



Staff Report to the Zoning Administrator

Application Number: **06-0260**

Applicant: Frank Phanton

Owner: John and Dorothy Menezes

APN: 043-152-51

Agenda Date: August 4, 2006

Agenda Item #: **1.**

Time: After 10:00 a.m.

Project Description: Proposal to construct a 29 foot tall elevator shaft on the front elevation of an existing single-family residence within the front yard setback. Requires a Coastal Development Permit and Reasonable Accommodation to the 20-foot front yard setback requirement and the maximum 25-foot height limit to construct an elevator shaft.

Location: Property located on the bluff side of Beach Drive, immediately past the private gate (at 526 Beach Drive).

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

Permits Required: Coastal Development Permit and Reasonable Accommodation

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 06-0260, based on the attached findings and conditions.

Exhibits

- | | | | |
|----|-----------------------------|----|----------------------------------|
| A. | Project plans | F. | Zoning and General Plan map |
| B. | Findings | G. | Letter of request from applicant |
| C. | Conditions | | (3/9/06), with attached Doctor's |
| D. | Categorical Exemption (CEQA | | letters. |
| | determination) | H. | Comments & Correspondence |
| E. | Assessor's parcel map | | |

Parcel Information

Parcel Size:	About 6,100 square feet
Existing Land Use - Parcel:	Single-family residence
Existing Land Use - Surrounding:	Single-family residences, public parking lot to the northwest.
Project Access:	Beach Drive (a private road at this location)

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

Planning Area: Aptos
Land Use Designation: R-UL (Urban Low Density Residential)
Zone District: RB (Ocean Beach Residential)
Coastal Zone: ☒ Inside ☐ Outside
Appealable to Calif. Coastal Comm. ☒ Yes ☐ No

Environmental Information

Geologic Hazards: Landside and wave-run up hazards (Flood Zone V)
Soils: Beach sand
Fire Hazard: Not a mapped constraint
Slopes: 5% to over 50% at coastal bluff
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: No grading proposed
Tree Removal: No trees proposed to be removed
Scenic: Coastal scenic
Drainage: Existing drainage adequate
Archeology: Not mapped/no physical evidence on site

Services Information

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

Project Scope

The property owner propose;; to install an exterior elevator shaft accessing the third floor deck, in order to be able to continue enjoyment of his house while disabled. As the existing residence is already non-conforming with regards to the 10-foot front yard setback, the elevator shaft must be located within this setback. The elevator shaft will have a height of about 29 feet, matching the height of the house (which is also non-conforming to the RB zone district standards).

Rather than pursue a variance to the front yard setback and height standards, the applicant is pursing Reasonable Accommodation for the proposed elevator. Under Section 18.10.128 of the County Code, the purpose of Reasonable Accoinmodation is "to provide a process for individuals with disabilities to make requests for reasonable accommodation in regard to relief from the various land use, zoning, or building Laws, rules, policies, practices, and/or procedures of the County." The proposed elevator is necessary to provide access to the house for the property owner, as the house is three stories in height. Currently, the only access between stones is an interior stairway and exterior stairways via the rear deck.

Project Setting

The project site is the first house on the bluff side of Beach Drive past the gate to the private section of Beach Drive. Most houses on the bluff side are three stories like the subject residence, and are non-conforming with regards to the front yard setback due to the steep slope of the coastal bluff to the rear. As the site is located at the toe of a bluff on a beach, it is subject to landsliding and coastal wave run up.

Zoning & General Plan Consistency

The subject property is located in the RB [Ocean Beach Residential] zone district, a designation which allows residential uses. The proposed elevator shaft is accessory to the primary residential use on site, and is therefore consistent with the site's (R-UL) Urban Low Density Residential General Plan designation.

Reasonable Accommodation

Reasonable accommodation has been requested to seek relief from the 10 foot front yard setback and the 25 foot height limit for the KB zone district. As the house is only 5 feet from the edge of the right of way, the elevator shaft will encroach up to the edge of the right of way.

The topography of the site precludes locating the elevator shaft to the rear of the dwelling, no room exists on either side of the house without encroaching onto neighboring properties. The floor plan of the house is such that an interior elevator is not an option, as this would either result in the removal of one indoor parking space (on a property that is already non-conforming with regards to parking requirements), or would make two bedrooms unusable.

