

CALIFORNIA COASTAL COMMISSION

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Staff:	NC-SF
Staff Report:	March 31, 2005
Hearing Date:	April 13, 2005

**FINDINGS FOR NOTICE OF VIOLATION HEARING
AND
CEASE AND DESIST ORDER**

NOTICE OF VIOLATION AND CEASE AND DESIST ORDER:	CCC-05-NOV-01 and CCC-05-CD-03
RELATED VIOLATION FILE:	V-3-98-007
PROPERTY LOCATION:	Paso Cielo, La Selva Beach, Santa Cruz County APNS 045-022-25, 045-022-27 and 045-022-30 (Exhibit B1 and B2)
PROPERTY DESCRIPTION:	Undeveloped property in La Selva Beach, adjacent to Trestle Beach Homeowners Association condo- minimum development and public state beach.
VIOLATION DESCRIPTION:	Unpermitted subdivision of 5.88 acres of land into three parcels (APN 045-022-25 = 2.46 acres, APN 045-022-27 = 1.75 acres and APN 045-022-30 = 1.67 acres) without obtaining a coastal development permit
SUBSTANTIVE FILE DOCUMENTS:	Coastal Development Permit Nos. P-2034 and P-79-117; Notice of Violation File No. CCC-05- NOV-01; Cease and Desist Order File No. CCC-05- CD-03 and Background Exhibits as listed.
CEQA STATUS:	Exempt (CEQA Guidelines (CG) §§ 15060 (c) (2) and (3), and Categorical Exempt (CG §§ 15061 (b) (2), 15037, 15038 and 15321)

I. SUMMARY

Staff recommends that the Commission find that a violation has occurred with respect to APNS 045-022-25, 045-022-27 and 045-022-30 (hereinafter "the subject parcels"). John J. and Julia D. King ("the Respondents") attempted to subdivide 5.88 acres of property into three separate parcels without first obtaining a Coastal Development Permit ("CDP") from either the Coastal Commission or Santa Cruz County. If the Commission so finds, the Executive Director shall record a Notice of Violation in the office of the Santa Cruz County Recorder. Staff also recommends that the Commission issue a Cease and Desist Order directing the Respondents to cease from violating the Coastal Act and cease maintaining unpermitted development. The Order will direct the Respondents to cause the merger of the subject parcels into one parcel. The subject parcels total 5.88 acres of land. The subject parcels are located within the Coastal Zone. The subject parcels are located entirely within Santa Cruz County's certified Local Coastal Program ("LCP") permit jurisdiction. In 1998, Santa Cruz County asked the Coastal Commission to take the lead role in enforcing Coastal Act permit requirements for the subject parcels (Exhibit B3). Since that date the County has worked closely with the Commission to review applications related to the three parcels, and continues to be willing to process any CDP application that occurs as a result of Commission enforcement action.

The subdivision fits the definition of "development" contained in Section 30106 because it is a : *"...change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits..."* Subdivision without benefit of a coastal development permit has rendered a situation where the newly created three parcels of subdivided land have not been analyzed for impact under Chapter 3 policies. For example, there has been no Commission determination of adequate public services, consistency with public access and traffic circulation, consistency with environmentally sensitive habitat, or geologic stability. The subdivision of land without a coastal development permit has not allowed review for consistency with the Santa Cruz County Local Coastal Program.

Because the subdivision can be defined as development that has occurred without a coastal development permit, Section 30812 of the Coastal Act allows the Executive Director to notify the property owners of the real property at issue of his intention to record a Notice of Violation, describing the real property, identifying the nature of the violation, naming the owners thereof, and stating that if the owners object to the filing of the notice of violation, an opportunity will be given to the owners to present evidence on the issue of whether a violation has occurred. John J. and Julia D. King, the property owners, notified the Executive Director on March 11, 2005 that they objected to the filing and wish to have a hearing to present evidence to the Commission.

In 1979, the Coastal Commission issued CDP No. P-79-117 to John J. King, for development on approximately 29 acres that included the subject unpermitted parcels. King was proposing to quitclaim the beachfront portion of the 29 acres (at the base of the coastal bluff) to the State of California. CDP No. P-79-117 authorized the creation of two parcels from the remaining (non-

