

Staff Report to the Zoning Administrator

Application Number: 04-0385

Applicant: Matson Britton Architects Agenda Date: January 7,2006

Owner: Loy Nomx Agenda Item #: 3

APN: 043-104-41 Time: after 10:00 a.m.

Project Description: Proposal to construct a new single family dwelling (4,432 sq. ft. - 4

bedrooms) with attrached two car garage on a vacant parcel.

Location: Seaview Drive, Aptos

Supervisoral District: Third District (District Supervisor: Ellen Pirie)

Permits Required: Coastal Development Permit, Residential Development Permit, Soils Report

Review, Geoglogic Report Review

Staff Recommendation:

• Approval of Application 04-0385, based on the attached findings and conditions.

• Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Exhibits

A. Project plans G. Zoningmap

B. Findings H. Assessor's Parcel Map

C. Conditions I. Discretionary Application Comments

D. Categorical Exemption (CEQA J. Urban Designer's Memorandum

determination)

K. Correspondence regarding Deed

E. Location mapF. General Plan mapRestrictions (Running with the Land)

Parcel Information

Parcel Size: 15,327 sq. ft.

Existing Land Use - Parcel: vacant

Existing Land Use - Surrounding: Single family residential

Project Access: Seaview Drive

Planning Area: Aptos

Land Use Designation: R-UL (Urban Low Density Residential)

Zone District: R-1-6 (6,000 sq. ft. min. lot size)

Coastal Zone:

Appealable to Calif. Coastal Comm.

X Inside

Ves

No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site

Soils: N/A

Fire Hazard: Not a mapped constraint

Slopes: N/A

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
Drainage: Existing drainage adequate

Traffic: N/A

Roads: Existing roads adequate

Parks: Existing park facilities adequate

Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: X Inside Outside
Water Supply: Soquel Creek Water District

Sewage Disposal: Santa Cruz County Sanitation District
Fire District: Aptos/La Selva Fire Protection District

Drainage District: Zone 6

History

This application was received on August 12,2004 and deemed complete on October 18,2004.

Project Setting

The proposed residence is located on Seaview Drive in Aptos on the bay side of the street. The site includes a portion of the bluff, which backs onto the lots on Beach Drive below. The applicant has designed the residence to be outside of the bluff setback.

Zoning & General Plan Consistency

The subject property is a 15,327 square foot lot, located in **the** R-1-6 (6,000 **sq.** ft. min. lot size) zone district, a designation that allows residential uses. The proposed single family residence is a principal permitted use within the zone district and the project is consistent with the site's (R-UL) Urban Low Density Residential General Plan designation.

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Owner

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SITE DEVELOPMENT STANDARDS TABLE

	R-1-6 Standards	Proposed Residence
Front yard setback:	(residence and	20'-0"
•	front of garage)	
	20 feet	
Side pard setbacks:	5 feet / 8 feet	5 feet / 8 feet
Lot Coverage:	30 % maximum	20 %
Bluff top setback:	25 feet	25'-0"
Building Height:	28 feet maximum	27'-0"
Floor Area Ratio (F.A.R.):	0.5:1 maximum (50 %)	31 %
Parking	4 bedrooms –	two in garage
_	3 (18' x 8.5')	two uncovered

Local Coastal Program Consistency

The proposed single familyresidence 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 located between the shoreline and the first public road, however it 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.

Design Review

The proposed Single Family Residence complies with the requirements of the County Design Review Ordinance, in that the proposed project will incorporate site and architectural design features to reduce the visual impact of the proposed development on surrounding land uses and the natural landscape.

Environmental Review

Environmental review has not been required for the proposed project in that the project, as proposed qualifies for an exemption to the California Environmental Quality Act (CEQA). The project qualifies for this exemption due to the fact that the proposed parcel is located within the Urban Services line, will be served by an existing roadway, and is also served by existing sewer and water lines. No extenuating circumstances or special site conditions that would require further review under CEQA are evident in the proposed project.

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Site Drainage

This application proposes to connect to the neighboring detention system. The applicant should be aware that this neighboring project is a proposed project still in the review process and has not yet received final approval or a construction permit. If the neighbor's proposal changes, is withdrawn, or is not approved, this application could be affected and the drainage design and mitigation may have to be reconfigured.

Agreement re: Application No. 91-0650

There was a settlement agreement (see Exhibit X) between the County of Santa Cruz, Hillary and Lynette Harts and the group "Responsible Development in Rio Del Mar Committee" in February 1993. Lots 12, 13 and 14 were involved in this application and were a single parcel at the time. Exhibit A-1 of that agreement shows the development envelope for Lot 12. Another Condition of Approval required by this agreement for Lot 12 limits landscaping, shrubbery and fences as follows:

"Exceptas otherwise expresslyprovided herein, such landscaping, shrubbery and fences shall not be more than threefeet in height above the crown of the adjacent Seaview Drive, except as a licensed arborist determines to be necessary to preserve the life and health of existing shrubbery, but in no event shall such existing shrubbery exceed six feet above the crown of Seaview Drive.

Once a singlefamily dwelling is built on either Lot 12 or 13, the landscaping, shrubbery, or fencing on Lots 12, 13, and 14 from Seaview Drive to the depth of the single family dwelling may be allowed at a height equal to that of the tallest of the singlefamily dwellings constructed on Lot 12 or 13....

On Lots 12 and 13, between the development envelopes shown for those lots and the edge of the Coastal Bluff in the rearyards of those lots, no structure or vegetation shall be allowed to exceed six feet (6') in height, all as shown on Exhibit A-I."

These deed restrictions have been incorporated into the Conditions of Approval under "Operational conditions", since landscaping is not a requirement for this application.

Conclusion

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

Staff Recommendation

- APPROVAL **of** Application Number **04-0385**, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

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APN: Owner:

Loy Norrix

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.

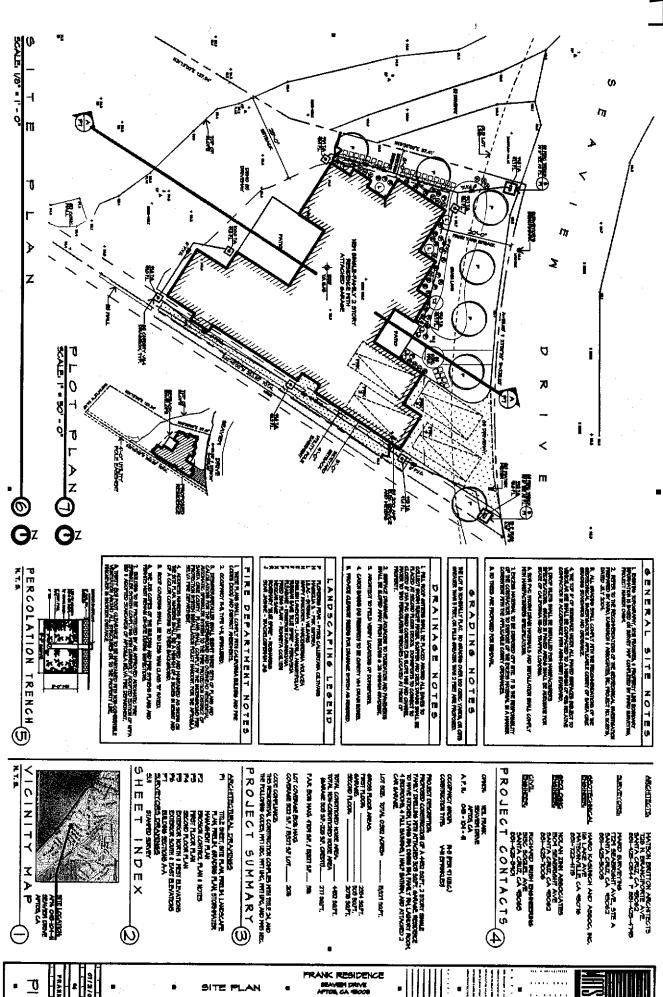
The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

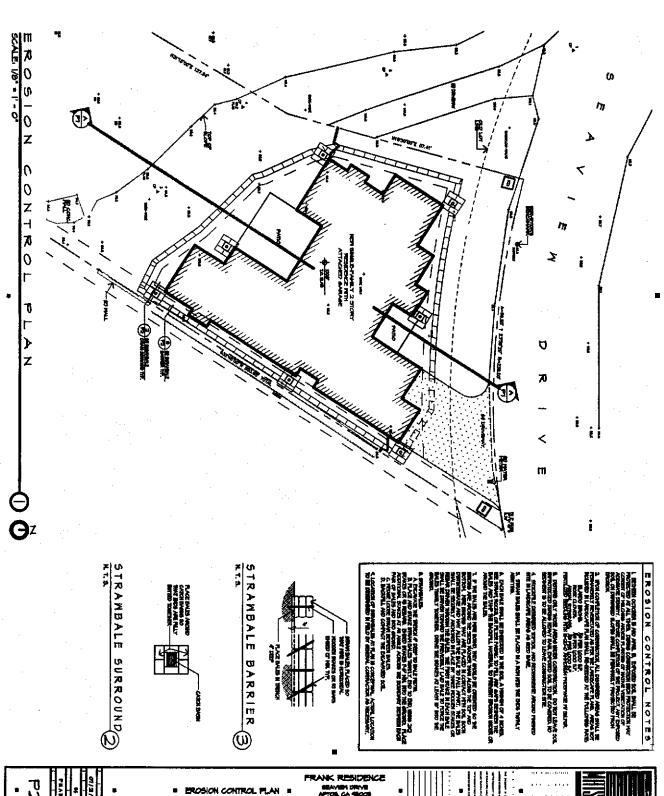
Report Prepared By: Lawrence Kasparowitz

Santa Cruz County Planning Department

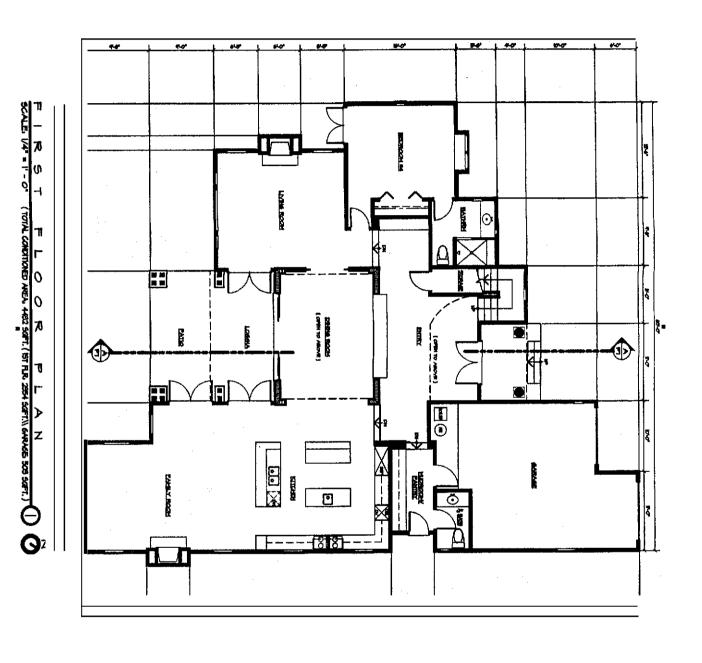
701 Ocean Street, 4th Floor Santa **Cruz** CA 95060

