



Staff Report to the Zoning Administrator

Application Number: **06-0688**

Applicant: Howell & McNeil Development
LLC

Agenda Date: April 18, 2008

Owner: Howell & McNeil Development LLC
APN: 043-161-53

Agenda Item #: 2

Time: After 10:00 a.m.

Project Description: Proposal to construct a single family dwelling of three stories with the lowest floor being non-habitable to comply with Federal Emergency Management Agency (FEMA) flood elevation requirements and grade approximately 990 cubic yards. Requires a Coastal Development Permit and a Variance to increase the number of stories from two to three within the Urban Services Line and a Preliminary Grading Review.

Location: Property is located on the bluff side of Beach Drive, about 1,100 feet past the private gate (site is immediately downcoast of 629 Beach Drive).

Supervisory District: Second District (District Supervisor: Ellen Pirie)

Permits Required: Coastal Development Permit; Variance to increase from two stories to three stories in the RB zone district and Preliminary Grading Review.

Technical Reviews: Geologic and Geotechnical Report Review

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 06-0688, based on the attached findings and conditions.

Exhibits

A.	Project plans		comments, dated 3/06/08
B.	Findings	J.	Urban Designer comments, dated
C.	Conditions		1/04/07
D.	Categorical Exemption (CEQA	K.	Geotechnical and Engineering
	determination)		Geology Report review letter, dated
E.	Assessor's parcel map		7/14/08
F.	Zoning & General Plan map	L.	Excerpt of Recommendations from
G.	Location Map		Engineering Geologic Investigation
H.	Photos-simulations		prepared by Foxx, Nielsen and
I.	Printout, Discretionary application		Associates, dated June 1998 (report

on file) Inc., dated January 2007 (report on
M. Excerpts of Discussion, Conclusions file)
and Recommendation from N. Grant Deed 2002-0042139
Geotechnical Investigation prepared O. Comments & Correspondence
by Haro, Kasunich and Associates,

Parcel Information

Parcel Size: 7,599 square feet (net)
Existing Land Use - Parcel: Vacant
Existing Land Use - Surrounding: Residential-Single Family Dwellings
Project Access: Beach Drive (a private road at this location)
Planning Area: Aptos
Land Use Designation: R-UL (Urban Low Density Residential)
Zone District: RB (Residential-Ocean Beach)
Coastal Zone: ☒ Inside ☐ Outside
Appealable to Calif. Coastal Comm. ☒ Yes ☐ No

Environmental Information

Geologic Hazards: FEMA Flood Zone V (Wave run-up hazard zone), landslide potential
at the base of coastal bluff
Soils: Beach sand (soils map index number 109) and Purisima Foundation
Sands
Fire Hazard: Not a mapped constraint
Slopes: 50% to over 70% (base of coastal bluff)
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: Approximately 990 cubic yards
Tree Removal: No trees proposed to be removed
Scenic: Designated Coastal Scenic Resource Area
Drainage: Drainage to beach
Archeology: Not mapped/no physical evidence on site

Services Information

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

History

The subject parcel (formerly APN 043-161-49) is a legal lot of record, as determined in Lot
Legality Determination 02-0169. In 2004, a lot line adjustment was approved to transfer
approximately 4,085 square feet from APN 043-161-49 to APN 043-161-48, to result in a parcel
of approximately 8,199 square feet. In 2002, an easement for parking and retaining wall

maintenance was recorded under Document number 2002-0042139 for use by adjacent parcel 043-152-63 (Exhibit N).

Project Setting

The project site is located on the bluff side of the private section of Beach Drive in Aptos, between an existing residence at 629 Beach Drive and 633 Beach Drive, which is currently under construction. The property is steeply sloped, with the entire site in excess of 50% slopes. A line of mostly one-story homes already exists on the coast side of Beach Drive, between the project site and the beach.

Zoning & General Plan Consistency

The subject property is a 8,199 square foot lot, located in the RB (Residential-Ocean Beach) zone district, a designation which allows residential uses. However, due to the parking easement granted under recorded document 2002-0042139 for Assessor's Parcel Number 043-152-63, the net square footage of the subject parcel is approximately 7599 square feet. The proposed Single Family Dwelling is a principal permitted use within the zone district and the project is consistent with the site's (R-UL) Urban Low Density Residential General Plan designation.

	RB Zone District Standard	Proposed
Front yard setback	10'*	21'
Side yard setbacks	0' and 5'	27'6" and 9'
Rear yard setback	10'	33'4"
Lot Coverage	40%	27.5%
Floor Area Ratio	50%	46%
Maximum height	25' on bluff side	25'

* No front yard setback requirements for RB zoned parcels with slopes greater than 25% within 30 feet of the right-of-way per Section 13.10.323(d)(5)(B) of the County Code.

Local Coastal Program Consistency

The General Plan/Local Coastal Program Land Use Designation of the parcel is R-UL (Urban Low Density Residential), implemented by the RB (Ocean Beach Residential) zone district. The proposed single-family dwelling complies with the purposes of this Land Use Designation, as the primary use of the site will be residential.

Geologic Hazards

General Plan policy 6.2.10 requires all development to be sited and designed to avoid or minimize hazards as determined by geologic or engineering investigations. Due to the location of the parcel adjacent to an open beach at the toe of a coastal bluff, potential coastal flooding and landslide

hazards cannot be avoided and therefore must be mitigated. General Plan policy 6.2.15 allows for new development on existing lots of record in areas subject to storm wave inundation or coastal bluff erosion where a technical report demonstrates that potential hazards can be mitigated over the 100-year lifetime of the structure. Mitigations in this case include, but are not limited to, building setback, elevation of the structure, friction pier or deep caisson foundation; retaining walls, steel structure and reinforced roof and a deed restriction indicating the potential hazards on the site and level of prior investigation conducted is recorded on the property deed with the County Recorder. If properly constructed and maintained, the project design is expected to provide protection from landslide hazards and flooding during 100-year storm events within the 100-year life span of the structure.

Engineering Geologic and Geotechnical Reports have been prepared addressing geologic hazards, site conditions, and hazard mitigations for the proposed dwelling (excerpts of conclusions and recommendations in Exhibit L & M). The project soils engineer and geologist recommend constructing the dwelling with a reinforced concrete structure designed to withstand the impact of expected landslides. This is a "bunker" style design with a flat roof constructed of reinforced concrete and the sides of the structure designed as retaining walls to prevent damage by landslide flows along the side yards. The structure will be built flush with the face of the slope to minimize impacts to the rear of the dwelling. To accomplish this construction a series of retaining walls are constructed on three sides resulting in a box. Within this box the home is constructed with a metal frame building that can resist the impact force from a debris flow. All of the foundation are designed to withstand forces that result from a slope failure while at the same time compensating for varying soils conditions. As recommended by the project geologist and soils engineer, deck areas will be covered by an overhang to provide refuge in the event of a landslide.

The project site is located within the FEMA Flood Zone-V, an 100-year coastal flood hazard zone designating areas subject to inundation resulting from run-up from waves and storm surges. FEMA regulations and the County Geologic Hazards ordinance (Chapter 16.10) require flood elevation of all new residential structures within 100-year flood zones. FEMA determined the expected 100-year wave impact height to be 21 feet above mean sea level (M.S.L.). The lowest habitable floor of the proposed dwelling is elevated more than one foot above 21 feet M.S.L. to prevent the habitable portions of the dwelling from flooding due to a 100-year storm surge. The garage doors and non-load bearing walls must function as "break-away" walls and the parking slab must be frangible so that it will break apart during and intense storm as required by FEMA regulations and Chapter 16.10 of the County Code.

The dwelling at 641 Beach Drive was the first structure approved incorporating this design (approved in 1993 as permit 91-0506), and dwellings of a similar design have been approved elsewhere on Beach Drive, including at the southeast end of Beach Drive under Coastal Development Permits 99-0354 and 04-0044, and the adjacent downcoast property under permit 04-0255.

Grading and Erosion Control

General Plan/LCP policy 8.2.2 requires new development to be sited and designed to minimize grading, avoid or provide mitigations for geologic hazards and conform to the physical constraints and topography of the site. The project has been designed to step down the slope to reduce

excavation and to conform to the topography of the site to the greatest extent possible while maintaining a dwelling of similar size to neighboring homes on Beach Drive.

The proposed dwelling will not destabilize or exacerbate erosion of the bluff, and when completed will act to retain and stabilize the toe of the bluff. The only potential for bluff destabilization will occur during excavation and construction. To minimize the chances of a failure occurring during this period, the project soils engineer has outlined a plan for construction phasing (Exhibit M). The key elements of this plan are as follows:

- Site grading and retaining wall construction must take place between April 15th and October 15th, when the site is dry.
- The project soils engineer and geologist must be on site during the work.
- Excavation and construction should begin at the top and work downward, a section at a time. Under this plan, a portion of the cliff would be excavated, followed by construction of that portion of the wall. After that section of the wall is completed, the next lower section of the cliff would be excavated.

A detailed work plan following these elements will be submitted with the building permit application. This work plan will detail the height of each individual section to be excavated and retained, and will take into account any concurrent excavation into the bluff for neighboring projects. Furthermore, a Waiver, Indemnification, Security, and Insurance Agreement will be required, which will include a requirement that the applicant/owner obtain and maintain Comprehensive Personal Liability (or equivalent) or Owner's Landlord and Tenant Liability Insurance coverage (as appropriate) of \$1,000,000 plus an additional \$1,000,000 of excess coverage to insure construction of the retaining structure will be completed in a timely manner (See Condition of Approval I.D). In addition, security bonds will be required to ensure bluff stabilization work can be completed by the County if construction stops prior to completion of all necessary shoring, retaining walls, tie-backs, and any other construction required to stabilize the bluff. One bond will be for 150% of the total construction cost to stabilize the bluff, which will be released after satisfactory completion of all retention structures as determined by the County Geologist. The second bond will be for 50% of the above construction costs, to be released not less than one year after final inspection (Condition of Approval II.L).

Public Access

The proposal complies with Policy 7.7.10 of the General Plan/LCP (Protecting Existing Beach Access) in that pedestrian and emergency vehicle access will not be impeded by the proposed dwelling and construction, and no public access easements exist across the subject property. Furthermore, the site is not designated for Primary Public Access in Policy 7.7.15 of the General Plan/LCP, and is not suitable for access due to the steep topography of the site.

Design Review

The project is a "bunker" style design made of reinforced concrete that is boxy with a flat roof, covered decks and stepped back flush with the face of the slope to minimize impacts to the rear of the dwelling. The home is painted earth tone colors that blend with the bluff. The project is located

within a mapped scenic resource area, and therefore must comply with General Plan Policy 5.10b (New Development within Visual Resource Areas), which states that new development should be designed and constructed to have minimal to no adverse impact on visual resources. General Plan/LCP policies 5.10.2 and 5.10.3 also require that development be evaluated against the context of the environment, utilize natural materials, blend with the area and integrate with landforms. General Plan/LCP policy 5.10.7 allows structures to be visible from a public beach where compatible with the pattern of existing development.

Generally, impacts to existing public views occur when development extends into areas that are currently natural and are visible from the beach. In this case, the project site is located behind a line of existing one-story homes on the coast side of Beach Drive, and adjacent to existing single-family dwellings constructed in the late 1960's.

The upper story of the proposed dwelling will be visible from the open beach at low tides (See photo-simulations in Exhibit H). However, the design of the structure will be integrated into the Beach Drive neighborhood in terms of height, bulk, mass, scale, architectural style, color, and materials. The size of the proposed residence will be similar to recently approved homes and proportioned to the size of the lot, as the residence will comply with County standards for Floor Area Ratio and lot coverage. The mass of the residence will be broken up by stepping back each of the three levels to be flush with the hillside.

General Plan/LCP policies 8.6.5 and 8.6.6 require that development be complementary with the natural environment and that the colors and materials be chosen blend with the natural landforms. To comply with this policy, the proposed dwelling will incorporate earth-tone colored cement plaster, horizontal siding and copper roofing to better blend in with the coastal bluff and vegetation behind the residence, minimizing the visual impact of the residence.

The County's Urban Designer evaluated the project for conformance with the County's Coastal Zone Design Criteria (Section 13.20.130) and the County's Site, Landscape, and Architectural Design Review Ordinance (Section 13.11) (Exhibit J). The Urban Designer determined the proposed single-family dwelling to be in conformance with all applicable provisions of these ordinances, including criteria regarding protection of the public viewshed and compatibility with the existing neighborhood and coastal setting. Although the project will be visible from the beach, the design, materials, and colors minimize the visual impact of the dwelling to the greatest extent possible while maintaining a similar bulk, mass, and scale to existing and proposed houses on the bluff side of Beach Drive.

Variance to allow three stories

Inside the Urban Services Line, the County Code prohibits single-family dwellings greater than two stories absent a variance approval. The area available to build is constrained by FEMA regulations that require a non-habitable lower floor, and steep slopes. To compensate for FEMA flood elevation requirements, construct within the constraints of the site, and minimize grading, the applicant has requested a variance to construct a three-story single-family dwelling with approximately 2,700 habitable square feet. Without the variance the home would be limited to approximately 2,000 habitable square feet. The steep topography of the site (with slopes greater than 70%) and the FEMA flood elevation requirements are special circumstances inherent to the property that would deny the

property owner a reasonably sized dwelling as enjoyed by residents of similar structures on the bluff side of Beach Drive, if the home were limited to two stories. Many homes along the bluff side of Beach Drive already have three stories, including the house at 641 Beach Drive and the dwellings recently approved on adjacent lots that are currently under construction at 633 and 635 Beach Drive. For this reason, the granting of a variance to allow three stories will not constitute the granting of a special privilege.

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 **06-0688**, 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, as a single-family dwelling is a principal permitted use in the "RB" (Ocean Beach Residential) zone district with the approval of a Coastal Development Permit. The "RB" zone district is consistent with the General Plan and Local Coastal Program land use designation of Urban Low Residential (R-UL).

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, as the parcel is not encumbered by any open space easements or similar land use contracts. The project will not conflict with any existing right-of-way easement or development restrictions as none exist. The proposed dwelling will not affect public access as none exists down the cliff face at this location, and the project will not impede lateral pedestrian access.

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.

The proposed single-family dwelling is consistent with the design criteria and special use standards and conditions of County Code Section 13.20.130 et seq. for development in the coastal zone. Specifically, the house follows the *natural topography* by stepping up the hillside, proposes minimal grading considering the topography of the site, is visually compatible with the character of the surrounding residential neighborhood, and includes mitigations for the coastal hazards which may occur within its' 100 year lifespan (landslides, seismic events and coastal inundation). The project is not on a ridgeline, and does not obstruct any public views to the shoreline. The design and siting of the proposed residence will minimize impacts on the site and the surrounding neighborhood. The house will incorporate earth-tone colors (ranging from brown to green) to blend in with the bluff.

