

**STAFF REPORT TO THE ZONING ADMINISTRATOR**

**APPLICATION NO.:** 03-0225                      **APN:** 027-112-02  
**APPLICANT:** Anderson & Sides, Architects  
**OWNER:** Richard and Lorraine Kagan

**PROJECT DESCRIPTION:** Proposal to demolish portions of an existing one-story single-family dwelling and to construct a two-story addition resulting in a net increase of 390 square feet for this project and a cumulative increase of over 500 square feet when combined with previous permitted construction.

**LOCATION:** Located on the west side of 10<sup>th</sup> Ave about 40 feet south of Delores Street at 375 10<sup>th</sup> Ave.

**PERMITS REQUIRED:** Coastal Development Permit  
**ENVIRONMENTAL DETERMINATION:** Categorically Exempt - Class 1  
**COASTAL ZONE:**  Yes  No                      **APPEALABLE TO CCC:**  Yes  No

**PARCEL INFORMATION**

**PARCEL SIZE:** 3,179.9 (EMIS Estimate)  
**EXISTING LAND USE:**  
    **PARCEL:** Residential  
    **SURROUNDING:** Residential  
**PROJECT ACCESS:** An unnamed ally between 10<sup>th</sup> Ave and 9<sup>th</sup> Ave  
**PLANNING AREA:** Live Oak  
**LAND USE DESIGNATION:** R-UH (Urban High Density Residential)  
**ZONING DISTRICT:** R-1-3.5 (Single Family Residential (3,500 square feet minimum))  
**SUPERVISORIAL DISTRICT:** 1<sup>st</sup>

**ENVIRONMENTAL INFORMATION**

- |                      |   |
|----------------------|---|
| a. Geologic Hazards  | a. Not mapped/no physical evidence on site  |
| b. Soils             | b. No soils report required                 |
| c. Fire Hazard       | c. Not a mapped constraint                  |
| d. Slopes            | d. 0 to 3 percent                           |
| e. Env. Sen. Habitat | e. Not mapped/no physical evidence on site  |
| f. Grading           | No grading proposed                         |
| g. Tree Removal      | g. No trees proposed to be removed          |
| h. Scenic            | h. Not a mapped resource                    |
| i. Drainage          | i. No proposed changes to existing drainage |

## **SERVICES INFORMATION**

Inside Urban/Rural Services Line: X Yes N o  
Water Supply: City of Santa Cruz  
Sewage Disposal: County Sanitation  
Fire District: Central Fire  
Drainage District: Zone 5

## **HISTORY**

Building Permit 130264 (11/15/01), authorized the **an** addition of 425 square feet to the original house, which was, according to County assessor's records, built in 1948. Per County Code 13.20.068(a)(1)(i), because this addition was less than 500 square feet, and the property located outside the appeal jurisdiction of the Coastal Commission, no coastal permit was required. The present project however, in conjunction with BP 130264, cumulatively exceeds 500 square feet of new construction, and therefore a coastal permit is now required.

## **ANALYSIS AND DISCUSSION**

The subject property is a 3,179.9 (EMIS Estimate) square foot lot, located in the R-1-3.5 (Single Family Residential (3,500 square feet minimum) zone district, a designation that allows residential uses. The proposed residential addition is a principal permitted **use** within the zone district. The project is also consistent with the site's (R-UH) Urban High Density Residential General Plan designation.

The two-story addition is only a partial second-story, as it will only include the master bedroom and bathroom and only cover about one third to one half of the first floor. The second story will not exceed the 28-foot residential height limit (**24** feet). As recommended by County design review guidelines the renovated and expanded structure will be articulated with variations in wall plans, decorative windows, and a second story deck to add visual interest to the design. No portion of the second story deck encroaches into the required **5-foot** side yard setbacks.

Project plans indicate existing improvements consisting of steps, a concrete pad, and an at-grade deck are within the County maintained 40-foot right of way of 10" Ave. It should be noted that these same improvements are shown as entirely contained on the site on the approved plans for BP 130264. Because **of this** discrepancy, and since no Encroachment Permit has been granted for these improvements, they must either be removed or a survey from a registered surveyor must be submitted that verifies the improvements are not in the right of way.

