They have been taxed as two parcels, and two separate tax bills continue to be sent out by the County.

Santa Cruz County Planning Commission

Re: Application 03-0430

October 5, 2004

page two

The applicants contend that if a mistake was made in 1985 it was not a mistake of theirs. There is little logic in the concept of merger, particularly where, as here, the applicants intend to make this property their permanent residence and openly volunteered before the Zoning Administrator to obtain a Certificate of Compliance before a sale of either parcel took place.

Yours truly,

A handwritten signature in black ink, appearing to read "Austin B. Comstock". The signature is fluid and cursive, with a large, stylized "A" and "C".

Austin B. Comstock

ABC:ss

Check enclosed

Copy: Clients

Cove Britton

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060-4508

VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)Name: *Les McCargo*Mailing Address: *622 Cliff Drive*City: *Aptos, CA*Zip Code: *95003*Phone: *(831) 642-1892*SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Cruz Planning Dept - Zoning Administrator

2. Brief description of development being appealed:

Remodel & Construct Two Story addition.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

622 & 624 Bayview Drive, Aptos APN 043-152-12 & 13

4. Description of decision being appealed (check one.):

☐ Approval; no special conditions☒ Approval with special conditions: *Special Conditions only to design details*☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

RECEIVED

OCT 12 2004

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

NT **age 2**

5. Decision **being** appealed was made by (check one):

- ☒ Planning Director/Zoning Administrator
☐ City Council/Board of Supervisors
☐ Planning Commission
☐ Other

6. Date of local government's decision: Oct 1, 2004

7. Local government's file number (if any): 03-0430 (***)

SECTION XI. Identification of Other Interested Persons

Give **the** names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Cove Britton

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties **which** you know to be interested and should receive notice **of this appeal**.

(1)

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Agenda included 2 parcels, but Project Architect stated that was only one parcel (APN 043-152-12) and used the lot size to justify a two story structure instead of a one story that would have less impact on ocean views by neighbors and allow the minimum space parking off street.

There are some existing non-conforming structures existing on the property which the zoning Administrator indicated that would have to be removed or altered because they were built over or too close to the lot line.

The zoning Administrator after a brief recess, made the unilateral decision that the two lots were now one lot. But did not address the issue that now the two story structure had ample space to be a single story with no visual intrusion on the neighbors. The conditions were limited to roof pitch, arch windows etc.

There was also testimony that the local public used a stairway & trail to the beach thru this property. The number of users and period of time would indicate

there is a public prescriptive easement that was ignored except with the response "that may be a local..."

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)**SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge

Lee McCargo
Signature of Appellant(s) or Authorized Agent

Date: Oct 4, 2004

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Title 13 PLANNING AND ZONING REGULATIONSChapter 13.10 ZONING REGULATIONS**13.10.265 Nonconforming structures.**

(a) The lawful use of a structure existing on the effective date of a change of zoning or of the zoning regulations may be continued even if such a structure and/or use does not conform to the change in zoning or change of the zoning regulations specified for the district in which such structure is located.

(b) The structural enlargement, extension, reconstruction, or alteration which conforms to the site development standards of the district in which the structure is located may be made to a nonconforming structure upon issuance of only those building permits and/or development permits required by other Sections of the County Code if the property's use is made to conform to the uses allowed in the district and provided that the structure is not significantly nonconforming as defined in this Section, and further provided that where the floor area of an addition exceeds 800 square feet, a Level IV Use Approval shall be required.

(c) When the use of the nonconforming structure conforms to uses allowed in the district in which the structure is located, but the enlargement, extension, reconstruction, or structural alteration of said building involves a variation from height, building site area, lot width, lot coverage, floor area ratio, or side, front, or rear yard requirements for the district, a Variance Approval shall be required in accordance with the provisions of Section 13.10.230, with the exception that, where the dedication requirements of Section 15.10.050 cause an existing structure to become nonconforming, a Variance Approval is not required provided that the front yard is not reduced to less than 10 feet and the street side yard to not less than 6 feet. In addition, no Variance Approval shall be required for any structural alterations which conform to Subsection (e) of this Section.

