

# Staff Report to the Zoning Administrator

Application Number: 141221

**Applicant:** Jerry Whitney **Owner:** John Paiva

**APN:** 043-072-46

Agenda Date: 4/3/15 Agenda Item #: 2 Time: After 9:00 a.m.

**Project Description**: Proposal to recognize the construction of an approximately 95 square foot second story deck in the rear yard, 76 square feet of which extends over the property line into a county owned public easement and to recognize modifications to the seaward side of the existing home including the replacement of a window with a sliding glass door and 3 linear feet of 6 foot high privacy fencing on the southwest (seaward) side of the home. Requires a Coastal Development Permit and Variance to reduce the existing 1 foot rear yard setback to zero feet and increase the existing lot coverage from 94 percent to 97 percent.

**Location**: Property is located on the west side of Beach Drive approximately 400 feet south of the intersection with Rio Del Mar Boulevard (220 Beach Drive).

Supervisorial District: 2nd District (District Supervisor: Friend)

Permits Required: Coastal Development Permit, Variance

#### **Staff Recommendation:**

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 141221, based on the attached findings and conditions.

#### **Exhibits**

A. Categorical Exemption (CEQA

determination)

B. Findings

C. Conditions

D. Project plans

E. Site photos

F. Assessor's, Location, Zoning and

General Plan Maps

G. Comments & Correspondence

#### **Parcel Information**

Parcel Size:

621 square feet

Existing Land Use - Parcel:

Existing Land Use - Surrounding:

Residential Residential

Project Access:

Beach Drive

Planning Area:

**Aptos** 

Land Use Designation: R-UH (Urban High Density Residential)

Zone District: RM-2.5 (Multi-family Residential (2,500 square foot

minimum parcel size))

Coastal Zone: X Inside Outside
Appealable to Calif. Coastal X Yes No

Comm.

#### **Environmental Information**

Geologic Hazards: Flood Zone

Soils: Required at building permit stage

Fire Hazard: Not a mapped constraint

Slopes: Flat lot

Env. Sen. Habitat: Not mapped/no physical evidence on site

Grading: No grading proposed

Tree Removal: No trees proposed to be removed

Scenic: Project is located in a mapped scenic resource

Drainage: No change to existing drainage

Archeology: Mapped Archeologic Resource, review not required

#### **Services Information**

 Urban/Rural Services Line:
 X Inside Outside

 Water Supply:
 Soquel Creek Water District

Sewage Disposal: Santa Cruz Sanitation District

Fire District: Aptos La Selva Fire
Drainage District: Flood Control District 6

#### History

The existing two story dwelling was constructed in approximately 1955. In August of 2014 a notice of violation was issued for an interior remodel and construction of a second level deck on the seaward side of the home without permits.

In November of 2014 the unpermitted work to the interior of the home was rectified by obtaining a building permit. Approval of this application and associated building permits would allow the property owner to keep the deck which extends over the rear property line into a public pedestrian walkway and address the remaining code violations for construction of the second story deck and improvements to the seaward side of the home. As part of this application, the applicant is requesting 3 linear feet of a 10 foot wide 6 foot high privacy fence located within a 37 foot wide public right of way also be recognized.

#### **Project Setting**

The subject property is located on the southwest side of Beach Drive approximately 500 feet south of the intersection with Rio Del Mar Boulevard in a group of approximately 30 homes commonly referred to as "the Island". Development along this portion of Beach Drive consists of

mainly two-story single family dwellings with zero lot lines on 2 or more sides and several variances have been approved to exceed the allowed lot coverage and floor area ratio.

A 37-foot wide public pedestrian right of way (County-owned) runs along the seaward side of the homes. The majority of the 37-foot walk consists of unimproved beach and rip rap wall. The remaining portion of the walkway (approximately 15 feet) is paved. A variety of similar encroachments extend 3-5 feet into the walkway from many of the homes along this stretch of Beach Drive.

#### Variance

Variance approval is required to further reduce the required 10 foot rear yard setback from one (1) foot to zero feet and increase the existing 94 percent lot coverage to 97 percent. Both requests are necessary in order to recognize the construction of a second story deck with support posts on the seaward side of the home.

#### **Zoning & General Plan Consistency**

The subject property is a parcel of approximately 640 square feet, located in the RM-2.5 (Multifamily Residential (2,500 square foot minimum parcel size)) zone district, a designation which allows residential uses. The proposed residence is a principal permitted use within the zone district and the zoning is consistent with the site's R-UH (Urban High Density Residential) General Plan designation.

#### **Local Coastal Program Consistency**

The proposed residence is in conformance with the County's certified Local Coastal Program, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Developed parcels in the area contain single family dwellings. Size and architectural styles vary widely in the area, and the design submitted is consistent with the existing range of styles.

The project site is located between the shoreline and the first public road and is not identified as a priority acquisition site in the County's Local Coastal Program. The proposed deck encroachment will not interfere with public access to the beach, ocean, or other nearby body of water in that an existing public access traverses the seaward side of the home and a sufficient amount of the right of way will remain accessible and unobstructed as a result of the project.