beachfront) portions of the 29 acres, with a 21-unit condominium development on one of the parcels located at the top of the bluff. It did not authorize any further subdivision creating the subject parcels. The CDP authorized a package sewage treatment plant on the property, but did not authorize creation of a separate parcel where this plant would be located. In fact, when the CDP was approved, the final design and location of the sewage plant remained subject to regional water board approval. The CDP also required a 200-foot buffer between the condominiums and the adjacent agricultural parcel to the north, but did not authorize creation of a separate parcel consisting of the 200-foot buffer area. After the CDP was issued, the Respondents recorded a final Tract Map (Tract No. 781) that purported to create the parcels approved by CDP No. P-79-117 as well as several additional parcels that were not authorized in the CDP. The additional unauthorized parcels include one for the sewage treatment plant, one for the access road to the condominiums, one for the 200-foot agricultural buffer area, and the three parcels that are the subject of this proceeding, which were designated as remainders from the earlier parcel configurations. Following recordation of Tract Map No. 781, the Respondents requested and obtained from Santa Cruz County a determination that the County must recognize the subject parcels as three separate lots pursuant to Subdivision Map Act law and identified as APNS 045-022-25, 045-022-27 and 045-022-30. The County and the Commission agree, however, that the purported creation of the subject parcels in 1979 was not authorized in a coastal development permit. The Respondents maintain that the subject parcels have been legally subdivided pursuant to the Subdivision Map Act and subsequent changes to the Subdivision Map Act as it pertains to remainder parcels, and further maintain that a CDP is not required for the division creating the subject parcels. At no time did they apply for or obtain a CDP for any division of the parcels.

The Commission and the Respondents have spent approximately seven years discussing possible resolution of this situation and the Commission has tried to reach administrative settlement with the Respondents to no avail. By letter in September and in November 2004, Commission staff notified the Respondents that they were prepared to record a Notice of Violation and take additional formal action if the Respondents did not agree to resolve the violation. Staff indicated that the Respondents could avoid formal action if they submitted an application to merge the subject parcels into one parcel with Santa Cruz County. Staff further indicated they would not object if the Respondents sought to apply for a permit to develop one residence on the merged lot concurrent with submittal of the merger application. The Respondents sought a one-month delay so that such an application could be submitted by January 22, 2005. Commission staff granted this request. Despite this, after the extended deadline had passed, Commission staff determined that the Respondents had not submitted a serious application to merge the parcels with the County. In fact, the County determined that the application submitted on January 25, 2005, was substantially incomplete (See Exhibit A of the applicant's exhibits attached to their Statement of Defense), and therefore the County refused to process it as an application.

Therefore, the Executive Director notified the Respondents by letter dated February 14, 2005 that he was prepared to record a Notice of Violation and to recommend that the Commission issue a Cease and Desist Order to resolve this violation.

The unpermitted development activity that has occurred on the subject parcels meets the definition of "development" set forth in Section 30106 of the Coastal Act. The development has been undertaken without a coastal development permit, in violation of Public Resources Code 30600. Therefore, the Commission may authorize the Executive Director to record a Notice of Violation on the subject parcels and may issue a Cease and Desist Order under Section 30810 of the Coastal Act. Santa Cruz County has formally requested that the Commission assume the lead in Coastal Act enforcement of coastal permit requirements for the land division.

II. HEARING PROCEDURES

A. Notice of Violation

The procedures for a hearing on whether or not a violation has occurred are set forth in Section 30812 of the Coastal Act. Section 30812(c) and (d) provide the following direction:

(c) If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation.

(d) If, after the commission has completed its hearing and the owner has been given the opportunity to present evidence, the commission finds that, based on substantial evidence, a violation has occurred, the executive director shall record the notice of violation in the office of each county recorder where all or part of the real property is located. If the commission finds that no violation has occurred, the executive director shall mail a clearance letter to the owner of the real property.

The Commission shall determine, by a majority vote of those present and voting, whether a violation has occurred. Passage of a motion, per staff recommendation or as amended by the Commission, will result in the Executive Director's recordation of a Notice of Violation in the County Recorder's Office in Santa Cruz County.

B. Cease and Desist Order

The procedure for a hearing on a proposed Cease and Desist Order are set forth in Section 13185 of the California Code of Regulations (CCR), Title 14, Division 5.5, Chapter 5, Subchapter 8.

For a Cease and Desist Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any person, other than the violators or their

representatives. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violators or their representative may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

The Commission will receive, consider and evaluate evidence in accordance with the same standards it uses in its other quasi-judicial proceedings, as specified in CCR Section 13185 and 13186, incorporating by reference Sections 13185, 13186 and 13065. The Chair will close the public hearing after the presentations are completed. The Commissioners may ask questions to any speaker at any time during the hearing or deliberations, including if any Commissioner chooses, any questions proposed by any speaker in the manner noted above. Finally, the Commission shall determine, by a majority vote of those present and voting, whether to issue the Cease and Desist Order, either in the form recommended by the Executive Director, or as amended by the Commission. Passage of a motion, per staff recommendation or as amended by the Commission, will result in issuance of the Order.

