



Staff Report to the Zoning Administrator

Application Number: **111046**

Applicant: Ron Powers/ Powers Land
Planning

Owner: Andrew & Helen Pham
APN: 044-192-21

Agenda Date: July 1, 2011

Agenda Item #: 4
Time: After 10:00 a.m.

Project Description: Proposal to recognize a 429 square foot as-built family room addition above an existing legal non-conforming garage in the front yard setback. Requires a Variance to reduce the required 20-foot front setback to approximately 6 feet.

Location: The property is located on the northeast side of Sumner Avenue approximately 270 feet southeast of the intersection of Sumner Avenue and Arthur Avenue at 455 Sumner.

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

Permits Required: Variance
Technical Reviews: none

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 111046, based on the attached findings and conditions.

Exhibits

- | | |
|-----------------------|-------------------------------------|
| A. Project plans | E. Assessor's, Location, Zoning and |
| B. Findings | General Plan Maps |
| C. Conditions | |
| D. CEQA determination | |

Parcel Information

Parcel Size:	7,013 square feet
Existing Land Use - Parcel:	residential
Existing Land Use - Surrounding:	residential
Project Access:	Driveway from Sumner Avenue
Planning Area:	Aptos
Land Use Designation:	R-UM (Urban Medium Residential)
Zone District:	R-1-5 (single-family residential)
Coastal Zone:	<u> X </u> Inside <u> </u> Outside

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

Appealable to Calif. Coastal Comm. ☐ Yes ☒ No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
Soils: N/A
Fire Hazard: Not a mapped constraint
Slopes: N/A
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: No grading proposed
Tree Removal: No trees proposed to be removed
Scenic: Not a mapped resource
Drainage: Existing drainage adequate
Archeology: Not mapped/no physical evidence on site

Services Information

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

History

Building Permit 0000879U was approved in 1986 for a three bedroom, two bath single-family residence with a 429 square foot attached garage. Because the parcel is sloped, the garage was permitted to be built to within 5 feet of the front property line, using the ordinance exception that allowed for a garage or carport to be the front setback if there was a 7-foot drop or rise in slope from the street centerline to 50 feet into the front of the property. Subsequently, the ordinance was revised to only permit unenclosed carports under this exception, so the garage location is now legal non-conforming.

Subsequent to the permitted construction of the garage, its roof was removed and replaced with a 429 square foot room addition. The work was completed without a permit, and a Notice of Violation was issued. The current property owner, who recently purchased the residence, wishes to retain this addition. Prior to issuance of a Building Permit, a Variance approval is required to confer legality to the addition because of its location within the front setback area.

Project Setting

The property is located in an established residential neighborhood of similar-sized parcels, with single-family residences of varying size, style and front setback distances. The property slopes downward from the rear to the front property line at an average of a 5% grade, with a steep section near the front which allowed for the original approval for an attached garage approximately six feet from the front property line. The location of the garage and the family room addition above it does not create any sight line problems for traffic on Sumner Avenue, and

the room addition appears fully integrated into the overall design of the house.

Zoning & General Plan Consistency

The subject property is a parcel of approximately 7,013 square feet, located in the R-1-5 (single-family residential) zone district, a designation that allows residential uses. The proposed approval of a Variance for a 429 square foot as-built family room addition to a single-family dwelling would be consistent with the principal permitted use within the zone district, and the zoning is consistent with the site's (R-UM) Urban Medium Residential General Plan designation.

Local Coastal Program Consistency

The proposed approval of a Variance for a 429 square foot as-built family room addition to a single-family dwelling is in conformance with the County's certified Local Coastal Program, in that the existing residence is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Developed parcels in the area contain single family dwellings. Size and architectural styles vary widely in the area, and the design of the house is consistent with the existing range of styles. The project site is not located between the shoreline and the first public road, is not identified as a priority acquisition site in the County's Local Coastal Program, and the proposed project will not interfere with public access to the beach, ocean, or other nearby body of water.

Variance Analysis

Approval of a Variance would not constitute a grant of a special privilege because the topography of the parcel requires that improvements be situated toward the front of the property in order to best minimize grading quantities. At the time of its construction, the ordinance that allowed the garage to be constructed in the front setback did not specifically disallow habitable space above such a garage, and to remove this addition now would create a hardship for the current owners with no benefit to the neighborhood. There are no sight line or aesthetic issues created by the addition, and the overall intent of the R-1-5 zone district is not compromised by granting the Variance. The addition is well-integrated into the overall scale and design of the rest of the existing residence and is also in scale with surrounding residential development in the vicinity.