Phone Number: (831) 454-2676 E-mail: pln795@co.santa-cruz.ca.us



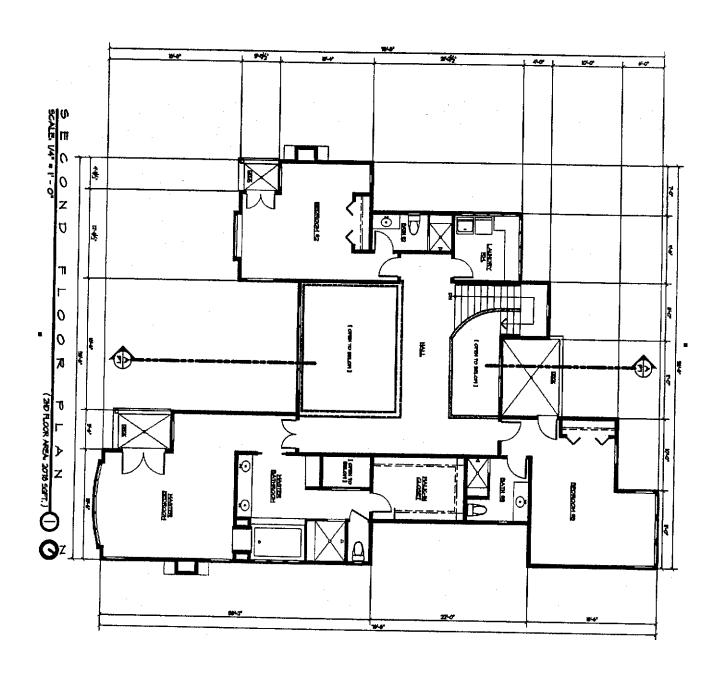


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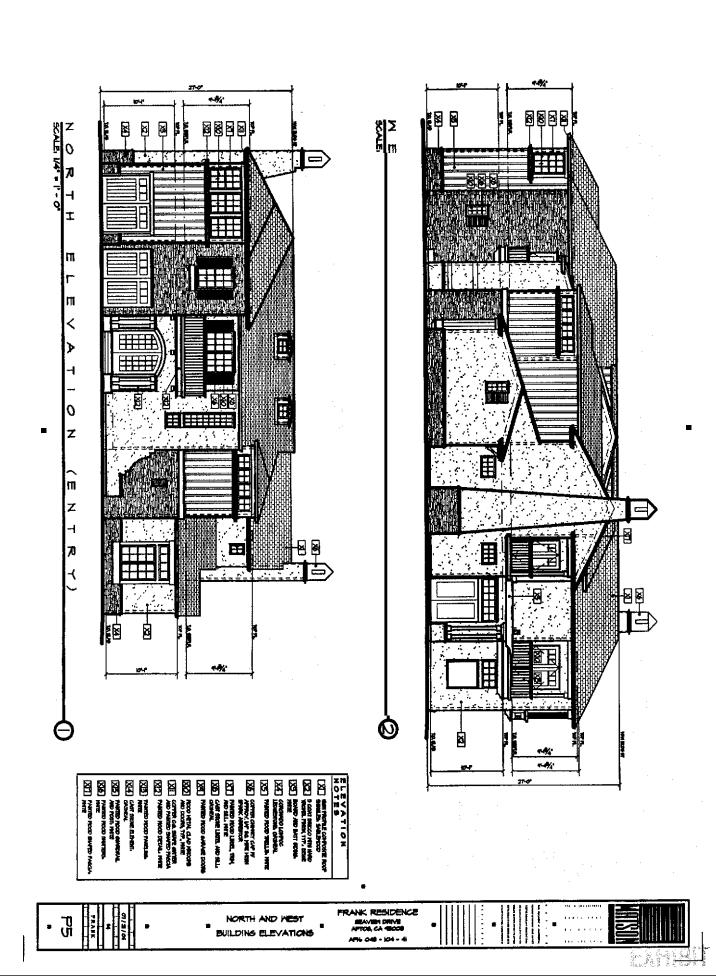
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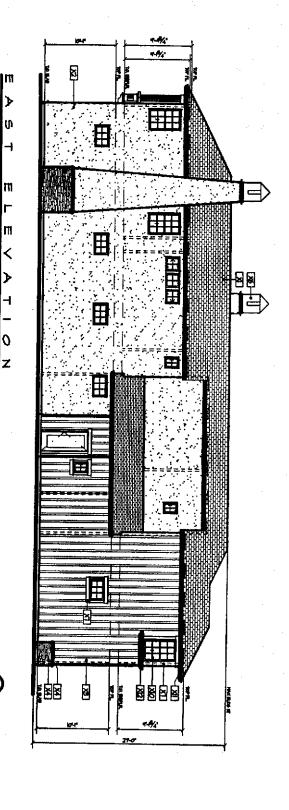
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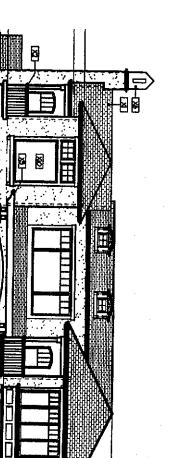
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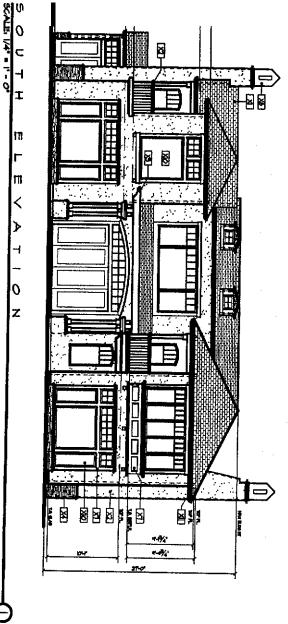




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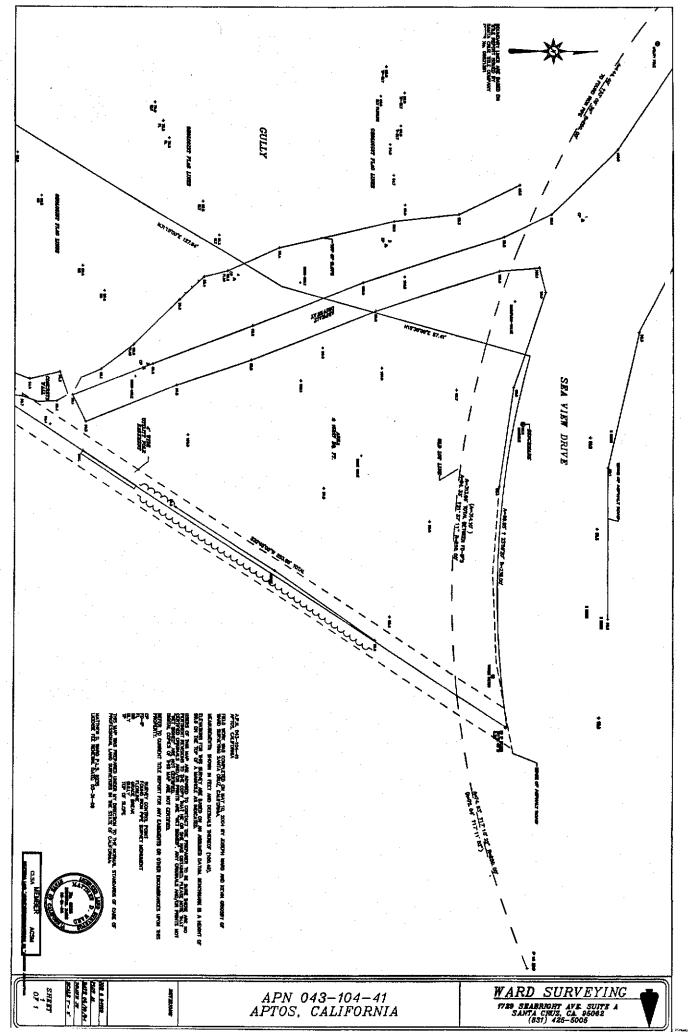
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SOUTH & EAST

n Ø Ш 0 0 (NY GREATEST HEIGHT AND TOPOGRAPHIC DIFFERENCE)

BUILDING CROSS SECTION FRANK RESIDENCE MAYINI DRIVE APTOR CA 48008



are to be the same

Application #: **04-0385** APN 043-104-41 Owner: **Loy Norrix**

Coastal Development Permit Findings

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

This finding can be made, in that the property is zoned R-1-6 (6,000 **sq.** ft. min. lot size), a designation, which allows residential uses. The proposed Single Family Residence is a principal permitted use within the zone district, consistent with the site's (R-UL) Urban Low 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.

This finding can be made, in that 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 13.20.130 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 shall be natural in appearance and complementary to the site; the development site is on a bluff top, however the project will not be visible from the beach.

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

This finding can be made, in that the project site is located between the shoreline and the first public road; however the proposed single family residence will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

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

This finding can be made, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the R-1-6 (6,000 sq. ft. min. lot size) 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.

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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 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 single family residence 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.

This finding can be made, in that the proposed location of the single family residence 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-1-6 (6,000 sq. ft. min. lot size) zone district in that the primary use of the property will be one single family residence that meets all current site standards for the zone district.

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 Urban Low Density Residential (R-UL) land use designation in the County General Plan.

The proposed Single Family Residence 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 Single Family Residence 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 Single Family Residence 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 single family residence will comply with the site standards for the R-1-6 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.

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

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 single family residence is to be constructed on an existing undeveloped lot. The expected level of traffic generated by the proposed project is anticipated to be only one peak trip per day (1 peak trip per dwelling unit), such an increase will not adversely impact existing roads and 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 single family residence 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 13.11.070through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed single family residence 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.

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Conditions of Approval

Exhibit **A** Architectural drawings prepared by Matson Britton Architects, dated 7/21/04 and revised 9/16/04.

Survey prepared by Ward Surveying, dated 5/19/04.

- I. This permit authorizes the construction of a new single family residence. 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 offsite work performed in the County road right-of-way.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - **A.** Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
 - B. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include the following additional information:
 - 1. Identify finish of exterior materials and color of roof covering for Planning Department approval. Any color boards must be in 8.5" x 11" format.
 - 2. Details showing compliance with fire department requirements.
 - 3. Final plans shall reference and incorporate all recommendations of the soils and engineering geology reports prepared for this project. All pertinent soils and engineering geology report recommendations shall be included in construction drawings submitted to the County for a building permit. A plan review letter from the soils engineer and engineering geologist shall be submitted, which states that final building, grading and drainage plans are in conformance with the recommendations made in the soils and engineering geology reports for this site.
 - 4. **A** final detailed drainage plan must be submitted which shows how and where the building, paved driveway, patios and other impervious surfaces will drain without adverse effects on the adjoining properties. Final

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drainage plans shall conform to the following:

- a. A civil engineer shall prepare final drainage plans.
- b. Final plans shall show existing and proposed impervious surfaces and include calculations for the net increase in impervious **area.**
- c. Plans shall provide design details including, but not limited to; pipe sizes, materials, slopes, flow line elevations, outlet structures, etc.
- d. The plan review letter from the project soils engineer must approve the fmal drainage plan and must state that the plan will not cause any erosion or stability problems.
- e. A recorded drainage easement bounding all portions of the drainage system shared in common, inclusive of the detention storage chamber and discharge pipe, will be required to receive approval of the building application. A signed letter of agreement from the neighbor to provide the needed easement, and the delineation of the proposed easement on the current plan will be required. This easement is to assure both users of the detention system the future right and responsibility to maintain and/or replace the drainage system and mitigation measures.
- 5. The driveway must meet County of Santa Cruz standards. Final drawings shall provide the following information for the driveway; the structural section, a centerline profile and a typical cross section. Indicate on the plans how the driveway will connect to Seaview Drive and if there is an existing curb, gutter and/or sidewalk.
- 6. Submit detailed erosion control plan, which includes location and construction details for all proposed erosion/sediment control devices. Plan must include construction entrance/exit stabilization measures and must include measures to prevent runoff generated during construction from flowing towards the bluff or turbid water/sediment from entering the ravine.
- 7. All landscaping within the 25 foot coastal bluff setback shall be limited to drought-tolerant species. Plans shall specify that irrigation, except for the minimum amount of hand watering required to establish new plantings, is strictly prohibited.
- 8. All development, including cantilevered or non-habitable structures, as defined in Section 16.10.070 of the County of Santa Cruz Code shall be located outside of the 25 foot coastal bluff setback.
- **9.** Final plans shall show the fireplace outside of the utility pole easement unless the applicant can secure written permission from the easement holder.

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- C. Meet all requirements of and pay Zone 6 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
- D. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
- E. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer, if required.
- F. Pay the current fees for Parks and Child Care mitigation for 4 bedroom(s).
- G. Pay the current fees for Roadside and Transportation improvements for 4 bedroom(s).
- H. 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.
- I. Submit a written statement signed by **an** authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
 - B. All site improvements shown on the final approved Building Permit plans shall be installed.
 - C. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - D. The project must comply with all recommendations of the approved soils reports.
 - E. 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-Coronerif the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

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N. 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. Landscaping, shrubbery and fences shall not be more than three feet in height above the crown of the adjacent Seaview Drive, except as a licensed arborist determines to be necessary to preserve the life and health of existing shrubbery, but in no event shall such existing shrubbery exceed six feet above the crown of Seaview Drive.
- C. Between the development envelopes shown for Lots 12 and 13, and the edge of the Coastal Bluff in the rear yards of those lots, no structure or vegetation shall be allowed to exceed six feet (6') in height, all as shown on Exhibit **A-1** of the Deed Restrictions.
- D. The landscaping, shrubbery, or fencing from Seaview Drive to the depth of the proposed single family dwelling may be allowed at a height equal to that of the tallest point of the single family dwelling constructed on Lot 13.