(d) The structural enlargement, extension, reconstruction or alteration of a non-conforming structure which has been designated as a historic resource pursuant to County Code Chapter 16.42 is permitted upon issuance on only those building permits and/or development permits required by other Sections of the County Code regardless of any other provisions of this Chapter to the contrary, if one or more of the following criteria are met:

1. The structural enlargement, extension, reconstruction or alteration conforms to the site development regulations of the Zoning district in which it occurs; or
2. The structural enlargement, extension, reconstruction or alteration does not conform to the setback or height regulations of the Zoning district in which it occurs, but is within the structural outline of the structure and does not expand the perimeter foundation line of the structure. The structural outline of a structure shall include that space which is enclosed by the structural posts, columns, beams, trusses and girders of the structure.
3. The structural enlargement, extension, reconstruction or alteration is required to provide handicapped access to the structure.

(e) Ordinary maintenance and repairs and other structural alterations, including foundation repair/replacement, may be made to the nonconforming portions of a structure which is not significantly nonconforming as defined in this Section provided that:

1. The building permit(s) and/or development permits required by other Sections of the County Code are obtained for any structural alterations, including foundation repair/replacement;
2. There is no increase in the nonconforming dimensions of the structure; and,
3. Within any five-year period, no more than 50 percent of the total length of the exterior walls within the nonconforming portions of the structure, exclusive of the foundation, shall be moved replaced or altered in any way. The replacement or alteration of the interior or exterior wall coverings or the replacement of windows and doors without altering their openings will not be included in this calculation. The Planning Director may require that a termite inspector, registered engineer or other professional(s) acceptable to the Planning Director be retained at the

applicant's expense to certify that portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction.

Where structural alterations to the nonconforming portions of a structure do not comply with the provisions of this subsection, a Variance Approval shall be required.

(f) Nothing contained in this Section shall be deemed to require any change in the plans, construction, or designated use of any structure upon which actual construction was lawfully begun in accordance with all applicable regulations in effect at the time when construction commenced. Actual construction is hereby defined as: The placing of construction materials in their permanent position and fastening them in a permanent manner, the work of excavating a basement, or the demolition or removal of an existing structure begun preparatory to rebuilding, provided that in all cases actual construction work shall be diligently continued until the building or structure involved has been completed.

(g) If any building or structure which does not conform to the site and structural dimension regulations of the district in which it is located is damaged or destroyed by fire, other catastrophic event, or public enemy to the extent that the reconstruction or repair of the structure will require more than 75% of the total length of the exterior walls (exclusive of the foundation or roof) to be moved, replaced or altered in any way, except that the replacement or alteration of the interior or exterior wall coverings, windows and doors without altering their openings will not be counted in this calculation, the land and structure shall be subject to all regulations specified by this chapter for the district in which such land and structures are located. This determination shall be made by the Building Official, taking into account the damage caused by the event as well as any additional demolition which is proposed by the applicant or which is required by the currently adopted codes and ordinances as part of the reconstruction. The Planning Director may require that a registered engineer or other professionals(s) acceptable to the Planning Director be retained at the applicant's expense to certify that the portions of the structure which the plans show as proposed to remain are in fact structurally sound and that it will not be necessary to alter such portions of the structure during the course of construction. The Building Official may charge a fee for this determination which shall be based upon a reasonable estimate of the cost to the County for making such determination.

(h) Notwithstanding the provisions of Section (g) above, any building or structure damaged or destroyed as a result of the earthquake of October 17, 1989 and/or associated aftershocks may be repaired or reconstructed, provided the structure:

1. will be sited in the same location on the affected property as the destroyed structure, and that location is determined to be located away from potentially hazardous areas, as required by Chapter 16.10 of this Code;
2. will be for the same use as the damaged or destroyed structure; and
3. will not exceed the floor area, height, or bulk of the damaged or destroyed structure by more than 10%.

(i) Regulations which apply to nonconforming signs are found in Section 13.10.588 of this Code. Regulations regarding the replacement of nonconforming greenhouses are found in Section 13.10.636(c) of this Code.

