

# Staff Report to the Zoning Administrator

Application Number: 181560

Applicant: Patrick Powers Designs

**Owner:** George & Annette Powers

**APN:** 028-224-16

Site Address: 105 21st Avenue, Santa Cruz

Agenda Date: August 14, 2020

Agenda Item #: 3
Time: After 9:00 a.m.

**Project Description**: Proposal to construct an approximately 800 square foot second-story addition and remodel of an existing one-story single family dwelling containing an existing habitable basement in the R-1-4 zone district. Project requires approval of a Coastal Development Permit and a Variance to exceed the allowable 50% Floor Area Ratio to 55%

**Location**: Project located on the south west end of 21st Ave approximately 200 feet south of the intersection with East Cliff Drive (105 21st Ave).

Permits Required: Coastal Development Permit, Variance

Supervisorial District: First District (District Supervisor: John Leopold)

#### **Staff Recommendation:**

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 181560, based on the attached findings and conditions.

## **Project Setting & Description**

The subject property is approximately 4,400 net square feet located at the south west end of 21<sup>st</sup> Avenue and situated on a coastal bluff overlooking a popular beach. The project site is developed with an existing one-story single family dwelling containing a habitable basement. Access to the subject property is via a private driveway which serves one other property located to the west.

The surrounding area consists of one and two-story single family dwellings on parcels of similar parcel size. A primitive/unimproved public beach access exists at the terminus of 21<sup>st</sup> Avenue, adjacent to the subject parcel. No existing private improvements inhibit access to the beach at this location. It is noted that more prominent/developed beach access exists to the west of the project site on 20<sup>th</sup> Avenue, consisting of a stairway, and to the east of the project site off East Cliff Drive at Corcoran Lagoon, consisting of a public pathway.

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

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This is a proposal to modify the existing single family dwelling and construct an approximately 800 square foot second story addition. The project includes an interior remodel and application of new finish colors and materials to the exterior of the home. The project requires a Coastal Development Permit due to the scope of work (within 50 feet of the edge of a coastal bluff and addition greater than 250 square feet) and location of the project being within the Coastal Appeals Jurisdiction. The project requires approval of a Variance to allow the permitted Floor Area Ratio (FAR) to exceed 50%.

A geologic report prepared by Zinn Geology, dated May 20, 2018 and updated December 26, 2018 and geotechnical report prepared by CMAG Engineering, dated June 15, 2018 were submitted for review and accepted by County staff under application REV181174 (Exhibit G). As proposed, the project does not constitute "development" as defined in Section 16.10.040 of the County Code and no portion of the proposed scope of work will be constructed outside the 100-year geologic setback as established by Zinn Geology. (Exhibit D).

### Variance

The project includes a request for a Variance to increase the allowed 50% Floor Area Ratio (FAR) to 55% (approximately 270 square feet). The parcel size, shape, location, and surroundings result in a special circumstance for which the variance can be supported.

The subject parcel is approximately 6,894 gross square feet in size. SCCC 13.10.323 (C) requires the use of "Net Site Area" for calculating allowable gross building area. Pursuant to SCCC 13.10.700-S "Site area, net" includes the total site area less all public and private rights of way and coastal bluffs and beaches. Net site area for the subject parcel includes deductions of area containing a private right of way at the north side of the property and coastal bluff to the south. These deductions are approximately 2,499 square feet and result in a parcel of approximately 4,400 square feet of net site area which more closely reflects the minimum 4,000 square feet for the R-1-4 zone district.

The existing dwelling contains a habitable basement which is included in the FAR calculation; however, FAR is intended to be a measure of a structure's bulk and mass, ensuring that dwellings are constructed in proportion to the land area. With nearly half of the existing square footage of the home being below grade in the basement area, the proposed home would not appear to exceed the allowed 50% FAR. Consequently, the inclusion of the basement floor area in the FAR calculation would result in a home which exceeds the district standard by 270 square feet, but would appear to be in proportion to the parcel size.

## Project Background/History

The subject property is protected by an existing rip-rap revetment located at the base of the coastal bluff transition with the beach and spans the adjoining properties to the east and west. In December 1982, a grading permit was issued for placement of additional material in response to a series of storm events.

In 1984 under Application 84-22-GP, placement of 300 cubic yards of rip-rap was authorized. As noted on the application form, this action was determined to be exempt from the requirements of a Coastal Development Permit in that the project entailed replacement of an existing revetment.

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No evidence was found that a Coastal Development Permit was issued for the repair work. The project included a Geologic Hazards Assessment and recordation of a declaration regarding issuance of a development permit in an area subject to geologic hazards.

It is noted that since the installation of the revetment and subsequent repair, several coastal development permits have been applied for and or issued for improvements to the subject property. These include two similar applications in the late 1980s to expand the existing dwelling by constructing a second story; however, these applications were withdrawn. Coastal Development Permit 93-0470 was approved for the installation of a 190 square foot deck located in the rear yard (seaward side) and CDP 00-0480 for installation of landscape improvements within 50 feet of the edge of the coastal bluff. Review of the permits found no mention of the need to perfect approvals for placement of additional rock within the existing revetment and, given the location of the improvements (within the rear yard abutting the revetment), it would have been appropriate to include any necessary work to the revetment in the '93 and '00 applications.

In consideration of the permit history and scope of work that is currently proposed, the current proposal does not include a request to recognize prior repairs/replacement of portions of the existing revetment. However, should future work be required to repair or stabilize the existing revetment, a separated Coastal Development Permit shall be required.

## **Design Review**

The proposed single family dwelling complies with the requirements of the County Design Review Ordinance, in that the proposed project will incorporate site and architectural design features such as variation in color and material which would be complementary to the site, and articulation in the building facade and pitched rather than flat roof design to reduce the visual impact of the proposed development on surrounding land uses and the natural landscape. As proposed, the project would comply with the County Design Review Ordinance as outlined in SCCC 13.11.070 through 13.11.076.

## Zoning & General Plan/Local Coastal Program Consistency

The subject property is a 4,395 net square foot lot, located in the R-1-4 (Single Family Residential, 4,000 square foot minimum, zone district), a designation which allows residential uses. The proposed addition and remodel of an existing single family dwelling is a principal permitted use within the zone district and the zoning is consistent with the site's R-UM, O-R (Urban Medium Residential Density, Parks, Recreation, and Open Space) General Plan designation.

The proposed addition and remodel of an existing single family dwelling is in conformance with the County's certified Local Coastal Program, in that the proposed second story 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 in the area, and the design submitted is consistent with the existing range of styles.

The project site is located between the shoreline and the first public road and is not identified as

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a priority acquisition site in the County's Local Coastal Program. Existing beach access located at the end of 21<sup>st</sup> Avenue and adjacent to the project site would not be impeded as a result of the proposed development. No existing or proposed private improvements are, or would be, located within the public right of way. The project would be conditioned to ensure existing beach access would not be restricted during the construction phase. Consequently, the proposed project will not interfere with public access to the beach, ocean, or other nearby body of water.

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## 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

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- APPROVAL of Application Number 181560, based on the attached findings and conditions.

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.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: <a href="https://www.sccoplanning.com">www.sccoplanning.com</a>

Report Prepared By: Nathan MacBeth

Santa Cruz County Planning Department

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## **Exhibits**

- A. Categorical Exemption (CEQA determination)
- B. Findings
- C. Conditions
- D. Project plans, Color/materials & Visual Simulations
- E. Assessor's, Location, Zoning and General Plan Maps
- F. Parcel information
- G. Report review letter
- H. Comments & Correspondence

# 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: 181360 Assessor Parcel Number: 028-224-16
Project Location: 105 21st Avenue, Santa Cruz
Project Description: Construction of an addition and remodel of an existing single family dwelling.
Person or Agency Proposing Project: Pat Powers
Contact Phone Number: (831) 454-9148
A The proposed activity is not a project under CEQA Guidelines Section 15378.  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).
E. X Categorical Exemption
Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)
F. Reasons why the project is exempt:
Modifications to an existing single family dwelling in an area designated for residential uses.
In addition, none of the conditions described in Section 15300.2 apply to this project.
Date: Nathan MacBeth, Project Planner

Owner: George and Annette Powers

## **Coastal Development Permit Findings**

1. That the project is a use allowed in one of the basic zone districts that are listed in LCP Section 13.10.170(D) as consistent with the LCP Land Use Plan designation of the site.

This finding can be made, in that the property is zoned R-1-4 (Single Family Residential,4,000 square foot minimum), a designation which allows residential uses. The proposed remodel and addition to an existing single family dwelling is a principal permitted use within the zone district, and the zoning is consistent with the site's R-UM, O-R (Urban Medium Residential Density, Parks, Recreation, and Open Space) General Plan designation. The proposed modifications to the existing home do not constitute "development" as indicated in County Code Section 16.10.040 and the proposed addition will comply with all applicable site standards for the zone district

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

This finding can be made, in that an existing right of way serving APN 028-224-18 runs along the north property line of the subject parcel. The proposed development would not impede access to the adjoining parcel. The parcel is also situated adjacent to an existing primitive coastal beach access at the end of 21<sup>st</sup> Avenue. No public access easements encumber the project site and no private improvements are proposed or exist within the public right of way that would impede coastal access.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to SCCC 13.20.130 and 13.20.140 et seq.

This finding can be made, 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 will be natural in appearance and complementary to the site. The development site is located on a bluff top overlooking a public beach; however, the design and architectural style are complementary to the existing development on site so as not to detract from public views from the beach or the aesthetic qualities of the surrounding area.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the LCP Land Use Plan, including Chapter 2: Section 2.5 and Chapter 7.

This finding can be made, in that the project site is not identified as a priority acquisition site in the County Local Coastal Program however, 21<sup>st</sup> Avenue is listed in LCP Policy 7.7.18 as an Area Designated for Neighborhood Public Access. Existing (primitive) beach access is available adjacent to the project site at the end of 21<sup>st</sup> Avenue. The project proposes no improvements that restrict existing beach access. Dedication of additional trail easements, pursuant to LCP Policy 7.6.2 are not appropriate in that sufficient area exists at the end of 21<sup>st</sup> Avenue to allow for future access improvements. The project has been conditioned to ensure existing beach access is not restricted during the construction phase.

