



Staff Report to the Zoning Administrator

Application Number: **141242**

Applicant: Wayne or Judy Miller
Owner: JVLP Properties LLC
APN: 028-232-15 & 16

Agenda Date: September 18, 2015
Agenda Item #: 1
Time: After 9:00 a.m.

Project Description: Proposal to construct a two-story single-family dwelling with basement, grade approximately 300 cubic yards, construct a driveway (23rd Ave.) with a fire turnaround to serve this parcel and adjacent parcel 028-232-16.

Location: Property located on 23rd Ave, one parcel south of 80 23rd Avenue (*no situs*)

Supervisory District: First District (District Supervisor: John Leopold)

Permits Required: Requires a Coastal Development Permit, Residential Development Permit, Preliminary Grading Approval, and a Variance to pave more than 50% of the front yard setback for vehicular use.

Technical Reviews: Preliminary Grading Review

Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 141242, based on the attached findings and conditions.

Exhibits

- | | |
|---|---|
| A. Categorical Exemption (CEQA determination) | F. General Plan Maps |
| B. Findings | G. Comments & Correspondence |
| C. Conditions | H. Coastal Commission staff report from 4/10/09 hearing |
| D. Project plans | |
| E. Assessor's, Location, Zoning and | |

Parcel Information

Parcel Size: 3,583 s.f. gross, 3,420 s.f. net
Existing Land Use - Parcel: Vacant
Existing Land Use - Surrounding: Residential, beach recreational
Project Access: 23rd Avenue
Planning Area: Live Oak
Land Use Designation: R-UM (Urban Medium Density Residential)
Zone District: R-1-4-PP (Single-family residential - 4,000 square feet minimum, Pleasure Point combining district)
Coastal Zone: X Inside ___ Outside
Appealable to Calif. Coastal Comm. X Yes ___ No

Environmental Information

Geologic Hazards: Coastal bluff
Soils: Geotechnical report submitted and accepted
Fire Hazard: Not a mapped constraint
Slopes: 0-15% in area of development
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: 300 cubic yards
Tree Removal: No trees proposed to be removed
Scenic: Coastal bluff
Drainage: Preliminarily approved by DPW, Stormwater Management
Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: X Inside ___ Outside
Water Supply: City of Santa Cruz
Sewage Disposal: County of Santa Cruz
Fire District: Central Fire Protection District
Drainage District: Zone 5

Permit History

This parcel was a part of Coastal Development Permit 02-0432, which was for a new dwelling and improvements to be located on APN 028-232-16, because half of the required fire turnaround was located on the subject (parcel -15). Permit 02-0432 was the subject of multiple hearings and appeals as detailed below. Because a house and related improvements are now proposed for the subject parcel, the discussion of the appeal issues is relevant to the current proposal.

Application 02-0432 was heard by the Zoning Administrator on June 21, 2006. At that time, it was referred to the Planning Commission for General Plan/Local Coastal Program consistency issues related to the coastal bluff setback. Following additional staffwork and the readvertising of the project, the project returned to the Zoning Administrator and the application was approved on

October 5, 2007. The nextdoor neighbor appealed the Zoning Administrator's decision on October 16, 2007.

On January 9, 2008, the Planning Commission heard the appeal and, after discussion of the appeal issues, approved Coastal Development Permit 02-0432. The Planning Commission's decision was then appealed by the neighbor to the Coastal Commission. The Coastal Commission took jurisdiction of the project and a De Novo hearing of the project was held April 10, 2009.

The main issue reviewed by the Coastal Commission related to coastal bluff setback requirements that are identified both in the General Plan-Local Coastal Plan (LCP) and in the County Code. Although the proposed house met the required 25-foot bluff setback (and no additional setback was required by the project geologist), the paving of the 23rd Avenue right-of-way and installation of utilities was questioned since those would occur within the 25-foot bluff setback. The Coastal Commission report concluded that, since there is no alternative access to the parcel, it would constitute a "taking" if development were prohibited.

The other issues addressed by the Commission were the project's impact to visual resources and community character, which the staff report concluded would not be significant given the surrounding built environment, and impacts to public access and recreation. The 23rd Avenue right-of-way supports a trail that provides public beach access to the beach. The Coastal Commission report concludes that extending the pavement of 23rd Avenue would slightly enhance the public's access.

The Coastal Commission ultimately approved the project with conditions of approval, including one that prohibits the construction of shoreline protective devices for the purpose of protecting the project. A building permit was issued for the project and some grading occurred, but the permit was allowed to lapse and the discretionary permit expired.

The current proposal for the subject parcel is for a new dwelling and related improvements, including the extension of the 23rd Avenue paving to provide access to the subject parcel. A similar development is proposed under application 141243 on the adjacent parcel to the north which is under the same ownership.

Project Setting

The subject parcel and the 23rd Avenue right-of-way, which is the only access to the site, were created by the original 1891 subdivision of the area. The property is located on the coastal bluff facing Corcoran Lagoon Beach and is the last parcel accessed by 23rd Avenue, a privately-maintained road that separates the homes on 23rd Avenue from the face of the coastal bluff. 23rd Avenue runs perpendicular to the beach and is accessed from East Cliff Drive at the eastern edge of Corcoran Lagoon Beach.

The design of the proposed residence is similar to the other four existing residences which take access from 23rd Avenue, in that at the ground level there is a garage and basement (the lots all slope upward from 23rd Avenue) with two stories of living space above.

Zoning & General Plan Consistency

The subject property is a parcel of approximately 4,052 gross square feet, located in the R-1-4-PP (Single family residential - 4,000 square feet minimum, Pleasure Point combining district) zone district, a designation which allows residential uses. With the fire turnaround deducted, the net parcel size is 3,904 square feet. The proposed single-family dwelling is an allowed use within the zone district and the zoning is consistent with the site's R-UM (Urban Medium Density Residential) General Plan designation.

The project meets the setback requirements of the zone district as shown in the table below, however, a variance is requested to allow more than 50% of the front yard setback to be paved (see "Variance" section below). The project designer included a basement that complies with County Code 13.10.700(B). Compliant basements are not counted as a floor. Although the garage is considered to be a floor, the floors are staggered such that no more than two floors are stacked on top of each other.

	R-1-4 Standards	Proposed Residence
Front yard setback:	15 feet	17'-0"
Side yard setback:	5 feet / 5 feet	5 feet / 5 feet
Rear yard setback:	15 feet	26'-8"
Lot Coverage:	40 % maximum	38 %
Building Height:	28 feet maximum	26'-10"
Floor Area Ratio (F.A.R.):	0.5:1 maximum (50 %)	48.9 %
Parking	4 bedrooms = 3 parking spaces	3 parking spaces

Variance

County Code 13.10.554 prohibits parking areas, aisles, and access drives from occupying more than 50% of the required front yard setback area. The applicant has requested a variance to exceed the 50% limit based upon the special circumstance of the lack of street parking.

Most of the front yard is proposed to be paved with pervious pavers. Paving is provided for two parking spaces and pedestrian walkways. Although additional landscaping could be required, in this case, staff recommends allowing the extra paving because of the lack of street parking on 23rd Avenue and East Cliff Drive. This extra paving will ensure that there is at least one parking space (compact size) for visitors and will reduce the likelihood of visitors using the fire turnaround for parking. A condition of approval is included requiring the reduction of a small landscape area in order to provide the seven and one-half feet of width required for a compact space.

Local Coastal Program Consistency

The proposed single-family dwelling 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 of a similar design with a garage on the ground level topped with two floors of living space. Size and architectural styles vary in the area, and the design submitted is consistent with the existing range of styles. The proposed design is a contemporary style with a plinth-like garage/basement at the ground level with two levels of living space above. The mass and bulk is broken up by varied roof and wall planes. A cantilevered deck at the front of the house will function in a similar way to a front porch in that it will provide a forum for neighbor interaction and an orientation towards the street.

No significant impact to the public viewshed is anticipated from the proposed project in that the existing backdrop is a residential neighborhood at urban densities. An additional dwelling to this built environment will not significantly affect the viewshed. As noted above, application 02-0432 was reviewed by the Coastal Commission on appeal. The Coastal Commission found that the impact of the home proposed for the adjacent lot will not be significant. The same logic can be applied to the dwelling proposed on the subject parcel in that it is of a similar mass and bulk as the home approved under Permit 02-0432 and is a continuation of the existing pattern of development.

The Local Coastal Plan, which is incorporated into the County's General Plan, identifies 23rd Avenue as a neighborhood public access point (Policy 7.7.18). Access is available within the 23rd Avenue right-of-way which extends from East Cliff Drive to Monterey Bay (see parcel map, Exhibit E). While the paving currently ends at the subject parcel, according to Coastal Commission staff, a trail providing access continues. With the implementation of this application and the application on the adjacent parcel, additional paving would be provided. The Coastal Commission report noted that the additional pavement "...may slightly enhance the public's ability to make use of 23rd Avenue to get to the beach by providing a more stable paved surface...." Therefore, public access to coastal resources will be preserved and, possibly, slightly improved as a result of this application. In addition, developed coastal access is available up and down coast from 23rd Avenue.

Pleasure Point Community Design Combining District

The subject parcel is within the designated Pleasure Point Combining District (13.10.444) for which there are specific residential design standards. The proposed dwelling complies with those standards, including the second floor setback requirement and the limitation on garage doors occupying no more than 50% of the front façade.

Coastal Bluff General Plan Policies

The parcel is located on a coastal bluff with access provided by the 23rd Ave. right-of-way which, as noted above, currently serves four dwellings and is located adjacent to the edge of the bluff and within the 25-foot minimum coastal bluff setback required by General Plan Policy 6.2.12 and County Code 16.10.070(H). The project geologist determined that the 25-foot minimum bluff setback was adequate for the adjacent site, noting that no erosion or recession of the bluff had occurred since 1931, a period of over 70 years (Exhibit H).

Although the proposed dwelling meets the required bluff setback, the application includes a proposal to extend the existing paving and utilities to serve the subject parcel which would occur within the bluff setback. The General Plan and County Code (16.10.040(19)i) include roads and

utilities in their definition of “development,” making them subject to the coastal bluff policies.

For application 02-0432, staff cited a conflict between General Plan Policy 6.5.1, which requires that an adequate road for fire protection be provided for all new structures, and General Plan Policy 6.2.12 which does not allow development within the coastal bluff setback. The conflict arose out of the fact that the only access to the subject parcel is within the 23rd Avenue right-of-way which is located within the bluff setback. Therefore, it would be impossible to develop this parcel while simultaneously providing the access required by General Plan Policy 6.5.1 and complying with General Plan Policy 6.2.12 which prohibits development within the bluff setback.

A third General Plan Policy provided the support for resolving the conflict between the two policies. General Plan Policy 6.2.15 (New Development on Existing Lots of Record) states:

Allow development activities in areas subject to storm wave inundation or beach or bluff erosion on existing lots of record, within existing developed neighborhoods, under the following circumstances:

- (A) A technical report (including a geological hazard assessment, engineering geology report and/or soil engineering report) demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, and foundation design;
- (B) Mitigation of the potential hazard is not dependent on shoreline or coastal bluff protection structures except on lots where both adjacent parcels are already similarly protected; and
- (C) The owner records a Declaration of Geologic Hazards on the property deed that describes the potential hazard and the level of geologic and/or geotechnical investigation conducted.

Staff asserted that the subject parcel is a legal lot of record within an existing developed neighborhood, and the proposed development of a roadway and utilities within the required bluff setback meets these three tests described above in Policy 6.2.15 in the following manner:

- (1) The applicant submitted an Engineering Geology Report that was reviewed and accepted by the County Geologist. The report concludes that the development will meet the 100-year lifetime for the development.
- (2) Mitigation for this proposal is not dependent on shoreline protection as no shoreline protection structures are proposed.
- (3) A condition of approval was required to record a Declaration of Geologic Hazards.

At the Planning Commission hearing on January 9, 2008, staff further explained that the 25-foot bluff setback assumes an average bluff retreat of three inches per year which would allow for 100 years of stability. General Plan Policy 6.2.15 has the same 100-year stability requirement but provides an alternative to the bluff setback for existing legal lots of record in existing neighborhoods where site conditions make the provision of a 25-foot bluff setback infeasible.

Although the Coastal Commission staff objected to the application of General Plan Policy 6.2.15 to this project, the Coastal Commission ultimately approved the project based on the rationale that the denial of the project could constitute a regulatory taking. Given the permitting history where this issue was extensively reviewed by Planning Department staff, the Zoning Administrator, and the Planning Commission, staff supports the current proposal as being compliant with the General Plan.

Environmental Review

The project qualifies for a Class 3 (15303 New Construction or Conversion of Small Structures) categorical exemption from the California Environmental Quality Act (CEQA) because the property is located within the Urban Service Line (USL) and will be served by existing water and sewer utilities. The exemption provides examples of projects that would be exempt, including:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption. ...
- (d) Water main, sewage, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

The minor trenching and placement of the utilities within the bluff setback would not be a significant impact to a sensitive environment since the project geologist has affirmed that 100-year stability exists there. Further, since the paving and utilities will be flat or below grade, there will be no visual impact from them on public views.

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

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number **141242**, 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, listed in section 13.10.170(D) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the property is zoned R-1-4-PP (Single family residential - 4,000 square feet minimum, Pleasure Point combining district), a designation which allows residential uses. The proposed single-family dwelling is an allowed use within the zone district, and the zoning is consistent with the site's R-UM (Urban Medium 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 General Plan Policy 7.7.18 designates 23rd Avenue as a neighborhood access point and nothing in this proposal will obstruct or conflict with the public's access. This issue was reviewed in detail by Coastal Commission staff. With the implementation of this application and the application on the adjacent parcel (parcel -15), additional paving would be provided. The Coastal Commission report notes that the additional pavement "...may slightly enhance the public's ability to make use of 23rd Avenue to get to the beach by providing a more stable paved surface...." Therefore, public access to coastal resources will be preserved and, possibly, slightly improved as a result of this application.

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 and Section 13.20.140 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; and the colors will be natural in appearance and complementary to the site. The four existing dwellings that are accessed from 23rd Avenue have a similar mass and bulk to the proposed dwelling on the subject parcel. All four houses have garages on the ground floor and two floors of living space above. The proposed house is a contemporary cottage style home, the mass and bulk of which is broken up with varied roof and wall planes. Given the small size of the lot (3,420 square feet net) and the zone district standard of 50% floor area ratio, the house is relatively modest in size. Given this, the project will be visually compatible with the existing built environment. In addition, although the project is located on a coastal bluff, the front façade of the house will be set back about 40 feet from the bluff edge which will diminish the house's visual impact on the public view and will eliminate any potential for the structure to loom over the beach. In addition, given the existing built environment, the house will blend into that environment.

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.

As noted above, General Plan Policy 7.7.18 designates 23rd Avenue as a neighborhood access point and nothing in this proposal will obstruct or conflict with the public's access. This issue was reviewed in detail by Coastal Commission staff. With the implementation of this application and the application on the adjacent parcel (parcel -15), additional paving would be provided. The Coastal Commission report notes that the additional pavement "...may slightly enhance the public's ability to make use of 23rd Avenue to get to the beach by providing a more stable paved surface...." Therefore, public access to coastal resources will be preserved and, possibly, slightly improved as a result of this application. 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, residential uses are allowed uses in the R-1-4-PP (Single family residential - 4,000 square feet minimum, Pleasure Point combining district) 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.

This project also conforms to the General Plan-LCP policies regarding coastal bluffs. The parcel is located on a coastal bluff with access provided by the 23rd Ave. right-of-way which, as noted above, currently serves four dwellings and is located adjacent to the edge of the bluff and within the 25-foot minimum coastal bluff setback required by General Plan Policy 6.2.12 and County Code 16.10.070(H). The project geologist determined that the 25-foot minimum bluff setback was adequate for the site, noting that no erosion or recession of the bluff had occurred since 1931, a period of over 70 years (Exhibit H).

Although the proposed dwelling meets the 25-foot minimum bluff setback required by General Plan Policy 6.2.1, the application includes a proposal to extend the existing paving and utilities to serve the subject parcel which would occur within the bluff setback. The General Plan and County Code (16.10.040(19)i) include roads and utilities in their definition of "development," making them subject to the coastal bluff policies.

General Plan Policy 6.2.15 (New Development on Existing Lots of Record) appears to have been drafted for situations like this where a site is determined to have 100 year stability but the site conditions make it impossible to meet the 25-foot bluff setback requirement. The Policy states:

Allow development activities in areas subject to storm wave inundation or beach or bluff erosion on existing lots of record, within existing developed

neighborhoods, under the following circumstances:

- (A) A technical report (including a geological hazard assessment, engineering geology report and/or soil engineering report) demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, and foundation design;
- (B) Mitigation of the potential hazard is not dependent on shoreline or coastal bluff protection structures except on lots where both adjacent parcels are already similarly protected; and
- (C) The owner records a Declaration of Geologic Hazards on the property deed that describes the potential hazard and the level of geologic and/or geotechnical investigation conducted.

The subject parcel is a legal lot of record within an existing developed neighborhood, and the proposed development of a roadway and utilities within the required bluff setback meets the three tests described above in Policy 6.2.15 in the following manner.

- (A) The applicant submitted an Engineering Geology Report that was reviewed and accepted by the County Geologist. The report concludes that the development will meet the 100-year lifetime for the development.
- (B) Mitigation for this proposal is not dependent on shoreline protection as no shoreline protection structures are proposed.
- (C) A condition of approval was required to record a Declaration of Geologic Hazards.

General Plan Policy 6.2.15 is intended to provide an alternative way of meeting the 100-stability requirement for legal lots of record, such as the subject parcel, that cannot physically meet the 25-foot minimum bluff setback. In this case, since there is no other way to reach the subject parcel, the access and utilities must be located within the 25-foot bluff setback. The subject parcel would effectively become an “unbuildable” lot without the access and utilities. For existing lots of record and within existing developed neighborhoods, General Plan Policy 6.2.15 allows development within the bluff setback on lots that can establish the 100-year stability standard and for which no alternative exists. Given this, this application is in conformance with the LCP.

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. The parcel is located on a coastal bluff. Geology and geotechnical reports, that establish the safety of the site, were submitted and accepted by County staff. 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 single-family dwelling will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to these amenities. As discussed below, an exception to the Pleasure Point

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

This finding can be made, in that the proposed location of the single-family dwelling and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the R-1-4-PP (Single family residential - 4,000 square feet minimum, Pleasure Point combining district) zone district as the primary use of the property will be one single-family dwelling that meets all current site standards for the zone district, except for the variance discussed in the variance findings.

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

This finding can be made, in that the proposed residential use is consistent with the use and density requirements specified for the R-UM (Urban Medium Density Residential) land use designation in the County General Plan.

The proposed single-family dwelling will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance), in that the single-family dwelling will not adversely shade adjacent properties, and will meet current setbacks for the zone district.

The proposed single-family dwelling 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 single-family dwelling will comply with the site standards for the R-1-4-PP zone district (including setbacks, lot coverage, floor area ratio, height, and number of stories) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

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

This finding can be made, in that the proposed single-family dwelling is to be constructed on an existing undeveloped lot. The expected level of traffic generated by the proposed project is anticipated to be only one peak trip per day (one peak trip per dwelling unit), such an increase will not adversely impact existing roads or intersections in the surrounding area.

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

This finding can be made, in that the proposed structure is located in a mixed neighborhood containing a variety of architectural styles, and the proposed single-family dwelling is consistent with the land use intensity and density of the neighborhood. The design of the proposed dwelling is similar to the four existing dwellings accessed from 23rd Avenue in that it would have a garage on the ground floor with two floors of living space above. Therefore, the mass and bulk of the new house will be similar to the existing dwellings.

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 will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area. The proposed new dwelling continues the existing pattern of development in that the house will have a ground floor garage with two floors of living space above. The site plan is similar to the other houses on 23rd Avenue in that parking and some landscaping are proposed within the front yard setback, with the house and a small backyard making up the rest of the parcel. This is an area developed to an urban density and this infill project will blend in with the existing residential neighborhood.

In addition, the proposed dwelling is a compatible building design in that the massing of the building form is similar to the existing homes on 23rd Avenue and continues the existing pattern of development, including the spacing between buildings, street face setbacks and scale. The character of the architecture—contemporary cottage—is compatible with the beach community. The apparent mass and bulk of the structure has been reduced by varying the roof and wall planes and by setting back the second story from the first story. The finish material and color will be compatible with the surrounding properties in that the proposed siding will be painted a neutral color.

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 applicant has requested a variance to exceed the 50% limit on paving for vehicular used within the front yard setback (13.10.554) based upon the special circumstances of the lack of street parking on 23rd Avenue and East Cliff Drive.

Most of the front yard is proposed to be paved with pervious pavers. Paving is provided for two standard-sized parking spaces and pedestrian walkways. Although additional landscaping could be required, in this case, staff recommends allowing the extra paving because of the lack of street parking on 23rd Avenue and East Cliff Drive. This extra paving will ensure that there is at least one parking space for visitors and will reduce the likelihood of visitors using the fire turnaround for parking.

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 allowing a variance will facilitate the provision visitor parking and will lessen the temptation to use the fire turnaround for parking. This is benefit to public health and safety because, otherwise, visitors will not have a safe place to park that does not obstruct residential or emergency access. In addition, with the proposed landscaping, which will soften the impact of the paving as much as possible, and the use of pervious paver, which will soften the visual impact of so much paving, the project will be in harmony with the general intent and purpose of the zoning objectives. In addition, with the provision of the extra parking space, visitors to the subject residence will not be competing for visitor-serving parking spaces on adjacent streets where there is street parking.

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, based on aerial photos, it appears that all of the existing homes on 23rd Avenue exceed the 50% paving limit for vehicular use within the front yard setback. Therefore, allowing the subject development to also exceed the 50% vehicular paving limit would not constitute a grant of special privileges.

Conditions of Approval

Exhibit D: Architectural Drawings by Wayne Miller, sheets 1, 1L, 2 and 3, dated 5/20/15
Civil Engineering Drawings by Jeff A. Roper of Roper Engineering, sheets C1 and C2 revised to April 3, 2015.

- I. This permit authorizes the construction of a single-family dwelling and related improvements as shown in Exhibit D. 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 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. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - D. 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.
 - E. The applicant shall make an irrevocable offer to dedicate the fire turnaround area to the County of Santa Cruz, and establish a road maintenance agreement for the long-term maintenance of the roadway.
- 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. A copy of the text of these conditions of approval incorporated into the full size sheets of the architectural plan set.
 2. 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 sheet in 8 1/2" x 11" format for Planning Department review and approval.

3. Grading, drainage, and erosion control plans.
 4. A planting and irrigation plan shall be designed by a licensed Landscape Architect that selects appropriate plants for a coastal bluff and uses drip irrigation, submitted to staff for review and approval. No irrigation shall be allowed in the area between the proposed driveway/roadway and the top of the bluff.
 - a. The landscape strip just north of the northern corner of the garage must be reduced in width in order to ensure that seven and one-half feet of width are available to park an additional compact vehicle.
 5. The two garage doors shown on the front elevation may not together exceed half the width of the front façade as required by County Code 13.10.446.
 6. Retaining walls and fences with the front yard setback shall not exceed three feet in height. Retaining walls and fences within the side and rear yard setbacks shall not exceed eight feet in height.
 7. 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 28 feet.
 8. The fire turnaround shall be striped and posted as a fire turnaround. No parking is allowed in the fire turnaround.
 9. The utilities shall enter the subject parcel and exit the 25-foot bluff setback as soon as is practicable.
 10. Details showing compliance with fire department requirements.
- B. Meet all requirements of Environmental Planning, including:
1. Plans submitted for the building permit application shall be designed in conformance with all recommendations provided in the soils and geology reports, and shall reference the reports.

2. Plans submitted for the building permit application shall show the coastal bluff setback on all sheets.
 3. Plans submitted for the building application shall include a civil-engineered stormwater pollution control plan that meets the requirements set forth in the County's Construction Site Stormwater Pollution Control BMP Manual. The Manual may be found on our website at sccoplanning.com by navigation to Environmental / Erosion and Stormwater Pollution Control / Construction Site Stormwater BMP Manual.
 4. Plans submitted for the building application shall include a drainage plan that complies with the requirements set forth in 2013 California Building Code (CBC) Section 1804.3 and the recommendations of the soils engineer.
 5. Prior to building permit approval the applicant shall submit:
 - a. Two copies of the soils report and all updates;
 - b. Two copies of the geology report and all updates;
 - c. A plan review form, based on final revised plans, signed and stamped by the soils engineer; and
 - d. A plan review form, based on final revised plans, signed and stamped by the project geologist.
 6. Prior to building permit final, the applicant shall provide final inspection forms from the geotechnical engineer, engineering geologist, and civil engineer.
 7. All construction shall be completed in compliance with all recommendations provided in the soils and geology reports.
- C. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.
1. No drainage from the project site shall be allowed to go over the bluff edge. A curb along the seaward side of the extension of 23rd Avenue shall prevent runoff from going over the coastal bluff.
 2. Please provide cross section construction details for the proposed landscape swales and permeable pavers to facilitate proper construction by the contractor.
 3. Please make clear on the plans how runoff received onsite from upslope adjacent properties will be controlled and directed to a safe point of release without causing adverse impacts to the proposed structure or adjacent/downstream properties.
 4. It should be clear and documented who is responsible for maintenance of the existing and proposed drainage facilities (curb, ect.) along the non

- county maintained road sections.
5. For fee calculations please provide tabulation of new impervious and semi-impervious (gravel, base rock, paver blocks, pervious pavement) areas resulting from the proposed project. Make clear on the plans by shading or hatching the limits of both the existing and new impervious areas. To receive credit for the existing impervious surfaces to be removed please provide documentation such as assessor's records, survey records, aerial photos or other official records that will help establish and determine the dates they were built.

A drainage fee will be assessed on the net increase in impervious area. The fees are currently \$1.17 per square foot, and are subject to increase based on the fee amount applicable at the time of permit issuance. Reduced fees (50%) are assessed for semi-pervious surfacing (such as gravel, base rock, paver blocks, porous pavement, etc.) to offset costs and encourage more extensive use of these materials.

6. Site plans shall specify maintenance requirements such as; what needs to be maintained, how often each drainage improvement needs to be maintained, what to look for indicating maintenance is required, and what the maintenance procedures are for each specific drainage improvement. A recorded maintenance agreement is required for the proposed landscape swales and permeable pavers. Please contact the County of Santa Cruz Recorder's office for appropriate recording procedure. The maintenance agreement form can be picked up from the Public Works office or can be found online at: http://www.dpw.co.santa-cruz.ca.us/Storm_Water/FigureSWM25A.pdf
7. Upon approval of the project, a drainage "Hold" will be placed on the permit and will be cleared once the construction is complete and the stormwater management improvements are constructed per the approved plans: In order to clear the Hold, one of these options has to be exercised:
 - a. The civil engineer must inspect the drainage improvements on the parcel and provide public works with a letter confirming that the work was completed per the plans. The civil engineer's letter shall be specific as to what got inspected whether invert elevations, pipe sizing, the size of the mitigation features and all the relevant design features. Notes of "general conformance to plans" are not sufficient.
 - b. As-built plans stamped by the civil engineer may be submitted in lieu of the letter. The as-built stamp shall be placed on each sheet of the plans where stormwater management improvements were shown.
 - c. The civil engineer may review as-built plans completed by the contractor and provide the county with an approval letter of those plans, in lieu of the above two options. The contractor installing the drainage improvements will provide the civil engineer as-built drawings of the drainage system, including construction materials, invert elevations, pipe sizing and any modifications to the horizontal or vertical alignment of the system. The as-built

drawings, for each sheet showing drainage improvements and/or their construction details, must be identified with the stamp (or label affixed to the plan) stating the contractor's name, address, license and phone number. The civil engineer will review the as-built plans for conformance with the design drawings. Upon satisfaction of the civil engineer that the as-built plans meet the design intent and are adequate in detail, the civil engineer shall submit the as-built plans and a review letter, stamped by the civil engineer to the County Public Works Department for review to process the clearance of the drainage Hold, if the submittal is satisfactory.

- D. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.
- E. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
- F. Pay the current fees for Parks and Child Care mitigation for four (4) bedroom(s). Currently, these fees are, respectively, \$1,000 and \$109 per bedroom.
- G. Pay the current fees for Roadside and Transportation improvements for a new single-family dwelling. Currently, these fees are, respectively, \$3,000 and \$3,000 per unit.
- H. Provide required off-street parking for three (3) cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of-way. Parking must be clearly designated on the plot plan.
- I. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- J. **Record a Declaration of Geologic and Coastal Hazards.** The property owner shall acknowledge and agree, on behalf of themselves and all successors and assigns: (a) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, tsunamis, ocean waves, storms, coastal flooding, bluff and other geologic instability, and the interaction of same; (b) to assume the risks to the Permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the County, its officers, agents, and employees for injury or damage from such hazards; (d) to indemnify and hold harmless the County, its officers, agents, and employees with respect to the County's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; (e) to assume responsibility for any adverse effects to property caused by

the permitted project; and (f) to waive any rights to construct any shoreline protective device(s) that may exist under Public Resources Section 30235 or the Santa Cruz County General Plan-LCP (including LUP Policy 6.2.16 and IP Section 16.10.070(h)(3)) for the purpose of protecting any development approved pursuant to coastal development permit 141242.

- K. **23rd Avenue Public Recreational Access.** By signing the permit and recording these conditions of approval, the property owner acknowledges and agrees, on behalf of themselves and all successors and assigns: (a) that public recreational access exists along the 23rd Avenue right-of-way (both paved and unpaved portions); and (b) to avoid interfering with such access (including, but not limited to, not posting any signs purporting to limit/restrict such access, not placing other obstacles to such access, and not verbally or otherwise disturbing access users) including with respect to future public recreational access improvements along the right-of-way, as may be provided in the future.

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.
- B. No parking is allowed in the fire turnaround.

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 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.

Application #: 141242
APN: 028-232-15
Owner: JVLP Properties LLC

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Wanda Williams
Deputy Zoning Administrator

Annette Olson
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: 141242

Assessor Parcel Number: 028-232-15, 16

Project Location: *no situs*, just south of 80 23rd Ave.

Project Description: Proposal to construct a two-story single-family dwelling with basement, grade approximately 450 cubic yards, construct a driveway (23rd Ave.) with a fire turnaround

Person or Agency Proposing Project: Wayne or Judy Miller

Contact Phone Number: (831) 724-1332

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

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

F. Reasons why the project is exempt:

This project is exempt because the property is located within the Urban Services Line and the project will be served by existing water and sewer utilities.

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

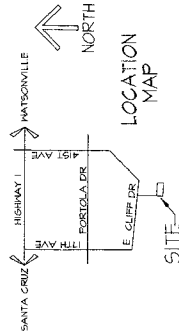


Annette Olson, Project Planner

Date: 8/21/15

[illegible]

1. LOCATION: 29RD AVENUE
SANTA CRUZ, CALIF.



CN-076-229-232-15

THESE PLANS AND ALL CONSTRUCTION ARE TO BE IN COMPLIANCE WITH THE CALIFORNIA BUILDING CODES AS AMENDED BY THE CENTRAL AUTOMATIC RESERVATION DISTRICT.