(j) Except as provided under subsections (d), (g) and (h) of this section, no structural enlargement, extension, reconstruction or structural alteration shall be made to any significantly nonconforming structure unless a Level V Use Approval is obtained in addition to all other approvals required pursuant to the County Code. In addition to any other findings which are required, the following findings shall be made for any approval granted pursuant to this subsection:

1. That the existing structure and the conditions under which it would be operated and maintained is not detrimental to the health, safety or welfare of persons residing or working in the vicinity or the general public, or be materially injurious to properties or improvements in the vicinity.
2. That the retention of the existing structure will not impede the achievement of the goals and objectives of the County General Plan, or of any Specific Plan which has been adopted for the area.
3. That the retention of the existing structure will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects of

the neighborhood

4. That the proposed project will not increase the nonconforming dimensions of the structure unless a Variance Approval is obtained.

(k) For the purposes of this section, a structure is significantly nonconforming if it is any of the following:

1. Located within five feet of a vehicular right-of-way;
2. Located across a property line;
3. Located within five feet of another structure on a separate parcel;
4. Located within 5 feet of a planned future public right-of-way improvement (i.e. an adopted plan line); or,
5. Exceeds the allowable height limit by more than 5 feet. (Ord. 2788, 10/2/79; 3266, 6/22/82; 3186, 1/12/82; 3344; 3746, 4/22/86; 11/23/82; 3432, 8/23/83; 3927, 6/28/88; 4024, 10/24/89; 4160, 12/10/91; 4368, 5/23/95; 4525, 12/8/98)

Objective 8.2 Site and Circulation Design

To enhance and preserve the integrity of existing land use patterns and to complement the scale and character of neighboring development by assuring that new development is sited, designed and landscaped to be functional and visually compatible and integrated with surrounding development, and to preserve and enhance the natural amenities and features unique to individual building sites, and to incorporate them into the site design.

Policies

8.2.1 Designation of Master Plan Areas

Designate areas within the Urban Services Line that are deserving of coordinated site and circulation design as Master Plan Areas. These areas are characterized by irregular lot configurations, substandard lot size, or disjointed development. The purpose of the Master Plan Area is to coordinate the development of these parcels in a cohesive and equitable manner, while providing for efficient circulation, parking and site design. Two types of Master Plan Areas are designated as follows:

- (a) For Commercial zone areas: A plan for the consolidation and coordinated development of the area shall be considered prior to approval of any development. The goal is to combine parcels to maximize the potential for commercial development through coordinated building, circulation and parking design.
- (b) For Residential zone areas: A plan for the coordinated development of the parcels shall be considered prior to approval of any development in this area. The intent of this Master Plan is to provide for coordinated circulation to minimize the impacts of the development on the surrounding area. Development may proceed on individual parcels if consistent with the approved plan.

8.2.2 Designing for Environmental Protection

Require new development to comply with all environmental ordinances, to be sited and designed to minimize grading, avoid or provide mitigation for geologic hazards and sensitive habitats, and conform to the physical constraints and topography of the site.

8.2.3 Design Criteria for Utilities

Require new development to meet County adopted criteria and standards for the design of utilities, water service and sewage disposal requirements and drainage systems. All new power line distribution systems, where practical, and all services to new subdivisions shall be placed underground.

8.2.4 Combining Parcels for Improved Design

Encourage the combination of parcels, especially long narrow lots or small lots, to allow for maximum open space and amenities, and efficient layout of building envelopes and infrastructure.

8.2.5 Circulation

Encourage the design of pedestrian, bicycle, and vehicle circulation and parking to be safe, convenient, readily understandable, and coordinated with development on surrounding properties; and encourage design which minimizes the visual impact and reduces the scale of paving **materials** and **parking**.

8.2.6 Circulation Systems for Persons **With** Disabilities

Require new development to provide pedestrian, bicycle and vehicular circulation systems which include adequate facilities for persons with disabilities, to be consistent with the requirements of the Americans With Disabilities Act, Public Works Design Criteria, County Code, and the Circulation and Fire Hazards sections of the General Plan and LCP Land Use Plan.

Program

- a. Establish a Master Plan Area Combining District **or** similar mechanism to provide for coordinated site and circulation design in designated areas. Include in the requirements for the combining district the intent and purpose behind the commercial and residential master plan areas. (Responsibility: Planning Department, Redevelopment Agency)