Environmental Review

Environmental review of the proposed project per the requirements of the California Environmental Quality Act (CEQA) has resulted in the determination that the proposed project is eligible for a Categorical Exemption under CEQA Section 15301(e), Existing Facilities. This Categorical Exemption applies because the project is for the recognition of an existing addition to single-family dwelling that does not result in a net increase of more than 50% of the existing floor area.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. The addition was constructed on top of a garage

that was rightfully permitted to be located approximately 6 feet from the property line, and does not materially affect light air or open space opportunities for other properties in the vicinity. 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 **111046**, based on the attached findings and conditions.

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

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

Report Prepared By: Alice Daly
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-3140
E-mail: alice.daly@co.santa-cruz.ca.us

PROJECT INFORMATION

Owner: Alan Pham and Helen Thibodeau
1818 Aliso Way
San Jose, CA 95128
408 947-5188

Address: 408 Sumner Ave., Aptos, CA 95026
408 947-5188

Architect: J.N. 44-192-31
B-1-4008

Architect's Code: 3007
3008

Company: JNC/CMC/CMC/CMC
California Energy Code

Permit: 3007
3008

Type: VN

These plans are in compliance with the 2001 Building and Fire Codes and all other applicable codes and regulations.

Size Coverage

Lot	6,454	sq. ft.	6,454	sq. ft.
Home	1,387	sq. ft.	1,387	sq. ft.
Garage	429	sq. ft.	429	sq. ft.
Garage (235)	429	sq. ft.	429	sq. ft.
Family Room	429	sq. ft.	429	sq. ft.
Total	3,144	sq. ft.	3,144	sq. ft.

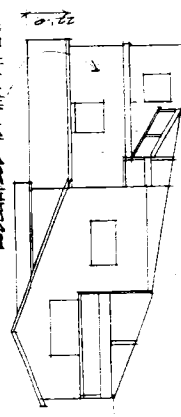
31.15 % of site

PROJECT INTENTION

This application is limited to exactly those items relating to the construction of the existing garage. A family room addition is not included.

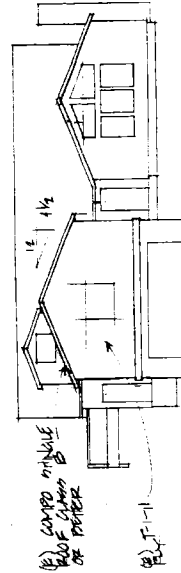
- A-1 SITE PLAN, ROOF PLAN, N & W ELEV.
- A-1-1 GROUND FLOOR PLAN, ROOF PLAN, N & W ELEV.
- A-2 AS-BUILT FAMILY ROOM FLOOR PLAN
- A-3 GROUND FLOOR PLAN, ROOF PLAN, N & W ELEV.
- A-4 ORIGINAL ELEVATIONS

EXISTING FAMILY ROOM ROOF PLAN, ROOF PLAN, N & W ELEV. RECOGNIZED BY THE ATTORNEY



(E) NORTH ELEVATION

EXISTING GARAGE & PORCH ARE INDICATED



(E) WEST ELEVATION (FRONT)
1/8" = 1'-0"

EXISTING HOUSE

EXISTING STAINING WALLS

(E) GARAGE PORCH ROOF PLAN, ROOF PLAN, N & W ELEV. RECOGNIZED BY THE ATTORNEY

RECEIVED

VOLUME PLAN - NO DUNGE



E. PHAM

E. PHAM

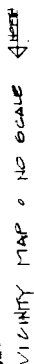
(E) GARAGE PORCH ROOF PLAN, ROOF PLAN, N & W ELEV. RECOGNIZED BY THE ATTORNEY

BRINGING IDENTIFIED FAMILY ROOM TO THE RECOGNIZED

DATE/ROOF PLAN, 1/10" = 1'-0"

1/10" = 1'-0"

SUMNER AVE



PROJECT INFORMATION

OWNER: PORT LIND JAMES MAGGROVE
4445 D CAPITOLA RD.
CAPITOLA CA 95010

A.P.N. 44-192-21

Boeing

0.27 sq. ft.

