Staff Report to the Zoning Administrator

Application Number:
02-0432

Applicant: Wayne Miller
Owner: Val Vaden and Lilli Rey
APN: 028-232-16 and 15

Agenda Date: July 20,2007
Agenda Item #: 7
Time: After 9:00 a.m.

Project Description: Proposal to construct a two-story, single family dwelling with a basement.

Location: end of 23rd Avenue, about 170-feet south of east Cliff Drive, Live Oak Area

Supervisoral District: First District (District Supervisor: Janet K. Beautz)

Permits Required: Coastal Development Permit

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 02-0432, based on the attached findings and conditions

Exhibits

A. Project plans
B. Findings
C. Conditions
D. Categorical Exemption (CEQA determination)
E. Location map
F. General Plan map
G. Zoning map
H. Discretionary Application comments
I. Urban Designer's memorandum
J. Gross Building **Area** calculations
K. Geotech. investigation prepared by Haro, Kasunich & Associates, dated June 1999
L. Update letter prepared by Haro, Kasunich & Associates, dated 15 August 2003
M. Geologic report prepared by Neilsen and Associates, dated July 2003
N. Letter from Neilsen and Associates to **Joe** Hannah, County Geologist, dated May 16, 2005
O. Review of Geotechnical Investigation and Review of Geologic Investigation, prepared by Joe Hannah, dated Julyl, 2005
P. Drainage letter and calculations prepared by Mid Coast Engineers, dated July 17, 2005
Q. Redevelopment Agency comments, prepared by Melissa Allen, dated September 24,2002
R. Central Fire Protection District memo, prepared by Eric Sitzenstratter, dated 3 September 2002
S. Central Fire Protection District letter, prepared by Jeanette Lambert, dated 21 October 2003

T. Central Fire Protection District memo, prepared by Jeanette Lambert, dated February 9,2004
U. Central Fire Protection District memo, prepared by Jeanette Lambert, dated August 19,2004
V. Santa Cruz County Sanitation District memo prepared by Diane Romero, dated September 11,2002
W. Inter-ofice Correspondence from Supervisor Jan Beautz, dated September 12,2002
X. California Coastal Commission **letter** prepared by Dan Carl, dated September 23,2002
Y. California Coastal Comm. letter prepared by Dan Carl, dated October 1, 2002
Z. Letter from Borelli Investment Company, dated September 19,2002
AA. Letter from Bolton Hill Company, prepared by Todd Graff, dated September 27,2002
BB. Letter from Bolton Hill Company, prepared by Todd Graff, dated June 9,2003
CC. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated November 14,2003
DD. Letter from Wittwer and Parkin LLP (to Central Fire District), prepared by Jonathon Wittwer, dated November 24, 2003
EE. Letter from Wittwer and Parkin, LLP to Central Fire Protection District), prepared by Jonathon Wittwer, dated December **8,** 2003
FF. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated November 26,2003
GG. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated May 14,2004
HH. Letter from Wittwer and Parkin. LLP. prepared by Jonathon Wittwer, dated September 1, 2005
II Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated April 6,2007

Parcel Information

Parcel Size:	3,568 **sq.** A.
Existing Land Use - Parcel:	vacant
Existing Land Use - Surrounding:	residential
Project Access:	23rd Avenue
Planning Area:	Live *Oak*
Land Use Designation:	R-UM
Zone District:	R-1-4 (4,000 **sq.** ft. min. parcel size)
Coastal Zone:	_X_ Inside __ Outside
Appealable to Calif. Coastal Comm.	_X_ *Yes* __ No

Environmental Information

Geologic Hazards:	Geological report submitted
Soils:	N/A
Fire Hazard:	Not a mapped constraint
Slopes:	5-10%
Env. Sen. Habitat:	Not mapped/no physical evidence on site
Grading:	137 cu. yds. proposed
Tree Removal:	No trees on property
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:	City of Santa Cruz Water Department
Sewage Disposal:	Santa Cruz County Sanitation District
Fire District:	Central Fire Protection District
Drainage District:	Zone 5

Project Setting

The project site is located on 23rd Avenue, south of East Cliff Drive. 23rd Avenue is a narrow paved roadway that currently serves four homes on the east side of the right-of-way. The pavement does not extend beyond the developed properties. **The** subject property is one of three undeveloped parcels beyond the end of the road. To the west of these parcels is a bluff that descends to a sandy beach area at the rear of Santa Maria beach. Monterey Bay is located to the south.

History

This application was before the Zoning Administrator on December 2,2005 and was recommended for denial at that time **(see** attached Exhibit). The recommendation was based on incomplete drainage plans. This issue has subsequently been addressed and the application returned to the Zoning Administrator for re-consideration on June 21,2006. At that meeting, staff recommended that the application be referred to the Planning Commission for a review of the policies related to the placement of utilities and "roadways" adjacent to coastal bluffs, and the Zoning Administrator agreed. Since then, staff has re-evaluated the application and has determined that the matter may proceed without the policy interpretation by the Planning Commission.

The application came back to the Zoning Administrator on January 5,2007. It was noted that the **fire** turnaround is considered a right-of-way and a setback is required from the r.o.w. and that half of the turnaround on this property would have to be deducted from the site area. Floor Area Ratio and Lot

Coverage would have to be recalculated using the net site developable area,

Project Description

The proposal is to construct a two-story 3-bedroom single-family dwelling with a basement. Access would be from a driveway, which extends from the edge of the existing paved roadway (23rd Avenue) to the south end of the property to a hammerhead fire department turn-around. All utilities would be installed underground and would extend from the existing improved roadway to the property (within the 23rd Avenue ROW).

Local Coastal Program

Land Use Designation – The property is zoned **R-1-4,** consistent with the underlying land use designation of Residential Urban Medium Density. The parcel size (3,583 s.f.) is less than the minimum parcel size for the zone district but development on existing parcels is not constrained by insufficient parcel area. The proposed use is a principal permitted use in the **R-1-4** zone district. The Coastal Development Permit for this development is appealable **to** the California Coastal Commission.

Design Issues - The proposed single family residence and improvements are in conformance with the County's certified Local Coastal Program Land Use Plan, 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 two-story single-family dwellings, many with basements or excavated garages (including the adjacent residence at 90-23rd Avenue).

The size of the proposed house (1 700 sq. ft.) is similar to or smaller than the four existing houses on from 23rd Avenue. Architectural styles vary widely in the area. **The** design submitted has Cottage/Craftsman elements with steep roofs, shingles, divided window lites, a stone fireplace and curved brackets. The colors submitted show a dark green composition shingle roof, natural shingles and dark green trim. These colors will be compatible with the adjacent houses and will blend with the landscape.

Public Access Issues - 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. There is direct public coastal access from East Cliff Drive to Santa Maria beach just below 23rd Avenue, with a variety of parking opportunities in the area. Consequently, the proposed project will not interfere with public access **to** the beach, ocean, or other nearby body of water.

Currently, 23rd Avenue is a privately maintained roadway serving 4 existing residences. This proposal will create a driveway about 60-feet in length to provide access to a vacant parcel to the south. Although the end of 23rd Avenue is identified in the General Plan as a neighborhood public access point, the access is referred to in Policy 7.6.2, which discusses trail easements. A trail easement across the subject property would not lead to, or add a section to any trail area. Given the proximity of direct public access points from East Cliff Drive to the beach immediately to the west of this site, it does not appear to be necessary to provide additional access, especially where a bluff prevents easy access to the sand.

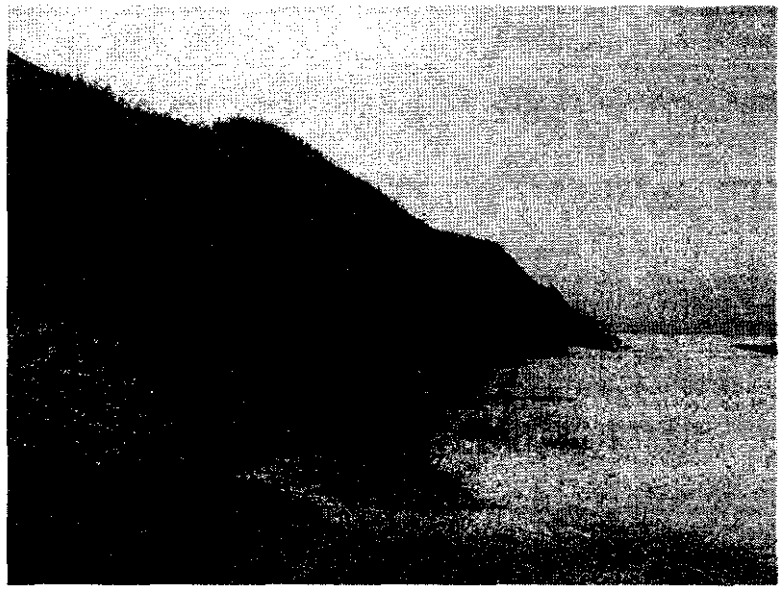

Figure 1. Bluff **face** from **beach** looking **toward** Monterey Bay

Access Road/Utility Installation Issues - There has been concern that the proposed driveway and extension of the utilities (which currently serve four residences and will serve the proposed residence as well as one additional residence which may be developed in the future), is inconsistent with policies and ordinances regarding development within the coastal bluff setback area. These policies and ordinances are discussed below.

An access road is required for access by safety vehicles per General Plan/LCP Policy, **6.5.1:**

> *"All new structures, **including additions of more than 500 square feet,** to single family **dwellings on existing parcels of record, to provide an adequate** road for fire protection ... "*

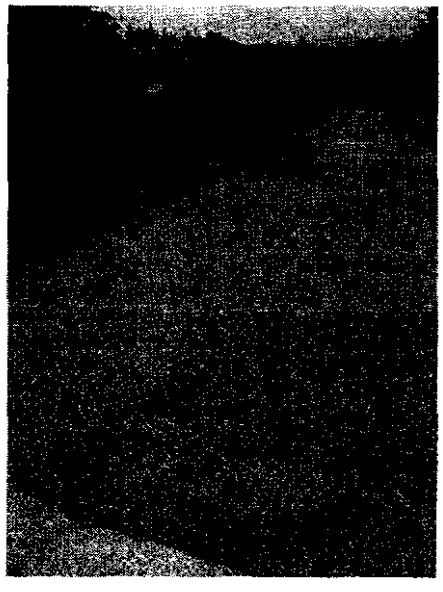

Figure 2. The end of 23rd **Avenue** looking toward **East** Cliff Drive

As is demonstrated in Exhibit E, the subject property has no access other than from 23rd Avenue. Approximately one-half of the 23rd Avenue ROW is below the top of the coastal bluff (to the west). The paved road has therefore been developed in the eastern part of the right-of-way, as far as possible from the edge of the bluff. It runs on top of the bluff close to the top edge. As the other residences on 23rd have done, the paving will be extended to meet the new house and will be constructed as far from the coastal bluff as is possible. As is typical, utilities will be extended under the new driveway, from the end of the existing lines that **serve** the four existing residences, to just beyond the new residence.

The General Plan/LCP, under Policy 6.2.11, does not allow ***development*** in the coastal bluff setback:

> *"All development, including canrileveredportions of a structure, shall be set back a minimum of 25 feet from the top edge of a bluff"*

This Policy is implemented in Chapter 16.10 (Geologic Hazards) of the County Code; Section 16.10.070(h). Subsections (i) and (ii) of this section require a minimum setback from the top of the coastal bluff of 25-feet for all development, including non-habitable structures and cantilevered portions of a building.

The proposed residence, including almost all of the parking and landscaping areas, lies outside the 25-foot coastal bluff setback. However, the driveway lies entirely within the coastal bluff setback. The question arises of whether or not the driveway and extension of utilities constitute development, and must be further than 25 feet from the top of bluff. Section 16.10.040 (s)(11) does define the construction of a driveway and utilities **as** "Development'; however Section 16.10.070 (2) allows an exemption:

> (i) *"Any project which does not specifically require a buildingpermitpursuanttoSection 12.10.070(b) is exempt from Section 16.10.070(h) 1, with the exception of non-habitable accessory structures that ore located within the minimum 25foot setback from the coastal bluff where there is space* ***on*** *theparcel to accommodate the structure outside of the setback, above-groundpools, wafertanks, projects (including landscaping) which would unfavorably alter drainage patterns, and projects involving grading.*
>
> *For the purposes of this Section, the unfavorable alteration of drainage is defined as a change that would significantly increase or concentrate runoff over the bluff edge or significantly increase infiltration into the bluff Grading is defined as any earthwork other than minor leveling, of the scale typically accomplished by hand, necessary to create beneficial drainagepatterns or to install* ***an*** *allowed structure thar does not excavate into the face or base of the bluff."*

Because the construction of the driveway and the utilities would <u>not</u> require a building permit, these facilities are exempt from the restrictions discussed above just as they have been for the development of the other four residences located on 23rd Avenue, north of the project site.

The sewer line that **serves** this property is located at the **rear** of the property and would therefore not be within the bluff setback. The gas and water lines are located within the 23rd Avenue right of way and will have to be located within the bluff setback to service this lot and the adjacent property.

Geological Review

A Geological report was prepared by Neilsen and Associates, dated July 30, 2003. Their analysis showed that "essentially there has been no bluff retreat at the property in the last 70 years". The report recommends, "the minimum building setback of 25 feet applies to the property".

In terms of the driveway, the report states "the driveway will not exacerbate erosion of instability in the bluff since we recommended development of an engineered drainage plan that will most certainly not allow discharge of concentrated runoff from impermeable surfaces, such as the driveway, down the bluff face".

Both the Geotechnical Report and the Geotechnical Investigation have been reviewed and accepted by the County Geologist.

Fire Access

The project requires a fire turnaround, which has been equally divided at the shared property line of the two undeveloped properties (see Exhibit A). Each parcel is separately owned and each owner has provided owner agent forms and there will be reciprocal easements granted for the fire turnaround. Staff is treating the turnaround easement as a "right-of-way" and has requested that setbacks be maintained from its boundaries.

The applicant has submitted a revised site plan that shows the location of the building meeting the required setbacks from the "right-of-way". In addition, the area of the turn around which is on the applicant's property must be subtracted from the gross development area (the lot area). The revised plans indicate a reduction in net site area (3,406 **sq.** ft.). The revised Lot Coverage and Floor Area Ratio do not exceed the maximums allowed by code (see table below). The turn around will be striped and posted as a fire turnaround (No Parking Area - see Conditions of Approval).

Front Yard Coverage

The parcel width is 40-feet. The fire turn-around effectively reduces this by 6-feet. To comply with the 50% limitation on parking occupancy within the front yard setback area, no more than 17-feet of parking area can be constructed. **The** plans depict 20-feet of parking area, but the spaces only occupy 17-feet of that area. Therefore, the building plans must limit the parking area to 17-feet in width for the two parking spaces. A Condition of Approval requires the building permit plans to reflect this.

Zoning Standards Conformance

The subject property is a **3,583** square foot lot, located in the R-1-4 (4,000 **sq.** ft. min. parcel 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-UM) R-UM General Plan designation. The residence has been re-sited following the addition of the fire turnaround to meet the required setbacks.

The basement level is shown in the section (Sheet 3, Detail **4** in Exhibit A) as 7-feet in height. This

area cannot be designated as one of the parking spaces because there is insufficient height to meet the minimum height for a garage (7'6" is required). The 7-foot height also means that the basement is not considered a 'story' and the area is excluded from the Floor Area Ratio calculations. The height of the large volume in the Living Room must be less than sixteen feet in height for it to not count twice in F.A.R. calculations. **A** Condition of Approval requires the building permit plans to specify an interior height of no greater than 16 feet.

The space in front of the garage door is only eighteen feet, at its narrowest, from the property line. While the plans provide the required parking outside of the structure, staff is requesting a twenty feet long setback in front of the garage door, and movement of the residence back two feet on the property. These have also been added as Conditions of Approval.

The design of the basement and the calculation of the perimeter have been reviewed by the Project Planner and the Principal Planner. The plans indicate a wing wall, which supports the upper floor. This wall does not enclose any interior basement space and will not be counted as perimeter for the definition of the basement.

SITE DEVELOPMENT STANDARDS TABLE

	R-1-4 Standards	Proposed Residence
Front yard setback:	15 feet (15 ft. at fire turn-around)	15'-0" 15'-0"
Side yard setback (North side):	5 feet	5'-0"
Street side yard (South side):	5 feet beyond (10 ft. at fire turn-around)	5'-0" 11'-0"
Rear yard setback:	15 feet	19'-10"
Lot Coverage:	40 % maximum	39 %
Building Height:	28 feet maximum	28'-0"
Floor Area Ratio (F.A.R.):	0.5:1 maximum (50 %)	50.0 %
Parking	3 bedrooms – 3 (18' x 8.5')	three uncovered

residential design along 23rd Avenue and is a pleasing design within itself.

A Condition of Approval will require a planting and irrigation plan be provided by a licensed Landscape Architect that addresses visual mitigation, selects appropriate plants for a coastal bluff and uses drip irrigation.

Drainage

Increased bluff top erosion has been curtailed by the project drainage design. The driveway will include an asphalt concrete curb on the bluff side, which will direct water to the existing roadway of 23rd Avenue. The existing roadway already has a curb and the water flows back toward East Cliff Drive. **All** downspouts from the residence will be directed to splash blocks, which will divert the rainwater into grassy swales. **The** swales then bring the water to the driveway and fire turnaround.

The existing drainage on 23rd Avenue flows to an area drain on East Cliff Drive. The property owner involved in this application will be required to maintain this area drain and submit a maintenance agreement to the Department of Public Works.

The edge of the asphalt along 23rd Avenue on the bluff side shows some minor cracking. This can be caused by a number of factors. **The** project Geologist did not identify any underlying instability in this area. It should be noted that the neighbors have installed spray imgation adjacent to the road and the top of the bluff and planted non-native vegetation, which may have contributed to the cracking. This application will be conditioned to not imgate in the area between the proposed driveway and **the** top of the bluff.

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 an exemption because the property is located with the Urban Services line and will be served by existing water and sewer utilities **(See** CEQA Exemption for additional information – Exhibit D).

Review by the County of Santa Cruz Environmental Planning Division indicates that this site is well over 100 feet from any standing water (the minimum for a riparian setback).

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

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

- APPROVAL of Application Number **02-0432,** 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

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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-1-4 (4,000 **sq.** ft. min. parcel size), a designation that allows residential uses. The proposed single family residence is a principal permitted **use** within the zone district, consistent with the site's (R-UM) R-UM 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, and all the nearby lots are developed at the same density surround the site. The exterior colors will 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 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. The project site is located between the shoreline and the first public road, however, the 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.

Although 23rd Avenue is identified as a neighborhood public access point, the roadway itself will end at the southern property line of the project site with no other improved access to the beach along the roadway or at the end of the ROW. Given the proximity of direct public access points from East Cliff Drive to the beach immediately to the west of this site, it does not appear to be necessary to provide additional access where there **is** adequate access and where the coastal bluff prevents easy pedestrian reach of the beach.

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-1-4 (4,000 **sq.** A. min. parcel 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.

Construction of the driveway and underground utilities within the coastal bluff setback are exempt from the setback requirement pursuant to the provisions in the implementing ordinances. This is consistent with past practices and with neighboring properties.

23rd Avenue is a privately maintained roadway serving **4** existing residences. This proposal will provide a driveway about 60-feet long and provide additional access to a vacant parcel to the south. Although 23rd Avenue is identified as a neighborhood public access point, the driveway itself will end **at** the southern property line of the project site with no other improved access to the beach along the driveway or at the end of the ROW. Given the proximity of direct public access points from East Cliff Drive to the beach immediately to the west of this site, it does not appear to be necessary to provide additional access where there is no need nor where vertical access does not exist.

Development Permit Findings

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

This finding can be made, in that the project is located in an area designated for residential uses. Construction will comply with prevailing building technology, the 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 property line setbacks that ensure access to light, air, and open space in the neighborhood. The development will not contribute to coastal bluff retreat.

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-1-4 (4,000 sq. ft. min. parcel 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 Medium Residential (R-UM) 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-1-4 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.

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 1 peak trip per day (1 peak trip per dwelling unit), such an increase will not adversely impact existing drives 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 13.11.070 through 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.

Conditions of Approval

Exhibit **A:** Building plans prepared by Wayne Miller, dated 10/10/04
Civil engineering plans prepared by Mid Coast Engineers, dated March 2006.

I. This permit authorizes the construction of one single family residence with driveway and fire turn around. 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 a Grading Permit from the Santa Cruz County Building Official, if required.

D. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County drive 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. One elevation shall indicate materials and colors as they were approved by this discretionary application. If specific materials and colors have not been approved with this discretionary application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material board in 81/2" x 11" format for Planning Department review and approval.

2. Grading, drainage, and erosion control plans.

3. Details showing compliance with fire department requirements.

4. **A** planting and imgation plan shall be designed by a licensed Landscape Architect that addresses visual mitigation, selects appropriate plants for a coastal bluff and uses drip imgation.

5. Section showing that the height of ihe large volume in the Living Room is less than sixteen feet in height.

6. Building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site that clearly depict the total height of the proposed structure.

7. The site plan shall indicate the following:

a. The space in front of the garage shall be a minimum of twenty feet from the garage door to the front property line.

b. The residence shall meet a fifteen feet setback from the rear of the fire turn around and a ten feet setback from the side of the fire turn around.

b. The utilities to the structure shall enter the lot from the corner furthest away from the bluff.

c. The turn around shall be striped and posted as a fire turn around

d. No irrigation shall be allowed in the area between the proposed driveway and the top of **the** bluff.

e. The height of the large volume in the Living Room must be less than sixteen feet high.

f. The parking spaces shall be no greater than 17 feet in width for the paved area.

C. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.

D. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.

E. Submit ***3*** copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.

F. Fay the current fees for Parks and Child Care mitigation for three bedrooms. Currently, these fees are, respectively, $1,000 per bedroom and $109 per bedroom (respectively), but are subject to change.

G. Pay the current fees for Roadside and Transportation improvements for one unit. Currently, these fees are, respectively, $2,080 per unit and $2,080 per unit (respectively), but are subject to change.

H. Provide required off-street parking for three cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.

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.

J. 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:

1. All site improvements shown on the final approved Building Permit plans shall be installed.

2. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.

3. The project must comply with all recommendations of the approved soils reports.

4. **A** deed restriction shall be filed with the County Recorders Office in which the applicant shall indicate:

   a. The potential geological hazards on the site and the level of prior investigation conducted,

   b. The owner of parcels 028-232-16 and 15 shall be responsible for the maintenance of the existing and proposed drainage facilities along the non-county maintained drive sections.

K. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the

Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

IV. Operational Conditions

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

V. 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, it 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 the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifymg 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 he 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: _____

Mark M. Deming	Lawrence Kasparowitz
Assistant Planning Director	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 Planning Commission, may appeal the act or determination to the Board of Supervisors **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: 02-0432
Assessor Parcel Number: 028-232-16 and 15
Project Location: 23rd Avenue, Santa Cruz

Project Description: Proposal to construct a two-story, single family dwelling with a basement. Includes construction of a driveway, and utilities within the existing right-of-way for 23rd Avenue and located in the coastal bluff setback, and a fire turnaround serving the subject parcel and an adjacent parcel.

Person Proposing Project: Wayne Miller

Contact Phone Number: (831) 724-1332

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. __X__ Categorical Exemption

15303 New construction of small structure.

F. Reasons why the project is exempt:

Chapter *3* (CEQA), Article 19 (Categorical Exemptions) of Title 14 of the California Code describes the exemptions to CEQA under 15303 New Construction or Conversion of Small Structures:

> **Class** 3 consists of construction and location of limited numbers of new. small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where **only** minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on **any** legal parcel. Examples of this exemption include, but are not limited to:

EXHIBIT D

(a) One single-family residence, or **a second dwelling unit in a residential zone. In urbanized areas, up** to **three single-family residences may be constructed or convened under this exemption.**

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of **reasonable length to serve such construction.**

Staff believes that the construction of this single-family residence and the utilities to **serve** such construction qualifies **for** this exemption.

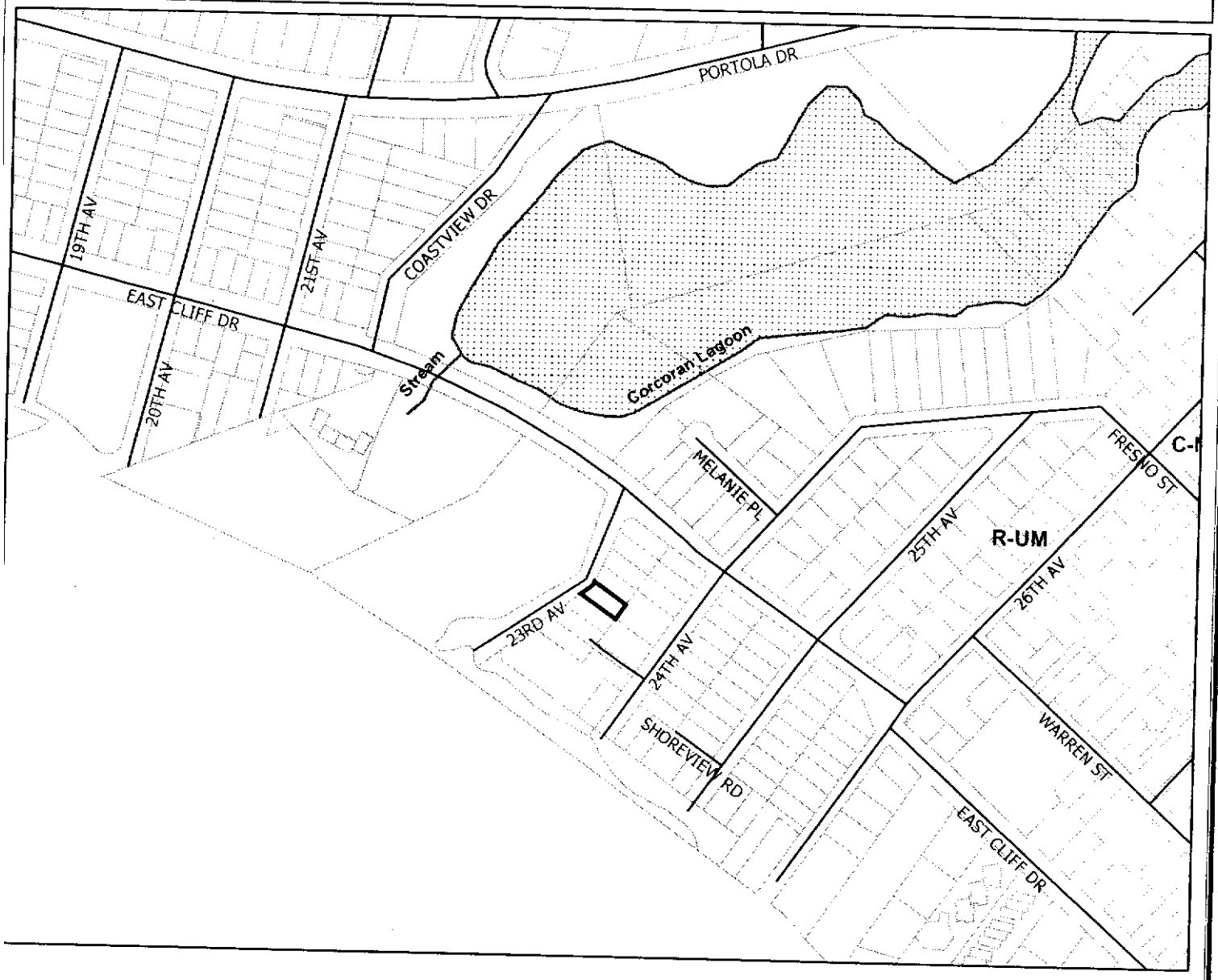
Further, staff believes that the minor trenching and placement of the utilities within the bluff setback does not rise to a "significant impact to a particularly sensitive environment" nor would the extension of the utilities to the adjacent lot be a "cumulative impact of successive projects" which would make the exemption inapplicable.