The existing home is nonconforming with respect to the required front, rear, and north side yard setbacks. The project will remove structural encroachment into the required 15-foot rear yard with the planned demolition of that portion of the home. The house will remain non-conforming in the front and north side yards. All new construction will conform to current site standards.

The renovation will result in an increase in the number of bedrooms, and therefore current parking standards apply. According to County Code Section 13.10.552, the resulting **three-**bedroom home requires three on-site parking spaces and three are shown on the plans with access

from the 10-foot alley in the rear of the property.

The alley was created with the original subdivision of the property in 1890, with map entitled, "Subdivision N0.2 of Twin Lake Park", recorded in 1890 in Map **Book 7, Page 5** of the County records. Unlike other similar alleys in the neighborhood, no subsequent maps or deeds were found to indicate that the disposition of this alley with respect to the adjoining parcels has changed since 1890. Further, the alley is not a separate parcel. Therefore, it is assumed that the owner of the subject property has rights to use that alley for ingress and egress.

The proposed residential addition is in conformance with the County's certified Local Coastal Program in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Developed parcels in the area contain single-family dwellings. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range. The project site is not located between the shoreline and the first public road and is not identified as a priority acquisition site in the County's Local Coastal Program. Consequently, the proposed project will not interfere with public access to the beach, ocean, or other nearby body of water.

Use of the flat roof of the structure for human activity, other than for repair and maintenance, is prohibited as second story rooftop decks are prohibited by County Code Section 13.10.323(e)(1). A permanent ladder or stairs shall not be installed to access the roof of the Structure, either internally or externally (See Conditions of Approval — Exhibit C).

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.

## RECOMMENDATION

Staff recommends:

1. **APPROVAL** of Application Number **03-0225**, based on the attached findings and conditions.
2. Certification that the proposal is exempt **from further** Environmental Review under the California Environmental Quality Act.

## EXHIBITS

- A. Project plans
- B. Findings
- C. Conditions
- D. Categorical **Exemption** (CEQA determination)
- E. Assessor's parcel map
- F. Zoningmap
- G. Grant Deed for subject parcel (Kagan), Document #2002-0038756
- H. Declaration of Restriction regarding the use of the roof.
- I. Comments & Correspondence

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: John Schlagheck  
Santa Cruz County Planning Department  
701 Ocean Street, 4th Floor  
Santa Cruz CA 95060  
Phone Number: (831) 454-3012 or [john.schlagheck@co.santa-cruz.ca.us](mailto:john.schlagheck@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.

The property is zoned R-1-3.5 (Single Family Residential (3,500 square feet minimum)), a designation which allows residential uses. The proposed residential addition is a principal permitted use within the **zone** district, consistent with the site's (R-UH) Urban High Density Residential General Plan designation.

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

The proposal does not conflict with any existing easement or development restriction such as public access, utility, or open space easements in that no such easements or restrictions are known to encumber the project site.

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

The proposal is consistent with the design and use standards pursuant to Section 13.20.130 in that the development is consistent with the surrounding neighborhood in terms of architectural style; the site is surrounded by lots developed to an urban density; the colors shall be natural in appearance and complementary to the site; the development site is not on a prominent ridge, beach, or bluff top.

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.

The project site is not located between the shoreline and the first public road. Consequently, the residential addition 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.

Building Permit 130264 (1/15/01), authorized the an addition of 425 square feet to **the** original house, which was, according to County assessor's records, built in 1948. Per County Code 13.20.068(a)(1)(i), because this addition **was** less than 500 square feet, and the property located outside the appeal jurisdiction of the Coastal Commission, no coastal permit was required. The present project however, in conjunction with BP 130264, cumulatively exceeds 500 square feet of new construction, and therefore a coastal permit is now required.

The proposed project is in conformity with the County's certified Local Coastal Program in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. The two-story addition is only a partial second-story, as it will only include the master bedroom and bathroom and only cover about one third to one half of the first floor. The second story will not exceed the 28-foot residential height limit (24 feet). **As** recommended by County design review guidelines the renovated and expanded structure will be articulated with variations in wall plans, decorative windows, and a second story deck to add visual interest to the design. No portion of the second story deck encroaches into the required 5-foot side yard setbacks.