The elevator must reach the third floor, as that is the location of the kitchen and living room, allowing the property owner to be self-sufficient. In order to reach this floor the elevator shaft must exceed the maximum 25 foot height limit, as the existing structure is already non-conforming with regards to height (at about 29 feet).

The location of the elevator shaft on the exterior of the structure will facilitate removal once the individual for whom the reasonable accommodation is required no longer resides on site.

Local Coastal Program Consistency

The proposed elevator shaft 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 existing dwelling and surrounding neighborhood. The elevator shaft will be glass enclosed, and will be attached to the existing dwelling in a way to appear as an architectural element. Though the project will be visible from the public beach, it will not present a significant visual impact as it will not exceed the height of the existing structure. The proposed project will not interfere with public access to the beach or ocean, as it is located on the bluff side of the private side of Beach Drive, and sufficient public access already exists from the public parking lot to the immediate west.

Design Review

The proposed elevator shaft complies with the requirements of the County Design Review Ordinance, in that *the* project will be integrated into the design of the existing dwelling to the greatest extent possible, and will be incorporate glass siding in order to reduce the perceived bulk and mass of the new structure. The project has been reviewed by the County's Urban Designer, and determined to comply with all applicable sections of the County's Design Review ordinance

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

- o Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- o APPROVAL of Application Number **06-0260**, based on the attached findings and conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

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

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

Coastal Development Permit Findings

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

This finding can be made, in that the property is zoned RB (Ocean Beach Residential), a designation which allows residential uses. The proposed elevator shaft is accessory to the existing single-family dwelling on site, 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.

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

neighborhood of light, air, or open space, in that the structure will not encroach beyond the existing third floor deck and will incorporate glass siding. The project site is located in an area subject to coastal flood hazards (Flood Zone V), but elevators are allowed to be constructed within **this** flood hazard area in order to provide accessible access.

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 elevator shaft and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the RB (Ocean Beach Residential) zone district in that the primary use **of** the property will remain one single-family dwelling. Findings for Reasonable Accommodation can be granted to relieve the project from front yard setback and maximum height requirements for the RB zone district, as demonstrated in the Reasonable Accommodation Findings, below.

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 elevator shaft addition will comply with Policy **5.10.7** (protecting open beaches and bluffs) in that the addition will be compatible with the existing residence and pattern **of** development on Beach Drive.

A specific plan has not been adopted for this portion of Aptos/Rio del Mar.

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 project will not place **an** undue burden on existing utilities available on site, and will not generate any additional traffic.

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 proposed elevator shaft will be integrated into the design of the existing dwelling to the greatest extent possible, and will be incorporate glass siding in order to reduce the perceived bulk and mass of the new structure.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed elevator shaft will be of an appropriate scale and type of design that will be compatible with the design of the existing structure. The Shaft will have glass siding in order to reduce the perceived bulk and mass of the new structure.

Conditions of Approval

Exhibit A: Project plans, three sheets, drawn by Frank Phantom, and dated 5/2/06 (revised 6/14/06).

- I. This permit authorizes the construction of an elevator shaft of about 29 feet in height within the front yard setback. 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.
- 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. Any changes from the approved Exhibit "A" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. Identify type, finish, and color of exterior materials for Planning Department approval. Any color boards must be in 8.5" x 11" format.
 - a. Include notes specifying the glass for the elevator enclosure will be low-glare or non-glare.
 2. Details showing compliance with fire department requirements.
 - C. Submit four copies of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.
 - D. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following

conditions:

- A. All site improvements shown on the final approved Building Permit plans shall be installed.
- B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.

IV. Operational Conditions

- A. In the event that future County Inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- B. All improvements constructed for reasonable accommodation in the front yard setback shall be removed upon the vacation of the unit by the person to whom the reasonable accommodation was granted unless it is determined that the unit has been re-occupied by another qualified person.