The architecture is complementary to the existing pattern of development and will blend with the built environment. The size of the dwelling, approximately 2,700 square feet, is comparable to most of the dwellings along the bluff side of Beach Drive, including the two dwellings currently under construction immediately adjacent to the project site. The structure will be flood elevated, but will meet the 25 foot RB height limit. This height is consistent with the existing older development along the bluff of side of Beach Drive, most of which is three stories similar to the proposed dwelling.

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

The project site is located in the appealable area between the shoreline and the first through public road. Public access to the beach is located further up Beach Drive at the State Parks parking lot (about 1,000 feet northwest of the proposed dwellings). The proposed dwellings will not interfere with public access to the beach, ocean, or any other nearby body of water. The project site is not identified as a priority acquisition site in the County Local Coastal Program, and is not designated for public recreation or visitor serving facilities.

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

The proposed single-family dwelling is consistent with the County's certified Local Coastal Program in that a single family dwelling is a principal permitted use in the RB (Ocean Beach Residential) zone district with an approved Coastal Development Permit. General Plan policy 6.2.15 allows for development on existing lots of record in areas subject to storm wave inundation or beach or bluff erosion within existing developed neighborhoods and where technical reports demonstrate that the potential hazards can be mitigated over the 100-year lifetime of the structure.

Engineering Geologic and Geotechnical report have been prepared for this project evaluating the hazards and mitigations. These reports have been reviewed and accepted by the County of Santa Cruz. The proposed structure will be engineered to withstand landslide impacts on a reinforced roof, retaining most of the landslide materials on the roof with any excess flowing over the structure. The project is specifically designed to accommodate natural coastal erosion processes of the bluff face. The dwelling will be constructed flush with the bluff and the roof of the home will be constructed so that it will resist the impact from a large debris flow landslide. Furthermore the sides of the home will also be designed and constructed to resist the impact from this type of landslide. Thus, in combination the home will be designed to protect its occupants from landsliding. The dwelling will be elevated with no habitable portions under 21 feet above mean sea level, in accordance with FEMA, the County General Plan policies and Chapter 16.10 of the County Code for development within the 100-year wave hazard or V-zone. Thus, the proposed development is consistent with this General Plan policy.

General Plan/LCP policy 5.10.7 allows structures, which would be visible from a public beach, where compatible with existing development. The subject lot is located on the bluff side of Beach Drive within a line of existing and proposed single-family dwellings of a similar height. The project is consistent with General Plan policies for residential infill development as the proposed dwelling will integrate with the built environment along Beach Drive by retaining a similar height, bulk, mass, and scale to existing and recently approved development in the vicinity. The height of the dwelling does not exceed 25 feet in conformance with the height limit for the RB zone district, and consistent with most of the existing and proposed adjacent residences. The approximately 2,700 habitable square foot size of the structure is consistent with many of the existing homes on the bluff side of Beach Drive. Dwellings on the beach side of Beach Drive have different site standards and therefore cannot be used to determine compatibility.

General Plan/LCP policies 8.6.5 and 8.6.6 require that development be complementary with the natural environment and that the colors and materials chosen blend with the natural landforms. The proposed dwelling will use copper roofing, horizontal siding and cement plaster painted in

earth-tone colors (in the brown to green range) to blend in with the bluff behind them.

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, as the proposed project complies with all development regulations applicable to the site with the exception of the limitation on the maximum number of stories, for which a Variance is being sought. The parcel is located within a coastal hazard area and is expected to be subject to wave inundation, landslides and seismic shaking hazards. Engineering Geologic and geotechnical reports have been completed for this project analyzing these hazards and recommending measures to mitigate them. The habitable portions of the dwelling will be constructed above 21 feet mean sea level (msl), which is the expected height of wave inundation predicted for a 100-year storm event. The garage will incorporate break away garage doors and non-structural walls on the lower level to minimize structural damage from wave action.

Construction will comply with prevailing building technology, the Uniform Building Code, the County Building ordinance, and the recommendations of the Engineering Geologic and Geotechnical report to insure the optimum in safety and the conservation of energy and resources. The structure will be engineered to withstand landslide impacts by incorporating a flat reinforced concrete roof, retaining most of the landslide materials on the roof with any excess flowing over the structure. The project is specifically designed to accommodate natural coastal erosion processes of the bluff face. The dwelling must be constructed flush with the bluff face and be anchored into the bluff to withstand the impact of a catastrophic landslide event and prevent the structure from being displaced by landslide. An engineered foundation is required in order to anchor the dwellings in the event of a landslide impact and to withstand seismic shaking. Adherence to the recommendations of the soils engineer and geologist in the house design and construction will provide an acceptable margin of safety for the occupants of the proposed home. The project design will not change the existing pattern debris flow and will not adversely affect the adjacent dwellings. The retaining walls incorporated into the design of both dwellings will provide some stability to the toe of the cliff, but will not affect the stability of the upper cliff.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

The project is located within the RB (Ocean Beach Residential) zone district. The proposed dwelling will be consistent with all pertinent County ordinances, site standards, and the purpose of the RB zone district, with the exception of the number of stories, for which a Variance is sought. These increase in the number of stories will not significantly increase the bulk of building mass and will allow adequate light, air and open space to adjacent neighbors, as the design of the proposed single-family dwelling is consistent with that of the surrounding neighborhood, as it is visually compatible and integrated with the character of surrounding neighborhood (both existing and

proposed dwellings), and meets the intent of County Code Section 13.10.130, "Design Criteria for Coastal Zone Developments" and Chapter 13.11 "Site, Architectural and Landscape Design Review." Homes in the area range from one story on the beach side of Beach Drive to three-stories on the bluff side, with a wood or stucco exteriors and large expanses of windows and decks. The majority of houses in the neighborhood have flat roofs. The proposed colors and materials and architecture will harmonize and blend with the other homes in this neighborhood. Thus, the design of the proposed single-family dwelling is consistent with that of the surrounding neighborhood. As discussed in Finding #1, Engineering Geologic and Geotechnical reports have been prepared evaluating the landslide and coastal flooding hazards, which will be mitigated in accordance with the regulations set forth in Chapter 16.10 (Geologic Hazards) of the County Code. As discussed in the Coastal Findings above, the project is consistent with the County's Coastal Regulations (Chapter 13.20).

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

The project is located in the R-UL (Urban Low Residential) General Plan/Local Coastal Program land use designation. As discussed in Coastal Development Permit Finding 5, all General Plan/LCP policies have been met in the proposed location of the project, the hazard mitigations and with the required conditions of this permit. The design of the single-family dwelling is consistent with that of the surrounding neighborhood on the bluff side of Beach Drive, and is sited and designed to be visually compatible and integrated with the character of surrounding neighborhood and the coastal bluff. The dwelling will not block public vistas to the public beach and will blend with the built environment when viewed from the public beach. The house is designed to step down the slope, requiring minimal grading considering the limitations placed on the site with regards to slope and construction requirements to minimize geologic hazards. For this reason the project conforms with General Plan policies to minimize grading.

A specific plan has not been adopted for this portion of Rio Del Mar.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, as the proposed single-family dwelling will not overload utilities and will not generate more than the acceptable level of traffic on the roads in the vicinity. Specifically, adequate water and sewer service is available to the property and there will be minimal increase in traffic resulting from the construction of one new single family dwelling on a legal lot of record designated for residential use. Traffic generated by construction will be limited to weekdays between the hours of 8 AM and 5 PM and any damage to Beach Drive resulting from heavy equipment will be required to be repaired (Condition of Approval III.H and IV.F).

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, as the home will not appear significantly different from the existing homes, or future development on the bluff side of Beach Drive (which will be bunker and will

also have non-habitable lower floors and flat roofs). The proposed project will result in a home of a similar size and mass to other homes on the bluff side of Beach Drive, and will be designed to be visually compatible and integrated with the character of the surrounding 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 dwelling is consistent with the County's Design Review Ordinance as the site design, architectural style, materials, colors, flat roof, and three story design within the RB zone district height result in a structure that is compatible with the surrounding development along the bluff side of Beach Drive (see Urban Designer's comments in Exhibit J).

Variance Findings

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

This finding can be made, as the subject parcel contains very steep slopes (slopes in excess of 70%) on an unstable coastal bluff, with the only suitable area for development near the base of the bluff within the coastal flood hazard area (Flood Zone-V). Due to the topography and location within a flood hazard area, the structure must be elevated above the expected 100-year coastal inundation level at 21 feet above mean sea level in accordance with the regulations set forth by the Federal Emergency Management Agency (FEMA) and Chapter 16.10 (Geologic Hazards Ordinance) of the County Code. The lower floor area cannot be used as habitable space due to potential flood hazards from wave run-up, so a variance has been requested to increase the maximum number of stories from two to three in order to construct a home of a reasonable size of approximately 2,700 habitable square feet, comparable to existing and recently approved homes in the vicinity. The majority of homes along the bluff side of Beach Drive are three stories, so a variance to height requirements would not constitute the granting of a special privilege as existing dwellings in the neighborhood already have three stories. Due to the step-down design of the structure, the house will still meet the maximum 25 foot height limit for the RB zone district despite the increase in the number of stories.

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

Compliance with the recommendations and construction methods required by the Engineering Geologic and Geotechnical reports accepted by the Planning Department will insure that granting the variance to construct the proposed three-story single family dwelling will not be materially

detrimental to the public health, safety and welfare or be materially injurious to property or improvements in the vicinity. The residence is required to be elevated above 21 feet mean sea level with no habitable features on the ground floor and constructed with a break-away garage door and walls (except those used as support structures). No mechanical, electrical or plumbing equipment shall be installed below the base flood elevation. The dwelling will be engineered to withstand landslide impacts upon the roof and to allow slide debris to accumulate upon it. This design allows for the natural pattern of debris flow and minimizes deflection onto the adjacent properties.

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

The granting of variances to increase the maximum number of stories from two to three will not constitute a grant of special privilege, as similar variances have been granted for houses of similar construction on the bluff side of Beach Drive due to FEMA flood elevation requirements. The recently approved variances, permits 05-0097 and 05-0098, which are immediately adjacent properties to the southeast that are currently under construction.

Conditions of Approval

- Exhibit A: Project plans, seven sheets, prepared by Chris Spaulding Architect, dated
Project plans, sixteen sheets, prepared by Mesti-Miller Engineering Inc., dated
Project plans, three sheets, prepared by Bowman & Williams Civil Engineers, dated
- I. This permit authorizes the construction of a Single Family Dwelling. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
- A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 - C. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - D. The owner shall execute the attached WAIVER, INDEMNIFICATION, SECURITY, AND INSURANCE AGREEMENT with the County (see Attachment 1 to the conditions of approval) and meet all requirements therein. This agreement will require the applicant/owner to obtain and maintain Comprehensive Personal Liability (or equivalent) or Owner's Landlord and Tenant Liability Insurance coverage (as appropriate) of \$1,000,000 plus an additional \$1,000,000 of excess coverage per single-family dwelling. Proof of insurance shall be provided.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
- A. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
 - B. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. Any changes from the approved Exhibit "A" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 - 1. Identify finish and color of exterior materials and roof covering for approval by the Zoning Administrator and Urban Designer for visual compatibility with the coastal bluff environment. Colors shall be earth tone, in the range of brown to green. This color board must be in 8.5" x 11" format.

2. Exterior elevations identifying finish materials and colors. Colors shall be earth tone, in the range of brown to green. All windows facing the beach shall utilize non-glare glazing materials.
3. Submit a detailed erosion and sedimentation control plan to be reviewed and accepted by Environmental Planning. The plan shall indicate that prior to the commencement of grading, the Permittees shall delineate the approved construction areas with fencing and markers to prevent land-disturbing activities from taking place outside of these areas. The Erosion and Sedimentation Control Plan shall identify the type and location of the measures that will be implemented during construction to prevent erosion, sedimentation, and the discharge of pollutants during construction. These measures shall be selected and designed in accordance with the California Storm Water Best Management Practices Handbook. Among these measures, the plans shall limit the extent of land disturbance to the minimum amount necessary to construct the project; designate areas for the staging of construction equipment and materials, including receptacles and temporary stockpiles of grading materials, which shall be covered on a daily basis; provide for the installation of silt fences, temporary detention basins, and/or other controls to intercept, filter, and remove sediments contained in any runoff from construction, staging, and storage/stockpile areas; and provide for the replanting of disturbed areas immediately upon conclusion of construction activities in that area. The plans shall also incorporate good construction housekeeping measures, including the use of dry cleanup measures whenever possible; collecting and filtering cleanup water when dry cleanup methods are not feasible; cleaning and refueling constructions equipment at designated offsite maintenance areas; and the immediate clean-up of any leaks or spills..
4. The building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site which clearly depict the total height of the proposed structure. Maximum height is 25-feet.
5. State the name of the architect or civil engineer that will certify compliance with FEMA Coastal Construction Standards and related County Building Code requirements (including Section 1612.A5 CBC Flood Hazards) at the completion of the project.
6. The lowest structural member of the lowest floor and all elements that function as part of the structure must be elevated above the Base Flood Elevation (21 feet).
7. The foundation and structure attached thereto shall be anchored to prevent floatation, collapse and lateral movement due to the effect of wind and

water loads acting simultaneously on all building components. Wind and water loading values shall each have one percent chance of being equaled or exceeded in any given year.

8. The space below the lowest floor shall either be free of obstructions or constructed with non-supporting breakaway walls intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.
 9. The use of fill for structural support of buildings, including the parking slab is prohibited. Plans shall show no fill to be placed beneath the slab per Coastal Construction Manual section 6.4.3.3 and County Code section 16.10.070(h)5(vii).
 10. An engineered grading, drainage and erosion control plan shall be submitted for review and approval by Environmental Planning.
 11. Utilities shall not be located within breakaway walls. All utilities below the base flood elevation shall be mounted on structural components only.
 12. The parking slab shall be a maximum of 4 inches thick and shall be non-structural. Concrete slab shall be designed to break apart upon impact from storm surges.
 13. The plans shall comply with all recommendations provided in the geotechnical engineering and engineering geology reports.
 14. Windows along the side of the building in the area of debris impact may be cluster, but may not have dimension(s) greater than 12 inches, and shall be designed for impact.
 15. Shoring shall be installed under the continuous inspection of the project engineer, architect, or a designated special inspector.
 16. The Base Flood Elevation shall be shown on cross-sections and profiles.
 17. The project geotechnical engineer, or a similar qualified testing laboratory, shall be employed to provide continuous inspection and testing of all the fill material placed on the site.
 18. Include the destination for all excavated material on the plans.
- C. Submit four copies of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.