Additionally, residential uses are allowed uses in the R-1-3.5 (Single Family Residential (3,500 square feet minimum)) zone district of the area, as well as the General Plan and Local Coastal Program land **use** designation. Developed parcels in **the** area contain single-family dwellings. Size and architectural styles vary widely in **the area**, and the design submitted is not inconsistent with the existing range.

## **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.

The location of the proposed residential addition 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 in that the project is located in an area designated for residential uses and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed residential addition will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to light, air, and open space in the neighborhood.

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

The project site is located in the R-1-3.5 (Single Family Residential (3,500 square feet minimum)) zone district. The proposed location of the residential addition and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the R-1-3.5 zone district in that the primary use of the property will continue to be one single-family dwelling. All new construction will meet current site standards for the zone district, however the structure remain non-conforming with respect to the front and north side yards.

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

The project is located in the Urban High Density Residential (R-UH) land use designation. The proposed residential use is consistent with the General Plan in that it meets the density requirements specified in General Plan Objective (Urban High Density Residential).

The proposed residential addition will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and

development standards for the zone district as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance), in that the residential addition will not adversely shade adjacent properties, and will meet current setbacks for the zone district that ensure access to light, air, and *open* space in the neighborhood.

The proposed residential 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 proposed residential addition will comply with the site standards for the R-1-3.5 zone district (including setbacks, lot coverage, floor area ratio, height, and number of stories) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

**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.**

The proposed use will not overload utilities **or** generate more than the acceptable level of traffic on the streets in the vicinity in that it is a residential addition to an existing single-family dwelling. There will be no increase in the level of traffic due to the proposed.

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

The proposed residential addition 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 in the vicinity, in that the proposed structure is two stories, in a mixed neighborhood of both one and two-story homes and the proposed residential addition is consistent with the land use intensity and density of the neighborhood.

The two-story addition is only a partial second-story, as it will only include the master bedroom and bathroom and only cover about one third to one half of the first floor. The second story will not exceed the 28-foot residential height limit (24 feet). As recommended by County design review guidelines the renovated and expanded structure will be articulated with variations in wall plans, decorative windows, and a second story deck to add visual interest to the design. No portion of the second story deck encroaches into the required 5-foot side yard setbacks.

## CONDITIONS OF APPROVAL

Exhibit A: Project plans, 4 sheets, by Dennis Anderson, Architect, dated 12/3/03

- I. This permit authorizes the construction of a two-story, 390 square foot residential addition to an existing one-story home resulting in a 3-bedroom single-family dwelling. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
  - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
  - B. Obtain a 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.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
  - A. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include 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. Detailed drainage plans. The plans must include notes and descriptions about the existing drainage facilities, the exact location of the percolation pit. Also a signed and recorded maintenance agreement for the existing on-site drainage facilities is required.
    3. Erosion control plans.
    4. Revised plans that show the removal of all structures in the public right of way.
    5. Details showing compliance with fire department requirements.
  - B. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
  - C. Comply with all regulations of the County Sanitation District.

- D. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.
  - E. Pay the current fees for Parks and Child Care mitigation for 1 bedroom. Currently, these fees are, respectively, \$1,000 and \$109 per bedroom.
  - F. Pay the current fees for Roadside and Transportation improvements for 1 bedroom. Currently, these fees are, respectively, \$667 and 667 per bedroom.
  - G. Provide required off-street parking for 3 cars. 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.
  - H. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
  - I. Record a Declaration of Restriction, applicable to all successors in ownership and tenants, which limits the use of the roof of the structure to repair and maintenance only. The statement shall indicated that a permanent ladder or stairs shall not be installed to access the roof of the structure, either internally or externally. (See Exhibit H)
- 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 improvements shown on the approved building 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. Ref: Sections 16.40.040 and 16.42.100.

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.
- B. Use of the roof of the structure for human activity other than repair and maintenance is prohibited. A permanent ladder or stairs shall not be installed to access the roof of the structure, either internally or externally.