#### **Environmental Review**

The proposed development qualifies as a Class 3 Categorical Exemption under the California Environmental Quality Act (CEQA) and not subject to further environmental review.

#### 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

APN: 043-072-46 Owner: John Paiva

complete listing of findings and evidence related to the above discussion.

#### **Staff Recommendation**

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

 APPROVAL of Application Number 141221, 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: <a href="https://www.co.santa-cruz.ca.us">www.co.santa-cruz.ca.us</a>

Report Prepared By: Nathan MacBeth

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## 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: 141221
Assessor Parcel Number: 043-072-46 Project Location: 220 Beach Drive
Project Description: Construct a deck, replace windows with a sliding door and construct 3 feet of privacy fence at an existing single family dwelling.
Person or Agency Proposing Project: Jerry Whitney
Contact Phone Number: (831) 421-9700
A The proposed activity is not a project under CEQA Guidelines Section 15378.  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).  EX _ Categorical Exemption
Specify type: Class 3 - New Construction or Conversion of Small Structures (Section 15303)
F. Reasons why the project is exempt:
Exterior modifications to an existing single family dwelling in an area designated for residential uses
In addition, none of the conditions described in Section 15300.2 apply to this project.
Date:
Nathan MacBeth, Project Planner

#### 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, in that the subject 621 square foot parcel is approximately 25 percent of the minimum parcel size for the RM-2.5 zone district. The subject property is located in a row of 30 homes located between two public right of ways Beach Drive and a 37 foot wide pedestrian walkway. The many of these lots are developed at 100 percent lot coverage and have zero foot setbacks on more than one side. The request for a variance to reduce the rear yard setback by one additional foot and increase the lot coverage from 94 percent to 97 percent are relatively insignificant to the current configuration and intensity of development on site.

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 public health, safety, or welfare or injurious to property or improvements in the vicinity.

This finding can be made, in that the reduction of the rear yard and increased lot coverage for construction of the second story deck would be in line with the type of development found in the vicinity and would not adversely impact property or improvements in the vicinity. The 4 foot encroachment into the public right of way will not materially affect public safety or pedestrian use of the 37 foot wide walkway in that the second floor raised deck will not affect ground floor uses. An encroachment permit shall be required for the construction of any private improvement located within a public right of way.

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.

This finding can be made, in that several of the homes in the vicinity have been granted similar variance approvals to reduce the required setbacks to zero feet and exceed the allowed lot coverage. Further, County records indicate that encroachment permits have been issued by the Department of Public Works for structures such as decks and balconies within the 37 foot wide walkway.

#### **Coastal Development Permit Findings**

1. That the project is a use allowed in one of the basic zone districts that are listed in LCP section 13.10.170(D) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the property is zoned RM-2.5 (Multi-family Residential (2,500 square foot minimum parcel size)), a designation which allows residential uses. The proposed improvements are proposed additions to an existing residence which is a principal permitted use within the zone district, and the zoning is consistent with the site's R-UH (Urban High Density Residential) General Plan designation.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

This finding can be made, in that though the project involves placement of an encroachment within an existing public access that runs along the rear (seaward side) of the dwelling, the proposed encroachment will not restrict public access. The improved area of the mapped 37-foot wide public access is approximately 15 feet wide. Though the project will result in an encroachment of 4 feet into the public access, a sufficient amount of the improved (paved) access will remain unobstructed to allow continued public access along the rear of the home. The project has been conditioned to require an encroachment permit be obtained for the work within the 37 foot wide public walkway located on the seaward side of the subject property.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to section 13.20.130 et seq.

This finding can be made, in that the development is consistent with the surrounding neighborhood in terms of architectural style; the site is surrounded by lots developed to an urban density; the colors will remain natural in appearance and complementary to the site. The development is currently visible from the beach and will continue to be visible as a result of the project.

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

This finding can be made, in that though the project site is located between the shoreline and the first public road, the project will not adversely impact or restrict use of a mapped 37 foot wide pedestrian walkway running between the subject property and the beach. Whereas roughly half of this 37 foot wide right of way consists of unimproved beach (sand) and a rock seawall, the remaining portion of the right of way (approximately 15 feet) is paved. The majority of the

homes along the island have a combination of permitted and unpermitted encroachments within the first three to five feet of the right of way. Considering the existing encroachments within the walkway, roughly 10 feet of the improved portion of the right of way remains clear of any obstructions/encroachments providing a continuous walk along the seaward side of this group of homes.

Consequently, the proposed improvements will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the County Local Coastal Program.

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

This finding can be made, in that the structure is sited and designed to be visually compatible, in scale, and integrated with the character of the surrounding neighborhood. Additionally, the primary use of the property will continue to be residential which is allowed in the RM-2.5 (Multi-family Residential (2,500 square foot minimum parcel size)) zone district, as well as the General Plan and Local Coastal Program land use designation. Developed parcels in the area contain single family dwellings. Size and architectural styles vary widely in the area, and the design submitted is consistent with the existing range of styles. The proposed improvements located within the first 4 feet of the 37 foot wide public access will not restrict use of or access to the pedestrian walkway along the seaward side of the residence.