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	Lawrence Kasparowitz
Deputy Zoning Administrator	Project Planner

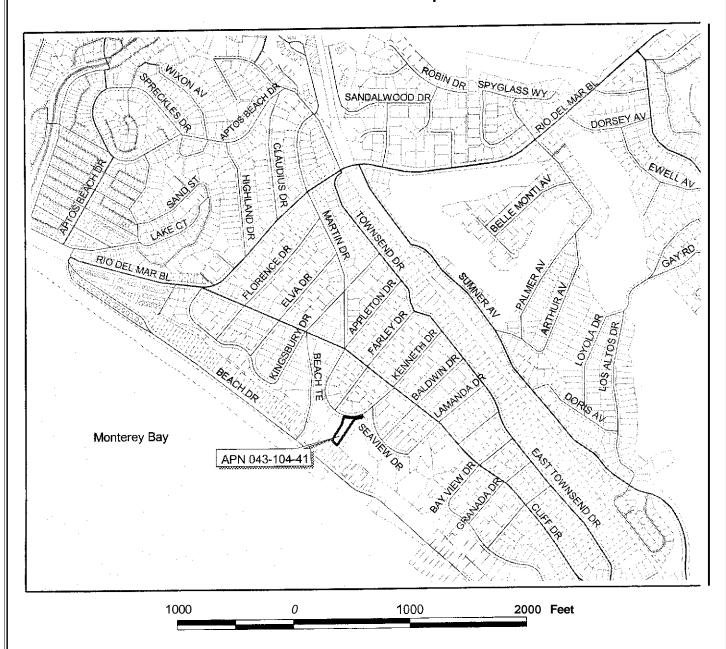
Appeals: Any property owner. or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

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

Application Number: 04-0385 Assessor Parcel Number: 043-104-41		
Project Location:	Seaview Drive, Aptos	
Project Description:	Proposal to construct a new single family dwelling (4,432 sq. ft 4 bedrooms) with attrached two car garage on a vacant parcel.	
Person Proposing Project:	Matson Britton Architects	
Contact Phone Number:	(831) 425-0544	
B The proposed Section 1506 C Ministerial Provide without person to 15285).	l activity is not a project under CEQA Guidelines Section 15378. I activity is not subject to CEQA as specified under CEQA Guidelines 60 (c). roject involving only the use of fixed standards or objective measurements on aljudgment. emption other than a Ministerial Project (CEQA Guidelines Section 15260)	
EX_ Categorical F	Exemption	
Specifytype: New Construct	ction or Conversion & Small Structures (Section 15303)	
F. Reasons why the pro	ject is exempt:	
New single-family re	sidence in an existing neighborhood.	
In addition, none of the cond	litions described in Section 15300.2 apply to this project.	
	Date:	
Lawrence Kasparowitz, Proj		

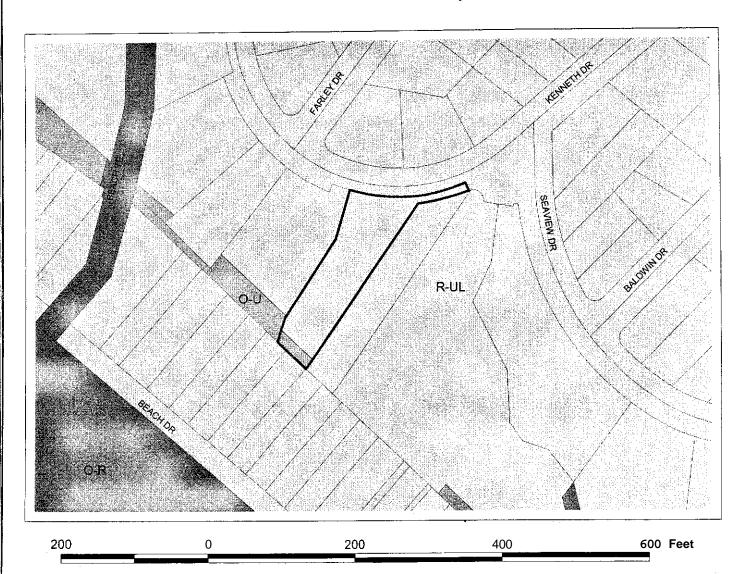
Location Map



Map created by Santa Cruz County
Planning Department:
August 2004



General Plan Map



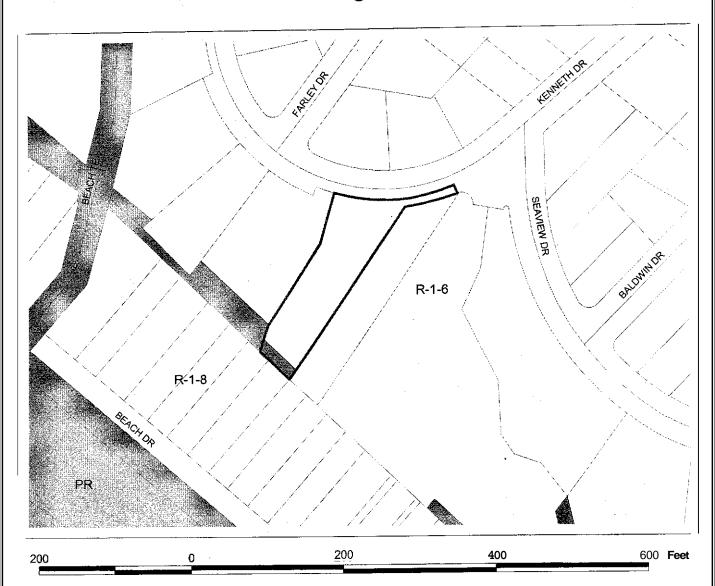
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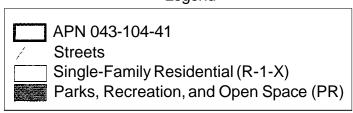


Map created by Santa Cruz County Planning Department: August 2004

Zoning Map

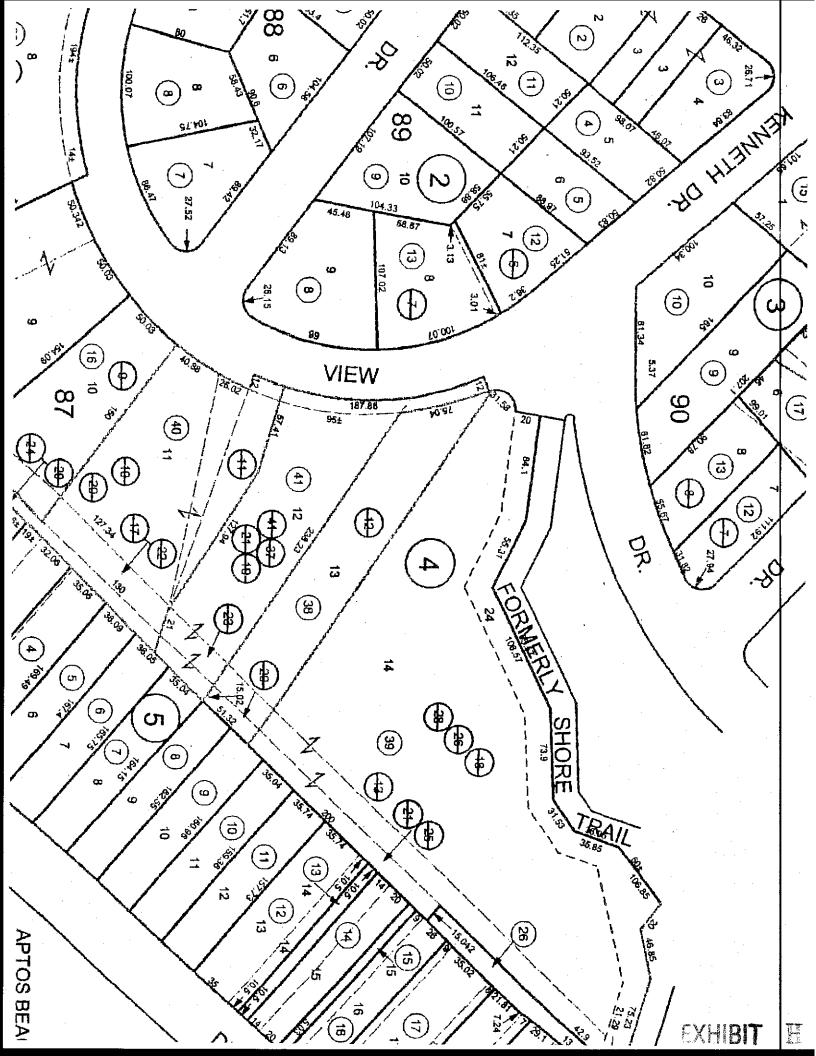


Legend





Map created **by** Santa Cruz County Planning Department: August 2004



CONTYOF SANTA RUZ DISCRETIONARY APPLICATION COMMENTS

Project Planner: Larry Kasparowitz

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Date: November 4, 2004

Time: 15:52:37

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Environmental Planning Completeness Comments	
REVIEW ON AUGUST 18. 2004 BY ROBIN M BOLSTER	
Please revise plans to show the extent of vegetation associated with the adjacent ravine.	Ĺ
UPDATED ON SEPTEMBER 3, 2004 BY ROBIN M BOLSTER This project cannot be considered complete until the Geologic and Soils Reviews have been completed.	
pleted	
UPDATED ON OCTOBER 21. 2004 BY ROBIN M BOLSTER NO COMMENT	
Environmental Planning Miscellaneous Comments	
====== REVIEW ON AUGUST 18, 2004 BY ROBIN M BOLSTER ======	

The following items should be included as Conditions of Permit Approval:

- 1) final plans shall reference and incorporate all recommendations of the soils and engineering geology reports prepared for this project. All pertinent soils and engineering geology report recommendations shall be included in construction drawings submitted to the County for a Building Permit. A plan review letter from the soils engineer and engineering geologist shall be submitted, which states that final building, grading and drainage plans are in conformance with the recommendations made in the soils and engineering geology reports prepared for this site.
- 2) A final detailed drainage plan must be submitted, which shows how and where the building. paved driveway, patios, and other impervious surfaces will drain without adverse effects on adjoining properties. Final drainage plans shall conform to the following: a. Final drainage plans shall be prepared by a civil engineer. b. Final plans shall show existing and proposed impervious surfaces and include calculations for the net increase in impervious area. c. Plans shall provide design details including, but not limited to, pipe sizes, materials, slopes. flowline elevations. outlet structures, etc. d. The plan review letter from the project soils engineermust approve the final drainage plan and must state that the plan will not cause any erosion or stability problems
- 3) Submit detailed erosion control plan, which includes location and construction details for all propsed **erosion/sediment** control devices. Plan must include construction entrance/exit stabilization measures and must include measures to prevent runoff generated during construction from flowing towards the bluff or turbid water/sediment from entering the ravine
- 4) All landscaping within the 25-foot coastal bluff setback shall be limited to drought-tolerant species. Plansshall specify that irrigation, except for the minimum amount of hand watering required to establish new plantings, is strictly prohibited.
- 5) All development, including cantilevered or non-habitable structures, as defined

Disci ionary Comments - Continued

Project Planner: Larry Kasparowitz

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Time: 15:52:37

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in section 16.10.070 shall be located outside of the 25-foot coastal bluff setback.

Dpw Drainage Completeness Comments

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

First Routing 7.23.1 New Development 7.23.2 Minimizing Impervious Surfaces 7.23.5 Control Surface Runoff

A drainage plan (7/21/04 by Matson Britton) and separate engineered calculations (8/11/04 by Richard Irish) were submitted with the application, and both were reviewed for completeness of discretionary development and compliance with County policies listed above. Clarification was unsuccessfully sought from both the architect and the engineer in an effort to reduce the potential comment items. Some comments may not apply, pending clarifications. The plan was found to need the following additional information prior to approving discretionary stage Storm Water Management review.

- 1) A separate application is currently in review process on the adjacent parcel (APN 043-104-40, 04-0313) that indicates an extension of a stub drainage line onto this property to allow shared use of a detention system located on the neighboring parcel. The drainage plan proposed here shows no indication of this potential shared use. A shared use will necessitate the need for an easement. Clarification is needed.
- 2) The percolation pits shown on the architect-s plans are not consistent with the later dated calculations made by the engineer. Larger facilities are indicated, and perhaps a different application or configuration is intended by the engineer. See item #4. There is no requirement by the County to provide 2-year retention to address a resource issue. There is a requirement to hold runoff to pre- development rates for the 10-year County standard storm event.
- 3) The overflow for events exceeding a 2-year storm from these percolation pits is along the property frontage, but routing beyond this point is not adequately described. Please fully describe the offsite flow path to a County inlet or a natural drainage channel. The neighboring project plan shows intent to install a new storm drain across the frontage of this property that may offer other solutions, or may interfere with the chosen percolation locations. Please clarify,
- 4) Measures could not be found that address County policy 7.23.2 Minimizing Impervious Surfaces. The driveway, walkways and patios could be altered to meet this policy.
- 5) Because ground surface waters are also routed into the retention storage area, a silt trap is required upstream of each structure. Also a maintenance agreement will be needed with the building application.
- 6) Items noted within the engineer' calculation package:

Disc ionary Comments - Continued

Project Planner: Larry Kasparowitz

Application No.: 04-0385

APN: 043-104-41

Date: November 4, 2004

Time: 15:52:37

Page: 3

a) The design appears to address a 2- year storm event when a 10- year storm event would be the appropriate level. See item #2.