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

_____ Date: _____

Lawrence Kasparowitz, Project Planner

Location Map



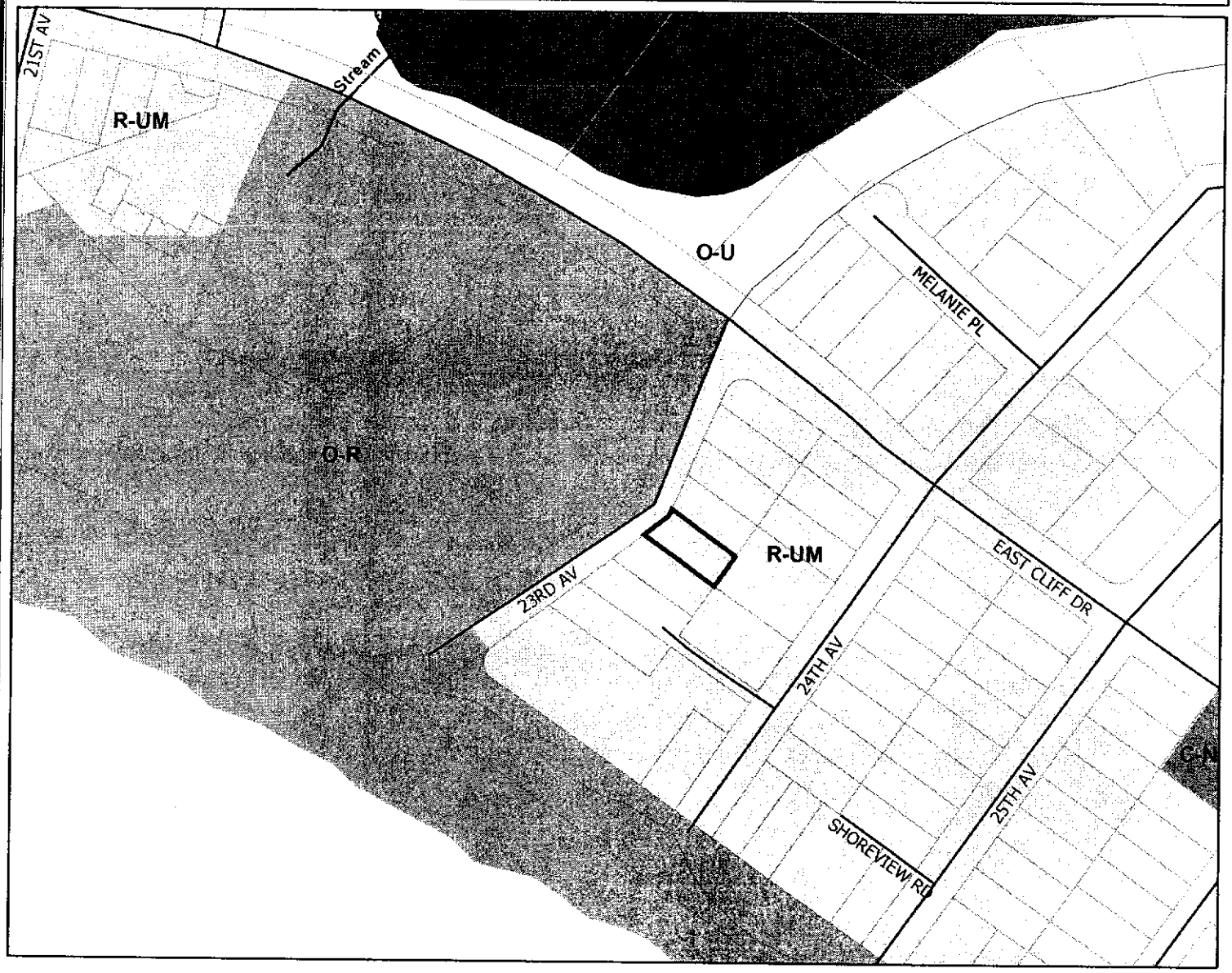
Legend

- APN 028-232-16
- Streets
- Assessors Parcels
- Lakes
- INTERMITTENT STREAM

N
W E
S

Map Created by
County of Santa Cruz
Planning Department
August 2005

General Plan Designation Map



0 140 280 560 840 1,120 Feet

Legend

- APN 028-232-16
- Streets
- Assessors Parcels
- Lakes
- PERENNIAL STREAM
- Residential- Urban Medium Density (R-UM)
- Urban Open Space (O-U)
- Parks and Recreation (O-R)
- Lake (O-L)
- Commercial-Neighborhood (C-N)

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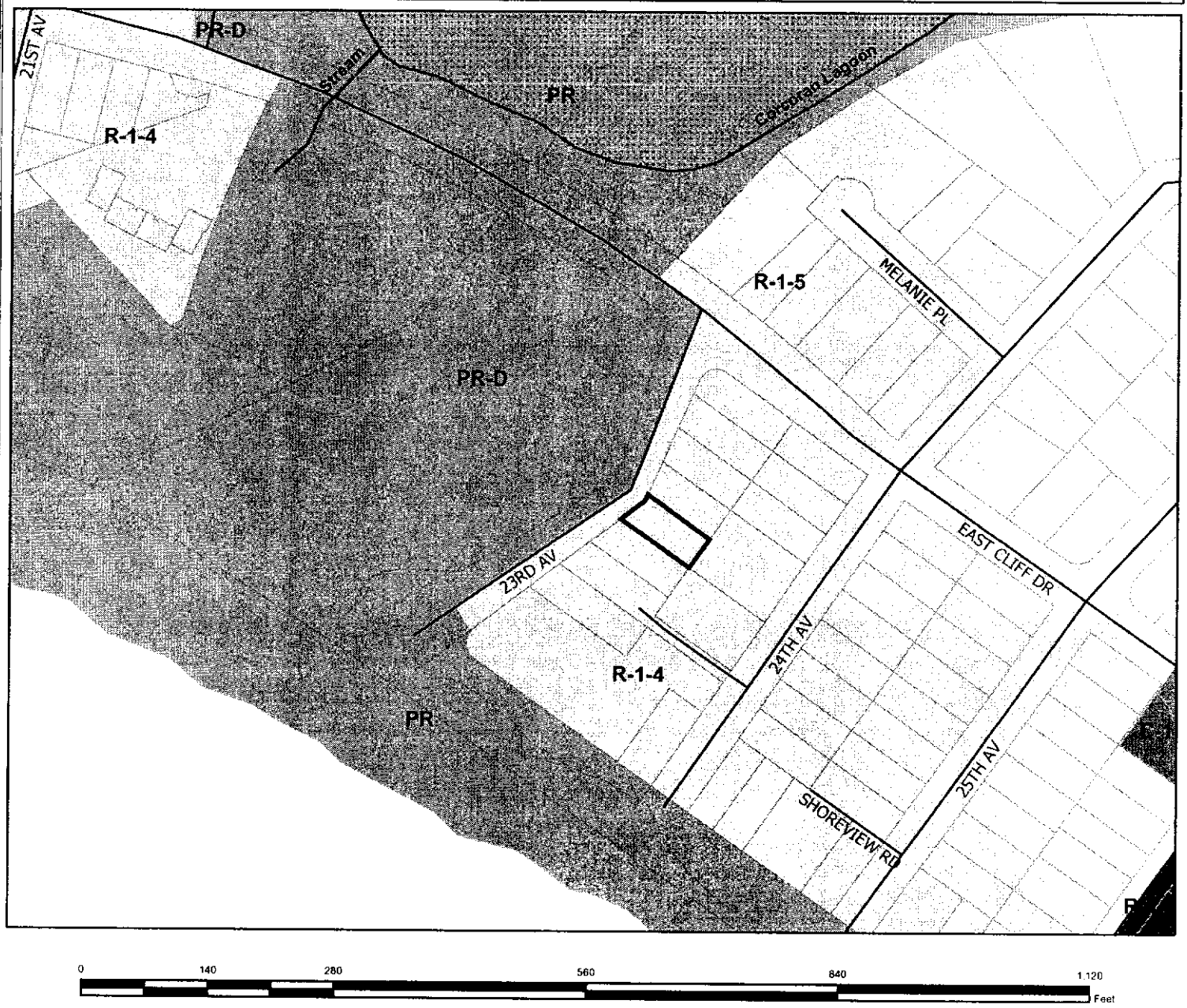
Map Created by
County of Santa Cruz
Planning Department
August 2005

Zoning Map



Legend

- APN 028-232-16
- Streets
- Assessors Parcels
- Lakes
- PERENNIAL STREAM
- RESIDENTIAL-SINGLE FAMILY (R-1)
- PARK (PR)
- COMMERCIAL-NEIGHBORHOOD (C-1)
- RESIDENTIAL-MULTI FAMILY (RM)

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W E
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Map Created by
County of Santa Cruz
Planning Department
August 2005

Environmental Planning Completeness Connnents

========== REVIEW ON SEPTEMBER 25. 2002 BY ROBERT S LOVELAND ==========

The Pre-Development Site Review completed for this parcel(Application 96-0814 required the following items which are still relevant to this project:

1. Obtain a Geologic Hazards Assessment. This can be completed by the County. Please submit your plans to the Zoning Counter of the Planning Department and pay the required fees. An option would be to provide a completed geologic report from a California licensed geologist and a completed geotechnical report from a California licensed geotechnical engineer. If this option is selected, please forward 3 copies of each report to the Zoning Counter of the Planning Department and pay the required fees

2. Please provide an engineered drainage plan for the building site and access road.

3. Please provide a surveyed topographic map for the building site and the access road. ========== UPDATED ON APRIL 18. 2003 BY ROBERT S LOVELAND ==========

1. I received a soils report completed by Haro, Kasunich & Associates (dated June 1999). I will need an update letter from the project geotechnical engineer since the report is almost 3 years old.

A full geologic report will be required for this project. There is clear reference by the geotechnical engineer, on page 7 of the report, that a geologist or hydrogeologist be consulted. Once the report has been completed, please provide 3 copies to the Zoning Counter of the Planning Department and pay the required review fee(s)

2. Item 2 above still needs to be provided

3. Item 3 above has been provided. ========== UPDATED ON SEPTEMBER 23, 2003 BY JOSEPH L HANNA ==========
An engineering geology report has been prepared by Hans Nielsen and Associates. The report indicates that the set-back must be a minimum of 25 feet back from the bluff. This will prevent access to the proposed home sites and therefore would potentially require that the applicant obtain access from another direction. I would suggest that the project planner consult with the applicant to determine if they are aware of the potential problem. I will not write the final review for the project until an EH3 fee code is added to the project, and until the applicant indicates they are aware of the problem. ========== UPDATED ON NOVEMBER 16, 2004 BY ROBERT S LOVELAND

1. Item 1 above has been addressed.

2. I received a preliminary drainage plan from Mid Coast Engineers (Sheet C-01, dated 4/22/04). This plan must be stamped by the civil engineer. Please add the following information to this sheet: provide two grading cross sections for the locations shown on the attached sheet.

3. Please address the County Geologist comments from 9/23/03. ========= UPDATED ON FEBRUARY 22, 2005 BY ROBERT S LOVELAND =========

1. Comment 3 above from the County Geologist (9/23/03) needs to be addressed. Please apply for a Geological/Soils Report Review (EH3) at the Zoning Counter of the Planning Department. Please submit the following items: Site Plan, Geology Report and Soils Report. ========= UPDATED ON APRIL 13, 2005 BY ROBERT S LOVELAND =========

Submitted geologic and geotechnical report to the County Geologist for formal review. ========= UPDATED ON MAY 10, 2005 BY ROBERT S LOVELAND =========

The County Geologist is currently waiting for the project geologist to respond to his comments.

Environmental Planning Miscellaneous Comments

========= REVIEW ON SEPTEMBER 25, 2002 BY ROBERT S LOVELAND =========

1. Please provide a detailed erosion control plan for review. Detail what type of erosion control practices will be utilized. where they will be placed and provide construction details for each practice.

2. further comments may be required depending on the results of the completeness comments. ========= UPDATED ON SEPTEMBER 23, 2003 BY JOSEPH L HANNA =========
An engineered drainage and access plan are required for this project.

Dpw Drainage Completeness Comments

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

========= REVIEW ON SEPTEMBER 24. 2002 BY =========
Please have the following concerns addressed by a civil engineer:

1) 23rd Avenue is a private road. What is the condition of the gutter that runoff from downspouts is being directed to?

2) What is the safe point of release for runoff directed into the gutters for this road; i.e., where does the runoff from 23rd Avenue go? Would any downstream properties be adversely affected (through erosion. flooding, etc.)?

3) Will runoff from this development encourage any erosion to the bluff in front of the proposed home?

A drainage impact fee will be assessed on the net increase in impervious area. The fees are currently $0.80 per square foot. Further drainage plan guidance may be obtained from the County of Santa Cruz Planning website: http://sccounty01.co.santa-cruz.ca.us/planning/drain.htm

Please call the Dept. of Public Works, drainage division, from 8:00 am to 12:00 pm if you have any questions. ========= UPDATED ON FEBRUARY 7. 2005 BY ALYSON B TOM
========= Application with civil plan sheet dated 1/5/05 has been received. Please

address the following

1) Please show the floodplain limits on the site plan. Development should be outside of the floodplain.

2) The existing topography indicates that this site naturally drains down the bluff to the beach. The proposed drainge plan describes diverting all of the site runoff down 23rd Avenue, a private road, to a storm drain system in East Cliff Drive. Please submit an analysis of the entire diversion path demonstrating that the path is adequate to handle the diverted runoff. The path should be analyzed for adequate design capacity, and overflow as described in the County Design Criteria. Who maintains the drainage facilities on 23rd Avenue?

3) This project should minimize proposed impervious areas and mitigate for storm water quantity and quality impacts on site.

4) What is the extent of the upstream area draining to this site? The drainage plan should accommodate upstream runoff.

Additional site specific comments may be required in the building application stage

All submittals for this project should be made through the Planning Department. Public Works storm water managment staff is available from 8-12 Monday through Friday for questions regarding this review.

Zone 5 fees will be assessed on the net increase in impervious area due to this project.
========== UPDATED ON MAY 19. 2005 BY ALYSON B TOM ========== Application with letter and plans dated 4/21/05 from Mid Coast Engineers has been recieved. Please address the following:

1) Comment No. 2 from 2/7/05 review is still outstanding. Please address.
========== UPDATED ON AUGUST 17. 2005 BY ALYSON B TOM ========== Application with detention calculations dated 7/15/05 and letter dated 7/17/05 from Mid Coast Engineers has been received. Please address the following:

1) Comment No. 2 from 2/7/05 has not been addressed. The capacity and safe overflow of the berm along 23rd Avenue and storm drain system from 23rd to the lagoon should be analyzed and submitted. Depending on the results of the analysis, this project may be required to upgrade the downstream system. Describe the gutter spread required to handle the existing and proposed flows in 23rd Avenue for design and overflow conditions.

2) The letter does indicate that the existing berm and downstream inlet are in need of repair/maintenance. Per conversation with the County road maintenance, the inlet and storm drain system from 23rd Ave. to the lagoon/beach is private. This project should be required to complete the required repair/maintenance. Please provide a detailed description of the work needed. The applicant will be responsible for obtaining any necessary easements to complete this work. Provide a clear plan that

3) Provide a clear plan that shows all of the exising and proposed facilities

referenced in the letter and analysis. Show the extent of the dispersion trench(s) on the plan.

3) It is unclear why detention calculations were submitted. Is detention proposed for this project? If so, please describe the system, including the release structure. Please also see the County design criteria for bypass requirements for offsite areas. As a note, required return period and safety factors were not included in the analysis. Why was the entire 23rd Ave. watershed used in one set of the detention analysis? It would be impossible and not acceptable to send all of this runoff through the project site.
========== UPDATED ON APRIL 13, 2006 BY ALYSON B TOM ========== Application with letter and analysis dated 3/24/06 and olans dated March 2006 has been received and is complete With regards to stormwater' management for the discretionary stage. Please note that planner will include conditions of approval to ensure the long term maintenance of the drainage facilities on the private road.

Please see miscellaneous comments for issues to be addressed prior to building permit issuance.

Dpw Orainage Miscellaneous Comments

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

========== REVIEW ON SEPTEMBER 24, 2002 BY ==========
No comment. ========== UPDATED ON AUGUST 17. 2005 BY ALYSON B TOM ========== Prior to building permit approval please address the following:

1) Sumbit a letter from the geotechnical engineer approving of the final dated plans

2) Provide documentation of any necessary easements.

3) Provide detailed grading and elevations for the proposed turn around at the end of 23rd. The plans dated 4/21/05 are not sufficient in showing adequate grade for drainage.

4) Provide fully detailed drainage plan for all proposed work.

Additional comments/details may be required at the building permit stage.
========== UPDATED ON APRIL 13, 2006 BY ALYSON B TOM ========== Please address the following in addition to previous miscellaneous comments prior to building permit issuance:

1) It should be clear and documented who will be responsible for maintenance of the existing and proposed drainage facilities (curb. etc.) along the non county maintained road sections. If necessary provide recorded maintenance agreement(s).

Dpw Driveway/Encroachment Completeness Comments

========== REVIEW ON SEPTEMBER 25. 2002 BY RUSSELL M ALBRECHT ==========
No Comment, project adjacent to a non-County maintained road.

========== UPDATED ON FEBRUARY 3, 2005 BY DEBBIE F LOCATELLI ==========
No Comment, project adjacent to a non-County maintained road.

Dpw Driveway/Encroachment Miscellaneous Comments

========== REVIEW ON SEPTEMBER 25. 2002 BY RUSSELL M ALBRECHT ==========
No comment.
========== UPDATED ON FEBRUARY 3. 2005 BY DEBBIE F LOCATELLI ==========
No comment.

Dpw Road Engineering Completeness Comments

========== REVIEW ON OCTOBER 2, 2002 BY RODOLFO N RIVAS ========== Twenty-third Avenue is a privately maintained roadway. The plans must show the existing width of the road. The local street standard is 36 feet of pavement with four foot separated sidewalks on both sides, with a four foot landscaping strip. Indicate how public traffic will be able to turn around at the end of the street. Will this lot be the last lot to be served from this street? Indicate the sight distance at the intersection of 23rd Avenue and East Cliff Drive. If sufficient sight distance is not available (250 feet minimum) a sight distance analysis must be performed by a qualified engineer.
NO COMMENT
========== UPDATED ON APRIL 10, 2003 BY RODOLFO N RIVAS ==========
Previous comments made by Public Works road engineering have not yet been addressed Please see comments dated October 2, 2002. ========== UPDATED ON FEBRUARY 18, 2005 BY TIM N NYUGEN ==========
NO COMMENT

Dpw Road Engineering Miscellaneous Comments

========== REVIEW ON OCTOBER 2, 2002 BY RODOLFO N RIVAS ==========
NO COMMENT
========== UPDATED ON APRIL 10, 2003 BY RODOLFO N RIVAS ==========
NO COMMENT
========== UPDATED ON FEBRUARY 18, 2005 BY TIM N NYUGEN ==========
NO COMMENT

COUNTY OF SANTA CRUZ | Planning Department

INTEROFFICE MEMO

APPLICATION NO: 02-0432

Date: September 24, 2002

To: Project Planner

From: Larry Kasparowitz, Urban Designer

Re: Design Review for a new residence at 23rd Avenue, Santa Cruz (Vaden, owner / Miller, applicant)

COMPLETENESS ISSUES

- The plans as submitted are complete enough for Design Review

GENERAL PLAN / ZONING CODE ISSUES

Design Review Authority

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

Design Review Standards

13.20.130 Design criteria for coastal zone developments

Evaluation Criteria	Meets criteria In code (✔)	Does not meet criteria (✔)	Urban Designer's Evaluation
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			N/A

EXHIBIT G

site, dead or diseased trees, or nuisance species.			
Special landscape features (rock outcroppings, prominent natural landforms, tree groupings) shall be retained.			N/A
Ridgeline Development			
Structures located near ridges shall be sited and designed not to project above the ridgeline or tree canopy at the ridgeline			N/A
Land divisions which would create parcels whose only building site would be exposed on a ridgetop shall not be permitted			N/A
Landscaping	✔		
New or replacement vegetation shall be compatible with surrounding vegetation and sha.l be suitable to the climate, soil, and ecological characteristics of the area	✔		
Rural Scenic Resources			
Location of development			
Development shall be located, if 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 turnouts, rest stops or vista points			N/A
Site Planning			
Development shall be sited and designed to fit the physical setting carefully so 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 the site shall be used to soften the visua impact of development in the viewshed		✔	*All planting should be native and include larger species*
Building design			
Structures shall be designed to fit the topography of the site with minimal cutting, grading, or filling for construction		✔	
Pitched, rather than flat roofs, which are surfaced with non-reflective materials except for solar energy devices shall be encouraged	✔		

Natural materials and colors which blend with the vegetative cover of the site shall be used, or if the structure is located in an existing cluster of buildings, colors and materials shall repeat or harmonize with those in the cluster	✔		
Large agricultural structures			
The visual impact of large agricultural structures shall be minimized by locating the structure within or near an existing group of buildings			**N/A**
The visual impact of large agricultural structures shall be minimized by using materials and colors which blend with the building cluster or the natural vegetative cover of the site (except for greenhouses).			**N/A**
The visual impact of large agricultural structures shall be minimized by using landscaping to screen or soften the appearance of the structure			**N/A**
Restoration			
Feasible elimination or mitigation of unsightly, visually disruptive or degrading elements such as junk heaps, unnatural obstructions, grading scars, or structures incompatible with the area shall be included in site development			**N/A**
The requirement for restoration of visually blighted areas shall be in scale with the size of the proposed project			***N/A***
Signs			
Materials, scale, location and orientation of signs shall harmonize with surrounding elements			***N/A***
Directly lighted, brightly colored, rotating, reflective, blinking, flashing or moving signs are prohibited			***N/A***
Illumination *of* signs shall be permitted only for state and county directional and informational signs, except in designated commercial and visitor sewing zone districts			***N/A***
In the Highway 1 viewshed. except 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			***N/A***

Beach Viewsheds			
Blufftop development and landscaping (e.g., decks, patios, structures, trees, shrubs, etc.) in rural areas shall be *set* back from the bluff edge a sufficient distance *to* be out of sight from the shoreline, or if infeasible, not visually intrusive			**N/A**
No new permanent structures on open beaches shall be allowed, except where permitted pursuant to Chapter 16.10 (Geologic Hazards) or Chapter 16.20 (Grading Regulations)			**N/A**
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	✔		

EXHIBIT G

Project No. SC8356
15 August 2003

MR. VAL VADEN
% Robert Tornaselli
402 Grand Avenue
Capitola, California 95010

Subject: Geotechnical Update

Reference: Single Family Residence
23rd Avenue (APN 028-232-15.16)
Santa Cruz, Santa Cruz County, California

Dear Mr. Vaden:

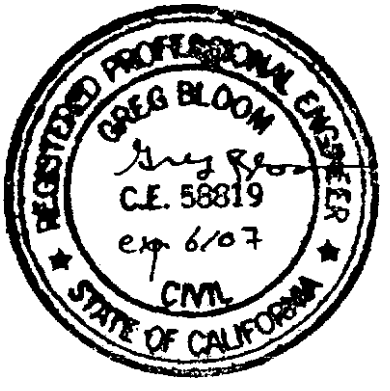
At your request, we have recently visited the referenced site. Based on our reconnaissance, the site conditions have not changed since our geotechnical report was published on 10 June 1999 (H.K.A. Job # SC 6536) and the data and criteria are still applicable.

If you have any questions, please call our office

Very truly yours,

HARO, KASUNICH & ASSOCIATES, INC.

Greg Bloom
C.E. 58819



GB/dk

Copies: 2 to Addressee

116 EAST LAKE AVENUE • WATSONVILLE, CALIFORNIA 95076 • (831) 722-4175 • FAX (831) 722-3202

Geotechnical Investigation
for
PROPOSED RESIDENTIAL STRUCTURE
APN 028-232-015,16
23rd Avenue
Santa Cruz County, California

Prepared For
Dr. Herb Gunderson

Prepared By
HARO, KASUNICH & ASSOCIATES, INC.
Geotechnical & Coastal Engineers
Project No. SC6536
June 1999

3

Project No. SC6536
10 June 1999

DR. HERB GUNDERSON
c/o American Dream Realty
Capitola, California 95010

Subject: Geotechnical Investigation

Reference: Residential Construction
APN 028-232-015,16
23rd Avenue
Santa Cruz County, California

Dear Dr. Gunderson:

In accordance with your authorization. we have performed a Geotechnical Investigation for the proposed residential construction located on 23rd Avenue in Santa Cruz County, California.

The accompanying report presents our conclusions and recommendations, and the results of the geotechnical investigation on which they are based.

If you have any questions concerning this report, please call our office.

Very truly yours,

HARO, KASUNICH & ASSOCIATES, INC.

Greg Boom
C.E. 58819

Joseph A. Haro
C.E. 28506

GB/dk

Copies: 4 *to* Addressee

116 EAST LAKE AVENUE • WATSONVILLE, CALIFORNIA 95076 • (831)722-4175 • Fax (831)722-3202

Project No. SC6536
10 June 1999

TABLE OF CONTENTS

Project No. SC6536
10 June 1999

GEOTECHNICAL INVESTIGATION

Introduction

This report presents the results of our Geotechnical Investigation for the proposed residential construction to be located at APN 028-232-015,16 on 23rd Avenue in Santa Cruz County, California.

Puraose and Scope

The purpose of our investigation was to explore surface and subsurface soil conditions at the site and provide geotechnical criteria for design and construction of the project.

The specific scope *of* our services was as follows:

1. Site reconnaissance and review of available proprietary data in our files pertinent to the site.
2. Explore the subsurface conditions at the site with four exploratory borings which were advanced to a maximum depth of approximately 55 feet.
3. Test selected soil samples to determine their pertinent engineering and index properties.
4. Evaluate the field and laboratory data to develop geotechnical criteria for general site grading, building foundations, retaining walls, site drainage, and bluff stability from a geotechnical standpoint.

5. Present the results of our investigation in this report.

Project Description

The combined parcels lie on a coastal bluff that faces the terminus of Rodeo Gulch (Corcoron Lagoon). The parcels are rectangular and total approximately 7,500 square feet. Current plans call for building a two-story residential structure with attached garage on lot 14, (APN 028-232-016) and a detached garage structure with deck and emergency vehicle turnaround area on lot 12 (APN 028-232-015). To service the lots it will be required to extend 23rd Avenue beyond its current terminus. This will require a variance to construct the roadway continuation closer than 25 feet of the top of the coastal bluff.

Both lots are located on a coastal bluff approximately 30 feet above the beach. The lots slope mildly towards the west (in the direction of Corcoron Lagoon) before dropping off towards the beach at a grade of approximately 1:1 (H:V). The lots are currently vegetated with grass.

Field Exploration

Subsurface conditions for the structures were investigated on 1 April 1999. A total of 4 borings were drilled to a maximum depth of 55 feet. The approximate locations of the test borings are indicated on the Boring Site Plan, Figure 2. The borings were advanced with either 6-inch diameter truck-mounted continuous flight auger equipment. The soils encountered were continuously logged in the field and described in accordance with the

Unified Soil Classification System (ASTM D2486). The Logs of Test Borings are included in the Appendix of this report.

Representative soil samples were obtained from the exploratory borings at selected depths. These samples were recovered using the 3.0 inch O.D. Modified California Sampler (L) or the Standard Terzaghi Sampler (T).

The penetration resistance blow counts noted on the boring logs were obtained as the sampler was dynamically driven into the in situ soil. The process was performed by dropping a 140-pound hammer 30 vertical inches, driving the sampler 6 to 18 inches and recording the number of blows for each 6-inch penetration interval. The blows recorded on the boring logs represent the accumulated number of blows required to drive the last 12 inches or as indicated on the logs. The boring logs denote subsurface conditions at the locations and time observed and it is not warranted that they are representative of subsurface conditions at other locations or times.

Laboratory Testing

Laboratory testing was performed to determine the physical and engineering properties of the soil underlying the site. Moisture content and dry density tests were performed on representative undisturbed soil samples to determine the consistency and moisture throughout the explored soil profiles.

Characteristics of a soil give a good indication of the soil's compressibility and expansion potential

The strength parameters of the subgrade soils were determined from in-situ Standard penetration tests and unconfined compression testing.

The results of the field and laboratory testing appear on the Logs of Test Boring opposite the sample tested.

Subsurface Conditions

Based on our field investigation, the site is underlain by terrace deposits in the upper 10 to 12 feet. These deposits consist of clayey sand, sandy clay, and fat clay. The clayey deposits are generally medium stiff to stiff in consistency. Below this layer, dense well and poorly graded sand was encountered to the maximum depth drilled of 55 feet.

Groundwater was encountered in boring B-1 at a depth of 27 feet. It is expected that groundwater levels will fluctuate based on seasonal rainfall and other factors not readily apparent.

Seismicity

The following is a general discussion of seismicity related to the project.

The proposed project lies about 11 miles southwest of the San Andreas Fault zone. This major fault zone of active displacement extends from the Gulf of California to the vicinity of Point Arena, where the fault leaves the California coastline. Between these points, the fault is about 700 miles long. The fault zone is a break or series of breaks along the earth's crust, where shearing movement has occurred. This fault movement is primarily horizontal.

Historically, the San Andreas Fault has been the site of large earthquakes and consequently, large earthquakes can be expected in the future. The largest of the historic quakes in northern California occurred on 18 April 1906 (mag. 8.3+). The Zayante Fault, about $7^1/_2$ mile northeast of the site, is considered to be associated with the San Andreas Fault, and is potentially active.

More than ninety years have passed since the last great earthquake on the San Andreas Fault zone, and it is highly probable that a major earthquake in Northern California will occur during the next 50 years. During a major earthquake in the vicinity of the site, ground shaking would probably be severe. The effects of severe ground shaking on the proposed structure(s) can be reduced by earthquake resistance design in accordance with the latest edition of the Uniform Building Code.

The likelihood *of* surface rupture of the site appears remote, **as** no known faults cross the site. The potential for liquefaction to occur at the site is considered low

Slope Stability

Slope stability analysis for the static and seismic condition was performed using the soil strength parameters from the direct shear test and the SPT blow counts. The slope profile was modeled using the topographic map provided **by** Ward Surveying dated 16 April 1999 and our boring logs. Calculations were performed using the computer program PCSTABL, developed by Purdue University. PCSTABL is a computer program for analysis of slope stability by limit equilibrium methods. The program analyzes circular slip surfaces and is able to search for the critical seismic coefficient utilizing a pseudostatic seismic analysis. A seismic coefficient of 0.24 was chosen based on a peak ground acceleration of 0.48g. The peak ground acceleration was calculated based on a type B soil (Boor, Joyner, and Fumal (1993)).

The following table summarizes the results of the analysis.

Condition	Factor of Safety
Static	2.1
Seismic (seismic coefficient=0.27)	1.4

DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

Based on the results of our investigation, the proposed improvements to the property appear compatible with the site from a geotechnical standpoint, provided the following recommendations are incorporated into the design and construction of the proposed project. Proposed grading for the project should be evaluated by the geotechnical engineer when grading plans are completed.

Expansive soil was found at the site. This will affect improvements done at the site. At this time it is unclear how the site will be graded. Therefore, decisions on how to best mitigate the expansive soil will need to be made once a grading plan is developed. This report does give recommendations on how to deal with expansive soil if encountered.

It is apparent that the stability of the coastal bluff subadjacent *to* the properties has the potential to be affected by both the flow of Rodeo Gulch and wave action from the ocean during extreme conditions. A detailed coastal evaluation analyzing potential erosion from wave action and stream erosion is needed along with protection requirements for the bluff. This analysis will need to be coordinated between our **firm** and a qualified engineering geologist or hydrogeologist.

Based on the existing 23rd Avenue setback to the top of coastal bluff of approximately 3 to 4 ft., it is our opinion that a 5 foot setback for the new driveway to the top of bluff is acceptable from a geotechnical perspective. Erosion control measures should be implemented on the outboard side of the proposed driveway.

Site Grading

1. The geotechnical engineer should be notified **at least four (4)** working days prior to any site clearing **or grading** so that the work in the field can be coordinated with the grading contractor, and arrangements for testing and observation services can be made. The recommendations of this report are based on the assumption that the geotechnical engineer will perform the required geotechnical related earthwork testing and observation services during grading and construction. It is the owner's responsibility to make the necessary arrangements for these required services.

2. Where referenced in this report, Percent Relative Compaction and Optimum Moisture Content shall be based on ASTM Test Designation D1557-91.

3. Areas to be graded should be cleared *of* obstructions including loose fill, trees not designated to remain, and other unsuitable material. Existing depressions or voids created during site clearing should be backfilled with engineered fill.

4. Cleared areas should then be stripped of organic-laden topsoil. Stripping depth is typically from 2 to 6 inches. Actual depth of stripping should be determined in the field by the geotechnical engineer. Strippings should **be** wasted off-site or stockpiled for use in landscaped areas if desired.

5. Any **fill** areas required within the building pad should have the exposed surface soils scarified and recompacted prior to the placement of structural **fill.** The exposed surface soils should be scarified 6 inches, conditioned with water (or allowed to dry, as necessary) and compacted to at least 90 percent relative compaction,

6. Engineered **fill** should be placed in thin lifts not to exceed **8** inches in loose thickness, moisture conditioned, and compacted to at least 90 percent relative compaction. The final 8 inches should be compacted to at least 95 percent relative compaction.

7. The majority of on-site soils generally appear suitable for use as engineered **fill** as long as they are processed to remove any organic material. Materials for engineered till should be essentially free of organic materials, and contain no rocks or clods greater than *6* inches in diameter, with no more than 15 percent larger than **4** inches. Expansive (fat) clay should not be used for engineered fill.

8. Any imported fill should meet the following criteria:

   a. Be free of wood, brush, roots, grass, debris and other deleterious materials.

   b. Not contain rocks or clods greater than 2.5 inches in diameter.

   c. Not more than 20 percent passing the #200 sieve.

   d. Have a plasticity index less than 12.