TYP. V-B
FIRE FLOW MIN. REQUIRED=1000 GALLONS PER HOUR FOR A FIRE SPRINKLER SYSTEM IN AN AUTOMATIC FIRE SPRINKLER SYSTEM IN ALL BUILDINGS PER CURRENT EDITION OF NFPA 80 PER CHAPTER 8B OF THE CALIFORNIA BUILDING CODE.

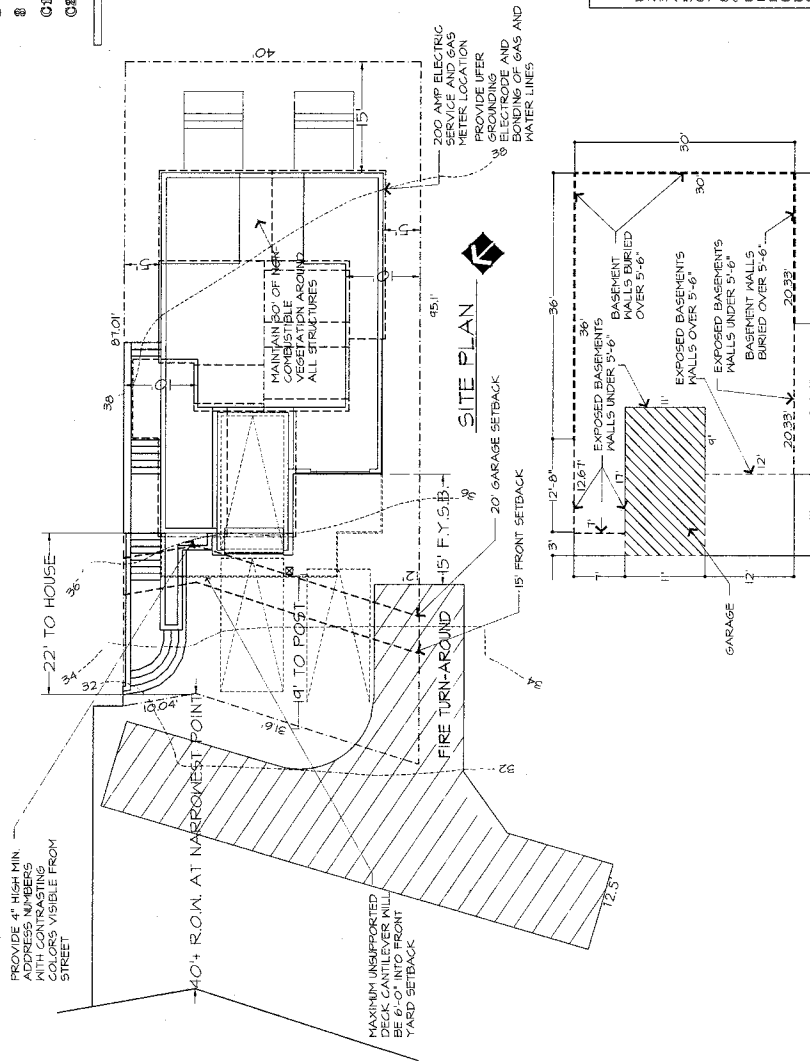
THE SPRINKLER INSTALLER/DISIGNER SHALL PROVIDE SPECIFICATIONS FOR FLUENTS ALLOCATIONS FOR THIS INTERSECTION OVERHEAD RESIDENTIAL SPARKLER. SYSTEM TO THE CENTRAL FIRE DISTRICT OFFICE DURING OADPE SHEET 1A SINGLE ROOF COVERING CLASS "T" OR BETTER TYPE II MEMBRANE.

PROVIDE 4' X 4' ADDRESS NUMBERS WITH COMPASSING COLUMNS WHERE FROM STREET VIEWED.

NOTE: As a condition of submittal of these plans, the submitter, designer and contractor shall agree to comply with applicable specifications, standards, codes and those they are solely responsible for compliance with applicable specifications, standards, codes and those further agreed to correct any deficiencies noted by this subdivision or other review, modification or other source, without prejudice to the reviewer and reviewing.

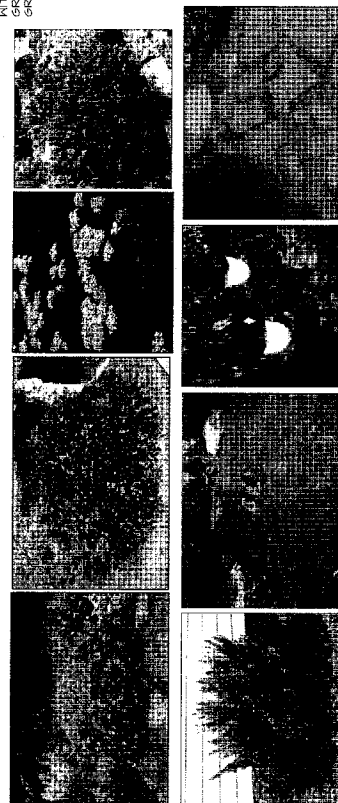
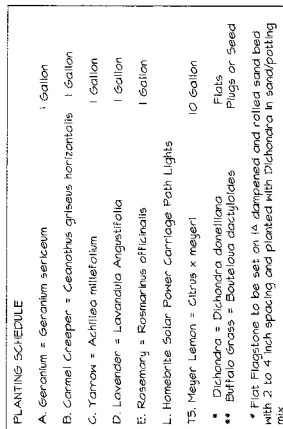
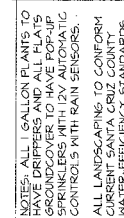
11	COVER SHEET	SITE PLAN
11	LANDSCAPE/SECTION HEIGHT STUDY	
22	ELEVATIONS	
33	FLOOR PLANS	
01	GRADING-DRAINAGE	
02	UTILITIES	

1	COVER SHEET	SITE PLAN
1	1	LANDSCAPE/SECTION/HEIGHT STUDY
2	2	ELEVATIONS
3	3	FLOOR PLANS
01	01	GRADING-DRAINAGE
02	02	UTILITIES



PER ORDINANCE #4111

1. ZONE DISTRICT: R-14
2. GROSS PARCEL AREA: 359.3 SOFT
3. NET PARCEL AREA: 342.0 SOFT
4. PARCELS BY STRUCTURES: 1364 SOFT
5. FLOOR COVERAGE PERCENTAGE: 39.58%
6. HEATED AREA (FIRST FLOOR): 484 SOFT
7. HEATED AREA (SECOND FLOOR): 484 SOFT
8. OTHER HEATED AREAS: NA
9. TOTAL HEATED AREA: 1948 SOFT
10. UNHEATED AREA (FIRST FLOOR): NA
11. UNHEATED AREA (SECOND FLOOR): NA
12. COVERED UNHEATED AREA: 1100 SUDENBERG BL
13. BATTIC AREA: NA
14. TOTAL UNHEATED AREA: 220 SOFT (GARAGE)
15. TOTAL COVERED PORCH: (H-01): 0.0 SOFT
16. TOTAL GARAGE AREA: 1,232 SOFT 0.0 SOFT
17. TOTAL FLOOR AREA: 1,805 SOFT
18. TOTAL LOT AREA: 1,805 SOFT
19. FLOOR AREA RATIO: 17.73/ 49.28
20. MAXIMUM F.A.R.: 50%
21. OFF STREET PARKING SPACES: 3
MIN. REQUIRED: 3



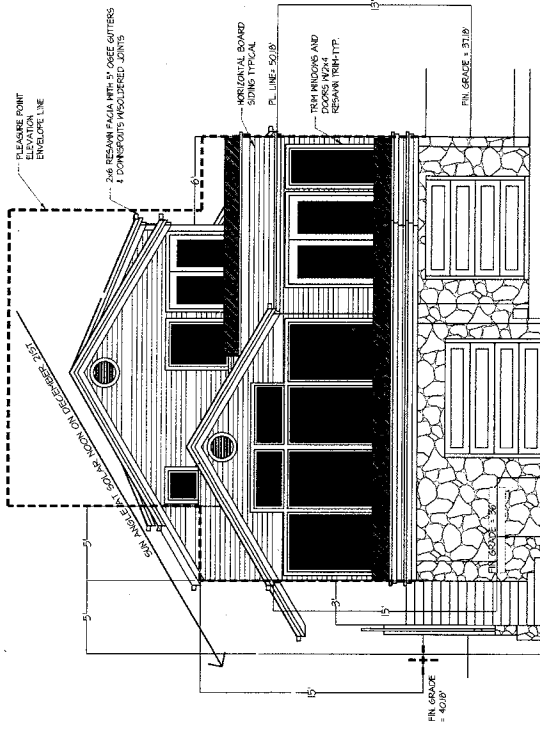


DESIGNED BY
WAYNE MILLER

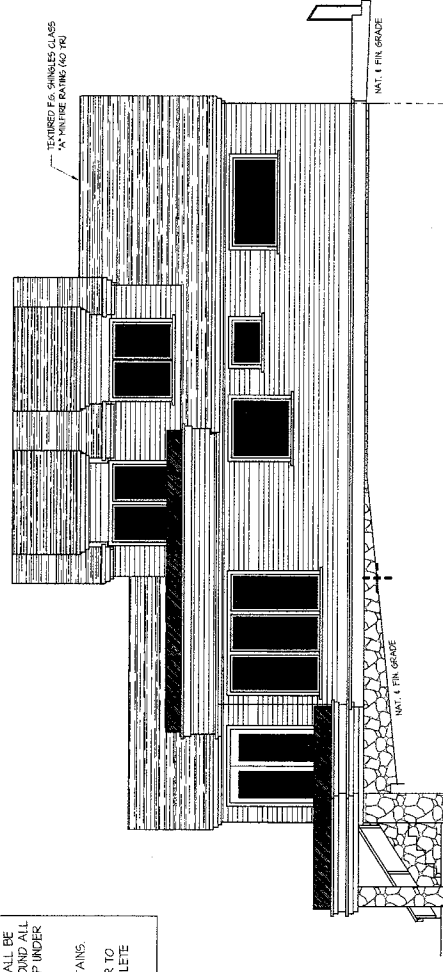
P.O. BOX 1424
REDFORD, CA 95014
(925) 724-1553
waynemiller@aol.com

ELEVATIONS

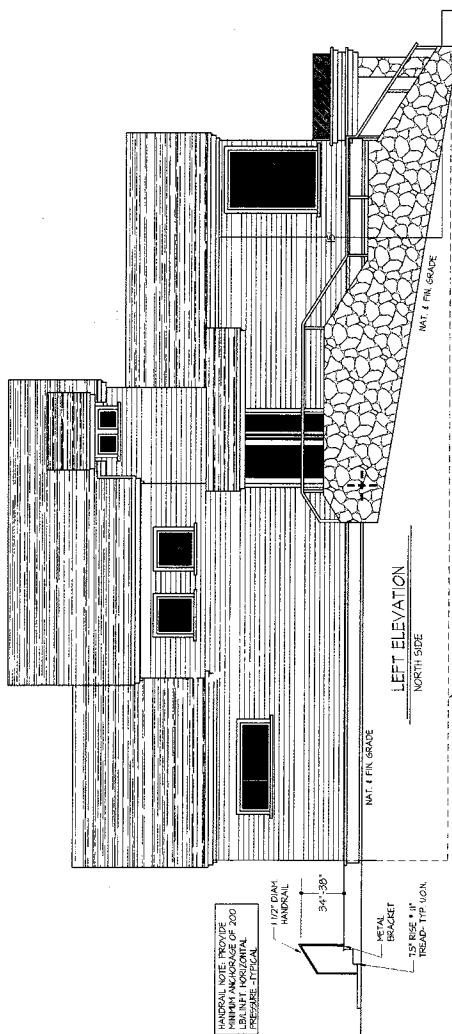
VERSION: 3-2016	SCALE: 1/4"=1'-0"	FILE NAME: JWLP 16	2 OF 16
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FRONT ELEVATION
WEST SIDE

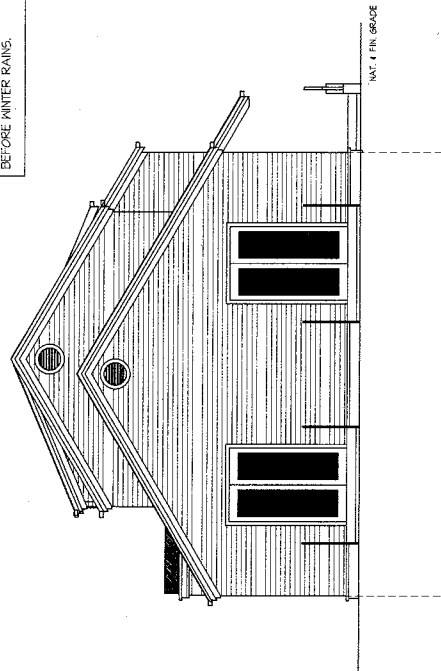


RIGHT ELEVATION
NORTH SIDE

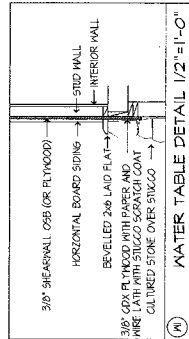


LEFT ELEVATION
NORTH SIDE

NOTE:
COVER ALL STUCCOED WALLS WITH 3/8" OSB BOARD
(OR STRUCTURAL CDX PLYWOOD) NAILED WITH 8d x 6"
6" EDGES & 12" FIELD PER SECTION 2326.11.3
PARAGRAPH 3 AND TABLES 23-11-B-1 & 23-11-B-2 AS
A MINIMUM.
OSB BOARD (OR PLYWOOD) SHALL RUN CONTINUOUS FROM
TOP PLATE TO SILL PLATE AND ALL EDGES SHALL BE
BLOCKED. PROVIDE 1/8" EXPANSION ROOM AROUND ALL
PLYWOOD PANELS. INSTALL WHOLE HOUSE WRAP UNDER
SIDING.
USE LOW OR NO VOC, EXTERIOR PAINTS OR STAINS.
THE EXTERIOR SHALL BE WEATHER TIGHT PRIOR TO
INSTALLATION OF INSULATION AND WORK COMPLETE
BEFORE WINTER RAINS.



REAR ELEVATION
EAST SIDE



WATER TABLE DETAIL 1/2"=1'-0"



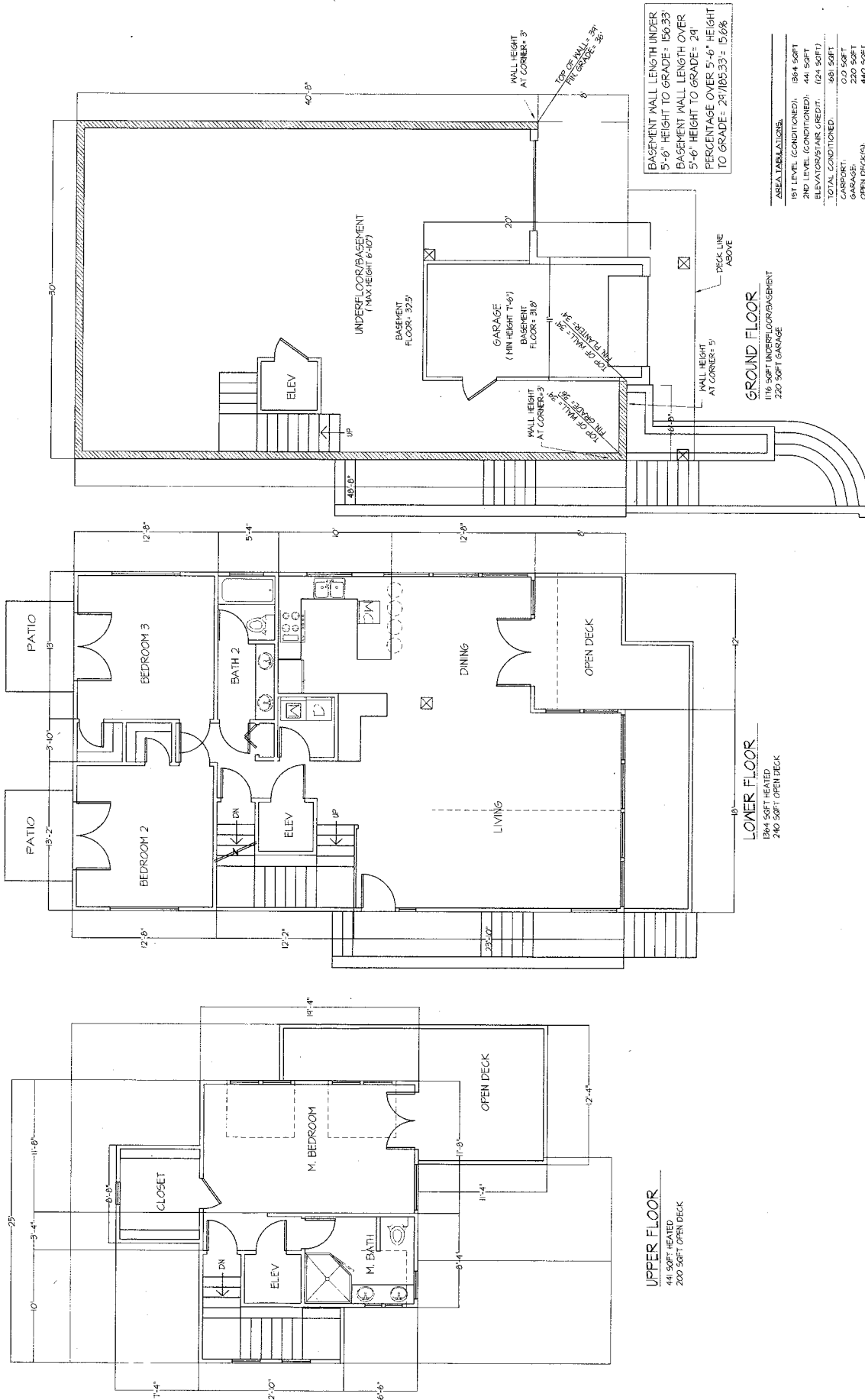
DESIGNED BY
WAYNE MILLER

P.O. BOX 1424
FREEDOM, CA 95041
(916) 724-1552
waynemiller@aol.com

JMP LLC, 23rd Ave, Santa Cruz, CA 95062 APN-028-232-16

FLOOR PLAN

VERSION: 3-20-15	AREA TABULATIONS
SCALE: 1/4"=1'-0"	1ST LEVEL (CONDITIONED): 1964 SQFT
FILE NAME: JMP 16	2ND LEVEL (CONDITIONED): 441 SQFT
	ELEVATOR/STAIR CREDIT: (24 SQFT)
	TOTAL CONDITIONED: 2200 SQFT
	CARPORT: 0.0 SQFT
	GARAGE: 220 SQFT
	COVERED DECK(S): 600 SQFT
	ATLIC (OVER 5' W/ 7'-0" MIN. 0.0 SQFT
	BASINENT (UNDER 1.0): 1176 SQFT
	FOOTPRINT: 1944 SQFT
	GARAGE CREDIT: (220 SQFT)
	COVERED AREA CREDIT: (440 SQFT)
	ADJUSTED F.A.R.: 668 SQFT
	TOTAL F.A.R.: 48.5%



UPPER FLOOR
441 SQFT HEATED
220 SQFT OPEN DECK

LOWER FLOOR
1944 SQFT HEATED
220 SQFT OPEN DECK

GROUND FLOOR
1176 SQFT UNDER/BASEMENT
220 SQFT GARAGE

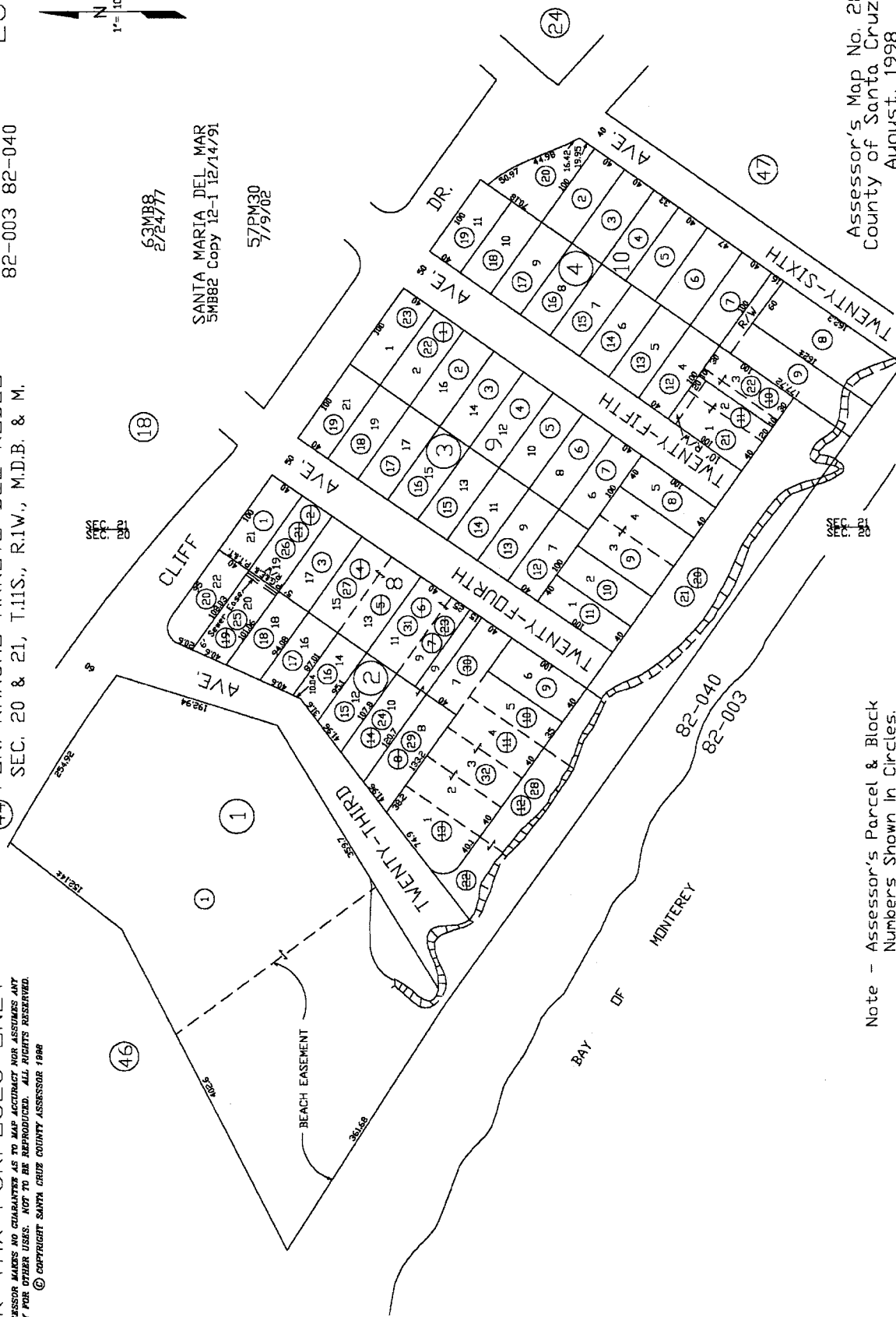
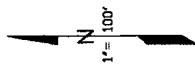
BASINENT WALL LENGTH UNDER
5'-6" HEIGHT TO GRADE: 156.33'
BASINENT WALL LENGTH OVER
5'-6" HEIGHT TO GRADES: 24'
PERCENTAGE OVER 5'-6" HEIGHT
TO GRADE: 24/185.33 = 15.6%

FOR TAX PURPOSES ONLY
 THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY
 LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
 © COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1998

44 POR, RANCHO ARROYO DEL RODEO
 SEC. 20 & 21, T.11S., R.1W., M.D.B. & M.

Tax Area Code
 82-003 82-040

28-23



63MB8
 2/24/77

SANTA MARIA DEL MAR
 5MB82 Copy 12-1 12/14/91

57PM30
 7/9/02

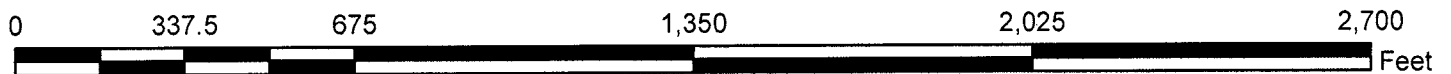
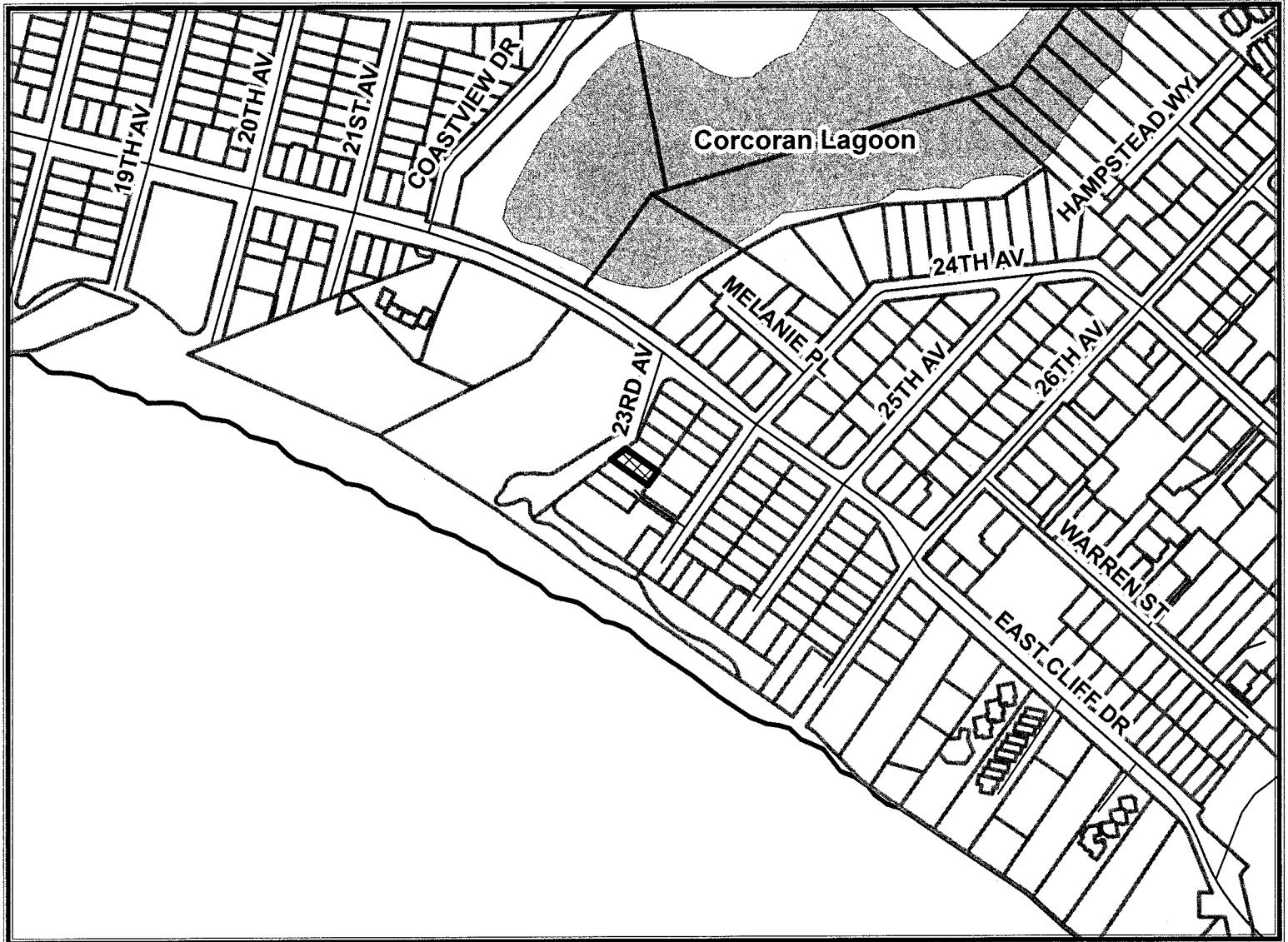
Assessor's Map No. 28-23
 County of Santa Cruz, Calif.
 August, 1998

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






Electronically Redrawn 8/20/98
 Rev. 10/21/95 GG (Remove R/W)
 Rev. 4/4/01 nwn (changed page refs.)
 Rev. 7/12/02 DD (57PM30, 3-22 & 23)

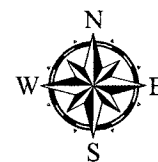


Location Map



LEGEND

-  APN: 028-232-15
-  Assessors Parcels
-  Street
-  County Boundary
-  Lakes

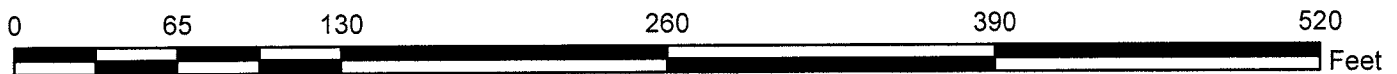
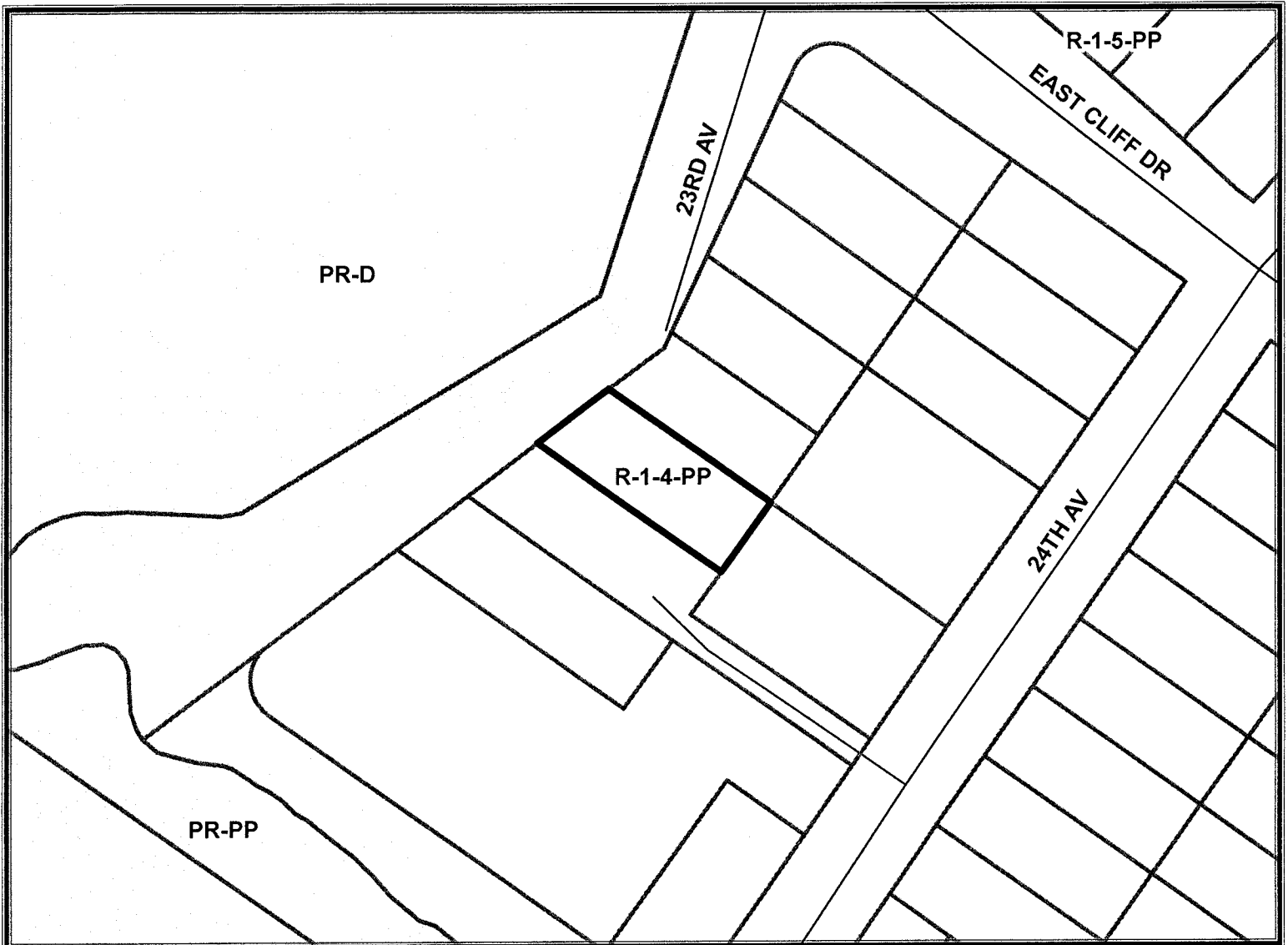