- D. Plan review letters shall be required from the soils engineer and project geologist stating that the plans conform to the recommendations in the accepted reports.
- E. The owner shall record a Declaration of Geologic Hazards to be provided by Environmental Planning staff on the property deed. Proof of recordation shall be submitted to Environmental Planning. **YOU MAY NOT ALTER THE WORDING OF THIS DECLARATION.** Follow the instructions to record and return the form to the Planning Department.
- F. A Deed Restriction shall be recorded which prohibits the use of the roof, side yards and rear yard except for the purpose of maintenance or repair.
- G. Submit an engineer's statement estimating construction costs including earthwork, drainage, all inspections (soils, structural, and civil engineers, etc.), and erosion control associated with the foundation, retaining walls, and drainage system for review and approval per the Waiver, Indemnification, Security, and Insurance Agreement. These estimates will be reviewed by the County Geologist and will be used for determining the appropriate amounts for each bond.
- H. The two security bonds (one for 150% of the total construction cost released after completion of all slope stabilization construction, one for 50% released one year after final inspection) shall be in place prior to issuance of the building permit. Please submit proof indicating if Certificate of Deposits or Letters of Credit will be used to satisfy the bonding requirement.
- I. Meet all requirements of and pay Zone 6 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
- J. A final landscape plan. This plan shall include the location, size, and species of all existing and proposed trees and plants within the front yard setback and shall meet the following criteria:
 - a. Plant Selection. At least 80 percent of the plant materials selected for non-turf areas (equivalent to 60 percent of the total landscaped area) shall be drought tolerant. Native plants are encouraged. The plan shall not include any species listed on the *California Invasive Plant Council List*. Vegetation must be able to survive without irrigation once established.
 - b. Turf Limitation. Turf area shall not exceed 25 percent of the total landscaped area. Turf area shall be of low to moderate water-using varieties, such as tall fescue. Turf areas should not be used in areas less than 8 feet in width.
- K. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.

- L. The project architect or engineer shall sign a certification prepared by the County Planning Department that indicates that the plan comply with all FEMA regulations.
 - M. Pay the current fees for Parks and Child Care mitigation for three bedroom(s). Currently, these fees are, respectively, \$1,000 and \$109 per bedroom.
 - N. Pay the current fees for Roadside and Transportation improvements for one unit. Currently, these fees total \$4,720 per new single-family residence.
 - O. 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.
 - P. Any new on-site electrical power, telephone, and cable television service connections shall be installed underground.
 - Q. 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.
 - R. Obtain a permit from the Monterey Bay Air Pollution District, if required. This permit may require a diesel health risk assessment depending on the equipment used, the timing, and the distance of the construction from the nearest residence.
 - S. Submit a signed, notarized, and recorded maintenance agreement for the silt & grease traps prior to permit issuance.
 - T. Submit photos showing the condition of Beach Drive from the project site to the private gate. These photos will be used to determine if any repairs are required to Beach Drive after construction due to construction related damage.
- III. Prior to and during site disturbance and construction:
- A. Prior to any disturbance on either property the applicant shall convene a pre-construction meeting on the site with the grading contractor supervisor, construction supervisor, project geologist, project geotechnical engineer, Santa Cruz County grading inspector, and any other Environmental Planning staff involved in the review of the project.
 - B. All land clearing, grading and/or excavation shall take place between April 15 and October 15. Excavation and/or grading is prohibited before April 15 and after October 15. Excavation and/or grading may be required to start later than April 15 depending on site conditions, as determined by Environmental Planning staff. If grading/excavation is not started by August 1st, grading must not commence until after April 15th the following year to allow for adequate time to complete grading

prior to October 15th

- C. Erosion shall be controlled at all times. Erosion control measures shall be monitored, maintained and replaced as needed. No turbid runoff shall be allowed to leave the immediate construction site.
 - D. Dust suppression techniques shall be included as part of the construction plans and implemented during construction. These techniques shall comply with the requirements of the Monterey Air Pollution Control District.
 - E. All earthwork and retaining wall construction shall be supervised by the project soils engineer and shall conform with the Geotechnical report recommendations.
 - F. All foundation and retaining wall excavations shall be observed and approved in writing by the project soils engineer prior to foundation pour. A copy of the letter shall be kept on file with the Planning Department.
 - G. Prior to sub-floor building inspection, compliance with the elevation requirement shall be certified by a registered professional engineer, architect or surveyor and submitted to the Environmental Planning section of the Planning Department. Construction shall comply with the FEMA flood elevation requirement of 21 feet above mean sea level for all habitable portions of the structure. **Failure to submit the elevation certificate may be cause to issue a stop work notice for the project.**
 - H. Construction shall only occur between the hours of 8 AM and 5 PM, Monday through Friday, with no construction activity allowed on weekends and holidays.
 - I. The applicant shall designate a disturbance coordinator and a 24-hour contact number shall be conspicuously posted on the job site. The disturbance coordinator shall record the name, phone number, and nature of all complaints received regarding the construction site. The disturbance coordinator shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.
- IV. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The project must comply with all recommendations of the approved soils reports.
 - D. The project geotechnical engineer, or a similar qualified testing laboratory, shall

submit a written summary of the compaction testing. The summary shall include a copy of the grading plan that indicates the relative compaction test locations. All related test data must be included in a table with a reference number that correlates the table data to the test location on the grading plan. The testing shall include the backfill for any retaining walls.

- E. Final letters shall be submitted from the soils engineer and project geologist stating that the completed project conforms to their recommendations.
- F. The architect or engineer shall sign a certification form prepared by the County Planning Department stating that the completed project meets all requirements of FEMA for development4 within the V zone.
- G. 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.
- H. Any damage to Beach Drive caused by construction activities shall be repaired.

V. Operational Conditions

- A. Modifications to the architectural elements including but not limited to exterior finishes, window placement, roof design and exterior elevations are prohibited, unless an amendment to this permit is obtained.
- B. All portions of either structure located below 21 feet mean sea level shall be maintained as non-habitable.
 - 1. The ground floor shall not be mechanically heated, cooled, humidified or dehumidified.
 - 2. The structure may be inspected for condition compliance twelve months after approval and at any time thereafter at the discretion of the Planning Director.
- C. This permit prohibits the use of the roof, side yards and rear yard except for the purpose of maintenance and/or repair.
- D. The homes must be maintained at all times. In the event of a significant slope failure, the owner must remove the debris from the roof within 48 hours under the direction of a civil engineer.
- E. All landscaping shall be permanently maintained.

- F. The residence shall maintain a subdued earth-tone coloration.
 - G. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- VI. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
 - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 - 1. COUNTY bears its own attorney's fees and costs; and
 - 2. COUNTY defends the action in good faith.
 - C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
 - D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.

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

Application #: 06-0688
APN: 043-161-53
Owner: Howell & McNeil Development LLC

Please note: This permit expires two years from the effective date on the expiration date listed below unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Don Bussey
Deputy Zoning Administrator

Maria Perez
Project Planner

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

Return recorded form to:

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

Attention: Maria Perez
Application #: 06-0688

Agreement

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(CALIFORNIA GOVERNMENT CODE §27361.6)

Return recorded form to:

Planning Department
County of Santa Cruz
701 Ocean Street
Santa Cruz, Ca 95060

Attention: Maria Perez
Application #: 06-0688

Waiver, Indemnification, Security and Insurance Agreement

This Agreement is made effective upon signature hereof by and between Howell & McNeill Development, LLC or successor in interest to the subject property (hereinafter "APPLICANT/ OWNER"), Applicant and Owner, under Santa Cruz County Planning Department Application and Land Use Approval No. 06-0688 (as amended) hereinafter "subject Land Use Approval") for development on real property in Aptos of the unincorporated area of the County of Santa Cruz, known as APN 043-161-53 (hereinafter "subject property"), and the COUNTY OF SANTA CRUZ (hereinafter "COUNTY" and including all officials, officers, employees, agents and volunteers thereof).

1. WAIVER.

APPLICANT/ OWNER hereby waives any claim he may have, either now or in the future, for damages or other monetary relief against the COUNTY resulting from or in connection with:

- (a) its action granting subject Land Use Approval; and
- (b) the conditions or uses on the subject property authorized by subject Land Use Approval, including, without limitation, any landsliding, sloughing, eroding or flooding which may occur on the subject property.

Except to the extent that the affirmative acts of the COUNTY cause the hazard, or the conduct of the COUNTY constitutes fraud, willful injury to person or property or violation of law.

This waiver, except as stated above, shall apply to all known and unknown, anticipated and unanticipated, injuries and damages resulting from:

- (a) the COUNTY's action granting subject Land Use Approval; and
- (b) the conditions or uses on the subject property authorized by subject Land Use Approval, including, without limitation, any landsliding, sloughing, eroding or

limitation, any landsliding, sloughing, eroding or flooding which may occur on the subject property.

In so agreeing, APPLICANT/ OWNER hereby knowingly waives the provisions of Section 1542 of the Civil Code of the State of California which reads as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by the Paragraph as specified in Paragraph 8 hereof.

2. INDEMNIFICATION AND DEFENSE.

APPLICANT/ OWNER hereby agrees to defend, indemnify and hold harmless the COUNTY from and against all claims, actions, proceedings, demands, liabilities, costs and expenses (including attorneys' fees), or damage claimed by third parties on account of any damage, loss, injury to, costs or attorneys fees incurred by said third parties resulting from or in connection with:

- (a) the COUNTY's action granting subject Land Use Approval; and
- (b) the conditions or uses of the property authorized by subject Land Use Approval, including, without limitation, and landsliding, sloughing, eroding or flooding which may occur on the subject property.

Except to the extent that the affirmative acts of the COUNTY cause the hazard or the conduct of the COUNTY constitutes fraud, willful injury to person or property, or violation of law.

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

3. NOTIFICATIONS AND COOPERATION BY COUNTY.

COUNTY shall promptly notify APPLICANT/ OWNER (or his successor(s) in interest) 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 promptly notify APPLICANT/ OWNER (or his successor(s) in interest, of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the APPLICANT/ OWNER (or his successor(s) in interest) shall not thereafter be responsible to defend, indemnify or hold harmless the COUNTY.

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

4. COUNTY PARTICIPATION IN DEFENSE.

Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

- (a) COUNTY bears its own attorney's fees and costs; and
- (b) COUNTY defends the action in good faith.

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

5. SETTLEMENT.

Neither APPLICANT/ OWNER nor his successor(s) in interest shall be required to pay or perform any settlement unless such party has approved the settlement.

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

6. SECURITIES.

APPLICANT/ OWNER and his successor(s) in interest, shall, from the date of signature hereof to the date of recordation of a Notice of Completion of all construction and improvements related to the stability of the coastal bluff and authorized by subject Land Use Approval, obtain and maintain, at minimum, all of the following securities, in the form of Letters of Credit (or if not reasonably feasible for owner to obtain, another type of surety), all subject to the reasonable discretion of the COUNTY Planning Director:

- (a) For "Faithful Performance", the amount of 100 percent of the cost of said construction and improvements as determined by the project's Geotechnical Engineer and accepted by the Planning Director, to guarantee faithful completion of the work; and
- (b) For "Materials and Labor", the amount of 50 percent of the cost of said construction and improvements as determined by the project's Geotechnical Engineer and accepted by the Planning Director, to guarantee payment to material providers and laborers furnishing materials, equipment, or labor in connection with the improvements; and
- (c) For "Guarantee, Warranty, and Maintenance of Work", the amount of 50 percent of the cost of said construction and improvements as determined by the project's Geotechnical Engineer and accepted by the Planning Director, to guarantee and

warrant the work for a minimum period of 12 months following the completion of work against any defective work or labor done, or defective materials furnished and to maintain such work to the satisfaction of the COUNTY for said period if commercially reasonably available as reasonably determined by COUNTY Insurance Consultant.

In the event the APPLICANT/ OWNER fails to maintain, repair, replace or reconstruct the work to the satisfaction of the COUNTY, the above-described security shall be obligated for the payment of all necessary costs and expenses that may be incurred or expended by the COUNTY, in its sole discretion, in causing any or all repair, replacement, reconstruction, or maintenance of said work, which is discovered or may become necessary during said 12-month period.

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

7. INSURANCE REQUIREMENTS AND STIPULATION THAT PROPERTY BE VACATED IF REQUIRED INSURANCE NOT PROVIDED.

IF THE INSURANCE REQUIREMENTS STATED IN THIS CONTRACT ARE COMMERCIALY REASONABLY AVAILABLE (AS RESONABLY DETERMINED BY COUNTY), APPLICANT/ OWNER (OR HIS SUCCESSORS IN INTEREST TO THE SUBJECT PROPERTY, HEREBY STIPULATE AND AGREE THAT THE SUBJECT PROPERTY SHALL BE IMMEDIATELY VACATED IF THE INSURANCE REQUIRED BY THIS PARAGRAPH IS AT ANY TIME NOT PROVIDED OR MAINTAINED IN FULL FORCE AND EFFECT. APPLICANT/ OWNER (and his successor(s) in interest) shall procure, purchase or obtain at his/her/its sole expense, and maintain in full force and effect such insurance as will protect him/her/it from all insurable claims, damages, losses, liability, costs, and expenses (including attorney's fees) which may arise out of or result from or in any way be connected with the APPLICANT/ OWNER'S activities, use of, work, services, and or operations on the subject property pursuant to the subject Land Use Approval.

COUNTY shall not be responsible for any payment of premiums due as a result of compliance with the terms and conditions of theses insurance requirements. The cost of such insurance shall be borne solely by the APPLICANT/ OWNER. The procurement and maintenance by the APPLICANT/ OWNER of each policy required to be obtained and maintained by the APPLICANT/ OWNER under this Agreement, which is a condition of subject Land Use Approval, shall not relieve, limit, or satisfy APPLICANT/ OWNER'S obligation to indemnify, defend and hold harmless COUNTY.

INSURANCE SPECIFICATIONS. The APPLICANT/ OWNER shall procure, pay for at his/her/its sole expense, and maintain in full force and effect, at all times (except as otherwise herein provided) during the life of this Agreement pursuant to the subject Land Use Approval, the following insurance coverages and APPLICANT/ OWNER shall

comply with the policies carried to provide such coverage and such policies shall contain or be endorsed to contain the following understandings or provisions:

(a) Type and Insurance and Minimum Limits.

(1) APPLICANT/ OWNER Liability Insurance.

For both the construction phase and the residential use phase of the single family dwelling on the subject property, APPLICANT/ OWNER shall obtain and maintain Comprehensive Personal Liability (or equivalent) or Owner's Landlord and Tenant Liability Insurance coverage (as appropriate) of \$1,000,000 plus an additional \$1,000,000 of excess coverage (with no deductible or self-insured retention contingent upon form of liability insurance product purchased, and if there is a deductible, the deductible shall not exceed a reasonable amount as reasonably determined by County Insurance Consultant), including bodily injury, personal injury, contractual, and property damage liability. Such insurance coverage shall include, without limitation:

- A. Contractual liability coverage applicable to APPLICANT/ OWNER's indemnification, hold harmless, and defense obligations under this Agreement; and
- B. A cross-liability or severability of interest clause, if commercially reasonably available as reasonably determined by COUNTY.