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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: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

\_\_\_\_\_  
 Don Bussey  
 Deputy Zoning Administrator

\_\_\_\_\_  
 John Schlagheck  
 Project Planner

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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: 03-0225  
Assessor Parcel Number: 027-112-02  
Project Location: 375 10th Ave

**Project Description: 390 square foot addition to an existing single-family dwelling**

**Person or Agency Proposing Project: Anderson & Sides, Architects**

**Contact Phone Number: (831) 457-8348**

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

Specify type:

- E.  **Cateorical Exemation**

Specify type: Existing Facilities (15301)

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

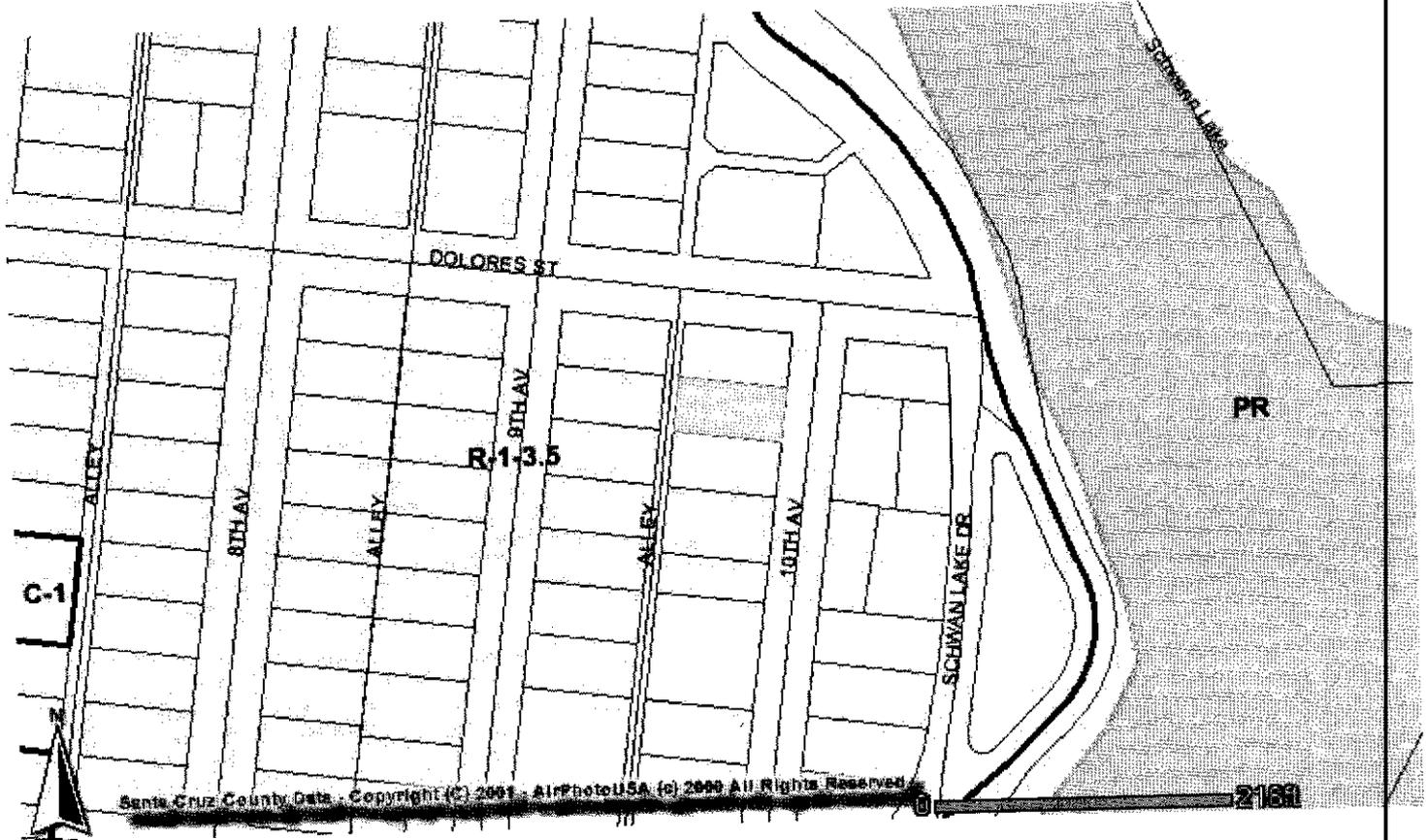
Addition is a less than 50 percent increase in floor area.