Map Created by
County of Santa Cruz
Planning Department
December 2014




EXHIBIT E



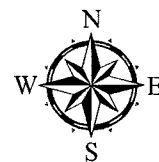
Zoning Map



LEGEND

-  APN: 028-232-15
-  Assessors Parcels
-  Street

RESIDENTIAL-SINGLE FAMILY
PARK

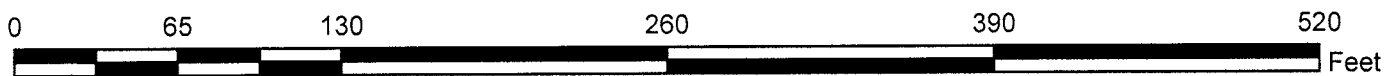
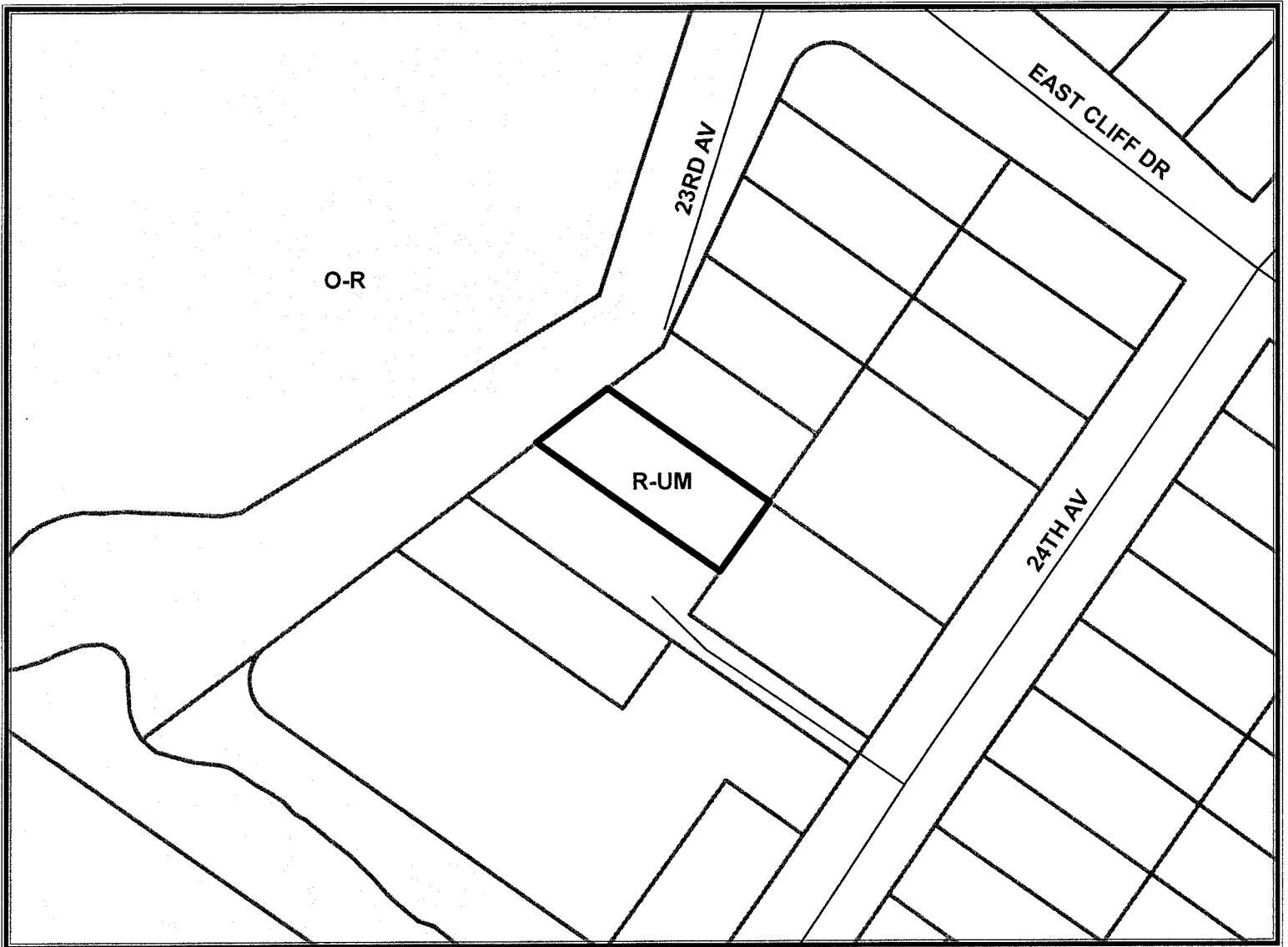


Map Created by
County of Santa Cruz
Planning Department
December 2014






EXHIBIT E

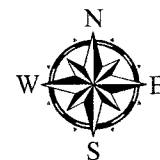


General Plan Designation Map



LEGEND

-  APN: 028-232-15
-  Assessors Parcels
-  Street
-  Residential - Urban Medium Density
-  Parks and Recreation



Map Created by
County of Santa Cruz
Planning Department
December 2014

EXHIBIT E



Coastal Commission Review

Routing No: 1 Review Date: 12/05/2014

ANNETTE OLSON (AOLSON) : No Response

Drainage Review

Routing No: 1 Review Date: 12/01/2014

TRAVIS RIEBER (TRIEBER) : Complete

Completeness Comments: Application Complete ☒ Yes ☐ No

The civil plans dated October 20, 2014 showing downspouts discharging on splash blocks and landscape swales directing runoff to the permeable paver driveway have been received and are approved for the planning application stage. Please see the permit conditions below for additional information to be provided at the building application stage.

Policy Considerations and Compliance Issues:

Permit Conditions and Additional Information:

1. Please provide cross section construction details for the proposed landscape swales and permeable pavers to facilitate proper construction by the contractor.
2. Please make clear on the plans how runoff received onsite from upslope adjacent properties will be controlled and directed to a safe point of release without causing adverse impacts to the proposed structure or adjacent/downstream properties.
3. It should be clear and documented who is responsible for maintenance of the existing and proposed drainage facilities (curb, ect.) along the non county maintained road sections.
4. For fee calculations please provide tabulation of new impervious and semi-impervious (gravel, base rock, paver blocks, pervious pavement) areas resulting from the proposed project. Make clear on the plans by shading or hatching the limits of both the existing and new impervious areas. To receive credit for the existing impervious surfaces to be removed please provide documentation such as assessor's records, survey records, aerial photos or other official records that will help establish and determine the dates they were built.



Drainage Review

Routing No: 1 Review Date: 12/01/2014

TRAVIS RIEBER (TRIEBER) : Complete

Note: A drainage fee will be assessed on the net increase in impervious area. The fees are currently \$1.17 per square foot, and are subject to increase based on the fee amount applicable at the time of permit issuance. Reduced fees (50%) are assessed for semi-pervious surfacing (such as gravel, base rock, paver blocks, porous pavement, etc.) to offset costs and encourage more extensive use of these materials.

5. Site plans shall specify maintenance requirements such as; what needs to be maintained, how often each drainage improvement needs to be maintained, what to look for indicating maintenance is required, and what the maintenance procedures are for each specific drainage improvement. A recorded maintenance agreement is required for the proposed landscape swales and permeable pavers. Please contact the County of Santa Cruz Recorder's office for appropriate recording procedure. The maintenance agreement form can be picked up from the Public Works office or can be found online at:

http://www.dpw.co.santa-cruz.ca.us/Storm_Water/FigureSWM25A.pdf

6. Upon approval of the project, a drainage "Hold" will be placed on the permit and will be cleared once the construction is complete and the stormwater management improvements are constructed per the approved plans: In order to clear the Hold, one of these options has to be exercised:

1. The civil engineer must inspect the drainage improvements on the parcel and provide public works with a letter confirming that the work was completed per the plans. The civil engineer's letter shall be specific as to what got inspected whether invert elevations, pipe sizing, the size of the mitigation features and all the relevant design features. Notes of "general conformance to plans" are not sufficient.
2. As-built plans stamped by the civil engineer may be submitted in lieu of the letter. The as-built stamp shall be placed on each sheet of the plans where stormwater management improvements were shown.
3. The civil engineer may review as-built plans completed by the contractor and provide the county with an approval letter of those plans, in lieu of the above two options. The contractor installing the drainage improvements will provide the civil engineer as-built drawings of the drainage system, including construction materials, invert elevations, pipe sizing and any modifications to the horizontal or vertical alignment of the system. The as-built drawings, for each sheet showing drainage improvements and/or their construction details, must be identified with the stamp (or label affixed to the plan) stating the contractor's name, address, license and phone number. The civil engineer will review the as-built plans for conformance with the design drawings. Upon satisfaction of the civil engineer that the as-built plans meet the design intent and are adequate in detail, the civil engineer shall submit the as-built plans and a review letter, stamped by the civil engineer to the County Public Works Department for review to process the clearance of the drainage Hold, if the submittal is



Drainage Review

Routing No: 1 Review Date: 12/01/2014

TRAVIS RIEBER (TRIEBER) : Complete

satisfactory.

The applicant is encouraged to discuss the above comments with the reviewer, Travis Rieber, to avoid unnecessary additional routings. Please call the Dept. of Public Works, Storm Water Management Section, from 8:00 am to 12:00 noon if you have questions.

Driveway/Encroachment Review

Routing No: 1 Review Date: 11/21/2014

DEBRA LOCATELLI (DLOCATELLI) : Not Required

Not adjacent to county maintained road.

Environmental Planning

Routing No: 4 Review Date: 06/18/2015

ANNETTE OLSON (AOLSON) : Complete

Conditions of Approval

1. Plans submitted for the building permit application shall be designed in conformance with all recommendations provided in the soils and geology reports, and shall reference the reports.
2. Plans submitted for the building permit application shall show the coastal bluff setback on all sheets.
3. Plans submitted for the building application shall include a civil-engineered stormwater pollution control plan that meets the requirements set forth in the County's Construction Site Stormwater Pollution Control BMP Manual. The Manual may be found on our website at sccoplanning.com by navigation to Environmental / Erosion and Stormwater Pollution Control / Construction Site Stormwater BMP Manual.
4. Plans submitted for the building application shall include a drainage plan that complies with the requirements set forth in 2013 California Building Code (CBC) Section 1804.3 and the recommendations of the soils engineer.



Environmental Planning

Routing No: 4 Review Date: 06/18/2015

ANNETTE OLSON (AOLSON) : Complete

5. Prior to building permit approval the applicant shall submit:
 - A. Two copies of the soils report and all updates;
 - B. Two copies of the geology report and all updates;
 - C. A plan review form, based on final revised plans, signed and stamped by the soils engineer; and
 - D. A plan review form, based on final revised plans, signed and stamped by the project geologist.
6. Prior to building permit final, the applicant shall provide final inspection forms from the geotechnical engineer, engineering geologist, and civil engineer.
7. All construction shall be completed in compliance with all recommendations provided in the soils and geology reports.
8. All structures, including portions that are cantilevered, are prohibited within the 100-year coastal bluff setback.

Fire Review

Routing No: 1 Review Date: 11/25/2014

() : Complete

Date: November 20, 2014
To: JVL Properties
Applicant: Powers Land Planning
From: Jim Dias
Subject: Proposed 2 story SFD
Address ## 23rd Avenue Santa Cruz CA 95062
APN: 028-232-15
OCC: 2823215
Permit: 141242

We have reviewed plans for the above subject project. District requirements appear to have been met.

Please ensure designer/architect reflects equivalent notes and requirements on velums as appropriate when submitting for **Application for Building Permit**.



Fire Review

Routing No: 1 Review Date: 11/25/2014

() : Complete

NOTE on the plans that these plans are in compliance with California Building and Fire Codes (2013) and District Amendment.

NOTE on the plans the OCCUPANCY CLASSIFICATION, BUILDING CONSTRUCTION TYPE-FIRE RATING and SPRINKLERED (e.g., R-3, Type V-B, Sprinklered).

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

SHOW on the plans a public fire hydrant, type and location, meeting the minimum required fire flow for the building, within 600 feet of any portion of the building if the building is equipped with an automatic fire sprinkler system, or 400 feet if the building is not equipped with an automatic fire sprinkler system.

SHOW on the plans DETAILS of compliance with the District Access Requirements outlined on the enclosed handout. The roadway(s) are required to be designated as fire lanes, and painted with a red curb with FIRE LANE NO PARKING in contrasting color every 30 feet on the top of the red curb.

Provide details showing the substrate materials and depths to support the pavers to be utilized in the driveway and turnaround. The roadway and turnaround shall be capable of support a load of no less than 25 tons.

The roadway profile with grade percentages shall be shown on the plans. These plans shall be wet stamped and signed by the Engineer/Designer/Survey of the roadway. The Central Fire protection District Santa Cruz of County shall inspect the finished grade prior to the installation of the permanent driving surface.

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

NOTE on the plans that the designer/installer shall submit two (2) sets of plans, calculations, and cut sheets for the underground and overhead Residential Automatic Sprinkler System to this agency for approval. Installation shall follow our guide sheet.

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

Show additional smoke detectors in the following locations:

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

Show the location of the CO detector outside each sleeping room and on each level at a minimum of the residence

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



Fire Review

Routing No: 1 Review Date: 11/25/2014

() : Complete

background.

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

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

Submit a check in the amount of \$115.00 for this particular plan check, made payable to Central Fire Protection District. A \$50.00 **Late Fee** may be added to your plan check fees if payment is not received within **30 days** of the date of this Discretionary Letter. **INVOICE MAILED TO OWNER.** Please contact the Fire Prevention Secretary at (831) 479-6843 for total fees due for your project.

If you should have any questions regarding the plan check comments, please call me at (831) 479-6843 and leave a message, or email me at jimd@csgengr.com. All other questions may be directed to Fire Prevention at (831)479-6843.

CC: File & County

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

-101212

Project Review

Routing No: 4 Review Date: 06/29/2015

ANNETTE OLSON (AOLSON) : Complete

Road Engineering Review

Routing No: 1 Review Date: 11/21/2014

RODOLFO RIVAS (RRIVAS) : Complete



Sanitation Review

Routing No: 1 Review Date: 11/24/2014

BOB HAMBELTON (BHAMBELTON) : Complete

Sanitation District Review Comments

Application is Complete

No. 1 Review Summary Statement;

Appl. No. 141242

APN: 028-232-15

Completeness Items:

This review was based on plans submitted for the subject project entitled *New Residence of JVLP, LLC.*, prepared by Wayne Miller, dated 10/10/14.

The Santa Cruz County Sanitation District has reviewed your application for development and sanitary sewer service is currently available to serve your project, subject to the requirements listed below.

Compliance Items:

A Discretionary Permit Review Fee of \$250 shall be paid to the County of Santa Cruz Sanitation District. (\$250 is the minimum charge for a Discretionary Permit review.) No further review by the District may take place, and no approval of the Development Permit application can be issued until this minimum fee is paid. Recognize that, depending on the time and complexity of the review and approval process, there may be other fees.

Design and Construction Standards:

The project sewer design and connection of the project to the Santa Cruz County Sanitation District system will be required to conform to the County of Santa Cruz Design Criteria (CDC) Part 4, Sanitary Sewer Design, June 2006 edition.

Reference for County Design Criteria:

<http://www.dpw.co.santa-cruz.ca.us/DESIGNCRITERIA.PDF>

Engineered Sewer Plans: Please show the following items on the plans:

Existing sewer line easement surveyed and plotted on the site plan. No permanent improvements, including decks or stairs (whether required or not) may be constructed within the easement.

Pipe material and slope of each segment (2% minimum), for the lateral.

Include District's "General Notes" on plans. Contact staff for electronic copy.

It is anticipated that revisions and additions will necessitate in the submittal of a revised set of plans, which may result in further review comment and/or different or additional conditions. Please, highlight any and all changes as plan revisions. Please submit any revised plans directly to the Planning Department; the process for tracking your re-submittal begins there, and it is important that Planning receive the documents first. Leaving materials with Public Works may result in delays in



Sanitation Review

Routing No: 1 Review Date: 11/24/2014

BOB HAMBELTON (BHAMBELTON) : Complete

processing and/or approvals.

Permit Condition:

This review notice is effective for one year from the issuance date to allow the applicant the time to receive 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.

Any questions regarding the above criteria should be directed to Robert Hambelton of the Sanitation Engineering division at (831) 454-2783.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

Th12c

Appeal filed: 2/19/2008
49th day: 4/8/2008
Staff: DCarl
Staff report prepared: 2/21/2008
Hearing date: 3/6/2008

APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal number.....A-3-SCO-08-010, Vaden 23rd Avenue SFD
Applicants.....Val Vaden and Lilli Rey
Appellant.....Ralph Borelli
Local government.....Santa Cruz County
Local decision.....Coastal Development Permit (CDP) Application Number 02-0432 approved by the Santa Cruz County Planning Commission on January 9, 2007.
Project location.....Seaward end of 23rd Avenue fronting Corcoran Lagoon/Santa Maria Cliffs Beach in the Live Oak beach area of Santa Cruz County (APNs 028-232-15 and 028-232-16).
Project description.....Construct a single-family residence; and extend 23rd Avenue and public utilities to serve the residence.
File documents.....Final Local Action Notice for Santa Cruz County CDP Number 02-0432; Santa Cruz County certified Local Coastal Program (LCP); California Coastal Commission Monterey Bay ReCAP; CDP application (and appeal) files 3-97-027, A-3-SCO-99-056, and 3-03-036 (Filizetti and Filizetti/Hooper).
Staff recommendation ...Substantial Issue Exists

A. Staff Recommendation

1. Summary of Staff Recommendation

The certified Santa Cruz County LCP requires a minimum 25-foot setback for blufftop development. The Appellant contends that the County's decision is inconsistent with this requirement. The County's CDP decision allows development within the required 25-foot setback (as close as 5 feet for the approved road extension), and it justifies this incursion based on an incorrect and novel interpretation of the LCP's bluff setback policies. **The appeal raises a substantial LCP conformance issue related to a core LCP coastal resource protection requirements, and staff recommends that the Commission take jurisdiction over the CDP application for this project.** Motions and resolutions to effect this recommendation are found on page 2 of the staff report.



California Coastal Commission

Staff: Dan Carl Approved by:

A-3-SCO-08-010 (Vaden 23rd Avenue SFD) stftrpt 3.6.2008.doc

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

Motion. I move that the Commission determine that Appeal Number A-3-SCO-08-010 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation of Substantial Issue. Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-SCO-08-010 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

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C. Exhibits	
Exhibit A: Project Location Maps (4 pages)	
Exhibit B: Santa Cruz County CDP Approval (File Number 02-0432) (37 pages)	
Exhibit C: Appeal of County's CDP Approval (4 pages)	



B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Location

The proposed project is located on the bluffs at Corcoran Lagoon/Santa Maria Cliffs Beach near Corcoran Lagoon in the unincorporated Live Oak beach area of Santa Cruz County.

Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties (see Exhibit A). The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County's coastal zone resources are varied and oftentimes spectacular, including the Santa Cruz Mountains coastal range and its vast forests and streams; an eclectic collection of shoreline environments ranging from craggy outcrops to vast sandy beaches (in both urban and more rural locations); numerous coastal wetland, lagoon and slough systems; habitats for an amazing variety and number of endangered species; water and shore oriented recreational and commercial pursuits, including world class skimboarding, bodysurfing, and surfing areas; internationally renowned marine research facilities and programs; special coastal communities; vast State Park lands; and the Monterey Bay itself. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary (MBNMS), the largest of the twelve such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, the County has seen extensive development and regional growth over the years that the CCMP has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current State estimates indicating that the County is home to over one-quarter of a million persons.¹ This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for park areas, recreational facilities, and visitor serving amenities. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and most significantly closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems and destinations like Live Oak. With the Santa Cruz County shoreline and beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the large population centers of the San Francisco Bay area, San Jose, and the Silicon Valley nearby, this type of resource

¹ Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for 2007 indicate that over 264,125 persons reside in Santa Cruz County (*California Department of Finance, January 2007 Cities/Counties Ranked by Size, Numeric, and Percent Change*; Sacramento, California; May 2006).



pressure is particularly evident in coastal Santa Cruz County.

Live Oak Beach Area

Live Oak is part of a larger urbanized area (along with the cities of Santa Cruz and Capitola) that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches reached by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including from the San Francisco Bay Area, San Jose and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains (see Exhibit A). As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

Live Oak is the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skimboarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, blufftop terraces, and coastal lagoons. Live Oak also includes a number of defined neighborhood and special communities within it. These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area (roughly three miles of shoreline) can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.) as the remaining vacant parcels are developed and developed residential lots are re-developed with larger homes.² Given that the beaches are the largest public facility in and out of the Live Oak coastal zone, this pressure will be particularly evident along the shoreline.

Proposed Development Site

The proposed project is located on top of the bluffs fronting the beach known locally as Santa Maria

² Live Oak is currently home to some 20,000 residents, and the LCP indicates that build-out would add approximately 10,000 Live Oak residents, and would require 150 to 180 acres of park acreage. Although Live Oak accounts for less than 1% of Santa Cruz County's total land acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.



Cliffs Beach or Corcoran Lagoon Beach. This broad beach extends from a narrow tidal shelf area adjacent to Sunny Cove (upcoast) through to the bluff promontory just seaward of the subject site. Corcoran Lagoon is located directly inland of this beach (across East Cliff Drive), and sometimes is also extends onto the beach itself between East Cliff and the ocean below the subject site (depending on water level fluctuations).³ In contrast to this wide sandy beach/lagoon area fronting the project site, the beach configuration changes quite drastically as the beach extends downcoast. This connected beach area is extremely narrow, extending all the way down to the westernmost outcroppings of rock at Soquel (aka Pleasure) Point about a half-mile downcoast of the project site. This narrow beach is almost entirely backed by rip-rap revetments on its inland edge and is most often referred to as 26th Avenue Beach. 26th is an extremely popular recreational beach,⁴ and a prime bodysurfing, skimboarding and surfing destination.⁵ Although this beach has been impacted over time by rip-rap,⁶ it remains a significant public access and recreation area. See air photo of the area in Exhibit A.

The site is located along that section of bluffs where 23rd Avenue extends directly seaward from East Cliff Drive. Given the orientation of the bluffs along 23rd Avenue, the subject site is located along a bluff area that is actually perpendicular to the ocean (i.e., historically, the area atop the bluffs where Rodeo Creek exited to the ocean through what is now Corcoran Lagoon). The site is located just inland of this bluff edge, and just seaward of the end of 23rd Avenue pavement (the 23rd Avenue right-of-way continues and extends through to the beach as a "paper" street past the pavement). The bluffs along 23rd Avenue are not currently armored, although there is a small amount of existing permitted rip-rap at the promontory nearest and fronting the ocean where the bluffs change direction and extend downcoast parallel to the shoreline. Although the County doesn't maintain 23rd Avenue, and has equated this lack of maintenance to it being "private", the Commission has historically considered 23rd Avenue to be

³ Historically, the lagoon formed a natural tidal estuary at the beach. The fill for East Cliff Drive partially severed this connection, and the lagoon now only intermittently meanders onto the ocean side of the fill under a bridge supporting East Cliff.

⁴ Historic County analyses estimated average daily use of this beach at 848 persons, making it the second highest beach use area in Live Oak (after Twin Lakes State Beach located upcoast near the Santa Cruz Harbor) (Technical Appendix; Live Oak General Plan; Planning Analysis and EIR, October 1977). Similarly, background LCP reports completed in 1980 estimated annual visitor counts for this beach segment at 195,393 (1980 Public Access Working Paper for the County LCP). Given the doubling of the County's population since 1970, and the increase in recreational use associated with that and population increases in surrounding areas, and the development of a parking area, restrooms, showers, and other park amenities inland at (just downcoast) Moran Lake County Park in the time since these surveys, these historic figures likely underestimate the current level of use at this location.

⁵ Along with Aliso and Tenth Street Beaches in Laguna Beach, and the Wedge in Newport Beach, 26th Avenue Beach is known as one of the best skimboarding and bodysurfing locations in California. Professional and amateur contests are often held here, and recreational users pack the nearshore area at the project site. It is also home to a well-known surfing break that provides a high energy, if somewhat abrupt, rolling beach break known for its Pipeline-esque (but smaller scale) barrels often delivering surfers right to the sandy shore ("26th Avenue"), as well as other breaks such as "Little Wind-n-Sea" just downcoast where rolling waves form off of the first outcroppings of Soquel Point (better known as "Pleasure Point"), and such as "Santa Maria" coming off the back (downcoast) side of Black's Point and the rocky tidal shelves surrounding the Sunny Cove inlet upcoast.

⁶ The beach here is in most cases less than 50 feet wide in summer and completely disappears during parts of the winter. Rip-rap revetments armor the backshore and encroach onto areas that otherwise would provide sandy beach access. The Commission's 1995 Monterey Bay ReCAP project, or Regional Cumulative Assessment Project, estimated that roughly 1¼ acres of sandy beach at 26th Avenue Beach was covered by rock revetments (based on a conservative footprint width estimate of 20 feet of sand beach coverage for such structures). This ReCAP revetment footprint estimate was a general estimate for revetment size over the entire ReCAP area. Because most of the revetments along this portion of the Santa Cruz coast have a footprint that is bigger than the assumed 20-foot width, the actual area of revetment coverage may actually be higher than that estimated in ReCAP.



public property and a public street.⁷ A vertical public access trail extends from East Cliff Drive along 23rd Avenue (on the pavement where paved, and along a footpath where not paved) and down a bluff trail to the beach.⁸ Although currently unsigned, the 23rd Avenue accessway provides vertical access to the beach, including the only vertical access to the forebeach when Corcoran Lagoon waters occupy the back beach and make dry passage from East Cliff Drive otherwise not possible.

The project site is located just inland of the "paper" portion of 23rd Avenue just past four existing residences all located on the inland side of 23rd Avenue and seaward of East Cliff Drive. The site is currently vacant, and covered with ruderal vegetation. The project site is made up of two APNs: APNs 028-232-15 and 028-232-16. The project site is prominently visible in seaward views from East Cliff Drive (the first through public road) heading downcoast at the bridge over Corcoran Lagoon, and is also visible, albeit less so, from inland Portola Drive across Corcoran Lagoon proper. These peek-a-boo views are all the more important in the Live Oak beach area given that the pattern of residential development seaward of the first through public road (and only through lateral trail route) has been such that the majority of through coastal views from it have been blocked other than at this site, the other coastal lagoon outlet locations,⁹ and at the Pleasure Point surfing area.

See Exhibit A for a location map and an air photo of the project area.

2. Project Description

The County approved project allows construction of a single-family dwelling (SFD) on APN 028-232-16, construction of an extension of 23rd Avenue and subsurface public utilities to serve the approved SFD on the 23rd Avenue right-of-way, and construction of a portion of the road extension, namely a paved fire safety turnaround, on APN 028-232-15. The residence on APN 028-232-16 would be constructed directly adjacent to the last residence currently existing along paved 23rd Avenue, and the fire safety turnaround would be constructed on the parcel just seaward of that. See project information in the County's action notice attached as Exhibit B.

3. Santa Cruz County CDP Approval

On January 9, 2008, the Santa Cruz County Planning Commission approved Coastal Development Permit (CDP) Application Number 02-0432. This final action was preceded by a series of County hearings over several years involving the subject application (see discussion in County staff report in Exhibit B). In fact, the Zoning Administrator approved the project on October 5, 2007, and that approval was appealed by the current Appellant to the Planning Commission. Notice of the Planning Commission

⁷ See, for example, CDP application files 3-97-027, A-3-SCO-99-056, and 3-03-036.

⁸ Ibid; see noted files.

⁹ Schwan Lagoon located upcoast, and Moran Lake located downcoast.



action on the CDP was received in the Coastal Commission's Central Coast District Office on February 1, 2008. The Coastal Commission's ten-working day appeal period for this action began on February 4, 2008 and concluded at 5 p.m. on February 19, 2008. One valid appeal (see below) was received during the appeal period.

4. Appeal Procedures

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. This project is appealable because it involves development that is located both seaward of the first public road and within 300 feet of the blufftop edge.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo CDP hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission approves the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.



5. Summary of Appeal Contentions

The Appellant contends that the County's CDP decision is inconsistent with certified LCP policies requiring development to be set back a minimum of 25 feet from the top edge of the coastal bluff; that the County misinterpreted LUP Policy 6.2.15 in justifying a lesser setback distance; and that the County's CDP decision would set an inappropriate precedent for future blufftop development in the County. The Appellant concludes that "the project as conditioned violates LCP [LUP] Policy 6.2.12¹⁰ and County Code [LCP IP] Section 16.10.070(h)(1)(ii)." Please see Exhibit C for the complete appeal document.

6. Substantial Issue Determination

A. Applicable LCP Policies

The appeal is based on the interplay between LCP LUP Policy 6.2.12 (and related LCP IP Section 16.10.070(h)(1)(ii)) and LUP Policy 6.2.15.¹¹ These policies are also related to and understood in relation to other LCP policies, including LUP Policies 6.2.13 and 6.2.14, and IP Sections 16.10.070(h)(1)(i) and 16.10.070(h)(1)(iii). These policies state as follows:

LUP Policy 6.2.12 (Setbacks from Coastal Bluffs). All development activities,¹² including those which are cantilevered, and non habitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff. A setback greater than 25 feet may be required based on conditions on and adjoining the site. The setback shall be sufficient to provide a stable building site over the 100-year lifetime of the structure, as determined through geologic and/or soil engineering reports. The determination of the minimum 100-year setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed shoreline or coastal bluff protection measures.