Foundations - Spread Footings

9. The proposed structures for the project site may be supported on conventional isolated and continuous spread footings. These footings should bear on firm native soil, or engineered fill, placed in accordance with the recommendations outlined within the Site Grading section of this report. The footings should be a minimum of 12 inches deep below the lowest adjacent grade, and a minimum of 15 inches wide. The footings should be reinforced as required by the structural designer based on the actual loads transmitted to the foundation.

10. The foundation trenches should be kept moist and be thoroughly cleaned of slough or loose materials prior *to* pouring concrete. In addition, footings located adjacent to other footings or utility trenches should have their bearing surfaces founded below an imaginary 1.5:1 (horizontal to vertical) plane projected upward from the bottom edge of the adjacent footings or utility trenches.

11. Foundations designed in accordance with the above may be designed for an allowable soil bearing pressure of 1,750 psf for dead plus live loads. This value may be increased by one third to include short-term seismic 2nd wind loads.

12. Lateral load resistance for the buildings supported on footings may be developed in friction between the foundation bottom and the supporting subgrade. A friction coefficient of 0.35 is considered applicable.

13. If the building pad is graded such that the foundation trenches reveal underlying fat (expansive) clay, the foundation trenches should be overexcavated 24 inches and replaced with non-expansive engineered fill compacted to 95 percent relative compaction. A control fill density material (one-sack cement mix) can be used in lieu of compacted engineered fill material (soil).

Slabs-on-Grade

14. Concrete slabs-on-grade planned for the site should be constructed on engineered fill as outlined in the Site Grading and Excavation section of this report. If expansive soil is found to be underlying the slabs, 12 inches of soil should be removed and replaced with non-expansive engineered fill. Prior to construction of the slab, the subgrade surface should be proof-rolled to provide a smooth, firm, uniform surface for slab support. Slab reinforcement should be provided in accordance with the anticipated use and loading of

the slab. As a minimum, we recommend the use of number 3 bars placed within the slab at 18 inches on center. Slab joints should be spaced no more than 8 feet on center to minimize random cracking. While some movement of slabs is likely, a well-prepared subgrade including pre-moistening Prior to pouring concrete, adequately spaced expansion joints, and good workmanship should minimize cracking and movement.

15. In areas where floor wetness would be undesirable, a blanket of 4 inches of free-draining gravel should be placed beneath the floor slab to act as a capillary break. In order to minimize vapor transmission, an impermeable membrane should be placed over the gravel. The membrane should be covered with 2 inches of sand or rounded gravel to protect it during construction. As an alternative to the sand, native soil or engineered fill having a sand equivalent greater than 20 may be used. The sand or gravel should be lightly moistened just prior to placing the concrete to aid in curing the concrete. If moisture is expected a surface treatment or moisture retardant should be added to the concrete.

Retaining Walls and Lateral Pressures

16. Retaining walls should be designed to resist the lateral earth pressures listed in Table 1. The values listed in Table 1 are for non-seismic conditions and are based on the assumption that walls will be adequately drained

Table 1 - Active and At-Rest Pressures

Backslope Gradient	Active Pressure (pcf)	At-Rest Pressure (pcf)
Level	45	65
2:1	60	80

17. Active pressures should be used for walls where horizontal movement at the top of the wall is not restricted. At-rest pressures should be used to design walls with movement restrained at the top, such as basement walls and walls structurally connected at the top. The walls should also be designed to resist one half of any surcharge loads imposed on the backfill behind the walls. The designer should account for the surcharge loading created during backfill operations.

18. To account for seismic loading, a horizontal line load surcharge equal to $10H^2$ lbs/horizontal foot of wall may be assumed to act at $0.6H$ above the heel of the wall base (where H is the height of the wall.)

19. The above lateral pressures assume the walls are fully drained to prevent hydrostatic pressure behind the walls. Drainage materials behind the wall should consist of Class 2 permeable material complying with Section 68 of CalTrans Standard Specifications, latest edition, or 3/4 inch permeable drainrock. Drainage material should be wrapped in Mirafi 140N or equivalent. The drainage material should be at least 12 inches thick. The drains

shouid extend from the base of the wails io within 12 inches of the top of the backfill. **A** perforated pipe should be placed (holes down) about **4** inches above the bottom of the wall and discharge at a suitable location. Wall backdrains should be plugged at the surface with clayey material to prevent infiltration ***of*** surface runoff into the backdrains.

Site Drainaae

20. Proper control of drainage will be essential to the project. Where exterior walls are anticipated to be constructed below final grade elevations, the interception of subsurface seepage will be important. The interception *of* subsurface seepage should be planned in accordance with the recommendations for retaining wall backdrains outlined within the retaining wall section of this report. Backdrains for exterior walls should extend to depths below the bottom of foundation elements, and discharge water at a suitable location.

21. Runoff must not be allowed to sheet over graded slopes or the adjacent coastal bluff. Where uncontrolled runoff flows over the slopes or concentrated runoff is directed onto slopes, the potential for erosion or shallow debris flows is greatly increased. Asphalt or earthen berms, or lined V-ditches should be planned, as determined by the project Civil Engineer, to adequately control surface runoff.

22. Surface drainage should include positive gradients so that surface runoff is not permitted to pond adjacent to foundations, slabs or retaining walls. Surface drainage should be directed away from building foundations. The slope from the foundation elements should be 5 percent to at least 5 feet from the footings. Overall runoff must be intercepted and diverted away from planned structures with lined V-ditches or other means.

23. Full roof gutters and downspouts should be placed around eaves. Discharge from the roof gutters should be conveyed away from both the building site and the adjacent coastal bluff.

24. The migration of water or spread of extensive root systems below foundations, slabs, or pavements may cause undesirable differential movements and subsequent damage *to* these structures. Landscaping should be planned accordingly.

Flexible Pavements

Because of the presence of near surface moderate to expansive soil in the areas of the roadway extension and driveways, it is suggested that the designer place a minimum of 12 inches of non-expansive engineered fill underneath the pavement section and driveways. Our firm was not contracted to perform a pavement design for the roadway extension. R-value testing and design should be undertaken in order to properly design the roadway.

25. Asphaltic concrete, aggregate base, and subbase, and preparation of the subgrade should conform to and be placed in accordance with the Caltrans Standard Specifications, latest edition, except that the test method for compaction should be determined by ASTM D1557-91.

26. To have the selected sections perform *to* their greatest efficiency, it is important that the following items be considered:

A. Moisture condition the subgrade and compact to a minimum relative compaction of at least 95 percent, at about 2 percent over optimum moisture content.

B. Provide sufficient gradient to prevent ponding of water.

C. Use only quality materials of the type and thickness (minimum) specified. Base rock should meet Caltrans Standard Specifications for Class II Aggregate Base, and be angular in shape.

D. Compact the base rock to a relative dry density of 95 percent.

E. Place the asphaltic concrete during periods of fair weather when the free air temperature is within prescribed limits per Caltrans Specifications.

F. Provide a routine maintenance program

Plan Review. Construction Observation and Testing

27. Our firm should be provided the opportunity for a general review of the final project plans prior to construction so that our geotechnical recommendations may be properly

interpreted and implemented. If our firm is not accorded the opportunity of making the recommended review, we can assume no responsibility for misinterpretation *of* our recommendations. We recommend that our office review the project plans prior *to* submittal *to* public agencies, *to* expedite project review. The recommendations presented in this report require our review of final plans and specifications prior *to* construction and upon our observation and, where necessary, testing of the earthwork and foundation excavations. Observation of grading and foundation excavations allows anticipated soil conditions to be correlated to those actually encountered in the field during construction.

Project No. SC6536
20 May *1999*

LIMITATIONS AND UNIFORMITY *OF* CONDITIONS

1. The recommendations of this report are based upon the assumption that the soil conditions do not deviate from those disclosed in the borings. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that planned at the time, our firm should be notified *so* that supplemental recommendations can be given.

2. This report is issued with the understanding that it is the responsibility of the owner, or his representative, to ensure that the information and recommendations contained herein are called to the attention of the Architects and Engineers for the project and incorporated into the plans, and that the necessary steps are taken to ensure that the Contractors and Subcontractors carry out such recommendations in the field. The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. **No** other warranty expressed or implied is made.

3. The findings of this report are valid as of the present date. However, changes in the conditions of a property can occur with the passage of time, whether they be due to natural processes or to the works of man, on this or adjacent properties. In addition, changes in applicable or appropriate standards occur whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated, wholly or partially, by changes outside our control. Therefore, this report should not be relied upon after a period of three years without being reviewed by a geotechnical engineer.

APPENDIX A

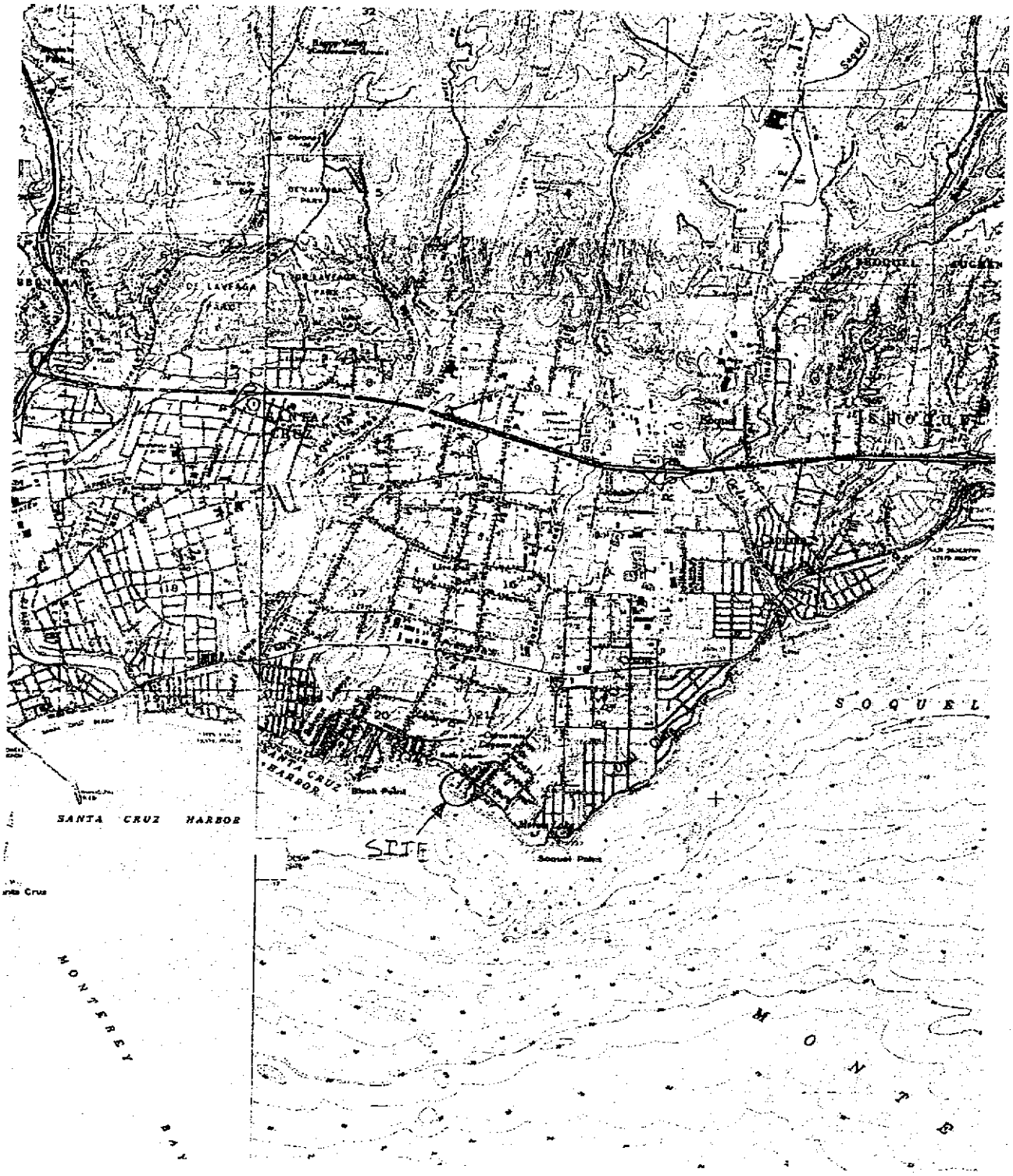
Vicinitv Map

Borina Site Plan

Logs of Test Borinas

Laboratorv Test Results

Slope Stability Results



PROJECT NO: SC6536	VICINITY MAP
DATE: 5-25-99	APN 028-272-015, 16
SCALE: N.T.S	2[illegible] AVENUE
DRAWN BY: [illegible]	[illegible] COUNTY, CALIFORNIA
HARO, KASUNICH & ASSOCIATES	FIGURE NO.

23 April, 1999 at 00:48

BORE LOG REPORT

PROJECT NO. SC6536

for

Haro, Kasunich & Associates, Lnc.

LEGEND

- Visible water level description
- Footnoted water level description
- Visible rail data
- Footnoted soil dam
- Visible sample data
- Footnoted sample data

C:\Program Files\GSS\BoreLog\Sc6536.BLF

GEOTECHNICAL SOFTWARE SERVICES
SANTA CRUZ, CA
Bore Log File

Bore Log File
page 1

PROJECT NO. SC6536

LOGGED BY GB DATE DRILLED April 1, 1999 BORING DIAMETER 6" SS BORING NO. 1

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1									
2									
3	1 - 1		Orange gray fat CLAY w/trace fine Sand,						
4	L		moist, very stiff		51		100	24.5	Unconfined Qu = 6,390 psf
5									
6	1 - 2		Brown Silty SAND, damp, dense, fine to medium grained		66		107	13.6	
7	L								
8									
9									
10									
11	1 - 3		Dense		43			8.2	
12	T		Gravels starting at 12'						
13									
14									
15									
16	1 - 4		Well graded SAND with Silt and gravel, dense		40			8.2	
17	T								
18									
19									
20									
21									
22									
23									
24									

BY: Haro, Kasunich & Associates: Inc. FIGURENO. LOG OF TEST BORING

PROJECT NO. SC6536

LOGGED BY GB DATE DRILLED April 1, 1999 BORING DIAMETER 6" SS BORING NO. 2

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1	2 - 1 L		Brown lean CLAY w/fine Sand, moist, stiff		23		107	20.2	Unconfined Qu = 2,730 psf
2									
3	2 - 2 T		Clayey SAND, very moist, stiff		8			24.0	
4									
5	2 - 3 L		Brown gray Clayey SAND, very moist, loose		13		104	21.7	
6									
7									
8			Orange gray fat CLAY						
9									
10	2 - 4 L		Brown Clayey SAND, medium dense		19				
11									
12			BORING TERMINATED AT 11.5 ft.						
13									
14									
15									
20									
21									
22									
23									
24									

BY: Haro, Kasunich & Associates, Inc. FIGURENO. LOG OF TEST BORING

PROJECT NO. SC6536

LOGGED BY GB DATE DRILLED April 1, 1999 BORING DIAMETER 6" SS BORING NO. 4

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1			Orange/gray **fat CLAY,** moist, **stiff**						
2	4B 1								**Atterberg Limits**
3									LL **=53 %**
4									**PI = 21**
			BORING TERMINATED AT 4.0 ft.						
5									
6									
7									
8									
9									
10									
11									
12									
13									
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15									
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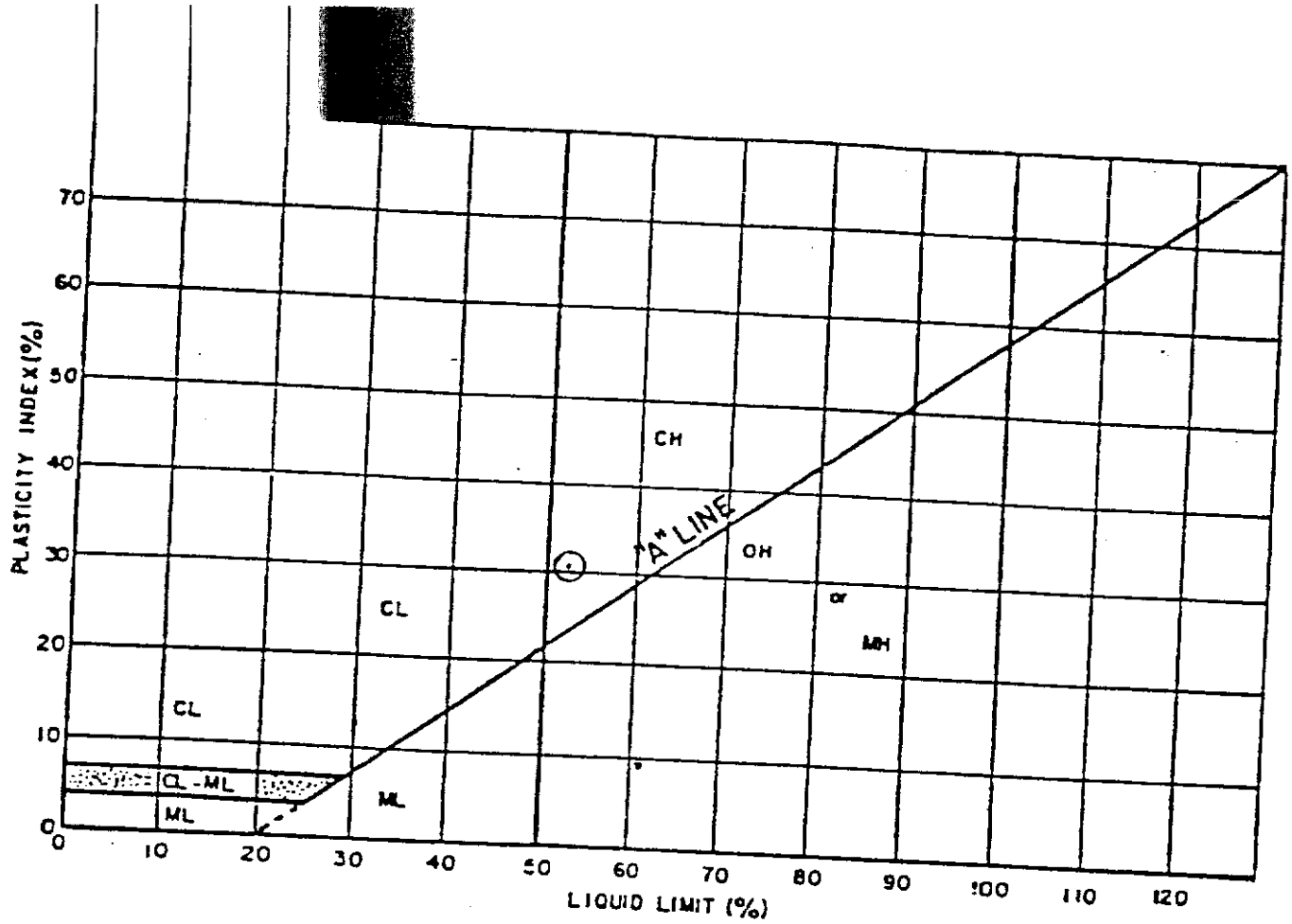
23									
24									

BY: Haro, Kasunich & Associates, Inc.

FIGURE NO. LOG OF TE ST BOI ING

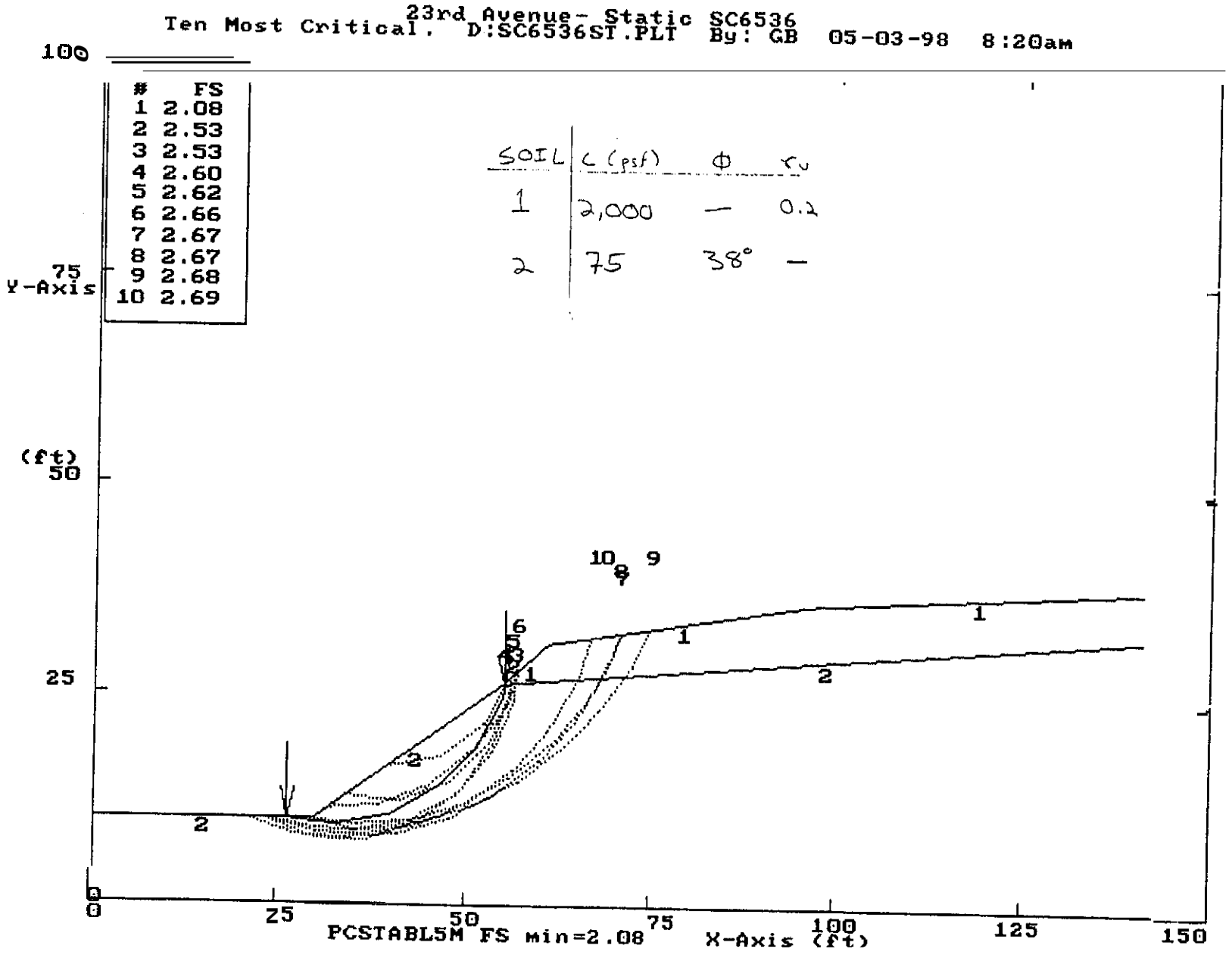


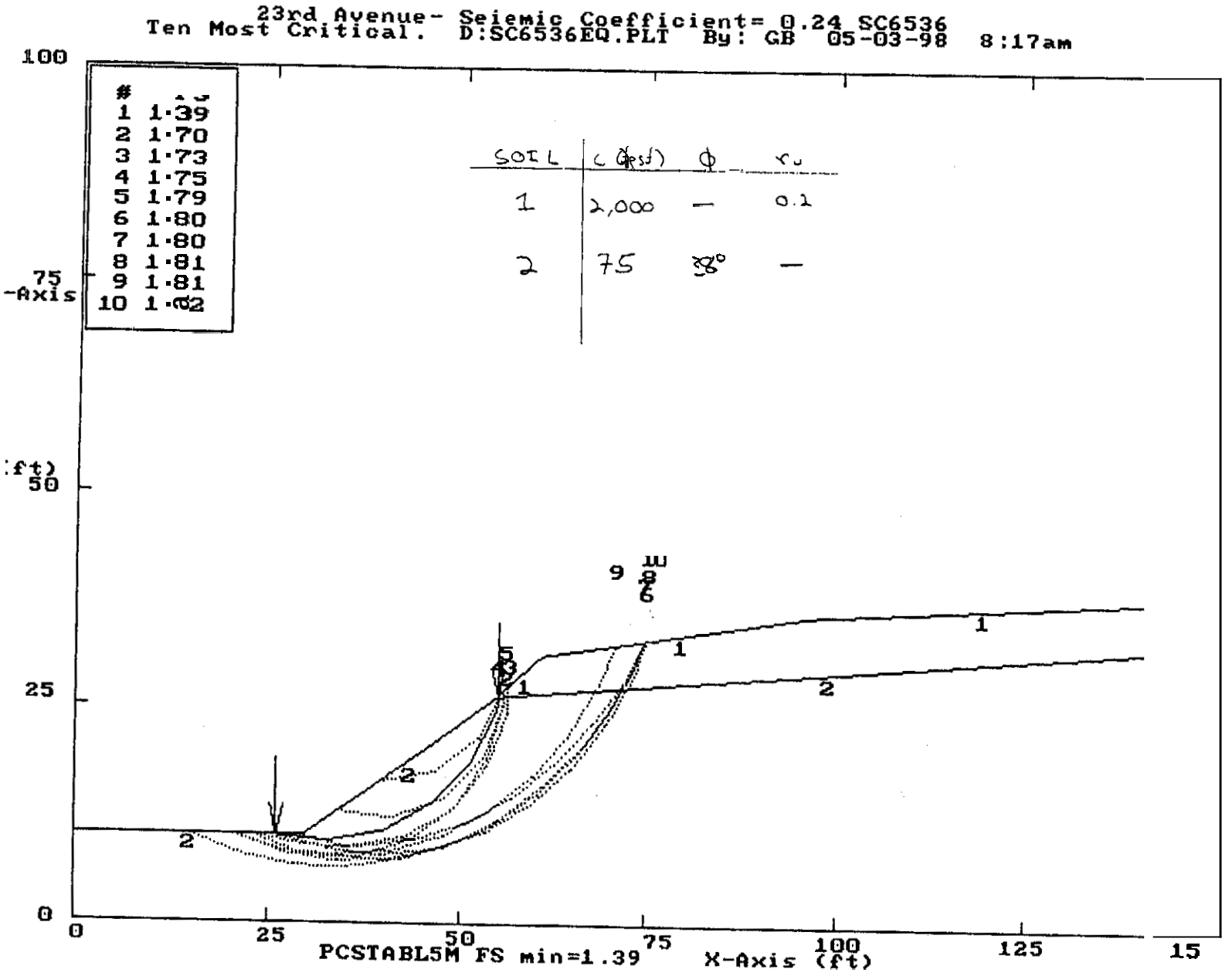
PLASTICITY DATA

DEPTH (feet)	NATURAL WATER CONTENT W(%)	PLASTIC LIMIT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	LIQUIDITY INDEX $(\frac{W - PL}{LL - PL})$	UNIFIED SOIL CLASSIFICATION SYMBOL
2 ft.		32	53	21		CH

HARO, KASUNICH and ASSOCIATES, Inc.

FIGURE NO.


23rd Avenue- Static SC6536
Ten Most Critical. D:SC6536ST.PLT By: GB 05-03-98 8:20am
100
75
50
25
0
Y-Axis
(ft)
FS
1 2.08
2 2.53
3 2.53
4 2.60
5 2.62
6 2.66
7 2.67
8 2.67
9 2.68
10 2.69
SOIL | c (psf) | Φ | ru
1 | 2,000 | — | 0.2
2 | 75 | 38° | —
0
25
50
75
100
125
150
PCSTABL5M FS min=2.08
X-Axis (ft)


23rd Avenue- Seiemic Coefficient= 0.24 SC6536
Ten Most Critical. D:SC6536EQ.PLT By: GB 05-03-98 8:17am
FS
1 1.39
2 1.70
3 1.73
4 1.75
5 1.79
6 1.80
7 1.80
8 1.81
9 1.81
10 1.82
SOIL c (psf) φ ru
1 2,000 — 0.2
2 75 38° —
100
75
Y-Axis (ft)
50
25
0
0
25
50
75
100
125
150
X-Axis (ft)
PCSTABL5M FS min=1.39

NIELSEN and ASSOCIATES

ENGINEERING GEOLOGY AND COASTAL CONSULTING

GEOLOGIC REPORT for TWO PROPERTIES ONE OF WHICH IS PROPOSED for a NEW SINGLE FAMILY HOME

23rd Avenue
Santa Cruz County, California
APN 028-232-15 and 16

Job No. SCr-1138-C

July 2003

501 Mission Street, Suite 8● Santa Cruz, CA 95060● (831) 427-1770● FAX: (831) 427-1794

NIELSEN and ASSOCIATES

ENGINEERING GEOLOGYAND COASTAL CONSULTING

30 July 2003

Job No. SCr-1138-C

Val and Lilli Rey Vaden
c/o Robert Tomaselli
402 Grand Avenue
Capitola, CA 95010

SUBJECT Geologic Investigation, with emphasis on an evaluation of bluff recession rates, of two properties, one of which is proposed for a new single family home.

REFERENCE: APN 028-232-15 & 16, 23rd Avenue, Santa **Cruz** County, California

Dear Mr. and **Mrs.** Vaden:

The following report presents the results of our geologic investigation of the properties described above where we understand a new single family home is proposed on one **of** them. The purpose of this study was twofold: to evaluate the geologic conditions at the property, and to evaluate coastal bluff recession rates in order to establish a building setback from the top of the bluff.

One of the primary elements of our study was to delineate a building setback since the home is located above a beach and a coastal bluff. The Santa **Cruz** County Planning Department requires that new construction **on** coastal bluffs be located a minimum of 25 feet from the bluff edge or landward of an estimated bluff top location which would result from 100 years of bluff retreat. Our analysis indicates that essentially there has been no bluff retreat at the property in the past 70 **years.** Therefore, the minimum building setback of 25 feet applies to the property.

It was a pleasure working with you on this project. We look forward to seeing your "new" home. If **we** can be of further assistance **or** if you have any questions, please do not hesitate to call.

Sincerely,

Hans Nielsen
Certified Engineering Geologist 1390

501 Mission Street Suite 8● Santa Cruz, CA 95060● (831) 427-1770. FAX: (831) 427-1794

TABLE OF CONTENTS

LIST OF ILLUSTRATIONS

FIGURES

PLATES (in Appendix B)

INTRODUCTION

This report presents the results of our geologic investigation of two adjacent properties located on 23rd Avenue on the west or ocean side of East Cliff Drive in Santa Cruz County (Figures 1 and 2). The parcels are located at the mouth of Corcoran Lagoon on an uplifted marine terrace above a sand beach. The chief purpose of our study was to evaluate coastal erosion rates at the property in order to define building setbacks according to existing ordinances. A geotechnical investigation was conducted at the property in 1999 by Haro, Kasunich and Associates who drilled three exploratory borings. We reviewed their report as part of our work.

Our investigation consisted of 1) a review of select pertinent published and unpublished geologic information including the 1999 HKA report, 2) a field examination and mapping at the property, 3) stereoscope analysis of 11 sets of historic aerial photographs taken between 1931 and 2001, 5) discussions with the project geotechnical engineers - Haro, Kasunich and Associates and the project architect, Wayne Miller, and 7) preparation of this report.