5. That the project conforms to all other applicable standards of the certified LCP.

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This finding can be made, in that the structure is sited and designed to be visually compatible and integrated with the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the R-1-4 (Single Family Residential, 4,000 square foot minimum) zone district, 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 in the area, and the design submitted is consistent with the pattern of development within the surrounding neighborhood.

A geologic report prepared by Zinn Geology, dated May 20, 2018 and updated December 26, 2018 and geotechnical report prepared by CMAG Engineering, dated June 15, 2018 were submitted for review and accepted by County staff under application REV181174 (Exhibit G). As proposed, the project does not constitute "development" as defined in Section 16.10.040 of the County Code and no portion of the proposed scope of work will be constructed outside the 100-year geologic setback as established by Zinn Geology. (Exhibit D).

6. If the project is located between the nearest through public road and the sea or the shoreline of any body of water located within the Coastal Zone, that the project conforms to the public access and public recreation policies of Chapter 3 of the Coastal Act.

This finding can be made, in that the project site is located between the shoreline and the first public road; however, the project will not interfere with public access to the beach, ocean, or any nearby body of water. Existing (primitive) beach access is available adjacent to the project site at the end of 21<sup>st</sup> Avenue. No improvements are proposed that would restrict beach access. The project has been conditioned to ensure existing beach access is not restricted during the construction phase. The project site is not identified as a priority acquisition site in the County Local Coastal Program.

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## **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 the project is located in an area designated for residential uses. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to ensure the optimum in safety and the conservation of energy and resources.

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 second story addition and remodel of an existing single family dwelling 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-1-4 (Single Family Residential, 4,000 square foot minimum) zone district as the primary use of the property will be one single family dwelling that meets all current site standards for the zone district, with the exception of increased FAR for which Findings for a Variance can be made.

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 proposed residential use is consistent with the use and density requirements specified for the R-UM, O-R (Urban Medium Residential Density, Parks, Recreation, and Open Space) land use designation in the County General Plan.

The proposed second story addition and remodel of an existing single family dwelling 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 proposed second story addition will not adversely shade adjacent properties, and will meet current setbacks for the zone district.

The proposed second story addition and remodel will be properly proportioned to the parcel size and 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 project, a second story addition, will comply with the site standards for the R-1-4 zone district (including setbacks, lot coverage, height, and number of stories) with the exception of Floor Area Ratio for which the findings for a Variance can be made and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

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

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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 the proposed second story addition and remodel of an existing single family dwelling is to be constructed on an existing developed lot. The project is not expected to result in an increase in traffic and is anticipated to remain only one peak trip per day (1 peak trip per dwelling unit). The project site is currently served by utilities therefore, the project is will not overload utilities or result in adverse impacts existing roads or intersections in the surrounding area.

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, in that the proposed structure is located in a mixed neighborhood containing a variety of architectural styles, and the proposed second story addition and remodel, as designed, is consistent with the land use intensity and density of the neighborhood.

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.

This finding can be made, in that the proposed second story addition and remodel will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area. The project will incorporate site and architectural design features such as variation in color and material which would be complementary to the site, articulation in the building façade, and pitched rather than flat roof design to reduce the visual impact of the proposed development on surrounding land uses and the natural landscape. As proposed, the project would comply with the County Design Review Ordinance as outlined in SCCC 13.11.070 through 13.11.076.

## **Variance Findings**

1. That because of special circumstances applicable to the property, including size, shape, topography, location, or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

This finding can be made, in that the location and configuration of the parcel create a special circumstance for which a Variance can be granted. The subject parcel is a corner lot, located on a coastal bluff with a private right of way traversing the northern boundary. The coastal bluff and private right of way result in deductions to the site area by approximately 2,500 square feet and reducing the building envelope due to increased setbacks. The proposed increase in Floor Area Ratio (FAR) from 50% to 55% (270 square feet) is appropriate in that the project would comply with the allowed FAR if no deductions to the site area were required. Additionally, approximately 750 square feet of living area is contained within an existing habitable basement. FAR is a measure of the bulk and mass of a structure, as it relates to parcel size. With nearly 1/3 of the proposed square footage of the home being below grade in the form of a basement, the

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proposed home would not appear to exceed the allowed 50% FAR. In addition, the intent of limiting floor area is to ensure that dwellings are constructed in proportion to the land area of the parcel. In this case, the net site area upon which the FAR calculation is based is 4,400 square feet. However, the parcel visually reads as being substantially larger. The house will, therefore, appear to be sized in proportion to the land area.

2. That the granting of the variance will be in harmony with the general intent and purpose of zoning objectives and will not be materially detrimental to public health, safety, or welfare or injurious to property or improvements in the vicinity.

This finding can be made, in that the project would result in approximately 270 square feet over the allowed FAR. This square footage is nominal in terms of its contribution to the bulk and mass of the structure and approximately 1/3 of the proposed square footage would be below grade and not a contributing factor to the perceived bulk and mass of the proposed dwelling.

3. That the granting of such variances shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such is situated.

This finding can be made, in that the project would not constitute a grant of special privileges in that the project would comply with all site standards for the zone district, with exception of Floor Area Ratio, at 55%. In all, the project design is within the range of styles found in the vicinity and consistent with the density and intensity of the area. With nearly 1/3 of the proposed square footage of the home being below grade in the form of a basement, the proposed home would not appear to exceed the allowed 50% FAR. In addition, the intent of limiting floor area is to ensure that dwellings are constructed in proportion to the land area of the parcel. In this case, the net site area upon which the FAR calculation is based is 4,400 square feet. However, the parcel visually reads as being substantially larger. The house will, therefore, appear to be sized in proportion to the land area.

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## **Conditions of Approval**

Exhibit D: Project plans, prepared by Patrick Powers Designs, revised March 2019.

- I. This permit authorizes the construction of an addition to an existing single family dwelling as indicated on the approved Exhibit "D" for this permit. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. 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.
    - 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
  - 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 "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
    - 1. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
    - 2. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material sheet in 8 1/2" x 11" format for Planning Department review and approval.

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- 3. The building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site which clearly depict the total height of the proposed structure. Maximum height is 28 feet.
- 4. 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, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.
- C. Meet all requirements of the City of Santa Cruz Water District. Proof of water service availability is required prior to application for a Building Permit.
- D. Meet all requirements of the Santa Cruz County Sanitation District. Proof of sanitary sewer service availability is required prior to application for a Building Permit.
- E. Meet all requirements of the Environmental Planning section of the Planning Department.
- F. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.
- G. Submit 3 copies of plan review letters prepared and stamped by the project Geotechnical Engineer.
- H. Pay the current fees for Parks and Child Care mitigation for one bedroom. Currently, these fees are, respectively, \$1,000 and \$109 per bedroom.
- I. Pay the current fees for Roadside and Transportation improvements for one bedroom. Please contact the Department of Public Works for a current list of fees.
- J. Pay the current Affordable Housing Impact Fee. The fees are based on net new square footage. Please contact the Housing Division for a current list of fees.
- K. Provide required off-street parking for three 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.
- L. 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.

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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. Public beach access located at the end of 21<sup>st</sup> Avenue shall remain unimpeded during construction. If temporary work within the 21<sup>st</sup> Avenue right of way is necessary, signage shall be placed in a visible location indicating that beach access is open/available.
- C. The applicant shall designate a disturbance coordinator and a 24-hour contact number shall be conspicuously posted on the job site. The disturbance coordinator shall record the name, phone number, and nature of all complaints received regarding the construction site. The disturbance coordinator shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- D. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
- E. The project must comply with all recommendations of the approved soils reports.
- F. Pursuant to Sections 16.40.040 and 16.42.080 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 16.42.080, 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.

## V. Indemnification

The applicant/owner shall indemnify, defend with counsel approved by the COUNTY, and hold harmless the COUNTY, its officers, employees, and agents from and against any claim (including reasonable attorney's fees, expert fees, and all other costs and fees of litigation), against the COUNTY, its officers, employees, and agents arising out of or in connection to this development

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approval or any subsequent amendment of this development approval which is requested by the applicant/owner, regardless of the COUNTY's passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the COUNTY. Should the COUNTY in its sole discretion find the applicant's/owner's legal counsel unacceptable, then the applicant/owner shall reimburse the COUNTY its costs of defense, including without limitation reasonable attorney's fees, expert fees, and all other costs and fees of litigation. The applicant/owner shall promptly pay any final judgment rendered against the COUNTY (and its officers, employees, and agents) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this development approval.

- A. The COUNTY shall promptly notify the applicant/owner of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. The COUNTY shall cooperate fully in such defense.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
  - 1. COUNTY bears its own attorney's fees and costs; and
  - 2. COUNTY defends the action in good faith.
- C. <u>Settlement</u>. The applicant/owner shall not be required to pay or perform any settlement unless such applicant/owner has approved the settlement. When representing the COUNTY, the applicant/owner shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the COUNTY.
- D. <u>Successors Bound</u>. The "applicant/owner" shall include the applicant and/or the owner and the successor'(s) in interest, transferee(s), and assign(s) of the applicant and/or the owner.