V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or ~~annul~~ this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
- B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 - 1. COUNTY bears its own attorney's fees and costs; and
 - 2. COUNTY defends the action in good faith
- C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved

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Owner: John and Dorothy **Menzes**

the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

- D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

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 on the expiration date listed below unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

David Keyon
Project Planner

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

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

Application Number: 06-0260

Assessor Parcel Number: 043-152-51

Project Location: 526 Beach Drive

Project Description: Construct an exterior elevator shaft on an existing three-story single-family dwelling

Person or Agency Proposing Project: Fran Phantom

Contact Phone Number: (831) 475-5841

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

Specify type:

E. ☒ **Categorical Exemption**

Specify type: 15301(e); Additions to existing structures

F. Reasons why the project is exempt:

Minor addition to an existing structure

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

David Keyon, Project Planner

Date: _____

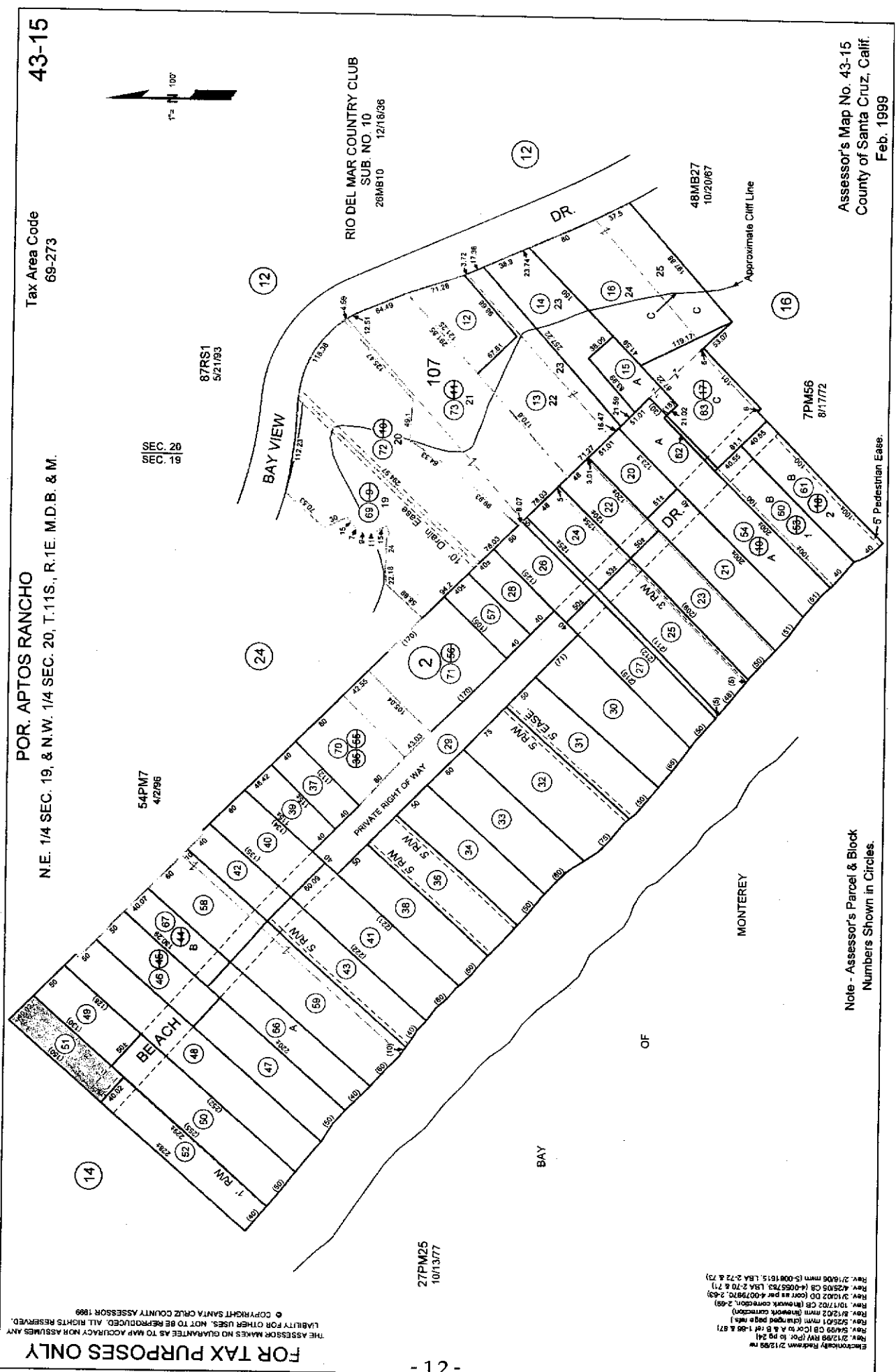
43-15

Tax Area Code
69-273

POR. APTOS RANCHO

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

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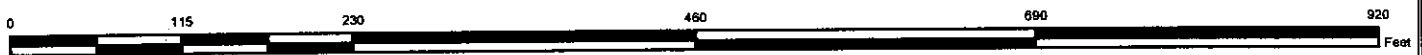
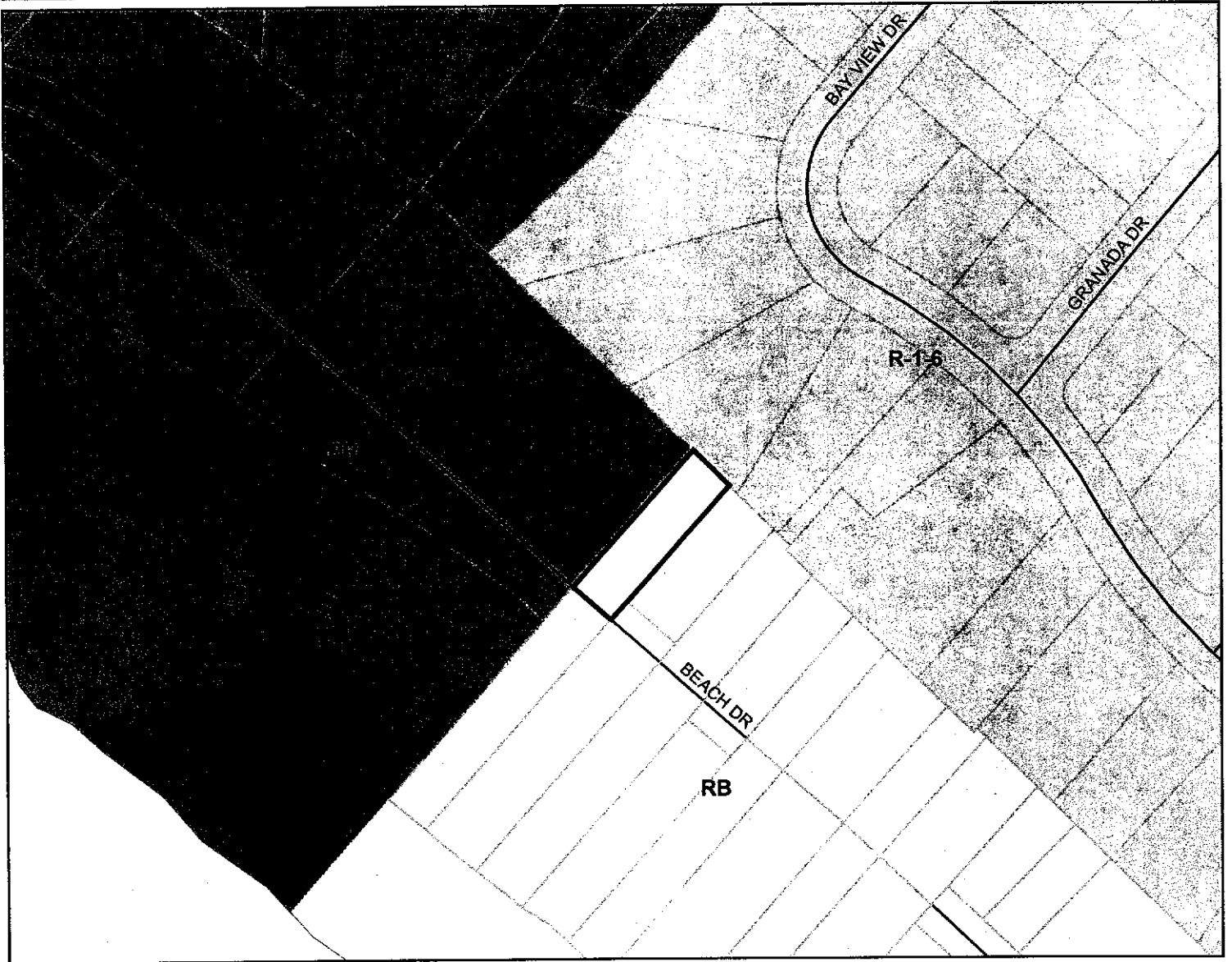
Assessor's Map No. 43-15
County of Santa Cruz, Calif.
Feb. 1999