LUP Policy 6.2.13 (Exception for Foundation Replacement and/or Upgrade). Foundation replacement and/or foundation upgrades that meet the definition of development activity shall meet the 25-foot minimum and 100-year stability setback requirements. An exception to those requirements may be granted for existing structures that are located partly or wholly within the setback if the Planning Director determines that: (1) the area of the structure that is within the

¹⁰ The submitted appeal document indicates that the inconsistency is with LCP Policy 6.5.1 (see Exhibit C). However, Policy 6.5.1 is not an LCP Policy. On February 21, 2008, the Appellant's attorney clarified that the appeal document mis-cites Policy 6.5.1, and the actual citation intended (and the appeal allegation) is with respect to LCP LUP Policy 6.2.12 (personal communication between Dan Carl of Commission staff and the Appellant's attorney William Parkin).

¹¹ Ibid; the reference to Policy 6.5.1 in the appeal document is understood to be to LUP Policy 6.2.12.

¹² Including by LCP LUP definition (i.e., the LUP Glossary section) "an addition of any size to a structure that is located on a coastal bluff, dune, or in the coastal hazard area, that extends the structure in a seaward direction," "grading activities of any scale in the ... coastal hazard area, and any grading activity which requires a permit (pursuant to Chapter 16.20) elsewhere," "construction of roads, utilities, or other facilities," and "any other project that is defined as development under Section 13.20.040, and that will increase the number of people exposed to geologic hazard, or that may create or exacerbate an existing geologic hazard, shall be determined by the Planning Director to constitute development for the purposes of geologic review."



setback does not exceed 25% of the area of the structure, or (2) the structure cannot be relocated to meet the setback due to inadequate parcel size.

LUP Policy 6.2.14 (Additions to Existing Structures). *Additions, including second story and cantilevered additions, shall comply with the setback requirements of 6.2.12.*

LUP Policy 6.2.15 (New Development on Existing Lots of Record). *Allow development activities in areas subject to storm wave inundation or beach or bluff erosion on existing lots of record, within existing developed neighborhoods, under the following circumstances: (a) A technical report (including a geologic hazards assessment, engineering geology report and/or soil engineering report) demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, and foundation design; (b) Mitigation of the potential hazard is not dependent on shoreline or coastal bluff protection structures, except on lots where both adjacent parcels are already similarly protected; and (c) The owner records a Declaration of Geologic Hazards on the property deed that describes the potential hazard and the level of geologic and/or geotechnical investigation conducted.*

IP Section 16.10.070(h) (Coastal Bluffs and Beaches).

1. Criteria in Areas Subject to Coastal Bluff Erosion: *Projects in areas subject to coastal bluff erosion shall meet the following criteria:*

- (i) for all development and for non-habitable structures, demonstration of the stability of the site, in its current, pre-development application condition, for a minimum of 100 years...*
- (ii) for all development, including that which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.*
- (iii) the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers.*
- (iv) foundation replacement and/or foundation upgrades that meet the definition of development per Section 16.10.040(s) and pursuant to Section 16.10.040(r), shall meet the setback described in Section 16.10.070(h)(1), except that an exception to the setback requirement may be granted for existing structures that are wholly or partially within the setback, if the Planning Director determines that: (a) the area of the structure that is within the setback does not exceed 25% of the total area of the structure, or (b) the structure cannot be relocated to meet the setback because of inadequate parcel size.*
- (v) additions, including second story and cantilevered additions, shall comply with the*



minimum 25 foot and 100 year setback.

...

(viii) *service transmission lines and utility facilities are prohibited unless they are necessary to serve existing residences.*

...

2. Exemption:

- (i) *Any project which does not specifically require a building permit pursuant to Section 12.10.070(b) is exempt from Section 16.10.070(h)1, with the exception of: non-habitable accessory structures that are located within the minimum 25 foot setback from the coastal bluff where there is space on the parcel to accommodate the structure outside of the setback, above-ground pools, water tanks, projects (including landscaping) which would unfavorably alter drainage patterns, and projects involving grading.*

For the purposes of this Section, the unfavorable alteration of drainage is defined as a change that would significantly increase or concentrate runoff over the bluff edge or significantly increase infiltration into the bluff. Grading is defined as any earthwork other than minor leveling, of the scale typically accomplished by hand, necessary to create beneficial drainage patterns or to install an allowed structure, that does not excavate into the face or base of the bluff.

Examples of projects which may qualify for this exemption include: decks which do not require a building permit and do not unfavorably alter drainage, play structures, showers (where run-off is controlled), benches, statues, landscape boulders, benches, and gazebos which do not require a building permit.

- (ii) *If a structure that is constructed pursuant to this exemption subsequently becomes unstable due to erosion or slope instability, the threat to the exempted structure shall not qualify the parcel for a coastal bluff retaining structure or shoreline protection structure. If the exempted structure itself becomes a hazard it shall either be removed or relocated, rather than protected in place.*
- ...

B. Analysis

Pursuant to LUP Policy 6.2.12, the LCP requires that development be set back at least 25 feet or as far as is necessary to ensure at least 100 years of stability for such development. This LUP requirement is also identified in, and implemented by, IP Section 16.10.070(h)(1)(ii). In other words, the LCP requires a minimum 25-foot setback, and the required setback distance might be more depending on site-specific facts. This setback requirement is designed to avoid bluff stability problems, including avoiding the need



for future shoreline armoring and its attendant impacts, and it also serves to help avoid public viewshed impacts (by moving development away from bluff edges to minimize visibility from beaches and related areas below) and to help allow for public access along bluffs where applicable (such as the subject case where an existing public access trail route exists).

In this case, the 25-foot minimum bluff setback would apply to development at the proposed development site based on the Applicant's geotechnical consultant's analysis indicating that, due to a lack of discernable erosion over time, 100 years of stability does not require a setback beyond 25 feet.¹³ The County's CDP decision acknowledges the LCP's minimum 25-foot setback requirement, including stating that this requirement would appear to disallow development in this area (see page 3 of Exhibit B), but then allows a lesser setback. The approved road and utilities would be sited approximately 5 feet from the bluff edge, and the approved driveway and related development (utility connections, driveway apron, paths and steps) would be as close as 20 feet from the bluff edge; the residence itself would be set back about 40 feet from the bluff edge.¹⁴

To justify allowing development within the minimum required 25-foot setback area in this case, the County decision relies on LUP Policy 6.2.15, a policy that refers to allowing development in some hazardous areas when confronted with existing lots of record. Among other things, LUP Policy 6.2.15 refers to allowing development in such areas on such lots if the potential hazard can be mitigated over the 100-year lifetime of a structure. In other words, the County relied on this policy and its reference to 100-year mitigation of the hazard to supersede the LCP's 25-foot minimum bluff setback requirement (see County findings in this respect in Exhibit B).

To the Commission's knowledge, the County's interpretation that LUP Policy 6.2.15 overrides the 25-foot bluff setback requirement of LUP Policy 6.2.12 (and related policies) represents the first time this interpretation has been applied. Historically, it has been clear that the certified LCP requires a 25-foot minimum blufftop setback, and it has been long practice on CDP decisions in Santa Cruz County to apply a minimum 25-foot blufftop setback. The LCP provides for limited exceptions to this minimum requirement (e.g., LUP Policy 6.2.13 and IP Section 16.10.070(h)(2)), but these exceptions are clearly to the 25-foot/100-year requirement applied together, including that the minimum bluff setback standard is explicitly restated in these exception policies, and they are for very specific types of development, none of which apply to the current case. In sum, LUP Policy 6.2.12 is the LCP's primary bluff setback policy from which all others derive their context and implementation authority.

LUP Policy 6.2.15, on the other hand, is a less specific policy with respect to blufftop development and setbacks; it applies a different safety standard; and it appears that it is meant to be applied to a different circumstance. On the later point, it appears that this LUP policy is meant to apply to a case where bluff setbacks may not be the primary issue, or even a relevant issue in the context of blufftop development at all. This is also reflected in its broader application to areas of storm inundation, beach erosion, and bluff

¹³ Nielsen and Associates reports dated July, 30, 2003 and May 16, 2005.

¹⁴ With respect to the residence, the 40-foot distance is based on the location of the residence if it were moved back per County Condition II.B.7.a so that it was 20 feet inland of the property line where it intersects the 23rd Avenue right-of-way (see Exhibit B).

erosion, and not bluff setbacks specifically. Although bluff erosion is cited and building setbacks are an identified mitigation measure, bluff setbacks explicitly are not, and this broader range of hazards appears meant to account for cases where development is proposed in low-lying areas where existing lots may exist, but where a stable building site (i.e., per LUP Policy 6.2.12 and IP Section 16.10.070(h)(1)(i) and (ii)) cannot be found. In such cases, a bluff setback may even make little sense lacking a bluff (e.g., proposed development on low lying area of upper beach) or where the development in question is seaward of the bluff (e.g., along Potbelly Beach Road, Las Olas Drive, and Beach Drive), and buildings are instead being set back as appropriate to respond to the hazard otherwise. In terms of the safety standard, the idea of applying hazard mitigation over a 100-year lifetime presumes that the hazard cannot be avoided in the first place in a manner consistent with the LCP otherwise. In other words, the LCP clearly stakes out hazard avoidance in other relevant policies, including Policy 6.2.12 that is premised not on mitigating a hazard, but rather on providing a 100-years stable site based on existing site conditions and not any mitigations, and ensuring at least a 25-foot setback (also reflected in IP Section 16.10.070(h)(1)(i) - (iii)). Avoidance versus mitigation are two fairly different concepts, and the avoidance encapsulated in Policy 6.2.12 and related policies goes as far as to base hazard avoidance on the pre-development application condition of the land and to explicitly disallow mitigation measures to achieve the stability requirements.

In sum, it appears that LUP Policy 6.2.15 is meant to be applied to a different circumstance than minimum blufftop setbacks. Even if it were appropriate to consider it to apply to the subject case, which it is not, it does not trump the provisions of LUP Policy 6.2.12 and related policies that clearly identify minimum bluff setback requirements. First, LUP Policy 6.2.12 and related policies are more specific with respect to bluff setbacks than LUP Policy 6.2.15, and thus LUP Policy 6.2.12 (and its implementing policies) are the ones that apply to bluff setbacks.¹⁵ Second, even if that weren't the case, and the two policies were considered on par with one another with respect to bluff setback requirements, at a minimum there is a conflict between the two policies. In that case, it seems more likely that the reason that Policy 6.2.15 omits explicit reference to the 25-foot minimum setback standard is poor drafting, as opposed to a conscious decision to create conflict between two LUP policies as a means to recast the bluff setback requirements (that are plainly stated elsewhere) through Policy 6.2.15. This is supported by the fact that the exceptions built into Policy 6.2.15 are not included in the explicit exception sections otherwise (e.g., see IP Section 16.10.070(h)(2)). In fact, the reference to the 100-year lifetime in LUP Policy 6.2.15 is more readily rectified to the rest of the plain language of the LCP by reading the LUP Policy 6.2.15 text (of mitigating hazards over 100 years) to refer to the 25-foot minimum/100-year stability requirements.¹⁶

And finally, if the conflict is not otherwise resolved in that manner, the LCP provides a conflict

¹⁵ Giving precedence to the more particular provisions of LUP Policy 6.2.12 over the more general provisions of LUP Policy 6.2.15 with respect to bluff setback requirements is in accord with generally applicable principles of California law (see, for example, Civil Code Section 3534 ("Particular expressions qualify those which are general")).

¹⁶ This is also reflected by the fact that when the geologic hazards policies were last updated through LCP amendment 3-98 part B (certified by the Commission in 1999), the minor revisions made to LUP Policy 6.2.15 at that time were described in terms of making the policy consistent with LUP Policy 6.2.12, and they were certainly not understood the other way around.



resolution framework. Specifically, where there is a conflict such as this, the LCP requires that it be resolved in terms of the Coastal Act. LCP Chapter 1, under the heading "Interpretation" states as follows:

In any case in which the interpretation or application of an LCP is unclear, as that policy may relate to a particular development application or project, the application or interpretation of the policy which most clearly conforms to the relevant Coastal Act policy shall be utilized.

Pursuant to Coastal Act Section 30253, development is to be sited, designed, and built to minimize risks, and to allow for natural shoreline processes to occur without interference from future proposals in response to erosion and other geologic hazard dangers that might lead to impacts on coastal resources (such as impacts on public beach access, sand supply, ESHA, visual resources, and natural landforms). In other words, the Coastal Act requires hazard avoidance as opposed to mitigation. Although the Coastal Act does not identify a specific blufftop setback distance, it has been the Commission's long practice to avoid potential erosion issues, including avoiding potential future armoring, by avoiding the hazard altogether through appropriate setbacks as opposed to allowing the hazard to be mitigated. In that sense, it is clear that the interpretation that most clearly conforms to the Coastal Act is that the bluff setback requirements of LUP Policy 6.2.12 are the bluff setback policies that apply per the LCP.

C. Substantial Issue Determination Conclusion

It is clear that the 25-foot minimum setback requirement applies to this project. It is equally clear that the proposed project cannot meet this requirement. The County's interpretation that LUP Policy 6.2.15 can be used to undo the 25-foot minimum setback requirement cannot be found consistent with the LCP. In fact, were it to be the case, then Policy 6.2.15 would find applicability to blufftop sites literally throughout the County, and could be used to negate the LCP's plain language and requirement for a 25-foot minimum blufftop setback (or a greater setback where 100-year stability requires same). Were that to occur, such an interpretation would lead to projects that included mitigation for 100-years of stability as opposed to conforming to the more stringent 25-foot/100-year stable building site standard. This would lead to inappropriate development being pursued near and/or over blufftop edges Countywide, where such precarious perches were maintained through such measures as super-engineered foundation structures and the like. This would lead to adverse coastal resource impacts, including with respect to natural landforms and public viewsheds. Even if the County were to want to limit its application in that scenario to this case, the interpretation forwarded is so broad as to escape limitation to this case.

Thus, the Commission finds that a substantial issue is raised with respect to the grounds on which the appeal has been filed and takes jurisdiction over the CDP application for the proposed project. Bluff setbacks and hazard avoidance are core elements of the Coastal Act and the LCP. It is clear that the County's CDP decision is inappropriate in that context, and cannot be rectified to the certified LCP.



CALIFORNIA COASTAL COMMISSION

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F12a**Adopted**

Appeal filed:	2/19/2008
Substantial issue found:	3/6/2008
Staff report prepared:	3/19/2009
Staff report prepared by:	<i>S. Craig</i> Susan Craig
Staff report approved by:	<i>DCM</i> Dan Carl
Hearing date:	4/10/2009

APPEAL STAFF REPORT - DE NOVO HEARING

Appeal number.....A-3-SCO-08-010, Vaden 23rd Avenue SFD

Applicants.....Val Vaden and Lilli Rey

Appellant.....Ralph Borelli

Local government.....Santa Cruz County

Local decision.....Coastal Development Permit (CDP) Application Number 02-0432 approved by the Santa Cruz County Planning Commission on January 9, 2007.

Project location.....Seaward end of the paved section of 23rd Avenue fronting Corcoran Lagoon/Santa Maria Cliffs Beach in the Live Oak beach area of Santa Cruz County (APNs 028-232-15 and 028-232-16).

Project description.....Construct a single-family residence, and extend 23rd Avenue pavement and public utilities to serve the residence.

File documents.....Final Local Action Notice for Santa Cruz County CDP Number 02-0432; Santa Cruz County certified Local Coastal Program (LCP); California Coastal Commission Monterey Bay ReCAP; CDP application (and appeal) files 3-97-027, A-3-SCO-99-056, and 3-03-036 (Filizetti and Filizetti/Hooper).

Staff recommendation ...Approve with Conditions

A. Staff Recommendation**1. Summary of Staff Recommendation**

The Applicants propose to construct a two-story single family dwelling with a basement on an undeveloped lot located along the coastal bluffs where 23rd Avenue extends directly seaward from East Cliff Drive in the Live Oak neighborhood of Santa Cruz County. The Commission previously found that the County's original CDP action raised a substantial issue and took jurisdiction over the CDP for the proposed project on March 6, 2008. The standard of review for the proposed project is the Santa Cruz County certified LCP and the public access and recreation policies of the Coastal Act.



California Coastal Commission

ADOPTED A-3-SCO-08-010 (Vaden 23rd Ave SFD) strfpt 04.10.2009 hrg

The proposed project constitutes infill development in a fairly urbanized and developed neighborhood. The size and scale of the proposed project is substantially consistent with neighboring development along 23rd Avenue and should not significantly impact the public viewshed. Although the paved extension of 23rd Avenue would be located in the LCP's required 25-foot minimum bluff top setback area (but the residence would not), this road incursion can be justified under the LCP as necessary to provide for development on this residential property. Conditions are recommended to have the Applicants assume all risk for developing at this location, and to ensure that the public's right of access along 23rd Avenue and to the beach is not adversely impacted. As conditioned, and to the degree feasible given the applicable fact set, staff believes that the proposed project can be found consistent with the requirements of the certified Santa Cruz County LCP and the public access and recreation policies of the Coastal Act. **Therefore, staff recommends approval with conditions.** The motion and resolution to approve the project subject to the staff recommendation are found directly below.

2. Staff Recommendation on CDP Application

Staff recommends that the Commission, after public hearing, **approve** the CDP for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve coastal development permit number A-3-SCO-08-010 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves the coastal development permit on the grounds that the development as conditioned will be in conformity with the policies of the Santa Cruz County Local Coastal Program and the public access and recreation policies of the Coastal Act. Approval of the coastal development permit complies with the California Environmental Quality Act because either: (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment; or (2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse effects of the amended development on the environment.

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B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Location

The proposed project is located on top of the bluff that fronts Corcoran Lagoon/Santa Maria Cliffs Beach near Corcoran Lagoon in the unincorporated Live Oak beach area of Santa Cruz County. See Exhibit A for project location maps.

Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties. The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County's coastal zone resources are varied and oftentimes spectacular, including the Santa Cruz Mountains coastal range and its vast forests and streams; an eclectic collection of shoreline environments ranging from craggy outcrops to vast sandy beaches (in both urban and more rural locations); numerous coastal wetland, lagoon and slough systems; habitats for an amazing variety and number of endangered species; water and shore-oriented recreational and commercial pursuits, including world class skim-boarding, bodysurfing, and surfing areas; internationally renowned marine research facilities and programs; special coastal communities; vast State Park lands; and the Monterey Bay itself. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the Monterey Bay National Marine Sanctuary (MBNMS), the largest of the twelve such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, the County has seen extensive development and regional growth over the years that the California Coastal

Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current State estimates indicating that the County is home to over one-quarter of a million persons.¹ This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for park areas, recreational facilities, and visitor serving amenities. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and most significantly closer than that, coastal zone resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems and destinations like Live Oak. With the Santa Cruz County shoreline and beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the large population centers of the San Francisco Bay area, San Jose, and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Santa Cruz County.

Live Oak Beach Area

Live Oak is part of a larger urbanized area (along with the cities of Santa Cruz and Capitola) that is home to some of the best recreational beaches in the Monterey Bay area. Not only are north Monterey Bay weather patterns typically more conducive to beach recreation than the rest of the Monterey Bay area, but north bay beaches are generally the first beaches reached by visitors coming from the north of Santa Cruz. With Highway 17 providing the primary access point from the north (including from the San Francisco Bay Area, San Jose and the Silicon Valley) into the Monterey Bay area, Santa Cruz, Live Oak, and Capitola are the first coastal areas that visitors encounter upon traversing the Santa Cruz Mountains (see Exhibit A). As such, the Live Oak beach area is an important coastal access asset for not only Santa Cruz County, but also the entire central and northern California region.

Live Oak is the unincorporated segment of Santa Cruz County located between the City of Santa Cruz (upcoast) and the City of Capitola (downcoast). The Live Oak coastal area is well known for excellent public access opportunities for beach area residents, other Live Oak residents, other Santa Cruz County residents, and visitors to the area. Walking, biking, skating, viewing, skim-boarding, bodysurfing, surfing, fishing, sunbathing, and more are all among the range of recreational activities possible along the Live Oak shoreline. In addition, Live Oak also provides a number of different coastal environments including sandy beaches, rocky tidal areas, bluff-top terraces, and coastal lagoons. Live Oak also includes a number of defined neighborhood and special communities within it (e.g., Twin Lakes, Pleasure Point, etc.). These varied coastal characteristics make the Live Oak shoreline unique in that a relatively small area (roughly three miles of shoreline) can provide different recreational users a diverse range of alternatives for enjoying the coast. By not being limited to one large, long beach, or solely an extended stretch of rocky shoreline, the Live Oak shoreline accommodates recreational users in a manner that is typical of a much larger access system.

¹ Census data from 1970 show Santa Cruz County with 123,790 persons; California Department of Finance estimates for 2007 indicate that over 264,125 persons reside in Santa Cruz County (*California Department of Finance, January 2007 Cities/Counties Ranked by Size, Numeric, and Percent Change*; Sacramento, California; May 2006).

Primarily residential with some concentrated commercial and industrial areas, Live Oak is a substantially urbanized area with few major undeveloped parcels remaining. Development pressure has been disproportionately intense for this section of Santa Cruz County. Because Live Oak is projected to absorb the majority of the unincorporated growth in Santa Cruz County, development pressure will likely continue to tax Live Oak's public infrastructure (e.g., streets, parks, beaches, etc.) as the remaining vacant parcels are developed and developed residential lots are re-developed with larger homes.² Given that the beaches are the largest public recreational facility in and out of the Live Oak coastal zone, this pressure will be particularly evident along the shoreline.

Proposed Development Site

The proposed project is located on top of the bluffs fronting the beach known locally as Santa Maria Cliffs Beach or Corcoran Lagoon Beach. This broad beach extends from a narrow tidal shelf area adjacent to Sunny Cove (upcoast) through to the bluff promontory just seaward of the subject site. Corcoran Lagoon is located directly inland of this beach (across East Cliff Drive), and sometimes also extends onto the beach itself between East Cliff and the ocean below the subject site (depending on water level fluctuations).³ In contrast to this wide sandy beach/lagoon area fronting the project site, the beach configuration changes quite dramatically as the beach extends downcoast. This connected beach area is extremely narrow, extending all the way down to the westernmost outcroppings of rock at Soquel (aka Pleasure) Point about a half-mile downcoast of the project site. This narrow beach is almost entirely backed by riprap revetments on its inland edge and is most often referred to as 26th Avenue Beach. 26th Avenue Beach is an extremely popular recreational beach,⁴ and a prime bodysurfing, skim-boarding and surfing destination.⁵ Although this beach has been impacted over time by rip-rap,⁶ it remains a

² Live Oak is currently home to some 20,000 residents, and the LCP indicates that build-out would add approximately 10,000 Live Oak residents, and would require 150 to 180 acres of park acreage. Although Live Oak accounts for less than 1% of Santa Cruz County's total land acreage, this projected park acreage represents nearly 20% of the County's total projected park acreage.

³ Historically, the lagoon formed a natural tidal estuary at the beach. The fill for East Cliff Drive partially severed this connection, and the lagoon now only intermittently meanders onto the ocean side of the fill under a bridge supporting East Cliff.

⁴ Historic County analyses estimated average daily use of this beach at 848 persons, making it the second highest beach use area in Live Oak (after Twin Lakes State Beach located upcoast near the Santa Cruz Harbor) (Technical Appendix; Live Oak General Plan; Planning Analysis and EIR, October 1977). Similarly, background LCP reports completed in 1980 estimated annual visitor counts for this beach segment at 195,393 (1980 Public Access Working Paper for the County LCP). Given the doubling of the County's population since 1970, and the increase in recreational use associated with that and population increases in surrounding areas, and the development of a parking area, restrooms, showers, and other park amenities inland at (just downcoast) Moran Lake County Park in the time since these surveys, these historic figures likely underestimate the current level of use at this location.

⁵ Along with Aliso and Tenth Street Beaches in Laguna Beach, and the Wedge in Newport Beach, 26th Avenue Beach is known as one of the best skimboarding and bodysurfing locations in California. Professional and amateur contests are often held here, and recreational users pack the nearshore area at the project site. It is also home to a well-known surfing break that provides a high energy, if somewhat abrupt, rolling beach break known for its Pipeline-esque (but smaller scale) barrels often delivering surfers right to the sandy shore ("26th Avenue"), as well as other breaks such as "Little Wind-n-Sea" just downcoast where rolling waves form off of the first outcroppings of Soquel Point (better known as "Pleasure Point"), and such as "Santa Maria" coming off the back (downcoast) side of Black's Point and the rocky tidal shelves surrounding the Sunny Cove inlet upcoast.

⁶ The beach here is in most cases less than 50 feet wide in summer and completely disappears during parts of the winter. Riprap revetments armor the backshore and encroach onto areas that otherwise would provide sandy beach access. The Commission's 1995 Monterey Bay ReCAP project, or Regional Cumulative Assessment Project, estimated that roughly 1¼ acres of sandy beach at 26th Avenue Beach was covered by rock revetments (based on a conservative footprint width estimate of 20 feet of sand beach coverage for



significant public access and recreation area. See an aerial photograph of the area on page 1 of Exhibit B.

The site is located along that section of bluffs where 23rd Avenue extends directly seaward from East Cliff Drive. Given the orientation of the bluffs along 23rd Avenue, the project site is located along a bluff area that is actually perpendicular to the ocean (i.e., historically, the area atop the bluffs where Rodeo Creek exited to the ocean through what is now Corcoran Lagoon). The site is located just inland of this bluff edge, and just seaward of the end of 23rd Avenue pavement (the 23rd Avenue right-of-way continues and extends through to the beach as a “paper” street past the pavement). The bluffs along 23rd Avenue are not currently armored, although there is a small amount of existing permitted riprap at the promontory nearest and fronting the ocean where the bluffs change direction and extend downcoast parallel to the shoreline. Although the County does not maintain 23rd Avenue, the Commission has historically considered 23rd Avenue to be public property and a public street.⁷ A vertical public access trail extends from East Cliff Drive along 23rd Avenue (on the pavement where paved, and along a footpath where not paved) and down a bluff trail to the beach.⁸ Although currently unsigned, the 23rd Avenue accessway provides vertical access to the beach, including the only vertical access to the fore beach when Corcoran Lagoon waters occupy the back beach and make dry passage from East Cliff Drive otherwise not possible at this location.

The project site is located just inland of the “paper” portion of 23rd Avenue just past four existing residences all located on the inland side of 23rd Avenue and seaward of East Cliff Drive. The site is currently vacant, and covered with ruderal vegetation (see pages 2-3 of Exhibit B for photographs of the site). The project site is made up of two APNs: APN 028-232-15 and APN 028-232-16. The project site is prominently visible in seaward views from East Cliff Drive (the first through public road) heading downcoast at the bridge over Corcoran Lagoon (see page 12 of Exhibit E), and is also visible, albeit less so, from inland Portola Drive across Corcoran Lagoon proper. These peek-a-boo views are all the more important in the Live Oak beach area given that the pattern of residential development seaward of the first through public road (and only through lateral trail route) has been such that the majority of through coastal views from it have been blocked other than at this site, at the other coastal lagoon outlet locations,⁹ and at the Pleasure Point surfing area.

2. Project Description

The proposed project is for construction of a single-family dwelling (SFD) on APN 028-232-16, construction of an extension of 23rd Avenue and subsurface public utilities to serve the approved SFD on the 23rd Avenue right-of-way, and construction of a portion of the road extension, namely a portion of a

such structures). This ReCAP revetment footprint estimate was a general estimate for revetment size over the entire ReCAP area. Because most of the revetments along this portion of the Santa Cruz coast have a footprint that is bigger than the assumed 20-foot width, the actual area of revetment coverage may actually be higher than that estimated in ReCAP.

⁷ See, for example, CDP application files 3-97-027, A-3-SCO-99-056, and 3-03-036. As explained in more detail in footnote 21, the history of this road is not entirely clear, but the available evidence shows that it is owned by the County.

⁸ Ibid; see noted files.

⁹ Schwan Lagoon located upcoast, and Moran Lake located downcoast.



paved fire safety turnaround, on APN 028-232-15. The residence on APN 028-232-16 would be constructed directly adjacent to the last residence currently existing along paved 23rd Avenue, and the fire safety turnaround would be constructed on a portion of both parcels. See Exhibit C for project plans.¹⁰

3. Recent Procedural History

Santa Cruz County originally approved a CDP for the proposed project on January 9, 2008. The County's decision was appealed to the Commission, and on March 6, 2008, the Commission found that the County's approval raised substantial LCP and Coastal Act conformance issues, primarily with respect to the LCP's hazards policies, and specifically in terms of coastal bluff-top setback and related requirements. The Commission thus took jurisdiction over the CDP for this project at that time. Since that time, both the Applicants and the Appellant have provided additional information for the Commission to consider regarding the project (see Exhibit E).

4. Coastal Development Permit Determination

The standard of review for this application is the Santa Cruz County certified LCP and, because the project is located between the first public road (East Cliff Drive) and the sea, the public access and recreation policies of the Coastal Act.

A. Coastal Bluff Setback Requirements

1. Applicable Policies

Bluff setback issues regarding the proposed project are based on the interplay between LCP LUP Policy 6.2.12 (and related LCP IP Section 16.10.070(h)(1)(ii)) and LUP Policy 6.2.15). These policies are also related to and understood in relation to other IP sections, including IP Sections 16.10.070(h)(1)(i), 16.10.070(h)(1)(iii), and 16.10.070(h)(1)(viii). These policies and sections state as follows:

LUP Policy 6.2.12 (Setbacks from Coastal Bluffs). All development activities,¹¹ including those which are cantilevered, and non-habitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff. A setback greater than 25 feet may be required based on conditions on and adjoining the site. The setback shall be sufficient to provide a stable building site over the 100-year lifetime of the structure, as

¹⁰ The proposed project before the Commission is shown in Exhibit C, as modified in the following ways: (1) the footprint shown on pages 1 and 4 is 4 inches further west than is actually proposed; and (2) the configuration of the rear of the proposed residence shown on page 4 is inaccurate – see page 1 of Exhibit 4 for the accurate rear building configuration.

¹¹ Including by LCP LUP definition (i.e., the LUP Glossary section) “an addition of any size to a structure that is located on a coastal bluff, dune, or in the coastal hazard area, that extends the structure in a seaward direction,” “grading activities of any scale in the ... coastal hazard area, and any grading activity which requires a permit (pursuant to Chapter 16.20) elsewhere,” “construction of roads, utilities, or other facilities,” and “any other project that is defined as development under Section 13.20.040, and that will increase the number of people exposed to geologic hazard, or that may create or exacerbate an existing geologic hazard, shall be determined by the Planning Director to constitute development for the purposes of geologic review.”



determined through geologic and/or soil engineering reports. The determination of the minimum 100-year setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed shoreline or coastal bluff protection measures.

LUP Policy 6.2.14 (Additions to Existing Structures). *Additions, including second story and cantilevered additions, shall comply with the setback requirements of 6.2.12.*

IP Section 16.10.070(h) (Coastal Bluffs and Beaches).