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

\_\_\_\_\_  
John Schlagheck, Project Planner

Date: \_\_\_\_\_





ZONING MAP - Parcel #027-112-02

EXHIBIT F

RECORDING REQUESTED BY

Santa Cruz Title Company

Escrow or Loan No. 09483315-CSR

MAIL TAX STATEMENTS TO  
AND WHEN RECORDED MAIL TO

Name **Richard Kagan and Lorraine Kagan**  
Address **1035 Willow Glen way**  
City, State, & Zip **San Jose CA. 95125**



2002-0038756

Recorded  
Official Records  
County Of  
SANTA CRUZ  
RICHARD W. BEDAL  
Recorder

REC FEE 13.00  
TAX 598.40

02:22PM 29-May-2002 JBD  
Page 1 of 3

SPACE ABOVE THIS LINE FOR RECORDER'S USE

APN: 027-112-02

# GRANT DEED

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$598.40

- computed on full value of property conveyed, or
- computed on full value less value of liens and encumbrances remaining at time of sale.
- Unincorporated area:  City of \_\_\_\_\_, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

Louise Herrmann, as Trustee for the Louise Herrmann Revocable Trust, under declaration of trust dated 11 February 2000

hereby GRANT(S) to Richard Kagan and Lorraine Kagan, husband and wife as community property with right of survivorship

the following described real property in the County of SANTA CRUZ, State of California:

Lot 19, in Block 5, as the same are shown on that certain map entitled, "Subdivision No. 2 of Twin Lake Park, made by N.E. Beckwith, surveyed June 1890 for J. C. Kimble, Esq." filed for record in the Office of the County Recorder August 26, 1890 in Map Book 7,1 Page 5, Records of Santa Cruz County.

APN: 027-112-02

Dated: May 24, 2002

STATE OF CALIFORNIA  
COUNTY OF Santa Cruz

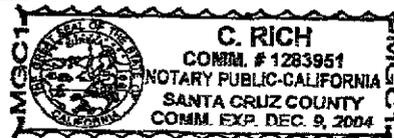
} SS.

*Louise Herrmann, Trustee*  
Louise Herrmann

On May 24, 2002, before me, the undersigned, a Notary Public, personally appeared Louise Herrmann personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

WITNESS my hand and official seal.

Signature \_\_\_\_\_



MAIL TAX STATEMENT AS DIRECTED ABOVE

This form furnished by **SANTA CRUZ TITLE COMPANY**

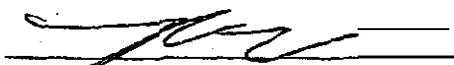
Exhibit A

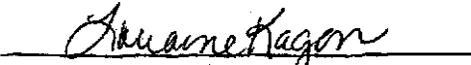
SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA AND DESCRIBED AS FOLLOWS:

LOT 19, IN BLOCK 5, AS THE SAME ARE SHOWN ON THAT CERTAIN MAP ENTITLED, "SUBDIVISION NO. 2 OF TWIN LAKE PARK, MADE BY N. E. BECKWITH, SURVEYED JUNE 1890 FOR J. C. KIMBLE, ESQ." FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER AUGUST 26, 1890 IN MAP BOOK 7, PAGE 5, RECORDS OF SANTA CRUZ COUNTY.

APN: 027-112-02

GRANTEES HEREBY EXPRESSLY DECLARE AND ACCEPT THE TRANSFER OF THE HEREIN DESCRIBED PROPERTY AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP.

  
RICHARD KAGAN

  
LORRAINE KAGAN

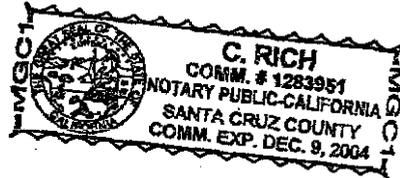
STATE OF CALIFORNIA  
COUNTY OF Santa Cruz } SS.