1607 50. pt.

CHARGES	429	50
TOTAL	1,936	50

$$= 22.2\% \text{ \$1TB coverage}$$

020246574

CONTRACTS TO

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FIRE DEPT. REQUIREMENTS
 YOU MUST ~~OWN~~ BLDG. PLANS TO
 THE ~~THE~~ FIRE DEPT.
 BEFORE CONST. AND COMPLY WITH
 FIRE REQ. BEFORE ELECT. SERVICE
 IS CONNECTED. S.C. COUNTY CODE
 SEC. 12-04-100 (g) ~~1/16~~

COUNTY OF SANTA CRUZ
JULIO VILAS 30 ALLIED

RESEARCH ON POLYMER

THE UNIVERSITY OF CHICAGO

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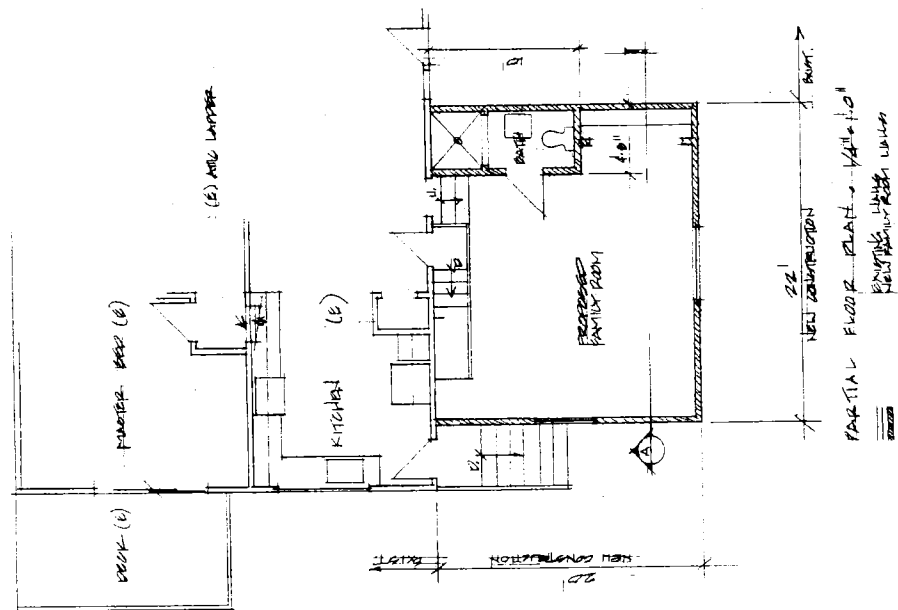
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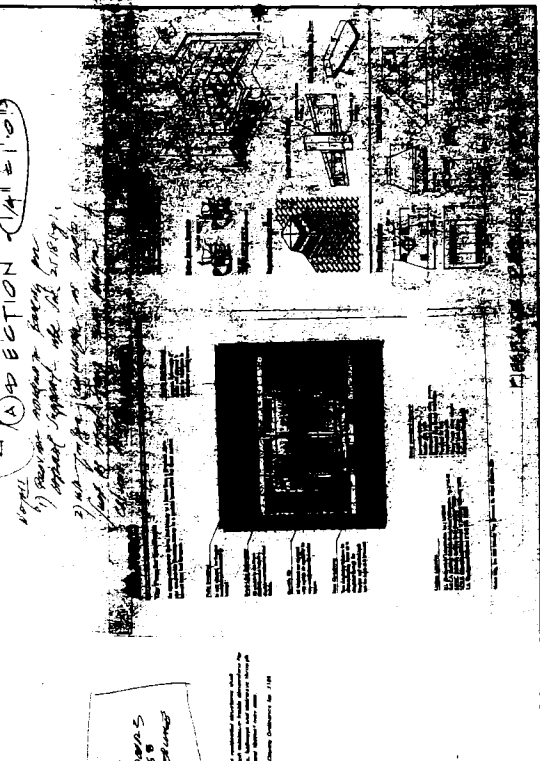
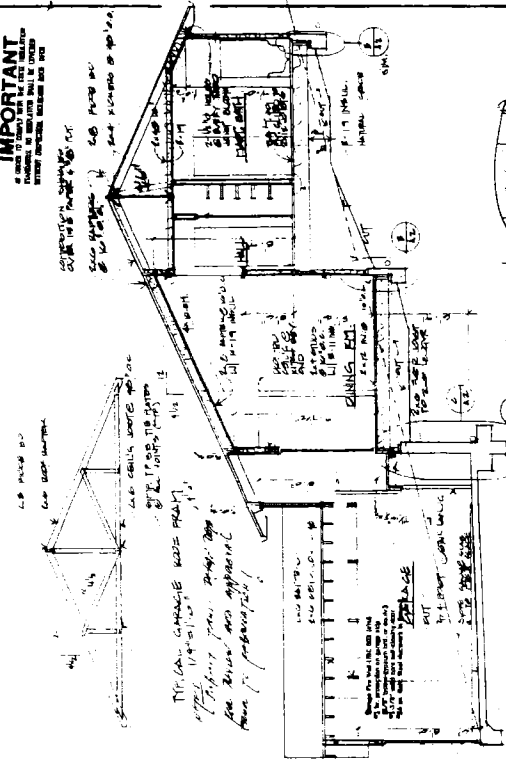
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LINDON SCHEDULE