#### **Development Permit Findings**

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

This finding can be made, in that the project is located in an area designated for residential uses. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed improvements will not further deprive adjacent properties or the neighborhood of light, air, or open space in that the homes on either side of the subject property share side walls much like condominium style development with 100 percent lot coverage which is the pattern of development in the vicinity.

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

This finding can be made, in that with the approval of a variance to reduce the rear yard to zero feet and the issuance of an encroachment permit from the Department of Public Works, the proposed deck and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the RM-2.5 (Multi-family Residential (2,500 square foot minimum parcel size)) zone district. The primary use of the property will be one residence which is consistent with the pattern of development in the vicinity. The reduction of the rear yard setback from 1 foot to zero feet is supported by the size of the parcel being approximately 25 percent of the minimum parcel size for the RM-2.5 zone district and proximity of the dwellings on either side of the subject property.

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

This finding can be made, in that the proposed improvements to the existing residential use are consistent with the use and density requirements specified for the Urban High Density Residential (R-UH) land use designation in the County General Plan.

The proposed encroachment into the pedestrian right of way is consistent with General Plan Objective 7.7a through 7.7c in that though the proposed deck and privacy fence will encroach into the pedestrian right of way, a sufficient amount of the right of way will remain unobstructed to allow for continued use and access to the beach and shoreline.

The proposed residence will be properly proportioned to the parcel size and the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the proposed residence will be consistent with the development pattern found in the vicinity.

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

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

This finding can be made, in that the parcel is developed with an existing single family dwelling. The proposed deck addition, modifications to the seaward side of the home, and privacy fencing will not result in an increase in traffic or overload utilities

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the proposed structure is located in a mixed neighborhood containing a variety of architectural styles, some similar to the existing residence. The proposed improvements are consistent with the land use intensity and density of the neighborhood.

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

This finding can be made, in that the proposed development is not subject to design review as required by County Code Section 13.11.040.

#### **Conditions of Approval**

Exhibit D: Project Plans 3 sheets Prepared by JW Design Group, Dated September 2014

- I. This permit authorizes the construction of a 95 square foot deck and sliding glass door at the second floor and three feet of privacy fencing all on the seaward side of the residence. This approval does not confer legal status on any existing structure(s) or existing use(s) 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 Demolition Permit from the Santa Cruz County Building Official.
  - C. 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.
  - D. Obtain a Grading Permit from the Santa Cruz County Building Official.
  - E. Obtain an Encroachment Permit from the Department of Public Works for all offsite work performed in the County road right-of-way (37 foot wide pedestrian easement).
  - F. 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 "D" on file with the Planning Department. Any changes from the approved Exhibit "D" 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. One elevation shall indicate materials and colors as they were approved by this Discretionary Application. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing

the materials and colors on the elevation, the applicant shall supply a color and material board in 8 1/2" x 11" format for Planning Department review and approval.

- 2. Details showing compliance with fire department requirements.
- B. Meet all requirements and pay all Code Enforcement fees.
- C. Submit four copies of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.
- D. Meet all requirements of and pay drainage fees to the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.
- E. Meet all requirements and pay any applicable plan check fee of the Fire Protection District.
- F. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
- G. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
  - 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 16.42.080 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 16.42.080, shall be observed.

#### IV. Operational Conditions

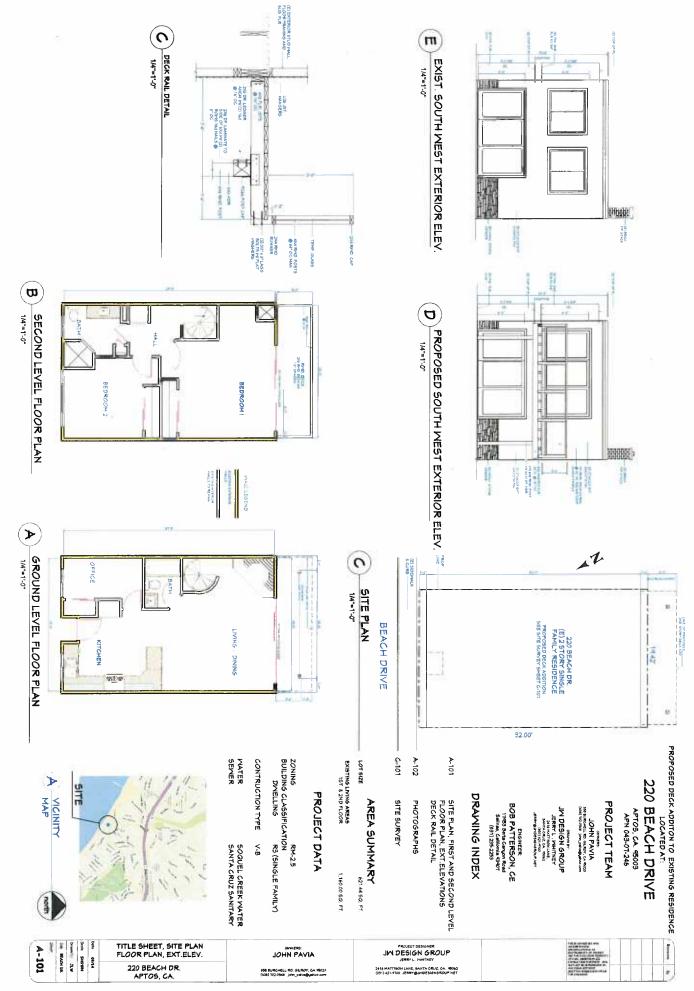
- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement 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, it officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
  - A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
  - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
    - 1. COUNTY bears its own attorney's fees and costs; and
    - 2. COUNTY defends the action in good faith.
  - C. <u>Settlement</u>. 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. <u>Successors Bound</u>. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