On 5-24-02 before me, the undersigned a Notary Public,  
personally appeared

Richard Kagan & Lorraine Kagan \* personally known to  
me (or proven to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the           .  
WITNESS my hand and official seal.

signature C. Rich  
C. Rich  
Name (Typed or Printed)

Notary Public in and for said County and State



Return recorded form to:

Planning Department  
County of Santa Cruz

Attention: John Schlagheck  
Application #: 03-0225

**Declaration of Restriction to Maintain a Second Story Flat Roof with No Use  
Other than for Repair and Maintenance**

This declaration, made in Santa Cruz county, State of California by Richard and Lorraine Kagan owner(s) of real property described in Exhibit "A" (attached property description), **known** as Assessor's Parcel Number 027-112-02, hereby declares that all of the property described below shall be held, sold, and conveyed subject to the following restrictions and conditions, which are for the purpose of meeting **the** Santa Cruz County Code, and which shall run with the title to **the** property and be binding on all parties having any right, title or interest in the property or any part thereof, their heirs, successors, and assignees and shall apply to each owner thereof.

**Article I**

Declarer intends to maintain a second story flat roof with no use other than for repair and maintenance under a County building permit.

**Article II**

As conditions for approval of said permit(s), declarer agrees to the following:

1. Said structure will not be used as a second story roof top deck per Code Section 13.10.323(e)(1).
2. A permanent stairs will not be installed to access the said structure, either internally or externally.
3. Said structure will only be accessed by a temporary stair or ladder for the purpose of repair and maintenance.

**Article III**

The County of Santa Cruz shall recover reasonable attorney fees and costs in bringing any legal action to enforce this agreement together with recovery of any rents collected for the illegal use of the structure or, in the alternative, for the recovery of the reasonable rental value **of** the illegally converted structure from the date of conversion. The amount of any recovery of rents or of the reasonable rental value of any illegally converted structure shall be deposited in the County's Affordable Housing Fund. This agreement **is** binding on all subsequent buyers, heirs, assignees or holders of interest in the subject property herein described.

**ALL SIGNATURES ARE TO BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC. IF A CORPORATION, THE CORPORATE FORM OF ACKNOWLEDGMENT SHALL BE ATTACHED.**

Executed on \_\_\_\_\_, 20\_\_.

Declaration of Restriction - Second Story Flat Roof

EXHIBIT H

Page 1

Owner: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Owner: \_\_\_\_\_

**ALL SIGNATURES ARE TO BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC.  
IF A CORPORATION. THE CORPORATE FORM OF ACKNOWLEDGMENT SHALL  
BE ATTACHED.**

STATE OF CALIFORNIA COUNTY OF \_\_\_\_\_

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_  
(Notary Public in and for said County and State)

**EXHIBIT "A"**

All **the real** property situated in **the** County of Santa Cruz, State of California, conveyed from Louise Herrmann , to Richard and Lorraine Kagan , by deed recorded in 2002-0038756 , Santa Cruz County Official Records Office on 5/29/02 . Assessor's Parcel Number: 027-112-02, located in the County of Santa Cruz, State of California commonly known as: 375 10th Ave.

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This form must be reviewed and approved by a County Planning Department staff person after notarization and **prior** to recordation.

Dated: \_\_\_\_\_

COUNTY OF SANTA CRUZ

By: \_\_\_\_\_  
Planning Department Staff

C O U N T Y   O F   S A N T A   C R U Z  
D I S C R E T I O N A R Y   A P P L I C A T I O N   C O M M E N T S

Project Planner: John Schlagheck  
Application No.: 03-0225  
APN: 027-112-02

Date: February 19, 2004  
Time: 08:37:52  
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**Environmental Planning Completeness Comments**

===== REVIEW ON JULY 1, 2003 BY ROBERT S LOVELAND =====  
NO COMMENT

**Environmental Planning Miscellaneous Comments**

===== REVIEW ON JULY 1, 2003 BY ROBERT S LOVELAND =====  
NO COMMENT

**Dpw Drainage Completeness Comments**

LATEST COMMENTS HAVE **NOT YET** BEEN SENT TO PLANNER FOR THIS AGENCY

===== REVIEW ON JUNE 30, 2003 BY ALYSDN B TOM ===== Application with plans dated 6/10/03 is not complete with regards to drainage for the discretionary stage.