ITEM	QTY	UNIT	DESCRIPTION
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IMPORTANT
 ALL LINDON AND STANDARD ALUMINUM FINISH
 ALL INTERIOR DOORS ARE 2000 LBS. PINT GRADE U.S.A.

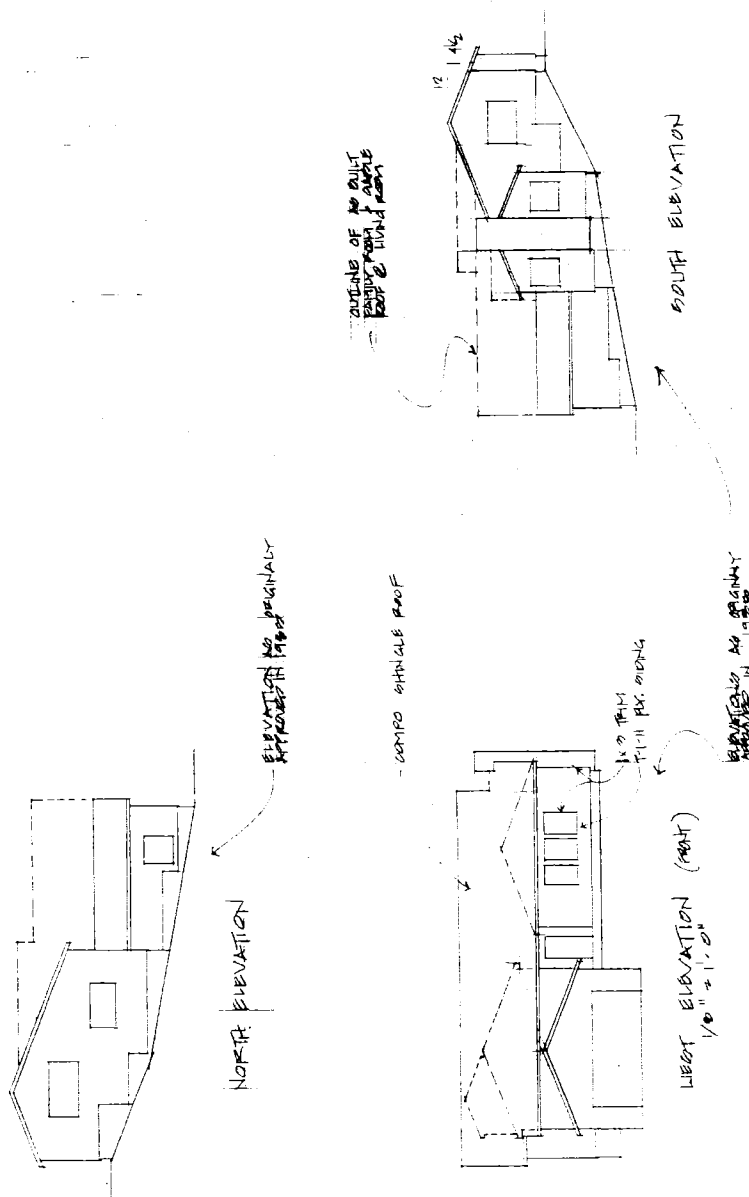


CROSS SECTION
 1/4" = 1'-0"

NOTE: ALL INTERIOR DOORS ARE 2000 LBS. PINT GRADE U.S.A.