1. Criteria in Areas Subject to Coastal Bluff Erosion: *Projects in areas subject to coastal bluff erosion shall meet the following criteria:*

- (i) for all development and for non-habitable structures, demonstration of the stability of the site, in its current, pre-development application condition, for a minimum of 100 years...*
- (ii) for all development, including that which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.*
- (iii) the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers.*
- ...*
- (viii) service transmission lines and utility facilities are prohibited unless they are necessary to serve existing residences.*
- ...*

2. Analysis

Pursuant to LUP Policy 6.2.12, the LCP requires that development be set back at least 25 feet or as far as is necessary to ensure at least 100 years of stability for such development. This LUP requirement is also identified in, and implemented by, IP Section 16.10.070(h)(1)(ii). In other words, the LCP requires a minimum 25-foot setback, and the required setback distance might be more depending on site-specific facts. This setback requirement is designed to avoid bluff stability problems, including avoiding the need for future shoreline armoring and its attendant impacts, and it also serves to help avoid public viewshed impacts (by moving development away from bluff edges to minimize visibility from beaches and related areas below) and to help allow for public access along bluff tops where applicable (such as the subject case where an existing public access trail route exists).

In this case, the 25-foot minimum bluff setback would apply to development at the proposed site based



on the Applicants' geotechnical consultant's analysis indicating that, due to a lack of discernable erosion over time, 100 years of stability does not require a setback beyond 25 feet.¹² The proposed project includes development within the LCP's minimum 25-foot setback area (see page 4 of Exhibit C). Specifically, the extension of 23rd Avenue pavement and utilities would be sited approximately 5 feet from the bluff edge, and the approved driveway and related development (utility connections, driveway apron, paths and steps) would be as close as 20 feet from the bluff edge; the residence itself would be set back about 45 feet from the bluff edge. The LCP does not provide a specific mechanism to allow this development within the 25-foot setback area.¹³

In this case, development that is located in the required bluff setback is almost entirely related to site access. In other words, it is not that the residence itself is inappropriately set back in this regard, it is the fact that access to the site is accomplished within the setback area.¹⁴ The reason for this is because the site can only be accessed from 23rd Avenue. In other words, the site is "landlocked" because it cannot be accessed otherwise. Thus, a strict application of the LCP's 25-foot setback requirement would mean that this site could not be accessed and, by extension, could not be developed with a residence. Such an application of the setback requirement would result in a denial of the proposed project.

If the Commission were to deny the project, a question might arise as to whether the denial resulted in an unconstitutional "taking" of the Applicants' property without payment of just compensation. Coastal Act Section 30010 addresses takings and states as follows:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Similarly, the Santa Cruz County LCP states:

Neither the County General Plan, the County LCP Land Use Plan, nor any implementing ordinance shall be construed as authorizing the County or any agency thereof to exercise its power to approve, conditionally approve, or deny any land use application in a manner which will take or damage private property for public use, without the payment of just compensation therefor. The County General Plan, County LCP Land Use Plan, and each and every implementing ordinance thereof shall be interpreted so as to avoid such taking in the absence of a duly adopted resolution of necessity for eminent domain proceedings. This section is not

¹² Nielsen and Associates reports dated July, 30, 2003 and May 16, 2005.

¹³ See the substantial issue determination findings for this case for further detail on this point (adopted findings for Appeal A-3-SCO-08-010 dated March 6, 2008).

¹⁴ This access issue is not limited to the proposed project. The paved extent of 23rd Avenue is essentially completely contained in the setback area, and each of the existing four developed properties located on 23rd Avenue has some existing driveway and related development located within 25 feet of the bluff-top edge.

intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States of America.

Although the Commission is not a court and may not ultimately adjudicate whether such an action would constitute a taking, the Coastal Act and LCP impose on the Commission the duty to assess whether its action might constitute a taking so that the Commission may take steps to avoid it. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what sort of government action results in a "taking" was addressed by the United States Supreme Court in *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S.Ct. 2886. In *Lucas*, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the denial of all economic use was permitted by a "background principle" of state real property law. Other Supreme Court precedent establishes that another factor that should be considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the *Lucas* decision, to mean that if Commission denial of the project would deprive an applicant's property of all reasonable economic use, the Commission may be required to allow some development even if a Coastal Act or LCP policy would otherwise prohibit it, unless the proposed project would be prohibited under background principles of state law. If the Commission concludes that its action does not constitute a taking, however, then it may deny the project consistent with Section 30010 and the LCP. When the Commission is faced with a decision that could be considered a taking, the Commission has often allowed for a certain amount of development to avoid such potential taking, including in Santa Cruz County cases.¹⁵ In such a situation, the Commission may propose modifications to the development to minimize its inconsistencies while still allowing some reasonable amount of development.

In this case, denial could result in a constitutional taking of private property. The site is a residentially designated property along a public street right-of-way organized in a typical "grid" layout in an area substantially developed with residences in that grid. It is accessed by 23rd Avenue, a public road that provides access to four other lots that are similarly situated and are currently developed with single-family homes. The proposed development is consistent with the character of development in this area. The site was purchased in 1999 for \$1,150,000.00. There was and is very little about the configuration of the site relative to 23rd Avenue that would make it appear that residential development would not be appropriate here. Rather, it appears as though the paved edge of 23rd Avenue could readily be extended to account for site access in the same manner it provides for site access for the existing four residences on 23rd Avenue. Thus, it would appear that a fair argument can be made that there is a reasonable, investment-backed expectation to a single-family residence on this property. While that is not the only

¹⁵ See, for example, Commission decision on the Hinman residence (appeal and Commission CDP number A-3-SCO-00-033).



criterion for demonstrating a potential taking (nor necessarily the only reason for identifying this criterion), in this case the Commission has reason to believe that such a denial could engender a taking. As such, the Commission can and does find that such development can be allowed under the LCP provided its inconsistencies are minimized to the maximum extent feasible.

In terms of minimizing setback inconsistencies, there is little that can be done in this case. Extension of 23rd Avenue pavement appears to have already been minimized to the degree feasible through the County's approval process (including in terms of providing adequate fire and public safety access, etc.). It appears to make little practical or LCP sense to attempt to "jog" the road pavement even further inland to bring it further from the bluff. It is not possible to do so in a way that could meet the 25-foot setback, and such a jog would lead to an oddly configured road that would have to be located at least partially on private property outside of the 23rd Avenue right-of-way, and that would serve to reduce available space for residential development.¹⁶ Also, extending the pavement as proposed would serve to better provide public recreational access along 23rd Avenue and to the beach, albeit marginally, because it replaces an unpaved and ruderal section of 23rd Avenue with a paved section along the existing public trail alignment and immediately adjacent to the primary view over the bluff edge that is easier to traverse,¹⁷ whereas a jogged section would not to the same degree. A better way to address bluff setback issues and to minimize project inconsistencies with them in this case is for the Applicants to assume all risks for developing along the coastal bluff, and for the Applicants to waive any right to shoreline armoring that may exist so as to avoid a future shoreline armoring project here (with its attendant adverse coastal resource impacts) designed to protect the residential development authorized.¹⁸ See Special Condition 1. To ensure potential future property owners are clearly made aware of this requirement (and the terms and conditions of this CDP more broadly), this approval is also conditioned for the Applicant to record a deed restriction acknowledging the terms and conditions of this CDP as CC&Rs on the property (see Special Condition 3). As conditioned, and to the degree feasible given the applicable fact set, the proposed project can be found consistent with the LCP requirements cited in this finding above. CC&Rs

B. Visual Resources and Community Character

1. Applicable Policies

The LCP is highly protective of coastal zone visual resources and community character, and particularly protective when development is proposed in beach viewsheds. For example, applicable LCP and Coastal

¹⁶ And lead to potential additional inconsistencies with the LCP with respect to front yard setback, FAR, and lot coverage; all issues that are also at play in this application (see also Visual Resources and Community Character finding).

¹⁷ As is identified in the Public Access findings, 23rd Avenue provides access to the beach from East Cliff Drive along the paved extent and a "goat path" trail extending from the end of the pavement to the beach.

¹⁸ Such waiver/assumption of risk provisions are also consistent with and required pursuant to the LCP inasmuch as the LCP recognizes that development is not appropriate in areas affected by coastal hazards unless a minimum of 100 years of site and structural stability can be guaranteed without relying on engineering measures and shoreline protection.



Act policies include:¹⁹

***Objective 5.10.a Protection of Visual Resources.** To identify, protect, and restore the aesthetic values of visual resources.*

***Objective 5.10.b New Development in Visual Resource Areas.** To ensure that new development is appropriately designed and constructed to minimal to no adverse impact upon identified visual resources.*

***LUP Policy 5.10.2 Development Within Visual Resource Areas.** Recognize that visual resources of Santa Cruz County possess diverse characteristics.... Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section. ...*

***LUP Policy 5.10.3 Protection of Public Vistas.** Protect significant public vistas...from all publicly used roads and vistas points by minimizing disruption of landform and aesthetic character caused by grading operations, ... inappropriate landscaping and structure design.*

***LUP Policy 5.10.6 Preserving Ocean Vistas.** Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.*

***LUP Policy 5.10.7 Open Beaches and Bluff Tops.** Prohibit the placement of new permanent structures which would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access...*

***LUP Policy 5.10.12 Development Visible from Urban Scenic Roads.** In the viewsheds of urban scenic roads, require new discretionary development to improve the visual quality through siting, architectural design, landscaping and appropriate signage.*

***LCP Section 13.20.130(b)(1) Entire Coastal Zone, Visual Compatibility.** The following Design Criteria shall apply to projects site anywhere in the coastal zone: All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas.*

***LCP Section 13.20.130(d)(1) Beach Viewsheds, Bluff Top Development.** The following Design Criteria shall apply to all projects located on bluff tops and visible from beaches: Bluff top development and landscaping...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.*

The LCP also explicitly recognizes the Live Oak beach area as a special area. The LCP states:

¹⁹ Because a component of recreational access includes visual access, the LCP and Coastal Act access and recreation policies cited in the Public Access and Recreation finding below are also relevant. They are not re-cited here.



Objective 8.8, Villages, Towns and Special Communities. To recognize certain established urban and rural villages as well as Coastal Special Communities for their unique characteristics and/or popularity as visitor destination points; to preserve and enhance these communities through design review ensuring the compatibility of new development with the existing character of these areas.

LUP Policy 8.8.1 Design Guideline for Unique Areas. Develop specific design guidelines and/or standards for well-defined villages, towns and communities.... New development within these areas listed in Figure 8-1...shall conform to the adopted plans for these areas, as plans become available.

Figure 8-1 Areas with Special Design Criteria or Guidelines....Area: Live Oak Planning Area; Design Guideline Source: Live Oak Community Plan (to be completed)...

2. Analysis

The proposed project will introduce a new residential structure where none was heretofore present. This will result in additional residential development visible in the public viewshed, including figuring prominently in the East Cliff Drive viewshed, and as seen from the beach (see photographs of the site in Exhibit B, see proposed elevations in Exhibit C, and see visual simulations of the proposed project on pages 11-12 of Exhibit E). However, the proposed residential siting, design, and scale are not dissimilar from the existing pattern of residential development in this area, and rather will continue the pattern of development that has occurred on the four currently developed parcels between East Cliff Drive and the site along 23rd Avenue (see Exhibit B for photographs of existing development). These structures all exceed one-story, with a garage and driveway at the lowest level, as is proposed here. The visual simulation of the proposed residence (provided by the Applicants) shows that it will be similar in size and scale to existing residences along 23rd and 24th Avenues. Other than the proposed driveway in the 25-foot bluff top setback (discussed above), all other aspects of the proposed residence meet the LCP's required development standards for floor area ratio (FAR)²⁰, setbacks, height, coverage, and parking.²¹ All utility extensions would be underground.

With respect to views from East Cliff Drive, the new residence should effectively blend into the background of existing residential development that prominently forms the backdrop for that viewshed. In other words, the view from East Cliff is primarily of residential development atop the bluff along 23rd and 24th Avenues, and an additional residence amongst others would not be inconsistent with that

²⁰ There has been some ongoing disagreement on this point between the Applicant and the Appellant with respect to maximum FAR (see Exhibit E). This is at least partly because the LCP includes a fairly complicated methodology for determining FAR (see page 4 of Exhibit E). On this point, basements, attics, and under floor areas that have a ceiling height of less than seven feet six inches are not counted toward FAR. In this case, both the maximum basement ceiling height and maximum attic ceiling height are less than seven feet six inches; thus, these areas do not count toward FAR. It appears that the proposed project would constitute a 49% FAR (50% is the maximum FAR allowed at this site under the LCP).

²¹ The front yard setback is about 19 feet (15 feet required); the side yard setbacks are 5 feet (5 feet required); the setback from the fire turnaround is 11 feet (10 feet required); the building height is 28 feet (28 feet allowed); FAR is 49% (50% is allowed); 3 off-street parking spaces are required and 3 are provided.



framework. The project would not alter the bluff itself, and no above-ground utilities would be extended. Although there would be additional massing in the East Cliff view, it would not significantly detract from the viewshed, including because the main scenic value is found looking out toward the beach and ocean.

With respect to views along 23rd Avenue and the public recreational beach access trail located there, the viewshed impact should be minimal. This is both because of the low-key nature and use patterns associated with this accessway and the fact that it is otherwise backed by residential development. Thus, an additional residence in this backdrop would not alter the perception of the view along the accessway. Really, the view along the accessway is out over the bluff and to the beach and ocean upcoast, and this view will not change with this project. An additional infill residence will fill an undeveloped gap in the viewshed that currently provides some visual relief from residential development, but filling this gap should not significantly affect the accessway experience.

With respect to views from the beach, the view impacts are similar to those from East Cliff Drive. The public beach viewshed on its inland side at this location is mostly defined by existing residential stock in the surrounding neighborhoods, and the riprap at the end of 23rd Avenue where it extends downcoast (see pages 1-2 of Exhibit B and page 12 of Exhibit E). Thus, the public viewshed at this site has long been impacted by similar residential development. The infill of this site in a fairly urban residential neighborhood setting should not significantly adversely affect beach views. Although the proposed project will incrementally add to the amount of development within the public viewshed, such increment is minor in relation to the nature of the existing built environment and the effect that it has on the public viewshed. The size and scale of the proposed project are not atypical for this stretch of coast, and the proposed residence would occupy an area between existing homes, which would make it blend in somewhat with the existing developed back-beach aesthetic. The additional residential structure setback from the bluff top edge (i.e., greater than the 25-foot minimum that is more the rule than the exception for Santa Cruz County's bluff top residences) also helps in this regard as the massing is pulled back somewhat from the bluff itself thus allowing it to recede to a degree as perceived from the beach below.

In sum, and provided the project is moved back to the 15-foot rear setback line, the proposed project would incrementally increase residential massing visible from significant public viewing areas, but it would not significantly adversely effect these viewsheds nor community character otherwise. The proposed project would result in residential development that is not atypical of the size and scale of existing development along 23rd Avenue and, more broadly, along the tops of bluffs in this larger stretch of coast. The proposed project can be found consistent with the visual resource and community character policies cited above.

C. Public Access and Recreation

1. Applicable Policies

Coastal Act Sections 30210 through 30214 and 30220 through 30224 specifically protect public access and recreation. In particular:



30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...

30220. Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.

30221. Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

30223. Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Coastal Act Section 30240(b) also protects parks and recreation areas such as the beach area located adjacent to the site. Section 30240(b) states:

30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

The LCP also protects public recreational access, including as follows:

LUP Policy 7.6.2 Trail Easements: Obtain trail easements by private donation of land, by public purchase, or by dedication of easements...

LUP Policy 7.6.3 Utilization of Existing Easements: Seek to utilize existing publicly owned lands where possible to implement the trail system, subject to policy 7.6.2.

LUP Policy 7.7.1 Coastal Vistas: Encourage pedestrian enjoyment of ocean areas and beaches by the development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches, subject to policy 7.6.2.

LUP Policy 7.7.4 Maintaining Recreation Oriented Uses: Protect the coastal bluff top areas and beaches from intrusion by non-recreational structures and incompatible uses to the extent legally possible without impairing the constitutional rights of the property owner, subject to



policy 7.6.2.

LUP Policy 7.7.10: Protecting Existing Beach Access: Protect existing pedestrian...access to all beaches to which the public has a right of access, whether acquired by grant or through use, as established through judicial determination of prescriptive rights.... Protect such beach access through permit conditions such as easement dedication...

LUP Policy 7.7.11 Vertical Access: Determine whether new development may decrease or otherwise adversely affect the availability of public access, if any, to beaches and/or increases the recreational demand. If such impact will occur, the County will obtain as a condition of new development approval, dedication of vertical access easements adequate to accommodate the intended use, as well as existing access patterns, if adverse environmental impacts and use conflicts can be mitigated, under the following conditions: (b) Within the Urban Services Line: from the first public road to the shoreline if there is not dedicated access within 650 feet....

LUP Policy 7.7.12 Lateral Access: Determine whether new development would interfere with or otherwise adversely affect public lateral access along beaches. If such impact will occur, the County will obtain...dedication of lateral access along bluff tops where pedestrian and/or bicycle trails can be provided and where environmental and use conflict issues can be mitigated....

IP Section 15.01.060(b) Trail and Beach Access Dedication: As a condition of approval for any permit for a residential, commercial, or industrial project, an owner shall be required to dedicate an easement for trail or beach access if necessary to implement the General Plan or the Local Coastal Program Land Use Plan.

LCP access and recreation policies otherwise specifically applicable to the subject site include:

LUP Policy 2.22.1 Priority of Uses within the Coastal Zone: Maintain a hierarchy of land use priorities within the Coastal Zone: **First Priority:** Agriculture and coastal-dependent industry; **Second Priority:** Recreation, including public parks; visitor serving commercial uses; and coastal recreation facilities; **Third Priority:** Private residential, general industrial, and general commercial uses.

LUP Policy 2.22.2 Maintaining Priority Uses: Prohibit the conversion of any existing priority use to another use, except for another use of equal or higher priority.

LUP Policy 7.7.18 Areas Designated for Neighborhood Public Access: Maintain a system of neighborhood access points appropriate for access by local residents at the following locations...23rd Avenue....

LUP Policy 7.7.19 Improvements at Neighborhood Access Points: Provide, encourage, and/or require provision of the following improvements appropriate to neighborhood access points: path improvements and maintenance; bicycle parking; recycling; garbage collection; and law



enforcement...

2. Analysis

The beach recreational area adjacent to 23rd Avenue is one of the most popular for visitors in all of unincorporated Santa Cruz County. As previously detailed, the project site fronts the extremely popular 26th Avenue Beach that is highly used and is a prime bodysurfing, skim-boarding and surfing destination (see "Project Location" section of this report). Just upcoast is the wide expanse of beach that is sometimes occupied by Corcoran Lagoon waters. The Monterey Bay National Marine Sanctuary is located directly offshore. It is within this context, and in light of the Coastal Act parameters established because of it, that individual projects must be understood and evaluated for their effect on the beach, near shore, and offshore public access and recreational experience.

The 23rd Avenue road right-of-way extends from East Cliff Drive (inland of the site) along the top of the bluff through to the Monterey Bay. Historically, 23rd Avenue connected through to the former location of East Cliff Drive, which ran laterally between the current location of the row of now bluff-top houses (extending south of the site) and the ocean at this location. This beach-fronting segment of East Cliff Drive was long ago lost to coastal erosion and the roadway realigned inland. Thus, 23rd Avenue is currently a narrow street that provides paved access to existing homes on the downcoast side of the road and also provides public recreational access more generally along the same paved stretch as well as continuing trail access beyond the end of the pavement along an existing trail to the beach. The 23rd Avenue right-of-way itself is somewhat larger than the paved and trail areas, and continues through to the ocean (see page 3 of Exhibit A, pages 1-2 of Exhibit B, and Exhibit D). In addition to area on the bluff-top itself, this right-of-way also includes undeveloped bluff and beach areas. The proposed project includes paving a portion of the existing 23rd Avenue right-of-way to provide access to the proposed residence. Because it is a public right-of-way²² and because it provides existing important vertical access to the ocean, the project must be understood in relation to its potential effect on this public recreational access resource.²³

23rd Avenue is designated in the LCP as a neighborhood accessway for which the development of pathways and public amenities is to be pursued (LUP Policies 7.7.18 and 7.7.19). This right-of-way is valuable coastal property for which the LCP dictates public uses, such as pedestrian trails. Likewise, 23rd Avenue provides a stunning coastal vista to the northwest for which the LCP encourages the

²² The right-of-way has long been considered by the Commission to be a public right-of-way (see, for example, application files 3-97-027 and A-3-SCO-99-056). For example, it is clear that the 23rd Avenue right-of-way is not shown as a separate parcel on parcel maps for the area (see Exhibit D). This is unlike private roadways in the area such as 22nd Avenue (aka Coastview Drive), which is located directly inland of the subject site and which is a privately-owned separate parcel on which taxes are paid. The implication is that the 23rd Avenue right-of-way, like other right-of-ways in the area, became public when it was offered to the County at the time of the original subdivision in the late 1800s. The County has since renamed this roadway (from Moran Drive to 23rd Avenue) and there has been a long history of public use as evidenced in part by the existing meandering trail to the beach at this location. In addition, although only a court of law can establish or extinguish prescriptive rights of access, it would appear that if the public does not already own the right-of-way, the public may have established a prescriptive right of access at this location.

²³ As distinguished from its effect on the public recreational beach experience, which is better understood in terms of public viewshed and character issues in this case (see preceding Visual Resources and Community Character finding).



development of vista points and overlooks with benches and railings, and facilities for pedestrian access to the beaches (LUP Policy 7.7.1).

The proposed project should not significantly affect public recreational access opportunities. The additional pavement may slightly enhance the public's ability to make use of 23rd Avenue to get to the beach by providing a more stable paved surface, but this effect is marginal. The additional pavement may also make it more likely that the type of public recreational access amenities called out in the LCP for 23rd Avenue (e.g., overlook with benches, etc.) may be more likely to be pursued by the County (e.g., because the pavement will facilitate better access further out along the bluff, including near prime potential overlook locations), but this effect is probably limited as well. More important for this project is to ensure that whatever is done here does not prejudice future options for public recreation, and to ensure that neighboring property owners are clearly aware of existing and potential future public recreational access opportunities along this stretch of 23rd Avenue, and that they agree not to interfere with same. Given that 23rd Avenue is configured differently than other streets in the area, and can appear in some ways to be a private driveway, such understanding and acknowledgement is critically important for protecting this public recreational resource, including avoiding potential problems in the future.

Therefore, this project is conditioned for the Applicants to acknowledge that 23rd Avenue provides ongoing public recreational access and for them to agree to not interfere with same in the future (see Special Condition 2). To ensure potential future property owners are clearly made aware of this requirement (and the terms and conditions of this CDP more broadly), this approval is also conditioned to require that the Applicants record a deed restriction acknowledging the terms and conditions of this CDP as CC&Rs on the property (see Special Condition 3). As conditioned, the project can be found consistent with the public recreational access policies cited in this finding above.

5. Coastal Development Permit Conditions of Approval

A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.



5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Coastal Hazards.** The Permittees acknowledge and agree, on behalf of themselves and all successors and assigns: (a) that the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, tsunami, ocean waves, storms, coastal flooding, bluff and other geologic instability, and the interaction of same; (b) to assume the risks to the Permittees and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (c) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; (d) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards; (e) to assume responsibility for any adverse effects to property caused by the permitted project; and (f) to waive any rights to construct any shoreline protective device(s) that may exist under Public Resources Code Section 30235 or the Santa Cruz County LCP (including LUP Policy 6.2.16 and IP Section 16.10.070(h)(3)) for the purpose of protecting any development approved pursuant to coastal development permit A-3-SCO-08-010.
2. **23rd Avenue Public Recreational Access.** The Permittees acknowledge and agree, on behalf of themselves and all successors and assigns: (a) that public recreational access exists along the 23rd Avenue right-of-way (both paved and unpaved portions); and (b) to avoid interfering with such access (including, but not limited to, not posting any signs purporting to limit/restrict such access, not placing other obstacles to such access, and not verbally or otherwise disturbing access users), including with respect to future public recreational access improvements along the right-of-way, as may be provided in the future.
3. **Deed Restriction.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit to the Executive Director for review and approval documentation demonstrating that the Permittees have executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the Permittees' entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use

and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. Final Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit two full-sized sets of final plans to the Executive Director for review and approval. The final plans shall be in substantial conformance with the plans submitted to the Coastal Commission (pages one and three of plans prepared by Wayne Miller Designer dated January 5, 2009 and dated received in the Commission's Central Coast District Office January 7, 2009; page two of plans prepared by Wayne Miller Designer dated revised January 27, 2009 and dated received in the Commission's Central Coast District Office January 30, 2009; and sheet number C-01 of a plan prepared by Mid Coast Engineers dated March 2006 and dated received in the Commission's Central Coast District Office March 18, 2009 – see Exhibit C) except that they shall be revised and supplemented to comply with the following requirements:

- The footprint of the residence as shown on page 1 of Exhibit C shall be shifted to the east so that the rear of the residence aligns with the 15-foot rear yard setback line.

The Permittees shall undertake development in accordance with the approved Final Plans.

6. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The County, acting as the lead CEQA agency, exempted the project from environmental review pursuant to Section 15301 of CEQA.

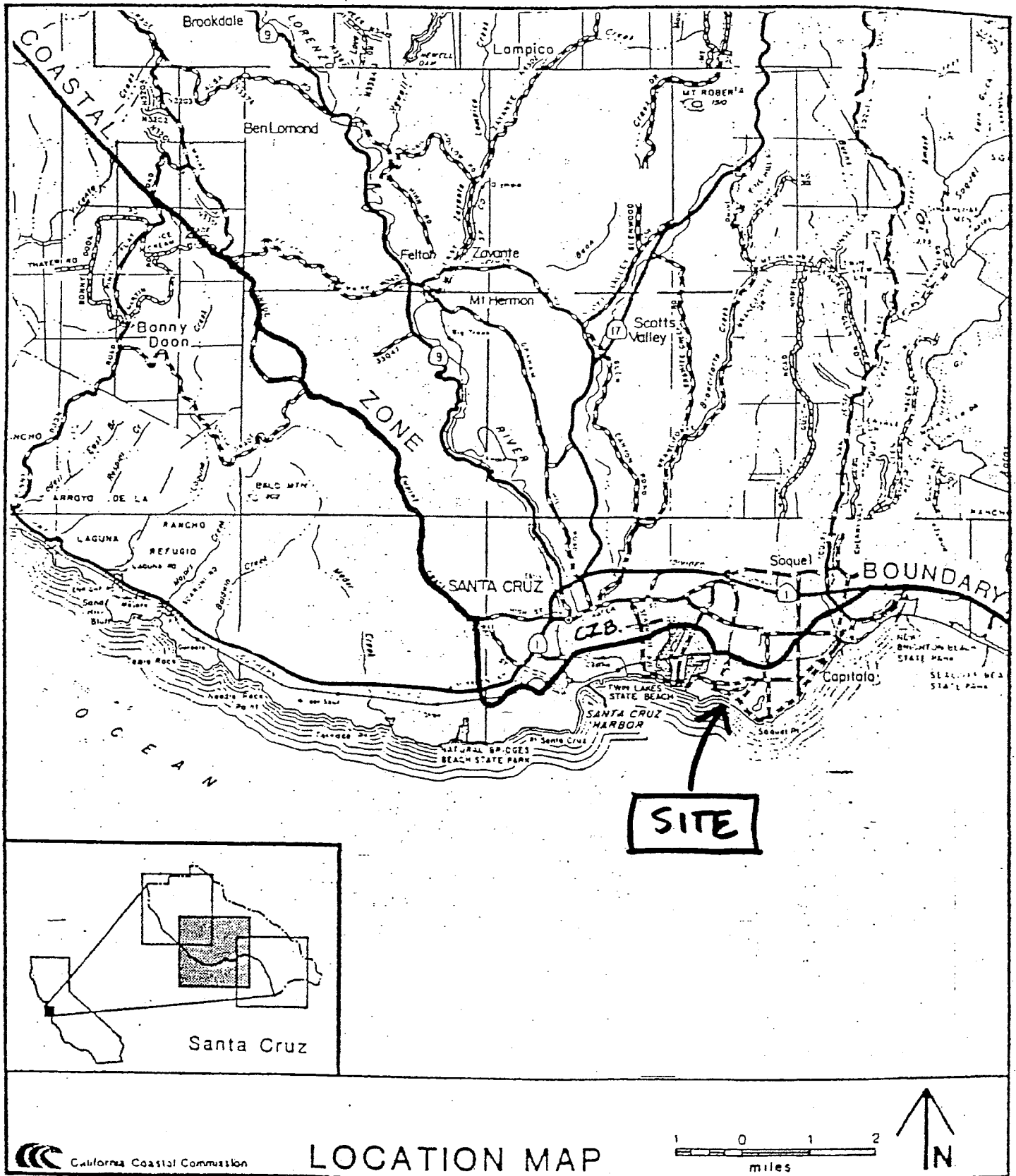
Santa Cruz County, acting as the lead CEQA agency, found the project to be categorically exempt from CEQA requirements (per CEQA Guidelines Section 15303). The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will



not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).