The insurance broker (reasonably acceptable to COUNTY) of the APPLICANT/ OWNER will confirm in a letter that the liability insurance has been obtained which meets the insurance specification and obligations contained in paragraph 7(a)(1) and the applicable provisions of paragraph 7(b) of this Agreement.

(2) Structural Engineer and Geotechnical Engineer Professional Liability Insurance.

APPLICANT/ OWNER shall enter into a contract with a Registered Geotechnical Engineer and a Registered Structural or Civil Engineer for preparation or review of final plans and specifications for the design and construction of the development for which any permit is issued under subject Land Use Approval. Each such contract shall require said Geotechnical Engineer and said Structural or Civil Engineer, respectively, to be responsible for the accuracy, completeness and usability of their respective final plans and specifications, and respective final plans and specifications, and development, design, and construction documents and to actively and directly supervise the work. During the term of each said Contract, the Geotechnical Engineer and the Structural or Civil Engineer,

each shall provide Professional Errors and Omissions Business Liability insurance coverage, including contingent or vicarious liability coverage, on an occurrence or claims made basis for any damages to the COUNTY or to third parties due to errors, omissions, or negligence in the performance of Geotechnical Engineer, and the Structural or Civil Engineer of their respective duties in the minimum amount of two hundred fifty thousand dollars (\$250,000) combined single limit or limits of coverage obtained by the Geotechnical Engineer, whichever is higher.

(3) General Contractor Liability Insurance.

APPLICANT/ OWNER shall enter into a contract with a General Contractor for construction of the development under subject Land Use Approval. Such contract shall require the General Contractor obtain and maintain Comprehensive General Liability Insurance on an occurrence basis to protect the General Contractor, the APPLICANT/ OWNER, the COUNTY from claims for damages for bodily injury, property damage, and personal injury, (including wrongful death) as well as claims for contingent or vicarious liability which arise from operations to construct the development authorized by subject Land Use Approval, whether such operations be by the General Contractor or a subcontractor or anyone directly or indirectly employed by either of them. Said liability coverage shall be in the minimum amount of one million dollars (\$1,000,000) combined single limit and include coverage and contractual liability, contingent liability, products and completed operations (on an occurrence basis), premises, operations, broad form property damage endorsement, and additional insured endorsement in favor of the COUNTY.

(b) Other Insurance Provisions.

- (1) Each insurance policy carried by or available to APPLICANT/ OWNER pursuant to this Agreement shall be primary and not excess nor contributing with respect to any insurance or self-insurance issued to, carried by or available to COUNTY. Any insurance or self-insurance maintained or carried by COUNTY shall be excess of APPLICANT/ OWNER'S insurance and shall not participate in nor contribute with such insurance carried by or available to APPLICANT/ OWNER. Each policy carried by or available to APPLICANT/ OWNER shall be endorsed or amended as necessary to reflect this provision.
- (2) As to all insurance coverage required herein, any deductible or self-insured retention shall be disclosed to and be subject to reasonable approval by COUNTY, prior to the commencement of any work on the subject property, except as expressly set forth elsewhere in this Agreement. Specific limitations on any deductible or self-insured

retention set forth elsewhere in this Agreement shall prevail over this provision.

- (3) Each insurance policy required pursuant to this Agreement shall contain a provision or be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed until thirty (30) days after the insurance company has given to COUNTY written notice by certified mail, return receipt requested, to the address shown below of such action, prior to its effective date. Such notice shall be sent to the COUNTY Planning Director, County of Santa Cruz, 701 Ocean Street, Room 400, Santa Cruz, California 95060. Any failure to comply with "loss reporting" provision of any policy shall not affect coverage provided to the COUNTY.
- (4) For insurance required by this Agreement, COUNTY shall be covered as an named additional insured as respects to: claims, damages, losses, liability, costs and expenses (including attorneys' fees) which may arise out of or result from or in any way be connected with the APPLICANT/ OWNER'S activities, use of, services, operations or work performed by the APPLICANT/ OWNER, her/her/its employees, agents, subcontractors or by others on behalf of APPLICANT/ OWNER as regards to any permit or approval issued under subject Land Use Approval. Use of Insurance Services Office Form HO-41 or its equivalent is acceptable.
- (5) Insurance required pursuant to this Agreement shall be placed only with an insurer having and maintaining a BEST'S rating of no less than B+ and a financial size of no less than "VI" for the first million and no less than "X" for the amounts in excess of one million, all as rated in the most current available BEST'S Insurance Report. Any exception to this requirement shall require the prior reasonable approval of the COUNTY and such exception shall be in writing, signed and dated by such authorized COUNTY representative.
- (6) No change or modification in these insurance specifications shall be made without prior written agreement by the COUNTY signed and dated by each affected party. Any oral discussion or agreement to change these insurance specifications shall be unenforceable and is hereby agreed to be null and void.
- (7) COUNTY shall be under no duty to either ascertain the existence of or to examine any insurance policy or to advise APPLICANT/ OWNER in the event that such insurance coverage does not comply with the requirements hereof. However, COUNTY may at any time, and from time to time, inspect and/or copy any and all insurance policies, endorsements, certificates and correspondence required to obtain or carried by APPLICANT/ OWNER pursuant to this Agreement.

- (8) Prior to the final issuance of subject Land Use Approval, APPLICANT/ OWNER shall file with the COUNTY copies of each insurance policy, certificate of insurance coverage actually in force, and original endorsement effecting coverage required by this Agreement. Such correspondence and/or evidence of coverage shall be sent to:

Planning Director
County of Santa Cruz
701 Ocean Street, Room 400
Santa Cruz, California 95060

Each certificate of insurance and/or endorsement for each such insurance policy shall be signed by a person authorized by the insurer to BIND coverage on its behalf. Each certificate of insurance and endorsement shall be on a form reasonably acceptable to the COUNTY and shall be received and approved by the COUNTY's Insurance Consultant prior to commencement of any work on subject property. COUNTY reserves the right to require a complete, true and certified copy of each required policy at any time. With respect to each commencement, renewal, material change, replacement, or substitution of any required insurance policy, the requirements of this paragraph shall be complied with not less than 30 days prior to the expiration or cancellation of each policy affected, or in the case of the commencement of the first such insurance policy required by this Agreement, compliance shall be documented and approved by COUNTY prior to commencement of work on subject property. APPLICANT/ OWNER hereby agrees to pay to COUNTY the reasonable cost incurred by COUNTY for any review for compliance by COUNTY's Insurance Consultant.

- (9) The excess insurance requirements shall expire five (5) years from the date of the recordation of Notice of Completion.

Each and every successor in interest to APPLICANT/ OWNER shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

8. SUCCESSORS BOUND.

APPLICANT/ OWNER agrees that this Agreement shall be recorded with the Recorder of the County of Santa Cruz, run with and be appurtenant to the land, and be binding on the successor(s) in interest, transferee(s), and assign(s) of APPLICANT/ OWNER of subject property. The COUNTY shall be notified by the Escrow Agent, or if there is none, by the Grantor, at least 30 days prior to the close of any transfer or assignment of subject property. Each Successor in interest, transferee, or assignee (excluding any party whose sole role is that of a lender) shall execute a new original of this Agreement and provide all documentation necessary to demonstrate compliance with this Agreement to COUNTY at least 30 days prior to the close of such transfer or assignment. Upon such

execution and delivery of the new original Agreement and documentation demonstrating compliance with such Agreement to COUNTY, the prior owner shall be released from the obligations, including the insurance and indemnification and defense requirements, imposed by this Agreement.

8. SEVERABILITY.

If any provision of this Agreement is determined to be invalid by a final decision of Court, each and every other provision hereof shall remain in full force and effect.

Each and every successor in interest to APPLICANT/ OWNER of subject property shall be and hereby is bound by this Paragraph as specified in Paragraph 8 hereof.

IN WITNESS WHEREOF, APPLICANT/ OWNER and COUNTY hereby execute this Agreement.

Dated: _____ APPLICANT/ OWNER

STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ} ss

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

WITNESS my hand and official seal

Signature _____
(Signature of Notary Public)

Dated: _____

COUNTY OF SANTA CRUZ

By _____

Tom Burns
Planning Director

STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ} ss

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

WITNESS my hand and official seal

Signature _____
(Signature of Notary Public)

Approved as to Form:

Owner's Attorney

Approved as to Form:

CHRISTOPHER CHELEDEN, County Counsel

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

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

Application Number: 06-0688

Assessor Parcel Number: 043-161-53

Project Location: No Situs

Project Description: Proposal to construct a single family dwelling of three stories with the lowest floor being non-habitable to comply with FEMA flood elevation requirements.

Person or Agency Proposing Project: Howell & McNeil Development LLC

Contact Phone Number: 408-691-9551

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

Specify type:

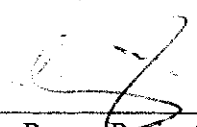
E. ☒ **Categorical Exemption**

Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)

F. Reasons why the project is exempt:

Proposal to construct a single family dwelling.

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



Maria Perez, Project Planner

Date: 4/7/08

FOR TAX PURPOSES ONLY

THE ASSessor MAKES NO GUARANTEE AS TO THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ASSessor'S OFFICE SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE ASSessor'S OFFICE SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS.

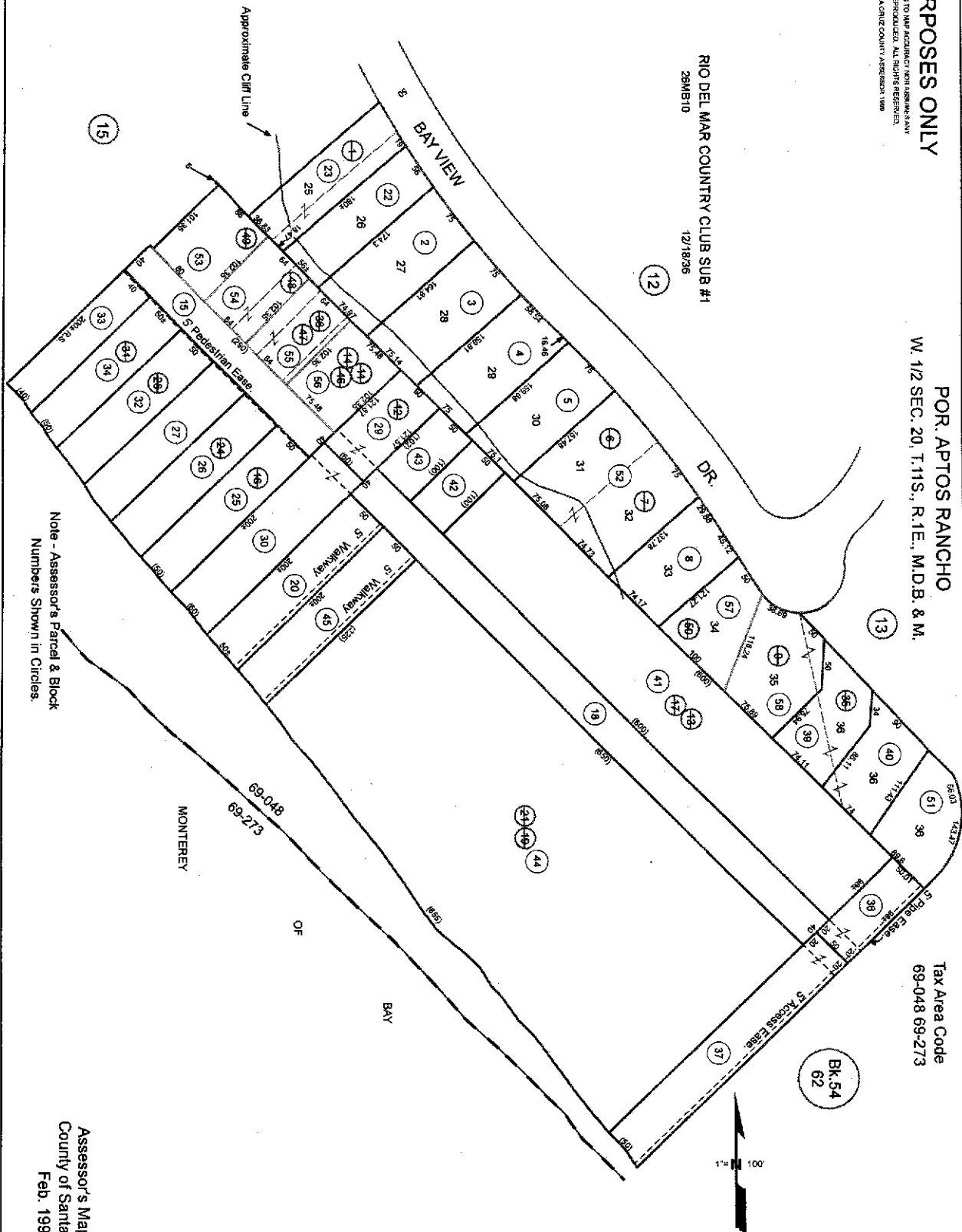
Copyright Santa Cruz County Assessor 1999

POR, APTOS RANCHO
W. 1/2 SEC. 20, T. 11S., R. 1E., M.D.B. & M.