SPECIAL INSULATIONS AND TESTS
 SPECIAL INSULATIONS AND TESTS ARE REQUIRED AS PER BUILDING CODE SECTIONS 106 A, B & C.

FLOOR PLAN - 1/4" = 1'-0"



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 and under identical zoning classification.

This finding can be made, due to the special circumstances of site topography and due to ordinance changes that have occurred since the residence was built. At the time that the home was originally constructed, it was allowable to have an enclosed garage situated within the front setback area up to 5 feet from the front property line, using the ordinance exception that allowed for a garage or carport to be the front setback if there was a 7-foot drop or rise in slope from the street centerline to 50 feet into the front of the property. The ordinance was silent about whether this exception could include a space above the garage within the same footprint, so the circumstances under which the non-conforming addition was built would appear to have been appropriate, and not explicitly disallowed, at the time.

While any new construction would be required to conform to current ordinance requirements, a strict interpretation that would call into question the legality of the addition and require its removal would present a hardship to the property owners that would deprive them of the continued enjoyment of their residence in its current state. Because many of the homes in the vicinity were constructed when a 5-foot garage setback could be permitted, given the topography, reduced setbacks are common in the area.

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

This finding can be made. Upon completion of the building permit process, the as-built family room addition over the legal non-conforming 429 square foot garage will pose no threat to health, safety or welfare, and is in harmony with the intent and purpose of the zoning objectives. It blends in well with nearby residences and is not aesthetically unpleasing, nor would it deprive other properties or improvements in the vicinity of light, air or open space opportunities. Removal of the as-built addition would create undesirable short-term construction impacts, and could result in a residence with proportions that are less pleasing than the existing structure.

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

Because of changes to the zoning ordinance through the years, the application of limitations to structural development within front setback areas has not always been consistent, and it is reasonable to conclude that the 429 square foot as-built family room addition was not built in a

Application #: 111046
APN: 044-192-21
Owner: Andrew & Helen Pham

location that would have constituted a privilege that would not have been approved for other properties with similar circumstances at that time.

Conditions of Approval

Exhibit A: Project plans, 5 sheets, by Jim Mosgrove, dated March 2011.

- I. This permit authorizes an as-built 429 square foot family room addition to a single-family dwelling. This approval does not confer legal status on any existing structures or existing uses on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days from the effective date of this permit.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include the following additional information:
 - B. Submit four copies of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal.
 - C. Meet all requirements and pay any applicable plan check fee of the Aptos- La Selva Beach Fire Protection District.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
 - A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.

- C. The project must comply with all recommendations of the approved soils reports.
- D. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.100, shall be observed.

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- V. 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 that do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires three years from the effective date listed below unless the conditions of approval are complied with and the use commences before the expiration date.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Steven Guiney, AICP
Deputy Zoning Administrator

Alice Daly
Project Planner

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

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

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

Application Number: 111046
Assessor Parcel Number: 044-192-21
Project Location: 455 Sumner Avenue

Project Description: Proposal to recognize an as-built room addition above an existing legal non-conforming garage. Requires a Variance to reduce the required front yard setback from 20 feet to 6 feet.

Person or Agency Proposing Project: Ron Powers/ Powers Land Planning

Contact Phone Number: 831-661-5170

- 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: Existing Facilities (CEQA Section 15301)

F. **Reasons why the project is exempt:**

Recognition of an existing structure.

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

Alice Daly, Project Planner

Date: _____

FOR TAX PURPOSES ONLY

THE ASSessor MAKES NO GUARANTEE AS TO THE ACCURACY OF THE INFORMATION CONTAINED HEREIN. THE ASSessor ASSUMES ANY LIABILITY FOR ANY ERRORS OR OMISSIONS. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.