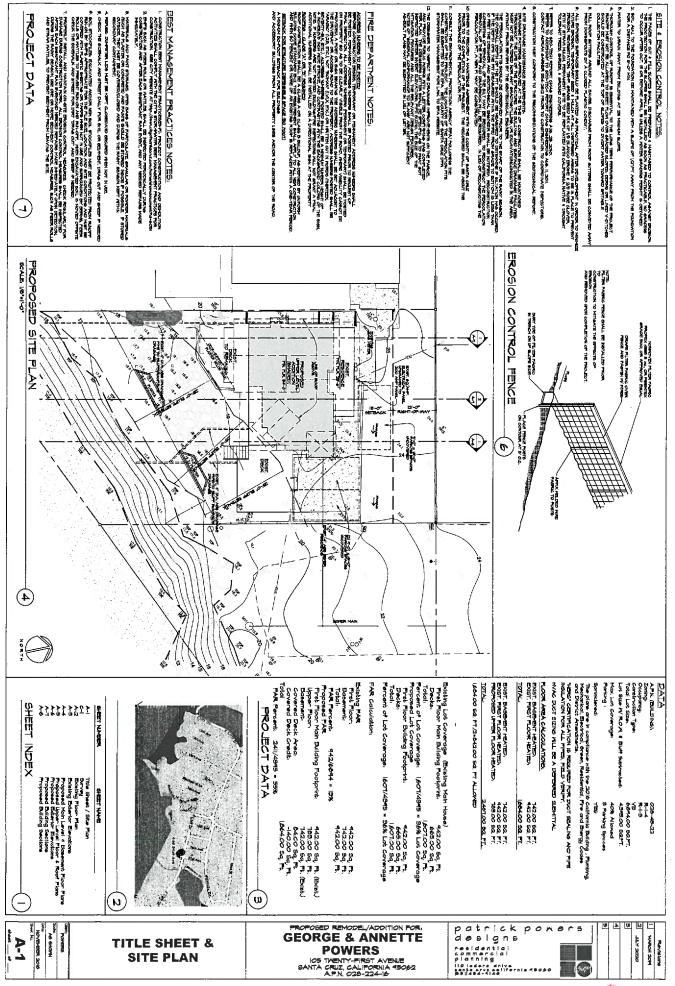
Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

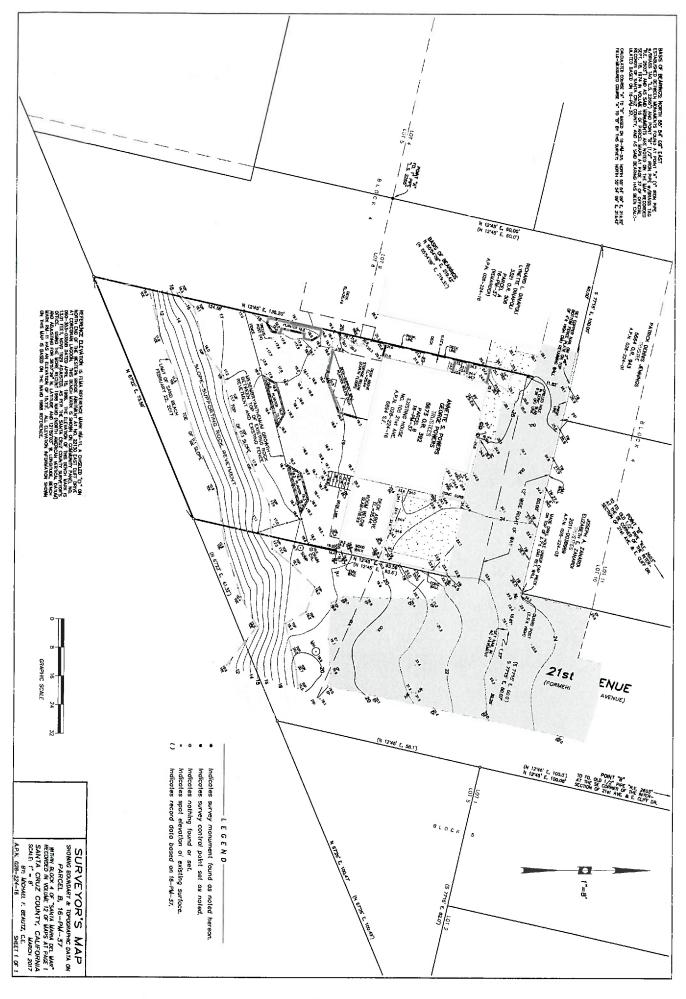
Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

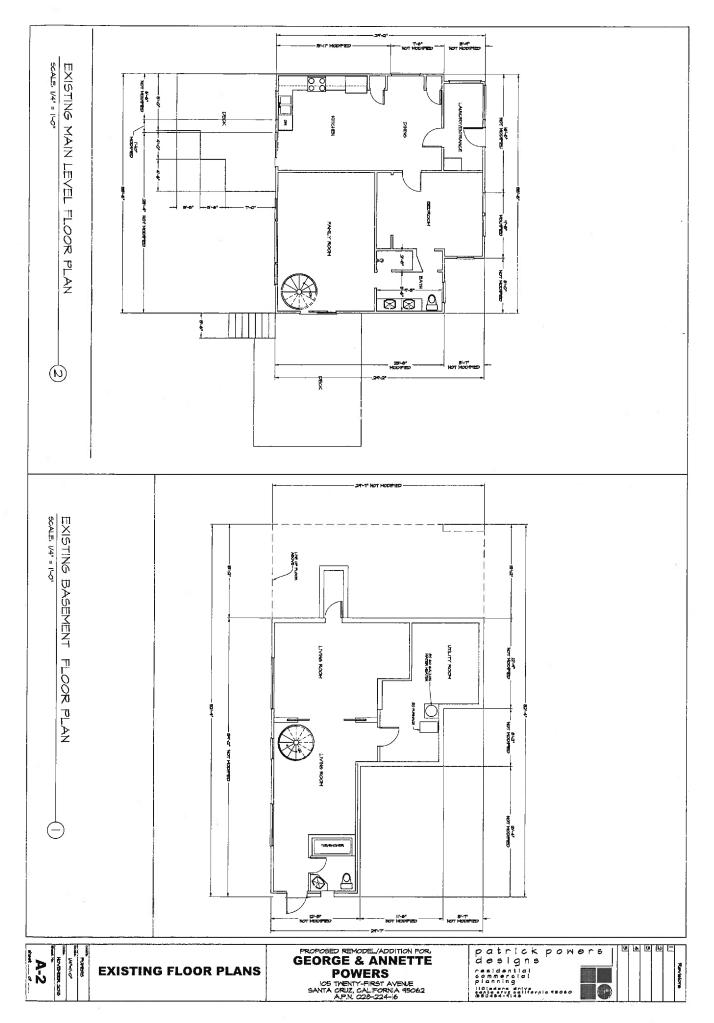
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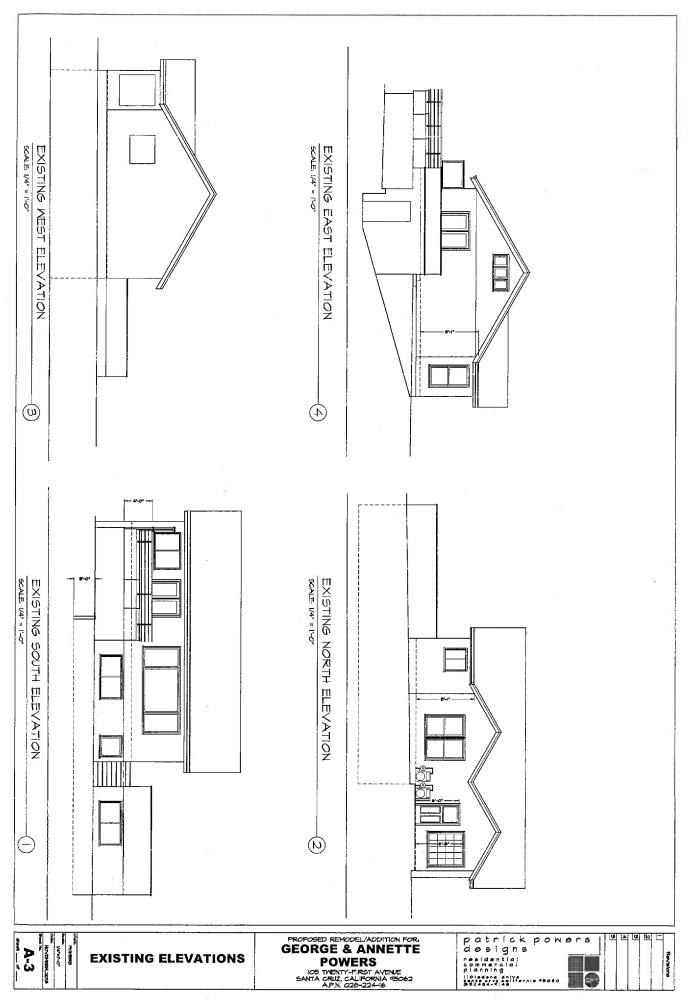
Approval Date:		_
Effective Date:		5.5
Expiration Date:	<del></del>	
	Jocelyn Drake Deputy Zoning Administrator	

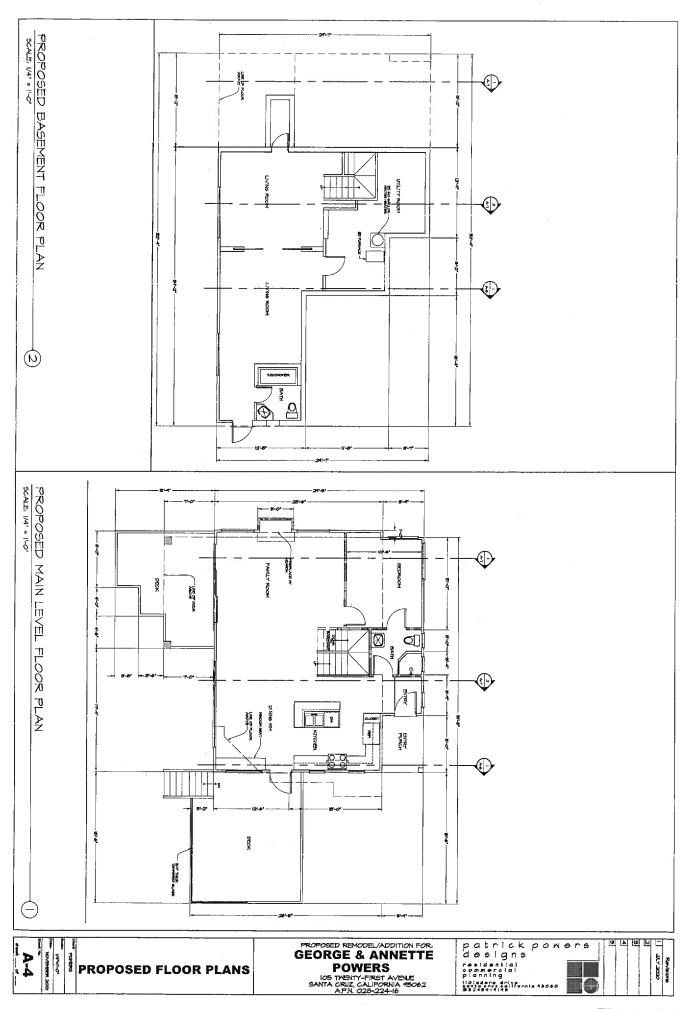
Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