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

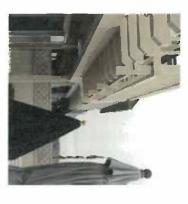
Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

Approval Date:	 dy the control of the
Effective Date:	
Expiration Date:	
Wanda William Deputy Zoning Admi	Nathan MacBeth 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.



220-222 BEACH DRIVE



218-220-222 BEACH DRIVE



220-222 BEACH DRIVE



245-254 BEACH DRIVE

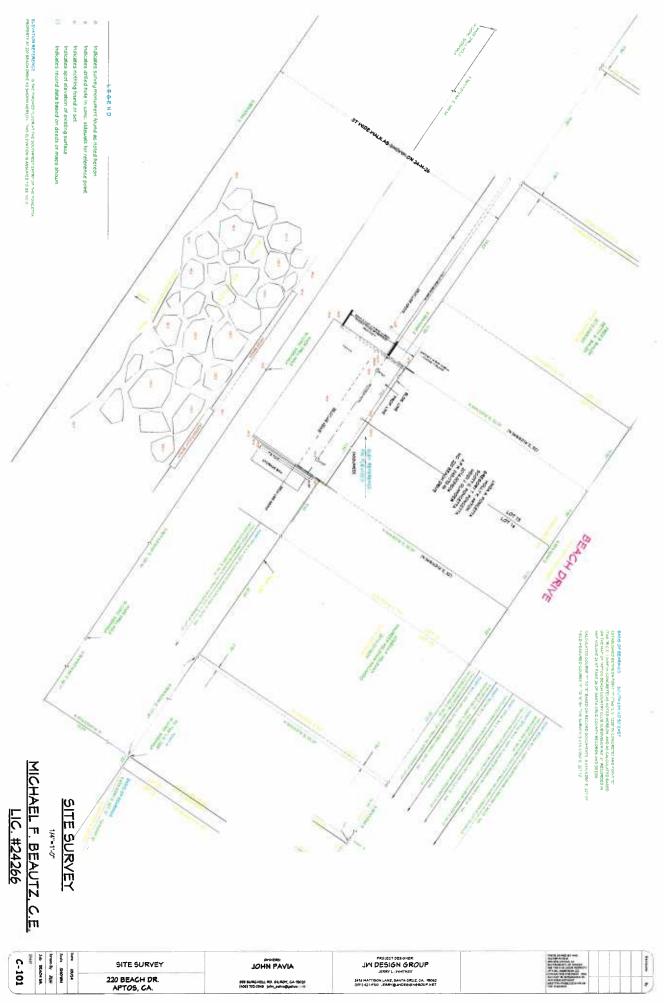


222-230 BEACH DRIVE



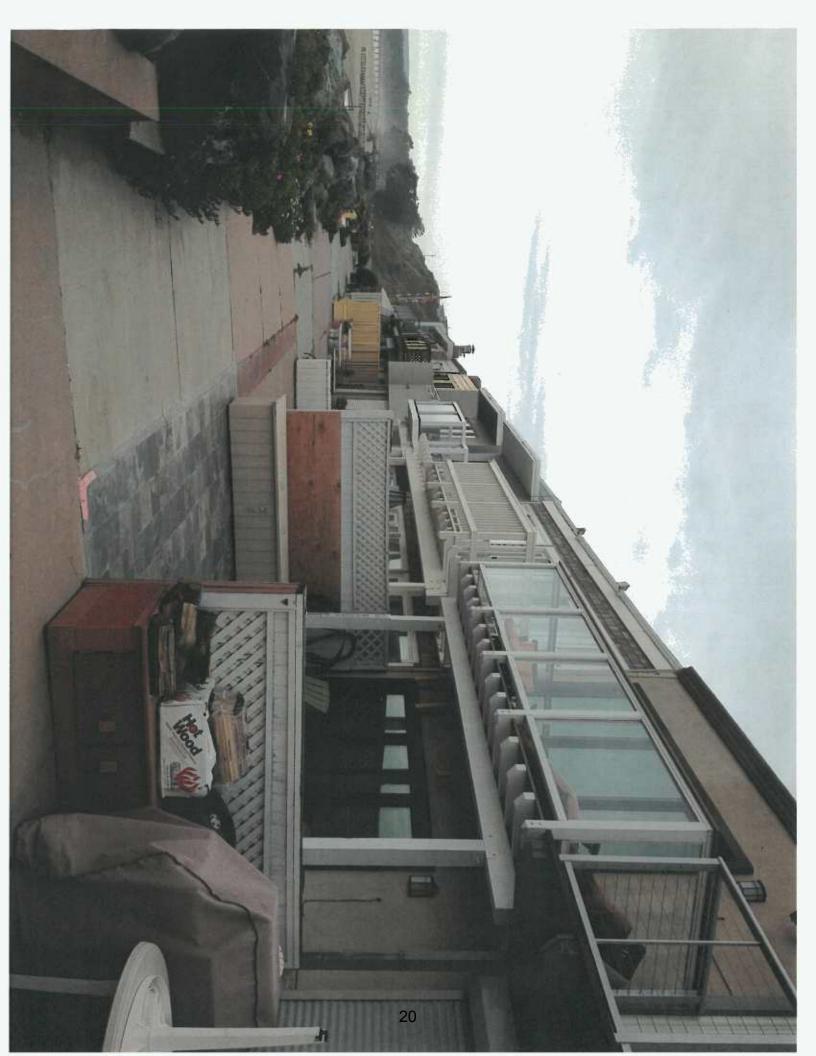
220-222 BEACH DRIVE

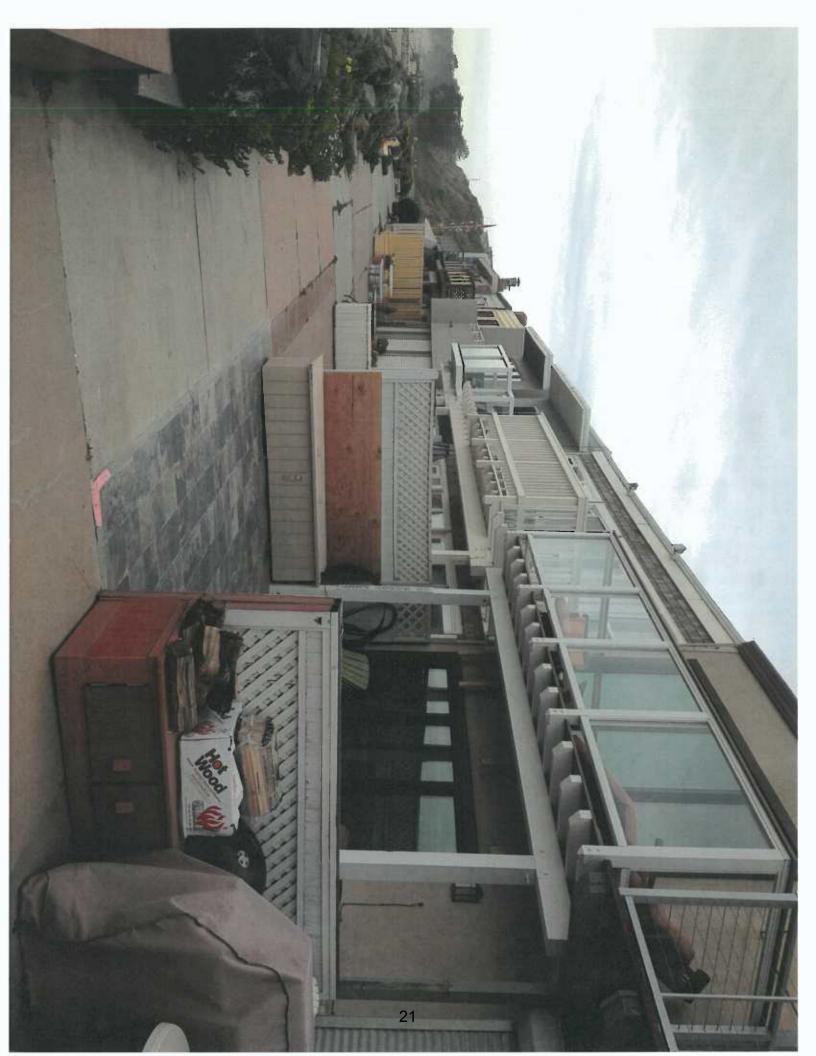