III. MOTIONS

Staff recommends that the Commission adopt the following two motions:

1A. Motion

I move that the Commission find that a violation has occurred as described in the staff recommendation for CCC-05-NOV-01.

1B. Staff Recommendation of Approval

Staff recommends a YES vote. Passage of this motion will result in the Executive Director recording Notice of Violation No. CCC-05-NOV-01. The motion passes only by an affirmative vote of a majority of Commissioners present.

1C. Resolution That a Violation of the Coastal Act Has Occurred

The Commission hereby finds that the division of the subject parcels, addressed below in the staff recommendation for CCC-05-NOV-01, is a violation of the Coastal Act, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit.

2A. Motion

I move that the Commission issue Cease and Desist Order No. CCC-05-CD-03 pursuant to the staff recommendation.

2B. Staff Recommendation of Approval

Staff recommends a YES vote. Passage of this motion will result in issuance of the Cease and Desist Order. The motion passes only by an affirmative vote of a majority of Commissioners present.

2C. Resolution to Issue Cease and Desist Order

The Commission hereby issues Cease and Desist Order number CCC-05-CD-03, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit.

IV. PROPOSED FINDINGS

A. History of Violation

In 1998, Commission staff became aware of the creation of six separate parcels (APNS 045-321-23, 045-321-24, 045-022-24, 045-022-25, 045-022-27 and 045-022-30) without the required coastal development permit ("CDP"). Only three of these parcels - APNS 045-022-25, 045-022-27 and 045-022-30 - are the subject of this enforcement action. Commission staff is pursuing separate enforcement action regarding the other unpermitted parcels that are no longer owned by the Kings. In 1998, the County of Santa Cruz was processing a coastal permit application (Application No. 96-0801) for a residence on one of the six parcels, APN 045-022-25, owned at that time by David Gelbart. The Commission received documents from the public and from the County questioning the legality of the lot owned by Gelbart. The Commission sent a letter to the Santa Cruz County Planning Commission on March 24, 1998 (with a copy to Gelbart and to John King) questioning whether APN 045-022-25 was created in compliance with the Coastal Act (Exhibit B5). The Commission also sent a letter on April 27, 1998 to Gelbart, the Kings and other property owners, informing them that it had determined that 045-022-25, and the additional parcels identified above, were subdivided in violation of the Coastal Act and directing them how to remedy the violation (Exhibit A50). Ultimately, Gelbart abandoned the County CDP application for a residence on APN 045-022-25 and reconveyed his interest in the property to the Kings.

The Respondents, the Kings, owned a 30-acre holding in the 1970's. In July 1976, King filed a CDP application seeking approval to subdivide 30 acres consisting of three parcels into four parcels, thus creating a new one-acre parcel. In August 1976, the Commission approved CDP No. P-2034, creating the proposed one-acre parcel, APN 045-022-34, from the 30-acre King property. However, the Commission required that all the remaining acreage was to be recombined into one 29-acre parcel (Exhibit B6, Resolution No. 76-640, p.3, Condition 1). The Commission's approval also required that portions of the 29-acres be described as "Not A Building Site" (Id., Condition No. 1 and Exhibit A). The "Not A Building Site" description was to apply to what are now the unpermitted parcels addressed in this action. Thus, as a result of P-2034, there should have been only two parcels: the one-acre parcel which the Kings sold to

another party (Finegan), Parcel A, and the recombined 29-acre parcel still owned by the Kings, Parcel B. At the time of this action, due to a prior CDP application that was withdrawn, the Commission was aware that King was planning a future condominium project on the blufftop portion of the property.

The Respondents then recorded on October 1, 1976 a final Parcel Map (for Minor Land Division 75-753) that designated four parcels, rather than two as authorized by the Commission in CDP No. P-2034 (Exhibit A9). The Map designated the one-acre parcel that the Commission authorized (Parcel A on the Map); a large parcel consisting generally of the blufftop area (Parcel D); Parcel B that is comprised of what is now identified by the County as APN 045-022-30, part of APN 045-022-27 and 045-321-24; and Parcel C that is comprised of the beachfront portion of the property. On this map, Parcel D is one 17.8-acre parcel that includes the blufftop (where the condominiums are now located), the unpermitted agricultural buffer parcel (now identified as APN 045-321-24), the unpermitted access road parcel (now identified as APN 045-022-24) and APN 045-022-25, one of the subject unpermitted parcels addressed in this action.