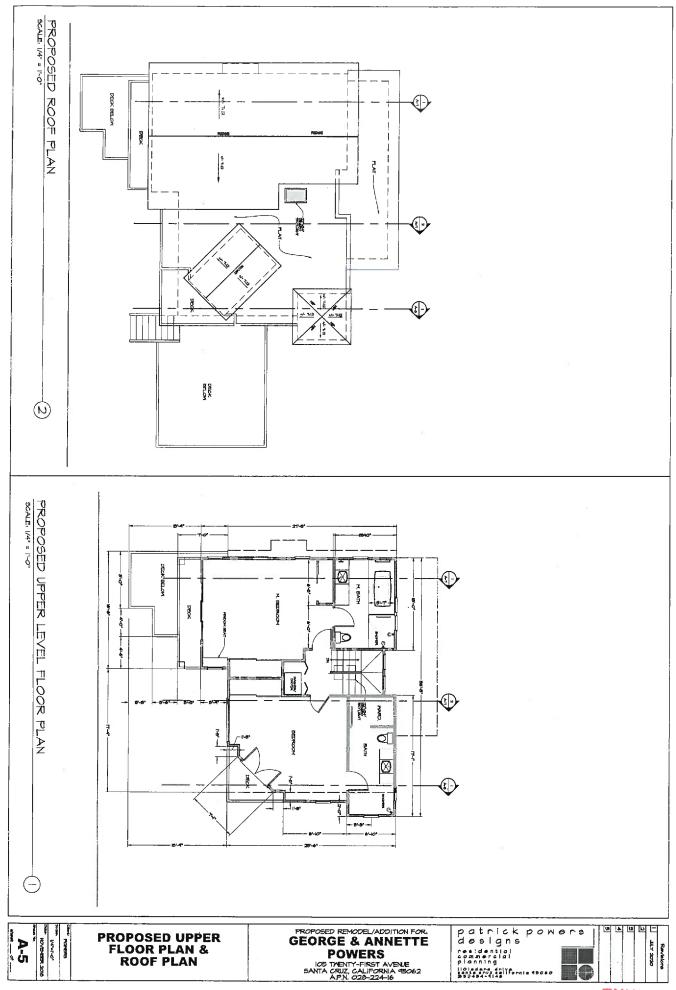


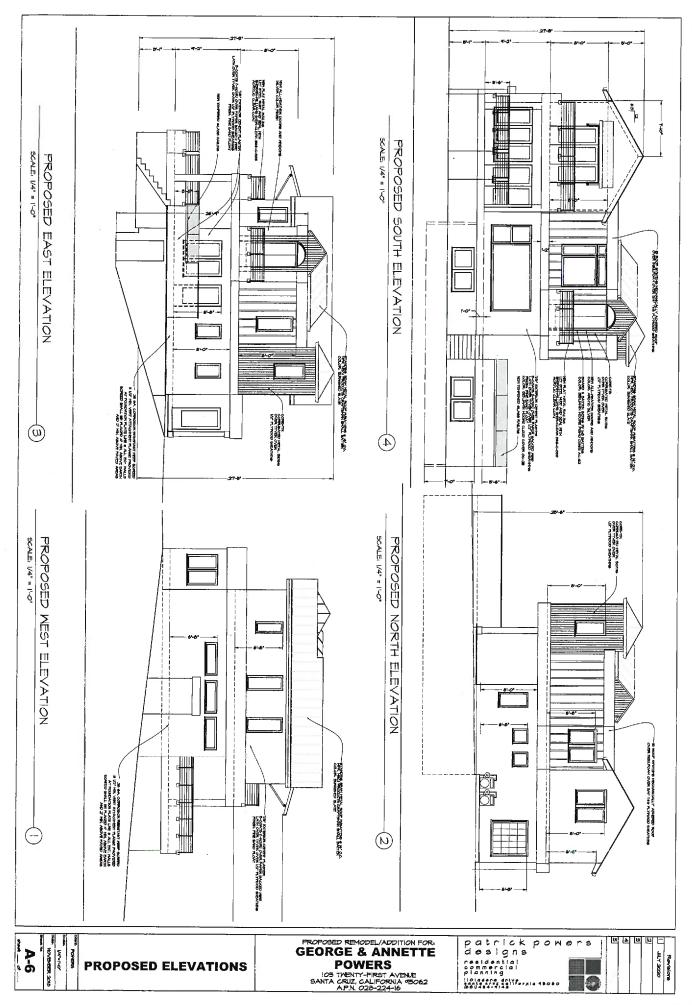


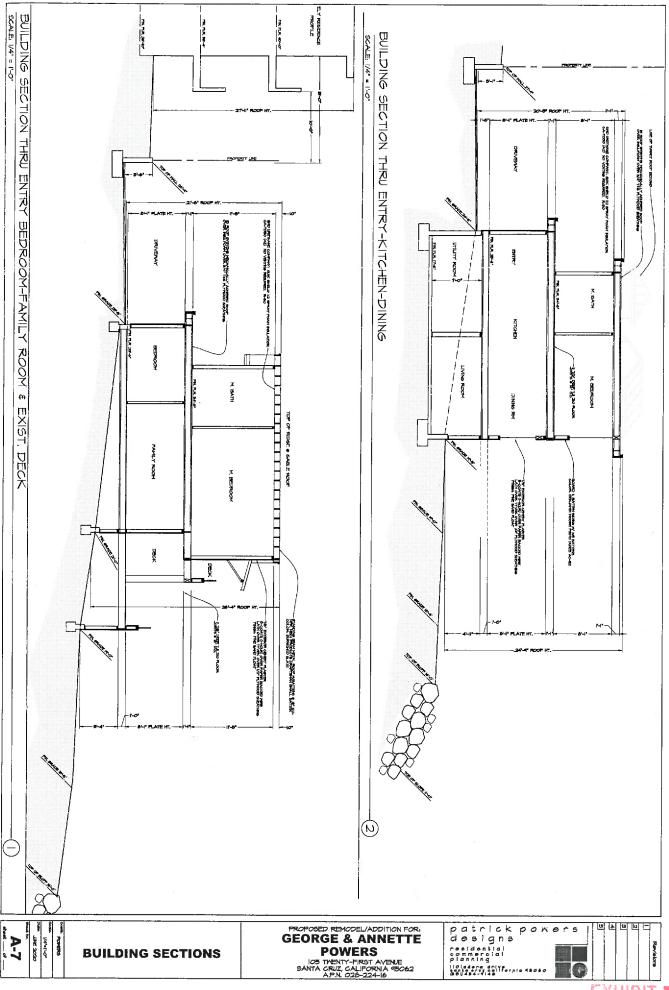


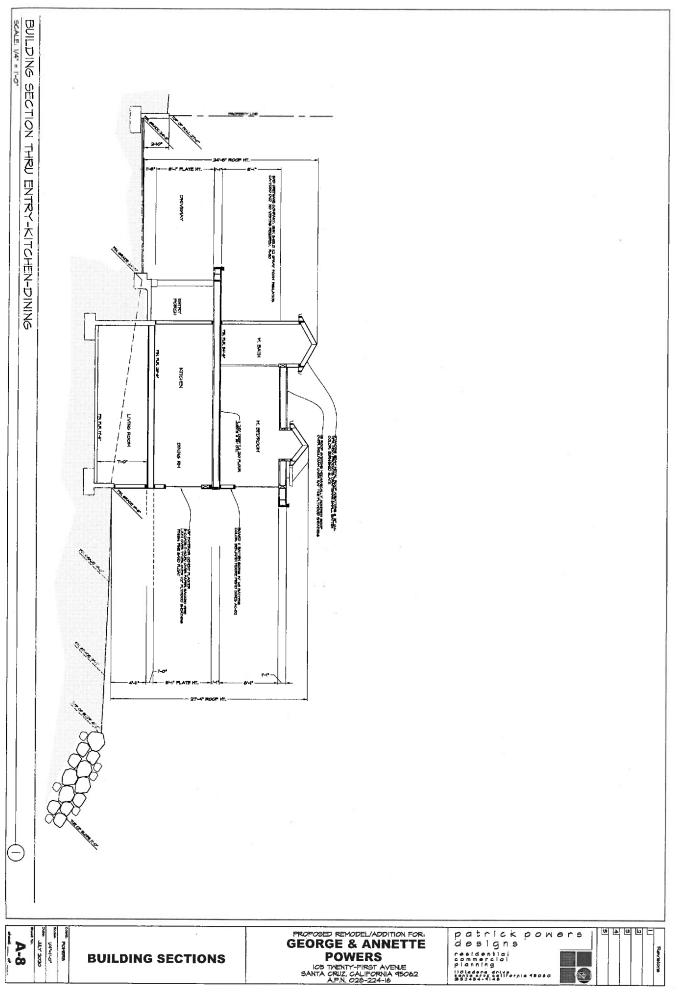




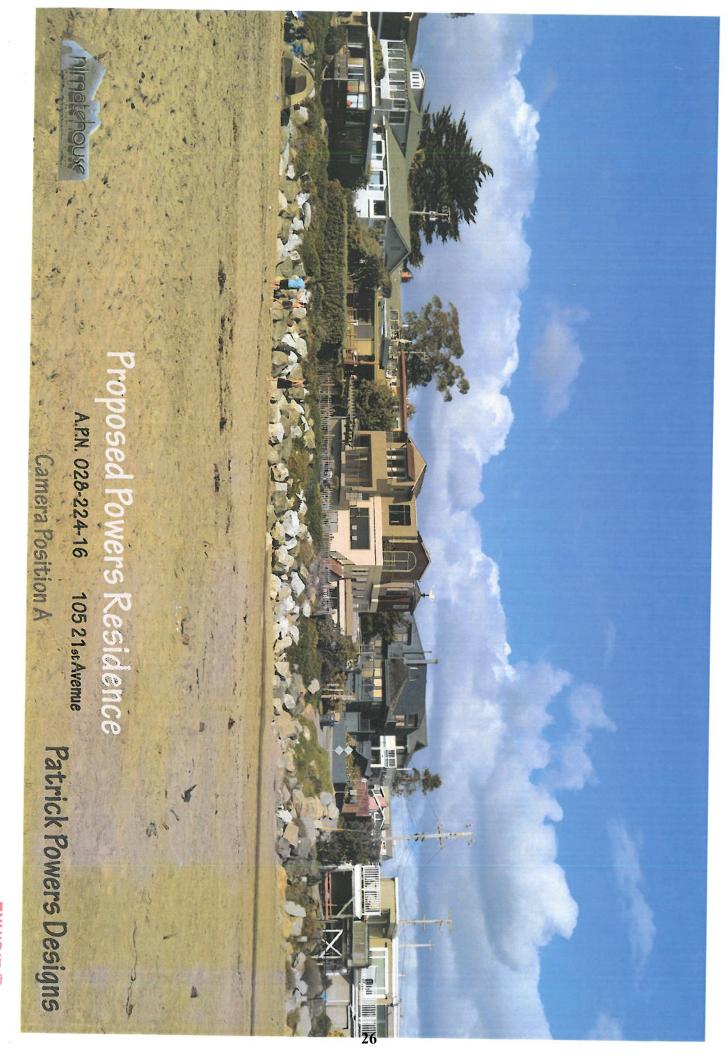


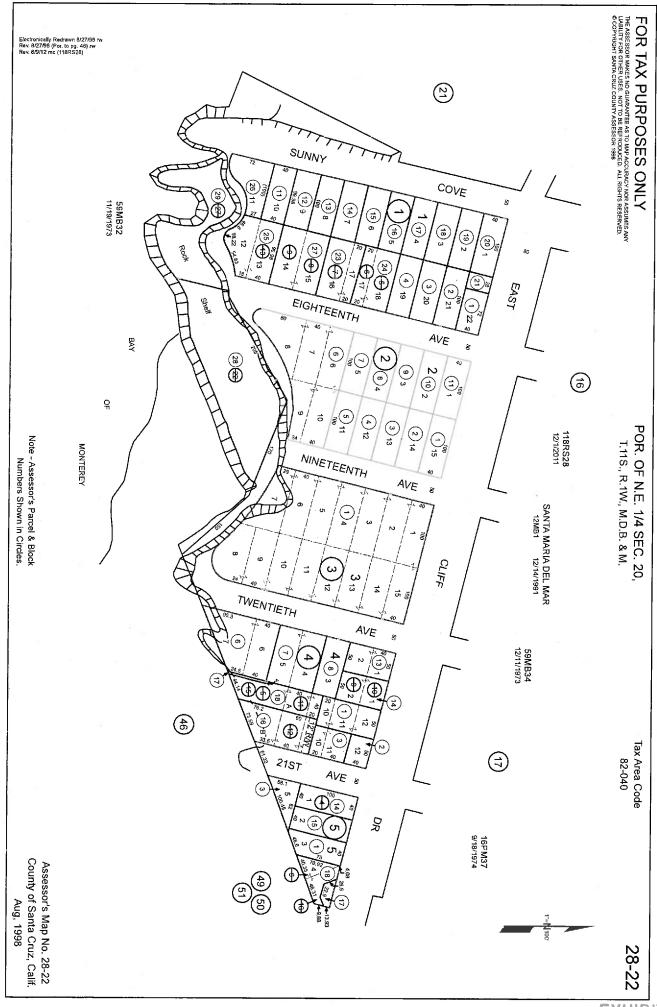














## SANTA CRUZ COUNTY PLANNING DEPARTMENT

# **Parcel Location Map**





Parcel: 02822416

Study Parcel

Assessor Parcel Boundary

Map printed: 10 Apr. 2020

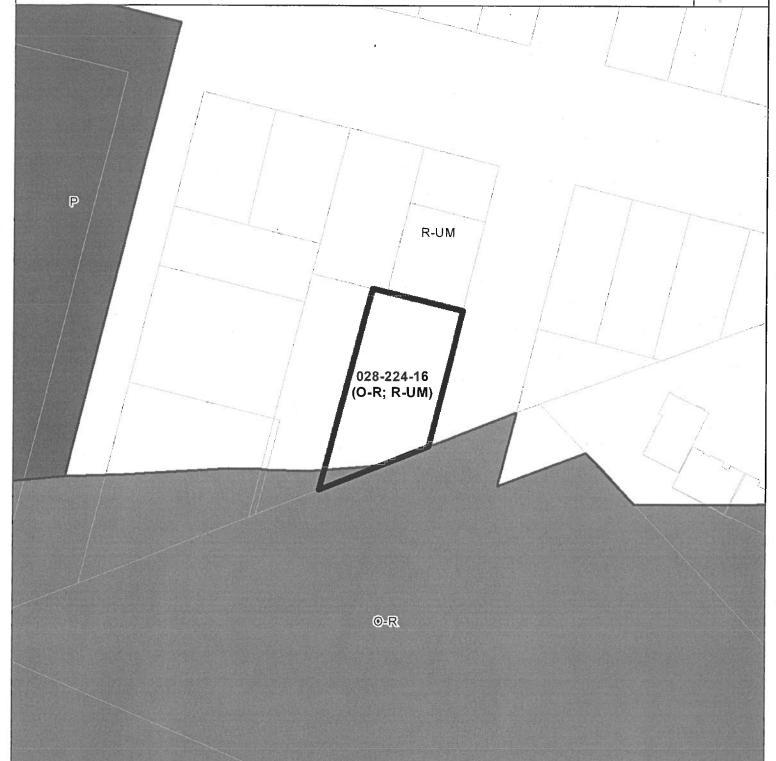




## SANTA CRUZ COUNTY PLANNING DEPARTMENT

## **Parcel General Plan Map**

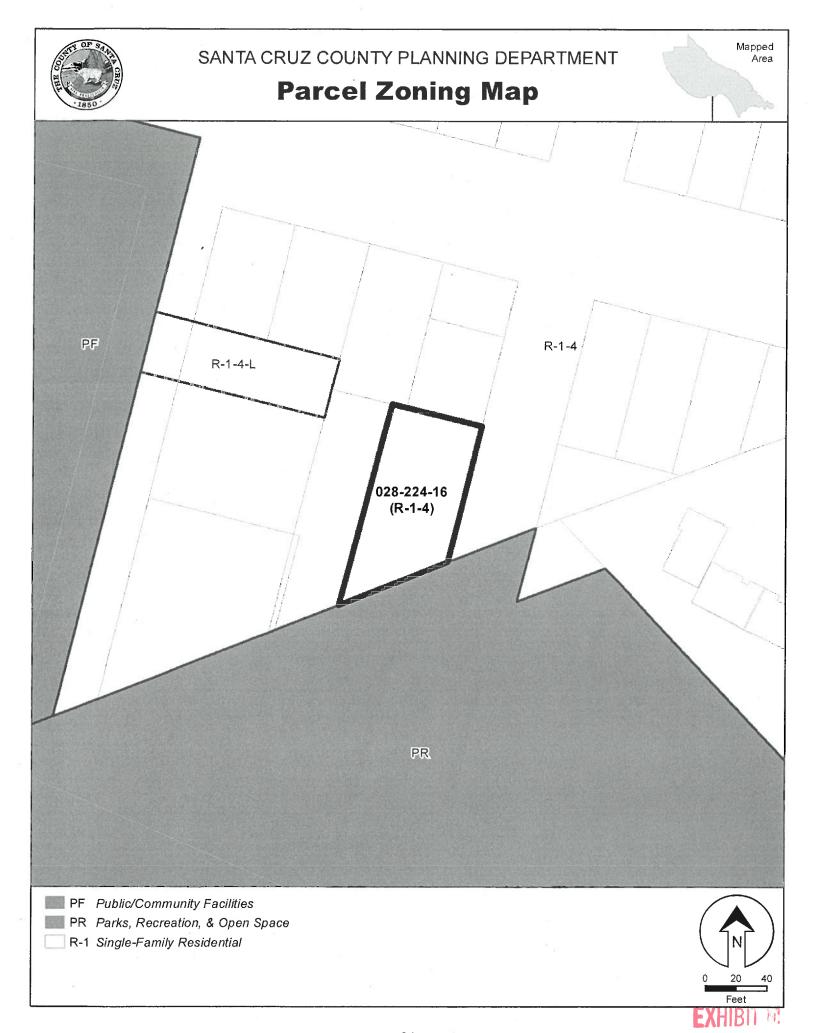
Mapped Area





Parks, Recreation & Open Space

P Public Facilities
R-UM Res. Urban Medium Density



Owner: George and Annette Powers

## **Parcel Information**

## **Services Information**

Urban/Rural Services Line:

X Inside Outside

Water Supply:

City of Santa Cruz Water District

Sewage Disposal:

County of Santa Cruz Sanitation District

Fire District:

Central Fire Protection District

Drainage District:

Flood Control District 5

## **Parcel Information**

Parcel Size:

Approximately 4,400 square feet (net)

Existing Land Use - Parcel:

Residential

Existing Land Use - Surrounding:

Residential and Parks, Recreation, and Open Space

Project Access:

21st Avenue

Planning Area:

Live Oak

Land Use Designation:

R-UM, O-R (Urban Medium Residential Density, Parks,

Recreation, and Open Space)

Zone District:

R-1-4 (Single Family Residential (4,000 square foot

minimum))

Coastal Zone:

X Inside

\_\_ Outside

Appealable to Calif. Coastal

X Yes

\_\_ No

Comm.