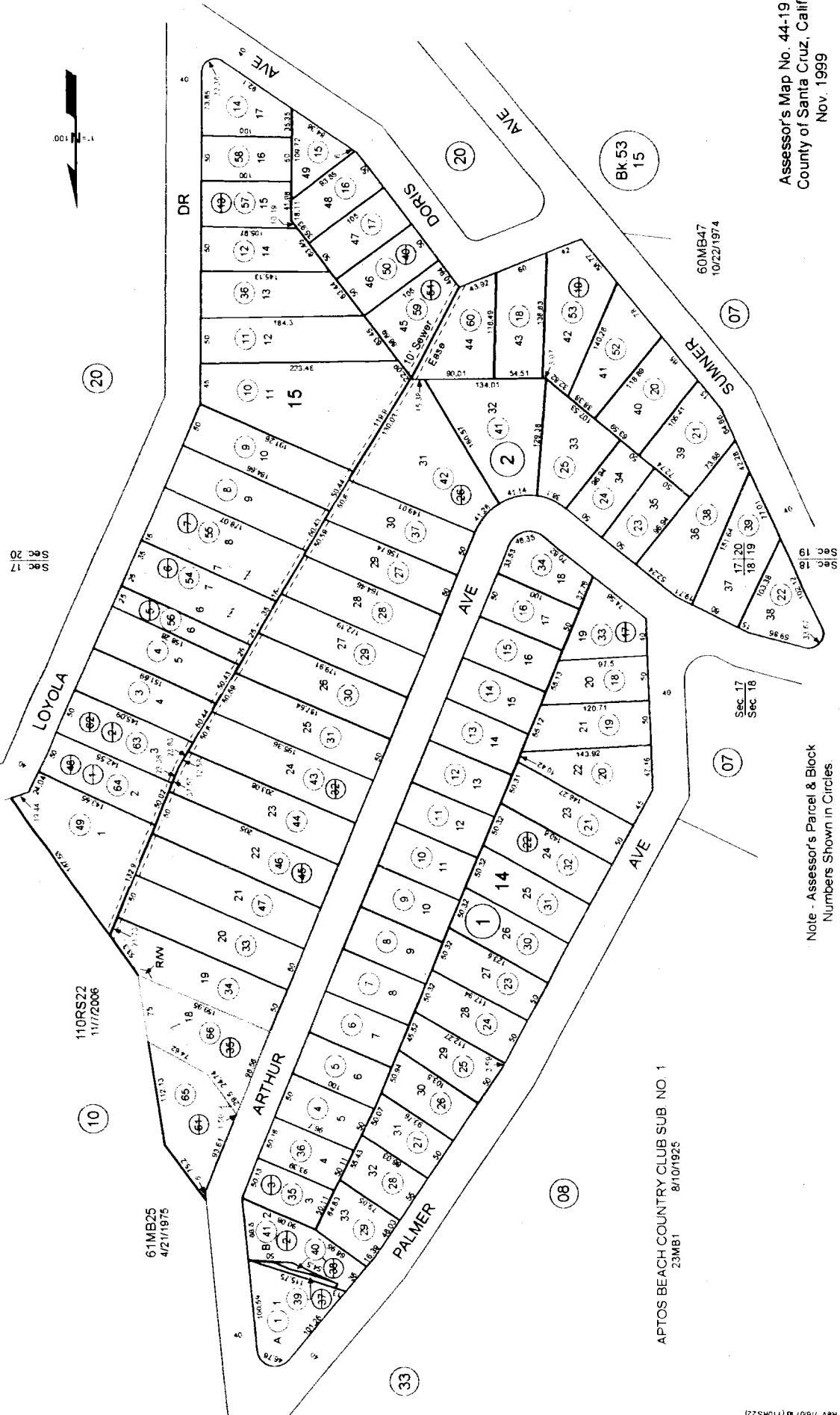
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1998

POR. APTOS RANCHO

SECS. 17, 18, 19, & 20, T.11S., R.1E., M.D.B. & M.