- b) The square footage assumed for the driveway to be removed appears to be the entire length. Only the portion on the parcel should be used. The other section should be accounted for in the design of the neighboring project.
- c) The design storm used is shown as a 2-yr. event, 1 hr. duration. This is the criteria for a resource related detention mitigation when retention is not feasible. However retention still appears to be proposed (why?). and should be based on a 2-hour duration. Further calculations contain elements which appear to mix detention and retention design features. Please clarify.
- d) The final existing flow calculation shows the C-value of 0.51 rather than 0.34 calculated in earlier steps.
- e) Pages 2 and 3 show Q10 but use Q2
- f) The percolation test of 4 in/hr is quite high compared to the mapped soil range (0.2 to 0.6 in/hr @ 21"). Please submit the referenced test data indicating how long this test was performed and that it represents saturated soil conditions if a retention design is continued.
- g) Trench volume is shown in units of cfs rather than cubic feet. The value of 63 cf divided by the stated x-section of 9 sq ft produces a length of 7 ft. This length conflicts with the surface area length assumed at 20 ft, and the final design length of 18 ft. Is the value of 63 an error, or the first estimate in an iterative calculation loop? The formula shown for infiltration area appears to have the order of operations misplaced. A back calculated value for length produces 22 ft. Please clarify.
- h) Page 3. In the orifice calculations, head is shown as both 0.33 ft and 0.75 ft. Please clarify. Also it is noted that an outlet orifice is a detention system feature and not a retention system feature. It is not clear why this type of system is proposed. The plans do not provide for an orifice outlet. See item b) above.

A drainage impact fee will be assessed on the net increase in impervious area. The fees are currently \$0.85 per square foot, and are assessed upon permit issuance.

Because this application is incomplete in addressing County development policies. resulting revisions and additions will necessitate further review comment and possibly different or additional requirements. The applicant is subject to meeting all future review requirements as they pertain to the applicant's changes to the proposed plans.

All resubmittals of plans, calculations, reports, faxes, extra copies, etc... shall be made through the Planning Department. Materials left with Public Works may be returned by mail, with resulting delays.

Disci ionary Comments - Continued

Project Planner: Larry Kasparowitz

Application No.: 04-0385

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Please call the Dept. of Public Works, Storm Water Management Section, from 8:00 am to 12:00 noon if you have questions. ———— UPDATED ON OCTOBER 5, 2004 BY DAVID W SIMS =======

2nd Routing:

A drainage plan (revised 9/16/04 by Matson Britton) and separate engineered calculations (revised 9/15/04 by Richard Irish) were submitted with the application, and both were reviewed for completeness of discretionary development and compliance with County policies

- 1) Prior item #1) The latest routing now proposes to connect to the neighboring detention system. The applicant should be aware that this neighboring project is a proposed project still in review process and has not yet received final approval or a construction permit. If the neighbor's proposal changes, is withdrawn, or is not approved, this application could be affected, and drainage design and mitigation may have to be reconfigured.
- 2) Prior item #1) A recorded drainage easement bounding all portions of the drainage system shared in common, inclusive of the detention storage chamber and discharge pipe will be required to receive approval of the building application. A signed letter of agreement from the neighbor to provide the needed easement, and the delineation of the proposed easement on the current plan will be required for approval of the discretionary application. This easement is to assure both users of the detention system the future right and responsibility to maintain and/or replace the drainage system and mitigation measures.
- 3) Prior item #4) County policy 7.23.2 Minimizing Impervious Surfacing, is a standalone policy that does not relate to allowances found for lot coverage under other policies. The other policies alluded to in the architect's response do not capture the impact of pavements. Policy 7.23.2 is intended to catch and require mitigation for impervious surfacing. including pavements, specifically to reduce post-development surface runoff. The policy does not provide any set allowance. Additionally, policy 7.23.1 New Development, requires the alleviation of drainage problems before consideration of detention. This means that mitigation measures, other than detention alone, are to be applied by the development. Application of these requirements provides for some useful mitigation of runoff rates at storm levels less than the 10-year detention design storm. Use of permeable flatwork could potentially address both policies adequately. Other methods could also be used to address the later policy. Also, the County Design Criteria allows the restriction of detention use at County discretion. Such discretion will be used if no alternative mitigation measures are proposed, but it is felt that they are feasible. At this time the proposed development contains no mitigation measures of the type required by these policies.
- 4) This applicant needs to acquire the calculations performed as part of the neighboring development and provide written verification that adequate detention volume and release rates were designed for the impact of this development project. Please submit a copy of this design report (Todd Creamer, C2G) for storm water management review. If adequate detention was not provided then proposal revisions may be needed. These calculations were not required or reviewed previously in discretionary review, but were deferred to the neighbor's building application. There is indica-

Disc ionary Comments - Continued

Project Planner: Larry Kasparowitz Application No.: 04-0385 Date: November 4, 2004 **Time:** 15:52:37 Page: 5 APN: 043-104-41 tion in County records that the building application for the neighbor includes these calculations but that they may not be up to date with this latest proposal. Please call the Dept. of 'Public Works, Storm Water Management Section, from 8:00 am to 12:00 noon if you have questions. Dpw Drainage Miscellaneous Comments LATEST COMMENTS HAVE NOT YET BEEN SENT TO PLANNER FOR THIS AGENCY ===== REVIEW ON SEPTEMBER 1. 2004 BY DAVID W SIMS ====== NO COMMENT ----- UPDATED ON OCTOBER 5, 2004 BY DAVID W SIMS ----NO COMMENT Dpw Driveway/Encroachment Completeness Comments ====== REVIEW ON AUGUST 17, 2004 BY RUTH L ZADESKY ======= Show driveway plan view and centerline profile. Dpw Driveway/Encroachment Miscellaneous Comments ====== REVIEW ON AUGUST 17, 2004 BY RUTH L ZADESKY ======= Driveway to conform to County Design Criteria Standards. Encroachment permit required for all off-site work in the County road right-of-way. Dpw Road Engineering Completeness Comments ===== REVIEW ON SEPTEMBER 8, 2004 BY TIM N NYUGEN ====== 1. The driveway must meet County of Santa Cruz standards. Please provide the following information for the driveway.: The structural section, a centerline profile, and a typical cross section. 2. Indicate on plans how the driveway will connect to the Seaview Dr. and if there is existing curb, gutter, and sidewalk. Dpw Road Engineering Miscellaneous Comments ====== REVIEW ON SEPTEMBER 8, 2004 BY TIM N NYUGEN ====== NO COMMENT Aptos-La Selva Beach Fire Prot Dist Completeness C LATEST COMMENTS HAVE **NOT YET** BEEN SENT TO PLANNER FOR THIS AGENCY ====== REVIEW ON SEPTEMBER 2, 2004 BY ERIN K STOW ======= DEPARTMENT NAME:Aptos/La Selva Fire Dept. APPROVED A 30 foot clearance will be maintained with non-combustible vegetation around all structures or to the property line (whichever is a shorter distance). Single specimens of trees, ornamental shrubbery or similar plants used as ground covers,

provided they do not form a means of rapidly transmitting fire from native growth to

Disc ionary Comments - Continued

Project Planner: Larry Kasparowitz Application No.: 04-0385

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any structure are exempt. All Fire Department building requirements and fees will be addressed in the Building

Permit phase,

Plan check is based upon plans submitted to this office. Any changes or alterations shall be re-submitted for review prior to construction.

Aptos-La Selva Beach Fire Prot Dist Miscellaneous

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

REVIEW ON SEPTEMBER 2, 2004 BY ERIN K STOW NO COMMENT

COUNTY OF SANTA CRUZ

Planning Department

MEMORANDUM

Application No: 04-0385

Date:

October 8,2004

To:

Lawrence Kasparowitz, Project Planner

From:

Urban Designer

Re:

Design Review for a new residence at Seaview Drive, Aptos

GENERAL PLAN/ZONING CODE ISSUES

Design Review Authority

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

Evaluation	Meets criteria	Does not meet	Urban Designer's
Criteria	In code (✔)	criteria (🗸)	Evaluation
Visual Compatibility			
All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas	~		
Minimum Site Disturbance			
Grading, earth moving, and removal of major vegetation shall be minimized.	✓		
Developers shall be encouraged to maintain all mature trees over 6 inches in diameter except where circumstances require their removal, such as obstruction of the building site, dead or diseased trees, or nuisance species.	•		
Special landscape features (rock outcroppings, prominent natural landforms, tree groupings) shall be retained.	•		

Application No: 04-0385 October 8,2004

Structures located near ridges shall be			N/A
sited and designed not to project			14/7
above the ridgeline or tree canopy at			•
the ridgeline			•
Land divisions which would create			N/A
parcels whose only building site would			
be exposed on a ridgetop shall not be			
permitted			
ndscaping			
New or replacement vegetation shall	<u> </u>		
be compatible with surrounding	•		
vegetation and shall be suitable to the			
climate, soil, and ecological			
characteristics of the area			
ral Scenic Resources		_ ···	
Location of development			
Development shall be located, if			N/A
possible, on parts of the site not visible		· [
or least visible from the public view.			
Development shall not block views of the shoreline from scenic road			N/A
turnouts, rest stops or vista points Site Planning			
Development shall be sited and	······································		N/A
designed to fit the physical setting			IN/A
carefullyso that its presence is	-		
subordinate to the natural character of	•		
the site, maintaining the natural			
features (streams, major drainage,			
mature trees, dominant vegetative			
communities)			
Screening and landscaping suitable to			N/A
the site shall be used to soften the			
visual impact of development in the		1	
Structures shall be designed to fit the			NIA
topography of the site with minimal			
cutting, grading, or filling for			
construction			
Pitched, rather than flat roofs, which are surfaced with non-reflective			N/A
materiais except for solar energy			
devices shall be encouraged			
Natural materials and colors which			AUA
blend with the vegetative cover of the			N/A
site shall be used , or if the structure is			
located in an existing cluster of			
buildings, colors and materials shall			
repeat or harmonize with those in the			
c lus ter			

Application No:	04-0385
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ppineauon 140. 44-4363			
The visual impact of large agricultural			N/A
structures shall be minimized by			
locating the structure within or near an			
existing group of buildings		•	1
The visual impact of large agricultural			N/A
structures shall be minimized by using			
materials and colors which blend with			
the building cluster or the natural			
		,	
vegetative cover of the site (except for		*	
greenhouses).			ALL A
The visual impact of large agricultural			N/A
structures shall be minimized by using			
landscaping to screen or soften the			
appearance of the structure			
Restoration			
Feasible elimination or mitigation of			N/A
unsightly, visually disruptive or			
degrading elements such as junk			
heaps, unnatural obstructions, grading			
	-		
scars, or structures incompatible with		·	
the area shall be included in site			
development			A174
The requirement for restoration of			N/A
visually blighted areas shall be in			
scale with the size of the proposed			
project			
Materials, scale, location and			N/A
orientation of signs shall harmonize			1
Directly lighted, brightly colored,			NIA
rotating, reflective, blinking, flashing or	ļ	1	1
Illumination of signs shall be permitted	Į.		N/A
onlyfor state and county directional			
and informational signs, except in			
designated commercial and visitor			
serving zone districts			
			NIA
In the Highway 1 viewshed, except			Airi
within the Davenport commercial area,			
only CALTRANS standard signs and			
public parks, or parking lot			
identification signs, shall be permitted			
to be visible from the highway. These			
signs shall be of natural unobtrusive			
materials and colors			
each Viewsheds			
Blufftop development and landscaping			N/A
			IVA
(e.g., decks, patios, structures, trees,			
shrubs, etc.) in rural areas shall be set			
back from the bluff edge a sufficient			
distance to be out of sight from the			
shoreline, or if infeasible, not visually			
intrusive			

Application NO: 04-0385 October 8,2004

beaches shall be allowed, except where permitted pursuant to Chapter 16.10(Geologic Hazards) or Chapter	4
The design of permitted structures shall minimize visual intrusion, and shall incorporate materials and finishes which harmonize with the character of the area. Natural materials are preferred	N/A

Application No: 04-0385 Design Review Authority

13.11.040 Projects requiring design review.

(a) Single home construction, an associated addition nvolvin 500 square feet or more, within coastal special communities and **sensitive** sites as defined in this Chapter.