- 1) Please provide some site topographic information (such as contours, spot elevations, or slope arrows with labels) so that the site drainage patterns are clear.
- 2) Clearly delineate the extent of the existing and proposed impervious areas (roof and paved areas). Drainage fees will be assessed on the net increase in impervious area.
- 3) Describe how the proposed paved areas will drain. Demonstrate that proposed runoff will not impact adjacent parcels.
- 4) Describe the existing underground drainage system that is referred to on sheet 1 of the plans. Include information such as pipe sizes, locations, condition, and outlet location and downstream path. Does this system tie into an off-site storm drain, swale, etc?
- 5) For questions regarding this review Public Works storm water management staff is available from 8-12 Monday through Friday.

===== UPDATED ON DECEMBER 31, 2003 BY ALYSON B TOM ===== Application with plans revised on 12/3/03 has been received. Please address the following.

- 1) Drainage note on sheet A1 states that downspout runoff will tie into an existing percolation system. Please show where this system is on the site, provide further description of the system, and demonstrate that the overflow from this system will not adversely impact adjacent properties. Address previous comment No.4.

Please see miscellaneous comments for issues that can be addressed in the building application stage.

===== UPDATED ON JANUARY 26, 2004 BY ALYSON B TOM ===== Per conversation with project designer on 1/26/04 this application is complete for the discretionary stage. Please note that a signed, recorded maintenance agreement for the existing on-site drainage facilities is required prior to building permit issuance. Also, please include additional notes and descriptions about the existing drainage facilities in the building application plans. The location of the percolation

Discretionary Comments - Continued

Project Planner: John Schlagheck  
Application No.: 03-0225  
APN: 027-112-02

Date: February 19, 2004  
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facilities should be shown on the building plans

**Dpw Drainage Miscellaneous Comments**

LATEST COMMENTS HAVE **NOT YET** BEEN SENT TO PLANNER FOR THIS AGENCY

===== REVIEW ON JUNE 30, 2003 BY ALYSON B TOM ===== See completeness comments.

===== UPDATED ON DECEMBER 31, 2003 BY ALYSON B TOM ===== The following comments can be addressed in the building application stage.

- 1) Does runoff from the alley drain to the proposed turfblock areas?
- 2) Provide additional details describing how the proposed turfblock areas will drain. Do the drainage arrows indicate proposed swales? Will there be any cross-slope to the parking areas? The turfblock areas are considered semi-impervious and will be assessed at a discounted rate for impervious area fees. The last drainage note on sheet A1 should count the proposed turfblock areas at half rate.
- 3) Zone 5 fees will be assessed on the net increase in impervious area due to this project.

Submittal of any materials related to this application should be made through the Planning Department. For questions regarding this review Public Works storm water management staff is available from 8-12 Monday through Friday.

===== UPOATED ON JANUARY 26, 2004 BY ALYSON B TOM ===== Please provide a signed, recorded maintenance agreement for the existing, on-site retention facilities,

**Dpw Road Engineering Completeness Comments**

===== REVIEW ON JULY 8, 2003 BY GREG J MARTIN =====

An encroachment permit will be required for the improvements in the County ROW and the signs regarding private parking on the fence must be removed. ===== UPDATED ON JANUARY 9, 2004 BY RODOLFO N RIVAS =====

County policies prohibit the installation of permanent structures such as the concrete pad and deck inside the Public Right of Way. Therefore, please remove all existing permanent structures inside 10th Ave. Right of Way.

**Dpw Road Engineering Miscellaneous Comments**

----- REVIEW ON JULY 8, 2003 BY GREG J MARTIN =====

===== UPDATED ON JANUARY 9, 2004 BY RODOLFO N RIVAS =====