Tax Area Code
69-273

44-19



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

Assessor's Map No. 44-19
County of Santa Cruz, Calif.
Nov. 1999

Electronically redrawn 11/1999 KSA
Rev. 5/2001 mmm (changed page ref.)
Rev. 7/6/01 mmm (110RS22)



Location Map



LEGEND



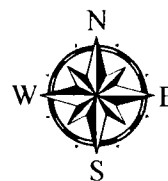
APN: 044-192-21



Assessors Parcels



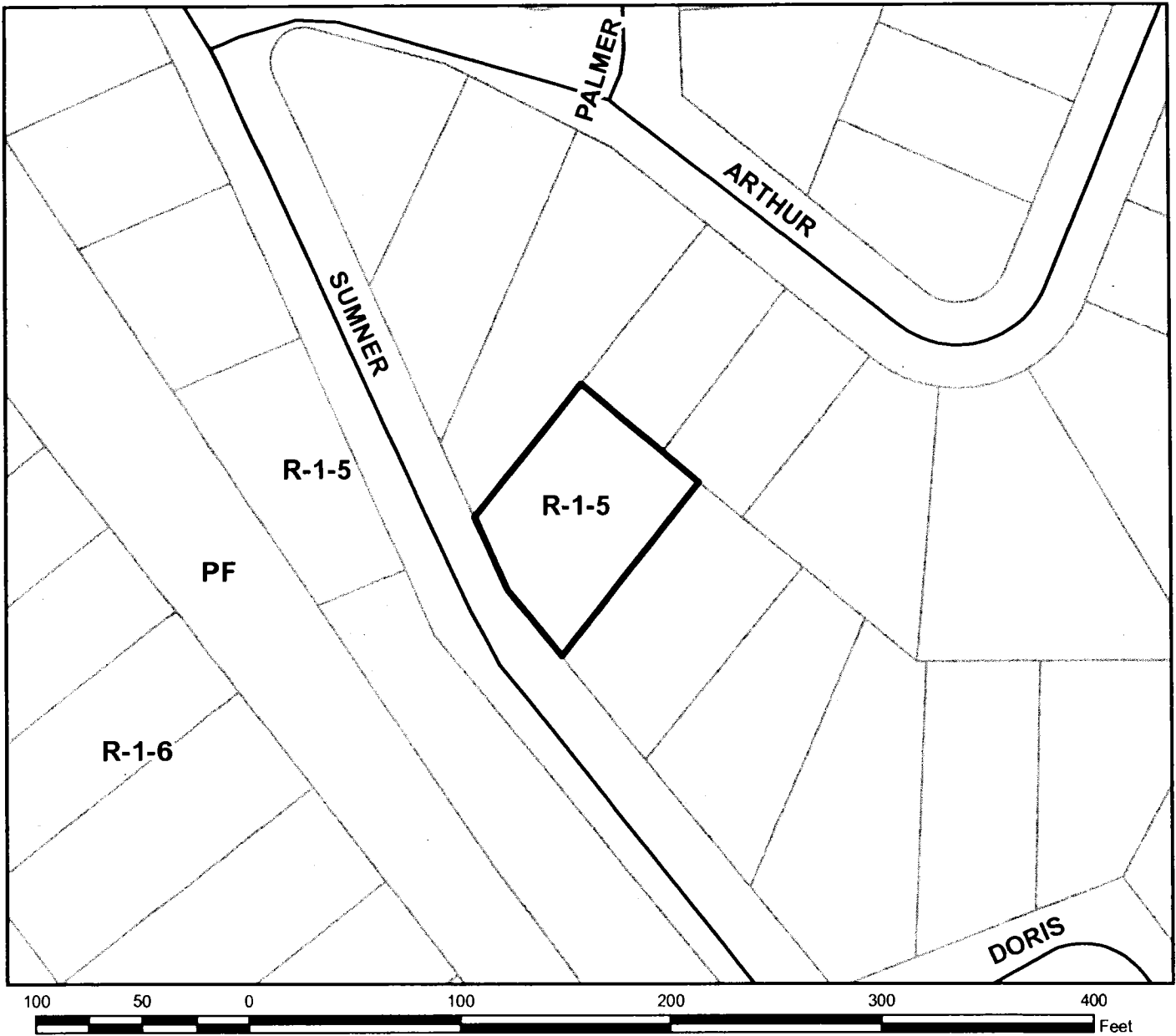
Streets






Map Created by
County of Santa Cruz
Planning Department
April 2011



Zoning Map

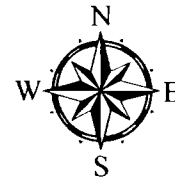