In 1979, the Commission conditionally approved P-79-117 for 21 condominium units on the 29-acre King property, creating one large common parcel to be owned by the condominium owners, and a remainder parcel, consisting of the rest of the property, except for a beachfront portion that the Kings proposed to grant to the State of California. The project description and the Commission findings did not provide for creation of any other parcels. The County's report of approval of the project states that the County approved a 32-unit condominium project on December 12, 1978 and describes the project as: "development which consists of the following elements: Parcel A: a 32 unit townhouse development with common open space" and "Parcel B: remainder to be retained by the owners." The County's report is included as Exhibit B to the Executive Director's Recommendation for CDP P-79-117, as approved 7/30/79 (Exhibit A26, Executive Director's Recommendation for CDP P-79-117, As Approved 7/30/79 and Corrected August 8, 1979). As noted, the County approved a 32-unit condominium project; the Commission reduced the number to 21 units, to provide for a 200-foot buffer between any structures and the adjacent agricultural property to the north.

On November 9, 1979, the Respondents recorded a Final Tract Map No. 781 for the 29 acres that created six new parcels that were not approved by the Commission. The unauthorized parcels are identified as Parcel B, APN 045-022-24 (containing the condominium access road), Parcel C, APN 045-321-24 (containing the sewage treatment plant) and Parcel D, APN 045-321-23 (the 200-foot agricultural buffer, and what is now identified as APNS 045-022-25, 045-022-27 and 034-022-30, which are shown on the final Tract Map for the 21-unit condominium project as portions of remainders of parcels from prior parcel configurations. The Commission and the County have not issued any coastal development permit to allow any of these parcels to become separate legal parcels under the Coastal Act or the certified Local Coastal Program for Santa Cruz County. However, the County has determined that each of the parcels identified in Tract Map No. 781 and the Kings' parcels that are the subject of this action were created in compliance with the Subdivision Map Act. The County has requested that the Coastal

Commission take the action necessary to require compliance with the Coastal Act with respect to subdivision of these parcels (Exhibit B3).

In investigating this matter, the Commission has learned that several of the unpermitted parcels resulting from Tract Map No. 781 have been transferred to other owners. The condominium parcel, access road parcel and sewage treatment plant parcel were transferred to Trestle Beach Association, a general partnership that includes King as one of the partners. Due to foreclosure, Wells Fargo Bank acquired the 200-foot agricultural buffer parcel (APN 045-321-23) from Trestle Beach Association and then sold it to the Huangs. The Kings now retain ownership only of the three parcels addressed in this action (APNS 045-022-25, 045-022-27 and 045-022-30).

By letter dated April 27, 1998, Commission staff first notified the Kings that the subject parcels had been created without a CDP.¹ The Commission resent letters on July 2, 1998, September 10, 1998, October 20, 1998, April 28, 1999, October 6, 1999, June 18, 2001, July 19, 2001, June 18, 2004, November 22, 2004 to the Respondents asking them to resolve the matter. Commission staff also met with the Kings' representatives on August 29, 2002, May 2, 2003 and September 9, 2003. In the 22 November 2004 letter, the Commission advised the Respondents of the Commission's intent to record a Notice of Violation against the subject parcels if the Respondents failed to submit a merger application with the County. The Respondents requested an extension of time until January 22, 2005 to submit such an application to the County, stating that no application-submittal appointments were available until that date. Commission staff granted a one-month extension for merger application submittal. On January 25, 2005, Commission staff determined that no such application had been submitted to the County². Therefore, on February 14 and again on February 18, 2005, the Executive Director informed the Respondents of his intent to record a Notice of Violation and to commence Cease and Desist Order proceedings to resolve the violation (Exhibits A61 and A62).

In a final attempt to resolve this matter amicably, on March 25, 2005 Commission staff offered terms for a Consent Order to the Respondents. On March 28, 2005, the Respondents rejected the offered terms.

¹ The Commission also notified the owners of the other three parcels: Trestle Beach Homeowners Association and Shiu-Wen and Shaw-Hwa Huang, owners of APNS 045-022-24, 045-321-24 and 045-321-23. The Commission has pending violation investigations to resolve the unpermitted nature of these three parcels as well as the subject action against the Kings.

² The County notified the Commission that the Kings had attempted to submit a permit application on January 25, 2005, but that it was substantially incomplete and the County did not accept it for submission. The County's list of what was needed to complete the application is included in Exhibit A of this report.

B. A Violation of the Coastal Act has Occurred

The unpermitted development, which is the subject matter of this Notice of Violation and Cease and Desist Order, consists of the subdivision of land into three parcels: APNS 045-022-25, 045-022-27 and 045-022-30 without a coastal development permit by John J. and Julia D. King.