SITE CONDITIONS **and GEOLOGY**

The subject properties are situated **on** the south side of 23rd Avenue which is a short road extending west **off** East Cliff Drive (see Plate 1, Appendix B). The road forms the northern boundary of the parcels which are 3600 and 4300 square feet in area. Both properties are essentially level but with a very slight slope to the north or towards the road and the beach. They were both completely undeveloped at the time of our study.

Although having existed as a graded road since 1948, the existing paved section of 23rd Avenue currently terminates just before or east of the properties. However, there is excellent access to the properties off the end of the paved road.

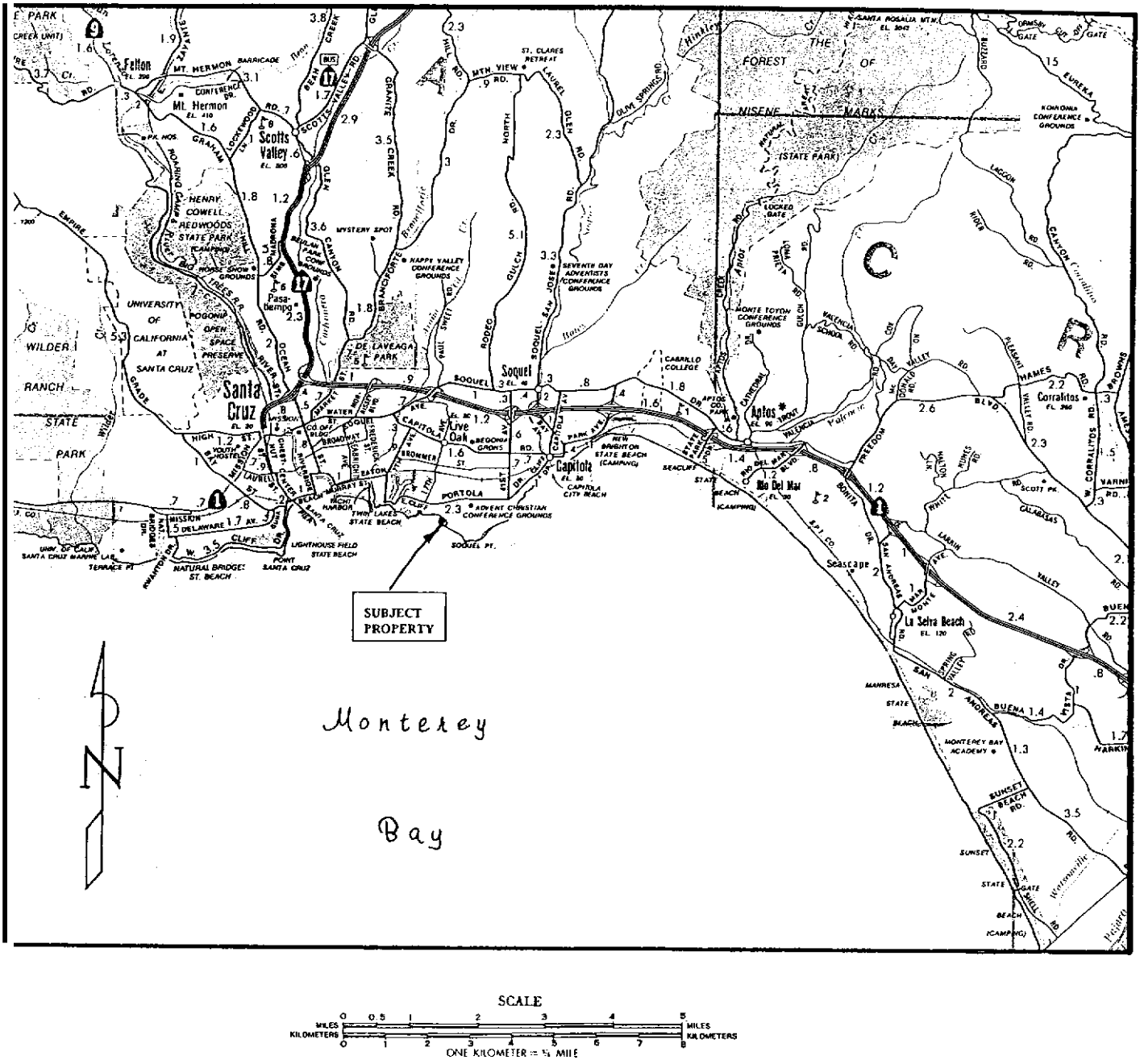
The elevation of the properties varies from 32 to 38 feet according to a site topographic map produced by Mid Coast Engineers in March 2003

A short coastal bluff occurs below 23rd Avenue at the properties. The crest of this moderately steep sloping bluff is situated on the north side of and essentially coincident with the boundary of the right-of-way of 23rd Avenue. The bluff drops about 20 feet vertically over a horizontal distance of about **30** feet. It is densely vegetated with berry bushes, poison oak, and other short brush.

The property is underlain by two types of earth materials - marine terrace deposits and Purisima Formation bedrock. Although there are no good exposures of either of these units at the property, they are well exposed in the sea cliffs a short distance to the north between Corcoran Lagoon and Black's Point. The exploratory borings drilled by Haro, Kasunich and Associates provided information on the makeup of the earth materials beneath the property; their descriptive

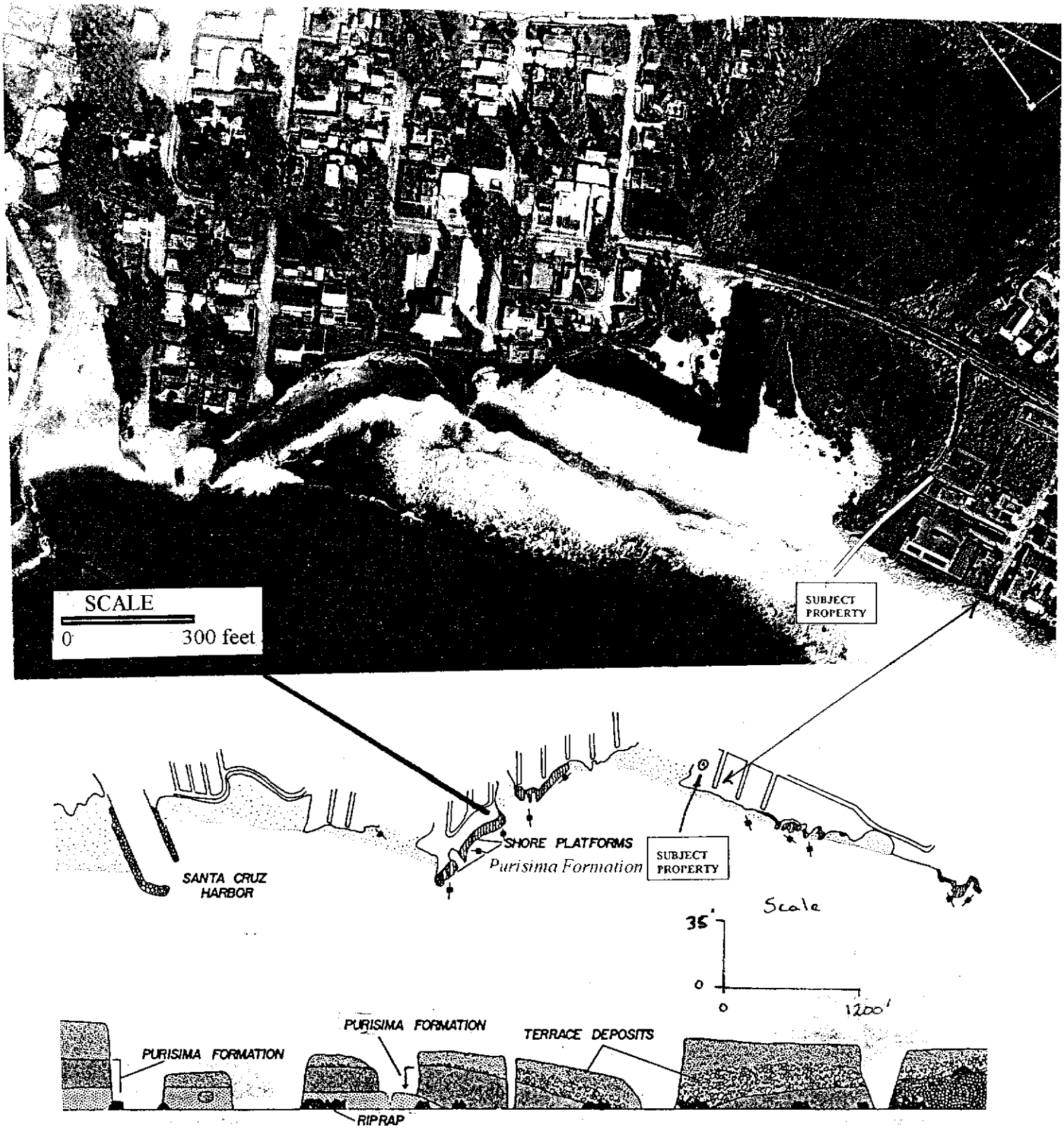
LOCATION MAP

Figure 1.



1965 AERIAL PHOTO and
GEOLOGIC SECTION ALONG THE COAST

Figure 2.



Section from Griggs and Johnson, 1979

logs are presented in Appendix **A** of this report. Additionally, geologic information was obtained from a paper by **Griggs** and Johnson (1979).

Terrace deposits immediately underlie the properties. They consist of a near-surface clay to clayey silt varying in thickness from 4 to 10 feet which grades to a gravelly sand beneath. It appears from HKA's descriptions that the contact with the underlying Purisima occurs at about 27 feet beneath the property. We base this on a change from gravelly sand to a slightly cemented, well sorted, fine-grained silty sand, the latter of which is a typical description of the Purisima in the area. **A** thin perched groundwater zone at this elevation also is indicative of the occurrence **of** the Purisima since it is significantly less permeable than the overlying gravelly terrace deposits. We have shown out interpretation of the geologic conditions on Plate 1, Appendix B.

The **Purisima** Formation in the area is composed of a partially cemented very fine-grained sandstone to siltstone. The bedrock is well exposed along the coastline a short distance north of the property where it forms bedrock platforms **rising** up to 23 feet above the beach. Figure 2 is an aerial photograph of the area around the property combined with **an** along-shore profile constructed by Griggs and Johnson (1979). The profile shows a down warp or fold in the bedrock at the mouth of Corcoran Lagoon such that the Purisima is not exposed in the coastal bluff at the property. Further obscuring outcrops near the property is a riprap seawall that extends south from Corcoran Lagoon to beyond 26th Avenue. Their profile shows bedrock platforms short distances to the north and south of the property indicating that the down warp is probably slight.

The geologic conditions indicate that the coastal bluff fronting 23rd Avenue at the properties is entirely composed of terrace deposits. These deposits are typically highly susceptible **to** erosion from ocean waves. However as we discuss later in this report, there has been no erosion of these deposits at the property over the past 70+ years.

The geologic conditions appear quite favorable for the intended development of one of the properties with a single family home.

HISTORIC CONDITIONS

The history of the properties and the surrounding area was generated from our analysis of time sequential stereo aerial photographs taken between 1931 and 2001, a list **of** which is included in the References at the end of this report. The photos were taken in 1931, 1948, 1956, 1963, 1965, 1975, 1980 1982, 1985, 1994, and 2001

The properties and beach area are clearly visible in all of the photographs. And even in the 1931 photos, several roads were present that exist today. These roads were used **to** determine the scale of the photos in the immediate area of the properties, and the scale was used to evaluate the position of the bluff top at the properties over time. We have evaluated bluff recession rates along many sections of the Monterey Bay shoreline using aerial photographs, and we were struck by the

complete absence of evidence of erosion or bluff retreat in the bluff at the property in all of the aerial photographs that we examined.

In the earliest photographs (1931), East Cliff Drive was not situated where it is today. From north to south, it swung out onto the beach and crossed the mouth of the lagoon near the ocean. The road appeared to traverse a man-made sand dune on the beach. There was very little development in the vicinity of the property, and no homes existed between 23rd and 24" Avenues on the west side of the present day East Cliff Drive.

By 1948, East Cliff Drive had been constructed in its current location. A fill was constructed across the mouth of Corcoran Lagoon upon which the road was built. The outlet for the lagoon was situated in the location it exists today, at the north end of the mouth through a sluice gate controlled culvert. 23rd Avenue had also been graded in by this time when it appears as a narrow dirt road skirting the top of the coastal bluff in the location where it exists today. It was graded all the way to the bluff fronting the ocean.

Development slowly took place on the land around the property from 1948 until the early 1960's when significant development occured, probably coincident with construction of the Santa Cruz Yacht Harbor. By 1965, the riprap seawall fronting the ocean bluff at the end of 23rd Avenue was installed to protect the new home there. By 1975, two of the currently existing four houses on 23rd Avenue east of the subject properties had been built, the two closest to East Cliff Drive. The next or third house was built just after 1975 since the excavation for the home is visible in the 1975 photos. The last or fourth house that lies adjacent to the eastern of the subject parcels was built between 1985 and 1994.

The aerial photos provided important observations about the beach area at the mouth of Corcoran Lagoon, the beach at the toe of the bluff fronting the subject properties The man-made "sand dune" at the mouth of the lagoon constructed for ancestral East Cliff Drive acted to protect the entire beach area between this dune and the current East Cliff Drive from 1931 through 1982 This approximate 300 foot wide area was covered in vegetation and small ponds for much of this time span. The ponds grew and shrunk in size over time and appear to be affected by outflow from Corcoran Lagoon rather than ocean waves overtopping the dune. The evidence against overtopping of the dune by waves was persistent vegetation on the crest of the dune and in the back beach area, both of which would have been washed away by overtopping waves. Eventually, the "sand dune" at the mouth of the lagoon was obliterated by the intense storm waves and ensuing coastal erosion in the winter of 1982-83. The 1985 photos show the sand beach present today at the mouth of the lagoon oceanward of East Cliff Drive.

Of great significance to the subject properties, there was no evidence in any of the aerial photographs of erosion of the coastal bluff fronting the subject properties, not even during the severe 1982-1983 winter nor during the more recent El Niiio event of 1997 The latter of these events was particularly important for evaluating the erosion susceptibility of the bluff fronting the properties since it occurred when there was essentially no protection for the hack beach area as

existed prior to 1983 in the form of the sand dune. And the position of the bluff top and toe remain consistent over time. This was not unexpected given the relative protected nature of this section of the bluff. It is oriented perpendicular to the trend of the shoreline, and therefore, not subjected to direct wave attack. Furthermore, it is setback quite a ways from the wave zone such that an extensive amount of sand would have to be removed from the beach before ocean waves could wash against the base of the bluff below the properties.

COASTAL EROSION PROCESSES **and** RATES

Erosion Processes

Coastal erosion is an episodic process that is typically associated with large ocean storms but may also be associated with landsliding that occurs during periods of intense and/or prolonged rainfall. Severe winter storms generate large ocean waves that when combined with high tides act to erode coastal bluffs. The susceptibility of a coastal bluff to erosion is dependent on several factors. Two of the more important are the type of earth materials composing the bluff and exposure **to** ocean waves. Uncemented terrace deposits tend to be more susceptible to erosion than resistent, cemented bedrock such as the Purisima Formation. And coastal bluffs directly facing the ocean and exposed to direct wave attack **are** much more susceptible to erosion than bluffs that are setback from the wave zone or oriented away from direct wave attack.

A secondary mechanism of cliff retreat involves sloughing or landsliding of the terrace deposits due to local ground saturation. This typically occurs when the terrace deposits are oversteepened by erosion or failure of bedrock cliffs underlying them. Neither of these conditions occur or have occurred in the past on the bluff below the properties. Furthermore, Haro, Kasunich and Associates conducted a slope stability analysis with the results showing stability even under worst-case conditions of strong ground shaking and moderate saturation.

Rates of Erosion **and Bluff** Retreat

Rates of coastal erosion vary considerably in the Santa Cruz area; this is due to both natural and man-made factors. Natural factors include: the presence or absence of a protective beach, resistance to erosion of material being attacked, exposure to wave attack, and offshore bathymetry. Protective beaches absorb wave energy and reduce the size of waves impacting sea cliffs The depth **of** near-shore water also affects the energy of the waves approaching the shore The orientation of the coastline determines the exposure to wave attack.

The coastal bluff at the subject properties is protected from wave attack by several factors even though it is fronted by a large sand beach. The bluff runs perpendicular to the shoreline since it is the extension of the lateral margin of Corcoran Lagoon. The bluff at the properties is also setback more than 200 feet from the typical wave zone at the mouth of the lagoon. These two factors serve to insulate the bluff from all but the worst periods of erosion.

Our analysis of 11 sets of stereo aerial photographs taken between 1931 and 2001 indicated that no erosion **or** recession of the bluff fronting the properties has occurred during the last 72 years In general, the photographs are of excellent quality and **scale** They show no signs of missing vegetation as would occur if erosion had taken place. In addition, the bluff maintains its position throughout the time span covered by the photographs And during this span of time, there were at least **two** periods during with severe coastal erosion took place around the Monterey Bay, in 1982-83 and again in 1997-98 In neither ofthese periods did erosion occur to the bluff fronting the properties The evidence strongly suggests that the coastal bluff at the properties is not particularly susceptible to erosion from ocean processes

In light ofthis information, we recommend the minimum 25-foot building setback. The setback should be measured from the top of the bluff which lies on the north side of the right-of-way corridor of 23rd Avenue.

CONCLUSIONS

1. The properties are located on roughly level ground above the beach at the mouth of Corcoran Lagoon on the east side of Santa **Cruz.** The elevation of the properties ranges from 32 to 38 feet with the majority of the properties being about 36 feet. They were both completely undeveloped at the time of **our** study.

2 The properties are underlain by two geologic units. Immediately underlying the property is **an** approximate 27-foot thick section of marine terrace deposit consisting of clay to silty clay in the top 10 feet which grades to a gravelly sand in the lower 17 feet. Purisima Formation bedrock underlies the terrace deposits. The Purisima consists of partially cemented very fine-grained sandstone to siltstone that is typically much less permeable than the overlying terrace deposits. **A** thin perched groundwater zone at 27 feet was an indicator of the top **of** the Purisima.

3. A short, moderately steep slope **or** coastal bluff borders the north side **of** 23rd Avenue at the properties. This bluff is very densely covered in berries, poison **oak,** and other short brush. The toe of the bluff is presently at about elevation 10 feet above Mean Sea Level and the top is at 30 feet.

4. Historical aerial photographs extending back to 1931 provide evidence that there has been no apparent erosion ofthe coastal bluff at the property in the last 72 years. Even during the severe winters of 1982-83 and 1997-98, when many portions of the coast in Monterey Bay experienced significant erosion, no erosion occurred in the bluff fronting the properties.

RECOMMENDATIONS

1 New construction at the property should adhere to the designated building setback line delineated on Plate 1 of this report The setback is the minimum required, *25* feet, measured from the top of the bluff.

2. **A** drainage plan should be developed for the properties. The plan should show how surface runoff from impereable surfaces **will** the controlled and where it will discharge. We recommend that no runoffbe allowed to flow in a concentrated manner over and down the coastal bluff

3. If any unexpected variations in soil conditions, or if any unanticipated geologic conditions are encountered during construction, or if the proposed project will differ from that discussed *or* illustrated in this report, we require to be notified so supplemental recommendations can be given

4. We shall be provided the opportunity for a general review of final design plans and specifications. If we are not accorded the privilege of making the recommended reviews, we can assume no responsibility for misinterpretation of our recommendations.

INVESTIGATION LIMITATIONS

1. This report presents the results of our Geologic Investigation which addresses the geologic conditions, evaluates rates of coastal erosion, and makes a recommendation **for** a building setback at the subject property.

2. This written report comprises all of our professional opinions, conclusions and recommendations. This report supersedes any oral communications concerning our opinions, conclusions and recommendations.

3. The conclusions and recommendation noted in this report are based on probability and in no way imply the site will not possibly be subjected to ground failure or seismic shaking so intense that structures will be severely damaged **or** destroyed. The report does suggest that the existing and proposed portions **of** the dwelling should not be damaged by retreat of the coastal bluff if the recommendations noted in this report are adhered to over the life of the residence.

4 This report is issued with the understanding that it is the duty and responsibility of the owner, **or** of their representative or agent, to ensure that the recommendations contained in this report are brought to the attention of the architect and engineer for the project, incorporated into the plans and specifications, and that the necessary steps are taken to ***see*** that the contractor and subcontractors carry out such recommendations in the field.

5 The findings of this report are valid as **of** the present date. However, changes in the conditions **of** a property ***can*** occur with the passage of **time,** whether they be due to natural processes **or** to the **works** of man, on this **or** adjacent properties. In addition, changes in applicable **or** appropriate standards occur whether they result from legislation **or** the broadening of knowledge Accordingly, the findings of this report may be invalidated, wholly **or** partially, by changes outside **our** control. Therefore, this report should not be relied upon after a period of three years without being reviewed by an engineering geologist.

NIELSEN AND ASSOCIATES

Hans Nielsen
C.E.G. 1390

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APPENDIX A

Logs of Exploratory Borings by Haro, Kasunich and Associates
April 1999

Bore Log File page 1

PROJECT NO. SC6536

LOGGED BY GB | DATE DRILLED April 1, 1999 | BORING DIAMETER 6" SS | BORING NO. 1

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1									
2									
3	1 - 1		Orange gray fat CLAY w/trace fine Sand, moist, very stiff		51		100	24.5	Unconfined Qu = 6,390 psf
4	L								
5	1 - 2		Brown Silty SAND, damp, dense, fine to medium grained		66		107	13,6	
6	L								
7									
8									
9									
10	1 - 3		Dense						
11	T				43			812	
12			Gravels starting at 12'						
13									
14									
15	1 - 4		Well graded SAND with Silt and gravel, dense						
16	T				40			8.2	
17									
18									
19									
20									
21									
22									
23									
14									

BY: Haro, Kasunich & Associates, Inc.

FIGURENO. LOG OF TEST BORING

PROJECT NO. SC6536

LOGGED BY GB | DATE DRILLED April 1, 1999 | BORING DIAMETER 6" SS | BORING NO. 1

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
26			Brown Silty SAND, fine grained						
27			Groundwater @ 27 ft.						
28									
29									
30	1 - 5 T		Brown poorly graded SAND with Silt, dense, fine Sand, slightly cemented		78			5.3	
31									
32									
33									
34									
35									
36									
37									
38									
39									
40									
41									
42									
43									
44									
45									
46									
47									
48									
49									

BY: Haro, Kasunich &Associates, Inc.

FIGURENO. LOG OF TEST BORING

PROJECT NO. SC6536

LOGGED BY GB DATE DRILLED April I, 1999 BORING DIAMETER 6" SS BORING NO. 1

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. JAB RESULTS
51									
52									
53									
54									
55			BORING TERMINATED AT 55.0 A.						
56									
57									
58									
59									
60									
61									
62									
63									
64									
65									
66									
67									
68									
69									
70									
71									
72									
73									
74									

BY: Haro, Kasunich & Associates, Inc. FIGURENO. LOG OF TEST BORING

Bore Log File
page 4

PROJECT NO. SC6536

LOGGED BY GB DATE DRILLED April 1, 1999 BORING DIAMETER 6" SS BORING NO. 2

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1	2 - 1 L		Brown lean CLAY w/fine Sand, moist, stiff		23		107	20.2	Unconfined Qu = 2,730 psf
2									
3	2 - 2 T		Clayey SAND, very moist, stiff		8			24.0	
4									
5	2 - 3 L		Brown gray Clayey SAND, very moist, loose		13		104	21.7	
6									
7									
8			Orange gray fat CLAY						
9									
10	2 - 4 L		Brown Clayey SAND, medium dense		19				
11									
12			BORING TERMINATED AT 11.5 ft.						
13									
14									
15									
16									
17									
18									
19									
20									
21									
22									
23									
24									

BY: Haro, Kasunich & Associates, Inc.

)G OF TES[illegible] BORING

FIGURE NO. LC

Bore Log File
page 5

PROJECT NO. SC6536

LOGGED BY GB DATE DRILLED April 1, 1999 BORING DIAMETER 6" SS BORING NO. 3

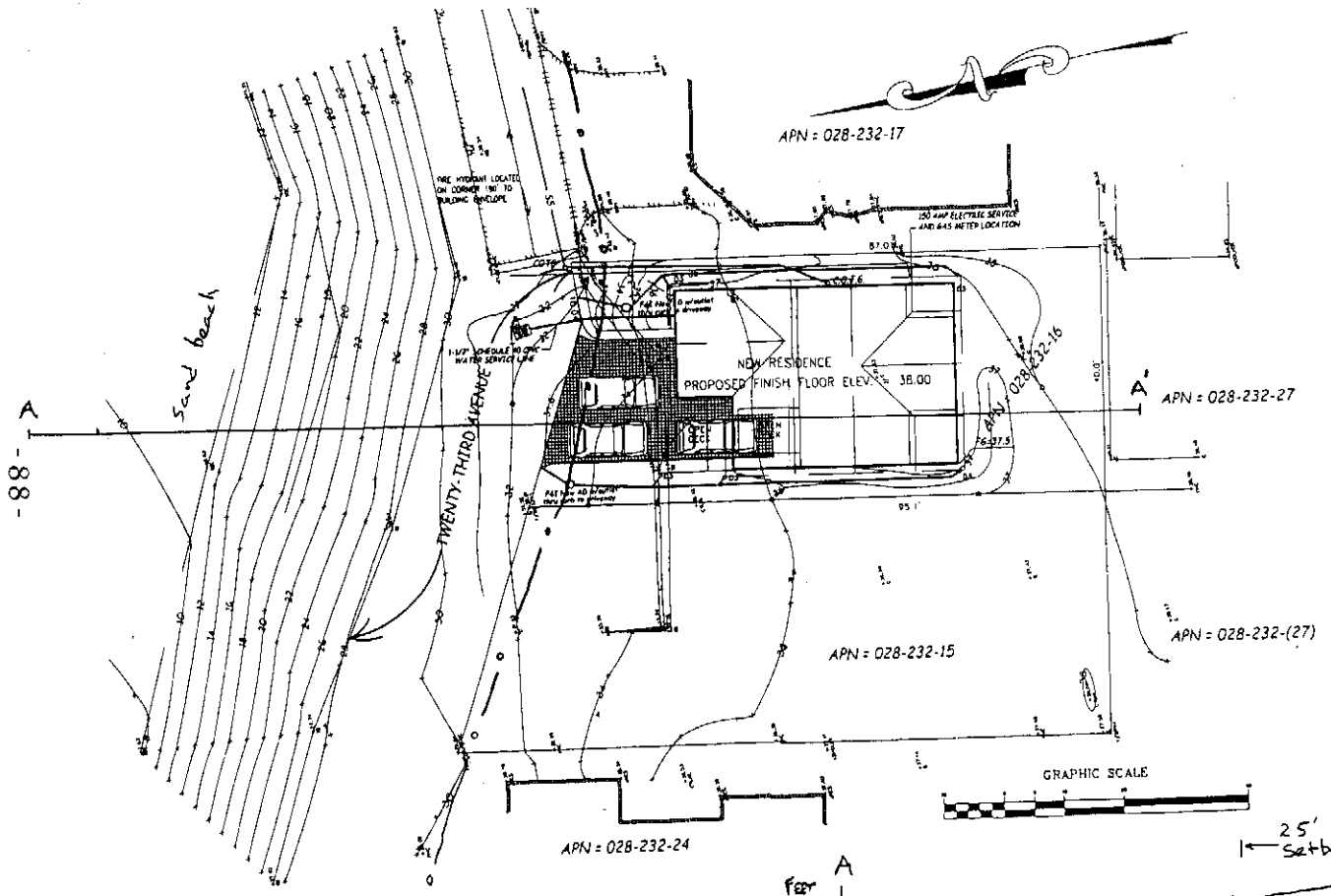
Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1	3 - 1		Brown lean CLAY w/Sand, moist, stiff		16		98	20.1	Unconfined Qu = 2,400 psf
2	L								
3	3 - 2		Very moist, medium stiff		7			23.7	
4	T								
5	3 - 3		Clayey SAND, loose		16		101	20.8	
6	L								
7									
8			Orange gray fat CLAY, stiff						
9									
10	3 - 4		Brown Clayey SAND, medium dense		29		83	23.1	
11	L								
12			BORING TERMINATED AT 11.5 ft.						
13									
14									
15									
16									
17									
18									
19									
20									
21									
22									
23									
24									

BY: Haro, Kasunich & Associates, Inc.

FIGURE NO. LOG OF TEST BORING

APPENDIX B

Site Geologic/Topographic Map and Geologic Cross Section



NIELSEN AND ASSOCIATES ENGINEERING GEOLOGY AND COASTAL GEOLOGY 501 MISSION STREET, SUITE 8 SANTA CRUZ, CA 95060 (831) 427-1770 FAX (831) 427-1794	Date: 31 July 2003 Scale: 1 inch = 20 feet
TOPOGRAPHIC SITE MAP and GEOLOGIC CROSS SECTION A-A' Vaden Property, 23rd Avenue Santa Cruz County, California APN 028-232-15 & 16	
Revisions:	Drawn By: hpn Approved By:
Job: SCr-1138-C	Drawing Number: PLATE 1

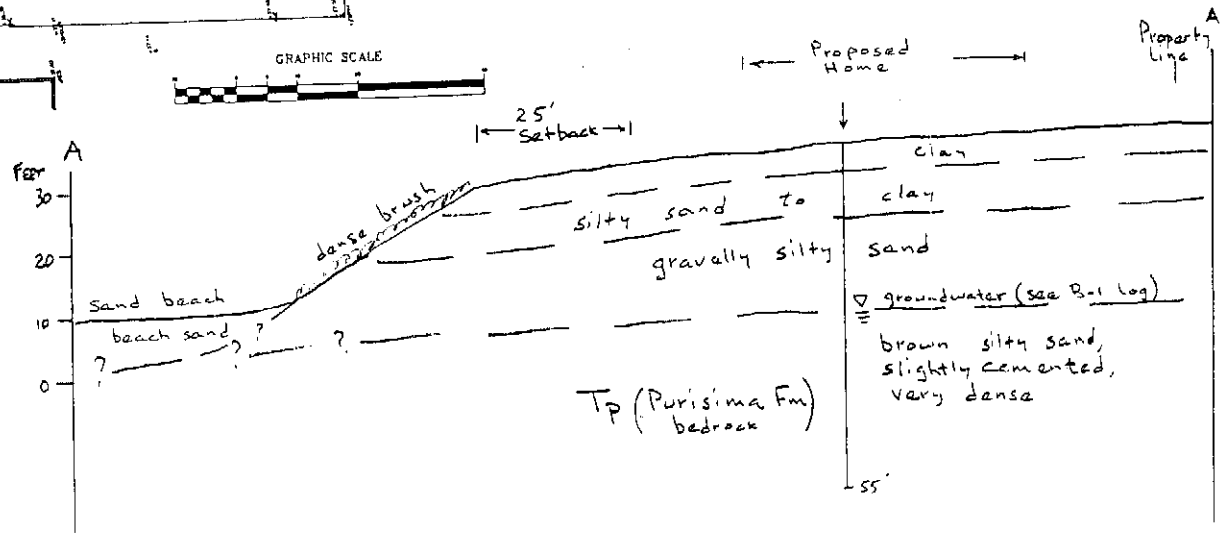
EARTH MATERIALS

Qt: Terrace Deposits: orange gray to brown gray, clay to clayey sand and gravelly sand, low to medium dense, moist to very moist

Tp: Purisima Formation: dark gray to tan, medium to fine-grained sandstone to silty sandstone, slightly cemented, very dense

SYMBOLS

- Contact Between Earth Materials - approximately located and projected away from the boring
- A — A' : Geologic Cross Section Location
- B-1 : Assumed Location of Boring by geotechnical engineer - see Appendix A for descriptive logs
- Building Setback Line



Topographic Map by Mid Coast Engineers, Civil Engineers and Land Surveyors, Job No

NIELSEN and ASSOCIATES

ENGINEERING GEOLOGY AND COASTAL CONSULTING

16 May 2005

Job No. SCr-1138-C

Val and Lilli Rey Vaden
c/o Robert Tomaselli
402 Grand Avenue
Capitola, CA 95010

SUBJECT Response to County Geologist's request for clarification of issues addressed in our geologic report for a proposed single family home.