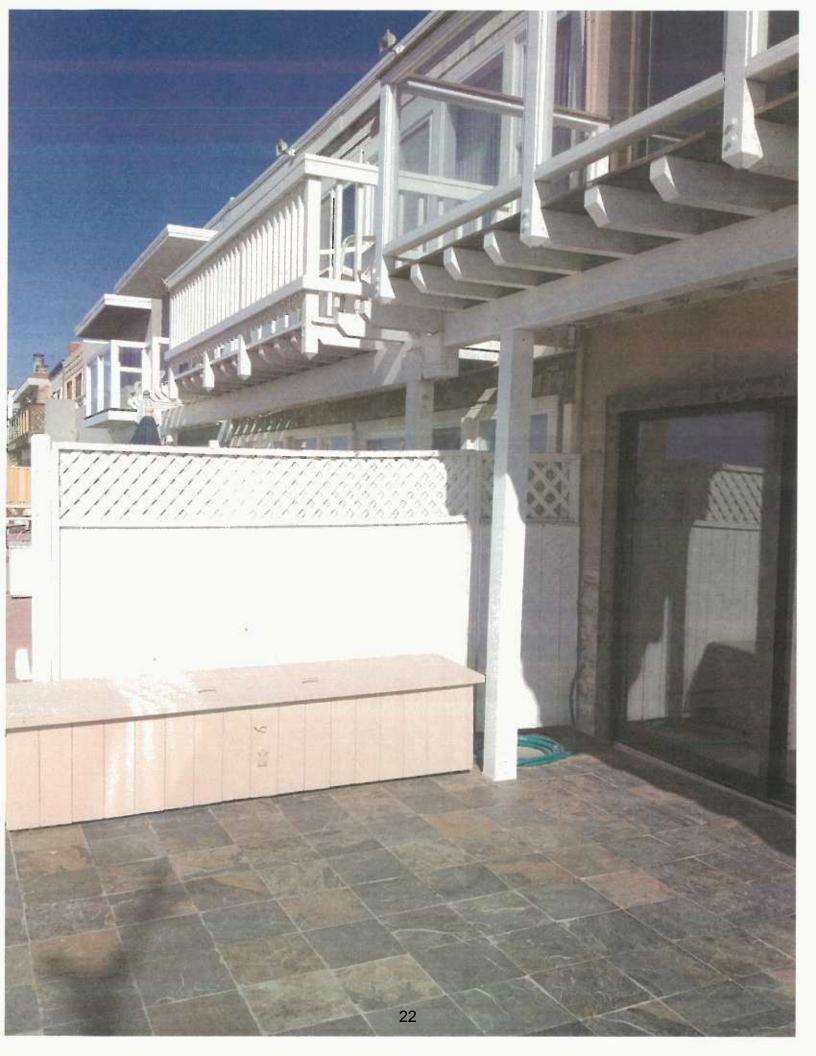


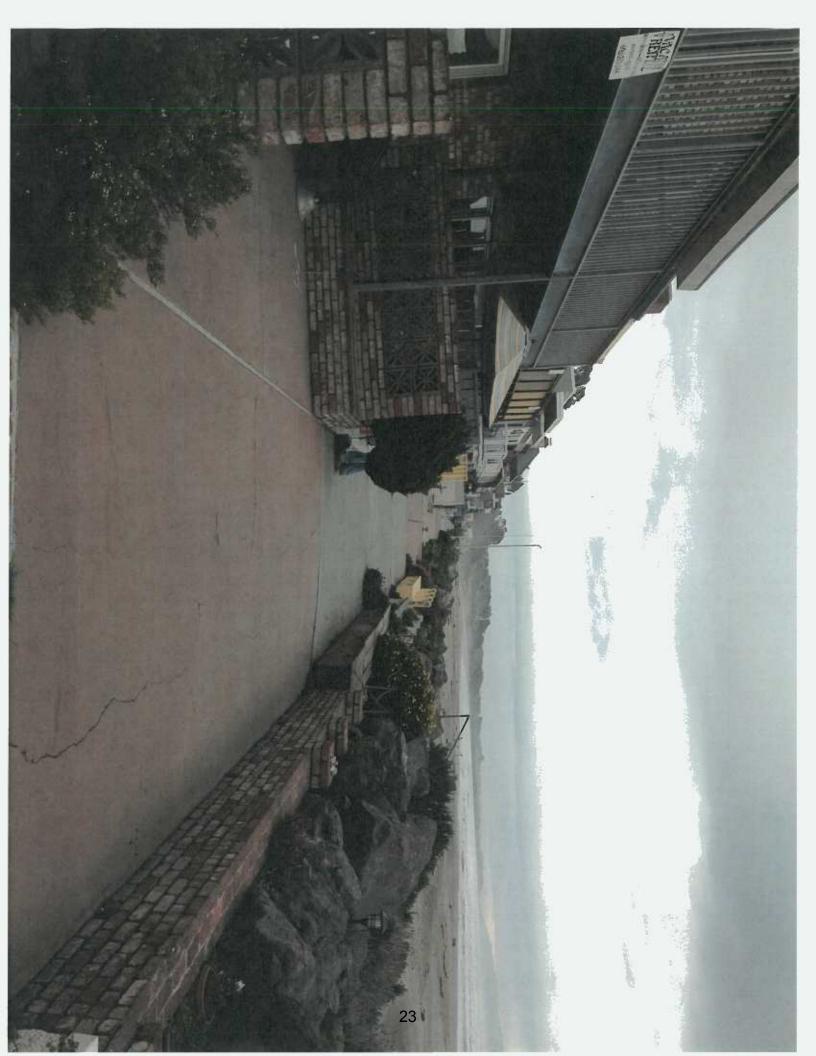


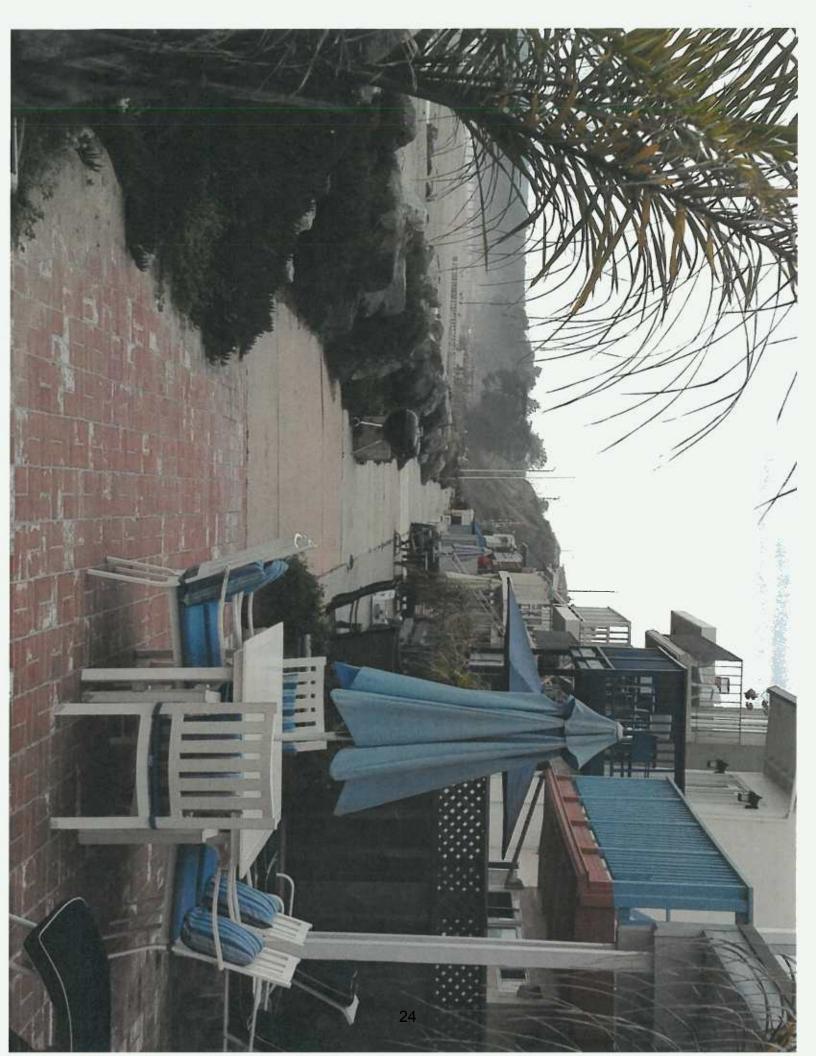


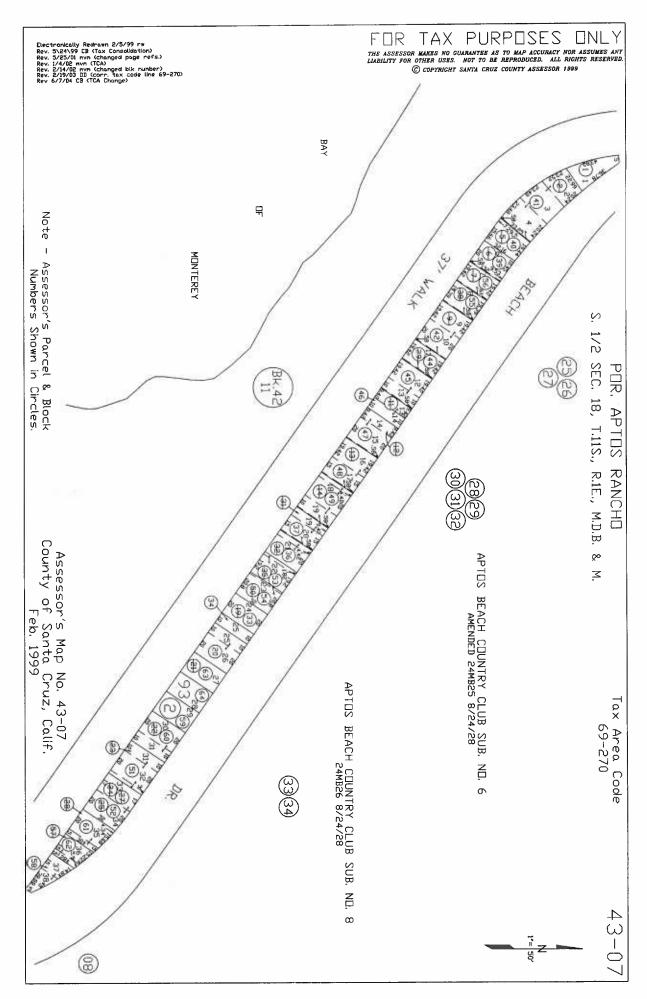






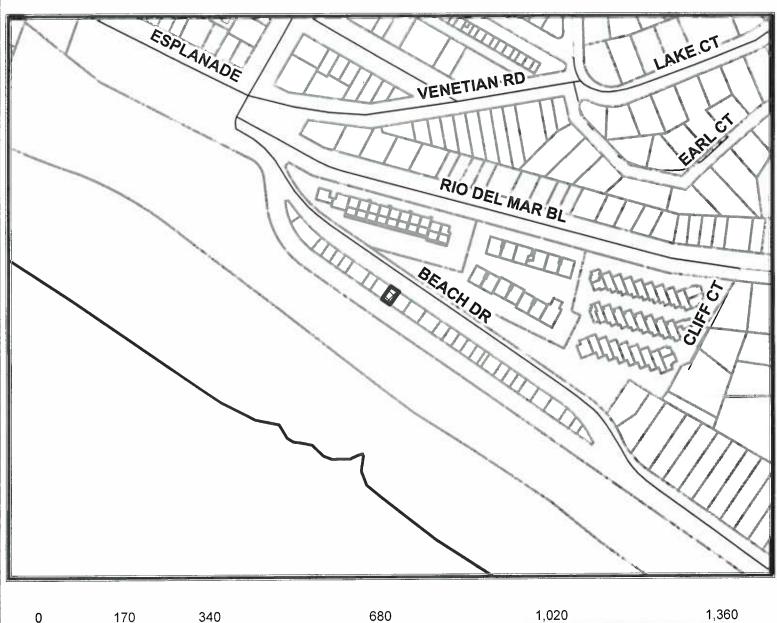








## Location Map



0 170 340 680 1,020 1,360 Feet

APN: 043-072-46

Assessors Parcels

Street