Tax Area Code
69-048 69-273

43148

RIO DEL MAR COUNTRY CLUB SUB #1
28MB10
12/18/36

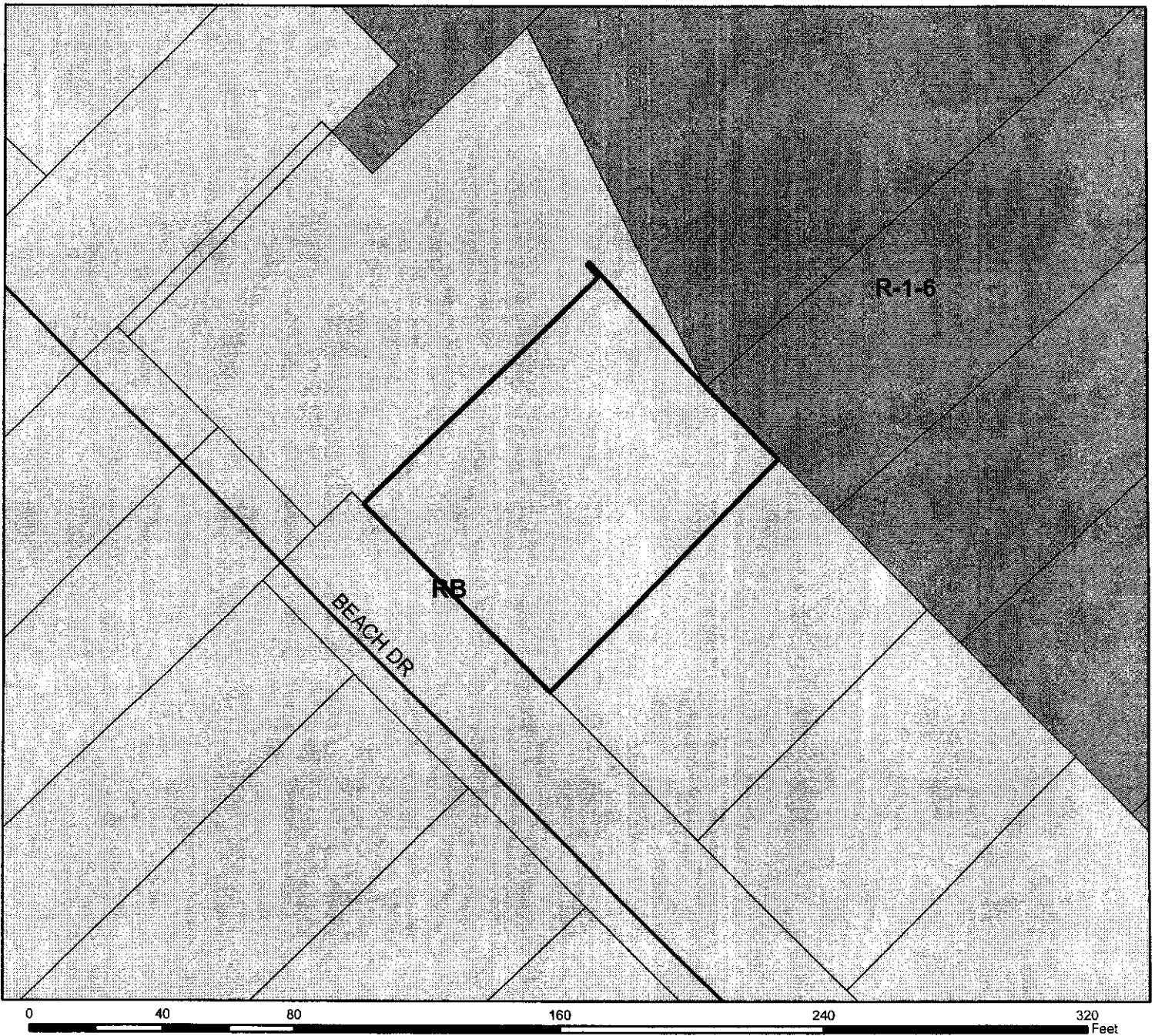


Note - Assessor's Parcel & Block
Numbers Shown in Circles.






Assessor's Map No. 43-16
County of Santa Cruz, Calif.
Feb. 1999



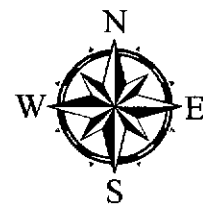
Zoning Map



LEGEND

-  APN: 043-161-53
-  Assessors Parcels
-  Streets
-  RESIDENTIAL-OCEAN BEACH
-  RESIDENTIAL-SINGLE FAMILY

36

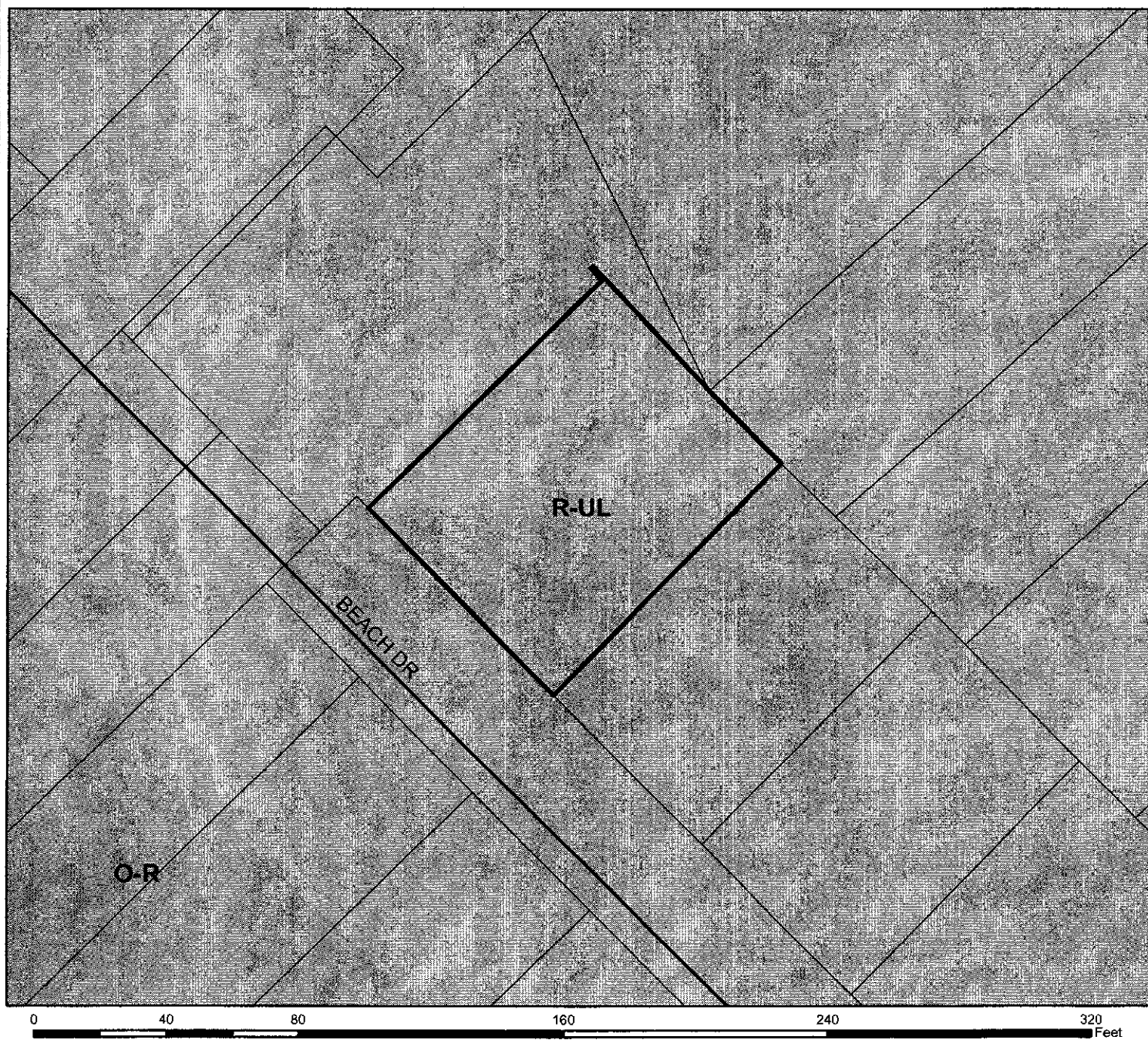


Map Created by
County of Santa Cruz
Planning Department
March 2008

EXHIBIT F



General Plan Designation Map



LEGEND



APN: 043-161-53



Assessors Parcels



Streets

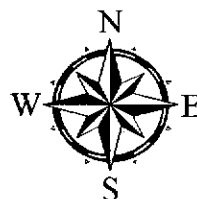


Residential - Urban Low Density



Parks and Recreation

37

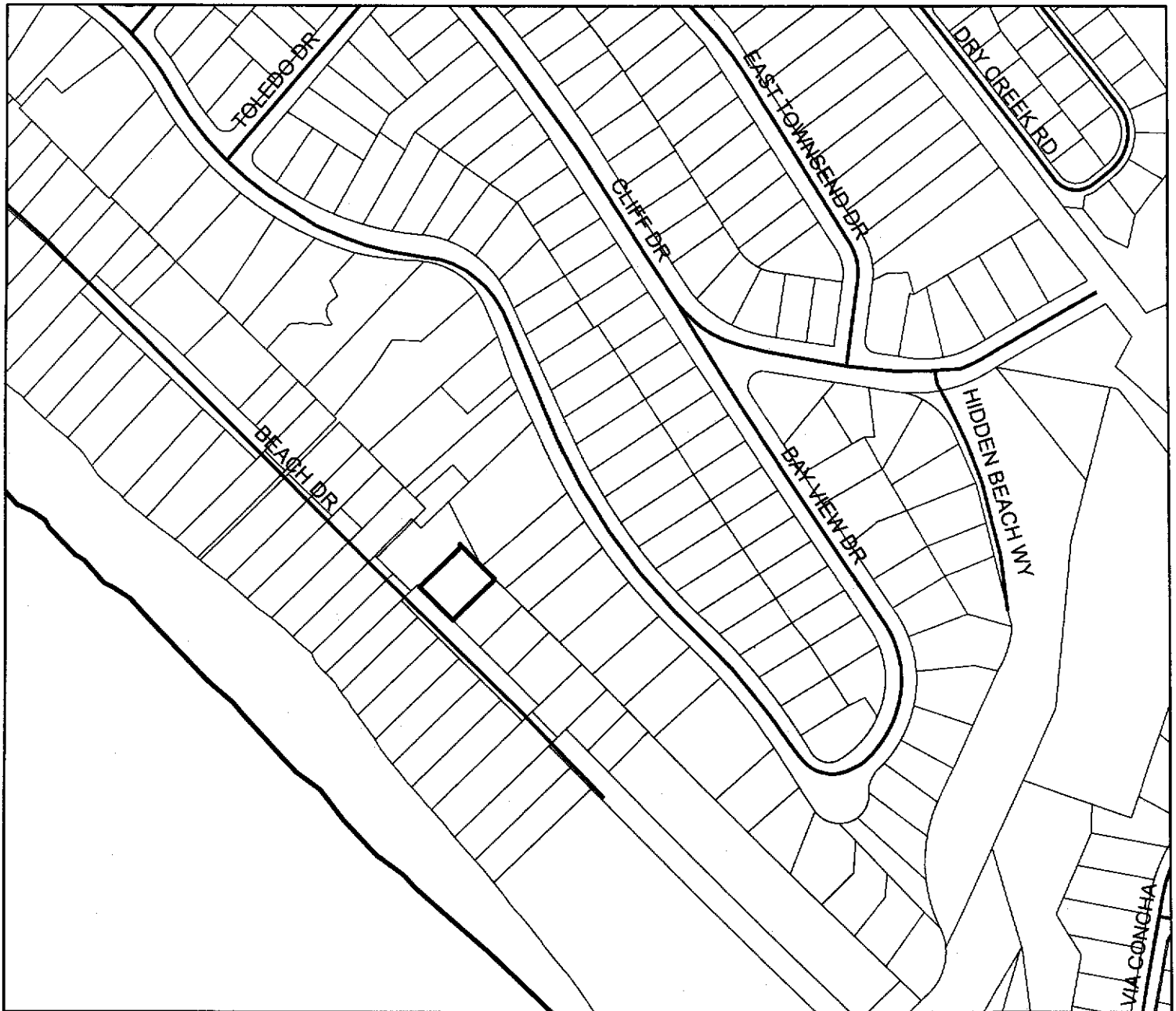


Map Created by
County of Santa Cruz
Planning Department
March 2008

EXHIBIT F







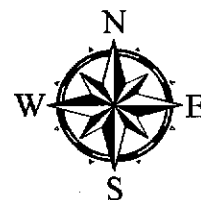
Location Map



0 225 450 900 1,350 1,800 Feet

LEGEND

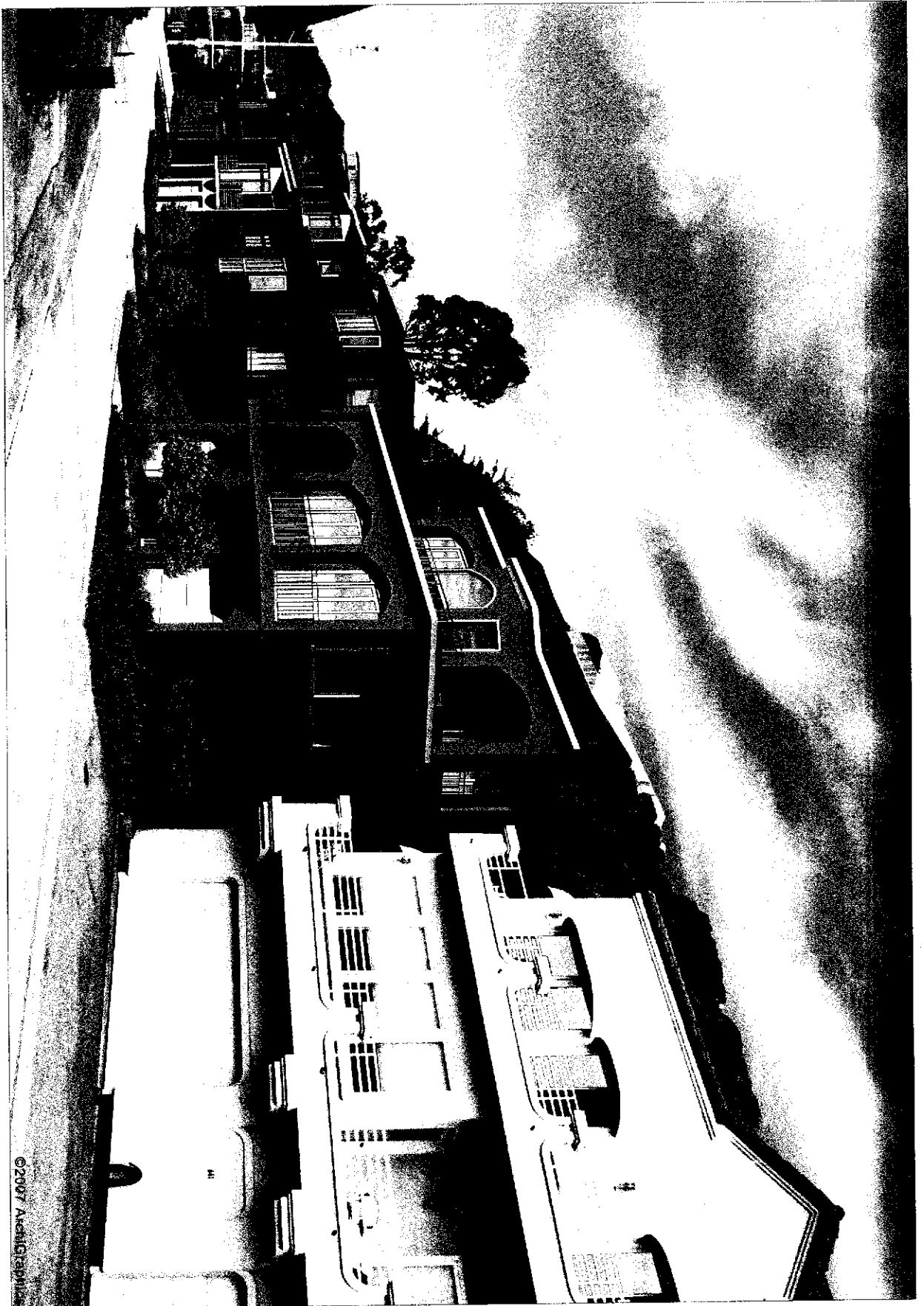
-  APN: 043-161-53
-  Assessors Parcels
-  Streets
-  County Boundary