The subdivision meets the definition of "development" set forth in Section 30106 of the Coastal Act:

"Development" means, on land, in or under water, the placement of erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code, and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use (emphasis added)

Section 30600 of the Coastal Act provides:

- (a) *Except as provided in subdivision (e), and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit.*

Therefore the subdivision of land is development under the Coastal Act and requires a Coastal Development Permit. The Respondents did not obtain a coastal development permit for the subdivision and creation of the three parcels. Therefore, the Commission finds that unpermitted development as defined by Sections 30106 and 30600 of the Coastal Act has occurred.

C. Notice of Violation Recordation for Unpermitted Development

Section 30812(g) of the Coastal Act provides that, prior to invoking this section, that the Executive Director should attempt to use administrative methods for resolving the violation and that the Commission make the property owner(s) aware of the potential for the recordation of a Notice of Violation.

The Respondents have failed to agree to an administrative resolution of this matter for the past seven years, and have failed to submit a merger application with Santa Cruz County to resolve this matter. As noted above, the Commission has informed the Respondents of the potential for a Notice of Violation in letters dated June 18, 2004, November 22, 2004, February 14, 2005 and February 18, 2005. The Commission finds that all existing administrative methods for resolving

the violation have been utilized and the Respondents have been made aware of the potential for the recordation of a Notice of Violation.

Staff notes that the Respondents requested a postponement of the Notice of Violation hearing. Section 30812(c) of the Coastal Act governs timing of Notice Of Violation hearings and provides:

If the owner submits a timely objection to the proposed filing of the notice of violation, a public hearing shall be held at the next regularly scheduled commission meeting for which adequate public notice can be provided, at which the owner may present evidence to the commission why the notice of violation should not be recorded. The hearing may be postponed for cause for not more than 90 days after the date of the receipt of the objection to recordation of the notice of violation. (emphasis added)

This section of the Notice of Violation statute reflects Legislative intent to have these matters heard as expeditiously as possible. Further, for any delay at all, cause must be demonstrated. The Respondents have stated that Santa Barbara, where the April hearing is to be held, is several hours from La Selva Beach, where they reside, and even further from San Francisco where their attorney is located, and therefore attending the April 2005 Commission hearing would be "time-consuming, expensive, burdensome and inconvenient." The Commission does not agree that the Respondents' stated reasons constitute cause for postponement. Although whenever possible, the Commission schedules matters as close to the property as can be, given the Commission's schedule, timing and funding, this can not always be done. Moreover, enforcement matters, unlike permitting matters do not provide a "right of postponement" for Respondents. The purpose of the enforcement proceeding is to remedy ongoing or threatened violations of the Coastal Act and are to be heard as quickly as possible. This violation, as noted above, has remained unresolved for seven years.

Since the Commission has established that development has occurred without benefit of a coastal development permit with the subdivision of 5.88-acres into three parcels, the Executive Director shall record the Notice of Violation at the Office of the Santa Cruz County Recorder where this property is located.

If the Respondents resolve the subject violation, the Commission shall record a notice of rescission of the notice of violation pursuant to Section 30812 of the Coastal Act.

D. Basis for Issuance of Cease and Desist Order

The statutory authority for issuance of this Cease and Desist Order is provided in Section 30810 of the Coastal Act, which states, in relevant part:

- (a) *If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the Commission without*

first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.

- (b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division.*

As noted in subsection B of this report, the subdivision of 5.88 acres into three parcels meets the definition of "development." The defined development has occurred without a coastal development permit in violation of Public Resource Code 30600, and therefore an Order may be issued under Section 30810 of the Coastal Act. The subject parcels are located within the coastal zone in the coastal permit jurisdiction of Santa Cruz County. County Counsel for Santa Cruz County asked the Commission to assume the lead in enforcing Coastal Act permit requirements for the creation of the subject parcels (Exhibit B3). Therefore, the Commission may issue a Cease and Desist Order under Section 30810(a)(1) of the Coastal Act for this violation.³ The Commission has determined that to obtain compliance with the Coastal Act in this matter, the Order should direct the Kings to merge their three illegally subdivided parcels into one parcel.

E. California Environmental Quality Act (CEQA)

The Commission finds that issuance of a Cease and Desist Order to compel resolution of the Coastal Act violation on the subject parcels is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The Cease and Desist Order is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15060(c)(3), 15061(b)(2), 15307, 15308 and 15321 of the CEQA Guidelines.

F. Determination of Facts

1. John J. and Julia D. King are the owners of a 5.88 acres of property subdivided into three parcels adjacent to Paso Cielo Road, La Selva Beach, Santa Cruz County (identified by the County as APNS 045-022-25 = 2.46 acres, 045-022-27 = 1.75 acres and 045-022-30 = 1.67 acres).
2. The 5.88-acre property is located with the Coastal Zone for the State of California.
3. John J. and Julia D. King subdivided 5.88-acres of property causing the creation of these parcels, APNS 045-022-25, 045-022-27 and 045-022-30 without a Coastal Development Permit.