LEGEND

-  APN: 044-192-21
-  Assessors Parcels
-  Streets

RESIDENTIAL-SINGLE FAMILY

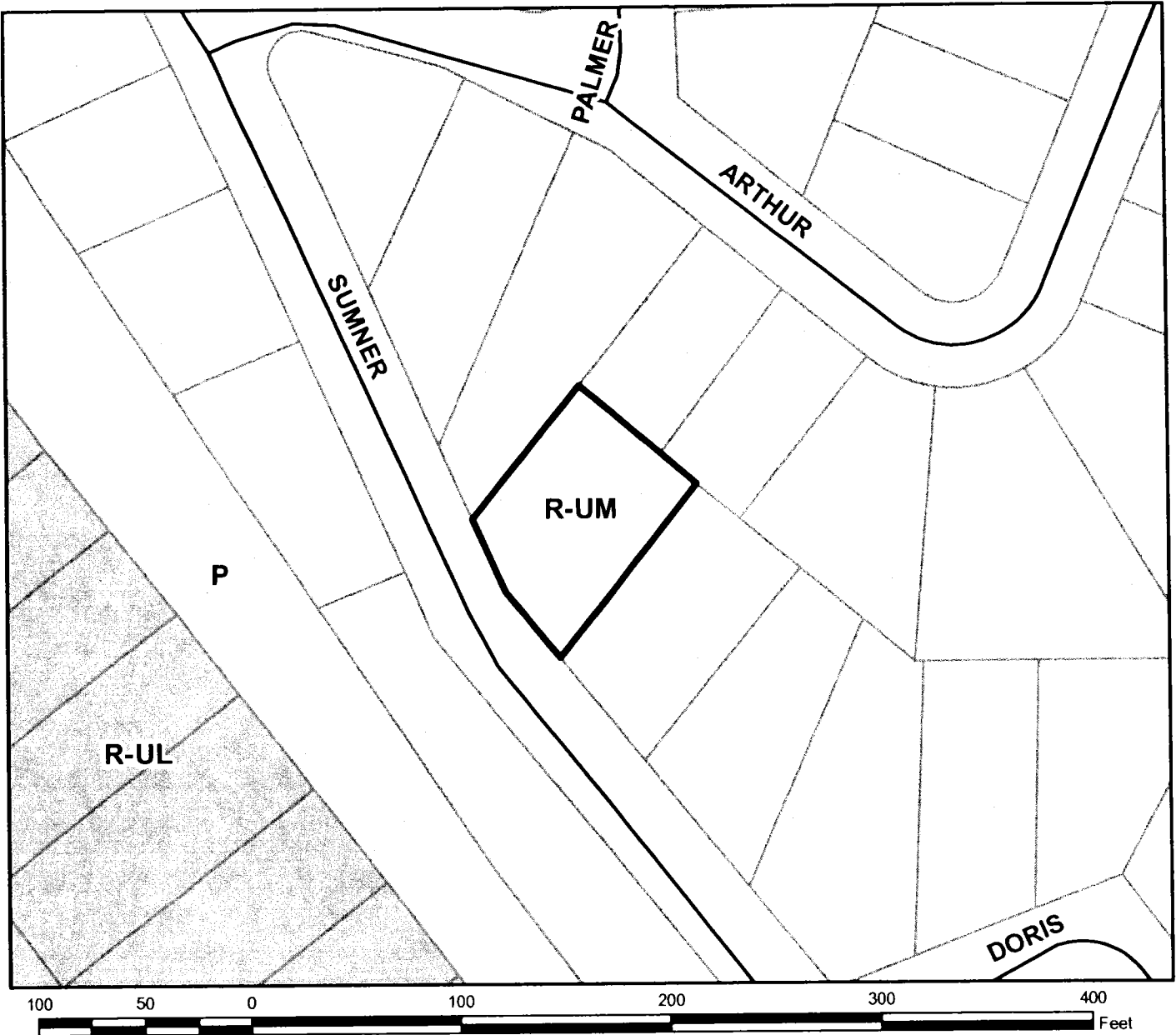
PUBLIC FACILITY



Map Created by
County of Santa Cruz
Planning Department
April 2011



General Plan Designation Map



LEGEND



APN: 044-192-21



Assessors Parcels



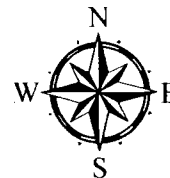
Streets

Residential - Urban Medium Density

Public Facilities



Residential - Urban Low Density



Map Created by
County of Santa Cruz
Planning Department
April 2011