Map Created by
County of Santa Cruz
Planning Department
March 2008

EXHIBIT

G

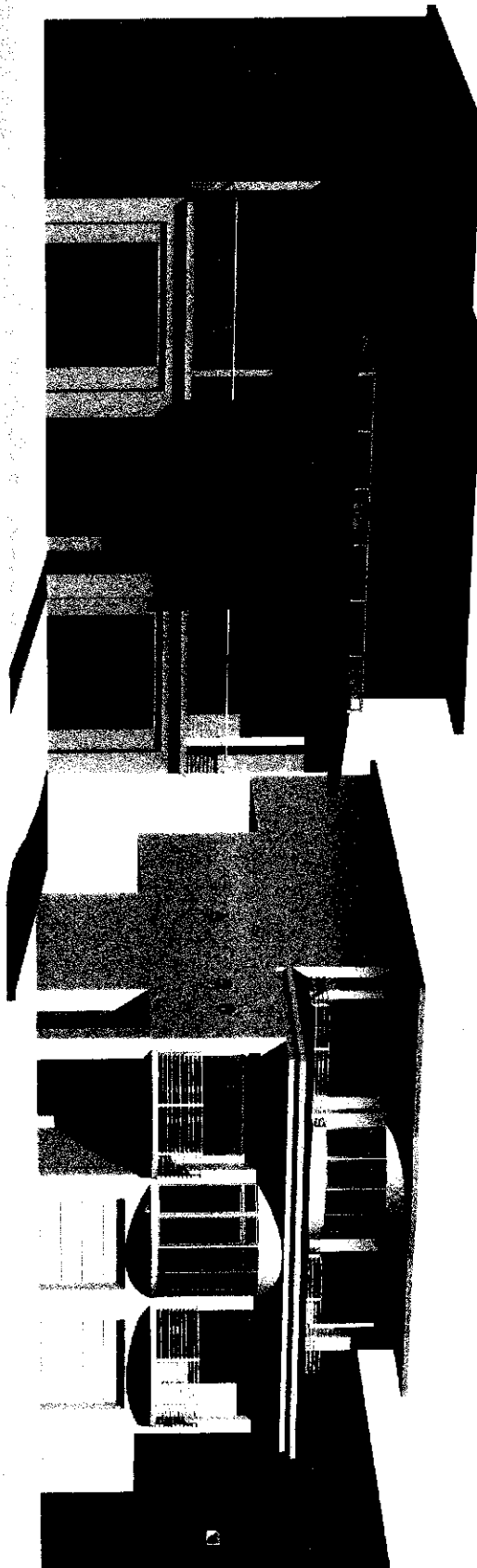


Howell/McNeill Lot 53 Beach Drive

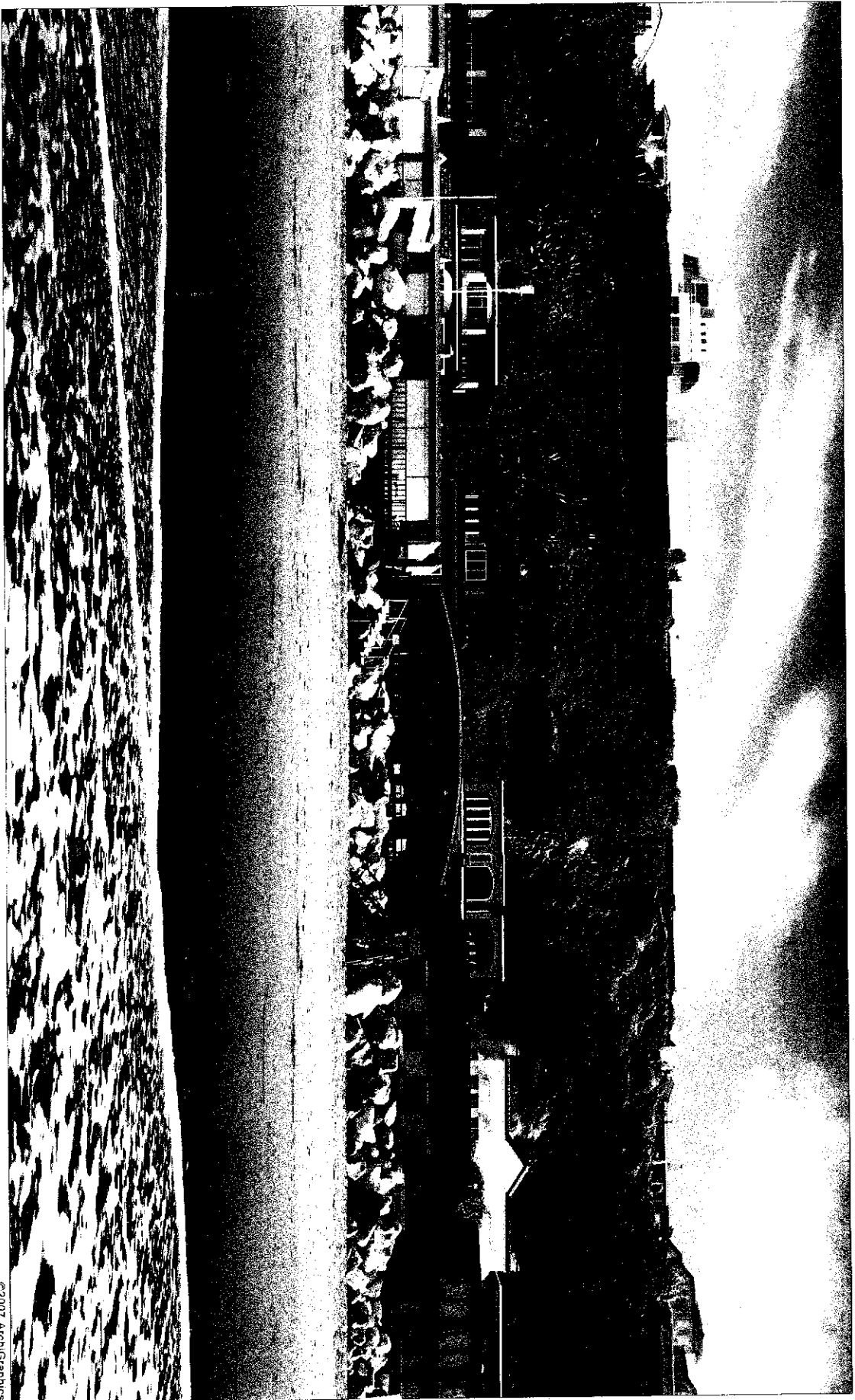
Chris Spaulding Architect

Rendering: ArchiGraphics

©2007 ArchiGraphics



Howell/McNeil, Lot 53 Beach Drive (at left)
Chris Spaulding Architect
January 29, 2007



©2007 ArchiGraphics

Howell/McNeill, Lot 53 Beach Drive
Chris Spaulding Architect

Rendering: ArchiGraphics

C O U N T Y O F S A N T A C R U Z
DISCRETIONARY APPLICATION COMMENTS

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
Time: 13:01:18
Page: 1

Environmental Planning Completeness Comments

===== REVIEW ON DECEMBER 19, 2006 BY KENT M EDLER =====

The following comments are completeness comments in regards to grading only. Note: Joe Hanna is reviewing the engineering geology report and soils report. A soils report was not submitted or routed to me for review.

1. The grading plans must include the quantites associated with shoring. Therefore a preliminary shoring plan must be submitted for review.

2. Additional grading comments may follow once a soils report is reviewed and accepted.

===== UPDATED ON DECEMBER 20, 2006 BY JOSEPH L HANNA =====

Only a general engineering geology report was submitted for the project. This report must be updated based upon a current relief map.

No geotechnical engineer report was submitted with the routing. Please have the applicant submit a geotechnical engineering report based upon on site testing of the colluvium and bedrock, and dated within 3 years.

Please also note that the engineering geology report was submitted without the geologic map that was developed as part of the investigation, plates 1 and 2. Any report review is impossible with out the plate. ===== UPDATED ON FEBRUARY 23, 2007 BY ANDREA M KOCH =====

No further completeness comments regarding FEMA compliance from Andrea Koch.

===== UPDATED ON MAY 4, 2007 BY KENT M EDLER =====

My comment from December 19, 2006 was not addressed regarding submission of a shoring plan. Therefore the comment reamins to be addressed by the applicant.

===== UPDATED ON MAY 8, 2007 BY JOSEPH L HANNA =====

No additional information was submitted for project. Site specific engineering geology and geotechnical engineering report is required; report must address safety of parking area, and must include on site sampling.

Drainage easements and other accommodative measures must be proposed to capture drainage from the slope above the proposed home to the street below the home.

===== UPDATED ON DECEMBER 28, 2007 BY KENT M EDLER =====

Following are comments only with respect to grading. Joe Hanna is reviewing the soils and geology reports.

The grading volumes I've calculated based upon the shoring plans indicate that the grading quantities are approx. 1,100 cy's. Therefore the project is to be elevation to a Level 6 application which means it will go to the Planning Commission and not the Zoning Administrator.

===== UPDATED ON JANUARY 14, 2008 BY JOSEPH L HANNA =====

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
Time: 13:01:18
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The engineering geology and geotechnical reports are accepted.

Joe Hanna 1-14-08 ===== UPDATED ON JANUARY 15, 2008 BY ANTONELLA GENTILE

Soils and geology reports have been accepted per letter from Joe Hanna dated 1/14/08.

Project is complete per Environmental Planning requirements.

===== UPDATED ON MARCH 5, 2008 BY KENT M EDLER ===== The grading calculations by Bowman and Williams have been accepted. The revised plans indicate that the grading quantities will be less than 1,000 cy's.

Environmental Planning Miscellaneous Comments

===== REVIEW ON JANUARY 2, 2007 BY ANDREA M KOCH =====

Compliance Comment:

1) County GIS maps and FEMA maps show the subject parcel's location as just outside of FEMA flood zone VE (Coastal Special Flood Hazard Area with velocity hazards from wave action). The base flood elevation of the nearby VE zone is 21 feet, according to FEMA maps.

However, based on the submitted topographic map, parts of the property (the proposed driveway area and a small portion of the proposed garage area) are located within FEMA flood zone VE. These areas have natural grades below 21 feet, the base flood elevation. After proposed grading occurs, more of the property will be below the base flood elevation and therefore located within the flood zone; the proposed finish floor of the garage is 17.5 feet in elevation, making it fully located within the flood zone, rather than partially located within the flood zone as it was before grading.

===== UPDATED ON MARCH 5, 2008 BY ANTONELLA GENTILE =====

Permit conditions:

Building plans must reflect the following requirements:

State the name of the architect or civil engineer that will certify compliance with FEMA Coastal Construction Standards and related County Building Code requirements (including Section 1612.A5 CBC Flood Hazards) at the completion of the project.

The lowest structural member of the lowest floor and all elements that function as part of the structure must be elevated above the Base Flood Elevation (21 feet).

The foundation and structure attached thereto shall be anchored to prevent flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year.

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
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The space below the lowest floor shall either be free of obstructions or constructed with non-supporting breakaway walls intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system.

The use of fill for structural support of buildings, including the parking slab, is prohibited. Plans shall show no fill to be placed beneath the slab per Coastal Construction Manual section 6.4.3.3 and County Code section 16.10.070(h)5.(vii).

An engineered grading, drainage, and erosion control plan shall be submitted for review and approval by Environmental Planning.

Utilities shall not be located within breakaway walls. All utilities below the base flood elevation shall be mounted on structural components only.

The parking slab shall be a maximum of 4 inches thick and shall be non-structural. Concrete slab shall be designed to break apart upon impact from storm surges.

The plans shall comply with all recommendations provided in the geotechnical engineering and engineering geology reports.

Windows along the side of the building in the area of debris impact may be cluster, but may not have dimension(s) greater than 12 inches, and shall be designed for impact.

Shoring shall be installed under the continuous inspection of the project engineer, architect, or a designated special inspector.

The Base Flood Elevation shall be shown on cross-sections and profiles.

The project geotechnical engineer, or a similar qualified testing laboratory, shall be employed to provide constant inspection and testing of all the fill material placed on the site.

Include the destination for all excavated material on the plans.

Prior to building permit issuance:

The project architect or engineer shall sign a certification prepared by the County Planning Department that indicates that the plans comply with all FEMA regulations.

Plan review letters shall be required from the soils engineer and project geologist stating that the plans conform to the recommendations in the accepted reports.

A Declaration of Geologic Hazards shall be recorded, and a copy of the recorded document shall be submitted to Environmental Planning.

Prior to building permit final:

The project geotechnical engineer, or a similar qualified testing laboratory, shall submit a written summary of the compaction testing. The summary shall include a copy

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
Time: 13:01:18
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of the grading plan that indicates the relative compaction test locations. All related test data must be included in a table with a reference number that correlates the table data to the test location on the grading plan. The testing shall include the backfill for any retaining walls.

Final letters shall be submitted from the soils engineer and project geologist stating that the completed project conforms to their recommendations.

The architect or engineer shall sign a certification form prepared by the County Planning Department stating that the completed project meets all requirements of FEMA for development within the V zone.

A completed Elevation Certificate shall be prepared by the architect or engineer and submitted to Environmental Planning.

Dpw Drainage Completeness Comments

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

===== REVIEW ON DECEMBER 22, 2006 BY DAVID W SIMS =====
1st Review Summary Statement:

The on-site development proposal is well developed and clearly presented. However the proposal lacks sufficient off-site information for complete evaluation of impacts. The Stormwater Management section cannot yet recommend approval of the project.

Reference for County Design Criteria: <http://www.dpw.co.santa-cruz.ca.us/DESIGNCRITERIA.PDF>

Policy Compliance Items:

Item 1) Policies to mitigate runoff from structures and pavements appear to be mostly met. Use of best management practices and minimization of impervious surfacing has been proposed. Other potential policy requirements exist but are unknown until requested information is received.

Information Items:

Item 2) Incomplete. Provide a downstream impact assessment evaluating and fully describing in a report and on the plans the routing and functional capacity of runoff structures (or lack thereof) from this parcel to a point safe and functional discharge on the beach. It is recommended that the designer contact the reviewer on this issue.

Item 3) Incomplete. County Design Criteria requires topography be shown a minimum of 50 feet beyond the project work limits. Provide further extents where necessary to properly illustrate offsite drainage conditions such as the road drainage.