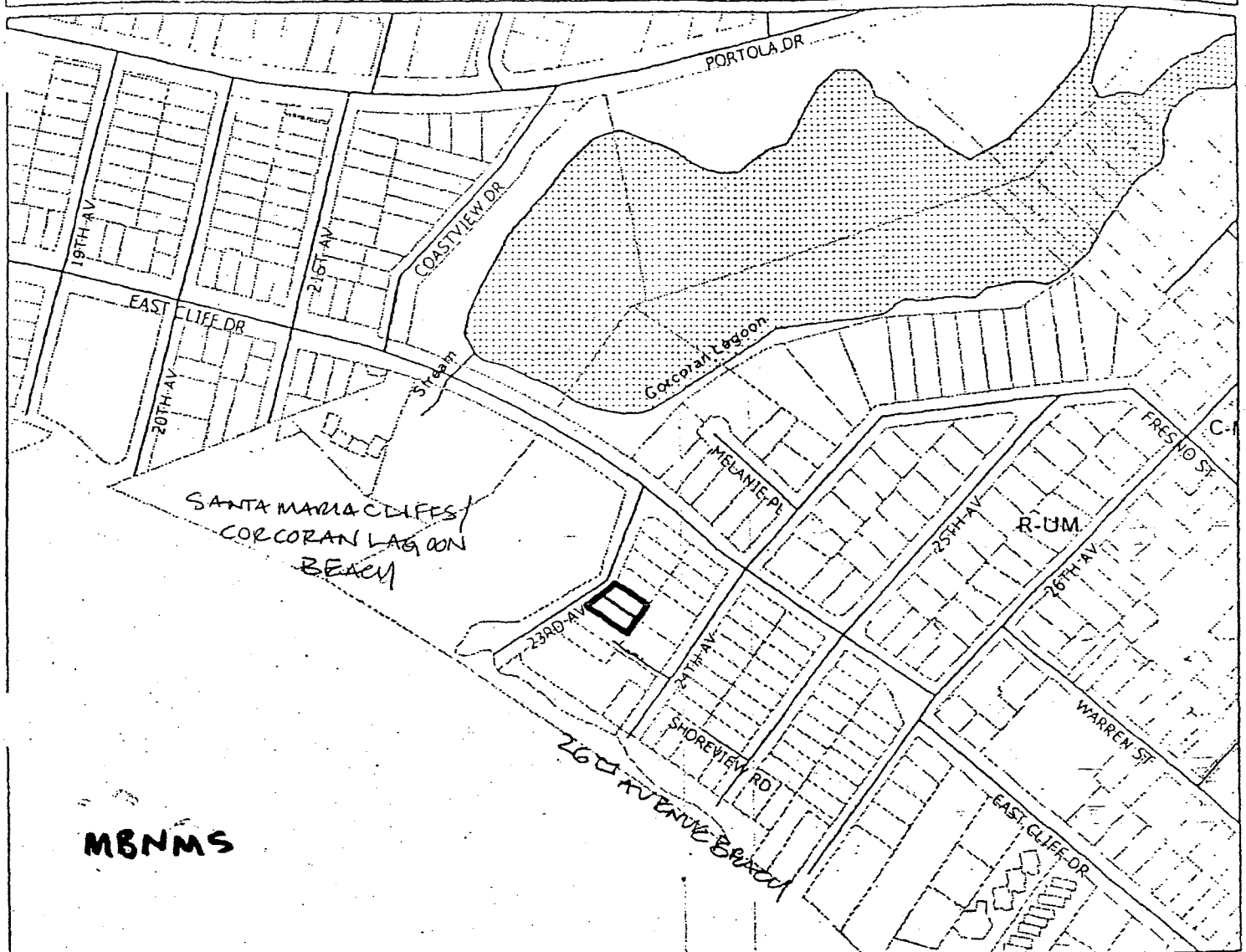
County of Santa Cruz

Sheet 2 of 3

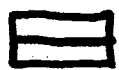
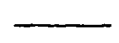
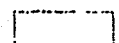
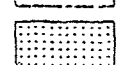
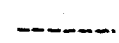
CCC Exhibit A
(page 1 of 3 pages)



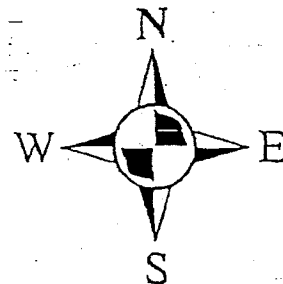
Location Map



Legend

-  APN 028-232-16 + 028-232-15
-  Streets
-  Assessors Parcels
-  Lakes
-  INTERMITTENT STREAM

CCC Exhibit A
(page 3 of 3 pages)



Map Created by
County of Santa Cruz
Planning Department
August 2005



PLEASURE
POINT →

MONTEREY BAY
NATIONAL MARINE
SANCTUARY

← SUNNY
COVE

GCC Exhibit 8
(Page 1 of 7 pages)

Source: California Coastal Records Project (Image 628, March 16, 2002)

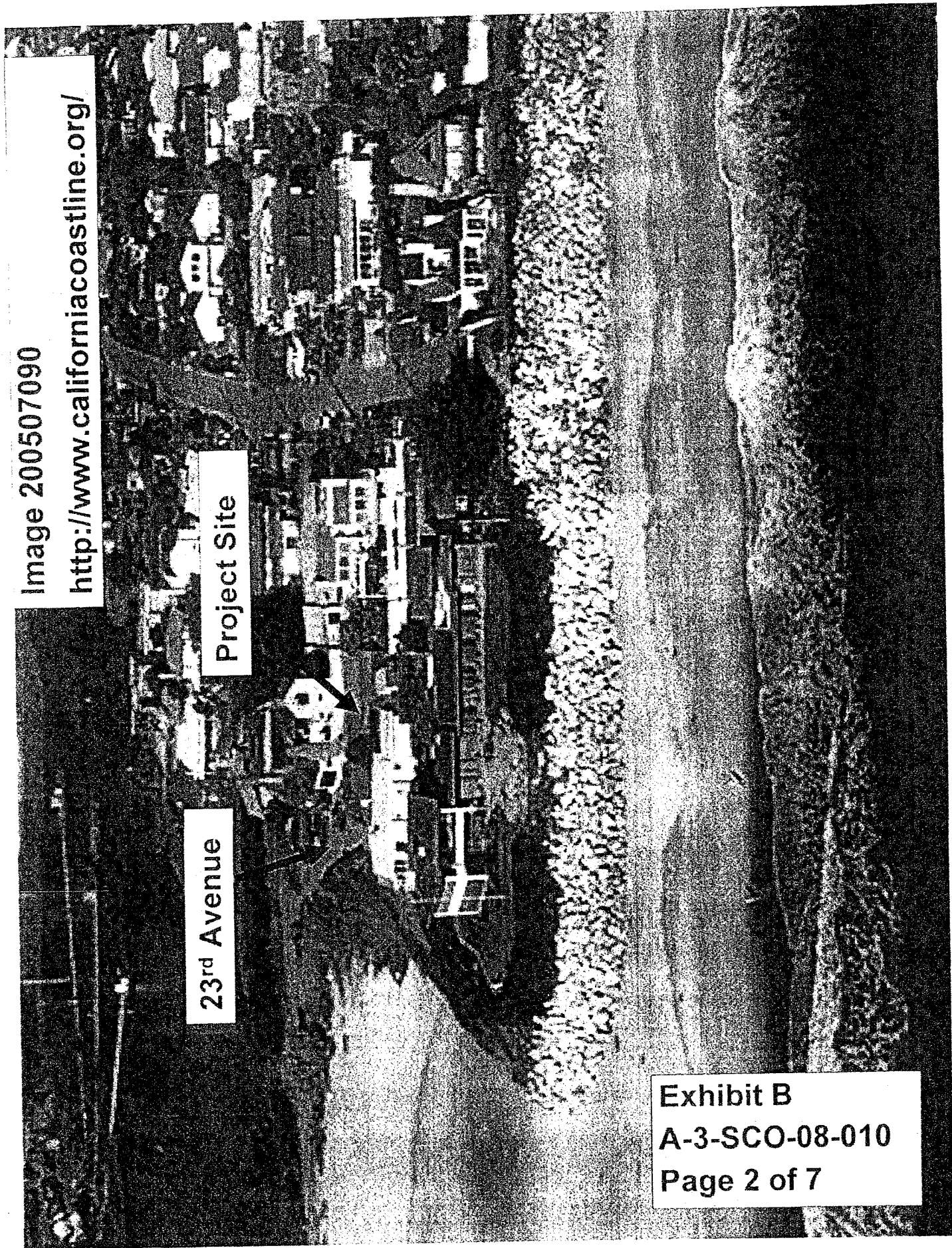


Image 200507090

<http://www.californiaoastline.org/>

23rd Avenue

Project Site

Exhibit B
A-3-SCO-08-010
Page 2 of 7

End of Existing Paved Portion of 23rd
Avenue, Leading into Project Site

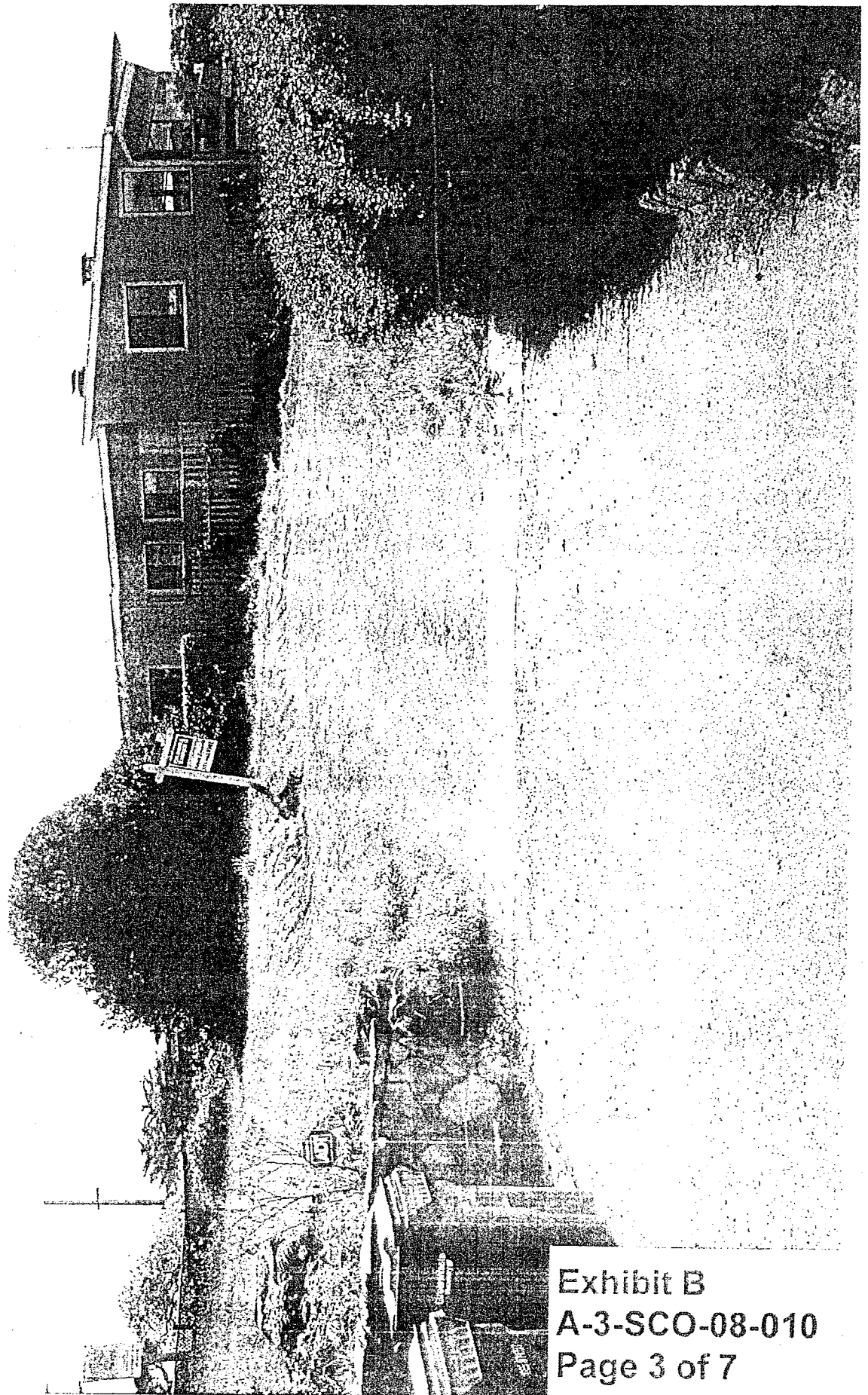
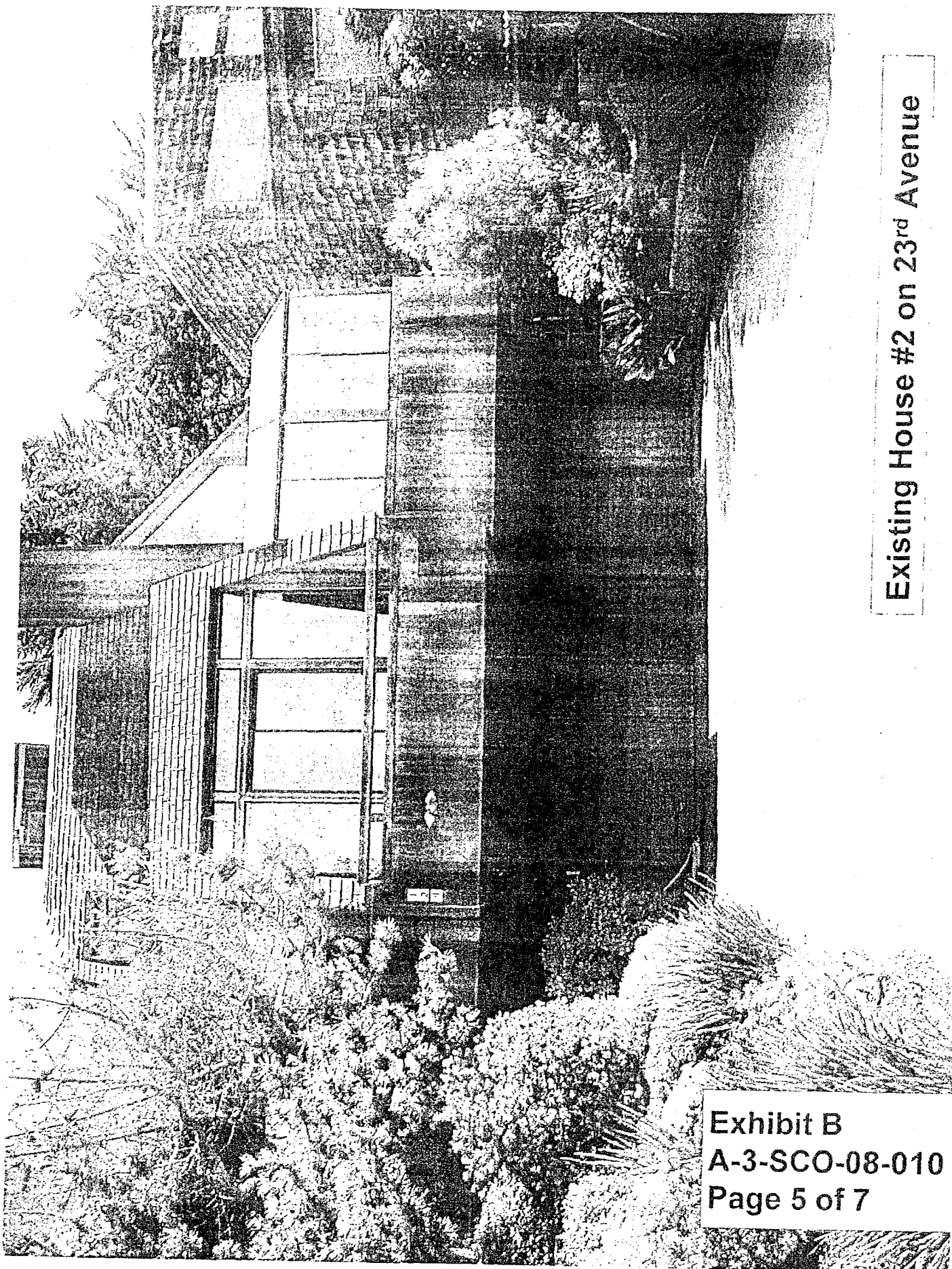


Exhibit B
A-3-SCO-08-010
Page 3 of 7

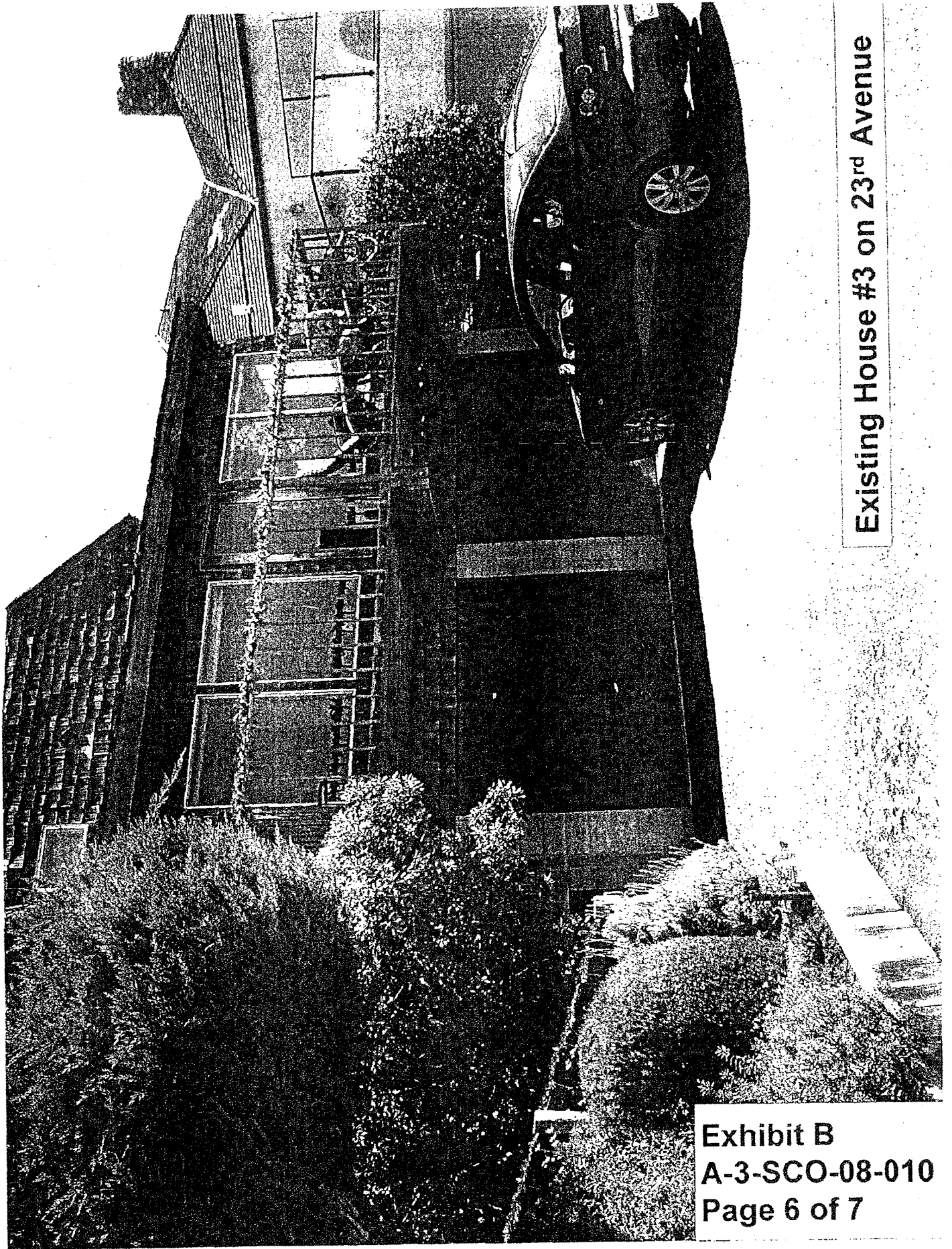
Existing house #1 on 23rd Avenue

Exhibit B
A-3-SCO-08-010
Page 4 of 7



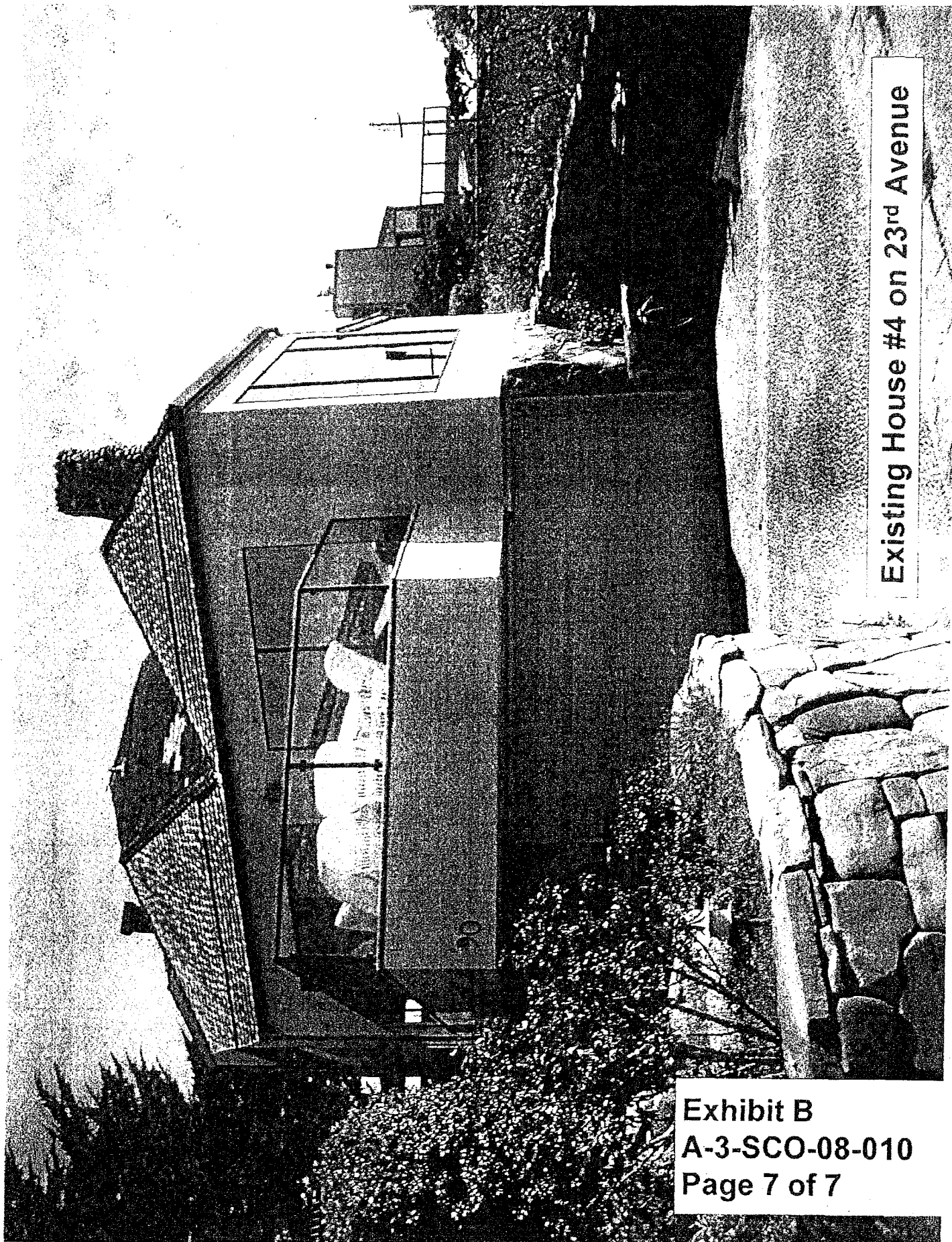
Existing House #2 on 23rd Avenue

Exhibit B
A-3-SCO-08-010
Page 5 of 7



Existing House #3 on 23rd Avenue

Exhibit B
A-3-SCO-08-010
Page 6 of 7

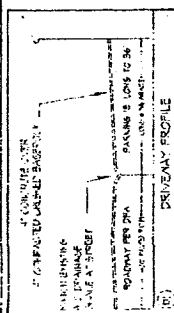
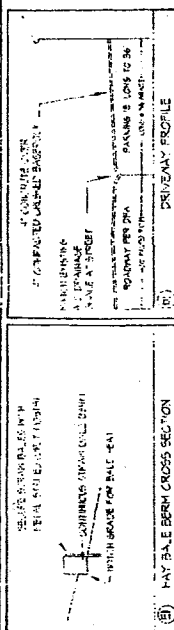


Existing House #4 on 23rd Avenue

Exhibit B
A-3-SCO-08-010
Page 7 of 7

JAN 07 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

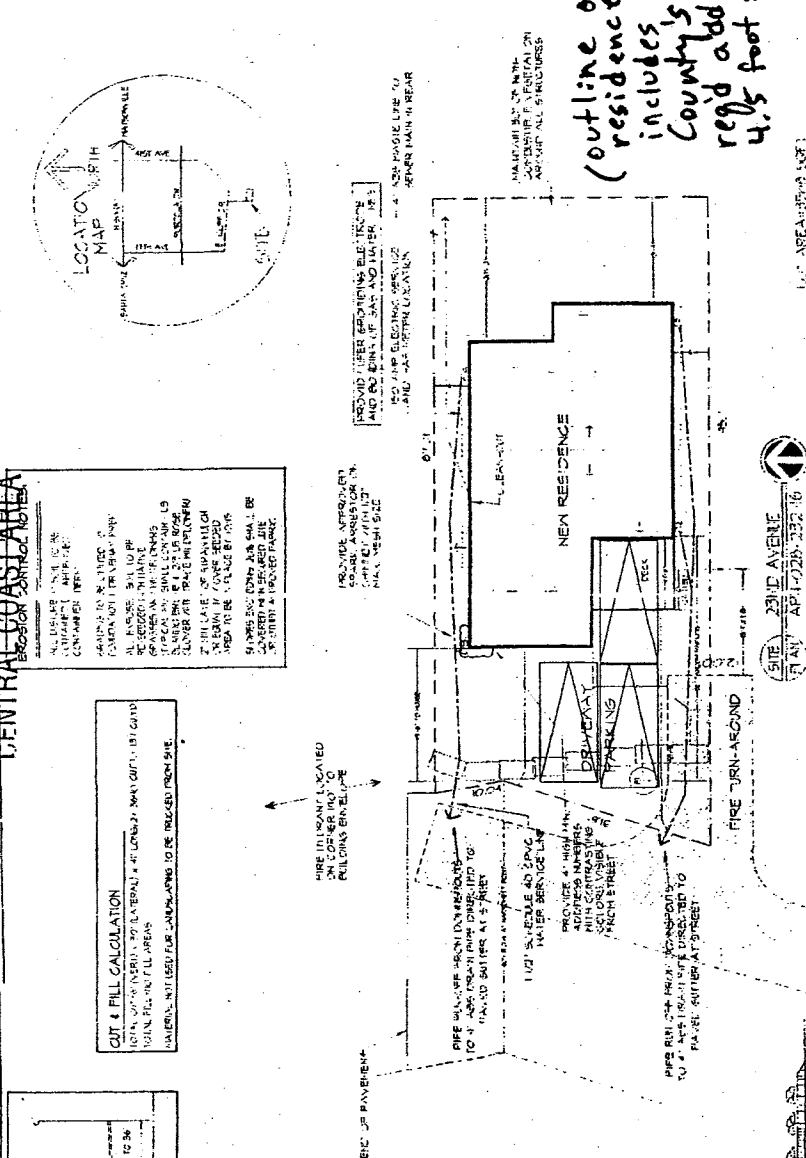


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CCC Exhibit
(page 1 of 4 pages)



(outline of residence includes Country's reg'd additional 4.5 foot setback)

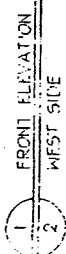
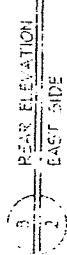
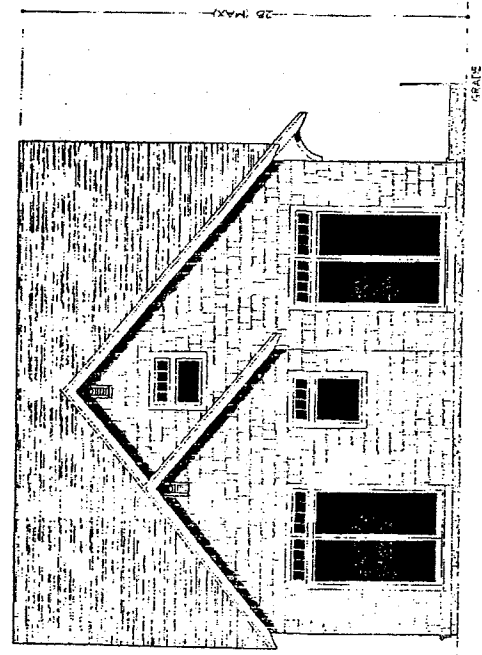
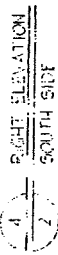
DESIGNED BY
WAYNE MILLER
P.O. BOX 1029
FREMONT, CA 95019
1931-124-1932

SITE PLAN
1/AL /ADEN RESIDENCE
23RD AVE
SANTA CRUZ, CA

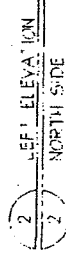
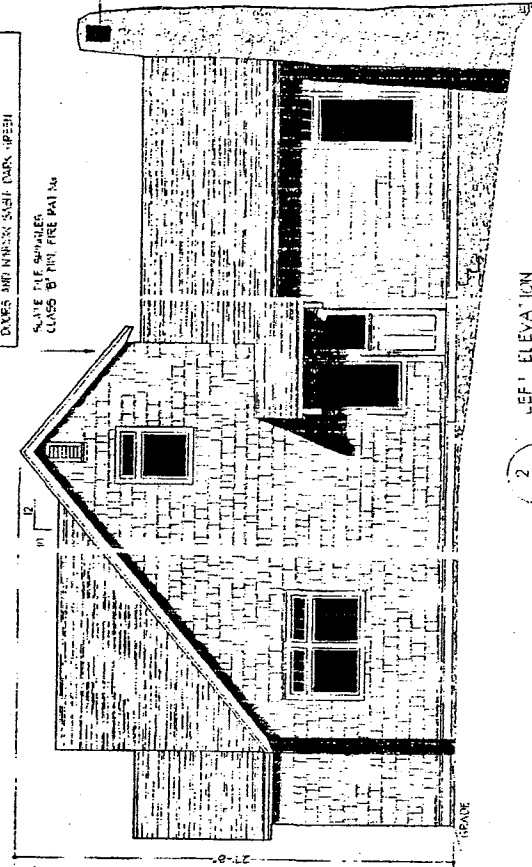
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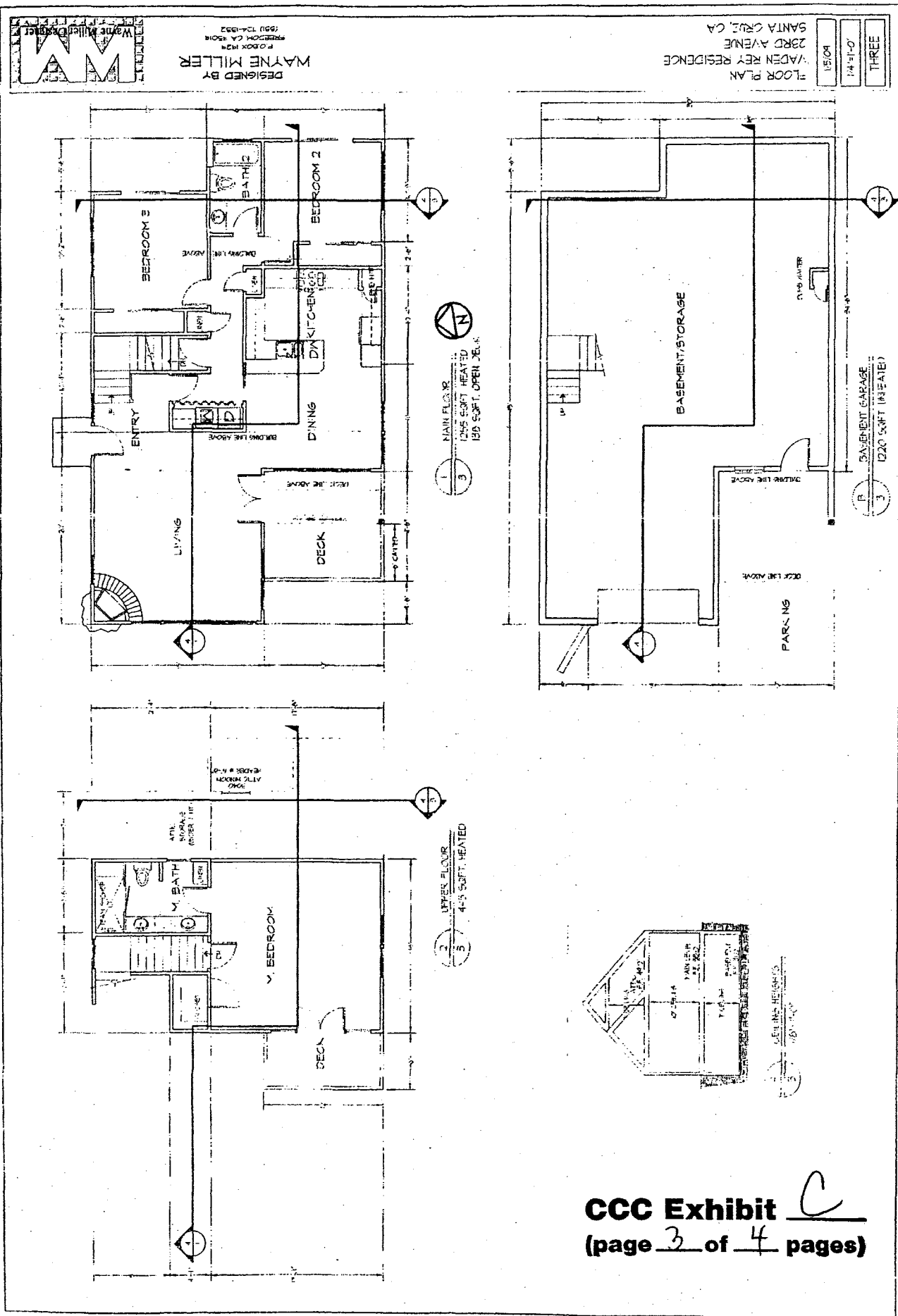
THE UNITED STATES OF AMERICA
DO hereby certify that
JOHN EDWARD BROWN
has been duly elected
Governor of the State of
Maine, for the term of
four years, to begin on
the 1st day of January,
1901, and to expire on
the 1st day of January,
1905.