REFERENCE: APN 028-232-15 & **16, 23rd** Avenue, Santa Cruz County, California

Dear Mr. and Mrs. Vaden:

The County Geologist, Joe Hanna, has requested that we provide clarification on two issues associated with our geologic report of 30 July 2003 for the properties. The **first** issue involves the origin of the recommended 25-foot building setback, and the second involves the position of the driveway relative to the building setback.

The 25-foot building setback recommended in our report is the minimum required under County Code Section 16.10.070.h. Our analysis of bluff recession rates revealed no evidence that the **bluff** at the property has receded over the past 76 years (1931 to the present). Since no bluff recession has occurred at the property in historical time, the building setback was established by the minimum setback required by county code.

In regards to the driveways and parking areas to and for the properties, the setback requirement was not intended to apply from a geologic standpoint since code section 16.10.070.h.ii speaks to a "stable building site over a 100-year lifetime of the ***structure*** (italics and holding added for emphasis). We viewed the term "structure" as being specific to the home. Our analysis provided evidence that the bluff at the property has not receded over the past 76 years, and the orientation and position of the bluff strongly suggest that it will not he subjected to significant oceanic erosional processes during the lifetime of the proposed homes. Additionally, it is our opinion that the driveway will not exacerbate erosion or instability in the bluff since we recommended development of an engineered drainage plan that will most certainly not allow the discharge of concentrated surface runoff from impermeable surfaces, **such** as the driveway, down the bluff face. Therefore, it is reasonable to assume that the driveway will be stable for the design lifetime of the homes when [illegible] as stipulated by County ordinances and code.

Sincerely,

Hans Nielsen
C.E.G. 1390

REGISTERED GEOLOGIST
HANS NIELSEN
No. 1390
CERTIFIED
ENGINEERING
GEOLOGIST
STATE OF CALIFORNIA

1070 W. Antelope Creek Way • Oro Valley, **Arizona 85737 • (831) 295-2081**

COUNTY OF SANTA CRUZ

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

July 1, 2005

Val and Lilli Rey Vaden
C/o Robert Tomaseli
402 Grand Avenue
Capitola, CA 95010

Subject: Review **of** Geotechnical Investigation by Haro, Kasunich, and Associates
Dated: June **1999;** Project No. **SC6536 And**
Review **of** Geologic Investigation by Nielsen and Associates
Dated: **July 2003,** and May **16, 2005;** Project No. **SCr1138-C**
APN: 028-232-15&16, Application No: 02-0432

Dear Val and Lilli Rey Vaden:

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

1. All construction shall comply with the recommendations of the reports

2. Final plans shall reference the reports and include a statement that the project shall conform to the report's recommendations.

3. Prior to building permit issuance, plan review letters shall be submitted to Environmental Planning. The authors of these reports shall write these letters and shall state that the project plans conform to the report's recommendations.

4. The attached declaration *of* geologic hazard must be recorded with the County Recorders Office before building permit issuance.

After building permit issuance, the geotechnical engineer and engineering geologist must remain involved with the project during construction. Please review the Notice to Permits Holders (attached).

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

Please call the undersigned at 454-3175 if we can be of any further assistance.

Sincerely,

Joe Hanna
County Geologist

Cc: Nielsen and Associates, 501 Mission Street, Avenue 8, Santa Cruz, CA 95060
Haro, Kasunich, and Associates, 116 East Lake Avenue, Watsonville, CA 95076
Robert Loveland. Resource Planner

GR'' S S BUILDING AR F'
SUPPLEML AL APPLICATION SUBMITTAL REQUI ENTS

The following floor area calculations help staff to process your application with more speed and efficiency. Please include the index on the cover sheet of your plans, and submit a separate set of calculations for each proposed and existing building.

BUILDING RESIDENCE (Indicate which building on the plot plan.)
EXISTING ___ PROPOSED X (Check one.)

LOT COVERAGE CALCULATIONS

1. Zone District: R-1-A
2. Parcel Area: 3568 sq. ft. NA acres
3. Area of Rights-of-way: NA sq. ft.
4. Net Parcel Area (2 - 3): 3568 sq. ft.
5. Coverage by Structures: 1380 sq. ft.
   (Total footprint of all structures over 18" in height.)
6. Percentage of Parcel Coverage (5 ÷ 4 X 100): 38.7 %

HEATED SPACE CALCULATION

1. Total Heated Space: 1770 sq. ft.
2. Total Unheated Space: 1215 * sq. ft. * NON HABITABLE (LESS THAN 7'-6")

FLOOR AREA CALCULATIONS BY TYPE OF SPACE

NOTES: (e) = existing square footage
(p) = proposed square footage
See accompanying definitions for an explanation of each of the following categories. INCLUDE ONLY THOSE CATEGORIES THAT APPLY TO THE BUILDING.

1. BASEMENT/UNDERFLOOR
   If any part of the basement or underfloor is 7'6" or higher (& for underfloor, there is an interior stair & flooring):
   a. TOTAL BASEMENT/UNDERFLOOR AREA GREATER THAN 5' IN HEIGHT .....

EXISTING SQ. FT.	PROPOSED SQ. FT.	TOTAL SQ. FT.
NA	0.0	0.0

2. FIRST FLOOR
   a. Area w/ ceilings less than 16' in height (e) NA (p) 1272
   b. Area w/ ceilings 16' - 24' (X 2) (e) ↓ (p) 0.0
   c. Area w/ ceilings >24' (X3) (e) ↓ (p) 0.0
   d. TOTAL FIRST FLOOR AREA (a + b + c) .....

EXISTING SQ. FT.	PROPOSED SQ. FT.	TOTAL SQ. FT.
NA	1272	1272

3. SECOND FLOOR
   a. Area w/ ceilings less than 16' in height (e) NA (p) 498
   b. Area w/ceilings 16' - 24' (x 2) (e) ↓ (p) Φ.Φ
   c. Area w/ceilings >24' (x3) (e) ↓ (p) Φ.Φ
   d. TOTAL SECOND FLOOR AREA (a + b + c) ..... NA EXISTING SQ. FT. | 498 PROPOSED SQ. FT. | 498 TOTAL SQ. FT.

4. MEZZANINE
   a. TOTAL MEZZANINE AREA.. ..... NA EXISTING SQ. FT. | Φ.Φ PROPOSED SQ. FT. | Φ.Φ TOTAL SQ. FT.

5. ATTIC
   If any part of the attic s 7'6" or higher:
   a. TOTAL ATTIC AREA GREATER THAN 5' IN HE GHT.... NA EXISTING SQ. FT | Φ.Φ PROPOSED SQ. FT. | Φ.Φ TOTAL SQ. FT.

6. GARAGE
   a. Total Garage Area (e) NA (p) Φ.Φ
   b. Credit (e) -225 (p) -225
   c. TOTAL GARAGE AREA..... (a - b) .. EXISTING SQ. FT. | Φ.Φ PROPOSED SQ. FT. | Φ.Φ TOTAL SQ. FT.

7. TRELLIS AND ARBOR
   If the top of the trellis or arbor is solid:
   a. TOTAL AREA UNDERNEATH TRELLIS OR ARBOR ..... NA EXISTING SQ. FT. | Φ.Φ PROPOSED SQ. FT. | Φ.Φ TOTAL SQ. FT.

8. UNENCLOSED, COVERED AREAS
   If there are covered areas on more than one side of the boil-ding, submit items a - d far each side on a separate sheet. The first 3' does not count.
   a. Total area below eave, over-hang, projection, or deck more than 7'6" in height (e) NA (p) 11Φ
   b. Area of first 3' of eave or 140 sq. ft. whichever is 1arger (e) ↓ (p) 140
   c. Remaining area (a - b) (e) ↓ (p) Φ.Φ
   d. TOTAL COVERED AREA OF SIDE
      1) Use one of the following:
         a) If length of covered area exceeds 1/3 of the building length on that side: TOTAL COVERED AREA OF SIDE (enter c) ..... 11& EXISTING SQ. FT. | Φ.Φ PROPOSED SQ. FT. | Φ.Φ TOTAL SQ. FT.

OR,

b) If length of covered area is less than 1/3 of the building length on that side:

TOTAL COVERED AREA OF SIDE ..... (enter 0.50 X c)

NA	0.0	0.0
EXISTING SQ. FT.	PROPOSED SQ. FT.	TOTAL SQ. FT.

e. TOTAL COVERED AREA OF ALL SIDES ..... (enter sum of all sides)

NA	0.0	0.0
EXISTING SQ. FT.	PROPOSED SQ. FT.	TOTAL SQ. FT.

9. TOTAL FLOOR AREA OF THE BUILDING ..... (Sum all of the categories above.)

NA	1770	1770
EXISTING SQ. FT.	PROPOSED SQ. FT.	TOTAL SQ. FT.

10. TOTAL FLOOR AREA OF ALL BUILDINGS ..... (Sum of the floor area of all buildings.)

NA	1770	1770
EXISTING SQ. FT.	PROPOSED SQ. FT.	TOTAL SQ. FT.

11. FLOOR AREA RATIO CALCULATIONS:
Proposed FAR: 49.6 % (net parcel area%proposed floor area from 810 X 100)

12. LARGE DWELLING CALCULATIONS:
Total Proposed Floor Area: NA sq.ft. (Proposed floor area frcm 810, minus barns and other agricultural buildings.)

Mid Coast **Engineers**
Civil Engineers and Land Surveyors

70 **Penny Lane,** Suite **A** - **Watsonville, CA 95076**
Phone (831) **724-2580**
Fax **(831)724-8025**
e-mail art@midcoastengineers com

Richard A **Wadsworth**
Civil Engineer
Arthur **L** Bliss
Civil Engineer
Stanley O. Nielsen
Land *Surveyor*
Lee O Vaage
Land Surveyor
Jeff S Nielsen
Land **Surveyor**

July **17,** 2005

MCE's Job Ref# 03007-X

Ms. Alyson Tom, Dept. of Public Works-Drainage Division
701 Ocean Street **- 4"** Floor
Santa Cruz, CA 95060

Re: Supplemental drainagelhydrology review and supplemental calculations as requested to accompany Application **# 02-0432** [Assessor's Parcel **# 028-232-16** – VaIVaden

Dear Alyson,

The accompanying exhibit of the subject site and adjacent parcels is forwarded per your request to reflect tributary watershed of that area to/toward the intersection of 23rd and East Cliff.

The site specific runoff, as well as the above noted watershed has been calculated using County design criteria and indicates a potential runoff increase from the site of 0.054 cfs. The proposed site development shows that a number of "BPM's" or best management practices have been incorporated to detain this potential short duration increase in flow. The accompanying calcs indicate that a detaining facility of not more than **34** CuFt would eliminate even the **25** year event and that a **25** CuFt ([0.78-0.52]Cr*2.02in/hr*0.8Ac*10min*60 sec) volume would be sufficient to contain the **10** year design storm increase.

The roofleader dispersion trench and grassey swales are incorporated in the design to allow greater percolation rates into the existing soil and will probably eliminate any increased impact from the proposed project. Never-the-less, the full increase can easily be handled by the on site and 8" PVC downstream piping to the existing area drain. When maintenance is completed on the 10" CMP leaving that above referenced Area Drain, this less than **4%** [0.054/1.41cfs] will be fully contained within the existing drainage system.

The overall tributary area of approximately **46,000** square feet has a potential of a **25** year return frequency flow of **1.41** CFS vs the **10** year design frequency's flow of **1.22** CFS. This [larger] design flow is handled as a potential overland release and would still be contained within this "23rd Avenue" driveway section.

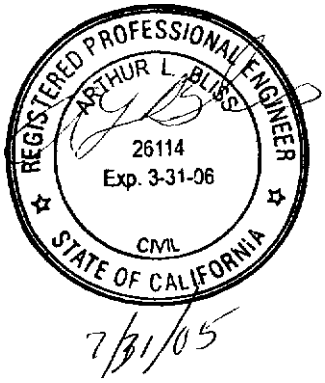
Our specific site review notes that the downstream pipeline of the 18 x 18 Area Drain in the County's right-of-way has been plugged but the upstream facilities have continued functioning properly; this area drain is currently functioning as a "bubble-up" and said upstream flows have continued downstream within the westerly sideline of East Cliff to the sandy low point where the water is absorbed into the adjacent beach sand.

There is a short section of asphalt berm that, while currently serviceable, should be scheduled for maintenancehepair by the pertinent Homeowner's Association or similar neighboring owners' group responsible for the roadway's maintenance.

Should you have any additional questions regarding the above, the accompanying calculations and/or exhibits, please feel encouraged to call at your earliest convenience.

Sincerely,

Arthur L. Bliss, RCE 26114
My current registration
renewal date is: March 31, 2006



7/31/05

EXHIBIT H

Val Vaden's 23rd Avenue JobNum=03007-D

Mid Coast Engineers
70 Penny Lane, Suite A
Watsonville, CA 95076 (831) 724-2580

July 15, 2005

DETENTION SYSTEM DESIGN

Composite Runoff Coefficient for Rational Method
00000000
Reference: "Design and Construction of Sanitary and Storm Sewers", A.S.C.E. Manual No. 37. 1972.

Site only

Location: APN 028-232-16 = 23rd Avenue **(west of East** Cliff)

Find composite runoff coefficienl for predevelopment Q:

Square Feet (1)	Character of surface (2)	Runoff Coefficient (3)	(3)		(4)	Compos. Factor (1)*(3+4)/2
	Pavement		orig's			
0	AC and Conc.	0.85	0.85	to	0.90	0
0	Brick	0.90	0.90	to	0.90	0
0	Roofs	0.90	0.90	to	0.90	0
	Lawns, sandy soil					
0	Flat. 2 %	0.40	0.40	to	0.60	0
2855	Average, 2 to 7 %	0.40	0.40	to	0.60	1428
713	Steep, > 7 %	0.60	0.60	to	0.60	428
	Lawns, heavy soil					
0	Flat, 2 %	0.50	0.50	to	0.60	0
0	Average, 2 to 7 %	0.50	0.50	to	0.60	0
0	Steep, > 7 %	0.50	0.50	to	0.60	0
3568	s.f. total (or approx.			Composite "C":		0.52
		0.08 Acres				

Find composite **runoff** coefficient for postdevelopment Q:

Square Feet (1)	Character **of** surface (2)	Runoff Coefficient (3)			(4)	Compos. Factor (1)*(3+4)/2
	Pavement					
1275	AC and Conc.	0.85	0.85	to	0.90	1116
0	Brick	0.90	0.90	to	0.90	0
1250	Roofs	0.90	0.90	to	0.90	1125
	Lawns, sandy soil					
0	Flat. 2 %	0.40	0.40	to	0.60	0
831	Average, 2 to 7 %	0.40	0.40	to	0.60	416
212	Steep. > 7 %	0.60	0.40	to	0.60	127
	Lawns, heavy soil					
0	Flat. 2 %	0.50	0.50	to	0.60	0
0	Average, 2 to 7 %	0.50	0.50	to	0.60	0
0	Steep, > 7 %	0.60	0.50	to	0.60	0
3568	s.f. total (or approx.			Composite "C":		0.78
		0.08 Acres				

EXHIBIT I

Mid Coast Engineers
70 Penny Lane, Suite A
Watsonville, CA 95076 **(408) 724-2580**

DETENTION SYSTEM DESIGN

Pre- and Post-Development Runoff

Reference: "County of Santa Cruz - Design Criteria PART 3 STORM DRAINAGE
Design Crieria: Rational Method, Q = CaCi A where [i] = tabular values of rainfall
from Co's. Fig. SD-7 and P60 Isopleth of SD-6
While [i] is established directly for a return period of 10 years, [Q10]
Other return periods are developed from multiplier factors.

For a P60 value of:	1 4	>"i" = 0.94	[i of 60 min @23rd on coast]
and a Predevelopment C =		0.52	[derived on first page]
and a Postdevelopment C =		0.78	[also derived - 1st page]
Predev. conc. time =		10	minutes (maximum)
Watershed Area =		0.08	acres

Pre-development runoff (allowable release rate) is based on a Design storm of
10 year frequency of return, which uses a 1.00 adjusting factor or,

i ("/hr) = 2.02 fort= 10 minutes
and Q = CaCiA = 0.086 CFS

252525 25 yr storm of various durations:

Post-development runoff using a (designing)
(which uses an intensity modifying factor) of 1.10

fort of	10 minutes, It =	2.22	inlhr
	and Q = CaCiA =	0.14	CFS
fort of	15 minutes, It =	1.82	inlhr
	and Q = CaCiA =	0.12	CFS
for t of	20 minutes, It =	1.67	in/hr
	and Q = CaCiA =	0.11	CFS
fort of	25 minutes. It =	1.49	inlhr
	and Q = CaCiA =	0.10	CFS
fort of	30 minutes, It =	1.36	inlhr
	and Q = CaCiA =	0.09	CFS
for t of	40 minutes, It =	1.19	inlhr
	and Q = CaCiA =	0.08	CFS
fort of	50 minutes, It =	1.07	in/hr
	and Q = CaCiA =	0.07	CFS
fort of	60 minutes, It =	0.97	inlhr
	and Q = CaCiA =	0.06	CFS
fort of	80 minutes. It =	0.89	inlhr
	and Q = CaCiA =	0.06	CFS
fort of	100 minutes. It =	0.80	inlhr
	and Q = CaCiA =	0.05	CFS

EXHIBIT I

Mid Coast Engineers
70 Penny Lane, Suite A
Watsonville, CA 95076 (408) 724-2580

July 15, 2005

DETENTION SYSTEM DESIGN

Required Storage Volume

Reference: "Practices in Detention of Urban Stormwater Runoff, Special Report No. 43", American Public Works Association

Design Criteria: Modified Rational Method
assumes constant release rate

Project post-development concentration time = 10 minutes.

		Storm Volume CuFt	Release Volume CuFt	Net Storage CuFt
Fort =	10 minutes, Volume =	85	52	34
Fort =	15 minutes, Volume =	104	78	27
Fort =	20 minutes, Volume =	128	103	24
Fort =	25 minutes, Volume =	143	129	14
Fort =	30 minutes. Volume =	156	155	1
Fort =	40 minutes, Volume =	183	207	-24
Fort =	50 minutes, Volume =	204	258	-54
Fort =	60 minutes, Volume =	224	310	-86
Fort =	80 minutes, Volume =	212	414	-141
Fort =	100 minutes, Volume =	307	517	-210

MAXIMUM REQUIRED STORAG 34 CF

This Site has a roof leader Storm dispersion trench system being proposed and it utilizes various BMPs including grasey swales on either side of the proposed structure Io further minimize the impact of the potential increase of runoff as indicated above.

EXHIBIT I

Val Vaden's 23rd **Avenue** JobNum=03007-D

Mid Coast Engineers
70 Penny Lane, Suite A
Watsonville, CA 95076 (831) 724-2580

July 15, 2005

Sheet No.1of 3

DETENTION SYSTEM DESIGN

Composite Runoff Coefficient for Rational Method
0000000

Reference "Design and Construction of Sanitary and Storm Sewers", **A S C E** Manual **No** 37, 1972

Location **APN** 028-232-16 = 23rd **Avenue** **(west** of **East** Cliff)

Find composite runoff coefficient for predeveloprnent Q

Square Feet (1)	Character of surface (2)	(3)		(4)	Compos Factor (1)*(3+4)/2
	Pavement	orig's			
6583	AC and Conc	0 85	to	090	6089
0	Brick	0 80	to	090	0
10365	Roofs	0 a5	to	090	9588
	Lawns sandy soil				
0	Flat. 2 %	0 40	to	060	0
23242	Average, 2 to 7 %	0 40	to	060	**8135**
5810	Steep. > 7 %	0 40	to	060	2179
	Lawns, heavy soil				
0	Flat 2 %	0 50	to	060	0
0	Average 2 to 7 %	0 50	to	060	0
0	Steep, > 7 %	0 50	to	0 60	0
46000	s.f. total (or approx.		Composite "C":		0.57
		Acres			

Find composite runoff coefficient for postdevelopment Q:

Square Feet (1)	Character of **surface** (2)			(4)	Compos. Factor (1)*(3+4)/2
	Pavement				
7858	AC and Conc.	0.85	to	0.90	7269
0	Brick	0.80	to	0.90	0
11615	Roofs	0.85	to	0.90	10744
	Lawns, sandy soil				
0	Flat, 2 %	0.40	to	0 60	0
20210	Average, 2 lo 7 %	0 40	to	0 60	7095
6757	Steep, > 7 %	0.40	to	0 60	2534
	Lawns, heavy soil				
0	Flat, 2 %	0.50	to	0.60	0
0	Average, 2 to 7	0.50	to	0 60	0
0	Steep, > 7 %	0.50	to	0.60	0
46500	s.f. total (or approx.		Composite "C":		0.59
		Acres			

EXHIBIT 1

Mid Coast Engineers
70 Penny Lane. Suite A
Watsonville, CA 95076 (408) 724-2580

July 15, 2005

DETENTION SYSTEM DESIGN

Pre- and Post-Development Runoff

Reference: "County of Santa Cruz - Design Criteria PART 3 STORM DRAINAGE
Design Criteria: Rational Method. Q = CaCi A where [i] = tabular values of rainfall
from Co's. Fig. SD-7 and P60 Isopleth of SD-6
While [i] is established directly for a return period of 10 years, [Q10]
Other return periods are developed from multiplier factors.

For a P60 value of:	1.4	>"i" = **0.94**	[i of 60 min @23rd on coast]
and a Predevelopment C =		0.57	[derived on first page]
and a Postdevelopment C =		0.59	[also derived - 1st page]
Predev. conc. time =		10	minutes (maximum)
Watershed Area =		1.07	acres

Pre-development runoff (allowable release rate): is based on a Design storm of
10 year frequency of return. which uses a 1.00 adjusting factor or.

I ("/hr) =	2.02	fort=	10 minutes
and Q = CaCiA =		1.220	CFS

252525

Post-development runoff using a (designing) 25 yr storm of various durations:
(which uses an intensity modifying factor) of 1.10

fort of	10	minutes, It =	2.22 inlhr
and Q = CaCiA =		1.41	CFS
for t of	15	minutes, It =	1.e2 inlhr
and Q = CaCiA =		1.15	CFS
for t of	20	minutes, It =	1.67 inlhr
and Q = CaCiA =		1.06	CFS
fort of	25	minutes, It =	1.49 inlhr
and Q = CaCiA =		0.95	CFS
for t of	30	minutes It =	1.36 inlhr
and Q = CaCiA =		0.86	CFS
for t of	40	minutes, It =	1.19 inlhr
and Q = CaCiA =		0.76	CFS
for t of	50	minutes, It =	1.07 inlhr
and Q = CaCiA =		0.68	CFS
fort of	60	minutes It =	0.97 inlhr
and Q = CaCiA =		0.62	CFS
fort of	80	minutes. It =	0.89 inlhr
and Q = CaCiA =		0.56	CFS
fort of	100	minutes, It =	0.80 inlhr
and Q = CaCiA =		0.51	CFS

EXHIBIT 1

Val Vaden's 23rd Avenue JobNum=03007-D

Mid Coast Engineers
70 Penny Lane, Suite A
Watsonville, CA 95076 (408) 724-2580

July 15, 2005

Sheet 3 of 3

DETENTION SYSTEM DESIGN

Required Storage Volume

Reference "Practices in Detention of Urban Stormwater Runoff, Special Report No 43, American Public Works Association

Design Criteria Modified Rational Method
assumes constant release rate

Project postdevelopment concentration time = 10 minutes.

		Storm Volume CuFt	Release Volume CuFt	Net Storage CuFt
Fort =	10 minutes, Volume =	847	73:	115
Fort =	15 minutes, Volume =	1037	1098	-6C
Fort =	20 minutes. Volume =	1263	1464	-195
Fort =	25 minutes Volume =	1419	1830	-411
Fort =	30 minutes. Volume =	1554	2196	-642
Fort =	40 minutes. Volume =	1814	2928	-1114
Fort =	50 minutes. Volume =	2028	3660	-1632
Fort =	60 minutes. Volume =	2221	4392	-2170
Fort =	80 minutes, Volume =	2702	5856	-3154
Fort =	100 minutes, Volume =	3051	7320	-4269

MAXIMUM REQUIRED STORAG 115 CF

This site has a roof leader Storm dispersion trench system being proposed and itilizes various BMPs including grasey swales on either side of the proposed structure to further minimize the impact of the potential increase of runoff as indicated above

EXHIBIT 1

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

DATE: September 24, 2002

TO: Larry Kasparowitz, Planning Department

FROM: Melissa Allen, Planning Liaison to the Redevelopment Agency

SUBJECT: Application 02-0432, APN 028-232-16, 23rd Ave at East Cliff Dr

---

The applicant is proposing to construct a two-story single family dwelling with basement/garage. The project requires a Coastal Development Permit. The property is located on the east side of 23rd Avenue at approximately 160 feet south from East Cliff Drive.

The Redevelopment Agency (RDA) has the following comments regarding the proposed project. The Redevelopment Agency's primary concern for this project involves the provision of adequate onsite parking. RDA supports the standard of not allowing any private parking or encroachments into the public right-of-way, especially in neighborhoods along the coastline.

1. It is not clear if the parking needs of this project are completely satisfied onsite

The items and issues referenced above should be evaluated as part of this application and/or addressed by conditions of approval. Assuming these items/issues are addressed and/or resolved then RDA does not need to see future routings of these plans. The Redevelopment Agency (RDA) appreciates this opportunity to comment. Thank you.

CENTRAL
FIRE PROTECTION DISTRICT
of Santa Cruz County
Fire Prevention Division

930 17'" Avenue, Santa Cruz, CA 95062
phone (831) 479-6843 fax (831) 479-6847

Date:	3 September 2002
To:	Val Vaden
Applicant:	Wayne Miller
From:	Eric Sitzenstatter
Subject	02-0432
Address:	??? 23" Avenue, Santa Cruz
APN:	028-232-16
OCC:	2823216
Permit:	020237

We have reviewed plans for the above subject project. THE FOLLOWING ARE DISTRICT REQUIREMENTS:

The plans shall comply with California Building and Fire Codes (1998) and District Amendment.

The FIRE FLOW requirement for the subject property is 1000 gallons per minute for 120 minutes,

A public fire hydrant within 250 feet of any portion of the building meeting the minimum required fire flow for the building is required.

Compliance with the District Access Requirements outlined on the enclosed handout is required. Access road width, grade, road surface shall comply.

The building shall be protected by an approved automatic sprinkler system complying with the LATEST edition of NFPA 13D currently adopted in Chapter 35 of the California Building Code.

****

Please have the DESIGNER add appropriate NOTES and DETAILS showing the information listed below to plans that WILL BE SUBMITTED FOR PERMIT:

NOTE on the plans that these plans are in compliance with California Building and Fire Codes (1998) and District Amendment.

NOTE on the plans the OCCUPANCY CLASSIFICATION, BUILDING CONSTRUCTION TYPE-FIRE RATING and either SPRINKLERED or NON-SPRINKLERED as determined by the building official and outlined in Chapters 3 through 6 of the 1998 California Building Code (e.g., R-3, Type V-N, Sprinklered)

The FIRE FLOW requirement for the subject property is 1000 gallons per minute for 120 minutes. NOTE on the plans the REQUIRED and AVAILABLE FIRE FLOW. The AVAILABLE FIRE FLOW information can be obtained from the water company.

SHOW on the plans a public fire hydrant, meeting the minimum required fire flow for the building, within 250 feet of any portion of the building.

SHOW on the plans, DETAILS of compliance with District rural Water Storage Requirements. Please refer to and comply with the diagram on Page 5. Do not sticky-back diagrams.

NOTE ON PLANS: New/upgraded hydrants, water storage tanks, and/or upgraded roadways shall be installed PRIOR to and during time of construction (CFC 901.3).

SHOW on the plans DETAILS of compliance with the District Access Requirements outlined on the enclosed handout.

NOTE on the plans that the building shall be protected by an approved automatic sprinkler system complying with the edition of NFPA 13D currently adopted in Chapter 35 of the California Building Code.

> NOTE that the designer/installer shall submit three (3) sets of plans and calculations for the underground and overhead Residential Automatic Sprinkler System to this agency for approval Installation shall follow our guide sheet.

Show on the plans where smoke detectors are to be installed according to the following locations and approved by this agency as a minimum requirement:

- One detector adjacent to each sleeping area (hall, foyer, balcony, or etc).
- One detector in each sleeping room.
- One at the top of each stairway of 24" rise or greater and in an accessible location by a ladder.
- There must be at least one smoke detector on each floor level regardless of area usage.
- There must be a minimum of one smoke detector in every basement area.

NOTE on the plans where address numbers will be posted and maintained. Note on plans that address numbers shall be a minimum of FOUR (4) inches in height and of a color contrasting to their background.

NOTE on the plans the installation of an approved spark arrestor on the top of the chimney. Wire mesh not to exceed ½ inch.

NOTE on the plans that the roof coverings to be no less than Class "C" rated roof

NOTE on the plans that a 30-foot clearance will be maintained with non-combustible vegetation around all structures.

Submit a check in the amount of $100.00 for this particular plan check, made payable to Central Fire Protection District. A $35.00 Late Fee may be added to your plan check fees if payment is not received within 30 days of the date of this Discretionary Letter. INVOICE MAILED TO APPLICANT. Please contact the Fire Prevention Secretary at (831) 479-6843 for total fees due for your project.

If you should have any questions or comments please page me at (415) 699-3634, or e-mail me at edsfpe@sitz.net.

CC: File & County

As a condition of submittal of these plans, the submitter, designer and installer certify that these plans and details comply with applicable Specifications. Standards, Codes and Ordinances, agree that they are solely responsible for compliance with applicable Specifications, Standards, Codes and Ordinances, and further agree to correct any deficiencies noted by this review, subsequent review, inspection or other source. Further, the submitter, designer, and installer agrees to hold harmless from any and all alleged claims to have arisen from any compliance deficiencies, without prejudice, the reviewer and the Central FPD of Santa Cruz County.