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







Electronically Filed: 2/12/99
Rev. 2/12/99 RMY (Rev. 10/92)
Rev. 5/4/99 CB (Rev. 10/92)
Rev. 5/25/01 (Amended page 1)
Rev. 5/12/02 (Amended page 1)
Rev. 10/17/02 CB (Amended page 1)
Rev. 4/23/05 CB (Amended page 1)
Rev. 2/16/06 (Rev. 10/92) LBA 2-72 & 73

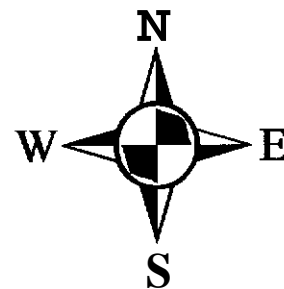


Zoning Map



Legend

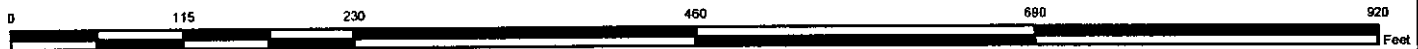
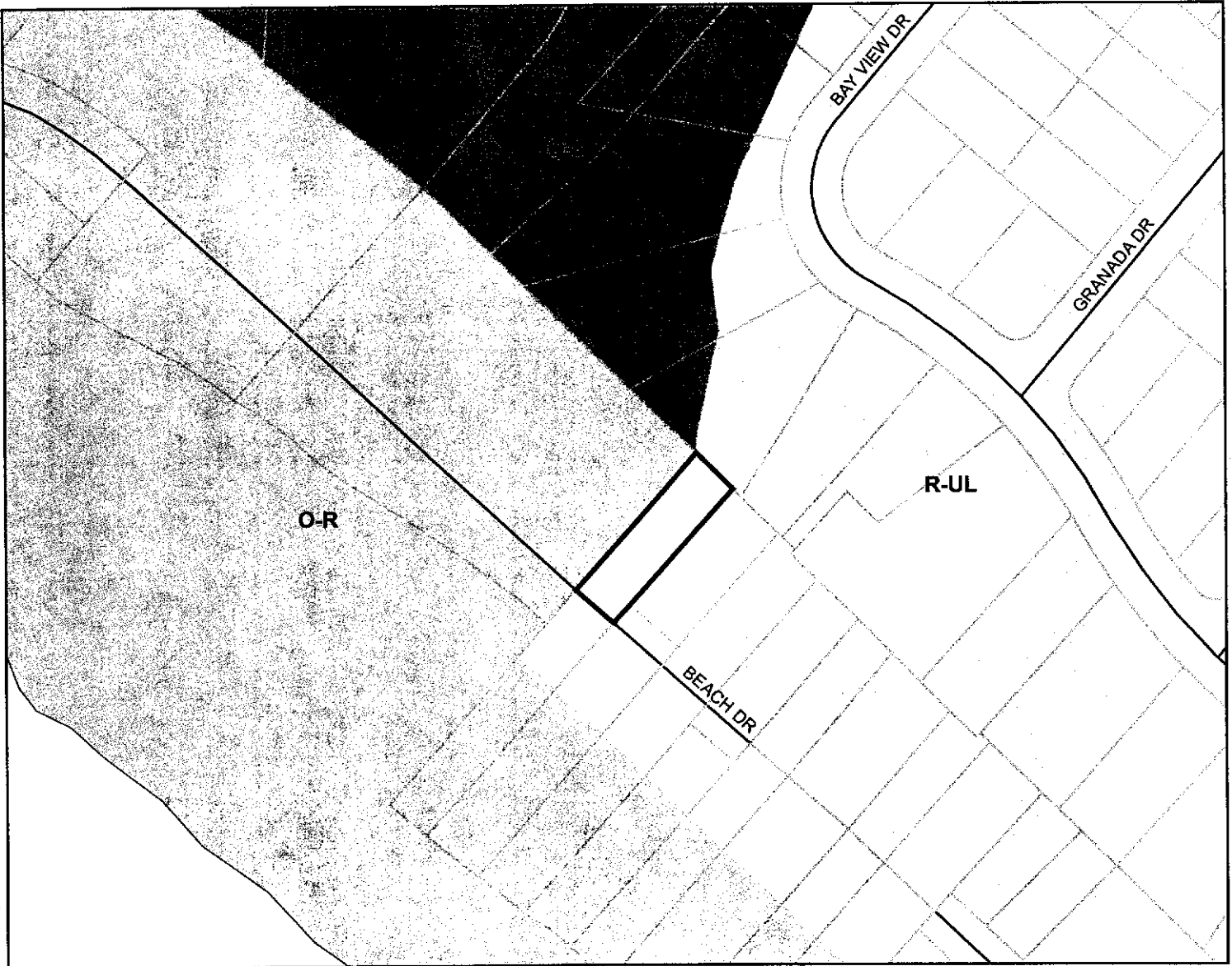
-  APN **043-152-51**
-  Assessors Parcels
-  Streets
-  RESIDENTIAL-OCEAN BEACH (RB)
-  RESIDENTIAL-SINGLE FAMILY (R-1)
-  PARK (PR)