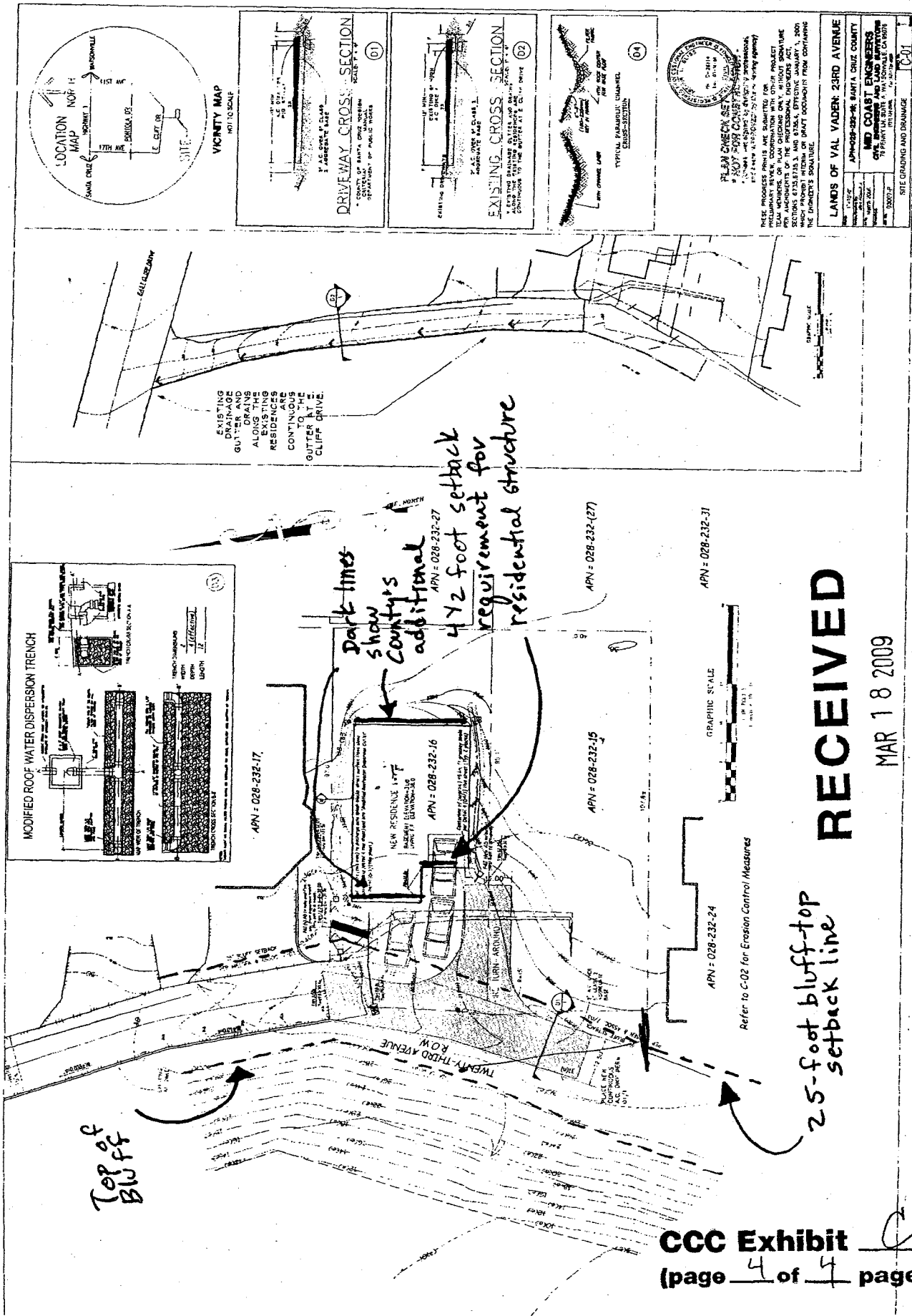
1 PAGE 46 PAGE 47



SCALE FIRE GUARDIAN
CLASS B' TIM FIRE PAINT







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MAR 18 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit
(page 4 of 4 pages)

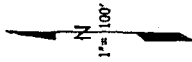
FOR TAX PURPOSES ONLY

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44 POR. RANCHO ARROYO DEL RODEO
SEC. 20 & 21, T11S., R1W., M.D.B. & M.

Tax Area Code
82-003 82-040

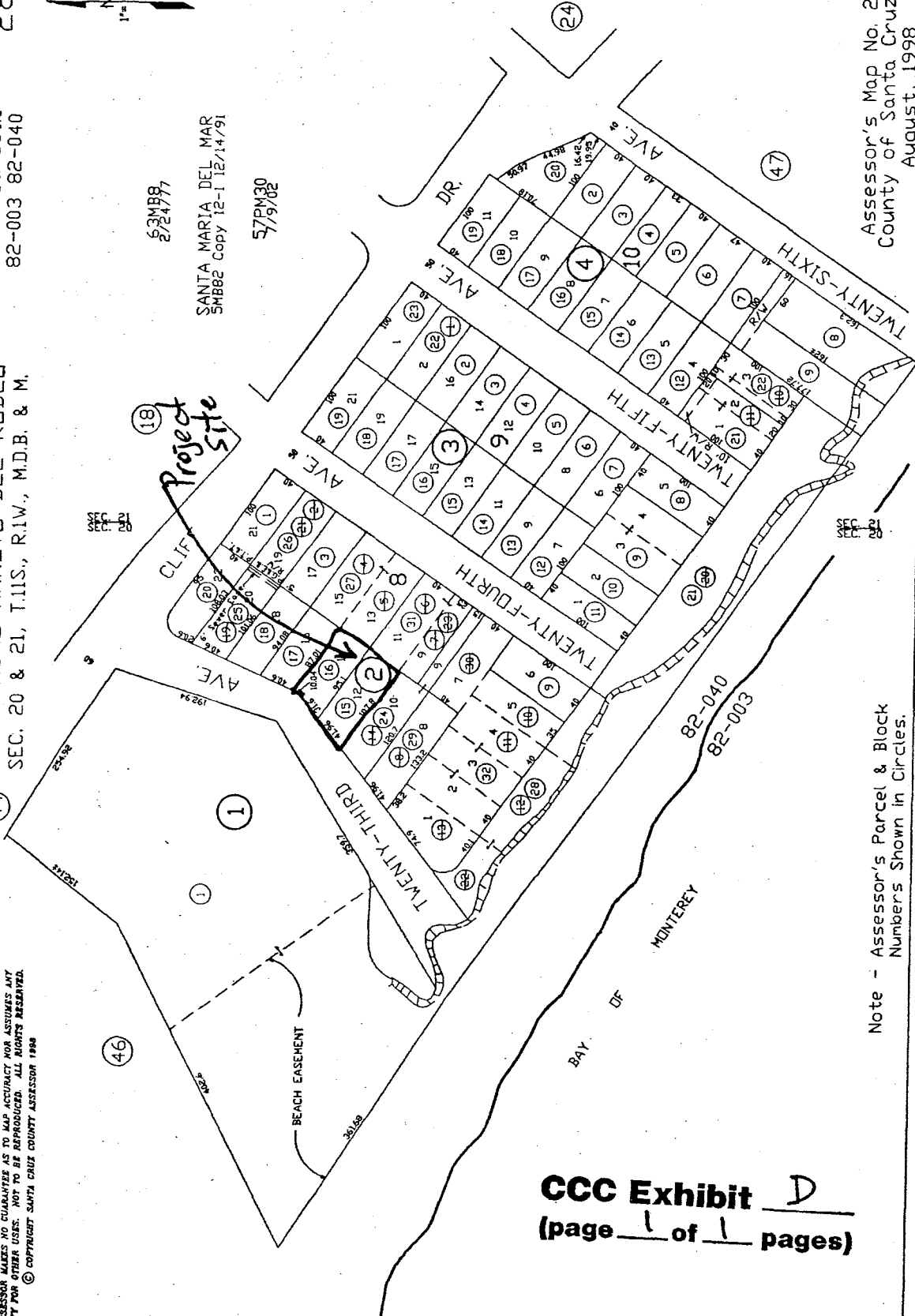
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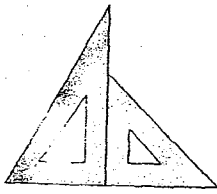


Note - Assessor's Parcel & Block
Numbers Shown in Circles.

Assessor's Map No. 28-23
County of Santa Cruz, Calif.
August, 1998

CCC Exhibit D
(page 1 of 1 pages)

Electronically Reborn 8/20/98 PM
Rev. 10/21/99 G6 (Remove R/W)
Rev. 4/4/01 mm (changed page refs)
Rev. 7/12/02 DD (S7PH30, 3-22 & 23)



RICHARD L. EMIGH A.I.B.D.
DRAFTING, DESIGNING & LAND USE ANALYSIS

413 Capitola Avenue
Phone: 831-479-1452

Capitola, CA 95010
Fax: 831-479-1476

1-27-2009

RECEIVED

JAN 27 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
c/o Central Coastal District Office
745 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: Application Number 02-0432

This is a response to the letter to the Coastal Commission dated January 20, 2009 written by William P Parkin, from WHITTER & PARKIN, LLP.

We will not respond in any further detail to the first two paragraphs other than to say that's not what we recall being said in the discussion of the Planning Commission with Mr. Parkin at the meeting. That is a moot point at the moment because we are before the Coastal Commission. At the meeting it was also stated that I was now the representative for Mr. Vaden on the processing of the Development Permit. I wish they had contacted me on what the items to be resolved were. If it was to redesign the structure further I am sure I would have not recommended that because the project complies with all regulations and had been recommended for approval by the County Staff.

The following is my reply to the issues raised in Mr. Parkin's letter.

"Inconsistencies found by Mr. Vierhus and Recommended Plan Updates".

1. The attic area as designed and shown is not habitable space. The County reviewed the proposal and agreed that the attic area was not to be included in the building area. The Site statistics table #11, 13, and 18 on page do not need to be revised.
2. We have not included the "attic area" in the F.A.R. because it is not part of the floor area.
3. The South Elevation was Revised to show deck @ 6 feet. Please see sheet two marked REV 1/27/09.

CCC Exhibit E
(page 1 of 15 pages)

Rebuttal to Rebuttal on height and bulk of home.

We (the Owner, the Architect, and I) agree the projects are not the same, and that they should not be the same. The proposed project is compatible as required.

The Attic is not included in the F.A.R. and should not be included in the F. A.R. All the other comments about how the plans could be revised are true, however because the plans are in compliance with the County Regulations as well as the Coastal Development Requirements, we do not believe any further revisions are needed.

As previously stated, we do not believe there is any reason to reduce the building height or proposed 10 ceilings. The project has been reviewed by the Urban Designer, who has determined the proposal complies with the requirements of the County Design Review Ordinance and the Local Coastal Program. (Please review the Design Review Section by Urban Planner listed in the staff report listed on page 10 of the Zoning Administrator staff report). The suggestion that the ceilings be lowered and roof pitch lowered seem very subjective. It does not seem to be merited; the proposal meets all of the requirements of the Design Review Ordinance and Local Coastal Program. The proposed structure is almost the same height when viewed from the West as is the Appellant's residence. We believe that the suggested changes would make the project less combatable with the variety of residential design along 23rd Avenue including the Appellant's residence. (Please see Exhibit C which is sketch by RLE dated 12-2-8 which shows the impact changing the roof pitch would have on the upper level).

The Appellant's Architect is correct that the building and roof slope and plate lines could be redesigned. However changing the roof pitch and changing the proposed plate lines does not have any impact on the "coastal bluff". It would require a redesign and new elevations and further delay the review of the project which has taken 5 years to process. Again the proposed development plans comply with all County Zoning Regulations.

Mr. Parkin's last paragraph states they have appealed because the approval of application #02-0432 violates the 25-setback.

We have revised the site plan moving the house back the 4.5' as requested by the Coastal Commission Staff. The move has increased the amount of grading by at least 40 cubic yards and has increase the impervious surface for the driveway and walkway by some 130 square feet. This has increased the setback from the start of the down slope from 36' to 40.5'. The increased setback and proposed lowering of the height does not have anything to do with adherence to the required 25-foot setback, as the proposed structure is now over 40- feet back from the start of the coastal bluff. Changing the height, which is in compliance with the Regulations, will not change the impact on the coastal bluff in any way.

CCC Exhibit E
(page 2 of 15 pages)

EXHIBIT G

Reply on request to include upper floor attic in F.A.R.

Because of the claim that the attic storage should be counted as part of the F.A.R., we have taken a copy of the revised plans to the County Planning Department for verification that the proposed non-heated storage area, as shown with a 7' 3" ceiling is not counted in the Floor Area for this project. Even with plywood over the joists, as is required for the shear transfer to the east outer wall and foundation, with sheetrock at the 7' 3" height does not meet the code requirements for habitable space. This fact makes it not part of the Floor Area and therefore we have not revised the F.A.R. as requested.

In summary, we request the Development Permit with the Conditions as approved by the Zoning Administer should be upheld, with the agreed to revision to move the building an additional 4.5 feet to the East at the Planning Commission hearing. The owner, the Architect and I, believe that the move would not provide any additional protection for the Coastal Bluff. The location of the Bluff has not changed in the past 50 years and a 25-foot setback should be all that is required. The now proposed 40-foot setback is more than adequate.

Sincerely,



Richard L Emigh
City Planner, Masters of Urban Planning, Uof O 1974
Member and CA Society President of (AIBD) American Institute of Building Designers
Professional Building Designer (AIBD) since 1988

Copy:
Val Vaden- Owner
Wane Miller - Architect

CCC Exhibit E
(page 3 of 15 pages)

13.10.323

NOTE: This chart contains the multi-family residential zone districts standards and some of the most commonly used exceptions. For additional exceptions relating to parcels, see Section 13.10.323(d). For additional exceptions relating to structures, see Section 13.10.323(e). Variations from maximum structural height, maximum number of stories and maximum floor area as defined by F.A.R. may be approved with a residential development permit by the appropriate approving body for affordable housing units built on-site or off-site in accordance with Chapter 17.10 and Sections 13.10.681 and 13.10.685 of Santa Cruz County Code.

* All site standards for the applicable zone district must be met.

(c) Calculating Allowable Gross Building Area. When determining the maximum allowable gross building area for a specific parcel, it is necessary to know the zoning and net site area of the parcel. Definitions of net site area, gross building area, floor area, floor area ratio, story, attic, basement, underfloor, and mezzanine appear in 13.10.700.

Net Site Area x Floor Area Ratio (F.A.R.) = Total Allowable Gross Building Area for All Buildings on Site

Net Site Area x Maximum Parcel Coverage Percentage = Maximum Allowable Parcel Coverage

**AREAS INCLUDED IN GROSS
BUILDING AREA CALCULATION**

- All Floor Areas; areas with ceiling heights greater than sixteen (16) ft. zero inches are counted twice, and greater than twenty-four (24) feet zero inches are counted three times (2, 3, 4, 5)
- Garage (credit for one parking space—two hundred twenty-five (225) sq. ft. not counted (1)
- Covered and Enclosed Area (6)
- Stairs and landing at each floor
- Basements, attics and under floor area which reach a ceiling height of seven ft. six inches or higher, then all areas greater than five feet zero inches in height shall count as area for F.A.R. calculations
- Areas under building projections greater than three feet from the exterior wall, or cumulatively greater than 1/3 the length of that side of the building.

AREAS NOT INCLUDED IN CALCULATIONS

- first one hundred forty (140) sq. ft. and then 1/2 of all covered, unenclosed porch areas (7)
- uncovered decks (covered decks count)
- uncovered balconies (covered balconies count)
- areas beneath three ft. of roof overhang

SAMPLE PARCEL of three thousand seven hundred eighty-three (3,783) net square feet, R-1-4 Zone District From Site and Structural Dimensions Chart:

Floor Area Ratio = 0.5:1

Maximum Parcel Coverage = 40%

3,783 sq. ft. x 0.5 = 1892 sq. ft. Total Floor Area

3,783 sq. ft. x 0.40 = 1513 sq. ft. Maximum First Floor Area (Round to Nearest Foot)

Total Floor Area = 1892 sq. ft.

Less: Maximum First Floor Area = 1513 sq. ft.

Second Level Area = 379 sq. ft.

The total floor area may be divided equally between floors.

CCC Exhibit E
(page 4 of 15 pages)

Jonathan Wittwer
William P. Parkin
Jennifer M. Bragar

WITTMER & PARKIN, LLP
147 SOUTH RIVER STREET, SUITE 221
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE: (831) 429-4056
FACSIMILE: (831) 429-4057
E-MAIL: office@wittmerparkin.com

OF COUNSEL
Gary A. Patton

RECEIVED

January 20, 2009

JAN 20 2009

Ms. Susan Craig
California Coastal Commission
740 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**RE: Appeal to Coastal Commission of Application Number 02-0432,
APN 028-232-16**

Dear Ms. Craig:

This office represents Appellant Ralph Borelli in the above referenced appeal regarding the proposed single family dwelling (the "project"). This letter is in response to the January 7, 2009 submissions to the Coastal Commission by Mr. Emigh criticizing the comments submitted by Mr. Borelli's architect, Mike Vierhus.

In both letters submitted by Mr. Emigh, he asserts that the appellant made an agreement to not appeal the project if Mr. Vaden moved the proposed home 4.5 feet from the Coastal Bluff. However, no such agreement was ever made. The requirement to move the proposed home 4.5 feet away from the Coastal Bluff was a condition set forth by the Planning Commission. One Planning Commissioner did ask me if we would forgo the appeal if the Planning Commission moved the home 4.5 feet further back from the bluff. However, I replied that since my client was not present at the hearing I could not make such a promise. Before appealing the Planning Commission's approval, Mr. Borelli asked that I attempt to resolve the matter with the applicant. I did attempt to contact counsel for Mr. Vaden to try to resolve any differences. However, when Mr. Vaden's attorney would not respond to my phone calls, the appeal was filed. Mr. Emigh's assertions are a distraction. There was no agreement with the applicant and Mr. Emigh's comments in this regard are not relevant to the appeal. The setback is just one of the issues raised by Mr. Borelli. Nonetheless, Mr. Borelli has been reasonable and has attempted to resolve his remaining concerns prior to appealing to the Coastal Commission.

Mr. Vierhus identified the following issues based on his review of Mr. Emigh's letters and the plans on file with the Coastal Commission.

Inconsistencies found by Mr. Vierhus and Recommended Plan Updates:

1. Please refer to County Code Section 13.10.700 where attics are defined as "[t]he space between the underside of the roof framing (rafters or beams that directly support the roof

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EXHIBIT G

Susan Craig

Appeal to Coastal Commission of Application Number 02-0432, APN 028-232-16

January 20, 2009

Page 2 of 3

sheathing) and the upper side of the ceiling framing." Attics do not have floors or ceilings. Please revise Section 4 on page 3 and Site statistics table #11, 13 and 18 on page one.

2. Please include 7 feet x 15 feet (105 sf) "attic area" in the F.A.R. calculations per County Code Section 13.10.323 where if attics reach a height of seven feet six inches or higher, then all areas greater than five feet zero inches in height shall count as area for F.A.R. calculations.

3. The master bedroom deck is dimensioned at 6 feet while the south elevation scales at 3 feet.

Rebuttal from Mr. Vierhus regarding Mr. Emigh's comment related to height and bulk of home (Item 2 of Mr. Emigh's letter under heading "Recommendations from Mr. Vierhus")

1. Mr. Vierhus' comments in the letter submitted to the Coastal Commission by our office on November 20, 2008 contained suggestions related to Mr. Borelli's residence per plans on file with the Santa Cruz County Planning Department. Mr. Vierhus' comparisons are objective and show that the structures are not the same height:
 - a. Mr. Vaden's proposed F.A.R. is 200 sf larger than Mr. Borelli's F.A.R., even though Mr. Vaden's parcel is smaller than Mr. Borelli's. Mr. Borelli's F.A.R. is 1605 sf while the proposed F.A.R. for Mr. Vaden's house including the attic is 1805 sf.
 - b. Mr. Vaden's project plans call for a proposed ridge height that is 30 inches higher than Mr. Borelli's home.
 - c. Mr. Vaden's project plans call for a proposed ceiling height that is 24 inches higher on the first floor than Mr. Borelli's first floor height. Mr. Borelli's first floor ceiling height is 8 feet while the proposed first floor ceiling height for Mr. Vaden's home is 10 feet.
 - d. Mr. Vaden's project plans call for a proposed roof pitch that measures 10 inches and 12 inches, where for every 12 inches horizontally, the incline is 10 inches. In contrast, Mr. Borelli's roof pitch is 7 inches and 12 inches. The result is that the roof for Mr. Vaden's proposed project is 40% steeper than Mr. Borelli's.
2. Exhibit C dated December 2, 2008 - Roof pitch can be reduced to 8/12 and the overall height lowered by 21 inches without affecting the interior wall by raising the eastern plate 14 inches and lowering the western plate 12 inches.

Mr. Vierhus' identification of inconsistencies in the plans and his recommendations are within the overall scope of issues raised in the appeal. Mr. Borelli's appeal raises a challenge of the approval of application #02-0432 because it violates the 25-foot setback from the coastal

CCC Exhibit E
(page 6 of 15 pages)

EXHIBIT
E

Susan Craig

Appeal to Coastal Commission of Application Number 02-0432, APN 028-232-16

January 20, 2009

Page 3 of 3

bluff required in LCP Policy 6.5.1. *See also* County Code Section 16.10.070(h)(1)(ii) (new development must be setback at least 25 feet from the top edge of the coastal bluff). Reducing the bulk of the structure per Mr. Vierhus' recommendations would allow for adherence to the requirement of a 25-foot setback from the edge of the coastal bluff. In addition, the Coastal Commission would be able to clarify the conditions of approval to ensure the 25-foot setback is maintained.

Thank you for your attention to this matter.

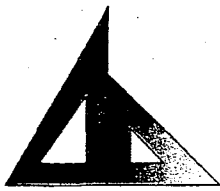
Very truly yours,
WITTWER & PARKIN, LLP



William P. Parkin

CCC Exhibit E
(page 7 of 15 pages)

EXHIBIT G



RICHARD L. EMIGH A.I.B.D.
DRAFTING, DESIGNING & LAND USE ANALYSIS

413 Capitola Avenue
Phone: 831-479-1452

Capitola, CA 95010
Fax: 831-479-1476

1-7-2009

California Coastal Commission
c/o Central Coastal District Office
745 Front Street, Suite 300
Santa Cruz, CA 95060

RECEIVED

JAN 07 2009

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Subject: Application Number 02-0432

This is a response to the letter to the Coastal Commission dated November 20, 2008 written by Jonathan Wittwer. The response is given item by item.

"Inconsistencies found by Mr. Vierhus"

1. "The roof plan indicated on the site plan is not consistent with the elevations." **The Architect and I have reviewed the plans and elevations and found the site plan shows the first roof design (five years old). We have revised the site plan, and roof plan, with the fireplace base footprint. (See revised sheet one).**
2. "The second floor window shown in the rear elevation does not appear on the second floor plan." **The window is for the attic area on the second floor. The second floor plan room area is correct. We have added an outline of the attic area and attic window. (See revised sheets with section line location shown as requested by Staff).**
3. "--- there is a 13' x 7' room on the second floor not shown." **The elevations are correct; the space is the attic area on the second floor. (See revised sheet three we have revised the right and left elevations to reflect the smaller final footprint).**
4. "The site plan does not accurately reflect the chimney projection shown on the elevations." **The site plan shows the footprint as it is required to do. We have added a line to show the footprint of the chimney and deck projections as well as the covered porch projections. (See revised sheet one)**

"Recommendations from Mr. Vierhus"

1. "The applicant should be required to erect story poles on site to give everyone a better sense of the impact of the project." **The County of Santa Cruz did**

CCC Exhibit E
(page 8 of 15 pages)

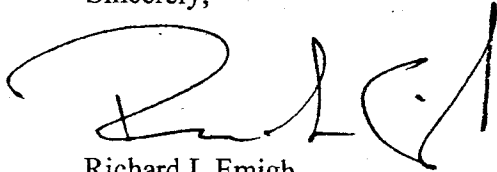
not believe this was necessary to understand the compatibility and effect on the area. The project as proposed does not change any public views of the Bay. We would only install story poles if required by the Coastal Commission Staff. We have included copies of a computer generated perspective of the house and the streetscape with the house added. (See Exhibit A and B.)

2. "Overall height and bulk of the home can be easily reduced by over 5' by lowering the proposed ceilings from 10' to 8' and lessening the roof pitch from 10 to 8." We do not believe there is any reason to reduce the building height or proposed 10 ceilings. The project has been reviewed by the Urban Designer, who has determined the proposal complies with the requirements of the County Design Review Ordinance and the Local Coastal Program. (Please review the Design Review Section by Urban Planner listed in the staff report listed on page 10 of the ZA staff report). The suggestion that the ceilings be lowered and roof pitch lowered seem very subjective. It does not seem to be merited; the proposal meets all of the requirements of the Design Review Ordinance and Local Coastal Program. The proposed structure is almost the same height when viewed from the West as is the Appellant's residence. We believe that the suggested changes would make the project less combatable with the variety of residential design along 23rd Avenue including the Appellant's residence. (Please see Exhibit C which is sketch by RLE dated 12-2-8 which shows the impact changing the roof pitch would have on the upper level).
3. "Moving the house towards the rear of the property-----." The owners Architect agreed to move the home back 4.5' with the understanding the project as modified would not be appealed. We have revised the site plan moving the house back the 4.5' as requested by the Coastal Commission Staff. The move has increased the amount of grading by at least 40 cubic yards and has increase the impervious surface for the driveway and walkway by some 130 square feet.

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(page 9 of 15 pages)

In summary, we request the Development Permit with the Conditions as approved by the Z A should be upheld. It was agreed to move the building an additional 4.5 feet to the East at the Planning Commission hearing, with the understanding the project would not be appealed. The owner, the Architect and I, believe that the move would not provide any additional protection for the Coastal Bluff. The shift, if required will result in more grading, and an increase in impervious surface area which is all negative. The location of the Bluff has not changed in the past 50 years.