³ Section 30810(a)(1) provides, in addition to the section quoted above: "The order may be also issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances: (1) The local government or port governing body requests the commission assist with, or assume primary responsibility for, issuing a cease and desist order."

4. Under the Coastal Act, such subdivisions are development and require a Coastal Development Permit.
5. There is substantial evidence that a violation of the Coastal Act has occurred.
6. Commission staff notified the Kings beginning in April 1998 that the unpermitted subdivision had occurred without the required Coastal Development Permit, in violation of the Coastal Act.
7. No exemption from the permit requirements of the Coastal Act or the County's LCP applies to the unpermitted development regarding the subject property.
8. The Executive Director has informed John J. and Julia D. King of the potential for a recordation of a Notice of Violation and has sent the Respondents both a notification of intention to record a Notice of Violation pursuant to Section 30812 and a notification of intention to commence a Cease and Desist Order proceeding under Section 30810 of the Coastal Act.

G. Prior Attempts to Resolve

The Respondents have been given at least seven years to resolve this violation without the Commission taking formal action, and have failed to do so. In a letter dated June 18, 2004, Commission staff presented a proposal to the Respondents (Exhibit A58), which would have avoided formal action. Staff proposed that the Respondents recombine the three illegal parcels into one legal parcel, which would be subject to any restrictions and conditions as specified in CDP No. P-79-117. After the Respondents' recombination application had been approved and recorded by Santa Cruz County, the violation file would have been closed. By letter dated July 30, 2004, Respondents' attorney indicated that the Kings would reluctantly agree to the Commission's request to merge the subject parcels pursuant to a condition that the Kings be allowed to pursue a CDP from the County for one new single-family dwelling plus an accessory structure (Exhibit A59). However, the Kings proposed to condition the merger and resolution of the violation on obtaining all entitlements required to carry out their proposed residential development. They further indicated that if they later chose not to undertake the proposed development that they would not effect merger of the three parcels. Finally, the Kings insisted that the Commission must close its pending violation file before they would pursue merger. On November 22, 2004, Commission staff informed the Kings they have the right to pursue any development they wish under the Coastal Act (Exhibit A60). Clearly this is separate and distinct from their obligations to comply with the Coastal Act and their legal obligation to resolve this long outstanding violation. There are no legal grounds to require closing a violation before it has been resolved.

In the 22 November 2004 letter, Commission staff rejected the offered settlement by the Respondents. Staff indicated that they had delayed their response to the 30 July 2004 offer because the Kings had indicated at that time that they had begun preliminary discussions with

Santa Cruz County regarding development. Staff verified that the Kings had initially scheduled an appointment with the County to take place at the end of August 2004. The Kings already had a pending but incomplete CDP application, which had been submitted, to the County for residential development on APN 045-022-25 sometime ago. On August 23, 2004, the County sent the Commission a copy of a letter sent to the Kings, indicating that the County considered the pending incomplete CDP application for APN 045-022-25 "abandoned". In late October 2004 Commission staff discovered that the Kings had not actually met with County staff and had not submitted any new CDP application with the County.

Thus, the 22 November 2004 letter sent by Commission staff rejected the counter settlement offer by the Respondents, confirmed that the Respondents had not submitted an application with the County and offered new terms for settlement consideration. Commission staff indicated that the subject parcels should still be merged to resolve the violation. Commission staff also clearly noted, as a separate matter, the Kings were free to pursue any new development they desire with the County. Staff also indicated that the Kings could pursue a proposal to merge the three illegal parcels concurrent with a proposal to develop the merged parcel with residential development. Staff indicated that the Kings would still have to submit a CDP application with all the required submittals and analysis of resource impacts necessary to complete a County CDP application, and indicated that Commission staff did not know whether such an application would be approvable under the legally applicable County LCP policies. Staff also advised the Kings that the Commission reserved its right to appeal such a new CDP application. Commission staff asked that, to avoid formal action, the Kings provide evidence of submittal of a complete CDP application that proposed merger of the three illegal parcels into one (and possible additional new development proposed on the merged parcel if they so desired) no later than December 31, 2004.

By letter dated December 22, 2004, Respondents' attorney confirmed that the Kings had decided to apply to both merge the parcels in question and to construct new development on the merged parcel. The letter acknowledged a previous telephone discussion with Commission staff wherein the Kings indicated the County could not meet with them to submit a CDP application until January 22, 2005. The letter confirmed that Commission staff had agreed to a one-month extension for this reason, and confirmed that the Kings had until January 22, 2005 to submit the CDP application for merger and new development.