13.11.030 Definitions

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

Evaluation Criteria	Meets criteria In code (✓)	Does not meet criteria (✓)	Urban Designer's Evaluation
Compatible Site Design	-		
Location and type of access to the site	V		
Building siting in terms of its location and orientation	~		
Building bulk, massing and scale	Y		
Parking location and layout	✓		
Relationshipto natural site features and environmental influences	~		
Landscaping	J		
Streetscape relationship			N/A
Street design and transit facilities			NIA
Relationshipto existing structures	•		
Natural Site Amenities and Features	1		
Relate to surrounding topography	\		
Retention of natural amenities	~		
Siting and orientation which takes	J		
Ridgeline protection			N/A
Minimize impact on private views	J		
Accessible to the disabled.			N/A

Reasonable protection for adjacent properties	~	
Reasonable protection for currently occupied buildings using a solar energy system	~	
Noise		
Reasonable protection for adjacent properties	y	

Evaluation Criteria	Meets criteria in code (✔)	Does not meet criteria (✓)	Urban Designer's Evaluation
Massing of buildingform	V		
Building silhouette	.		
Spacing between buildings	y		
Street face setbacks	V		
Character of architecture	✓		
Buildingscale	✓		
Proportion and composition of projections and recesses, doors and windows, and other features	~		
Location and treatment of entryways	v		
Finish material, texture and color	✓		
Scale			
Scale is addressed on appropriate levels	•		
Design elements create a sense of human scale and pedestrian interest	~		
Building Articulation		_	
Variation in wall plane, roof line, detailing, materials and siting	Y		
Solar Design			
Building design provides solar access that is reasonably protected for adjacent properties	~		
Building walls and major window areas are oriented for passive solar and natural lighting	~		

Lawrence Kasparowitz

From: Carrie Shook [ckshook@pacbell.net]

Sent: Sunday, November 07, 2004 11:44 PM

To: Lawrence Kasparowitz

Subject: Deed Restrictions to Parcel 043-104-20 and Parcel 043-104-37

Lawrence Kasparowitz, AIA Santa Cruz County Planning Department

We are the current owners and residents of 427 Sea View Drive (Aptos, California), across the street from APNs 043-104-20 at 043-104-37, and we are acutely aware that the owners of these parcels are or will be seeking Coastal Development and Buildir Permits from the Santa Cruz County Planning Department. We also understand that you are the Project Planner assigned to review and arbitrate these parcels. At this juncture, we wish only to make the Planning Department and the Project Planner award certain Deed Restrictions (Running with the Land) to Parcel 043-104-20 and Parcel 043-104-37.

APN: 043-104-20

Application No.: 02-0477, dated February 7, 2003, included the proposed transfer of 7.117 square feet from APN 043-104-37 to APN 043-104-20. Application No.: 02-0477 did not address and/or include the Deed Restrictions running with Parcel 043-104. to paraphrase from those Deed Restrictions running with the transferred land. the "landscaping, shrubbery, and fences shall no be more than three feet (3') in height above the crown of the adjacent Sea View Drive".

The subsequent approval of Application No.: 02-0477 included the pertinent Deed Restrictions running with Parcel 043-104-37, and any new proposal to construct a replacement dwelling on Parcel 043-104-20 needs to address and include these restriction as a condition of approval.

APN: 043-104-37

In addition to the Deed Restrictions running with Parcel 043-104-37 and now in part running with Parcel 043-104-20, regarding landscaping, shrubbery, trees, fences, appurtenant structures, etc., as set forth above, APN 043-104-37 also has Deed Restrictions regarding the size and location of the development envelope, and the size and location of the second floor of any proposed dwelling; again to paraphrase from those Deed Restrictions still running with Parcel 043-104-37, 1) "One, and only or development envelope for a single-family dwelling parcel (including accessory structures allowed under law), as shown on Exhibits A-I shall be established for" Parcel APN 043-104-37, 2) "The single family dwelling to be constructed on Lot 12", a APN 043-104-37, "shall be limited to a second floor not to exceed 80% of the total gross area of the first floor.", 3) The second floor of the dwelling shall be situated so that it is massed from the east wall of the first floor, leaving the open space from the wall of the first floor, thus providing a north to south view corridor over a portion of the first floor.", and 4) "The single story part the dwelling shall not exceed seventeen (17) feet in height".

Any proposal to construct a single-family dwelling on Parcel 043-104-37 needs to address and include these restrictions as a condition of approval. Our preliminary analysis of the survey data and exhibits included with the Deed Restrictions suggests the exterior dimensions (including overhangs and/or eaves) of any proposed dwelling would not exceed 4500 square feet, and that due to the irregular shape of the development envelope, the west wall of the second floor of any proposed dwelling could r be less than 15 feet from the west wall of the first floor in order to protect our north to south view corridor. It should be noted the Deed Restriction intended for the east wall of the single-family dwelling to be on the left-side of the development envelope, which makes the east wall more a south-east wall.

We have a family emergency that is keeping us out-of-the-area, and we will not return to Santa Cruz County until November ²§ At that juncture, we will contact you to arrange a meeting, and discuss this matter further. In the interim, possibly you could provide us via return e-mail with the current status of Parcel 043-104-20 and Parcel 043-104-37, and your timeline for preliming and staff recommendations. If, per chance, you are not the Project Planner for Parcel 043-104-20 and/or Parcel 043-104-37, please forward this e-mail to whomever these projects are assigned.

Once again, I cannot promise that this will be the last e-mail you receive from me, but I will endeavor to make further correspondence between us as germane and as on-point as possible.

Regards,

John Shook 427 Seaview Drive Aptos, California 95003 (831) 685-8630

EXHIBIT

Lawrence Kasparowitz, AIA
Project Planner
Santa Cruz County Planning Department

Subject: Deed Restrictions Running with the Land for APN 043-104-37, APN 043-104-38, and APN 043-104-39

Dear Mr. Kasparowitz,

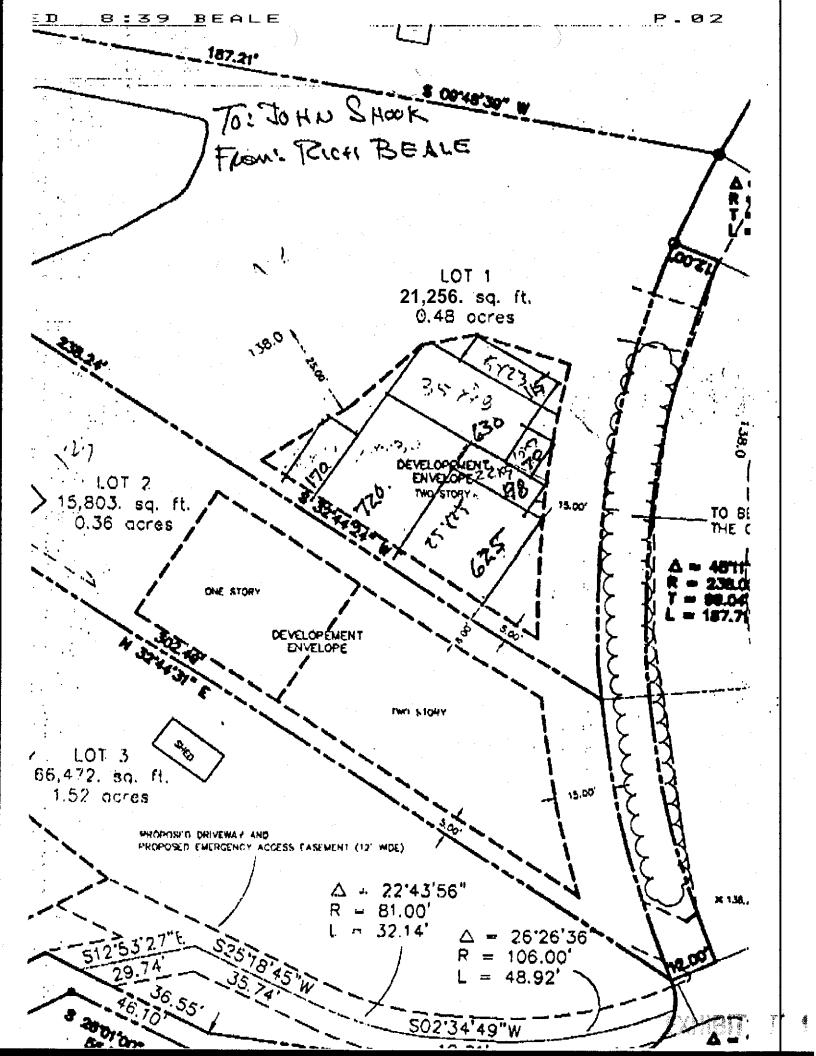
Per your request, I have attached copies of Deed Restrictions Running with the Land No. 50878, recorded October 4, 1995. and Deed Restrictions Running with the Land No50879, recorded December 8, 1995. I do <u>not</u> have an executed copy of Deed Restrictions Running with the Land No. 80840, recorded December 8, 1994, but a copy would surely have been included with both Application No.:91-0650 and Application No.:02-0477, as a condition of approval.

In addition, I have attached an enlarged copy of Exhibit A-1, redlined by Richard Beale, showing the Development Envelope for Parcel 043-104-37. It should be noted that the east wall of the Development Envelope is 5 feet from the property line.

Deed Restrictions Nos. 80840 and 50878 dealt with the subdivision of APN 043-104-28 into APN 043-104-37, APN 043-104-38, and APN 043-104-39, the development APN 043-104-37 (Lot 12. aka Lot 1), APN 043-104-38 (Lot 13. aka Lot 2), and APN 043-104-39, and the creation of the Shore Trail. Deed Restriction No. 50879 dealt with the development of APN 043-104-37.

Best Regards,

John T. Shook 427 Seaview Drive Aptos, CA 95003



Recorded at the Request of: old Republic Title Co.

When Recorded Mail to:

Lloyd R Williams Bosso, Williams, et al P O Box 1822 Santa Cruz CA 95061-1822

RECORDED

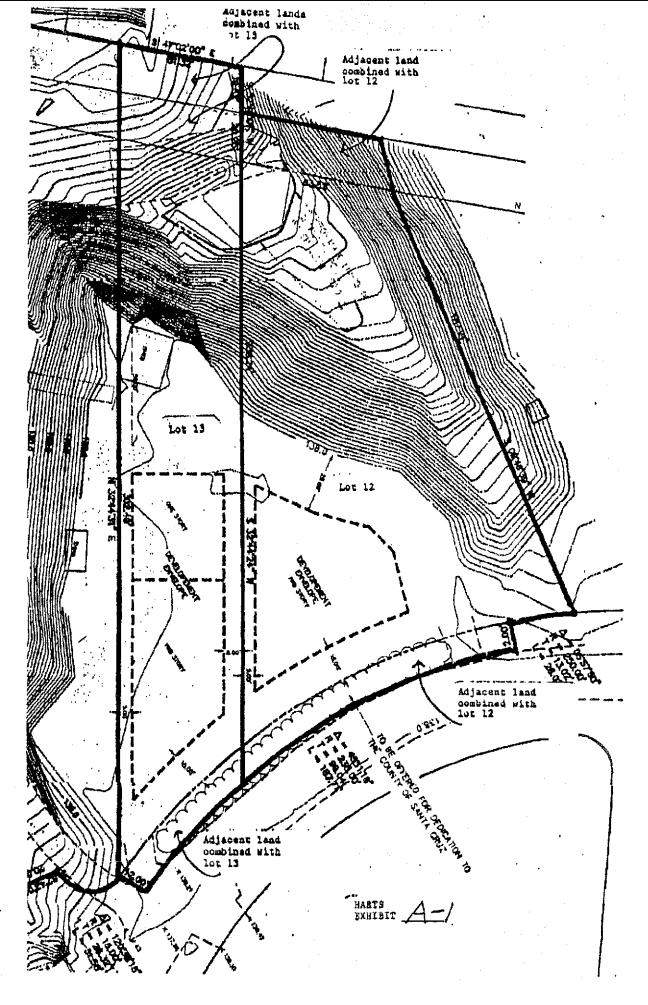
50878

RICHARD W. BEDAL, Recorder SANTA CRUZ COUNTY, Official Records

DEED RESTRICTIONS RUNNING WITH THE LAND

WHEREAS, HILLARY HARTS, Trustee of Trust B Established by Decree of Distribution recorded on February 26,1986 in Book 3947, Page 1 of the Official Records of the County of Santa Cruz, and LYNETTE F. HARTS, Trustee of the Lynette F. Harts Revocable Living Trust under Agreement dated April 11, 1994, as tenants in common, (hereinafter collectively "HARTS or "OWNER") are the owners of real property in Rio Del Mar, Aptos, Santa Cruz County, California, known as APN 043-104-39, more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference (hereinafter "Lot 14").