Item 4) Incomplete. Provide a stamped and signed review letter from a geotechnical engineer commenting on the adequacy of the proposed drainage and site mitigation

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
Time: 13:01:18
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design. Any comment and recommendation from the professional must remain consistent with, and serve to resolve, the mitigation requirements for the development, unless specific written request for an exception is granted by the Stormwater Management section.

Please see miscellaneous comments. ===== UPDATED ON FEBRUARY 28, 2007 BY DAVID W SIMS =====

2nd Routing:

Policy Compliance Items:

Item 1) Item addressed. Please see miscellaneous comments.

Information Items:

Item 2) Conditionally Complete. A downstream impact assessment was received. See miscellaneous comments for conditions.

Item 3) Conditionally Complete. Additional topography was provided in the street areas to show drainage conditions. 50 feet of topography was not provided beyond the entire work limits. See miscellaneous comments for conditions.

Item 4) Complete. Stamped and signed review letter from the geotechnical engineer was received and accepted.

Dpw Drainage Miscellaneous Comments

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

===== REVIEW ON DECEMBER 22, 2006 BY DAVID W SIMS =====

A) General Note 10 calling for County Public Works inspection does not apply for this type of development.

B) Sheet C2 Detail 3: The alternatives for either engineered fill or of 8" native material needs to specify that such backfill be porous after compaction procedures. Please clarify.

C) It is recommended that all (or some portion) of the apron being installed for the driveway approach also be constructed of pervious materials since this is a private road and the County requirement for AC doesn't apply, and the runoff from this AC is unmitigated. Can the left side parking area also be pervious construction if the adjoining building has a solid foundation or the bubbler was located differently?

D) The concentration and point discharge of upslope runoff and transported sediments at the bubbler is still an impact that needs consideration if off-site drainage facilities are questionable. This issue should be discussed in the required assessment.

E) Could the bubbler pipe be co-located in the same trench with the downspout pipe to reduce slope disturbance and revegetation needs?

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
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F) Maintenance procedures for the drainage facilities and mitigation measures must be provided on the plans. ===== UPDATED ON FEBRUARY 28, 2007 BY DAVID W SIMS =====

Prior Items A through F) All items addressed.

Conditioned with the submittal of the building plans provide the following:

G) Sheet C1: Locate the discharge point of the non-County 4" drainage outlets across the street and verify that the outfalls are unobstructed and that flow is unimpeded through the pipes.

H) Sheet C2: Provide dimensions for the concrete cutoff wall, detail 4/C2.

I) Sheet C1: More topography does not appear to be needed at this discretionary stage; it is recommended that the additional topography be provided with the building application.

J) The Civil plans are the basis for approval of drainage mitigations. Revise all drainage aspects on the Architectural plans to conform to the engineering plans. If the architectural note (sheet A1) for 50% front yard landscape is to be enforced, then significant revisions to the driveway design shown on the civil plans would be needed and the application should be rerouted.

K) A copy of calculation markups was returned to the engineer. Please review these mark-ups and specifically improve the assessment of contributory offsite drainage area and how this affects analysis of offsite drainage pipe adequacy.

With the submittal of the building plans consider the following:

L) Sheet C1: Could the V9 inlet immediately behind the retaining wall extension be relocated onto the same line as the bubbler and the local area graded so that silt entering the inlet from behind the retaining wall is routed to the sediment basin rather than into the percolation bed gravels?

M) Sheet C1: It is recommended that the 6" perforated pipe that introduces runoff into the percolation bed gravels be moved further away from the building so that there is less chance of any potential sub-grade settlement from influencing the unreinforced slab of the garage floor. Given the concrete cutoff wall there seems to be a low risk of problems, but this change would be more cautious.

N) Sheet C1: The most southern proposed V9 inlet could also collect a lot of fine clogging sediments. Is it actually needed as an inlet? If it is needed only as a junction/cleanout point, perhaps the rim could be set above grade with a solid cover.

O) Sheet C1: It is recommended that Maintenance Notes include periodic inspection and removal of any sliding soils reaching the roof top, so that this sediment won't flow into the downspout system.

Dpw Road Engineering Completeness Comments

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
Time: 13:01:18
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===== REVIEW ON DECEMBER 18, 2006 BY TIM N NYUGEN =====
NO COMMENT

Dpw Road Engineering Miscellaneous Comments

===== REVIEW ON DECEMBER 18, 2006 BY TIM N NYUGEN =====
NO COMMENT

Dpw Sanitation Completeness Comments

===== REVIEW ON APRIL 30, 2007 BY BOB BRYAN =====
Sewer service is currently available. See other comments.
===== UPDATED ON MAY 30, 2007 BY BOB BRYAN =====
Sewer service is currently available.

This review 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 availability letter must be obtained by the applicant. Once a tentative map is approved this letter shall apply until the tentative map approval expires.

The sewer improvement plan submitted for the subject project is approved by District based upon plans revised May 16, 2007. Any future changes to these plans shall be routed to the District for review to determine if additional conditions by the District are required by the plan change. All changes shall be highlighted as plan revisions and changes may cause additional requirements to meet District standards.

Dpw Sanitation Miscellaneous Comments

===== REVIEW ON APRIL 30, 2007 BY BOB BRYAN =====
Sewer service is available for the subject development upon completion of an approved preliminary sewer design submitted as part of a tentative map, development or other discretionary permit approval process. Please note that this notice does not reserve sewer service availability. Only upon completion of an approved preliminary sewer design submitted as part of a tentative map, development or other discretionary permit approval process shall the District reserve sewer service availability.

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

Other: The plan shall show the existing sewer forcemain located in Beach Drive. Delete the MH that is shown over the forcemain.

Label existing manhole AI52 over 18-inch sanitary sewer main.

Manhole next to existing fire hydrant is incorrectly labeled SSMH. Please confirm.

Maintain sewer lateral at minimum 2 percent slope.

The plan shall show all existing and proposed plumbing fixtures on floor plans of

Discretionary Comments - Continued

Project Planner: Maria Perez
Application No.: 06-0688
APN: 043-161-53

Date: March 6, 2008
Time: 13:01:18
Page: 8

building application. Completely describe all plumbing fixtures according to table 7-3 of the Uniform Plumbing Code.

A backflow prevention device may be required on the sewer lateral. ===== UPDATED
ON MAY 30, 2007 BY BOB BRYAN =====
NO COMMENT

Aptos-La Selva Beach Fire Prot Dist Completeness C

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

===== REVIEW ON JANUARY 3, 2007 BY ERIN K STOW =====

DEPARTMENT NAME: Aptos/La Selva Fire Dept. APPROVED

All Fire Department building requirements and fees will be addressed in the Building Permit phase.

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

Aptos-La Selva Beach Fire Prot Dist Miscellaneous

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

===== REVIEW ON JANUARY 3, 2007 BY ERIN K STOW =====

NO COMMENT

INTEROFFICE MEMO

APPLICATION NO: 06-0688

Date: January 4, 2007

To: David Keyon, Project Planner

From: Larry Kasparowitz, Urban Designer

Re: Design Review for a new residence at Beach Drive, Aptos

GENERAL PLAN / ZONING CODE ISSUES**Design Review Authority**

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

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
Visual Compatibility			
All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas	✓		
Minimum Site Disturbance			
Grading, earth moving, and removal of major vegetation shall be minimized.	✓		
Developers shall be encouraged to maintain all mature trees over 6 inches in diameter except where circumstances require their removal, such as obstruction of the building site, dead or diseased trees, or nuisance species.	✓		
Special landscape features (rock outcroppings, prominent natural landforms, tree groupings) shall be retained.	✓		

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 shall be suitable to the climate, soil, and ecological characteristics of the area			N/A

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.			N/A
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)			N/A
Screening and landscaping suitable to the site shall be used to soften the visual impact of development in the viewshed			N/A
Building design			
Structures shall be designed to fit the topography of the site with minimal cutting, grading, or filling for construction			N/A
Pitched, rather than flat roofs, which are surfaced with non-reflective materials except for solar energy devices shall be encouraged			N/A

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			N/A
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 serving 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			N/A

Design Review Authority

13.11.040 Projects requiring design review.

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

13.11.030 Definitions

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

Design Review Standards

13.11.072 Site design.

Evaluation Criteria	Meets criteria In code (✓)	Does not meet criteria (✓)	Urban Designer's Evaluation
Compatible Site Design			
Location and type of access to the site	✓		
Building siting in terms of its location and orientation	✓		
Building bulk, massing and scale	✓		
Parking location and layout	✓		
Relationship to natural site features and environmental influences	✓		
Landscaping	✓		
Streetscape relationship		✓	<i>See comments below.</i>
Street design and transit facilities			N/A

Relationship to existing structures	✓		
Natural Site Amenities and Features			
Relate to surrounding topography	✓		
Retention of natural amenities	✓		
Siting and orientation which takes advantage of natural amenities	✓		
Ridgeline protection			N/A
Views			
Protection of public viewshed	✓		
Minimize impact on private views	✓		
Safe and Functional Circulation			
Accessible to the disabled, pedestrians, bicycles and vehicles			N/A
Solar Design and Access			
Reasonable protection for adjacent properties	✓		
Reasonable protection for currently occupied buildings using a solar energy system	✓		
Noise			
Reasonable protection for adjacent properties	✓		

13.11.073 Building design.

Evaluation Criteria	Meets criteria In code (✓)	Does not meet criteria (✓)	Urban Designer's Evaluation
Compatible Building Design			
Massing of building form	✓		
Building silhouette	✓		
Spacing between buildings	✓		
Street face setbacks	✓		
Character of architecture		✓	<i>See comments below.</i>
Building scale	✓		
Proportion and composition of projections and recesses, doors and windows, and other features	✓		
Location and treatment of entryways	✓		
Finish material, texture and color	✓		

Scale			
Scale is addressed on appropriate levels	✓		
Design elements create a sense of human scale and pedestrian interest	✓		
Building Articulation			
Variation in wall plane, roof line, detailing, materials and siting	✓		
Solar Design			
Building design provides solar access that is reasonably protected for adjacent properties	✓		
Building walls and major window areas are oriented for passive solar and natural lighting	✓		

Urban Designer's Comments:

- *This is the fifth house design (third in a row) that has been proposed by the same development team. All of the previous four designs have essentially been the same with only minor variations. Other "bunker" houses have been proposed which demonstrate a greater variation in design. The applicant should redesign the scheme to appear different than the other two houses next door.*



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

January 14, 2008

Howell and McNeil Development, L.L.C.
750 University Drive, Suite 150
Los Gatos, Ca 95030

Subject: Geotechnical Engineering Report by Haro, Kasunich, and Associates, March 20, 2007, and December 18, 2007, Project Number SC-6046.53; and
Engineering Geology Report by Nielsen and Associates dated December 10, 2007, Job Number SCr-1062-G

Reference: **APN: 043-161-53**
APPL#: 06-0688

Dear Applicant:

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

1. An engineered grading, drainage, and erosion control plan must be submitted for review and approval.
2. The project must comply with all of the recommendations of the geotechnical engineering and engineering geology reports.
3. Windows along the side of the building in the area of debris impact maybe cluster, but may not have a width greater than 12 inches, and must be designed for impact.
4. All shoring shall be installed under the continuous inspection by the project engineer, architect, or a designated special inspector.
5. Show the Base Flood Elevation on the building plans cross-sections and profiles, and note the requirement for frangible parking slabs on the foundation plan.
6. The home must be elevated above the Base Flood Elevation.
7. State on the first sheet of the plans the name of the architect or civil engineer who will certify compliance with FEMA Coastal Construction standards and related County Building Code requirements (including Section 1612.A5 CBC Flood Hazards.) The architect or civil engineer shall state in writing before the final inspection that the project complies with the FEMA Coastal Construction Standards and Flood protection provision of the County Building Code.

Review of the Geotechnical Engineering and Engineering Geology Report

Appl # 06-0688

2/7

8. The project geotechnical engineer, or a similar qualified testing laboratory, must be employed to provide **constant inspect** and testing of all the fill material placed on the site. Before final inspection, a written summary of the compaction testing must be submitted to the County. With this summary, a copy of the grading plan must be submitted that indicates the relative compaction tests' location, and all related test data must be included in a table with a reference number that correlates the table data to the test location indicated on the grading plan. This testing includes the backfill to any retaining walls.
9. The attached notice of geologic hazards must be recorded before the final of the building permit.

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

Please call the undersigned at (831) 454-3175 if we can be of any further assistance.

Sincerely,

Joe Hanna
County Geologist

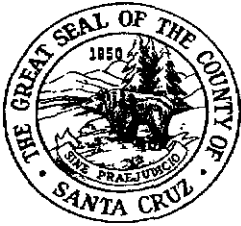
Cc Haro, Kasunich, and Associates
Nielsen and Associates

**NOTICE TO PERMIT HOLDERS WHEN A SOILS REPORT HAS BEEN PREPARED, REVIEWED
AND ACCEPTED FOR THE PROJECT**

After issuance of the building permit, the County requires your soils engineer to be involved during construction. Several letters or reports are required to be submitted to the County at various times during construction. They are as follows:

1. **When a project has engineered fills and / or grading,** a letter from your soils engineer must be submitted to the Environmental Planning section of the Planning Department prior to foundations being excavated. This letter must state that the grading has been completed in conformance with the recommendations of the soils report. Compaction reports or a summary thereof must be submitted.
2. **Prior to placing concrete for foundations,** a letter from the soils engineer must be submitted to the building inspector and to Environmental Planning stating that the soils engineer has observed the foundation excavation and that it meets the recommendations of the soils report.
3. **At the completion of construction,** a *final letter* from your soils engineer is required to be submitted to Environmental Planning that summarizes the observations and the tests the soils engineer has made during construction. The final letter must also state the following: "Based upon our observations and tests, the project has been completed in conformance with our geotechnical recommendations."

If the *final soils letter* identifies any items of work remaining to be completed or that any portions of the project were not observed by the soils engineer, you will be required to complete the remaining items of work and may be required to perform destructive testing in order for your permit to obtain a final inspection.



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

**STEPS FOR COMPLETING THE ENCLOSED DECLARATION OF
GEOLOGIC HAZARDS**

Read the following instructions and carry out all steps. Do not make any alterations to the form, except as allowed by #2 below. FAILURE TO FOLLOW THE INSTRUCTIONS OR ALTERATIONS TO THE FORM WILL RESULT IN A DELAY IN THE ISSUANCE OF YOUR PERMIT.

Read the entire Declaration.

1 Check the information filled in by County staff (ownership, Assessor's Parcel Number, recordation dates, volume and page number and address). IF THERE ARE OMISSIONS, FILL IN THE BLANKS. The information can be found on the recorded deed or in the County Recorder's Office. If you feel there are any other errors, contact Environmental Planning staff for instructions. The form is a formal document and shall not be altered as above. Any unauthorized change(s) will result in an additional delay in processing your permit.