Any order of the Fire Chief shall be appealable to the Fire Code Board of Appeals as established by any party beneficially interested, except for order affecting acts or conditions which, in the opinion of the Fire Chief, pose an immediate threat to life, property, or the environment as a result of panic, fire, explosion or release.

Any beneficially interested party has the right to appeal the order served by the Fire Chief by filing a written "NOTICE OF APPEAL" with the office of the Fire Chief within ten days after service of such written order. The notice shall state the order appealed from, the identity and mailing address of the appellant, and the specific

grounds upon which the appeal **is** taken

2823216–40

CENTRAL
FIRE PROTECTION DISTRICT
of Santa Cruz County
Fire Prevention Division

930 17" Avenue, Santa Cruz, CA 95062
phone (831)479-6843 fax (831)479-6847

21 October 2003

JUDY MILLER'S OFFICE
P.O. Box 1929
Freedom, CA 95019-1929

Subj: Lot at beach side of 23rd Avenue, Assessor's Parcel Number (APN): 028-232-16

Ref (a): CFPD Discretionary ltr dtd 3 Sep 02, County Application #: 02-0432
Encl (1): Assessor's Map No. 28-23, East Cliff and 23rd Avenue

Dear Judy;

Construction application plans have not yet been submitted to this District via the County of Santa Cruz Planning Department for the proposed project at the above-referenced address; however. discretionary correspondence has been transmitted regarding the turn-around requirements (Reference (a)).

In 2001, a verbal discussion was made by this District that a turn-around would not be required for the subject property located at APN 028-232-16. This discussion was based on the fact that the building envelope is within close proximity to the 150' rule, and mitigating factors were added, including, **but** not limited to, the installation of an automatic sprinkler system throughout the proposed structure, arid the installation of a new fire hydrant (as per our current standards) at the northwest corner of East Cliff and 23rd Avenue as shown on Enclosure (1).

All other applicable codes, standards, and ordinances shall apply at time of plan review.

Should you have any further questions, please don't hesitate to call me at (831)479-6843.

Respectfully,

Jeanette Lambert
Division Chief/Fire Marshal

CENTRAL
FIRE PROTECTION DISTRICT
of Santa Cruz County
Fire Prevention Division

930 17th Avenue, Santa Cruz, CA 95062
phone (831) 479-6843 fax (831) 479-6847

Date: February 9, 2004
To: County Planning
Applicant: **Wayne and Judy Miller**
From: Jeanette Lambert, Fire Marshal
Subject: **Turnaround between Assessors Parcel Number 28-232-16 and 28-232-15**
Address **23rd Avenue**
APN: 28-232-16 & 28-232-15

As discussed in previous meetings with Wayne and Judy Miller it has been determined that a fire department turnaround meeting this districts approval shall be provided between lots 28-232-15 and 28-232-16 on 23rd Avenue, Santa Cruz, California.

Respectfully,

Jeanette Lambert
Division Chief/Fire Marshal

Cc: Wayne and Judy Miller
Val Vaden

CENTRAL
FIRE PROTECTION DISTRICT
of Santa Cruz County
Fire Prevention Division

930 17'' Avenue, Santa Cruz, CA 95062
phone (831) 479-6843 fax (831) 479-6847

Date:	August 19,2004
Ia	Larry Kasparowitz
Applicant:	**Lands of Val Vaden**
From:	Jeanette Lambert, Division Chief/Fire Marshal
Subject:	**Proposed Turnaround**
Address	**23rd Avenue**
APN:	028-232-15 & 028-232-16
OCC:	2823215
Permit:	

The proposed turnaround for the properties located at assessor parcel numbers 028-232-15 and 028-232-16 is acceptable to this jurisdiction provided the entire area, including the highlighted turning radius (See attached plan.) meets this districts road surface requirements.

The proposed turnaround shall be marked "No Parking – Fire Lane" as required by this jurisdiction

Upon completion of the above listed requirements please call the Fire Prevention Division to set up an appointment for an inspection. You will be asked for an address and Assessors Parcel Number (APN). **A MINIMUM OF 48 HOURS NOTICE** to the fire department is required prior to inspection.

If you should have any questions regarding the plan check comments, please call me at (831) 479-6843

CC: File

As a condition of submittal of these plans, the submitter, designer and installer certify that these plans and details comply with applicable Specifications, Standards, Codes and Ordinances, agree that they are solely responsible for compliance with applicable Specifications, Standards, Codes and Ordinances, and further agree to correct any deficiencies noted by this review, subsequent review, inspection or other source. Further, the submitter, designer, and installer agrees to hold harmless from any and all alleged claims to have arisen from any compliance deficiencies, without prejudice, the reviewer and the Central FPD of Santa Cruz County.
Any order of the Fire Chief shall be appealable to the Fire Code Board of Appeals as established by any party beneficially interested, except for order affecting acts or conditions which, in the opinion of the Fire Chief, pose an immediate threat to life, property, or the environment as a result of panic, fire, explosion or release.
Any beneficially interested party has the right lo appeal the order served by the Fire Chief by filing a written "NOTICE OF APPEAL" with the office of the Fire Chief within ten days after service of such written order. The notice shall state the order appealed from, the identity and mailing address of the appellant, and the specific grounds upon which the appeal is taken.

SANTA CRUZ COUNTY SANITATION DISTRICT

INTER-OFFICE CORRESPONDENCE

DATE: **September** 11, 2002

TO: Planning Department, ATTENTION: LARRY KASPAROWITZ

FROM: Santa Cruz County Sanitation District

SUBJECT: SEWER AVAILABILITY AND DISTRICT'S CONDITIONS OF SERVICE FOR THE FOLLOWING PROPOSED DEVELOPMENT:

APN: 28-232-16	APPLICATION NO.: 02-0432
PARCEL ADDRESS:	NO SITUS (VACANT PARCEL LOCATED ON 23RD AVENUE)
PROJECT DESCRIPTION:	CONSTRUCT TWO STORY SINGLE-FAMILY DWELLING

Sewer service is available for the subject development upon completion of the following conditions. This notice is effective for one year from the issuance date to allow the applicant the time to receive tentative map, development or other discretionary permit approval. If after this time frame this project has not received approval from the Planning Department, a new sewer service availability letter must be obtained by the applicant. Once a tentative map is approved this letter shall apply until the tentative map approval expires.

Proposed location of on-site sewer lateral(s), clean-out(s), public sewer easement and connection(s) to existing public sewer must be shown on the plot plan of the building permit application.

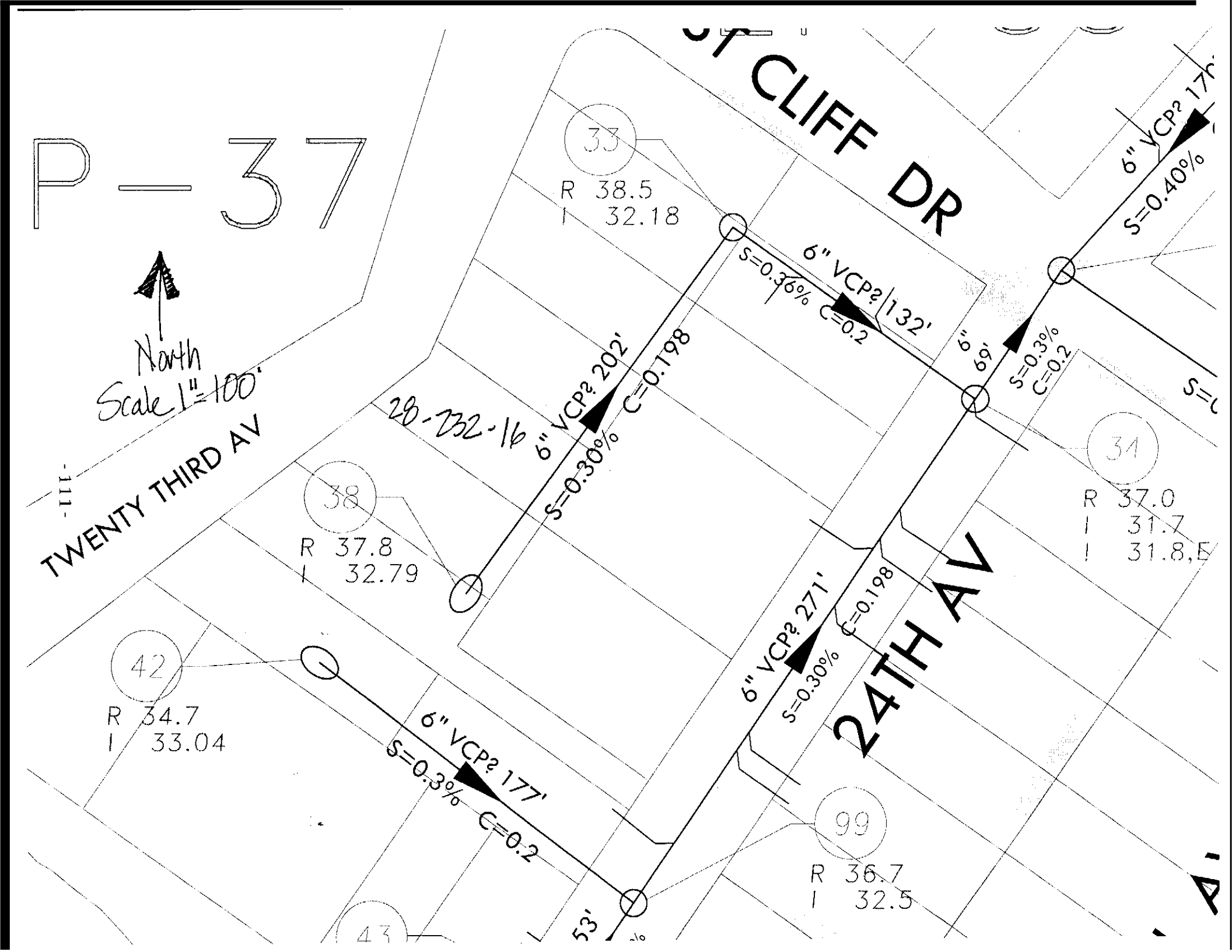
Show all existing and proposed plumbing fixtures on floor plans of building application. Completely describe all plumbing fixtures according to table 7-3 of the uniform plumbing code

Other: The existing public sewer line adjacent to the subject property is located toward the rear boundary of the lot and not in 23rd Avenue. Prior to approving the subject application, the applicant shall submit a plot plan showing the surveyed location of the sewer main and easement and a note that no permanent improvements shall be constructed in the easement. The surveyed location of the sewer main and easement shall also be shown on the plot plan of the building permit application.

DIANE ROMEO
Sanitation Engineering

DR/mta:220

Attachment
c: Survey
Applicant (w/a): Wayne Miller
P.O. Box 1929
Freedom, **CA** 95019
Property Owner (w/a): Val Vaden
P.O. **Box** 10195, Dept. 39
Palo Alto, CA 94303


P-37
North
Scale 1"=100'
TWENTY THIRD AV
ST CLIFF DR
24TH AV
28-232-16
33
R 38.5
I 32.18
38
R 37.8
I 32.79
42
R 34.7
I 33.04
99
R 36.7
I 32.5
31
R 37.0
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6" VCP? 202'
S=0.30% C=0.198
6" VCP? 132'
S=0.36% C=0.2
6" VCP? 271'
S=0.30% C=0.198
6" VCP? 177'
S=0.3% C=0.2
6" 69'
S=0.3% C=0.2
6" VCP? 17
S=0.40%
53'

COUNTY OF SANTA CRUZ

Inter-Office Correspondence

DATE: September 12, 2002

TO: Alvin James, Planning Director
Larry Kasparowitz, Planner
John Presleigh, Public Works

FROM: Supervisor Jan Beautz JB

RE: COMMENTS ON APP. 02-0432, APN 028-232-16, 23RD AVENUE

Please consider the following areas of concern in your evaluation of the above application to construct a single family home on a vacant parcel overlooking the public beach:

Extensive grading to a depth of seven feet or more appears necessary to construct the proposed 1,220 square foot lower level of this structure. Does such grading activity in close proximity to 23rd Avenue create stability issues for the roadway/bluff area and surrounding homes? 23rd Avenue is an extremely substandard roadway. Should additional right-of-way dedication and/or road improvements be required for this application?

This parcel is within the Coastal Zone and quite visible from the adjacent public beach. As such, will this be required to comply with the requirements of County Code Section 13.20.130, Design Criteria for Coastal Developments? County Code Section 13.20.130(a) (2) also indicates that a project must also comply with design criteria set forth in County Code Chapters 13.10 and 13.11, Design Review. The view that this structure presents to the beach area will be of a large, three story home. Will the applicant be providing axonometric views of this structure in relation to the surrounding neighborhood to determine visual compatibility with the existing neighborhood's character and scale?

This development proposes to omit a 1,220 square foot lower level from the County Code required number of stories and size calculations by designating it a basement. It appears that exterior perimeter wall sections having 5 feet 6 inches or more in height above grade may exceed the allowable 20% for a basement. Does this meet the County Code required definition of a basement as per County Code Section 13.10.700(b) to allow this level to be exempt from the

maximum number of stories and/or requirements of F.A.R.? How wiii this be addressed?

The applicant may not have included all required areas in determining compliance with Floor Area Ratio. County Code Section 13.10.323(c) requires that all floor areas be included in the calculation and that areas with ceiling heights greater than 16 feet be counted twice. It appears that the two story open area adjacent to the front entry/stairway may not have been correctly counted and the second floor bedroom closet may have been overlooked. Once these areas are included, the proposed structure may well exceed the allowable Floor Area Ratio. The exterior elevations also appear to indicate some of the deck areas covered by roof overhangs. However, insufficient information regarding overhang depth has been provided to determine if these areas would also be required to be included in calculations. Will this information be provided? Floor Area Ratio was established as an objective method to tie building size and mass to the size of the parcel, resulting in development providing a continuity of scale. No exceptions to the maximum allowable ratio should be allowed.

This three story structure will be quite visible from the beach. The proposed landscape plan planting schedule indicates that three different species of trees, 15 gallon in size, will be planted. However, the footprint for the planting schedule has no indication as to where any of these trees will be planted. Instead, the front yard is proposed to be landscaped entirely with ground cover and low shrubs. This will not offer sufficient visual mitigation for this coastal structure. How will this be addressed?

The front portion of this parcel has been designated as within the flood way/flood plain as well as FEMA Flood Zone A. From County maps it appears that this designation extends roughly 23 feet into the property from 23rd Avenue. Clearly, a portion of the proposed living area is within this designation. Is the proposed design appropriate given this designation or are modifications required to address this issue?

JKB:pmp

1613M1

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

September 23,2002

Larry Kasparowitz
Santa Cruz County Planning Department
701 Ocean Street, Suite 400
Santa Cruz, CA 95060-4073

Subject: ***Project Comments for Application Number 02-0432 (Vaden SFD on 23rd Avenue)***

Dear Mr. Kasparowitz:

Thank you for forwarding the above-referenced development proposal to our office for review. **We** received the brief project description you provided along with the proposed site plans that illustrate the project. In light of your request for comments, we provide the following.

- The proposed project is prominently located in an important public viewshed location atop the beach fronting Corcoran Lagoon. The proposed project must be evaluated in this context. Accordingly, **we** note that Countywide maximum considerations of mass and scale (such as height, lot coverage, and floor area ratio) may not be applicable here; these maximums are not entitlements, but rather maximums that may need adjustment in light of resource constraints (beach viewshed, scenic road, etc.).

- We note that the project plans you forward propose development that exceeds a number of applicable Local Coastal Program (LCP) standards that are designed to ensure the appropriate mass and scale of coastal development. Specifically, a 20 foot minimum front setback is required, and 15 is proposed; side yard setbacks of 5 and 8 feet minimum are required, 5 and 5 are proposed; a 28 foot height is the maximum allowed, and the height exceeds 30 feet; a 30% maximum of site coverage is allowed, and roughly 50% of the parcel (about 2,000 square feet) is covered. As to allowable number of stones and FAR, the plans are a bit misleading and unclear. If the garageibasement is to serve as a garage (to satisfy parking requirements), it must have a vertical clearance of at least 7% feet; the plans show a 7 foot height. A 7% foot garage height also means it must be counted as a story and in the **FAR** calculations. The SFD would thus be proposed at **3** stories when 2 are the maximum allowed (note that irrespective of Zoning Code technicalities, the appearance from the critical beach/East Cliff Drive viewshed would be of a 3-story residence regardless), and would have an FAR in excess of 50% (and greater than 80% if the entirety of the garageibasement is so counted), when 50% is the maximum allowed. These proposed deviations from LCP requirements require variances (although the project description that you forwarded does not indicate this fact). Please note that we are not supportive **of** development within this critical beach viewshed that cannot be constructed within the established LCP mass and scale limits.

- The plans do not identify improvements that would need to be made to 23rd Avenue to enable access to the site. Please have the applicant clarify this and provide plan sheets with all

drainage and other such improvements noted in relation to topography. We note as well that 23rd Avenue provides public access from East Cliff Drive to the beach via a path fronting this property and extending seaward. We further note that the Commission has found that 23rd Avenue is a public road right-of-way and is not supportive of development that would reduce the public's ability to use this resource. We note, for example, that past proposed developments along 23rd Avenue have included companion measures to quit-claim and/or quiet title away the County's interest in the 23rd road right-of-way. Such measures are un-supportable at this location. On the contrary, we note that the Commission has found that more – not less – public access is appropriate for 23rd Avenue. In 2000, the Commission found:

> *...**23rd Avenue is** designated in the LCP **as a** neighborhood accessway for **which the development of pathways and public amenities is to be pursued (LUP Policies** 7.7.18 **and** 7.7.19). *LUP* **Policy dictates that such publicly owned lands be utilized where possible for pedestrian trails. Likewise, 23rd Avenue provides a stunning coastal vista to the northwest for which the LCP encourages the development of vista points and overlooks with benches and railings. and facilities for pedestrian access** to *the beaches* **(LUP Policy** 7.7.1).*

It is within this context that any 23rd Avenue improvements should be considered. In fact, we recommend that any improvements to 23rd Avenue (to serve this or other developments located there) should be contingent upon providing enhanced public access improvements and amenities. We further note that the blufftop location fronting the subject parcel has been specifically identified by the Commission in the past as an appropriate view overlook area where development to support this public use should be pursued.

- The edge of bluff top is not identified on the proposed project plans. Please have the applicant clarify this and provide proof as to the geotechnical stability at this location over the next 100 years as required by the LCP. Please have the applicant forward copies of any geologic and/or geotechnical reports to this office when they become available. In addition, we note that such stability issues necessary must be understood in relation to any improvements to 23rd Avenue. As such, please ensure that the geotechnical analysis addresses any proposed improvements in the right-of-way as well.

- Corcoran Lagoon is not identified on the proposed project plans. We note that Corcoran Lagoon temporally occupies that area of the beach below the subject property. Absent notation on the plans, it is difficult to verify the setback that this development would maintain from this resource. Depending on the distance to the Lagoon edge (at times at the foot of the bluff here), please ensure that any required biotic reports are completed as applicable and copies forwarded to this office when they become available. It is possible that a riparian exception would need to be considered to allow development at this site.

- The planting plan proposed identified non-native species, including ice plant. We do not support the use of such non-native species along the coastal bluff; and are particularly opposed to the use of ice-plant. Please note that we have a native planting palette available designed for

work along coastal bluffs.

- In sum, the proposed project appears over-scale for this small site in the beach/East Cliff Drive viewshed. Although we are generally supportive of the architectural detailing proposed (that provides for some interesting articulation), we are concerned that the project scale as proposed may have an overhearing negative impact on the public viewshed inconsistent with the Local Coastal Program's viewshed and character compatibility directives for development in such a location. We recommend that project modifications he pursued to reduce the scale of the development proposed and to eliminate variances from LCP requirements. **Any** improvements to 23rd Avenue should include public access improvements on the beach side of 23rd, and should not lessen the public's right of access.

Thank you for the opportunity to comment in the development stage of this project. We hope that the above comments help to frame the coastal permitting decision in this matter and that the best possible project – one that is respective of the special site location – can be developed here. If the project is modified, please forward any additional project plans for review. In any event, we may have more comments for you on this project after we have seen additional project information, geotechnical analysis, biotic reports, or revisions. If you have any questions, please do not hesitate to call me at (831) 427-4893.

Sincerely,

Dan Carl
Coastal Planner

cc: Wayne Miller (Applicant's Representative)

STATE OF CALIFORNIA - THE RESOURCES AGENCY GRAY DAVIS, Governor

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877

October 1,2002

Larry Kasparowitz
Santa Cruz County Planning Department
701 Ocean Street, Suite 400
Santa Cruz, CA 95060-4073

Subject! ***Project Comments for Application Number 02-0432 (Vaden SFD on 23rd Avenue)***

Dear Mr. Kasparowitz:

We received your September 25, 2002 letter, written in response to our September 23, 2002 comments, in which you clarify for the applicant that a number of variances would be necessary to allow the development as proposed in the above-referenced application. We appreciate your clarifying these issues for the applicant. That said, we note that your September 25" letter also includes a "site development standards" table and a highlighted copy of the Zoning Code 13.10.323 site and structural dimensions requirements presumably applicable to this parcel; these require additional clarification.

Please note that highlighted chart that you provided (and by inference the table) refers to the incorrect R-1-4 standards. Because the parcel is less than 4,000 square feet, the standards cited in our September 23, 2002 letter are the standards that apply to this proposed project (see September 23,2002 letter attached). Please make corrections as necessary.

Also, we do not understand how you arrived at the FAR, height, and coverage figures associated with the proposed residence as shown in your table. Again, based on the plans that we reviewed (dated August 20, 2002), these figures would be much higher in each case (again, see September 23,2002 letter attached). Please clarify and/or make corrections as necessary.

At any rate, thank you for the project clarifications. Please continue to consider our previous comments as you review this project (provided herein to ensure that the broader list of recipients associated with your letter have the benefit of all associated correspondence). As always, please don't hesitate to contact me if you have any questions or would like to discuss this further.

Sincerely,

Dan Carl
Coastal Planner

Enclosure: September 23, 2002 project comments for 02-0432

cc: Supervisor Jan Beautz
Val Vaden (applicant)
Wayne Miller (applicant's representative)
Ralph Borelli (neighbor)

G:\Central Coast\P & R\SCO\2. Live Oak\5. 26th (23rd - Soquel Point)\02-0432 (Vaden SFD) comments 10.1.2002.doc

EXHIBIT D

September 19, 2002

Mr. Larry Kasparowitz, Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa Cruz, CA 95060

Subject: Development Application 02-0432, 23rd Avenue, Santa Cruz County

Dear Mr. Kasparowitz:

It has come to my attention that a development application (referenced above) was recently filed for a vacant parcel on 23rd Avenue. As owner of the home at 90 23rd Avenue, which is adjacent to the subject property, I have done considerable research in regard to the development constraints on the subject property. Although the County's review of the development application will undoubtedly uncover the issues I raise, I feel it is important to state them here for the record.

Although the current development application does not include it, there is a second vacant parcel that is adjacent to, and south of, the subject property. These two parcels are currently in common ownership. The results of my research indicate that, given the significant development constraints on both of the vacant parcels, it will probably be necessary to combine the parcels to create one buildable lot. As such, I believe it is essential to process development applications for both lots concurrently. The attached sketch shows the modest developable area of both lots (combined) that would remain after dedication for an adequate emergency vehicle turnaround.

In order to provide access *to* the subject property, 23rd Avenue would have to be extended. I believe that County General Plan Section 16.10 requires that any road extension be set back at least 25 feet from the top of the coastal bluff. Although the current applicant's plans do not show the location of the bluff, I believe, based upon previous surveys, that the bluff is only 15 to 20 feet from the front property line of the subject property. It will, therefore, be difficult to provide access and an adequate turn-around for emergency vehicles without dedicating a significant portion of the subject property or involving the other vacant parcel. Any dedication for roadway purposes will reduce the "Net Developable Area" of the property, thereby reducing the size of the home that could be built. Even with no dedications, and excluding the basement, the proposed structure comes within 1% of the maximum Lot Coverage and maximum Floor Area Ratio for the R-1-4,000 zoning district.

The access issues affecting the property are well documented. The County Public Works Department, in their review of Coastal Development Permit 00-0671 for the adjacent vacant lot, requested a 36-foot wide street with 4-foot sidewalks (on each side) separated from the street by 4-foot landscaped strips. They also questioned the adequacy of the sight distance at 23rd Avenue and East Cliff Drive and required an analysis of this issue by a qualified engineer. Central Fire Protection District (CFPD) stated that the County of Santa Cruz should require an adequate turn-around for emergency vehicles at the end of 23rd Avenue. As you may be aware, Coastal Development Permit 00-0671 was never completed and was eventually withdrawn by the applicant.

The project plans lack a Grading Plan prepared by a licensed Civil Engineer. The issues of bluff location, grading, site drainage, sewer location, retaining walls, erosion control and slope stability have not been adequately addressed. The preparer of the plans appears to be a building designer, not a Civil Engineer, and would therefore be unqualified to provide this information. Still, the County should request that the applicant provide this information. In addition, there is some discrepancy with regard to the boundary of the subject property. In order to resolve this situation, I believe the County should require the applicant to provide a boundary and topographic survey prepared by a licensed Land Surveyor. Of particular concern to me is the proposed basement excavation in close proximity to my home. At the rear of the proposed structure, the depth of the excavation would be 9 to 10 feet at a distance of approximately 9 feet from my home. I request that the County require the applicant's Soils/Geotechnical Engineer to analyze this issue in detail.

The review of the project plans by Supervisor Beautz (memo dated September 12,2002) raises many important'points. One of these issues was neighborhood compatibility. To adequately analyze this issue, I request that the County require the applicant to submit a photomontage, showing how the proposed home would fit between the existing homes. The vantage point of this photomontage should be the beach. This would allow Planning Staff to analyze the proposal in light of County Code Section 13.20.130. Supervisor Beautz also notes that there is reason to believe that the lower floor of the proposed home may not comply with the County's definition of a basement and should therefore be included in the Floor Area calculation. Also of concern to Supervisor Beautz was the possible miscalculation of Floor Area. The applicant should be required to submit detailed supplemental calculations to conclusively establish the proposed Floor Area.

In order to build on the subject property, I believe additional development applications must be filed. Construction of an access road to the property, regardless of whether it meets County of Santa Cruz and CFPD's standards, will require an exception to the 25-foot Coastal Bluff Setback and a Riparian Exception for its proximity to Corcoran Lagoon. In addition to the required architectural and civil engineering plans; the application must include the geotechnical, soils, and hydrologic information necessary to prove that a reduction of the Coastal Bluff Setback is warranted. If the parcel size is reduced by roadway dedications, it is likely that the application will need to include a Variance to other development standards such as Building Setbacks, Minimum Net Developable Area, Lot Coverage, and Floor Area Ratio.

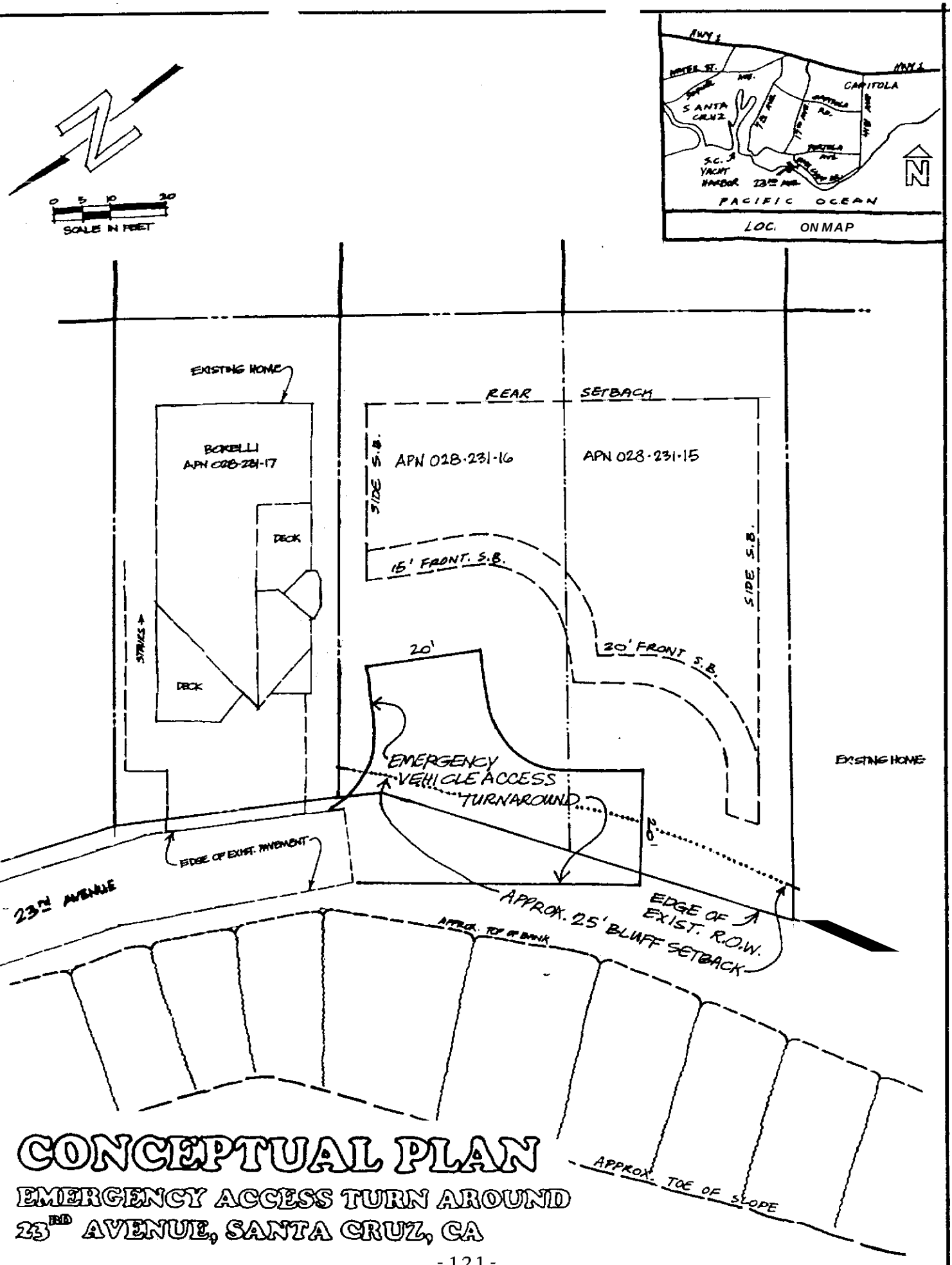
I respectfully request to be copied on all County correspondence related to this file as I wish to review all future submittals by the applicant. Thank you for your attention to this matter.

Very truly yours,

Ralph Borelli

Ralph Borelli
90 23rd Avenue
Santa Cruz, CA 95062

cc: Jan Beautz, District 1 Supervisor
Dan Carl, Coastal Commission
Mark Carlquist, Esq.