## **Technical Reviews:**

#### **Environmental Information**

Geologic Hazards:

Coastal bluff

Fire Hazard:

Not a mapped constraint

Slopes:

0-30% slope

Env. Sen. Habitat:

Not mapped/no physical evidence on site

Grading:

No grading proposed

Tree Removal:

No trees proposed to be removed

Scenic:

Not a mapped resource

Archeology:

Not mapped



## COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123 KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

5 April 2019

George Powers 21968 Gillette Drive Los Gatos, CA 95033

Subject:

Review of the Coastal Geologic Investigation at 105 21st Avenue/APN 028-224-16

dated 20 May 2018 and Addendum Letter with Revised Cross-Section Y-axis

Values dated 26 December 2018 by Zinn Geology - Job #2016012-G-SC

Review of the <u>Geotechnical Investigation for Proposed Residential Development</u> at 105 21<sup>st</sup> Avenue/APN 028-224-16 dated 15 June 2018 by CMAG Engineering,

Inc. - Project No. 18-102-SC

Project Site:

105 21st Avenue

APN 028-224-16

Application No: REV181174

### Dear Applicant:

The purpose of this letter is to inform you that the Planning Department has accepted the subject reports and the following items shall be required:

- 1. All project design and construction shall comply with the recommendations of the reports.
- 2. Final plans shall reference the reports by titles, authors, and dates. Final Plans should also include a statement that the project shall conform to the reports' recommendations.
- 3. After plans are prepared that are acceptable to all reviewing agencies, please submit a completed Soils (Geotechnical) Engineer Plan Review Form and a completed Geologist Plan Review Form to Environmental Planning. The authors of the soils and geology reports shall sign and stamp their respective completed forms. Please note that the plan review forms must reference the final plan set by last revision date.

Any updates to report recommendations necessary to address conflicts between the reports and plans must be provided via a separate addendum to the soils report and/or geology report.

Electronic copies of all forms required to be completed by the Geotechnical Engineer may be found on our website: <a href="www.sccoplanning.com">www.sccoplanning.com</a>, under "Environmental", "Geology & Soils", and "Assistance & Forms".

After building permit issuance the soils engineer and engineering geologist *must remain involved* with the project during construction. Please review the <u>Notice to Permits Holders</u> (attached).

Our acceptance of the reports is limited to its technical content. Other project issues such as zoning, fire safety, septic or sewer approval, etc. may require resolution by other agencies.

Review of the <u>Coastal Geologic Investigation at 105 21<sup>st</sup> Avenue/APN 028-224-16</u> dated 20 May 2018 and <u>Addendum Letter with Revised Cross-Section Y-axis Values</u> dated 26 December 2018 by Zinn Geology

Review of the <u>Geotechnical Investigation for Proposed Residential Development at 105 21st Avenue/APN 028-224-16 dated 15 June 2018 by CMAG Engineering, Inc.</u>

APN 028-224-16 5 April 2019

Page 2 of 3

Please note that this determination may be appealed within 14 calendar days of the date of service. Additional information regarding the appeals process may be found online at: http://www.sccoplanning.com/html/devrev/plnappeal bldg.htm

Please contact Rick Parks at (831) 454-3168/email: <u>Rick.Parks@santacruzcounty.us</u> or Joe Hanna at (831) 454-3175/<u>Jeffrey.Nolan@santacruzcounty.us</u> if we can be of any further assistance.

Respectfully,

Rick Parks, GE 2603

Civil Engineer – Environmental Planning County of Santa Cruz Planning Department Jeff/ey Nolan, CEG 2247

County Geologist – Environmental Planning County of Santa Cruz Planning Department

Cc: Environmental Planning, Attn: Jessica DeGrassi

Planning Dept., Attn: Nate MacBeth Primary Contact: Pat Powers Zinn Geology, Attn: Eric Zinn, CEG

CMAG Engineering, Attn: Adrian Garner, GE

Attachments: Notice to Permit Holders

Review of the <u>Coastal Geologic Investigation at 105 21<sup>st</sup> Avenue/APN 028-224-16</u> dated 20 May 2018 and <u>Addendum Letter with Revised Cross-Section Y-axis Values</u> dated 26 December 2018 by Zinn Geology

Review of the <u>Geotechnical Investigation for Proposed Residential Development at 105 21<sup>st</sup> Avenue/APN 028-224-16 dated 15 June 2018 by CMAG Engineering, Inc.</u>

APN 028-224-16

5 April 2019

Page 3 of 3

# NOTICE TO PERMIT HOLDERS WHEN SOILS AND GEOLOGY REPORTS HAVE BEEN PREPARED, REVIEWED AND ACCEPTED FOR THE PROJECT

After issuance of the building permit, the County requires your soils engineer and engineering geologist to be involved during construction.

1 At the completion of construction, a Soils (Geotechnical) Engineer Final Inspection Form and a Geologist Final Inspection Form are required to be submitted to Environmental Planning that includes copies of all observations made during construction and is stamped and signed, certifying that the project was constructed in conformance with the recommendations of the soils and geology reports.

If the *Final Inspection Form* identifies any portions of the project that were not observed by the soils engineer and/or geologist, you may be required to perform destructive testing in order for your permit to obtain a final inspection. The soils engineer and/or geologist then must complete and initial an *Exceptions Addendum Form* that certifies that the features not observed will not pose a life safety risk to occupants.

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT 725 FRONT STREET, SUITE 300 SANTA CRUZ, CA 95060 PHONE: (831) 427-4863 FAX: (831) 427-4877 WEB: WWW.COASTAL.CA.GOV



June 3, 2020

Jocelyn Drake, Zoning Administrator Santa Cruz County Planning Department 701 Ocean Street, 4<sup>th</sup> Floor Santa Cruz, CA 95060 Jocelyn.Drake@santacruzcounty.us

**Subject:** June 5, 2020 Zoning Administrator Hearing for CDP Application No. 181560 (Powers Residence, 105 21st Avenue)

Dear Ms. Drake:

The above-referenced application is currently scheduled for a Zoning Administrator (Z.A.) hearing on June 5, 2020. The proposed project includes a major remodel including an approximately 800-square-foot second story addition and a new habitable basement. We previously raised concerns about the proposed project's consistency with the LCP related to the use of shoreline armoring, potential public right-of-way encroachments, its location at an LCP-designated Primary Public Access Point, an outstanding violation at the site related to unpermitted riprap, and the site's dual land use designation (see Attachment A; Comments dated November 28, 2018 and May 31, 2019). In addition to the previous comments, Commission staff met with the Applicants on two separate occasions to discuss our concerns and a potential path forward to avoid an appeal to the Commission of any Z.A. approval. Based on a review of the staff report and project plans, it would appear that the concerns raised in our previous written comments and during meetings have not been resolved to date, including related to the outstanding violation. Thus, we respectfully request that this item be continued to allow for resolution of the various issues at play here, including the violation, prior to approval of any new development, as is required by LCP Implementation Plan (IP) Section 13.20.170. Additional clarifications on the comments previously made and responses to the staff report are provided below:

1. **Shoreline Armoring.** First, it would appear that there is unpermitted riprap at the site including because there was approximately 125 tons of riprap placed under Commission-issued Emergency Coastal Development permit (ECDP) M-81-8; however, no follow-up CDP was ever obtained to authorize the placement of the emergency riprap. Further, additional riprap was placed in 1984 without a CDP (although the County issued a grading permit for this work). The staff report indicates that no CDP was required for the placement of rock in 1984 under the newly certified LCP and Coastal Act, citing Land Use Plan (LUP) Policy 3.3.9 and Coastal Act Section 30610(g). However, LUP Policy 3.3.9 applies to principal structures (i.e., residences and buildings and not shoreline armoring devices), and simply indicates that that reconstruction of such structures shall be permitted subject to LUP Policy 3.3.7. In other words, nothing in the policy suggests that no

CDP would be required for the placement of riprap. Similarly, Coastal Act Section 30610(g) also only applies to principal structures (and not shoreline armoring devices), which is demonstrated by its application over time and its references to compliance with applicable zoning requirements, including use, floor area ratio, height, and bulk. Accordingly, Coastal Act Section 30610(g) is not applicable, and thus a CDP was required for the riprap placed in 1984. Because it does not appear CDPs were ever granted to authorize the riprap placed in 1981 or 1984, there is unpermitted riprap at the site, which is the subject of an open Commission violation case (V-3-19-0102). As stated above, IP Section 13.20.170 requires that no new development at a site be authorized until existing violations have been resolved. Thus, we request that this item be continued until the violation has been resolved (i.e., the riprap is either authorized by a CDP or is removed).