2 Have all owner(s) signatures acknowledged by a notary public. An acknowledgement is a form obtained from the notary verifying that the signatory is the person stated on the Declaration.

3 Take, do not mail, the form and recording fee to:

Office of the County Recorder
County Government Center
701 Ocean Street, Room 230
831) 454-2800

4 Bring or send a copy of the recorded document to:

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

YOUR PERMIT CANNOT BE APPROVED UNTIL THE ABOVE STEPS ARE COMPLETED.
Please call Joe Hanna at 831-454-3175 if you have any questions regarding this form.

Project No. SC6046.49
23 January 2007

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.



2002-0042139

RECORDING REQUESTED BY:

Leslie J. Daniels, Esq.

AND WHEN RECORDED MAIL TO:

Leslie J. Daniels, Esq.
GROOM & CAVE LLP
1570 The Alameda, Suite 100
San Jose, CA 95126

Recorded	REC FEE	19.00
Official Records	TAX	.00
County Of	CC CONF	.00
SANTA CRUZ	SURVEY	10.00
RICHARD W. BEDAL		
Recorder		

08:02AM 12-Jun-2002 JRS
Page 1 of 5

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

Grant Deed (Excluded from Reappraisal Under Proposition 13, i.e. Calif. Const. Art 13A§1 et. seq.)

The undersigned Grantor(s) declare(s) under penalty of perjury that the following is true and correct:
THERE IS NO CONSIDERATION FOR THIS TRANSFER.

Documentary transfer tax is \$ 0. Not a sale.

☐ Computed on full value of property conveyed, or ☐ Computed on full value less
value of liens and encumbrances remaining at time of sale or transfer.

☐ There is no Documentary transfer tax due. (State reason and give code § or
Ordinance number) R & T Section 11925(d)

☒ Unincorporated area: ☐ City of _____ and

This is an exempt transfer under §62 of the Revenue and Taxation Code. Grantors and Grantee in this conveyance are
comprised of the same parties who continue to hold the same proportionate interests in the property. R & T Section 11925 (d).

GRANTORS: JAMES JOSEPH NELSON, a single man

hereby GRANT to: 629 BEACH, LLC, a California Limited Liability Company

the described real property in the County of Santa Cruz, State of California more particularly described on
Exhibit "A" which is attached hereto and made a part hereof.

629 Beach Drive
Aptos, California 95003

APN: 043-152-63

Dated: May 20, 2002
JAMES JOSEPH NELSON

MAIL TAX STATEMENTS

TO: James J. Nelson, Manager
NAME20050 Red Hill Road
ADDRESSLos Gatos, CA 95030
CITY, STATE, ZIP

STATE OF CALIFORNIA)
)ss.
COUNTY OF SANTA CLARA)

On May 20, 2002, before me, Suzanne D. Pilkington
Notary Public, personally appeared James Joseph Nelson, personally known to me (or proved to me
on the basis of satisfactory evidence) to be the persons whose name is subscribed to the within
instrument and acknowledged to me that he executed the same in his authorized capacity, and that by
his signature on the instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.

WITNESS my hand and official seal.

Suzanne D. Pilkington
Notary Public

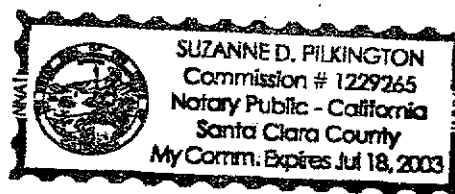


EXHIBIT "A"

The land referred to herein is described as follows:

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

PARCEL ONE:

BEING A PART OF LANDS CONVEYED TO GERARD A. BEUKERS AND HELEN I. BEUKERS, HIS WIFE BY DEED RECORDED MAY 22, 1959 IN VOLUME 1248 OF OFFICIAL RECORDS AT PAGE 120, SANTA CRUZ COUNTY RECORDS, AND LANDS CONVEYED TO BEUKERS PROPERTIES COMPANY, A PARTNERSHIP, BY DEED RECORDED JULY 18, 1963 IN VOLUME 1554 OF OFFICIAL RECORDS AT PAGE 520, SANTA CRUZ COUNTY RECORDS, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO WIT:

BEGINNING AT A RAILROAD SPIKE ON THE CENTERLINE OF BEACH DRIVE, A PRIVATE ROAD 40 FEET IN WIDTH, FROM WHICH THE MOST SOUTHERN CORNER OF LOT 4, BLOCK 98, SUBDIVISION NUMBER 8 AS THE SAME IS SHOWN AND DESIGNATED ON MAP ENTITLED, "SUBDIVISION NUMBER 8, APTOS BEACH COUNTRY CLUB PROPERTIES, APTOS, SANTA CRUZ COUNTY, CALIFORNIA", FILED AUGUST 24, 1928 IN VOLUME 24 OF MAPS AT PAGE 26, SANTA CRUZ COUNTY RECORDS, BEARS NORTH 45 DEGREES 46' WEST 803.09 FEET, NORTH 48 DEGREES 58' WEST 766.38 FEET AND SOUTH 41 DEGREES 02' WEST 51 FEET DISTANT AND FROM WHICH POINT OF BEGINNING A 1/2 INCH IRON PIPE, TAGGED R. C. E. 6270, BEARS NORTH 43 DEGREES 45' 35" EAST 20.00 FEET DISTANT; THENCE FROM SAID POINT OF BEGINNING NORTH 43 DEGREES 45' 35" EAST 99.01 FEET TO A 1/2 INCH IRON PIPE TAGGED R. C. E. 6270; THENCE SOUTH 45 DEGREES 22' 25" EAST 21.02 FEET TO A 1/2 INCH IRON PIPE TAGGED R. C. E. 6270; THENCE NORTH 47 DEGREES 22' EAST 67.22 FEET TO THE WESTERN CORNER OF LANDS CONVEYED TO JOHN P. CARR, ET UX, BY DEED DATED FEBRUARY 6, 1969 AND RECORDED FEBRUARY 25, 1969 IN BOOK 1935 OF OFFICIAL RECORDS AT PAGE 14, SANTA CRUZ COUNTY RECORDS; THENCE ALONG THE SOUTHWESTERN BOUNDARY OF SAID LAST MENTIONED LANDS SOUTH 24 DEGREES 20' EAST 199.11 FEET TO THE SOUTHERN CORNER THEREOF; BEING THE SOUTHERN CORNER OF LANDS DESCRIBED AS PARCEL ONE IN SAID DEED CONVEYING LANDS TO BEUKERS PROPERTIES COMPANY; THENCE ALONG THE SOUTHWESTERN BOUNDARY OF SAID LANDS DESCRIBED AS PARCEL ONE AND ALONG THE SOUTHWESTERN BOUNDARY OF LANDS DESCRIBED AS PARCEL TWO IN SAID DEED, NORTH 45 DEGREES 30' WEST 53.07 FEET TO A 1/2 INCH IRON PIPE TAGGED R. C. E. 6270 AT THE EASTERN CORNER OF LANDS DESCRIBED AS PARCEL THREE IN SAID DEED CONVEYING LANDS TO BEUKERS PROPERTIES COMPANY FROM WHICH A 1/2 INCH IRON PIPE TAGGED R. C. E. 6270 BEARS SOUTH 44 DEGREES 30' 35" WEST 24.53 FEET DISTANT; THENCE ALONG THE SOUTHEASTERN BOUNDARY OF SAID LAST MENTIONED LANDS SOUTH 44 30' 35" WEST 122.72 FEET TO A RAILROAD SPIKE ON THE CENTERLINE OF BEACH DRIVE, A PRIVATE ROAD 40 FEET IN WIDTH, FROM WHICH A 1/2 INCH IRON PIPE TAGGED R. C. E. 6270 BEARS NORTH 44 DEGREES 30' 35" EAST 20.00 FEET DISTANT AND A LEAD PLUG TAGGED R. C. E. 6270 BEARS SOUTH 44 DEGREES 30' 35" WEST 20.00 FEET DISTANT; THENCE ALONG THE CENTERLINE OF SAID BEACH DRIVE NORTH 45 DEGREES 45' 25" WEST 81.10 FEET TO THE PLACE OF BEGINNING.

EXHIBIT "A" - continued

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT FOR PEDESTRIAN USE FIVE FEET IN WIDTH, THE SOUTHEASTERN BOUNDARY OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHERN CORNER OF THE ABOVE DESCRIBED PARCEL OF LAND; THENCE ALONG THE SOUTHEASTERN BOUNDARY OF LANDS DESCRIBED AS PARCEL THREE IN SAID DEED CONVEYING LANDS TO BEUKERS PROPERTIES COMPANY, SOUTH 44 DEGREES 30' 35" WEST 220 FEET, A LITTLE MORE OR LESS, TO THE MEAN HIGH TIDE LINE OF THE WATERS OF MONTEREY BAY.

PARCEL THREE:

A NON-EXCLUSIVE EASEMENT FOR BEACH RECREATION USES NOT INCLUDING ANY STRUCTURES OVER SO MUCH OF LANDS SHOWN AS PARCEL B, ON "RECORD OF SURVEY OF THE LANDS OF BEUKERS PROPERTIES COMPANY", FILED IN VOLUME 43 OF MAPS AT PAGE 27, SANTA CRUZ COUNTY RECORDS, WHICH LIES SOUTHWESTERLY OF A LINE PARALLEL WITH AND DISTANT SOUTHWESTERLY 120.00 FEET, MEASURED AT RIGHT ANGLES, FROM THE NORTHEASTERN BOUNDARY OF SAID PARCEL B.

PARCEL FOUR:

AN EASEMENT FOR ROAD PURPOSES OVER A STRIP OF LAND 40 FEET IN WIDTH, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE MOST SOUTHERLY CORNER OF LOT 4, BLOCK 98, SUBDIVISION NUMBER 8, AS SAME IS SHOWN ON THAT CERTAIN MAP ENTITLED, "SUBDIVISION NUMBER 8, APTOS BEACH COUNTRY CLUB PROPERTIES, APTOS, SANTA CRUZ COUNTY, CALIFORNIA", FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER AUGUST 24, 1928 IN MAP BOOK 24, PAGE 26, SANTA CRUZ COUNTY RECORDS, BEARS SOUTH 41 DEGREES 02' WEST 51 FEET; THENCE FROM SAID POINT OF BEGINNING SOUTH 48 DEGREES 58' EAST 766.38 FEET; THENCE SOUTH 45 DEGREES 46' EAST 1983.17 FEET TO A POINT FROM WHICH THE SOUTHEASTERLY CORNER OF LOT 36, BLOCK 107, TRACT NUMBER 10, RIO DEL MAR COUNTRY CLUB PROPERTIES, SUBDIVISION NUMBER 10, RECORDED DECEMBER 18, 1936 IN MAP BOOK 26, PAGE 10, SANTA CRUZ COUNTY RECORDS, BEARS NORTH 44 DEGREES 39' EAST 117.99 FEET DISTANT.

PARCEL FIVE:

BEING A PART OF THE APTOS RANCHO IN THE WEST HALF OF PROJECTED SECTION 20, TOWNSHIP 11 SOUTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTHWEST BOUNDARY OF BLOCK 107, AS SHOWN ON THE MAP OF "TRACT NUMBER 10, RIO DEL MAR COUNTRY CLUB PROPERTIES", FILED FOR RECORD DECEMBER 18, 1936 IN MAP BOOK 26 AT PAGE 10 OF MAPS, SANTA CRUZ COUNTY RECORDS, AT THE MOST EASTERN CORNER OF PARCEL 3 AS DESCRIBED IN THE DEED TO BEUKERS PROPERTIES COMPANY, A PARTNERSHIP BY DEED RECORDED JULY 18, 1963 IN BOOK 1554, PAGE 520, OFFICIAL RECORDS; THENCE SOUTH 44 DEGREES 30' 35" WEST ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL THREE, 1 FOOT TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 44 DEGREES 30' 35" WEST ALONG SAID SOUTHEASTERLY

EXHIBIT "A" - continued

PARCEL FIVE: (CONTINUED)

LINE 101 FEET, MORE OR LESS, TO THE NORTHEASTERLY LINE OF THAT CERTAIN 40 FOOT EASEMENT FOR ROAD PURPOSES DESCRIBED IN THE DEED TO WALTER D. HELLER, ET UX, RECORDED FEBRUARY 17, 1938 IN BOOK 339, OFFICIAL RECORDS, PAGE 434, SANTA CRUZ COUNTY RECORDS; THENCE SOUTH 45 DEGREES 44' 25" EAST ALONG SAID NORTHEASTERLY LINE 6 FEET MORE OR LESS TO A POINT DISTANT AT RIGHT ANGLES 6 FEET FROM SAID SOUTHEASTERLY LINE OF SAID PARCEL THREE; THENCE NORTH 44 DEGREES 30' 35" EAST AND PARALLEL TO SAID SOUTHEASTERLY LINE 101 FEET MORE OR LESS TO A POINT DISTANT AT RIGHT ANGLES 1 FOOT FROM THE SOUTHWEST BOUNDARY OF SAID BLOCK 107; THENCE NORTH 45 DEGREES 30' WEST AND PARALLEL TO SAID SOUTHEASTERLY BOUNDARY 6 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

PARCEL SIX:

BEING AN EASEMENT FOR CONSTRUCTION AND MAINTENANCE OF A RETAINING WALL AS AN APPURTENANCE TO A PARKING AREA AND ALSO BEING AN EASEMENT FOR PARKING, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEASTERLY CORNER OF THE LANDS CONVEYED TO WESLEY L. PEARL BY DEED RECORDED JULY 29, 1969 IN BOOK 1966 OF OFFICIAL RECORDS AT PAGE 96, SANTA CRUZ COUNTY RECORDS ON THE NORTHERN LINE OF A 40.00 FOOT RIGHT OF WAY SHOWN AS BEACH DRIVE, AS SHOWN ON THAT MAP ENTITLED, "RECORD OF SURVEY OF THE LANDS OF BEUKERS PROPERTIES CO.," FILED IN VOLUME 48 OF MAPS AT PAGE 27, SANTA CRUZ COUNTY RECORDS.

THENCE FROM SAID POINT OF BEGINNING, ALONG THE NORTHERN LINE OF SAID BEACH DRIVE, SOUTH 45(45' 25" EAST 29.29 FEET; THENCE LEAVING SAID NORTHERN LINE OF BEACH DRIVE, NORTH 2(27' 50" WEST 4.35 FEET; THENCE NORTH 39(03' 40" EAST 20.85 FEET; THENCE NORTH 47(13' 30" WEST 24.14 FEET, MORE OR LESS, TO THE SOUTHERN BOUNDARY OF SAID LANDS OF WESLEY L. PEARL; THENCE ALONG SAID BOUNDARY, SOUTH 44(30' 35" WEST 23.16 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

APN: 043-152-63 (AFFECTS PARCEL ONE) 043-152-62 (AFFECTS PARCEL FIVE)