CONCEPTUAL PLAN

EMERGENCY ACCESS TURN AROUND
23RD AVENUE, SANTA CRUZ, CA

BOLTON HILL
COMPANY

September 27. 2002

Mr. Larry Kasparowitz. Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa Cruz. CA 95060

Subject: Development Application 02-0432, 23rd Avenue, Santa Cruz County

Dear Mr. Kasparowitz:

On behalf of my client, Mr. Ralph Borelli. I ani enclosing two pictures of 23rd Avenue to aid you and the County Geologist in your review of the application referenced above. 4 s the photos show. portions of the 23rd Avenue roadway already appear to be unstable. It was surprising to us that the County's comment letter dated September 24. 2002. (the "completeness" dererniination) did not require the applicant to submit a **full** Geologic Report due to the close proximity of proposed excavation to my client's home and the close proximity of proposed construction to the coastal bluff. The need for a Geologic Report was documented in a previous application (File #00-0671) for a similar proposal.

The completeness letter also failed to mention the applicant's need for a reduction to the minimum Coastal Bluff Setback as required by County Code Section 16.10.060(h)ii. One can determine from a site visit that any extension of 23rd Avenue will require encroachment into the minimum Coastal Bluff Setback of 25 feet. Since the basis for an exception to this standard will be the ability of the bluff to provide a stable area for development over the 100-year life of the improvements. we believe that the County should have required a full Geologic Report.

In addition. it appears that the applicant would have to apply for a Riparian Exception, pursuant to County Code Section 16.30.060. to reduce the required buffer zone adjacent to Corcoran Lagoon. The completeness letter also failed to disclose this to the applicant. Since the basis for an exception would be the level of potential environmental damage caused by the development, we believe that the County should have required the applicant to submit a Biotic Report as described in the Coastal Commission's letter to the County dated September 23, 2002.

According to County records and the applicant's plans, the parcel is already less than the minimum size required by the R1-4.000 zoning district. We believe the completeness letter should have described the process to allow a variance to this development standard and required submittal of the appropriate application by the project proponent.

BOLTON HILL COMPANY. INC. 303 Potrero [illegible] Suite 42-204 • Santa Cruz, CA 95060 • Fax: 831/471-2300
Norman Schwartz 831/457-8696 norman@boltonhill.net ▪George Smith [illegible] george@boltonhill.net • Todd Graff 831/457-5782 todd@boltonhill.net

We don't believe the issue of neighborhood compatibility, raised by Jan Beautz in her memo dated September 12, 2002, has been adequately addressed by the County. My client, in his letter to you dated September 19, 2002, requested that the applicant be required to submit a photomontage looking fi-om the beach toward the proposed development. We believe that such an exhibit. which includes existing homes: will be necessary to determine whether the proposed development is "visually compatible.. with the neighborhood as required by County Code Section 13.10.130.

We respectfully request that the County inform the project applicant of these items as soon as possible. We believe that submittal of the information described above is an essential step in analyzing the impacts of the proposed development. We will stay in touch with you during the review of this application. We look forward to reviewing each of the applicant's submittals. Thank you for your attention to this matter.

Very truly yours.
Bolton Hill Company

'Todd Graff
Project Consultant

cc: Mr. Joe Hanna, County Geologist
bls. Jan Beautz. County Supervisor
Mr. Dan Carl, Coastal Commission
Mr. Ralph Borelli
Mr. Mark Carlquist. Esq.

23rd Avenue @ E. Cliff
County File #: 02-0432

Photo 1 09/24/02

Photo 2 09/24/02

BOLTON HILL
COMPANY

June 9.2003

Mr. Larry Kasparowitz
Santa Cruz County Planning Department
701 Ocean Street. 4th Floor
Santa Cruz, CA 95060

Subject: File #02-0432, 23rd Avenue, Santa Cruz County

Dear Mr. Kasparowitz:

Since we believe it is in the best interest of everyone involved. including my client. to ensure that the County provides accurate and timely information to the applicant. we have compiled this list of issues associated with the project referenced above. These items are not new. They were raised in a letter to you from my client, Ralph Borelli, dated September 19, 2002. and in a letter from me dated September 27, 2002. Many of these issues were raised by Jan Beautz in her memo dated September 12. 2002, and in a letter from the Coastal Commission dated September 23, 2002. We restate them here because we believe that they have not been adequately addressed by the County.

Emergency Access Turnaround

It appears that the Planning Department is taking a "hands off' approach to the issue of extending 23rd Avenue by waiting for the applicant to negotiate a solution with Central Fire District. We believe that this approach is unproductive for all involved. My client's September 19. 2002. letter makes it clear that the configuration and location of this turnaround will directly affect many planning-related issues such as the Net Developable Area of the property. required setbacks from the turnaround. Floor Area Ratio, Lot Coverage and even whether this property will be developed as a single lot. We urge the Planning Department to take an active role in this discussion since. if a solution cannot be found, then all the time and money spent on other issues will have been wasted. This benefits no one.

Bluff Setback

After repeated requests. the Count); Geologist recently visited the property and determined (according to Robert Loveland) that the bluff fronting the property is indeed a "Coastal Bluff' as defined by the County Code. Therefore. we respectfully request that the applicant be notified; in writing. that the 25-foot Coastal Bluff setback applies to the project. In zddition. since it is clear from the applicant's topographic survey, that any connection to the paved portion of 23rd Avenue

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will violate the bluff setback requirement, we respectfully request that the applicant also be notified. in writing. that they will be required to file an exception to this standard. We believe that this is an important issue that is directly related to the completeness of the application. As such, it should have been mentioned in your correspondence to the applicant dated September 24, 2002, and April 18.2003.

Consistency with Basement Definition

1 have reviewed your fax to me, dated June 2, 2003, wherein you conclude that the proposed basement/garage/storage room does not constitute a story since not more than 20% of the perimeter wall exceeds 5' 6" in height above the exterior grade. Again, my client and I respectfully disagree and wish to voice the following concerns with regard to your decision.

First, based upon our review of the file; no Grading Plan has ever been submitted. In the absence of this plan. it seems unlikely that you could conclusively determine the exterior grades. It then follows that you would be unable to determine whether or not the perimeter wall is exposed to a height of more than 5' 6". If you're relying exclusively on the floor plans and the elevation drawings, we believe that you're relying on incomplete and inconclusive information.

Second. even if you are willing to assume that a retaining wall will be proposed at the fi-ont left comer of the house (to reduce the exposed perimeter), we believe your calculation of the exposed portion of the perimeter is still incorrect. The dimensions of the exposed walls on youi- fax are 10'+9'+12' = 31'. The floor plan for this story (on sheet 3) shows these dimensions as 14'+9'(not dimensioned)+10' = 33' or 21.7% ofthe 152' perimeter. For these reasons. we believe that your previous correspondence to the applicant should have indicated that the applicant was in violation ofthis requirement and should either revise the plans or apply for a Variance.

Substandard Front Setback to Garage

It appears that the proposed setback to the garage is 16' where 20' is required by County Code. We could find no evidence in the file that you have requested a redesign or a Variance application to he submitted by the applicant.

Neighborhood Compatibility

Both Jan Beautz and the Coastal Commission included this issue in their correspondence to you. It appears from the file that you have made a determination that the proposed home is "visually compatible" with the neighborhood as required by Section 13.20.130. However. no rationale for this determination is included in the file. If it is available, we would be very interested in reviewing your rationale.

We believe that. if the issues raised in this letter are not resolved during the staff review process, they will come out during the public hearing process or the appeal processes. Therefore. we firmly believe that all issues should be addressed at this time. Please consider this letter a request to be copied on all correspondence relating to this application in accordance with County Code Section 18.10.223. If there is a fee for this, please let us know and we will submit it immediately. Thank you for your attention to this matter.

Very truly yours.
Bolton Hill Company

Todd Graff
Project Consultant

cc: Jan Beautz. County Supervisor
Dan Carl. Coastal Commission
Ken Hart. County Environmental Planning
Jeanette Lambert. Central Fire District
Ralph Borelli
Mark Carlquist, Esq.

Jonathan Wittwer
William P. Parkin
Shandra Dobrovolny
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PARALEGAL
Jana Rinaldi

Hand Delivered at Approximatelv 4:00 p.m. on November 14,2003

November 14,2003

Larry Kasparowitz, Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa CNZ, CA 95060

Re: Application # 02-0432 for Development of APN # 28-232-16 (23rd Avenue)

Dear Mr. Kasparowitz:

My firm represents the interest of Ralph Borelli, the owner of the home at 90 23rd Avenue: a parcel adjacent to the above referenced property. **As** expressed in his correspondence with your office commencing shortly after the initial above-referenced application for development was submitted on August 23, 2002. Mr. Borelli is concerned that the land use regulations be applied properly to this application.

One major item of concern which has not been adequately addressed is that this proposed single-family dwelling will be constructed on a parcel with a coastal bluff fronting the property. The Geology Report by Nielsen & Associates submitted on behalf of the Applicant acknowledges that the parcel includes a "coastal bluff." As you are aware, developments on coastal bluffs are subject to additional development restrictions, including the setback requirements of Santa Cruz County Code (hereinafter "County Code") Section 16.10.070(h).

Additional Requirements for Development on Coastal Bluffs

The County Code defines a coastal bluff as follows: "**A** bank or cliff along the coast subject *to* coastal erosion *processes."* Pursuant to County Code Section 16.10.070(h)(1), projects subject to coastal bluff erosion must meet several requirements.

One such requirement *is* a 25 foot setback from the top edge of the coastal bluff. County Code Section 16.10.070(h)(1)(ii) provides that:

[f]or all development [in areas subject to coastal bluff erosion], including that

> which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.'

Significantly, the required setback is at least 25 feet

Both "development" and "structures" are defined in the County Code to include a road and utilities. Not only must single-family dwellings be outside the 25 foot minimum setback, but any roads or driveways are also required to be outside this setback. This is because, pursuant to County Code Section 16.10.070(h)(ii), "for all **development** . . . and for non-habitable **structures,** a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff." (Emphasis added.) **A** road qualifies as "development," as that definition includes "[c]onstruction of **roads,** utilities, or other facilities." County Code Section 16.10.040(11) (emphasis added). The County Code defines "structure" as "[a]nything constructed or erected which requires a location on the ground, including, but not limited to, a building, manufactured home, gas or liquid storage tank, **or facility such as a road,** retaining wall, pipe, flume, conduit,

---

* The "Geologic Report of Two Properties One of Which Is Proposed for a New Single Family Home" (Nielsen 7/2003–hereinafter "Nielsen Report") concluded in its 100-year site stability determination that the properties were likely to remain stable for a minimum of 100 years. However, the Nielsen Report acknowledges that wave erosion was completely blocked until the storms of 1982 and 1983 when old East Cliff Drive was washed away. In assessing the stability of the site, the Nielsen Report observes that if the properties were unstable, they would have eroded during the El Nino year of 1997. It concludes that because erosion did not occur, the sites are likely to remain stable for a minimum of 100 years.

Based on our consultation with a geotechnical firm, we believe this determination lacks sufficient factual basis because of the lack of adequate passage of time since old East Cliff Drive was washed away. Simply because there was little erosion during 1997 does not determine how much erosion is likely to occur over the 100-year period after old East Cliff Drive washed away. This is particularly true in light of the fact reported to me by my client that riprap was installed at the toe of the bluff in close proximity to the subject site and was removed in only the last 18 months at the request of the regulating authority. This riprap could have affected the erosion pattern during the 1997 El Nino year. In addition, the assessment was based on only one boring deeper than eleven feet and a slope stability analysis with back up laboratory test data should also be performed. Thus, the Neilsen Report does not contain adequate information to make this 100-year site stability determination.

siphon, aqueduct, telephone line, electrical power transmission or distribution line." County Code Section 16.10.040(3k) (emphasis added).

Appendix B of the Nielsen Report shows that the development of the road, parking, and utilities on this parcel is less than 25 feet from the top edge of the coastal bluff.

Exception to Coastal Bluff Setback Requirement

A request for an exception to the coastal bluff setback requirement "may be considered by the Planning Director if the exception is necessary to mitigate a threat to public health, safety and welfare." County Code 16.10.100(a). This is a very strict standard. The application for an exception is initiated by the applicant upon filing a written request stating why the exception is requested, the proposed substitute provisions, when the exception would apply, and the threat to public health, safety, or welfare that would be mitigated. County Code Section 16.10.100(b). No exception to the 25 foot setback requirements applicable to the subject property has been considered because the Applicant has not made such a request. Hence, the application must be deemed incomplete.

In the event such a request is subsequently filed, four findings must be made in order for an exception to be granted. See County Code Section 16.10.100(c). First, it must be found that a hardship, as defined in County Code Section 16.10.040(2j) exists. County Code Section 16.10.100(c)(1). County Code Section 16.10.040(2j) defines hardship as follows:

> Hardship. . . means the exceptional hardship that would result from failure to grant the requested Exception. The specific hardship must be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of neighbors also cannot qualify as exceptional hardship, as these problems can be resolved through means other than granting an Exception, even if those alternative means are more expensive, require a property owner to build elsewhere, or put the parcel to a different use than originally intended or proposed. Section 16.10.040(2j).

Being limited to building a smaller single-family dwelling on an existing parcel (due to a need to relocate road and utilities) does not meet the definition of hardship.

Second, the Planning Director must find that the project is necessary to mitigate a threat to public health, safety, or welfare. County Code Section 16.10.100(c)(2). This is an exceptionally strict standard and very difficult to satisfy with regard to development of a property with a private single-family dwelling. In determining what constitutes a threat to the public health, safety, or welfare, our courts have considered the approval of permits for a major

subdivision as that threat because it could fundamentally alter the current way of life for the residents of the county. *See 216 Sutter Bay Associates v. County* of *Sutter* (1997) *58* Cal.App. 4th 860, 868. **A** threat to public health, safety, or welfare necessarily affects the community at large. For this finding to be made as related to the above referenced application, it must be determined that it is necessary to develop the parcel with the single-family dwelling, at the size and in the location proposed, to mitigate a threat to the community at large. This finding simply cannot be made.

The third finding which must be made is that the request must be for the smallest amount of variance from the coastal bluff setback requirements as possible. County Code Section 16.10.100(c)(3). This finding cannot be made either for the current proposal.

Finally, the County Code requires that for an exception to be granted, a finding must be made that adequate measures will be taken to ensure consistency with the purposes of the Geologic Hazards Chapter of the County Code and with the County General Plan. County Code Section 16.10.100(c)(4). One notable purpose of the chapter on geologic hazards is "[t]o set forth standards for development and building activities that will reduce public costs by preventing inappropriate land uses and development in areas where natural dynamic processes present a potential threat to the public health, safety, welfare; and property." County Code Section 16.10.010(c). This finding cannot be made without further study of the stability of the site and demonstrating the stability of the coastal bluff over the next 100-year period.

Conclusion

This letter requests that the Planning Department find this application incomplete due to the failure of the Applicant to include a request for Exception in his application.**

Very truly yours,

WITTWER & PARKIN, LLP

Jonathan Wittwer

cc: Todd Graff
Client

** There are other reasons why this application should not be deemed complete, which we will be addressing in a subsequent letter. We are submitting this letter at this time in order to raise this issue as soon as possible because it impacts so many other aspects of the application.

Jonathan Wittwer
William P. Parkin
Shandra Dobrovolny
Andrea M. Kendrick

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PARALEGAL
Jana Rinaldi

November 24,2003
DELIVERED BY FASCIMILE TO (831) 479-6848
November 24.2003

Board of Appeals
Central Fire Protection District
930 17th Avenue
Santa Cruz, CA 95062

ATTN: Fire Chief Bruce Clark

Re: NOTICE OF APPEAL
Application for Development # 02-0432 (23rd Avenue)
APN # 028-232-16

Honorable Board:

My firm represents the interests of Ralph Borelli, the owner of the home at 90 - 23rd Avenue, adjacent to APN #28-232-16 on 23rd Avenue, a lot upon which an application for development is currently active. Mr. Borelli is a beneficially interested party and is concerned that the Fire District's regulations, which serve to protect the safety of adjacent properties and the community by providing adequate access to all properties, be properly applied to this development application.

Mr. Borelli hereby appeals the Order of the Fire Chief that the Fire District will not require a turnaround with the currently active development Application # 02-0432.

Ralph Borelli's address is 90 – 23rd Avenue, Santa Cruz, California. He may also be reached at 1770 Technology Drive, San Jose, California, 95110. Please mail all correspondence regarding this appeal to me at the above address.

As you *are* aware, Todd Graff of the Bolton Hill Company is **also** representing Mr. Borelli to protect any interest which may be compromised as a result of this proposed development. He has informed me of the details of a conference call between Fire Chief Bruce Clark, Fire Marshal Jeanette Lambert, and himself. He has reported to me the following details of that call:

(1) The Fire District will not require a turnaround with the currently active development Application # 02-0432.

(2) The Fire District will require a turnaround should a development application be filed on the adjacent vacant lot, APN #28-232-15.

(3) The Fire District's position on development application # 02-0432 is that the structure as proposed is within the access limits of the Fire Code (given the mitigating factors of a new fire hydrant on the comer and the fire sprinklers included in the structure).

(4) The Central Fire Protection District only makes recommendations to the Planning Department and has no enforcement authority.

(5) There is no appeal process for staff recommendations from the Central Fire Protection District.

We have subsequently obtained a copy of the Central Fire Protection District Fire Code which includes appeal provisions at Section 34.103.1.4 and following. Hence **we** are filing this appeal.

Turn-around for Application # 02-0432

Central Fire Protection District FPB-59 **Access** *Road Requirements* Access Road Specifications *(5)* states that "[a]ny access road more than 150'in length must be provided with an approved turn-around." The length of the road as proposed is in excess of 150 feet.

The Central Fire Protection District is required to provide a turnaround for all new development for access roads in excess of 150 feet in length pursuant to the Santa Cruz County General Plan section on ***Fire*** *Hazards:* ***Access*** *Standards.* Santa Cruz County General Plan, Objective 6.5.1. provides:

> Require all new structures, including additions of more than 500 square feet, to single-family dwellings on existing parcels of record, to provide an adequate road for fire protection in conformance with the following standards:
>
> * * *
>
> (h) A turn-around area which meets the requirements of the fire department shall be provided for access roads and driveways in excess of 150 feet in length.

We recognize that General Plan Section 6.5.2, provides an exception to the standards of the section at the discretion of the Fire Chief for single-family dwellings on existing parcels of

record when the access road is acceptable to the Fire Department having jurisdiction. However, the Fire Department should not deem this access road as acceptable because a turn-around is required to protect the safety of the other homes in the neighborhood. Furthermore, this is a unique situation because the adjoining property is owned by the same owner and the Fire Chief desires to have the fire vehicle turn-around master-planned with that adjoining parcel.

Turnaround on Adiacent Vacant Lot

Mr. Graff reported that the Fire District will require a turn-around should a development application be filed on the adjacent lot. In addition, he explained that because the District is aware that both lots have the same owner, the District intends to discuss the situation with the owner and ask him to master plan the turn-around.

A subsequent owner may claim that it is an unfair burden to bear the entire responsibility for constructing a turn-around which would reduce the size on that one parcel. The current applicant should be required to bear one-half the burden for the turn-around to assure adequate access is available and to conform to the requirements of Santa Cruz County.

Thank you for your consideration of our concerns.

Very truly yours,

WITTWER & PARKIN, LLP

Jonathan Wittwer

cc: Larry Kasparowitz, County of Santa Cruz Planning Department
Todd Graff
Client

Jonathan Wittwer
William P. Parkin
Shandra Dobrovolny
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PARALEGAL
Jana Rinaldi

December 8, 2003

Chief Bruce Clark
Central Fire Protection District
930 17* Avenue
Santa Cruz, CA 95062

Re: Application for Development # 02-0432 (23rd Avenue)
APN # 028-232-16

Dear Chief Clark:

This letter is to confirm our telephone conversation on December 4, 2003 in which Fire Marshal Jeanette Lambert also participated. In that conversation you informed me that your District had notified the Planning Department of the County of Santa Cruz that the Fire District has not yet made a final decision whether to require a turnaround for the above-referenced application for development. You stated that the issue has been sent back for letermination.

Phil Passafuime, the Fire District attorney, informed me that, given that a final decision has not been made, the appeal which we submitted on November 24, 2003 will be on hold until the Fire District makes a final decision.

In addition, this will confirm that Ralph Borelli and Todd Graff will be meeting with you on December 16, 2003 at 10:00 a.m. to informally discuss the situation.

Sincerely,

WITTWER & PARKIN, LLP

Jonathan Wittwer

cc: Phil Passafuime, **Esq.**
Larry Kasparowitz, County of Santa Cruz Planning Department
Todd Graff
Client

Jonathan Wittwer
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PARALEGAL
Jana Rinaldi

November 26.2003

HAND DELIVERED ON NOVEMBER 26.2003

Mr. Larry Kasparowitz, Project Planner
County of Santa Cmz
701 Ocean Avenue, Room 400
Santa Cruz, CA 95060

Re: Application # 02-0432 for Development of APN # 28-232-16 (23rd Avenue)

Dear Mr. Kasparowitz:

On behalf of my client, Ralph Borelli, the owner of the home at 90 - 23rd Avenue, we submit that the above referenced Application should not be recommended for approval to any County decision-making body absent additional information which enables the required findings to be made. Development of the parcel as proposed does not meet the requirements of the Santa Cruz County Code ("County Code") and the County of Santa Cruz General Plan ("General Plan") for the reasons explained in this letter. Hence, we do not believe the findings can be made.

Turnaround for Fire District Access

We have enclosed a copy of the letter which we have sent to the Central Fire Protection District appealing any Order the Fire Chief may have made as to a turnaround for fire vehicle access regarding the subject Application. We have also confirmed in that letter the conversation between the District Fire Chief Bruce Clark, District Fire Marshal Jeanette Lambert and Todd Graff (consultant for Mr. Borelli) which included the following:

(1) The Fire District will require a turnaround should a development application be filed on the adjacent vacant lot, APN #28-232-15. In addition, the Fire Chief explained that because the District is now aware that both lots have the same owner, the District intends to discuss the situation with the owner and ask him to master plan the turnaround.

(2) The Central Fire Protection District believes that it only makes recommendations to the Planning Department and has no enforcement authority.

Furthermore, County of Santa Cruz General Plan 6.5.1(h) requires that a turnaround shall be provided for access roads and driveways in excess of 150 feet in length. Twenty-Third Avenue

clearly exceeds 150 feet in length. Thus, according to the General Plan, there must be a turnaround. The fire department then decides the requirements of this turnaround. General Plan Section 6.5.2.

A subsequent owner of APN # 28-232-15 (the adjacent property currently owned by the Applicant) may claim that it is an unfair burden to bear the entire responsibility for constructing a turnaround which would reduce the developable area on that one parcel. The current Applicant should be required to bear one-half the burden for the turnaround to assure adequate access is available and to conform to the requirements of Santa Cruz County.

Furthermore, our office was informed yesterday morning by Todd Graff (following a telephone conversation with you yesterday) that it is your understanding that the Central Fire Protection District has not taken a final position on the fire turnaround issue. Whatever the case may be, in the interest of safety for all the property owners on 23rd Avenue, we request that a turnaround be required in connection with this Application.

Sight Distance

An adequate sight distance for exit onto East Cliff Drive must be provided to ensure safe access. In comments on the subject Application, the County Department of Public Works stated on October 2, 2002 that the plans must:

> "[i]ndicate the sight distance at the intersection of 23rd Avenue and East Cliff Drive. If sufficient sight distance is not available (250 feet minimum) a sight distance analysis must be performed by a qualified engineer."

Our review of the records does not reveal that this site distance determination was ever undertaken. We request that this information be provided by the Applicant prior to any recommendation being prepared for the Zoning Administrator.

Drainage and Grading Plan

The County Department of Public Works comments on September 24 requested that a Civil Engineer address the condition of the gutter on 23rd Avenue and a point of release for runoff into the gutters for this road. The review questioned whether runoff from this development will encourage any erosion to the bluff in front of the proposed home. This item was still outstanding as of May 20,2003 and we have found no evidence that a Civil Engineer has addressed these issues. Pursuant to County Code Section 16.22.070, runoff from activities subject to a building permit shall be properly controlled to prevent erosion.

We contend that the design plan is deficient because it does not provide finished grades on the bluff side of the driveway. Therefore, it is impossible to determine where runoff will be directed. Given the existing topography, it appears that fill will have to be placed under the bluff-side portion of the driveway. If fill is proposed, the Applicant's geotechnical engineer should review and comment on the feasibility of this proposed design. The geotechnical engineer review should be made available to the public when completed and well in advance of any public hearing.

Lower Floor/Basement

The Applicant has not demonstrated how the lower floor qualifies as a basement. Pursuant to County Code Section 13.10.700-B, "[t]o qualify as a basement more than 50% of the basement exterior perimeter wall area must be below grade and no more than 20% of the perimeter exterior wall may exceed 5 feet - 6 inches above the exterior grade." The current plans do not comply with this definition. In fact, in a County of Santa Cruz Inter-Office Correspondence from Supervisor Jan Beautz to the Planning Director and the Planner dated April 8, *2003,* the Supervisor commented on the above-referenced Application stating "Sheet *3* of the of the plans indicates that at least 28% of the exterior wall will exceed 5 feet, 6 inches. As a result. it appears that this lower floor does not meet the definition of a basement."

While the Applicant may be able to revise the plans to comply, we believe this would include the addition of at least one retaining wall along the northern side of the driveway. Currently, the plans show no retaining wall in the area.

Riparian Setback

According to a letter from Dan Carl of the Coastal Commission to Larry Kasparowitz, dated September *23,* 2002, "Corcoran Lagoon temporally occupies that area of the beach below the subject property." The water exiting Corcoran Lagoon qualifies as a Riparian Corridor pursuant to its definition in County Code Section 16.30.030(4): "Lands extending 100 feet (measured horizontally) from the high watermark of a lake. wetland, estuary, lagoon or natural body of standing water." The actual location of the water in the lagoon was along the toe of the bluff at 23rd Avenue this past year. Because of its location in the Riparian Corridor, the Applicant must, therefore, provide a 100-foot setback or apply for a Riparian Exception for development under County Code Section 16.30.060.

Agreement for Maintenance of 23rd Avenue

The County Department of Public Works, in a memorandum dated March 26, 2002, asks that the Applicant create a maintenance agreement for 23rd Avenue because the road is to be privately maintained. There is no evidence that the Applicant has provided such an agreement.

Conclusion

Absent additional information, the decision-malung body cannot make the findings required for permit approval. For the reasons stated in this letter and our letter of November 14, 2003 (a copy of which is attached), we request that the Applicant be required to provide this information to enable preparation of a Staff Report regarding these issues.

Very truly yours,

WI'ITWER & PARKIN, LLP

Jonathan Wittwer

Encl

cc: Central Fire Protection District
Dan Carl, Coastal Commission
Jan Beautz. Planning Department
Client
Todd Graff

Jonathan Wittwer
William P. Parkin
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PARALEGAL
Jana Rinaldi

May 14,2004

HAND DELIVERED ON MAY 14,2004

Mr. Larry Kasparowitz. Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa Cruz, CA 95060

Re: Application # 02-0432 for Development of APN 28-232-16 (23rd Avenue)

Dear Mr. Kasparowitz:

This office represents the interests of Ralph Borelli, the owner of the home at 90 - 23rd Avenue. Todd Graff, a representative of Mr. Borelli, reviewed the above referenced application on May 4. 2004 and notes that the revised plan shows a turnaround for fire district access which straddles the two vacant lots APNs 28-232-15 and 28-232-16. These two parcels are currently owned by members of the same family. On behalf of my client, we submit the following comments on the turnaround as proposed by the Applicant.

Turnaround Reduces Net Developable Area

For the following reasons, we submit that the turnaround area must be excluded from the net developable area of APNs 28-232-15 and 28-232-16.

First, the portion of a piece of property on which a turnaround is located is undevelopable. The turnaround area must be unobstructed at all times and cannot be used for parking cars, pursuant to Uniform Fire Code Section 902.2.4.1 (adopted by the County Code). That section provides: "The required width of a fire apparatus access road (which includes a turnaround) shall not be obstructed in any manner, including parking of vehicles." See *also* County General Plan Section 6.5.1(l) ("All private access roads, driveways, turn arounds and bridges are the responsibility of the owner(s) of record and shall be maintained to ensure the fire department safe and expedient passage at all times.")

The turnaround is not "developable land" and may not be included in the net developable area of a parcel. County Code Section 13.10-700-N defines the net developable area of a parcel as follows:

> "Net Developable area" means the portion of a parcel which can be used for density calculations; public or private road rights-of-way and land not developable (see definition of "developable land") ai-e not included in the net developable area of a parcel.

"Developable land" is defined in County Code Section 13.1U.700-D as follows:

> Land which is suitable as a location for structures and which can he improved through normal and conventional means, free of deveiopment hazards, and without disruption or significant impact on natural resource areas.

As explained above, the turnaround area cannot be used for a purpose which obstructs it any manner, therefore. it is not "suitable as a location for structures." For this reason, it cannot reasonably qualify as part of the net developable area of the site.

Second, fire department access turnarounds are consistent with the legal definition of a right-of-way. Pursuant to County Code Section 13.10-700-N, set forth fully above, the net developable area of a parcel does not include "public or private road rights-of-way . . . [these] ai-e not included in the net developable area of a parcel." The County Zoning Ordinance does not define either public road right-of-way or private road right-of-way. When the term is used in California case law in the context of private roads, it is normally to describe a right-of-way for ingress and egress. ***See*** *i.e., Flavio v. McKenzie* (1963) 218 Cal.App.2d 549, 551. This emergency access turnaround is exactly that, a legal right-of-way for Fire Department vehicles to enter and exit the property, and use for fire safety purposes.

This turnaround is a right-of-way for fire access to all of 23rd Avenue and the benefits of its existence inures to third parties as well as to the owners of the property upon which the turnaround is located and the Central Fire Protection District. Therefore, it fits the definition of a right-of-way because the property owners are required by law to keep it open for the Fire Department and the turnaround area is not to be included in the net developable area.

Conclusion

For the reasons stated in this letter we request that the area of the Fire District access turnaround be excluded from the net developable **area** of the parcel.

Very truly yours,

WITTWER & PARKIN, LLP

Jonathan Wittwer

cc: Jan Beautz, County Supervisor
Client
Todd Graff

Jonathan Wittwer
William P. Parkin
Shandra Dobrovolny

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PARALEGAL
Miriam Celia Gordon

September 1, 2005

Larry Kasparowitz, Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa Cruz, CA 95060

Re: Application # 02-0432 for Development of APN # 28-232-16 (23rd Avenue)

Dear Mr. Kasparowitz:

This office represents Ralph Borelli, the owner of the home at 90 23rd Avenue, a parcel adjacent to the above-referenced property. As expressed in his correspondence with your office commencing shortly after the initial submittal of the above-referenced application for development on August 23, 2002, Mr. Borelli is concerned that the land use regulations be applied properly to this application in the interest of the "critical reciprocity" which the California Supreme Court has identified as the very foundation of such land use regulations.