- 2. LCP-Designated Primary Public Access Point, Public Right-of-Way (ROW) Encroachments, and O-R (Open Space, Parks, and Recreation) Land Use Designation. We previously requested that a property line survey be completed and that the public/private boundary be delineated on the project plans because it appears that private development may encroach onto the public O-Rdesignated beach area of the property and/or within the street ROW. Any such private encroachments would require an encroachment permit from County Parks—if allowable at all given the public access and recreation impacts such encroachments would have since this property fronts a public beach and is adjacent to a public beach accessway. Further, the unpermitted riprap directly impedes public access to the beach and thus—again, if allowable at all (see next section on this point)—it may be difficult to make the findings required in IP Section 13.20.110 (D & F). Also, the site is designated in the LCP as a "Primary Public Access Point, and is also designated for Parks, Open Space, and Recreation. Accordingly, we again recommend that this item be continued with direction to resolve the violation associated with the riprap, and to evaluate potential improvements to public access at the site consistent with the LCP and land use designation.
- 3. **Redevelopment Threshold/Setback.** Finally, the proposed project entails an 800-square-foot addition and major renovations to the existing structure, which would render the structure "redeveloped" and thus not entitled to shoreline armoring (see IP Section 16.10.070(H)(3) and LUP Policy 6.2.16). The proposed project would therefore either need to be modified to ensure that modifications to any single major structural component do not exceed 50% (and again, such an

<sup>&</sup>lt;sup>1</sup> See Coastal Commission staff report (especially pages 22-23) for more detailed descriptions on "redevelopment": <a href="https://documents.coastal.ca.gov/reports/2018/7/th14a/th14a-7-2018-report.pdf">https://documents.coastal.ca.gov/reports/2018/7/th14a/th14a-7-2018-report.pdf</a>

# County Application No. 181560 (Powers' Residence)

approach would first require the Applicants to submit a CDP for authorization of the riprap²) or the project could proceed as proposed, but the riprap would need to be removed entirely. In addition, it would appear that the existing residence (for which major renovations are proposed) does not meet the LCP's minimum 25-foot or the 100-year setback (whichever is greater), and it is further not clear whether the proposed 800-square-foot addition meets the LCP's required 100-year setback (without consideration given to any existing and unpermitted armoring), inconsistent with IP Sections 16.10.070(H)(1)(b & e) and LUP Policy 6.2.12. And thus, this inconsistency will need to be reconciled either by reducing the addition to less than 500 square feet or reducing the extent of modifications to any major structural component to less than 50%. Otherwise, the project will need to be redesigned to meet the minimum geologic setback requirement without shoreline armoring.

In light of the complexity of the issues discussed above and the significance of the coastal resources at play, we think the best path would be to continue the item with direction to resolve the above-mentioned issues.

Thank you for your time and consideration. Please contact me at Rainey.Graeven@coastal.ca.gov if you have any questions or wish to discuss the above comments.

Sincerely,

Rainey Graeven

Rainey Graeven

Coastal Planner

Central Coast District

California Coastal Commission

Attachment A: Comments dated November 28, 2018 and May 31, 2019

<sup>&</sup>lt;sup>2</sup> We are available to discuss the appropriate permitting avenue in light of the fact that some of the unpermitted riprap was temporarily authorized by a Commission-issued ECDP in 1981, and the remaining unpermitted riprap was authorized by County-issued grading permit in 1984 post-LCP certification.

Subject: Comments on Application No. 181560

Date: Wednesday, November 28, 2018 at 3:45:09 PM Pacific Standard Time

From: Graeven, Rainey@Coastal

To: nathan.macbeth@santacruzcounty.us

CC: gapowerz@gmail.com

Dear Nate,

Thank you for the opportunity to comment on the above-referenced Coastal Permit application. Please include these comments as part of the administrative record for this project, and distribute to the applicant and appropriate staff.

## Project Description/Location:

The project proposes to construct an approximately 800 square foot second story addition, and a 750 square foot habitable basement at 105 21<sup>st</sup> Avenue. The proposed project would require a minor exception to increase the allowed FAR from 50% to 55%.

## **Completeness Items:**

- 1. Geologic Hazard Report. The project appears to propose extensive new development in an area of potential coastal hazards and therefore requires a geologic report (see IP Section 16.10.070(H)(1)). The LCP requires that a coastal bluff building site be stable for a minimum of 100 years in its predevelopment application condition, and that any development be set back an adequate distance to provide stability for the development's lifetime, and at least 100 years. The minimum 100 years of stability must be established through the use of appropriate setbacks and siting, and without reliance on engineering measures "such as shoreline protection structures, retaining walls, or deep piers" (IP Section 16.10.070(H)(3)). Also, the LCP allows shoreline protection structures only "to protect existing structures from a significant threat" (LUP Policy 6.2.16). Thus, the LCP has a two-part minimum 100-year stability requirement: first, there must be a portion of the site in question that itself will be stable for at least 100 years in a pre-development (i.e., no project) scenario, without reliance on structural development to make it so; and second, any development then introduced onto the site must also be stable for its lifetime measured for at least 100 years without reliance on engineering measures.) All of these issues should be addressed in the geologic hazards report. In addition, the site appears to include existing shoreline protection, which as indicated below appears to be unpermitted. The hazards report should detail the permitting history, including a thorough review of any permits for the existing shoreline protection at the site (including along the property and immediately adjacent to the property in the coastal accessway), and should evaluate the complete range of alternatives including soft-armoring alternatives including an erosion control/landscaping plan. Finally, please provide a copy of the geologic hazards report to Coastal Commission staff when it becomes available.
- 2. **Public Right-of-Way.** Please survey the property boundary and the right-of-way along 21<sup>st</sup> Avenue and include it on all project plan sheets. Please also include a sheet with images delineating the public/private property boundary along the eastern (21<sup>st</sup> Avenue) and southern (seaward) property lines. The project should be conditioned to require removal of and/or an encroachment permit for all private encroachments into the public right-of-way including any landscaping, decking, and riprap.
- 3. **Renovation of Major Structural Components.** Please provide detailed calculations regarding the fraction of the existing major structural components that will be altered; e.g., the fraction of the

existing exterior walls that will be replaced or altered, the fraction of the existing floor that will be replaced or altered, the fraction of existing roof structure and foundation that will be replaced or altered, etc. and a plan sheet(s) depicting same. Please also (as detailed below) identify any permitting history for the house including any demolition/remodels since 1972.

- 4. **Visual Simulations**. Please include visual simulations comparing the existing residence with the proposed residence as seen from the beach. See item #1 below.
- 5. **Project Plans (Height).** The proposed project plans do not depict the total height of the project in a straightforward manner. Therefore, please revise the project plans such that it is clear the height of the project throughout the project site including from the basement floor through to the upper roof (as opposed to the basement floor to a lower portion of the roof).

## **Compliance Issues:**

- 1. Permitting History/Coastal Hazards Setback. It would appear that there is extensive development within the minimum 25-foot bluff setback, and potentially additional development within the 100-year geologic setback. Please provide the complete permitting history for the property, particularly any development within the setback including the deck, private stairway, the existing residence, retaining walls, and the riprap. Our records indicate that approximately 125 tons of riprap was placed under an emergency CDP in 1981. It does not appear that a follow-up CDP was ever obtained, and thus it appears the riprap is unpermitted. Therefore, removal, partial removal, and/or authorization of the riprap will need to be addressed either prior to or concurrently with any development approval. Please also note that IP Section 16.10.070(H)(1)(b) requires that all development must be set back a minimum of 25 feet or the amount necessary to provide a stable building site for the 100-year lifetime of the structure, and thus any existing development within the setback may need to be removed as a part of any approval.
- 2. **Dual Land Use Designation.** The subject parcel has a dual general plan designation (R-UM, O-R). The intent of an O-R general plan designation is to protect and preserve parks, recreation, and open space (see LUP Policy 7.10.1). The LCP further provides that only low-intensity and compatible uses which are compatible with the scenic values and natural setting may be allowed in lands designated O-R (see LUP Policy 7.1.3). It appears that there may be unpermitted riprap located on the portion of the parcel containing an O-R general plan designation. A shoreline protection structure does not appear to meet the intent or be allowable under the O-R general plan designation, and thus this inconsistency will need to be addressed in this permit (particularly given that it is unpermitted).
- 3. Primary Public Access Point. Concoran Lagoon/Beach is an LCP-designated Primary Public Access Point (see LUP Policy 7.7.15). Public access improvements (including but not limited to improved parking, bicycle parking, improved accessways, etc.) are required as a condition of approval for any development at located at Primary Public Access Points. Therefore, any development approval at the subject site should include a condition requiring public access improvements on/adjacent to the property such as parking along 21<sup>st</sup> Avenue and improvements to the immediately adjacent beach accessway.
- 4. Minor Exception for increased FAR. The proposed project includes a minor exception to increase the FAR from the allowed 50% to 55%. In order to approve such a minor exception, the applicant must demonstrate that there will be no increase in stormwater leaving the property as a result of the increased FAR, and the project shall include runoff control measures that direct runoff to landscaping, must include permeable paving material, reduce the amount of existing impermeable area, and other low impact drainage features. The project plans currently note that all exposed areas should be

planted as practical after development. Because the proposed project includes a minor exception to allow for an increased FAR (and is located adjacent to the beach and on land designated O-R), the complete landscaping/erosion control plan should be incorporated on the plan sheets and be a part of any approval for the site.

5. **Visual Resource Protection.** The project appears to significantly increase the bulk and massing of the existing structure, and should therefore be evaluated for consistency with LCP policies protecting public views <u>from the beach</u>. See, e.g. LUP Policies 5.10.3 (Protection of Public Vistas), 5.10.4 (Preserving Natural Buffers), 5.10.6 (Preserving Ocean Vistas) and 5.10.7 (Open Beaches and Blufftops). As such, please include visual simulations comparing the existing residence with the proposed residence as seen from the beach. Please also include a sheet in the project plans which depicts the existing development visually and a chart that compares the existing development with the new development (including square footage, # of bedrooms, # of bathrooms, FAR, etc.).

#### **Permit Conditions:**

1. **No Future Shoreline Armoring.** (See sample condition below). IP Section 16.10.070 sets forth applicable conditions for development on bluffs. Please also ensure that the project is conditioned such that any new development may not rely on shoreline protective structures. A sample Coastal Hazards condition is provided below (see, especially highlighted provisions).