WHEREAS, HARTS, COUNTY OF SANTA CRUZ (hereinafter "COUNTY), RESPONSIBLE DEVELOPMENT IN RIO DEL MAR COMMITTEE (hereinafter "RDIRDMC") and various individuals (hereinafter collectively "RESIDENTS") interested in the development of Lot 14 and two adjacent lots then owned by HARTS, one of which has been sold by HARTS, entered into an AGREEMENT RE APPLICATION No. 91-0650 FOR CATIFICATE OF COMPLIANCE and APPROVAL OF CONSTRUCTION OF SINGLE FAMILY DWELLING (hereinafter "Agreement"). a copy of which is attached as Exhibit "B" to the DEED RESTRICTIONS RUNNING WITH THE LAND, executed by HARTS on June 17, 1993, and recorded on December 8, 1994 as Instrument No. 80840, Official Records of Santa Cruz County (hereinafter "Deed Restrictions"). A CONDITIONAL CERTIFICATE OF COMPLIANCE was issued by COUNTY for Lot 14 on May 21, 1993, and recorded on July 2, 1993, instrument number 48359, Official Records of Santa Cruz County (hereinafter "Certificate of Compliance").



WHEREAS, HARTS, as owner of Lot 14, COUNTY, RDIRDMC and RESIDENTE, entered into an AMENDMENTTO THE AGREEMENT (hereafter "Amendment") which, among other things, sets additional restrictions on landscaping within Lot 14, and allows for the redrawing of the building envelope on Lot 14. A copy of the Amendment is attached hereto, marked Exhibit "B", and incorporated herein by this reference.

NOW, THEREFORE, pursuant to the above RECITALS, the signatories hereto declare and restrict Lot 14 as follows:

- 1. The RECITALS hereinabove set forth, and each of them, are hue and correct, and, by this reference hereto, incorporated herein as though fully set forth herein.
- **2.** The following restrictions regarding landscaping, shrubbery and fences on Lot 14, shall replace in total any and all such **restrictions** in Subparagraph 3.a of the Agreement, relating to the development of a single family dwelling on Lot 14 only, contained in the Deed Restrictions, the Agreement, and the Certificate of Compliance:

As a condition of all permits or certificates issued regarding Lot 14, and except as herein provided, or as otherwise limited by the County Zoning Ordinance, landscaping, shrubbery and fences on Lot 14 shall be restricted as follows. Except as otherwise expressly provided herein, such landscaping, shrubbery and fences shall not be more than three feet (3')in height above the crown of the adjacent Sea View Drive. (as surveyed pursuant to Subparagrapia 2a of the Deed Restrictions) except as a licensed arborist determines to be necessary to preserve the life and health of existing shrubbery, but in **no** event shall such existing shrubbery exceed six feet above the crown of Sea View Drive. This height limitation shall not terminate or be modified due to construction of residences on adjacent lots 12 and 13, which are APN 43-104-37 and APN 43-104-38, respectively. Existing trees shall be removed between the Sea View Drive end of the "shed" on Lot 14 and the edge of the Coastal Bluff nearest the Bay, all as shown on Exhibit A-2 of the Deed Restrictions. The four existing mature trees shall not be subject to the six foot height limit and are allowed to remain. The existing hedge along Sea View Drive may remain at its current height which is approximately seven feet (7'). On Lot 14 in the area between the 110 foot contour line and Shore Trail as shown on Exhibit A-2 and A-3 of the Deed Restrictions, no landscaping, shrubbery, fencing or other view obstruction shall be allowed to exceed three feet (3') above current ground level except for the fence bordering Shore Trail, which shall not exceed six feet (6').

3. Remaining Terms and Conditions.

All of the covenants, conditions and restrictions contained in the Deed Restrictions,

with the modifications herein, shall remain in full force and effect, shall run with the land, and shall be binding upon HARTS and their transferees and successors in interest.

HIS 28 DAY OF SO + 1895 HILARY HA TY COMMISSION EXPIRES 12-27-55 FOR HILARY HA Juk	Herts, Tee RTS, Trustee And 5 — only HARTS, Trustee
STATE OF CALIFORNIA) ss. COUNTY OF SANTA CRUZ)	
On this 28TH day of SHELLEY SUE DONAHUE, a notary publication of the basis of satisfactory evidence subscribed to the within instrument and acknow same in his/her/their authorized capacity(ies), a instrument the person(s), or the entity upon behalinstrument	, (x) personally known to me or () be to be the person(s) whose name(s) is/are ledged to me that he/she/they executed the nd that by his/her/their signature(s) on the
WITNESS my hand and official seal. Notary Public, State of California	SHELLEY SUE DONAHUE COMM. #1020390 NOTARY PUBLIC - CALIFORNIA M SANTA CHUZ COUNTY I'ly Comm. Expires April 30, 1998

3

JOB : 93085 KAY 1993 DRAWN : CGD

CURT G. DUNBAR, LS 5615 LICENSE RENEWAL DATE 9/30/94

DESCRIPTION OF LOT 14

SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

BEING PART OF THE LANDS CONVEYED TO HILAR! HARTS BY QUITCLAIM DEED DATED 28 FEBRUARY 1986 AND RECORDED 12 MARCH 1986 IN VOLUME 3952 OF OFFICIAL RECORDS AT PAGE 329, SANTA CRUZ COUNTY RECORDS AND BEING MORE PARTICULARL! DESCRIBED AS FOLLOWS. TO WIT:

BEING PART OF LOT 14, PART OF LOT O, BLOCK 87, AND PART OF SHORE TRAIL AS SAID LOTS AND TRAIL ARE SHOWN ON THAT HAP ENTITLED "SUBDIVISION NG.6, APTOS BEACH COUNTRY CLUB PROPERTIES "FILED IN VOLUME 23 OF HAPS AT PAGE 35, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, AND PART OF LOT T, BLOCK 97, AS SAID LOT IS SHOWN ON THAT MAP ENTITLED "SUBDIVISION NG.8, APTOS BEACH COUNTRY CLUB PROPERTIES "FILED IN VOLUME 24 OF MAPS AT PAGE 26, OFFICIAL RECORDS OF SANTA CRUZ COUNTY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS. TO WIT:

BEGINNING AT THE COMMON CORNER OF LOTS 13 AND 14, BLOCK 87, ON THE SOUTHERN LINE OF SEA VIEW DRIVE, AS SAID DRIVE IS SHOWN ON SAID HAP OF APTOS BEACH COUNTRY CLUB PROPERTIES;

THENCE FROM SAID POINT OF BEGINNING, ALONG THE COMMON BOUNDARY OF SAID LOTS 13 AND 14 SOUTH 32'45' WEST 302.49 FEET TO THE NORTHERN BOUNDARY OF SAID LOT OF THENCE CONTINUING SOUTHERLY SOUTH 32'45' WEST 39.77 FEET TO THE NORTHERN BOUNDARY OF SAID LOT T, BLOCK 97: THENCE ALONG SAID LOT T SOUTH 47'02' EAST 200.00 FEET TO A POINT; THENCE LEAVING THE BOUNDARY OF SAID LOT T NORTH 32'45'EAST 19.17 FEET TO THE SOUTHERN BOUNDARY OF SAID LOT O, BLOCK 87; THENCE ALONG THE SOUTHERN BOUNDARY OF SAID LOT O, BLOCK 87, SOUTH 47'00" W T 129.73 FEET TO AN ANGLE THEREIN: THENCE SOUTH 55'00' EAST 51.42 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS SOUTH 55'00' EAST 12.77 FEET DISTANT; THENCE LEAVING SAID LOT O NORTH 14'58' EAST 68.68 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS SOUTH 89'52'30" EAST 12.41 FEET DISTANT: THENCE NORTH 14'43' WEST 97.36 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS NORTH 47'28' EAST 13.57 FEET DISTANT: THENCE NORTH 70'21' WEST 33.23 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS NORTH 36'45'30" EAST 12.56 FEET DISTANT: THENCE NORTH 70'21' WEST 33.23 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS NORTH 36'45'30" EAST 12.56 FEET DISTANT: THENCE NORTH 70'21' WEST 33.23 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS NORTH 36'45'30" EAST 12.56 FEET DISTANT: THENCE NORTH 36'08' WEST 38.85 FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS NORTH

EXHIBIT A, Page 1 of 2

7.40'30" EAST 12.54 FEET DISTANT: THENCE NORTH 2°31' WEST 74.79 .

FEET TO A POINT FROM WHICH A 1/2 INCH IRON PIPE TAGGED LS 5615 BEARS NORTH 74°39'30" EAST 12.31 FEET DISTANT: THENCE NORTH 28°10' WEST 102.58 FEET TO A POINT: THENCE NORTH 26°01' EAST 46.10 FEET TO A POINT; THENCE NORTH 7°17' EAST 100.31 FEET, MORE OR LESS TO THE SOUTHERN BOUNDARY OF SEA VIEW DRIVE; THENCE ALONG SAID SOUTHERN BOUNDARY NORTH 82°43' WEST 8.00 FEET TO A POINT OF CUSP; THENCE CONTINUING ALONG SAID SEA VIEW DRIVE NORTHERLY, CURVING TO THE LEFT FROM A RADIAL BEARING OF NORTH 82°43' WEST AND A RADIUS OF 15.00 FEET THROUGH A CENTRAL ANGLE OF 120.38'18" A DISTANCE OF 31.58 FEET TO THE PLACE OF BEGINNING.

SURVEYED AND COMPILED IN MAY 1993 BY DUNBAR AND CRAIG LAND SURVEYS, INC.

EXHIBIT A, Page 2 of 2

AMENDMENT TO AGREEMENT RE AFPLICATION NO. 91-0650 FOR CERTIFICATE OF COMPLIANCE AND APPROVAL FOR CONSTRUCTION OF SINGLE-FAMILYDWELLING

WHEREAS, HILARY HARTS, Trustee of Thet B Established by Decree of Distribution recorded on February 26,1986 in Enok 3947, Page I of the Official Records of the County of Santa Cruz, and LYNETTE F. HARTS, individually, as tenants in common (hereinafter "HARTS"), COUNTY OF SANTA CRUZ (hereinafter "COUNTY"), RESPONSIBLE DEVELOPMENT IN RIO DEL MAR COMMITTEE (hereinafter "RDIRDMC"), various individuals (hereinafter "RESIDENTS"), entered into that certain AGREEMENT RE APPLICATION NO. 91-0650 FOR CERTIFICATE OF COMPLIANCE AND APPROVAL FOR CONSTRUCTION OF SINGLE-FAMILY. DWELLING (hereinafter "AGREEMENT"), executed on February 26,1993, a copy of which is attached hereto, marked Exhibit "A", and incorporated herein by this reference.

WHEREAS, the parties wish **to** amend the **AGREEMENT** pursuant **to** the following terms and conditions.

NOW, THEREFORE, the parties agree:

Restriction.

Subject to satisfaction of the conditions described below, **HARTS** agrees to execute and **cause** to be recorded a Deed of Restriction in a form as set forth in Exhibit "B", attached hereto and incorporated herein by this reference, which Deed of Restriction amends, as to Lot 14, the height restrictions for landscaping, shrubbery and fence! located, or to be planted, installed and maintained on Lot 14.

2. Minor Variation.

HARTS has obtained a Costal Permit (No 91-0650) from the County of Santa Cruz for the construction of a single family residence within a described building envelope on Lor 14, which permit was extended pursuant to Coastal Permit No. 94-0753 COUNTY, RDIRDMC and RESIDENTS agree that the building envelope may be modified from the approved envelope under the Coastal Permit No. 91-0650 to an envelope as depicted in Exhibit "C", attached hereto and incorporated herein by the reference, consistent with a Minor Variation to Coastal Permit No. 91-0650, as extended

,by Coestal Permit No. 94-0753. HARTS shall apply to COUNTY for a Minor Variation to Coestal Permit No. 91-0650, as extended by Coestal Permit No. 94-0753, to obtain approval for the revised building envelope. Upon receiving final approval of the Minor Variation, with conditions acceptable to HARTS, the Deed Restriction shall be executed by HARTS and recorded in the Official Records of Santa Cruz County. If the Minor Variation is not approved by COUNTY, or if conditions unacceptable to HARTS are attached to the Minor Variation approval, HARTS shall have the right to terminate this Amendment by giving written notice to COUNTY, RDIRDMC AND RESIDENTS, in which case, the Deed Restrictions shall not be executed by HARTS. In such event, the terms, covenants, conditions and restrictions contained in the Agreement, shall remain in full force and effect.