Additional Requirements for Development on Coastal Bluffs

One major item of concern which has not been adequately addressed is that this proposed single-family dwelling will be constructed on a parcel with a coastal bluff fronting the property. The Geology Report by Nielsen & Associates submitted on behalf of the Applicant acknowledges that the parcel includes a "coastal bluff." As you are aware, any development on coastal bluffs is subject to additional development restrictions, including the setback requirements of Santa Cruz County Code (hereinafter "County Code") Section 16.10.070(h). Please refer to my letter dated November 10, 2003 for a detailed discussion of these requirements and the need for an "Exception" to be applied for an obtained. As far as Mr. Borelli is aware, the developer for Application # 02-0432 has not applied for an Exception from the coastal bluff setback requirement or attempted to provide the information necessary to make the Required Findings.

In a document in the County Planning File entitled "Responses to issues raised" the requirement for an "Exception" is recognized by Planning Staff and it is stated that "Staff believes that an exception can be made per 16.10.100." A discussion of the Required Findings for an Exception will follow. However, there is a threshold issue of great importance which should be addressed first. That threshold issue is expressed in a recent letter (copy attached as Exhibit A) from County Planning to the representative of another applicant who owns property along a coastal bluff. as follows:

> "You are approaching the exception to the Geologic Hazards Ordinance like a normal variance, which it is not. **The required findings are more difficult to make** (See Section 16.10.100(c) attached), and requires the finding that a hardship, as required by the Geologic Hazards Ordinance, exists...." (Emphasis added)

The "Response to issues raised" does not appear to recognize how difficult the Required Findings are to make. Furthermore, case law even for variances has made clear that the County must apply the "true meaning" of the Required Findings and may not approve even a variance by loosely interpreting the rules. *Stolman* v. *City of Los Angeles* (2003) 114 Cal.App.4th 916, citing the California Supreme Court reference to the "critical reciprocity'. underpinning zoning regulations in *Topanga Assn for a* ***Scenic*** *Community v. County of Los Angeles*, (1974) 11 Cal.3d 506.

As is set forth below, the Required Findings for an Exception cannot be made. The true meaning of these very difficult to make Findings cannot he avoided by loose interpretation.

Exception to Coastal Bluff Setback Requirement

A request for an Exception to the coastal bluff setback requirement "may be considered hy the Planning Director if the exception is necessary to mitigate a threat to public health, safety and welfare." County Code 16.10.100(a). This is a very strict standard and, as confirmed by County Planning in the above-referenced letter, is more difficult to satisfy than variance findings. The application for an Exception is initiated by the applicant upon filing a written request stating why the Exception is requested, the proposed substitute provisions, when the exception would apply, and the threat to public health, safety, or welfare that would be mitigated. County Code § 16.10.100(b). No Exception to the 25 foot setback requirements applicable to the subject property can he considered until the Applicant has made such a request. Hence, at this time, Application No. 02-0432 must he deemed incomplete.

In the event such a request is subsequently filed, specific findings must be made in order for an Exception to be granted. See County Code § 16.10.100(c).

Required Finding #1

First. it must be found that a hardship, as defined in County Code Section 16.10.040(2j) exists. County Code §16.10.100(c)(1). County Code Section 16.10.040(2)(j) defines hardship as follows:

Hardship . . . means the exceptional hardship that would result from failure to

> grant the requested Exception. The specific hardship must be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is no! exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of neighbors also cannot qualify as exceptional hardship, as these problems can be resolved through means other than granting an Exception, even if those alternative means are more expensive, require a property owner to build elsewhere, or put the parcel to a different use than originally intended or proposed.

County Code § 16.10.040(2)(j). The "Responses to issues raised" document appears to contain an erroneous assumption that it would qualify as a hardship if the Applicant could not "develop the property in manner similar to the surrounding development.'' If "similar" as used in this document only refers to residential use, this could be true; however, as used, "similar" appears to refer to equivalent or larger size and this would not qualify as a "hardship" under the above-quoted Required Finding. Being limited to building a smaller single-family dwelling on an existing parcel (due to a need to relocate or properly size the road, turnaround and/or utilities) does not meet the definition of hardship.

Required Finding #2

Second, the Planning Director must find that the project is necessary to mitigate a threat to public health, safety, or welfare. County Code § 16.10.100(c)(2). This is an exceptionally strict standard and very difficult to satisfy with regard to development of a property with a private single-family dwelling. In determining what constitutes a threat to the public health, safety, or welfare, our courts have considered the approval of permits for a major subdivision as a threat because it could fundamentally alter the current way of life for the residents of the county. ***See*** *216* ***Setter*** *Bay Associates* ***v. County*** *of Setter* (1997) 58 Cal.App.4th 860, 868. A threat to public health, safety, or welfare necessarily affects the community at large. For this finding to be made for the above-referenced application. it must be determined that it is necessary to develop the parcel with the single-family dwelling, at the size and in the location proposed, to mitigate a threat to the community at large. This finding simply cannot be made.

Required Finding #3

The third finding which must be mede is that the request must be for the smallest amount of variance from the coastal bluff setback requirements as possible. County Code § 16.10.100(c)(3). The "Responses to issues raised"document attempts to split the project into a roadway project and a single-family dwelling project so as to result in reduction of the road width being the only means to address the Required Findings. Modification of the proposed single-family dwelling is not only another alternative, it is the only appropriate means to make the

Required Findings because the roadwidth in front of the Applicant's property (and on the adjoining property owned by the Borellis) shown by the 1891 and 1976 recorded maps is approximately 36.8 to 40 feet. According to the Coastal Commission, 23rd Avenue is a public right-of-way (as set forth in the Coastal Commission Staff Report dated September 23, 2004 and letter dated September 23, 2002 – Exhibits B and C respectively). The County General Plan Section 7.7.18 designates 23rd Avenue as an area for Neighborhood Public Access to the shoreline. Coastal Commission files also contain a memorandum addressing the status of Live Oak Beach Front Roadways, which relies upon (among other things) County Counsel's criteria in determining whether a road became public by virtue of common law dedication (Inter-Office Memorandum dated January 23, 1986 referencing (among other things) the Consolidated Judgment in Santa Cruz County Superior Court Case No. 28857). The memorandum in the Coastal Commission files states that the material relied upon by County Counsel seems to affirm the validity of a common law dedication of most Live *Oak* beachfront streets that (like 23rd Avenue) were designated (and dedicated to the public) on subdivision maps recorded before the 1900's. Case law affirms that common law dedication is achieved through the recording of a subdivision map dedicating a street and acceptance by user alone. As to 23rd Avenue specifically, the Board of Supervisors asserted control over this street which was offered for dedication on a subdivision map recorded in 1891 by renaming it in 1908 and identifying it as a part of the avenues leading to East Cliff Drive and to the shore. Furthermore, the Consolidated Judgment shows that no part of 23rd Avenue is part of the lower Corcoran Lagoon parcel which adjoins it.

Thus, modification of the size of the proposed dwelling unit is the only appropriate means to comply with the requirement for the smallest amount of variance from the coastal bluff setback requirements as possible.

Both the County Supervisor for the District in which the Subject Property is located and the Coastal Commission Staff have pointed out that additional right-of-way dedication or road improvement may be needed and that the size of the proposed development may be inappropriate. Hence, for the foregoing reasons, among others, the required finding that the request must be for the smallest amount of variance from the coastal bluff setback requirements as possible also cannot **be** made for the current proposal.

Conclusion re Exception

For the reasons set forth above (among others) it is clear that the required Exception cannot be granted for the project as proposed. In the "Responses to issues raised" (#20), it is stated that

"[I]ndeed the Planning Department ma?; request that the applicant submit a revised design

that addresses bulk, mass, scale and compatibility with reduced lot coverage and floor area ratio."

We submit that such a "request" is a necessary requirement in order for the Required Findings to be made for the Exception which is a prerequisite to any approval of **a** project on this site.

Indeed, in *Stolman v. City of Los Angeles* (2003) 114 Cal.App.4th 916, the Court of Appeal overturned a variance finding because the administrative agency (here the County) did not apply the true meaning of the required finding. The *Stolman* Court described the variance approval as being based on an "insufficiently independent" decision by the administrative agency. In *Stolman* the Court of Appeal reiterated the reasons that it is important for agencies with land use authority to ensure strict adherence to zoning and land use regulations.

> A zoning scheme, after all, is similar in some respects to a contract; each party forgoes rights to use its land as it wishes in return for the assurance that the use of neighboring property will be similarly restricted, the rationale being that such mutual restriction can enhance total community welfare. [Citations.] If the interest of these parties in preventing unjustified variance awards for neighboring land is not sufficiently protected, the consequence will be ***subversion of the critical reciprocity*** upon which zoning regulation rests. Abdication by the judiciary of its responsibility to examine variance board decision-making when called upon to do so could very well lead to such subversion. ... Vigorous judicial review ... can serve to mitigate the effects of insufficiently independent decision-making.' *([Topanga* **Assn.** *for a Scenic Community v. County of Los* **Angeles.** *supra.* 11 Cal.3d 506 at 517-518 fn. omitted.)" (*Orinda Assn. v. Board of Supervisors, supra.* 182 Cal. App. 3d 1145, 1161-1162.)

Stolman, 114 Cal.App.4th at 926 – emphasis added. This precludes the Required Findings for the Exception this project (as proposed) must obtain.

Turnaround **Reduces Net Developable Area**

In addition to the issue concerning the 25 foot setback, Mr. Borelli is concerned with the turnaround proposed for the parcel. For the following reasons: the turnaround area is legally required to **be** excluded from the net developable area of APNs 28-232-15 and 28-232-16. Furthermore, this is a very important practical consideration, as well as a legal requirement. Inadequate assurance that the turnaround remains open and unobstructed in this highly desirable beach parking area would create a safety hazard. Please note that the comments on items #2 and #3 of the "Responses to issues raised" are out of date; the Fire District has indeed required a turnaround on the Subject Property.

First of all, the portion of a piece of property on which a turnaround is located is undevelopable. The turnaround area must be unobstructed at all times and cannot be used for parking cars, pursuant to Uniform Fire Code Section 902.2.4.1 (adopted by the County Code). That section provides: "The required width of a fire apparatus access road (which includes a turnaround) shall not be obstructed in any manner, including parking of vehicles." See also County General Plan Section 6.5.1(l) ("All private access roads, driveways, turn arounds and bridges are the responsibility of the owner(s) of record and shall be maintained to ensure the fire department safe and expedient passage at all times.")

The turnaround is not "developable land" and may not be included in the net developable area of a parcel. County Code Section 13.10-700-N defines the net developable area of a parcel as follows:

> "Net Developable area" means the portion of a parcel which can be used for density calculations; public or private road ***rights-of-way and land not developable*** (see definition of "developable land") are not included in the net developable area of a parcel. (emphasis added)

"Developable land" is defined in County Code Section 13.10.700-D **as** follows:

> Land which is suitable as a location for structures and which can be improved through normal and conventional means, free of development hazards, and without disruption or significant impact on natural resource areas.

As explained above, the turnaround area cannot be used for a purpose which obstructs it any manner, therefore, it is not "suitable as a location for structures." For this reason, it cannot reasonably qualify as part of the net developable area of the site.

As a second, and independent reason why the turnaround must be excluded from net developable area is that fire department access turnarounds are consistent with the legal definition of a right-of-way. Pursuant to County Code Section 13.10-700-N, set forth fully above, the net developable area of a parcel does not include "public or private road rights-of-way . . . [these] are not included in the net developable area of a parcel." The County Zoning Ordinance does not define either public road right-of-way or private road right-of-way. When the term is used in California case law in the context of private roads; it is normally to describe a right-of-way for ingress and egress. See i.e., *Flavio v. McKenzie* (3963) 218 Cal.App.2d 549. 551. This emergency access turnaround is exactly that, a legal right-of-way for Fire Department vehicles to enter and exit the property, and use for tire safety purposes.

The County Code also requires buildings to be setback so as to establish yards. **A** front

yard setback is defined as **"A** yard extending across the full width of a site, the depth of which is the minimum horizontal distance between the front property line or the inside edge **of a right-way** and a line parallel thereto on the site." (County Code Section 13.10.700"Y" --emphasis added) Hence, the building setback for the front yard on the Subject Property would also be set on the basis of the inside edge of the turnaround.

This turnaround is a right-of-way for fire access to all of 23rd Avenue and the benefits of its existence inures to third patties **as** well as to the owners of the property upon which the turnaround is located and the Central Fire Protection District. Therefore, it fits the definition of a right-of-way because the property owners are required by law to keep it open for the Fire Department and the turnaround area is not to be included in the net developable area and is the measuring point for determining the front yard setback as well.

Other Issues

By limiting this letter to the concerns discussed above, my clients are not waiving or diminishing the importance of other issues previously raised by them or others. Indeed, as the "Responses to issues raised" makes clear: there are other important issues which remain unresolved, including, but not limited to:

(1) Sight distance at East Cliff and 23rd Avenue.

(2) Drainage and Grading: The Grading and Drainage Plan fails to specify any limit on the grading allowed and contains very few spot elevations so it is difficult to determine what is being proposed. Nevertheless, it appears that the slope on the portion of 23rd Avenue in front of the Subject Property is too flat and will not drain properly to East Cliff Drive. This would appear to necessitate raising the end of the turnaround another 1.5 feet, which will require more fill (apparently about six feet horizontally at a 2:1 slope) **at** the edge **of** the **bluff,** which does not appear to have been addressed by either the Geotechnical Report or the Grading Plan).

(3) Required Agreement for Maintenance of 23rd Avenue (or in the alternative requirement for improvements based on 23rd Avenue being a public right-of way).

(4) Floor area ratio, parking and front setback to garage as required pursuant to letters from Coastal Commission Staffdated September 23, 2002 and October 1, 2002 (copy of each enclosed as Exhibits C and D respectively).

(5) Floodplain and Riparian setbacks: The 1891 Subdivision Map shows the historic reach of Corcoran Lagoon at the foot of the bluff below 23rd Avenue adjacent to the Subject

Property and the Coastal Commission letter dated September 23,2002 points out that Corcoran Lagoon temporally occupies the foot of said bluff. See also aerial photographs from 1928, 1956, 1963, 1972, 1975, 1979, and 1982 (attached as Exhibit E1-E7) showing the water at the foot of the bluff below 23rd Avenue adjacent to the Subject Property. Mr. Borelli has observed water in that location in 2003 as well. With the advent of rising seas from global warming, more of this situation is very foreseeable.

Conclusion

This letter requests that the Planning Department:

1. Require the Applicant to file a complete application for an Exception to the Coastal Bluff setback requirement addressing all of the Required Findings;

2. Strictly apply the Required Findings as mandated by case law;

3. Exclude the fire vehicle turnaround from calculation of net developable area and measure the front yard setback from the inside edge of said turnaround; and

4. Apply all other County and LCP regulations properly to this Application.

Thank you for your consideration of these matters.

Sincerely,
WITTWER & PARKIN, LLP

Jonathan Wittwer, Esq.

Encls. Exhibit **A:** County Planning Department Letter dated 12-15-04
Exhibit B: Excerpts from 9-23-04 Coastal Commission Staff Report
Exhibit C: Coastal Commission Staff letter to County dated 9-23-02
Exhibit D: Coastal Commission Staff letter to County dated 10-1-02
Exhibit E1-E7 Aerial Photographs of lagoon water at foot of cliff at 23rd Avenue

cc: Supervisor Beautz
County Counsel
Coastal Commission. attn. Dan Carl
Wayne Miller, Applicant's Representative
Clients

Vaden Residence Colors

Jonathan Wittwer
William P. Parkin
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PARALEGAL
Miriam Celia Gordon

April 6, 2007

VIA EMAIL and U.S. MAIL
Mr. Larry Kasparowitz
Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa Cruz, CA 95060

Re: **Enforcement of Coastal Bluff Setback Requirements as to Extension of 23rd Avenue is Not Inconsistent with Prior Approvals Along 23rd Avenue**
APN: 28-232-16 (Applicant also owns APN 28-232-15)
Application: 02-0432

Dear Mr. Kasparowitz:

This firm represents the interests of Ralph Borelli, the owner of the home at 90 23"" Avenue, which is adjacent to the Applicant's parcel--28-232-16 (hereafter "Applicant's parcel). The purpose of this letter is to set forth our legal opinion regarding the required setback distances for homes adjacent to coastal bluffs and homes near steep slopes. We also write to explain why we disagree with the Planning Commission Staff Report characterization (contrary to other characterizations in the Staff Report) that the Applicant's parcel will be accessed by a driveway rather than a roadway. As a roadway, the activity should be considered "development" pursuant to the County Code. Both of these issues will be discussed in further detail below.

1. The Carlson (now Borelli) Parcel and the Applicant's Parcel are Subject to Different Setback Standards Because of Different Identified Geologic Hazards

The County Code has different setback standards for coastal bluffs *vis-a-vis* steep slopes because they represent different geologic hazards. See Section 16.10.070(e) re slope stability and 16.10.070(h) re coastal bluffs. We submit that the County has applied the County Code to both the Applicant's parcel as well as to what is now the Borelli parcel[1] in light of these different hazards. Additionally, the respective histories of the Applicant's parcel and Mr. Borelli's parcel attest to the County's consistent belief that the Applicant's parcel is a coastal bluff and that Mr. Borelli's parcel is simply located next to a steep slope and near a coastal bluff. In a 1984 letter from the County to the then owner of the Borelli property, the County set forth its perspective on the Borelli parcel which treated the property as near, but not adjacent to, a coastal bluff. That letter is attached hereto as Exhibit A.

The Borelli's had no ownership interest in APN 028-232-17 when it was determined in 1984 to adjoin a sleep

The County has historically regarded the Carlson (now Borelli) propeity as adjoining potentially unstable slopes and near a coastal bluff. Exhibit **A,** 10-22-84 Letter. In the January 5, 2007 Staff Report it is contended that the Carlson (now Borelli) property and other properties closer to East Cliff Drive were allowed to develop without setting back *25* feet from the steep slopes. Staff Report, p.5. In the County's 1984 letter to Mr. Carlson, County Staff determined that:

> "The Geologic Hazards Ordinance (County Code Chapter 16.10) requires that all new development activities be located away from potentially unstable areas. Due to the location of this parcel near a coastal bluff a setback from the edge of the steep slope is required." Id., p.1 (emphasis added).'

The County subsequently required that the construction of the house and deck be 25 feet *away* from the edge of the steep slope. However. the County also required that Mr. Carlson would need to "make improvements to the road" because the road was paved only to the vicinity of the Carlson (now Borelli) property at that time. Id. p.2. The County apparently approved the resulting road and did not require it to be *25* feet away from the edge of the steep slope.

We submit that the County applied a different standard to the Carlson (now Borelli) parcel based on the language contained in 16.10.070(e) (governing slope stability) which states "[a]ll development activities shall be located away from potentially unstable areas." (Emphasis added). The County's 1984 letter to the then owner (Carlson) utilized the same language set forth in Section 16.10.070(e) which "requires that all new development activities be located away from potentially unstable areas.'' Exhibit A, p.1 (emphasis added). If the County had deemed the Carlson (now Borelli) parcel to be on the top edge of (rather than merely near) a coastal bluff in 1984, then the County would have required a *25* foot setback for the road as well. That is because for coastal bluffs all development (which includes road extensions) is required to be setback at least 25 feet from the top of the coastal bluff. In contrast, for potentially unstable slopes there is no required *25* foot setback: instead, all development activities need only be "located away from the potentially unstable areas." Section 16.10.070(e), emphasis added.

Under Section 16.10.040(j) of the County Code, a "coastal bluff' is defined as "[a] bank or cliff along the coast subject to coastal erosion processes. Coastal bluff refers to the top edge, face; and base of the subject bluff." In this case, the Applicant's Geotechnical Engineer has determined that Applicant's proposed project is on the top edge of a "coastal bluff." On this basis, the County has consistently designated the adjoining feature as a "coastal bluff' on numerous occasions. Zoning Administrator's Staff Report of January **5,** 2007. p.3.[3] Therefore,

[2] The County uses the term "steep slope" again on page 2 of this letter.
[3] In Notices of Public Hearings, the **County** used the term "coastal bluff' to describe the Applicant's parcel for the public hearings of January 5, 2007, July 21, 2006. and December 2, 2005.

the development by Applicant is legally required to he subject to the County Code's setback standards for coastal bluffs.

The Applicant has claimed that the house Mr. Borelli now owns got a break or benefited from an oversight hack in 1984. Along these lines. the Applicant has claimed that his project should receive a similar benefit from the County. However, this argument will not stand scrutiny for the simple reason that, even if the County had made a mistake or given the owner a break decades ago,[4] two wrongs do not make a right. A County may not waive its regulations simply because it made a mistake in the past. *Pettit v. City of Fresno* (1973) 34 Cal. App. 3d 813, 823. Regardless. we submit that the County did not give any breaks or overlook anv issues when all the permits were granted in the 1980s. The County applied the plain language of the County Code in 1984 as to steep slopes, the County should continue to apply and enforce its standards as they relate to the different geological hazards in 2007. The Applicant's parcel should therefore be subject to the 25 foot setback pursuant to the standards set forth for homes, roadways and all construction on top of coastal bluffs. County Code §16.10.070(h).

2. Where The Planning Commission Staff Report Characterizes the Applicant's Parcel as Being Accessed by a Driveway Rather than a Roadway, It is Erroneous

According to the Staff Report to the Zoning Administrator, the road to the Applicant's parcel will only serve the proposed development project. Staff Report of January 5. 2007, p. 9. This characterization makes the roadway to the Applicant's parcel seem like a driveway when it is actually an extension of 23rd Avenue. The County Code defines a driveway as "[a]ny private road leading from the street to two or fewer habitable structures or parcels. (See Roadway)." 16.10.030(k). In contrast, the Code defines a road or roadway as "[a]n open way for vehicular traffic serving more than two habitable structures or parcels.' (See *Driveway)."* 16.10.030.

This confusion is compounded by the fact that the Staff Report repeatedly describes 23rd Avenue and its extension as a roadway serving at least four homes at the moment. Staff Report 1-5-07 at p. 7, 9-10. If Applicant's single family dwelling is constructed further coastward, then the roadway will serve a total of five homes. In addition to using the term "roadway" a number of times. the Staff Report also uses the term "driveway" a couple of times.[6] We submit that this characterization is legally incorrect because extending the roadway of 23rd Avenue and creating an open way for vehicular traffic the road does not, as the definition of "driveway" requires. lead from the street to two or fewer residences.

[4] Which as demonstrated above was not the case because in 1984 the County treated such property as a potentially unstable slope and not as a coastal bluff.

[5] Furthermore; with the addition of an emergency vehicle turn around, the proposed road would certainly appear to be far more like public roadway than a private driveway.

[6] **But** it uses the term "roadway" more often.

This is significant because the County Code has different review standards for driveways and roadways. Under the Code's definition of development,

> "(s) For the purposes of this chapter, and this chapter only, any project that includes activity in any of the following categories is considered to be development or development activity. This chapter does not supercede Section 13.20.040 for purposes of determining whether a certain activity or project requires a coastal permit; some activities and projects will require coastal permits although they do not fall under this following specific definition.
>
> * * * * *
>
> (11) Construction of roads, utilities, or other facilities." County Code §16.10.040 (s)(11)(emphasis added).

Twenty-third Avenue is a roadway under the Code so it logically follows that any project that extends the road should be deemed a road and, as such, it should also be considered a development or development activity under the plain language of the above authority.

Moreover, according to the parcel map, there are three parcels to the south (coastward) of the Applicant's parcels. Development on these properties will require access which would require further extension of the road. If this likely scenario were to take place, 23rd Avenue would then reach further toward the coast to provide access to these homes. See Exhibit B, County GIS Satellite Map of 23rd Avenue. Hence, even if the County could somehow ignore the fact that 23rd Avenue already serves more than two habitable parcels, the roadway serving Applicant's parcel will also serve more than two additional parcels, and possibly three. Consequently, it is not appropriate to view the road to Applicant's parcels as a private driveway. If the road is viewed as a development activity by the County, it must conform to the set back standards listed in 16.10.070(h) which requires all development to be at least 25 feet from the edge of the coastal bluff.

Thank you for your time and attention to these matters.

Very truly yours,
WITTWER & PARKIN, LLP

By _____
Jonathan Wittwer

Encls.
cc: Reid Schantz, Esq., attorney for Applicant

PLANNING DEPARTMENT

GOVERNMENTAL CENTER

COUNTY OF SANTA CRUZ

701 OCEAN STREET SANTA CRUZ CALIFORNIA 85060

KRIS SCHENK
Director

October 22, 1984

Keith Carlson
245 21st Avenue
Santa Cruz. Ca. 95062

RE: GEOLOGIC HAZARDS ASSESSMENT, APN: 28-232-17

Dear Mr. Carlson:

I have recently completed a site visit of the parcel referenced above, where construction of a single family dwelling is proposed. The property was evaluated for possible geologic hazards due to its lotation by a coastal bluff. This letter briefly discusses my site observations, outlines permit conditions and completes the hazards assessment for this parcel.

The subject parcel is located adjacent to 23rd Avenue. The property slopes moderately upward towards the east. To the west, slopes drop off steeply from the edge of 23rd Avenue, approximately 15 feet from the eastern boundary of the parcel down to a sandy beach, approximately 20 to 25 feet below. The Geologic Hazards Ordinance (County Code, Chapter 16.10) requires that all new development activities be located away from potentially unstable areas. Due to the location of this parcel near a coastal bluff a setback from the edge of the steep slope is required. The final setback distance required is based on the following criteria:

1) demonstration of the stability of the site for a minimum of 50 years; and

2) a minimum of 25 feet must be maintained for all portions of the proposed development, including accessory decks, pools, etc; a greater setback may be required based on site conditions as determined by the hazards assessment or a geologic report.

The slope to the east of 23rd Avenue, while well vegetated at present, may periodically Experience erosion or small scale landsliding due to intense rainfalls. Ocean wave activity may reach the base of the slope on occasion and lead to erosion. However, this slope is several hundred feet from the ocean under summer conditions and the width of the beach generally prevents wave activity from reaching the slope during winter.

Therefore, a permit to construct a single-family dwelling may be approved subject to the following condition regarding geologic issues:

EXHIBIT A

1) A minimum setback of 25 feet from the edge of the slope must be maintained for all portions of the proposed development; and

2. She enclosed Declaration form regarding possible hazards to access to the parcel must be canpleted prior to issuance cf a building permit.

Based on the building envelope indicated on the site plan submitted with your application it appears that this condition can easily *bo* achieved by building the structure in line with the residence on the adjacent parcel io the north. This should provide for a setback of approximately 40 feet from the top of the steep slope for the residence.

Finally, 23rd Avenue Is paved only to the vicinity of the parcel and is immediately adjacent to the slope leading doun to the beach. I recommend that you contact Dieter Beerman at Grading and Erosion Control, 425-2767, to discuss whether or not a Grading Permit will be necessary to mako improvements to the road.

If you have any questions concerning this assessment. geologic issues *or* the permit conditons, please contact me at 425-2854.

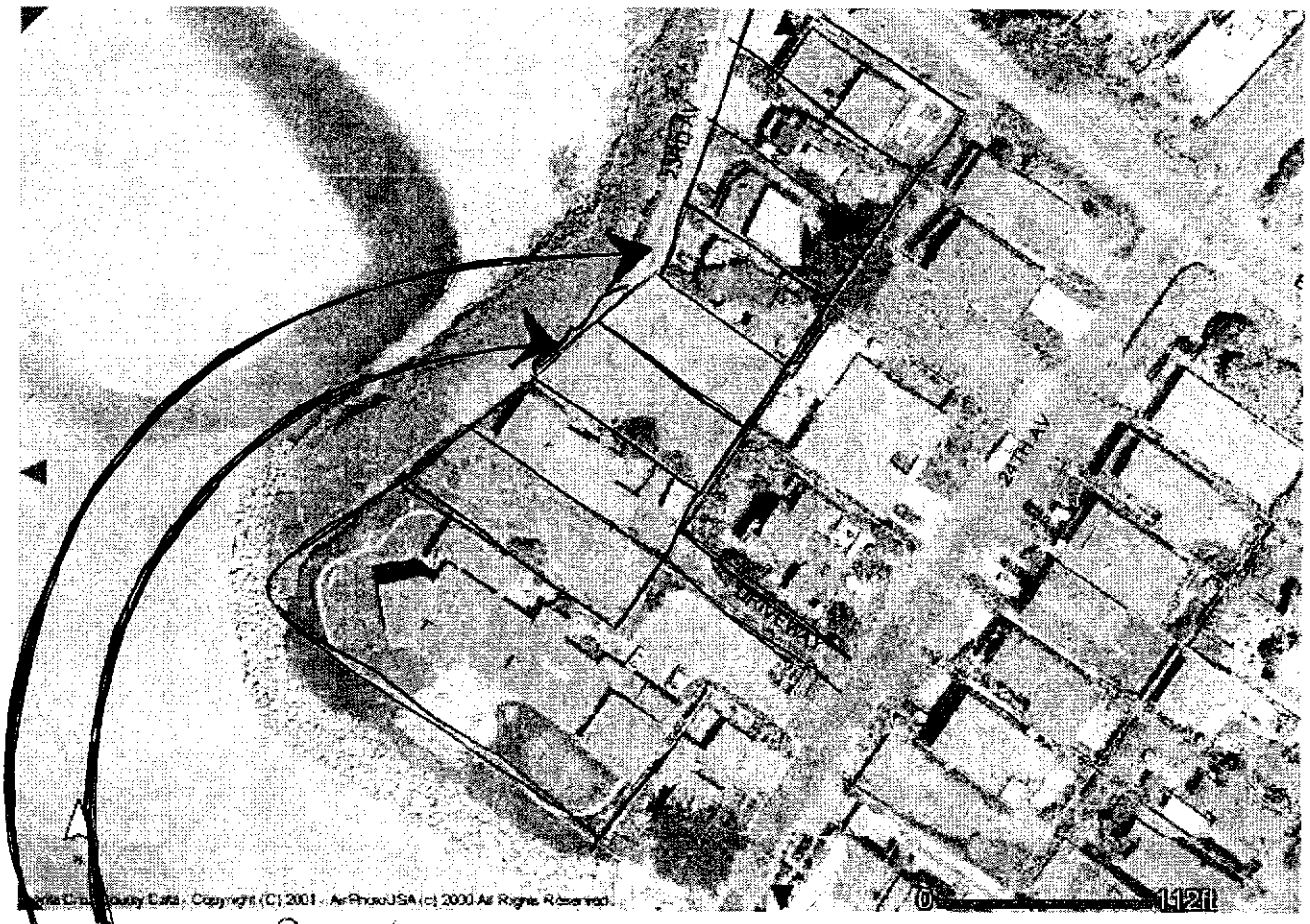
Sincerely,

Dave Leslie

DAVE LESLIE
Planning Geologist

DL/emc
Enclosure
cc: Gary Fiilzetti

A



Varden Parcels APNs 028-232-16 & 028-232-15

Carlson (now Borelli) APN 028-232-17

EXHIBIT B