However, the Kings did not meet the extended deadline date. On January 26, 2005, according to County staff, the Kings' representative, Richard Emigh, met with the County to submit a CDP application. The County determined that the CDP application presented was so incomplete that the County could not accept it for consideration. As exemplified in Exhibit A (see initial pages of Exhibit A) of this staff report, the CDP application did not include numerous technical

reports that the County had previously informed the Kings were required.⁴ The Kings' CDP application did not even include site plans for the proposed new development.

Therefore the Executive Director informed the Kings of his intention to proceed to record a Notice of Violation and conduct a Cease and Desist Order hearing, by letter dated February 14, 2005 and by letter dated February 18, 2005. Even after announcing formal action, Commission staff attempted to negotiate a Consent Order with the Respondents to no avail. The Respondents have still not submitted a CDP application to the County. Thus, the Commission must take formal action to prevent the Respondents from selling the illegal parcels and potentially involving innocent third-party purchasers, and to ensure resolution of this long outstanding Coastal Act violation.

H. Violators' Response to Commission NOI

The Respondents' attorney submitted an objection to the recordation of a Notice of Violation, requested a hearing on whether or not a violation had occurred, requested a postponement of the scheduled Notice of Violation and Cease and Desist Order hearing until May 2005, and submitted a Statement of Defense form and attachments totaling over 62 exhibits on March 11, 2005, which is included as Exhibit A to this staff report. In this correspondence, the Respondents' attorney also stated a willingness to negotiate a possible Consent Order. As noted above, these discussions were not successful.

1. Postponement of Proceedings

The Respondents request a postponement of the hearing on the scheduled Cease and Desist Order proceeding and the Notice of Violation recordation pursuant to Section 30812(c) of the Coastal Act, which provides that a hearing on recordation of a Notice of Violation may be postponed for cause for not more than 90 days after the Commission's receipt of an objection to a Notice of Violation recordation. The Respondents stated reasons for postponement are that attendance at the April 2005 meeting in Santa Barbara would be "time-consuming, expensive, burdensome and inconvenient."

Response:

First, Section 30812(c) of the Act does not apply to postponement of the Cease and Desist Order hearing; it relates only to a Notice of Violation proceeding. Second, for Cease and Desist Order matters, unlike permitting matters, the Coastal Act does not provide a "right of postponement" for Respondents, since the purpose of the proceeding is to remedy ongoing or threatened violations of the Coastal Act. Further, even for a Notice of Violation hearing, a postponement is provided only upon a showing of cause. No such showing has been made here. Moreover, as

⁴ A letter from the Kings' attorney dated 30 July 2004 mentioned that Santa Cruz County informed the Kings that, among other things, a geologic report review, soils report review, preliminary grading review, and archaeological site check were necessary.

mentioned in the previous section on Notice of Violation, in determining the scheduling of matters subject to public hearings, the Commission must also weigh other items to be scheduled, timing and funding for staff into the request to postpone to another meeting and location. The subject violation has remained unresolved, since 1998 despite repeated notice to Respondents and Commission requests to resolve the violation. These have not resulted in resolution of the violation. Therefore, postponement is not appropriate.

2. Submission of additional materials and Incorporation by reference of Commission and County files

Respondents' 11 March 2005 letter also states:

In addition to the materials attached to the completed Statement of Defense, therefore, we incorporate by reference all letters, plans, maps and other documents contained in both the Coastal Commission's files and the files of the County of Santa Cruz that pertain to the above-referenced Assessor Parcel Numbers. We also reserve the right to submit additional materials, arguments and declarations of percipient witnesses and other persons on behalf of the Kings.

Response:

Respondents cannot, through that statement, incorporate by reference all documents in the Coastal Commission's files and Santa Cruz County's files pertaining to this matter into their Statement of Defense. This is too vague and undefined and does not allow the Commission to adequately be informed about what record is before them. If they want to ensure that the administrative record on this enforcement matter includes a particular document, map, plan, etc., they should specifically identify the document and provide a copy of it for the Commission's review and consideration. Moreover, the Commission notes that the Respondents' Statement of Defense includes over 62 Exhibits; therefore it appears that the Respondents have in fact included copies of the documents contained in Coastal Commission and County files that they have determined may be relevant. The Commission has provided access to its files to the Respondents and allowed Respondents' attorney access in 2002-2003 to review the files and make copies of pertinent documents found therein. The Respondents have had more than enough time to review files and make copies of relevant documents they deem necessary to voice their objections to this enforcement proceeding.