## Sample hazard condition:

**XX.** Coastal Hazards Risk. By acceptance of the CDP, the Applicant acknowledges and agrees, on behalf of itself and all successors and assigns, to the following:

- (a) Coastal Hazards. That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, tidal scour, coastal flooding, liquefaction and the interaction of same;
- **(b) Assume Risks.** To assume the risks to the Applicant and the properties that are the subject of this CDP of injury and damage from such coastal hazards in connection with the permitted development;
- (c) Waive Liability. To unconditionally waive any claim of damage or liability against the [County], its officers, agents, and employees for injury or damage from such coastal hazards;
- (d) Indemnification. To indemnify and hold harmless the [County], its officers, agents, and employees with respect to the [County's] approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards; and
- (e) **Property Owner Responsible.** That any adverse effects to property caused by the permitted development shall be fully the responsibility of the property owner.

**XX.** Coastal Hazards Response. By acceptance of the CDP, the Applicant acknowledges and agrees, on behalf of itself and all successors and assigns, that:

- (a) Intent of CDP. The intent of this CDP is to allow for the approved development to be constructed and used consistent with the terms and conditions of the CDP for only as long as the approved development remains safe for occupancy and use without additional measures beyond ordinary repair and/or maintenance to protect it from coastal hazards. The intent is also to ensure that development is removed and the affected area restored under certain circumstances (including as further described and required in this condition), including that endangered development is required to be removed as described in this condition.
- (b) Shoreline Protective Structures Prohibited. Shoreline protective structures that protect the approved development (including but not limited to seawalls, revetments, retaining walls, tie backs, caissons, piers, groins, etc.) shall be prohibited.
- (c) Section 30235 and LCP Waiver. Any rights to construct such shoreline protective structures, including rights that may exist under Public Resources Code Section 30235, the Santa Cruz County Local Coastal Program, or any other applicable law are waived.
- (d) Reporting Requirement/Ten-foot Trigger. In the event the blufftop edge recedes to within ten feet of residential development, but no government agency has yet ordered that the residence not be occupied, the Applicant shall retain a licensed geologist or civil engineer with experience in coastal processes and hazard response to prepare a geotechnical investigation that addresses whether any portions of the residence and related development are threatened by coastal hazards. The report shall identify all those immediate or potential future ordinary repair and/or maintenance measures that could be applied to address the threat without shoreline protective structures, including but not limited to removal or relocation of threatened development. The investigation shall be submitted to the Executive Director and appropriate local government officials for review and approval. If the approved geotechnical investigation concludes that the residence or any portion of the residence is unsafe for occupancy, the Applicant shall submit a Removal and Restoration Plan (see subsection (e) below).

Removal and Restoration. If an appropriate government agency or the above-referenced approved geotechnical investigation determines that any portion of the approved development is not to be occupied or used due to any coastal hazards, and such safety concerns cannot be abated by ordinary repair and/or maintenance, the Applicant shall remove such development or portions of such development. Prior to removal, the Applicant shall submit two copies of a Removal and Restoration Plan to the [Planning] Director for review and approval. If the Director determines that an amendment to the CDP or a separate CDP is legally required, the Applicant shall immediately submit the required application, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be removed and the affected area restored so as to best protect coastal resources, and shall be implemented immediately upon Director approval, or County approval of the CDP or CDP amendment application, if necessary.

Please let me know if you have any question regarding the above comments.

Sincerely,

Rainey Graeven Coastal Program Analyst, Central Coast District California Coastal Commission 725 Front Street, Santa Cruz, CA 95060 (831) 427-4863 Subject: RE: 105 21st Ave - 181560

Date: Friday, May 31, 2019 at 11:44:59 AM Pacific Daylight Time

From: Graeven, Rainey@Coastal

To: Nathan MacBeth
CC: Jessica deGrassi

Hi Nate,

Thanks. I'm not quite following how this one or the shoreline project were found to be exempt. It's also not clear to me that the exemptions were coastal permit exemptions and not just grading exemptions. Pursuant to 13.20.060 coastal exemptions shall not apply to development that is not exempted by virtue of Coastal Act Section 30610. I would say that the shoreline repair falls within extraordinary repair and maintenance and the riprap at 105 21<sup>st</sup> Avenue has discernible public impacts, thus making either project ineligible for an exemption. In addition, 13.20.062 is clear that that any structures located on a beach or within 50 feet of a coastal blufftop cannot be exempted. For all of the above reasons I would say that the two projects are and were not exempt from coastal permitting requirements.

Rainey

## 30610.

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

- (a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter.
- (b) Improvements to any structure other than a single-family residence or a public works facility; provided, however, that the commission shall specify, by regulation, those types of improvements which (1) involve a risk of adverse environmental effect, (2) adversely affect public access, or (3) involve a change in use contrary to any policy of this division. Any improvement so specified by the commission shall require a coastal development permit.
- (c) Maintenance dredging of existing navigation channels or moving dredged material from those channels to a disposal area outside the coastal zone, pursuant to a permit from the United States Army Corps of Engineers.
- (d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.
- (e) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along,

the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program.

- (f) The installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, however, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.
- (g) (1) The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.
- (2) As used in this subdivision:
- (A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
- (B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
- (C) "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.
- (h) Any activity anywhere in the coastal zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.
- (i) (1) Any proposed development which the executive director finds to be a temporary event which does not have any significant adverse impact upon coastal resources within the meaning of guidelines adopted pursuant to this subdivision by the commission. The commission shall, after public hearing, adopt guidelines to implement this subdivision to assist local governments and persons planning temporary events in complying with this division by specifying the standards which the executive director shall use in determining whether a temporary event is excluded from permit requirements pursuant to this subdivision. The guidelines adopted pursuant to this subdivision shall be exempt from the review of the Office of Administrative Law and from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.
- (2) Exclusion or waiver from the coastal development permit requirements of this division pursuant to this subdivision does not diminish, waive, or otherwise prevent the commission from asserting and exercising its coastal development permit jurisdiction over any temporary event at any time if the commission determines that the exercise of its jurisdiction is necessary to implement the coastal resource protection policies of Chapter 3 (commencing with Section 30200).

(Amended by Stats. 2004, Ch. 697, Sec. 18. Effective January 1, 2005.)

From: Nathan MacBeth [mailto:Nathan.MacBeth@santacruzcounty.us]

Sent: Friday, May 31, 2019 11:32 AM

To: Graeven, Rainey@Coastal

Cc: Jessica deGrassi

Subject: 105 21st Ave - 181560

## Rainey,

I was able to conduct some additional research (attached) regarding the existing rip-rap at 105 21<sup>st</sup> Ave. Repair/replacement of the rip-rap occurred in 1984 and was found to be exempt from needing a CDP. Feel free to contact me or Jessica if you have additional questions. Thank you,

## **Nathan MacBeth**

Development Review Planner County of Santa Cruz Planning Department June 4, 2020 Application Number 181560 APN: 028-224-16 105 21<sup>st</sup> Avenue, Santa Cruz

I am the owner of 22020 East Cliff Drive, a property located behind the Applicant's property. The views of my property will be impacted by the requested improvements to the Applicant's property.

It is my understanding from conversations with Santa Cruz County Planning Department staff that the 28 foot height limit is discretionary, not an entitlement of the Applicant. Further, it is my understanding that private view rights of the nearby property owners need not be protected when considering a permit application.

The Applicant is seeking a Minor Exception to increase the allowed 50% Floor Area Ratio (FAR) to 55%. The Staff Report states in this regard that FAR is intended to be a measure of a structure's bulk and mass, and that in this case, the basement does not add to the bulk and mass of the structure in that the majority of the lower floor is below grade. The Report states that the inclusion of the floor area of the basement in the overall FAR calculation would result in a home which exceeds the district standard by 270 square feet.

With respect to the request to increase FAR by 5%, I note the following:

- Although referred to as a basement, the Applicant's first floor is a fully functioning living area with direct views of the adjoining beach and ocean. As shown in the Applicant's Proposed Basement Floor Plan, the central stairway joining the three of floors of the structure descends into a family room in the basement, which looks out to the ocean. A full bathroom is located off of the family room.
- As shown in the Existing East Elevation, a door enters the basement from street level. Accordingly, it appears that the majority of the basement is not below grade, but rather at grade.
- I need to research further whether basements of this type, which are accessible inside of a structure from the floor above, are allowed under current zoning restrictions.

Although the Planning Department may not need to protect private view rights of nearby property owners when evaluating a permit application, should not the views use of nearby property owners be taken into consideration when the Planning Department grants a discretionary request? Here the discretionary increase of the FAR of the Applicant will undesirably affect the views of several nearby property owners.

It appears that the bulk and mass of the Applicant's structure has not been considered in further evaluation of the application.

• The interior height of the first floor of the Applicant's proposed structure is at least one foot higher than the existing first floor. The Proposed East Elevation view appears to indicate a first-floor interior height of nine feet. In contrast, the Existing East Elevation and Existing North Elevation views appear to indicate a first-floor interior height of not

- greater than eight feet, and possibly less given the existing six foot high exterior door shown on the Existing North Elevation view.
- \* The architectural features of the Applicant's third floor roof, that is the hipped roof and the two ridged roofs, extending above the central "flat" portion of the third floor roof, unnecessarily add to bulk and mass of the structure to the detriment of nearby property owners. It is my understanding from a conversation with the Applicant's architect that these features extend at least three feet, six inches above the flat roof. I am not certain whether this dimension is taken from the highest or lowest portion of the flat roof.

Given that the main value of the Applicant's property is its unobstructed and close views of the ocean, which the Applicant no doubt has the right to maximize, reduction of some of the unnecessary bulk and mass of the Applicant's structure would not undesirably devalue the property.

I ask that the Planning Department reconsider its recommendation to increase the Applicant's FAR by 5% on its merits. Further, the underlying purpose of FAR, that is the bulk and mass of the Applicant's structure, should be considered in evaluating other aspects of the application. The interests of adjoining property owners should be given some weight in these discretionary actions of the Planning Department.

I would be happy to discuss the foregoing with the Applicant.

Edward Bachand edbachand@aol.com 650.520.3821