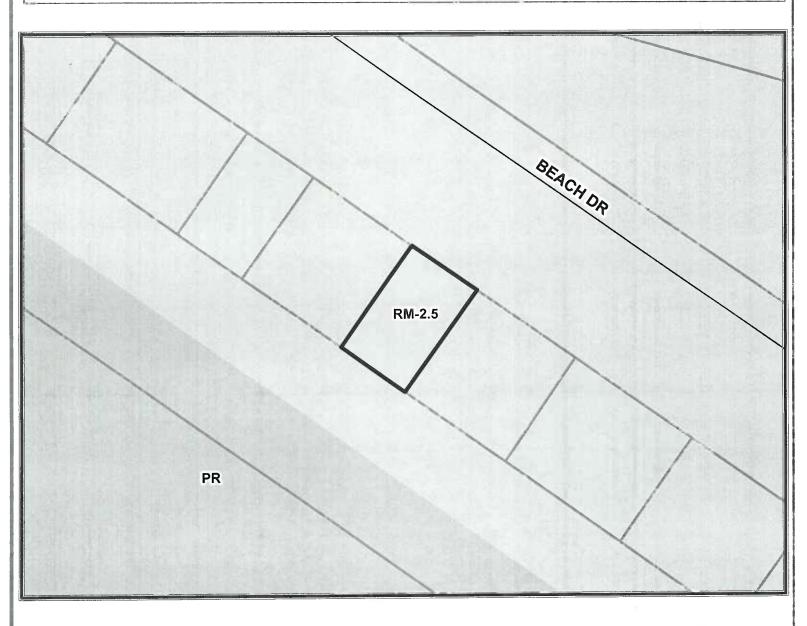
County Boundary



Map Created by County of Santa Cruz Planning Department October 2014



## Zoning Map



0 20 40 80 120 160 Fee

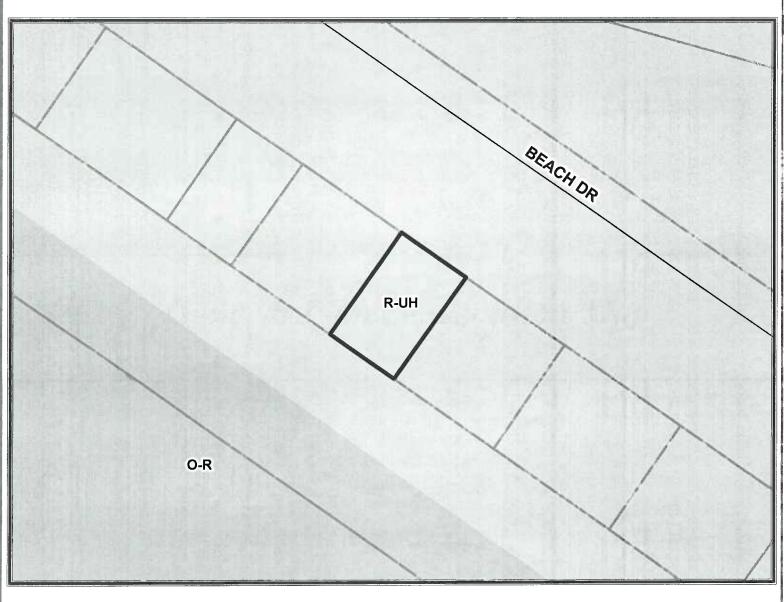
# APN: 043-072-46 Assessors Parcels Street RESIDENTIAL-MULTI FAMILY PARK



Map Created by County of Santa Cruz Planning Department October 2014



### General Plan Designation Map



0 20 40 80 120 160
Feet

LEGEND

APN: 043-072-46

Assessors Parcels

Street

28

Residential - Urban High Density

Parks and Recreation

Map Created by

County of Santa Cruz Planning Department

October 2014