3. Remaining **Terms** and Conditions.

Except as modified herein, all the terms and conditions of the Agreement shall remain in full force and effect and shall be binding upon the parties.

Dated: May 21, 41995 Hilary Harts

Dated: May 26 1995 Lykette 7. Sarka

REASONABLE DEVELOPMENT IN RIO DEL MAR COMMITTEE

Dated: 5-25-95

Dated: 5 · 25 - 95

By Jackie Boyee, Vice President

HENRY BREEN/DORA BREEN
Property Owners. 439 Sen View Drive
APN 043-103-12

2

EXHIBIT 5

	VOL 5738 PAGE 438
7/14 (45 Dated:	Chaptelly manu Gubert MARTINEZI
	Property Owners, 103 Kenneth Drive
Dated: <u>Man 26, 199</u> 5	APN 043-102-05 Michael Mellon/Ellen A. Mellon Property Owners, 107 Farley Drive APN 043-101-06
Dated: <u>5-25-95</u>	JOHN T. SHOOK/CAROLINE K. SHOOK Property Owners, 427 Sea View Drive APN 043-102-08
Dated	COUNTY OF SANTA CRUZ
	By: DANIEL K. SHAW Planning Director

3

EXHIBIT 5

50879

Recorded at the Request of:

OH Republic Title Co-

When Recorded Mail to:

Lloyd R Williams Bosso, Williams, et al P O Box 1822 Santa Cruz CA 95061-1822 'RE 9-4/
M1 4-5
SF 5
SM CO A

RECORDED

OCT - 4 1995 3 PM

RICHARD W. BEDAL, Recorder SANTA CRUZ COUNTY, Official Records

DEED RESTRICTION RUNNING WITH THE LAND

WHEREAS, HILLARY HARTS, Trustee of Trust B Established by Decree of Distribution recorded on February 26,1986 in Book 3947, Page 1 of the Official Records of the County of Santa Cruz, and LYNETTE F. HARTS, Trustee of the Lynette F. Harts Revocable Living Trust under Agreement dated April 11, 1994, as tenants in common, Chereinafter collectively "HARTS" or "OWNER") are the owners of real property in Rio Del Mar, Aptos, Santa Cruz County, California, known as APN 043-104-37, more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference (hereinafter "Lot 12").

WHEREAS, JOHN T. SHOOK AND CAROLINE K. SHOOK, husband and wife (hereinafter"SHOOK"), are the owners of real property in Rio Del Mar, Aptos, Santa Cruz County, California, known as APN 043-102-08, and located at 427 Sea View Drive, Aptos, California.

WHEREAS, HARTS executed DEED RESTRICTIONS RUNNING WITH THE LAND on June 17, 1993, which was recorded on December 8, 1994 as Instrument No. 80840, Official Records of Santa Cruz County (hereinafter "Deed Restrictions") which, among other things, restricts the location ofdevelopment of a single family dwelling on Lot 12.

WHEREAS, in consideration of SHOOKS agreement to modify the building envelope restrictions contained in the DEED OF RESTRICTIONS regarding a parcel of real property owned by HARTS, known as APN 043-104-39, referred in the DEED OF RESTRICTIONS as Lot 14, HARTS is willing to additionally restrict development on Lot

12 as described below.

NOW, THEREFORE, pursuant to **the** above **RECITALS**, **the signatories hereto** declare and **restrict** Lot 12 as follows:

- 1. The RECITALS hereinabove set forth, and each of them, are true and correct, and, by this reference hereto, incorporated herein as though fully set forth herein.
- 2. The single family dwelling to be **constructed** on Lot 12 shall be **limited to a second** floor not to exceed **80%** of the **total** gross area of the first floor. The "gross area" of the first floor is defined as the total of the habitable and nonhabitable areas of the residence.

The second floor of the dwelling shall be situated so that it is massed from the east wall of the first floor, leaving the open space from the west wall of the first floor, thus providing a north to south view corridor over a portion of the first floor. The single story part of the dwelling shall not exceed seventeen (17) feet in height, excluding chimney and vent pipes in conformance with applicable laws. The landscaping in front of the single-story portion of the house shall be maintained to a height not to exceed the roofline of the single-story portion of the house.

3. The hedge along the west property line is to trimmed down and maintained at a maximum height of seven (7) feet.

The eucalyptus tree in the front (north) hedge and the oak in the west hedge shall be pruned and maintained by an arborist.

The scrub eucalyptus located behind the west hedge near the edge of the swale shall be removed.

4. All of the covenants, conditions and restrictions contained in this Deed Restriction shall run with the land, and shall be binding upon HARTS and their transferees and successors in interest, and shall be for the benefit of and enforceable by **SHOOK** and their transferees and successors in interest.

Executed on this 28 day of September, 1995

HILARY HARTS, Trustee

LVNETTE F. HARTS. Trustee

Y0~5738PAGE 441

STATE OFN_ML()
COUNTY OF Santab=)
On this 28 day of 5, 1995, before me, Michia = / Flynn a notary public in and for said state, personally appeared Hillary Hunts () 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.

(Seal)