Sincerely,



Richard L Emigh

City Planner, Masters of Urban Planning, Uof O 1974

Member and CA Society President of (AIBD) American Institute of Building Designers

Professional Building Designer (AIBD) since 1988

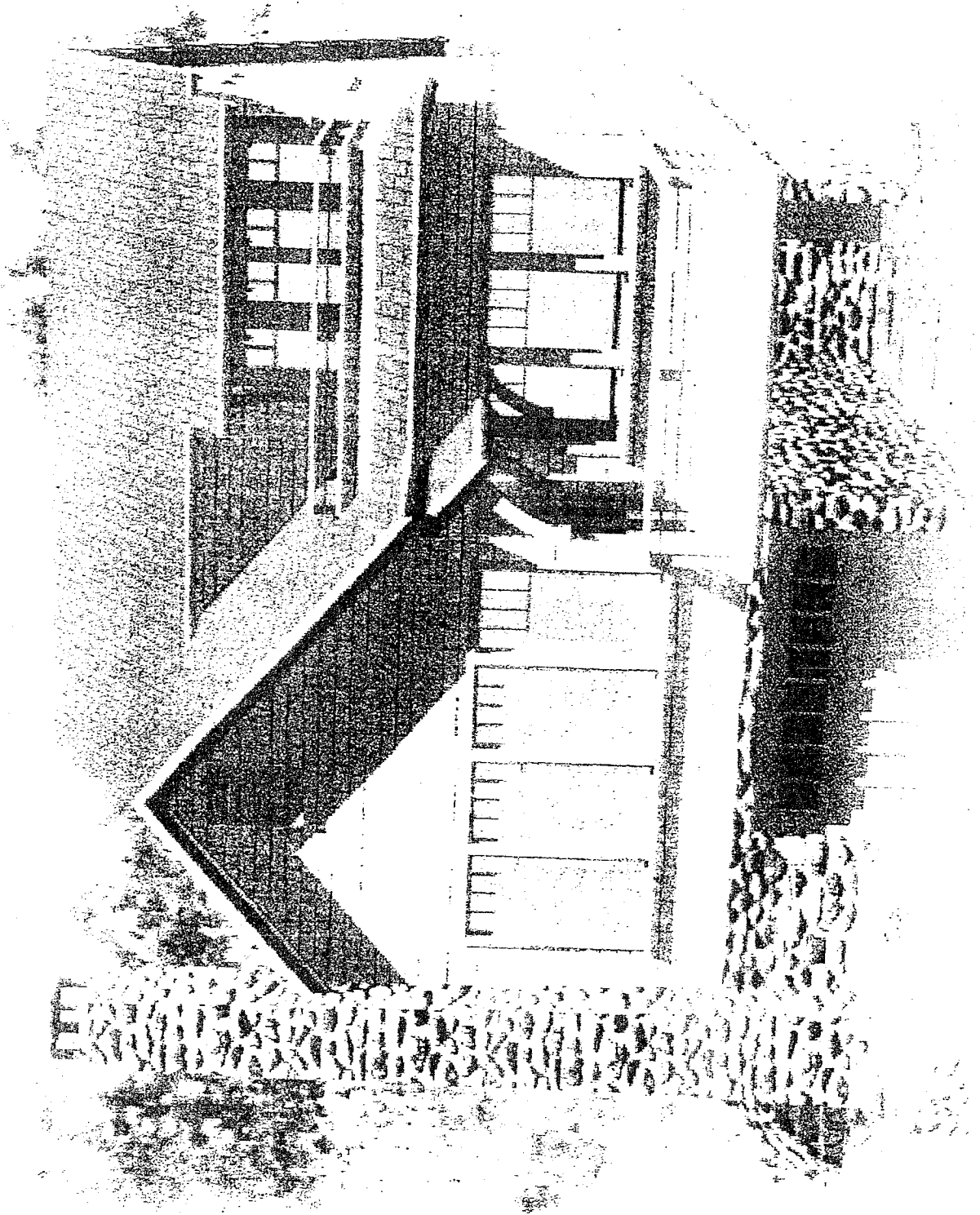
Copy:

Val Vaden- Owner

Wane Miller - Architect

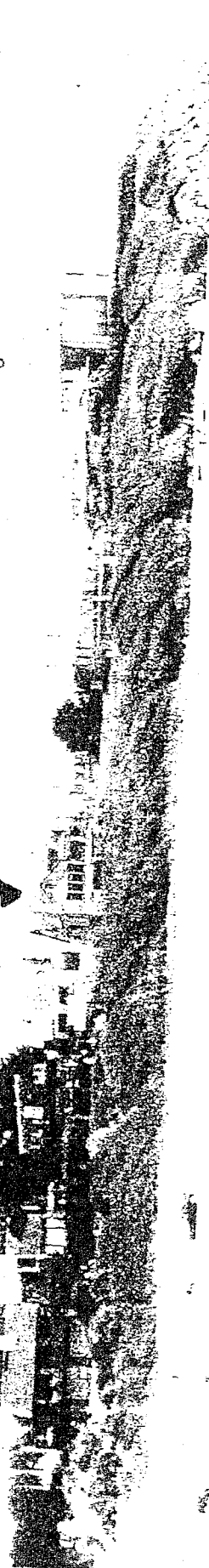
CCC Exhibit E
(page 10 of 15 pages)

Visual Simulation of Proposed House



CCC Exhibit E
(page 11 of 15 pages)

Visual Simulation of Proposed House
as seen from East Cliff Drive
(looking down coast)



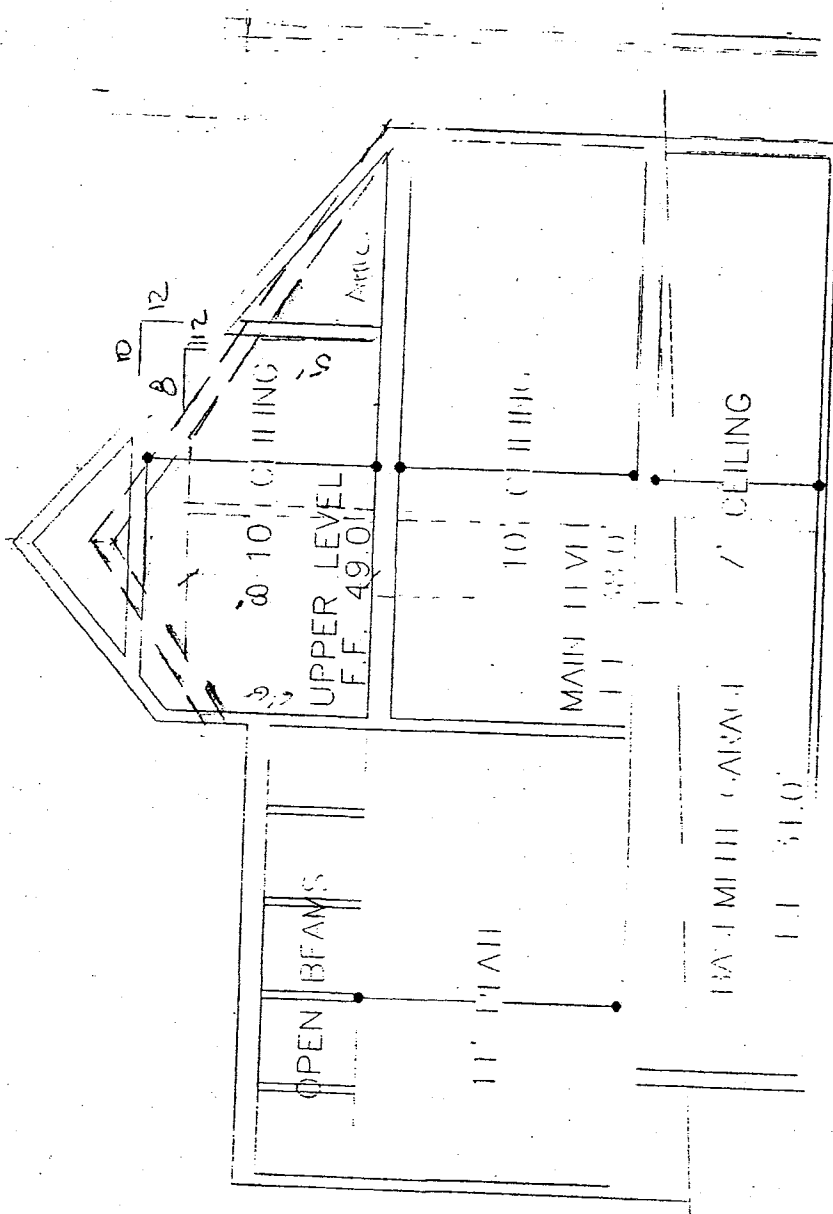
CCC Exhibit E
(page 12 of 15 pages)

BASE PITCH ANALYSIS

WITH PROPOSED 10-12
WEST WALL MBR 9'
EAST WALL MBR 7'

IF DELETED
TO LOWER PITCH 8-12
WEST WALL MBR 6'
EAST WALL MBR 5'
25' BUNG HT TO ECKE
NOT MUCH OF A MBR
BATHROOM USING HOT
VIBER

ELF 12-2-3



CEILING HEIGHTS
1/8" 1' 0"

Jonathan Wittwer
William P. Parkin
Brett W. Bennett

WITTWER & PARKIN, LLP
147 SOUTH RIVER STREET, SUITE 221
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE: (831) 429-4066
FACSIMILE: (831) 429-4067
E-MAIL: office@wittwerparkin.com

PARALEGAL
Miriam Celia Gordon

November 20, 2008

RECEIVED

NOV 20 2008

Hand Delivered

Susan Craig
California Coastal Commission
c/o Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**Re: Letter re Borelli Appeal of Santa Cruz County Application # 02-0432,
APN 028-232-16**

Dear Ms. Craig:

This office represents Appellant Ralph Borelli in the above referenced appeal. Per our previous discussions, we are providing you with an enumeration of plan inconsistencies identified by Mr. Borelli's architect, Mike Vierhus, regarding the proposed single-family dwelling described in Application #02-0432.

Mr. Vierhus identified the following inconsistencies based on his review of the plans on file with the Santa Cruz County Planning Department:

Inconsistencies found by Mr. Vierhus

1. The roof plan indicated on the site plan is not consistent with the elevations.
2. The second floor window shown on the rear elevation does not appear on the second floor plan.
3. If the elevations are correct there is a 13' x 7' room on the second floor not shown.
4. The site plan does not accurately reflect the chimney projection shown on the elevations.

Recommendations from Mr. Vierhus

1. The applicant should be required to erect story poles on site to give everyone a better sense of the impact of this project.
2. Overall height and bulk of this home can be easily reduced over 5' by lowering the proposed ceilings from 10' to 8' and lessening the roof pitch from 10 to 8.
3. Moving this home toward the rear property line as required by the County Planning Commission would minimize the impact to the bluff (as well as the adjacent property owner). This required change needs to be shown on the plans so that the reference in the CDP conditions

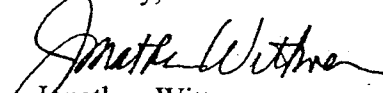
CCC Exhibit E
(page 14 of 15 pages)

Ms. Susan Craig
Appeal of Santa Cruz County Application # 02-0432
November 20, 2008
Page 2

of approval to development in accordance with Exhibit A will accurately reflect the action by the Planning Commission.

Thank you for your consideration of this matter.

Sincerely,



Jonathan Wittwer,
Wittwer & Parkin, LLP

cc: client

CCC Exhibit E
(page 15 of 15 pages)



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
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

Soils (Geotechnical) Engineer Plan Review Form

Project Information:

Application Number:

Parcel # (APN):

028-232-15,16

Owner Name:

Val Vaden

Project Address / Location:

23rd Avenue, Santa Cruz

Soils Report Information:

Soils Engineering Company Name:

Dees & Associates, Inc.

Name of Soils Engineer Who Signed Report:

Rebecca L Dees

Date of Soils Report:

February 16, 2011

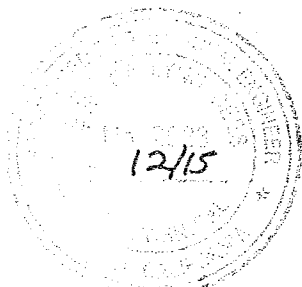
Date of Updates / Supplemental Info:

Original report by Haro, Kasunich & Associates, Inc.
June 10, 1999

Project Plan Sheets Reviewed:

Plan Sheet Number	Plan Prepared By	Date of Latest Revision
C1, C2	Roper Engineering	10-20-14

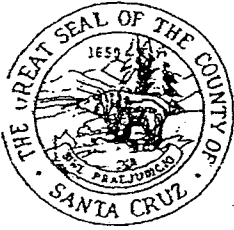
The plans sheets listed above for the specified project are in conformance with the recommendations of the soils report.



Soils Engineer's Signature and Stamp

October 28, 2014

Date



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123

TOM BURNS, PLANNING DIRECTOR

July 1, 2005

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

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

Dear Val and Lilli Rey Vaden:

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

1. All construction shall comply with the recommendations of the reports.
2. Final plans shall reference the reports and include a statement that the project shall conform to the report's recommendations.
3. Prior to building permit issuance, *plan review letters* shall be submitted to Environmental Planning. The authors of these reports shall write these letters and shall state that the project plans conform to the report's recommendations.
4. The attached declaration of geologic hazard must be recorded with the County Records Office before building permit issuance.

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

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



Dees & Associates, Inc.
Geotechnical Engineers

501 Mission Street, Suite 8A Santa Cruz, CA 95060

Phone (831) 427-1770 Fax (831) 427-1794

April 11, 2011

Project No. SCR-0491

MR. VAL VADEN
% Richard Emigh
413 Capitola Avenue
Capitola, California 95010

Subject: Geotechnical Plan Review

Reference: Proposed Single family Residence
23rd Avenue
APN 028-232-015, 16
Santa Cruz County, California

Dear Mr. Vaden:

As requested, we have reviewed the geotechnical aspects of the project plans for the new single family residence proposed at the referenced site. Sheets 1, 1L, 2, 3, 4, 5 and 6 were prepared by Wayne Miller. Sheets 1 and 1L are last dated December 10, 2010 and Sheets 2 to 6 are last dated April 21, 2009. Sheets D1, C1, C2 and C3 were prepared by Mid Coast Engineers. Sheet D1 is last dated May 2009 and Sheets C1, C2 and C3 are last dated October 2010. Geotechnical recommendations were presented in our letter, dated February 16, 2011.

Sheet C1 references the original geotechnical report for the project. Our firm has assumed geotechnical responsibility for the project and prepared an updated geotechnical report, dated February 16, 2011, to be used for the project. The project plans should be revised to reflect the current geotechnical engineer.

The plans indicate the residence will be excavated into the gentle slope to create a partial basement and garage below the residence. The residence foundation will be excavated into firm, native soils. The retaining wall detail on Sheet 5 indicates the retaining wall was designed using an active lateral soil pressure of 35 pcf. The soils report recommends using an active soil pressure of 45 pcf. The retaining wall should be designed using the active pressures presented in the soils report.

Roof runoff will be directed to an earthen swale that goes around the upslope side of the home. An area drain will collect the water and discharge it into a gravel filled dispersion pit. Overflow from the pit will discharge onto 23rd Avenue. Sheet 1 indicates drainage will be directed to the street. The plan sheet should be revised to show the proposed dispersion trench.

Twenty Third Avenue will be extended to the front of the site. The road will come within

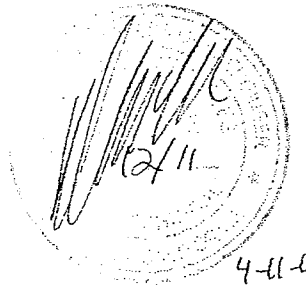
5 feet of the top of the slope and a few feet of fill is proposed under the road. A key will be excavated at the top of the slope to lock in the new fill slope and compact the edge of the existing slope. The actual depth of the key should be determined at the time of construction.

Please call our office if you have any questions about our review.

Very truly yours,

DEES & ASSOCIATES, INC.

Rebecca L. Dees
Geotechnical Engineer
G.E. 2623



Copies: 2 to Addressee

Project SC8356
11 August 2009

MR. VAL VADEN
c/o Robert Tomaselli
402 Grand Avenue
Capitola, California 95010

Subject: Geotechnical Report Update

Reference: Proposed Residence
APN 028-232-15, 16
23rd Avenue
Santa Cruz County, California

HARO, KASUNICH & ASSOCIATES
Geotechnical Investigation
Proposed Residence
23rd Avenue, Santa Cruz, California
Project No. SC6536
Dated June 1999

Update Letter
Single Family Residence
23rd Avenue, Santa Cruz, California
Project No. SC8356
Dated 15 August 2003

NIELSEN AND ASSOCIATES
Geologic Report
23rd Avenue, Santa Cruz County, California
Job No. SCr-1138C

Dear Mr. Vaden:

The purpose of this letter is to update the referenced geotechnical investigation report by providing additional geotechnical recommendations with regard to the current California Building Code (CBC, 2007 Edition). The referenced update letter was presented in support of an application for a building permit which is still pending.

Existing Conditions

A representative of Haro, Kasunich & Associates visited the site on 6 August 2009. No grading was observed to have taken place since the 2003 update. The coastal bluff on the north side of the parcel shows no evidence of sloughing or undermining.

EXHIBIT A

Mr. Val Vaden
Project No. SC8356
23rd Avenue
11 August 2009
Page 2

Expansive Soils

In our 1999 investigation, clays with moderate plasticity ($PI=21$) were encountered at depths ranging from $2\frac{1}{2}$ to $3\frac{1}{2}$ feet in Borings B-1 and B-4 (see Figure 1 attached), and were classified in the field as "fat" clays. Based on our correction of the Plasticity Chart (see Figure 2 attached) included in the 1999 report, the in-situ clays may be classified as lean clays, and may in fact be silts. We hasten to add however, the relocated point borders the A-line and could also behave characteristically as a fat clay. In Borings B-2 and B-3, soils in the upper $2\frac{1}{2}$ feet were classified as lean clays in the field and clayey sands on description in the laboratory. Since Borings B-1 and B-4 were within the 25 foot bluff top setback recommended by the Project Geologist, Nielsen and Associates, and no structures will be located there, the fat clays encountered there may not be representative of those in the building envelope, and clays within the building envelope may be classified as being less expansive than the sample from Boring B-4 based on the visual and laboratory classification.

The mitigation suggested in our 1999 report was to over-excavate any clays encountered in foundation footings and replace them with non-expansive engineered fill or controlled density fill. As grading plans have not been completed for the project, we consider this mitigation to still be appropriate. Actual depth of over-excavation and footings should be determined in the field during construction. Therefore, our 1999 conclusions and recommendations regarding soil preparation consisting of grading and foundation excavation remain valid and appropriate.

Seismicity and Seismic Design Criteria

A discussion of seismicity was included in our 1999 report. Peak horizontal ground acceleration and seismic coefficients of 0.48 and 0.24, respectively, were used in slope stability analysis. The California Geologic Survey expects a peak horizontal ground acceleration at the site of 0.42 for the soft rock at the site. The USGS interactive web-based seismic design parameter calculator predicts a short period seismic design coefficient of 1.0. Using the procedure indicated by CBC Section 1802.2.7, a peak horizontal ground acceleration of 0.40 is recommended. Therefore, the peak horizontal ground acceleration of 0.48 recommended in our 1999 report is considered appropriate as is the seismic coefficient upon which it is based.

Based on Standard Penetration Test (SPT) blow count information obtained from our borings, and on our observations of the subsurface soil conditions, we have classified the site "Site Class C" as defined in Table 1613.5.5 of the 2007 CBC.

Mr. Val Vaden
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23rd Avenue
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Liquefaction

Due to the fines content of surface soils and density of the underlying bedrock, we consider the potential for liquefaction at the site to be low.

Plan Review, Construction Observation, and Testing

Our firm should be provided the opportunity for a general review of the final project plans and to discuss the geotechnical-related issues with the designer prior to construction so that we may check to see our geotechnical recommendations have been properly interpreted and implemented. If our firm is not accorded the opportunity of making the recommended review, we can assume no responsibility for misinterpretation of our recommendations. We recommend that our office review the project plans prior to submittal to public agencies, to expedite project review. The recommendations presented in our 1999 report and the subsequent updates require our review of final plans and specifications prior to construction, and our observation and, where necessary, testing of the earthwork and to check foundation excavations. Observation of soil preparation consisting of grading operations and foundation excavations allows anticipated soil conditions to be correlated to those actually encountered in the field during construction.

We appreciate the opportunity to be of service. If you have any questions, please contact Mike Hopper at (831) 722-4175 ext. 206 or Joe Haro at ext. 210.

Very truly yours,

Reviewed By:

HARO, KASUNICH & ASSOCIATES, INC.



Joseph A. Haro
G.E. 382



Mike Hopper
Staff Engineer

MH/JAH/sq
Attachments

Copies: 1 to Addressee
4 to Wayne Miller

LIMITATIONS AND UNIFORMITY OF CONDITIONS

1. The recommendations of this report are based upon the assumption that the soil conditions do not deviate from those disclosed in the previously drilled borings. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that planned at the time, our firm should be notified so that supplemental recommendations can be given.
2. This report is issued with the understanding that it is the responsibility of the owner, or his representative, to ensure that the information and recommendations contained herein are called to the attention of the Architects and Engineers for the project and incorporated into the plans, and that the necessary steps are taken to ensure that the Contractors and Subcontractors carry out such recommendations in the field. The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. No other warranty expressed or implied is made.
3. The findings of this report are valid as of the present date. However, changes in the conditions of a property can occur with the passage of time, whether they be due to natural processes or to the works of man, on this or adjacent properties. In addition, changes in applicable or appropriate standards occur whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated, wholly or partially, by changes outside our control. Therefore, this report should not be relied upon after a period of three years without being reviewed by a geotechnical engineer.

NIELSEN and ASSOCIATES
ENGINEERING GEOLOGY AND COASTAL CONSULTING

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

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

Job No. SCr-1138-C

July 2003

NIELSEN and ASSOCIATES
ENGINEERING GEOLOGY AND COASTAL CONSULTING

30 July 2003

Job No. SCr-1138-C

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

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

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


Dear Mr. and Mrs. Vaden:

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

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

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

Sincerely,


Hans Nielsen

Certified Engineering Geologist 1390

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1. General Location Map
2. Aerial Photo & Geologic Section Along Coast

PLATES (in Appendix B)

Plate 1. Geologic Site-Topographic Map and Geologic Cross Section

INTRODUCTION

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

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

SITE CONDITIONS and GEOLOGY

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

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

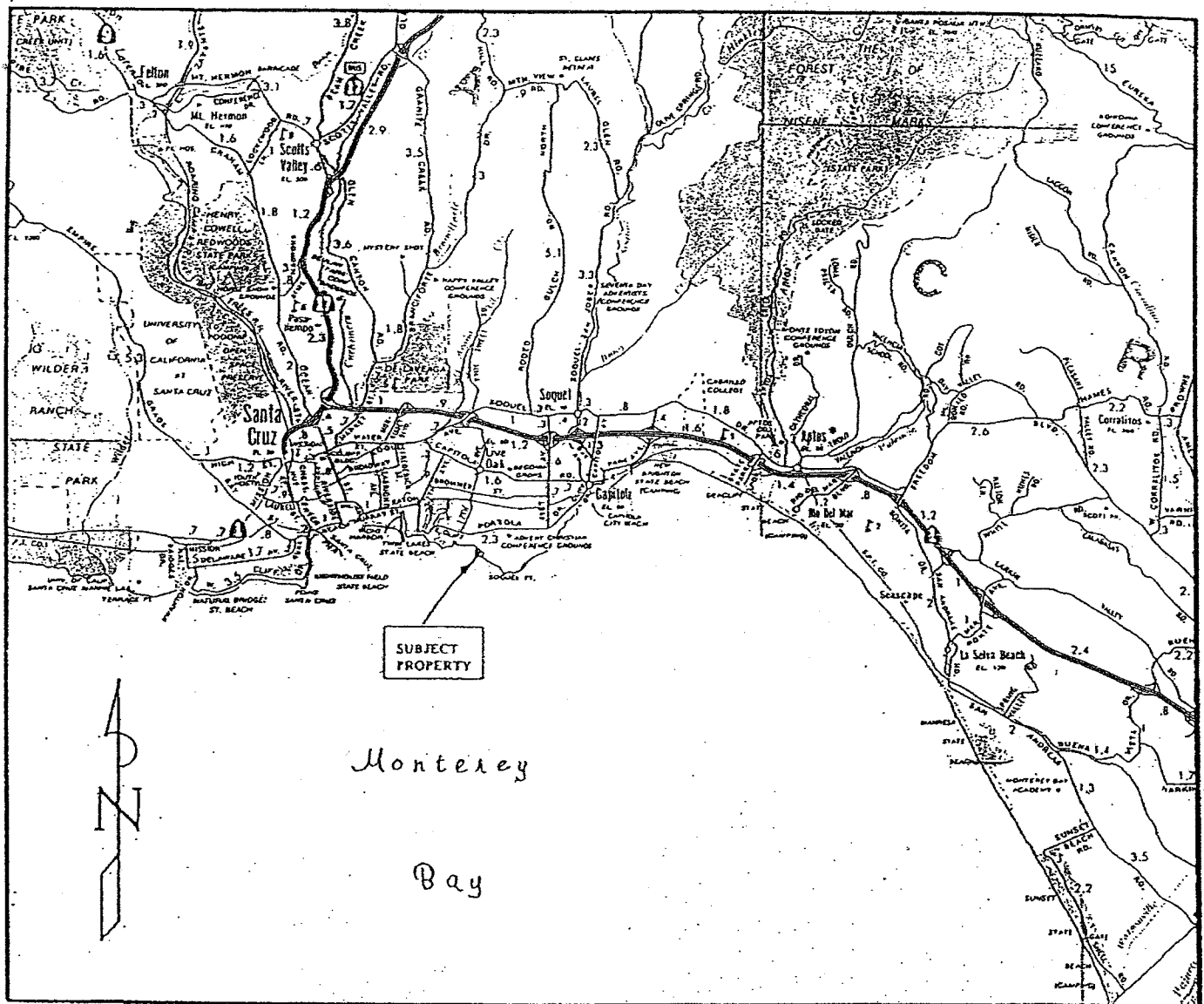
The elevation of the properties varies from 32 to 38 feet according to a site topographic map produced by Mid Coast Engineers in March 2003.

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

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

LOCATION MAP

Figure 1.



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

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

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

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

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

HISTORIC CONDITIONS

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

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

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

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

CONCLUSIONS

1. The properties are located on roughly level ground above the beach at the mouth of Corcoran Lagoon on the east side of Santa Cruz. The elevation of the properties ranges from 32 to 38 feet with the majority of the properties being about 36 feet. They were both completely undeveloped at the time of our study.
2. The properties are underlain by two geologic units. Immediately underlying the property is an approximate 27-foot thick section of marine terrace deposit consisting of clay to silty clay in the top 10 feet which grades to a gravelly sand in the lower 17 feet. Purisima Formation bedrock underlies the terrace deposits. The Purisima consists of partially cemented very fine-grained sandstone to siltstone that is typically much less permeable than the overlying terrace deposits. A thin perched groundwater zone at 27 feet was an indicator of the top of the Purisima.
3. A short, moderately steep slope or coastal bluff borders the north side of 23rd Avenue at the properties. This bluff is very densely covered in berries, poison oak, and other short brush. The toe of the bluff is presently at about elevation 10 feet above Mean Sea Level and the top is at 30 feet.
4. Historical aerial photographs extending back to 1931 provide evidence that there has been no apparent erosion of the coastal bluff at the property in the last 72 years. Even during the severe winters of 1982-83 and 1997-98, when many portions of the coast in Monterey Bay experienced significant erosion, no erosion occurred in the bluff fronting the properties.

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NIELSEN and ASSOCIATES
ENGINEERING GEOLOGY AND COASTAL CONSULTING

16 May 2005

Job No. SCr-1138-C

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

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

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

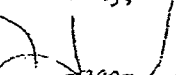
Dear Mr. and Mrs. Vaden:

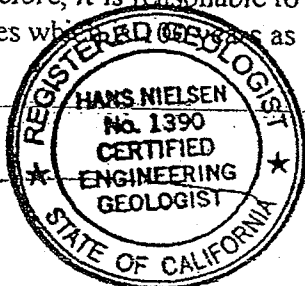
The County Geologist, Joe Hanna, has requested that we provide clarification on two issues associated with our geologic report of 30 July 2003 for the properties. The first issue involves the origin of the recommended 25-foot building setback, and the second involves the position of the driveway relative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

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

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

Sincerely,


Hans Nielsen
C.E.G. 1390



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

Prepared For
Dr. Herb Gunderson

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

Project No. SC6536
10 June 1999

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

Subject: Geotechnical Investigation

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

Dear Dr. Gunderson:

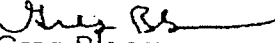
In accordance with your authorization, we have performed a Geotechnical Investigation for the proposed residential construction located on 23rd Avenue in Santa Cruz County, California.

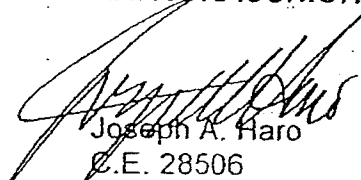
The accompanying report presents our conclusions and recommendations, and the results of the geotechnical investigation on which they are based.

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

Very truly yours,

HARO, KASUNICH & ASSOCIATES, INC.


Greg Bloom
C.E. 58819


Joseph A. Haro
C.E. 28506

GB/dk

Copies: 4 to Addressee

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GEOTECHNICAL INVESTIGATION

Introduction

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

Purpose and Scope

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

The specific scope of our services was as follows:

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

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

Project Description

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

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

Field Exploration

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

Project No. SC6536
10 June 1999

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

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

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

Laboratory Testing

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

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

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

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

Subsurface Conditions

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

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

Seismicity

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

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

Historically, the San Andreas Fault has been the site of large earthquakes and consequently, large earthquakes can be expected in the future. The largest of the historic quakes in northern California occurred on 18 April 1906 (mag. 8.3+). The Zayante Fault, about 7 1/2 mile northeast of the site, is considered to be associated with the San Andreas Fault, and is potentially active.

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

10 June 1999

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

Slope Stability

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

The following table summarizes the results of the analysis.

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

DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

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

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

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

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

Site Grading

1. The geotechnical engineer should be notified at least **four (4) working days** prior to any site clearing or grading so that the work in the field can be coordinated with the grading contractor, and arrangements for testing and observation services can be made. The recommendations of this report are based on the assumption that the geotechnical engineer will perform the required geotechnical related earthwork testing and observation services during grading and construction. It is the owner's responsibility to make the necessary arrangements for these required services.
2. Where referenced in this report, Percent Relative Compaction and Optimum Moisture Content shall be based on ASTM Test Designation D1557-91.
3. Areas to be graded should be cleared of obstructions including loose fill, trees not designated to remain, and other unsuitable material. Existing depressions or voids created during site clearing should be backfilled with engineered fill.

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

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

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

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

8. Any imported fill should meet the following criteria:
- a. Be free of wood, brush, roots, grass, debris and other deleterious materials.
 - b. Not contain rocks or clods greater than 2.5 inches in diameter.
 - c. Not more than 20 percent passing the #200 sieve.
 - d. Have a plasticity index less than 12.

Foundations - Spread Footings

9. The proposed structures for the project site may be supported on conventional isolated and continuous spread footings. These footings should bear on firm native soil, or engineered fill, placed in accordance with the recommendations outlined within the Site Grading section of this report. The footings should be a minimum of 12 inches deep below the lowest adjacent grade, and a minimum of 15 inches wide. The footings should be reinforced as required by the structural designer based on the actual loads transmitted to the foundation.
10. The foundation trenches should be kept moist and be thoroughly cleaned of slough or loose materials prior to pouring concrete. In addition, footings located adjacent to other footings or utility trenches should have their bearing surfaces founded below an imaginary 1.5:1 (horizontal to vertical) plane projected upward from the bottom edge of the adjacent footings or utility trenches.

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

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

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

Slabs-on-Grade

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

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

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

Retaining Walls and Lateral Pressures

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

Table 1 - Active and At-Rest Pressures

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

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

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

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

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

Site Drainage

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

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

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

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

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

Flexible Pavements

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

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

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

- A. Moisture condition the subgrade and compact to a minimum relative compaction of at least 95 percent, at about 2 percent over optimum moisture content.
- B. Provide sufficient gradient to prevent ponding of water.
- C. Use only quality materials of the type and thickness (minimum) specified. Base rock should meet Caltrans Standard Specifications for Class II Aggregate Base, and be angular in shape.
- D. Compact the base rock to a relative dry density of 95 percent.
- E. Place the asphaltic concrete during periods of fair weather when the free air temperature is within prescribed limits per Caltrans Specifications.
- F. Provide a routine maintenance program

Plan Review, Construction Observation and Testing

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

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

LIMITATIONS AND UNIFORMITY OF CONDITIONS

1. The recommendations of this report are based upon the assumption that the soil conditions do not deviate from those disclosed in the borings. If any variations or undesirable conditions are encountered during construction, or if the proposed construction will differ from that planned at the time, our firm should be notified so that supplemental recommendations can be given.
2. This report is issued with the understanding that it is the responsibility of the owner, or his representative, to ensure that the information and recommendations contained herein are called to the attention of the Architects and Engineers for the project and incorporated into the plans, and that the necessary steps are taken to ensure that the Contractors and Subcontractors carry out such recommendations in the field. The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. No other warranty expressed or implied is made.
3. The findings of this report are valid as of the present date. However, changes in the conditions of a property can occur with the passage of time, whether they be due to natural processes or to the works of man, on this or adjacent properties. In addition, changes in applicable or appropriate standards occur whether they result from legislation or the broadening of knowledge. Accordingly, the findings of this report may be invalidated, wholly or partially, by changes outside our control. Therefore, this report should not be relied upon after a period of three years without being reviewed by a geotechnical engineer.