Map Created by
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Planning Department
May 2006

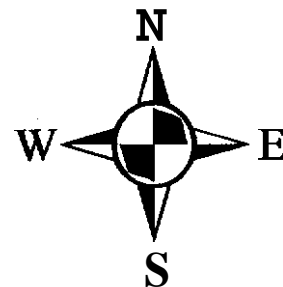


General Plan Designation Map



Legend

-  APN 043-152-51
-  Assessors Parcels
-  Streets
-  County Boundary
-  Residential - Urban Low Density (R-UL)
-  Parks and Recreation (O-R)
-  Urban Open Space (O-U)



Map Created by
County of Santa Cruz
Planning Department
May 2006



FRANK PHANTON

Architect C 24515

4315 Capitola Rd., Capitola, CA 95010

(831) 475-5841

fx (831) 476-0730

March 9, 2006

To: Whom it may Concern
County of Santa Cruz Planning Dept.
701 Ocean Street
Santa Cruz, CA 95060

Re: ~~Request~~ for reasonable accommodation in accord. with
Santa Cruz County Code section 18.10.128 for:
John Menezes
526 Beach Drive
Aptos, CA 95003

Hello,

We are requesting reasonable accommodation for Mr. Menezes at the above address for relief from getting a variance to the front setback.

I have been in touch with the HUD and the office of the Fair Housing Authority and they have assured me that all that is **required** of Mr. Menezes are the attached letters from his doctor. Further, I have attached a copy of the **Fair** Housing Act Section 802. (h) (1) defining a Handicapped person **as** one who **has a** physical impairment which substantially limits his **major** life activities. Mr. Menezes is basically confined to a wheel chair which I have to believe qualifies **him** for your consideration.

We have considered **other, less** Visible options in the placement of the elevator. Please allow to remain forefront in mind while considering this that it is a temporary structure and must be done in **an** economical manner. Placing the elevator inside the building would create much added expense/inconvenience and make unusable much floor space. The **existing** building contains only 1742 **sq.** ft. of conditioned **area**, the elevator is approx. 30 **sq.** ft., thru three floors is 90 **sq.** ft. or **5%**. It is my contention that to go to the added expense and inconvenience and **use** up 1/20" of **the** available interior space for a **structure that** will only be **used** for one or two summers **seems** wasteful enough to abandon the project. A **visit** to **the** site will show you that **going** around the sides is not an option in this instance either.

I **hope** this has clarified our process for you and you will call if I can **be** of further **assistance**.

Sincerely, /

Frank Phanton
Architect