STATE OF CALIFORNIA	·		4
COUNTY OF SANTA CRUZ) ss.)		:
On this 29 day of SEPT five, before me, a notary LYNETTE P. HARTS basis of satisfactory evidence) to within instrument and acknow his/her/their authorized capacity(the person(s), or the entity upon be	public in and personally be the person(s) yledged to me the test), and that by his	for said state, personal y known to me (or proved whose name(s) is/are subsat hdshdthey executed s/ner/their signature(s) on the	ly appeared to me on the scribed to the the same in the instrument
'WITNESSmy hand and offic	ial seal.		
			~~~~~
Theren)		SHELLEY SUE DOY COMM. #10200 NOTARY PUBLIC - CALI SANTA CRUZ COUN My Comm. Expires April	390 S FORNIA III
Notary Public, State of Californi	a	(Seal)	

Capacity of Signatory____



JOB : 93085 KAY 1993 DRAWN : CGD

CURT G. DUNBAR, LS 5615 LICENSE RENEWAL DATE 9/30/94.

DESCRIPTION OF LOT 12

SITUATE IN THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

BEING PART OF THE LANDS CONVEYED TO BILARY HARTS BY QUITCLAIM DEED DATED 28 FEBRUARY 1986 AND RECORDED 12 MARCH 1986 IN VOLUME 3952 OF OFFICIAL RECORDS AT PAGE 329. SANTA CRUZ COUNTY RECORDS AND BEING MORE PARTICULARLY DECRIBED AS FOLLOWS, TO WIT:

BEING ALL OF LOT 12, PART OF LOT 11 AND PART OF LOT O, BLOCK 87, AS SAID LOTS ARE SHOWN ON THAT MAP ENTITLED "SUBDIVISION No.6, APTOS BEACH COUNTRY CLUB PROPERTIES" FILED IN VOLUME 23 OF MAPS AT PAGE 35, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS. TO WIT:

BEGINNING AJ A POINT ON THE SOUTHERN LINE OF SEA VIEW DRIVE, AS SAID DRIVE IS SHOWN ON SAID MAP OF APTOS BWCH COUNTRY CLUB PROPERTIES FROM WHICH THE NORTHEASTERN CORNER OF SAID LOT 12 BEARS ON A CURVE TO THE LEFT WITH A RADIAL BEARING OF NORTH 29°31'46"EAST AND A RADIUS OF 250.00 FEET THROUGH A CENTRAL ANGLE OF 5°57'50" A DISTANCE OF 26.02 FEET DISTANT;

THEXCE FROK SAID POINT OF BEGINNING SOUTHERLY ALONG THE WESTERN BOUNDARY OF SAID LANDS OF HARTS SOUTX 9'48'39" WEST 187.21 FEET TO THE SOUTHWESTERN CORNER OF SAID LOT 12; TEENCE ALONG THE SOUTHWESTERN AND SOUTHEASTERN BOUNDARIES OF SAID LOT 12 SOUTH 47'00' EAST 63.52 FEET AND NORTH 32'48'EAST 238.24 FEET TO THE NORTHEASTERN CORNER OF SAID LCT 12 ON THE SOUTHER? BOUNDARY OF SAID SEX VIEW DRIVE; THEXCE WESTERLY ALONG SEA VIEW DRIVE; THEXCE WESTERLY ALONG SEA VIEW DRIVE CURVING TO THE RIGHT FROK A RADIAL BEARING OF NORTH 5'43'13" WEST AND A RADIUS OF 238.00 FEET TXROUGH A CENTRAL ANGLE OS 27'59'26" A DISTAVCE OF 122.13 FEET TO A POINT OF COMPOWND CURWE; THENCE CONTINUING ALONG SEA VIEW DRIVE CUR'ING TO THE RIGHT WITH A RADIUS OF 250.00 FEET THROUGH A CENTRAL ANGLE OF 5'57'50" A DISTAXCE OF 26.02 FEET TO THE PLACE OF BEGINNIXG.

SURVEYED AND COMPILED IN YAY 1993 BY DUNBAR AND CRAIG LAND SURVEYS, INC.

EXHIBIT A

AGREEMENT RE APPLICATION NO. 91-0650 FOR CERTIFICATE OF COMPLIANCE AND APPROVAL FOR CONSTRUCTION OF SINGLE-FAMILY DWELLING

WHEREAS, HILARY HARTS, Trustee of Trust B Established by Decree of Distribution recorded on February 26, 1986 in Book 3947, Page 1 of the Official Records of the County of Santa Cruz, and LYNETTE F. HARTS, individually, as tenants in common (hereinafter "OWNER" and hereinafter collectively included within the use of the term "APPLICANT") are the owners of real property in Rio Del Mar, Aptos, Santa Cruz County, California, known a APN 043-104-28 (hereinafter "subject property"); and

WHEREAS, LYNETTE F. HARTS (hereinafter "APPLICANT") has applied, with the consent of OWNER, for approval for development af a single-family dwelling and a Certificate of Compliance finding three parcels on the subject property (Application No. 91-0650, hereinafter "subject application"); and

WHEREAS, COUNTY OF SANTA CRUZ has land use and Coastal Zone permit authority over development and parcel status of subject property; and

WHEREAS, RESPONSIBLE DEVELOPMENT IN RIO DEL MAR COMMITTEE (hereinafter "RDIRDMC") and various individuals are interested in the subject application and have expressed an intent to attend any public hearings thereon; and

WHEREAS, APPLICANT and RDIRDMC, respectively, have retained legal counsel to advocate their respective rights with respect to the subject application; and

WHEREAS, settlement discussions have been held regarding the subject application. At said settlement discussions, APPLICANT was represented by Counsel LLOYD R. WILLIAMS; COUNTY was represented by Chief Deputy County Counsel, JONATHAN WITTWER, and the RDIRDMC was represented by Counsel MYRNA BRITTON; and

NOW, THEREFORE, the parties signatory hereto agree that for Settlement purposes only and subject to final approval by the COUNTY in accordance with due and proper procedure, notices, and hearing(s), the parties hereto agree that the COUNTY has jurisdiction of the subject application and shall consider the following action thereon.

1. <u>Issuance of a Conditional Certificate of Compliance for</u> Each of Three Parcels.

APPLICANT has filed an application for a Certificate of Compliance finding that the subject property is composed of three separate legal parcels for planning and land use purposes pursuant to Title 7 of the California Government Code. APPLICANT, without admitting the legal necessity thereof, shall amend the subject

application (and pay fees on an at-cost basis) to seek issuance of a Conditional Certificate of Compliance for each of three parcels. A Conditional Certificate of Compliance shall be issued by COUNTY to APPLICANT who shall record same within 30 days after issuance for each of the three parcels shown as Lots 12, 13, and 14 in the Subdivision Map for Aptos Beach Country Club Properties, Subdivision No. 6, recorded at Map Book 23, Page 35 of the Official Records of the County of Santa Cruz. All additional land adjacent to Lots 12, 13, or 14 acquired by the Harts family shall be deemed combined with and included as part of said three parcels as shown on Exhibits A-1, A-2 and A-3 attached hereto and incorporated herein by reference. The following conditions shall be imposed on each Conditional Certificate of Compliance:

- a. One, and only one development envelope for a single-family dwelling parcel (including accessory structures allowed under law), as shown on Exhibits A-1 and A-2 attached hereto and incorporated herein by reference shall be established for each of the three parcels by recordation of the Conditional Certificate of Compliance, which building envelope shall be enforceable by the COUNTY and the beneficiaries of the Deed Restriction described at Paragraph 8 hereof.
- b. Conditions specified at Paragraphs 3 and 4 of this Agreement shall be included in each Conditional Certificate Of Compliance.
- c. Other conditions applicable to the three parcels shall be complied with as set forth on Exhibit B attached hereto and incorporated herein by reference.

2. Development of Single Family Dwelling within Development Envelope on Lot 14.

APPLICANT shall submit requisite and appropriate **plans**, documents, and other data and information to COUNTY, as required by COUNTY regulations and this Agreement, for development of Lot 14 with a single family dwelling and attached garage (hereinafter collectively "said structure") within the following building envelope:

a. Height.

The height of said structure at its roof peak shall not exceed three feet (3') above the crown of Sea View Drive. In order to meet this requirement, APPLICANT, upon due approval of a grading permit (which shall be the pending application amended consistent with this Agreement) may excavate and/or fill the area within and adjacent to the development envelope specified herein. The height of said structure shall be surveyed from the crown of the right of way of Sea View Drive, at the point of intersection with the extension of the center line of Shore Trail adjacent to Sea View Drive. The requisite survey shall be verified by a Licensed Surveyor employed by

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the COUNTY (the cost of which shall be included as part of the at-cost fees for the subject application). The only exceptions to said height restriction which shall be permitted shall be the following:

- (1) one or two chimneys of a total width for both chimneys of not more than 36 inches and **a** height not more than six feet above the crown of Sea View Drive or the minimum required by law, whichever is less; and
- (2) vent pipes of a height and diameter no greater than the minimum required by law.

All utilities shall be undergrounded from the existing service point to said structure.

b. Length and Width of Building Envelope.

The foundation and exterior walls of said structure shall be located within the building envelope shown on Exhibit C attached hereto and incorporated herein by reference.

c. Bulk and Sauare Footage.

Said structure shall not exceed 2,700 square feet in habitable floor area and 3,140 square feet in total size. The bulk of said structure shall not exceed the bulk of the structure (including roof lines) as shown on Exhibit C attached hereto and incorporated herein by reference. APPLICANT shall be permitted to construct a retaining Wall, deck, porch, stairway, eaves and gutters, and/or railing outside of said building envelope.

d. Coastal Bluff Setback.

Said structure shall not be closer than 25 feet to the edge of the Coastal Bluff on subject property as shown in Exhibit A-2 attached hereto and incorporated herein by reference.

3. <u>Conditions of Approval of Development of Single-Family Dwelling within Building Envelope on Lots 12, 13 and 14.</u>

a. <u>Landscaping, Shrubbery, Fences, Lighting, and Other View Obstructions</u>.

As a condition of all permits or certificates issued pursuant to the subject application, and except as herein provided, or as otherwise limited by the County Zoning Ordinance, landscaping, shrubbery and fences on Lots 12, 13, and 14 shall be as follows. Except as otherwise expressly provided herein, such landscaping, shrubbery and fences shall not be more than three feet (3') in height above the crown of the adjacent Sea View Drive (as surveyed pursuant to

The "shed" on Lot 13 shall be removed prior to issuance of any Building Permit for said lot.

d. <u>Standard Conditions</u>.

COUNTY may impose reasonable Standard Conditions on approval of permits requisite to development of said structure as set forth at Exhibit D attached hereto and incorporated herein by reference. COUNTY shall expressly include its standard permit revocation regulation in each said permit.

4. Dedication of Shore Trail.

As a condition of all permits, entitlements or certificates issued pursuant to the subject application, and prior to or concurrent with issuance of a final approval of Application No. 91-0650 for a Certificate of Compliance and far development of said structure, APPLICANT shall submit an offer of dedication to the COUNTY for public use of a surveyed area shown on Exhibits A-2 and A-3 hereto, generally located within the shore Trail as shown on the Subdivision Map for Aptos Beach Country Club Properties Subdivision No. 6 referenced herein, all in the form and as shown on Exhibit E attached hereto and incorporated herein by reference. The Office of the County Counsel shall be the escrow holder of said offer of dedication and shall record same upon final approval of the subject application as defined at paragraph 10.

Said Shore Trail dedication shall be limited to pedestrian use and emergency access. Only the easterly most six feet of said. Shore Trial dedication shall be for the public pedestrian use. The entire 12 foot width of the Shore Trail dedication on Lot 14 shall be for emergency access, including by fire and/or rescue vehicles. If any portion of the adjacent APN 043-112-14 becomes established as a part of Shore Trail, the width of the Shore Trail on the subject property shall be reduced in width so that the total width of the Shore Trail is 12 feet, including the portions on both parcels. The COUNTY shall construct, at its expense, a turnstile or other obstacle device reasonably designed to limit access to Shore Trail to pedestrian use only and to exclude motor **vehicles** and mountain bikes. The public's right to use said Shore Trial shall be limited to coastal access and egress only and shall be signed to this effect. No parties or meetings shall be permitted, nor shall benches or other such facilities be located thereon. COUNTY, at its own expense, shall erect similar fencing and devices at the Beach Drive entrance to said Shore Trail. Upon submittal of said Offer of Dedication, APPLICANT waives objection to opening of the Shore Trail by COUNTY and the COUNTY agrees to indemnify APPLICANT as to any and all claims, demands, liabilities, damages, costs and expenses (including reasonable attorneys fees) arising out of or in any way connected with the use of Shore Trail by COUNTY, its agents, employees or members of the public, except to the extent caused by actions of APPLICANT or APPLICANT's agents, employees or successors in interest.

The COUNTY shall accept the Shore Trail dedication within ane year of said offer being delivered to the Clerk of the Board. If, within one year of the date of delivery of said offer of dedication, the COUNTY has not accepted said dedication, said offer of dedication shall automatically terminate and the land shall be free of said offer of dedication, and any prior dedication and/or claim of right to public use by the COUNTY. Upon acceptance of the Shore Trail dedication by the COUNTY, any prior dedication and/or claim of right to public use by the COUNTY of a coastal access across APPLICANT's property shall terminate.

APPLICANT shall be permitted to erect a fence along the westerly boundary of said Shore Trail dedication. The height of such fence shall not exceed the height limitation for fences set forth at Paragraph 3 hereof and the height limitations in the County Zoning Ordinance.

APPLICANT, upon the approval of the COUNTY Parks Director, shall be permitted to install a commemorative plaque to CLEMENT B. HARTS at the Sea View Drive end of Shore Trail.

5. Acceptance of Development Permit Approval.

Upon approval by the COUNTY of the Coastal Zone Permit for the Conditional Certificate of Compliance as described in Paragraph 1 and said development of said structure, all in accordance with the terms of this Agreement, no party hereto shall appeal or file a Petition for Writ of Mandate or other Court action with regard to said approval.

6. <u>Building Permit</u>.

If the COUNTY approves the Coastal Zone Permit for said structure in accordance with the terms of this Agreement, a Building Permit for said structure shall be issued, subject however to the terms of this Agreement and review and approval of the building plans for compliance with said Coastal Zone Permit and the applicable Uniform Building Code provisions.

7. Grading Permit.

The subject application includes an application for a grading permit. Said grading permit shall be issued for a grading plan and a Development Envelope plan in accordance with the terms of this Agreement. The COUNTY may condition such grading plan approval with reasonable conditions for erosion control purposes.

8. Deed Restrictions Running with the Land.

Concurrent with issuance of the final Coastal Zone permit by COUNTY for said structure and the Conditional Certificates of Compliance described at Paragraph 1, APPLICANT shall submit to the Office of the County Counsel irrevocable deed restrictions in perpetuity in favor of COUNTY, RDIRDMC, and the properties listed

at Exhibit F hereto, setting forth the terms of this Agreement, which shall run with the land and be binding on APPLICANT'S transferees and successors in interest. The Office of the County Counsel shall be the escrow holder thereof and shall record the same upon issuance of final

occupancy permit by COUNTY for said structure or any single-family dwelling on subject property, whichever is first.

9. Payment by APPLICANT.

APPLICANT has offered and agrees to pay into the general fund of the COUNTY OF SANTA CRUZ the total sum of \$18,000 at the earliest of the following times:

- a. concurrent with close of escrow on the sale of any one or more of Lots 12, 13 or 14; or
- b. concurrent with the issuance of **a** building permit for construction of a dwelling unit on any one or more of Lots 12 or 13; or
- **c.** 18 months from the date of final approval by the COUNTY of the subject application as defined in paragraph 10.

Said payment, together with payment of the full amount already billed fortaxes, assessments, fees, and charges on APN 043-104-28, shall satisfy completely any and all claims by the COUNTY, disputed or otherwise, for taxes, assessments, fees or service charges in any way connected with Lots 12, 13, or 14 through the end of fiscal year 1992-93.

APPLICANT may make improvements required for Shore Trail under Paragraph 4 hereof or authorized by permit issued under Application No. 91-0650 (if the Parks Director concurs in writing) and deduct the reasonable cost thereof from the above-described payment.

10. Definitions.

- a. "Final approval of the subject application" shall mean the expiration of the 90-day deadline to petition for judicial review of the approval of the subject application if no such petition is filed, and if such petition is filed shall mean the issuance of a final Court judgment upholding the approval of the subject application in accordance with the terms of this Agreement in all material matters.
- b. "Licensed arborist" shall mean a Licensed Landscape Architect with training and experience in the life and health of trees, shrubbery and other landscaping selected from a list of at least three Licensed Arborists designated by the County Planning Director.

11. Termination of Agreement.

The parties agree that final approval of the application, as described herein, and subject to the conditions described herein, is a condition precedent to each party's rights and duties contained in this Agreement. Should the application not be approved, or approved with conditions materially different from the conditions described herein, the party who would suffer from the imposition of the new or different condition shall have the right to terminate this Agreement by giving written notice to the other parties within thirty days of final approval of the application, whereupon, this Agreement shall automatically terminate.

Dated: 2-4-93	Hilam Hante Itee
Dated:	HILARY HARTS, Trustee, OWNER
Dated: 2-4-93	LYNETTE F. HARIS': OWNER and APPLICANT
Dated:	REASONABLE DEVELOPMENT IN RIO DEL MAR COMMITTEE
	JACKIE BOYCE, Vice ?resident
Dated:	HENRY BREEN/DORA J. BREEN Property Owners, 439 Sea View Drive APN 043-103-12
Dated:	ROBERT S. BREMNER/NANCY H. BREMNER Property Owners, 103 Kenneth Drive APN 043-102-05
Dated:	MICHAEL R. MELLON/ELLEN A. MELLON Property Owners, 107 Farley Drive APN 043-101-06
Dated:	JOHN T, SHOOK/CAROLINE K. SHOOK
hartsag.6wd	Property Owners, 421 Sea View Drive APN 043-102-08

11. <u>Termination of Agreement</u>.

The parties agree that final approval of the application, as described herein, and subject to the conditions described herein, is a condition precedent to each party's rights and duties contained in this Agreement. Should the application not be approved, or approved with conditions materially different from the conditions described herein, the party who would suffer from the imposition of the new or different condition shall have the right to terminate this Agreement by giving written notice to the other parties within thirty days of final approval of the application, whereupon, this Agreement shall automatically terminate.

Dated:	HILARY HARTS, Trustee, OWNER
Dated:	LYNETTE F. HARTS, OWNER and APPLICANT
Dated: <u>2-4.93</u>	REASONABLE DEVELOPMENT IN RIO DEL MAR COMMITTEE
Dated: February 4, 1993	Jackie Boyes, Vice ?resident Wern Green, Joseph Boen HENRY BREEN/DORA J. BREEN Property Owners, 439 Sea View Drive APN 043-103-12
Dated: 2-4-93	ROBERT S. BREMNER/NANCY H./ BREMNER Property Owners, 103 Kenneth Drive
Dated: <u>2-4-93</u>	APN 043-102-05 Michael R. Mellon/Ellen A. Mellon Property Owners, 107 Farley Drive APN 043-101-06
Dated: Februsey 4, 1993	JOHN F. SHOOK/CAROLINE K. SHOOK Property Owners, 427 Sea View Drive APN 043-102-08
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Dated: February 26, 1993

COUNTY OF SANTA CRUZ-

DANIE K. W Planning Director

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