Submission of materials for a Cease and Desist Order proceeding is governed by Section 30810 of the Coastal Act and Section 13181 of Title 14, California Code of Regulations, entitled "Commencement of Cease and Desist Order Proceeding before the Commission." Subdivision (a) of Section 13181 provides in relevant part:

If the executive director believes that the results of an enforcement investigation so warrant, he or she shall commence a cease and desist order proceeding before the commission by providing any person whom he or she believes to be engaging in development activity as described in Section

30810(a) of the Public Resources Code with notice of his or her intent to do so...The notice of intent shall be accompanied by a "statement of defense" that conforms to the format attached to these regulations as Appendix A. The person(s) to whom such notice is given shall complete and return the statement of defense form to the Commission by the date specified therein, which date shall be no earlier than 20 days from transmittal of the notice of intent. (Cal. Code of Regs., title 14, § 13181, subd. (a); emphasis added)

The regulations (at Cal. Code of Regs., Title 14 Section 13181, subd. (b)) go on to specifically provide that any extension of time for submittal of the Statement of Defense must be based on a written request, submitted prior to the deadline for submittal, and based upon a demonstration of "good cause," and that any extension applies only to those specific items the Executive Director identifies. No such request or showing has been made in compliance with these requirements, and therefore, none could have been granted.

The defense form requirement is not an empty exercise (See e.g., *Horak v. Franchise Tax Board* (1971) 18 Cal.App.3d 363, 368) ("When administrative machinery exists for the resolution of differences...such administrative procedures are [to be] fully utilized and exhausted.") The Coastal Commission's cease and desist order hearings are "quasi-judicial." Thus, if the Coastal Commission is to make findings of fact and conclusions of law in the form of an adopted Staff Report, the Respondents must inform the Commission, precisely and in writing, which evidence and defenses they wish the Commission to consider before making its decision on whether or not to issue a Cease and Desist Order. The Commission should not be forced to guess which evidence and defenses the Kings want the Commission to consider. Section 13181, subdivision (a) is specifically designed to serve this function of clarifying the issues to be considered by the Commission. After receipt of the Statement of Defense, under Section 13181 (b) of the Commission's regulations, the Executive Director must prepare a written recommendation to the Commission that includes all defenses and mitigating factors raised by the Respondents, any rebuttal evidence to such defenses and mitigating factors, as well as summary and analysis of any unresolved issues. If the Respondents have not identified all defenses and mitigating factors in their Statement of Defense, then it is not possible for the Executive Director to prepare a written recommendation for the Commission that complies with this regulatory direction. Therefore the Respondents may not omit mention of certain evidence or defenses in their Statement of Defense, and then seek to belatedly present such evidence or defenses to the Commission. This would deprive the Commission of the opportunity to receive the Commission staff's analysis and a recommendation regarding the issues. Further, it would not be conducive to a proceeding where all issues are fairly presented, analyzed and considered, and an accurate determination is made.

Thus, the Respondents are not authorized to make additional submittals since they would be submitted well beyond the date specified in the Executive Director's Notice of Intent to proceed to conduct a Cease and Desist Order hearing, sent on February 14, 2005 and again on February 18, 2005. The Respondents were initially given until March 6, 2005 to submit their Statement of Defense. On February 18, 2005, when it was determined that although the Respondents' attorney had received a copy of the Executive Director's Notice of Intent but that the

Respondents had not in fact received such a copy due to address errors, Commission staff sent a new letter and gave an extension until March 10, 2005 for the Respondents to submit their Statement of Defense. The Respondents' attorney called on March 10, 2005 to request an additional day to submit the Statement of Defense and objection to a Notice of Violation being recorded and Commission staff granted this additional extension request. Thus, the Respondents have been given more than the 20 days required in section 13181 of the Commission's Regulations to submit their defense.

I. Violators' Defenses and Commission's Response

The Kings' attorney has submitted a Statement of Defense form with 62 supplemental Exhibits (See Exhibit A, Exhibits 1 through 62). The Respondents admit that by letters dated 18 June 2004 and 22 November 2004 that the Commission proposed that the Kings resolve the alleged violation by applying for a CDP to merge APNS 045-022-25, 045-022-27 and 045-022-30 into one parcel. They also admit that their attorney proposed by letter 22 December 2004 a one-month postponement so that the Kings could meet with Santa Cruz County to submit a CDP application.

General Denial

Respondents deny that unpermitted development has occurred on the subject parcels, that the subject parcels were illegally subdivided and created without benefit of a CDP, that the Coastal Commission did not authorize Final Tract Map No. 781, and that Commission staff included any time deadline for CDP submittal in its 18 June 2004 letter.

Commission Response

Even though the Respondents have submitted voluminous amounts of exhibits with their Statement of Defense, they fail to demonstrate how the subdivision of 5.88 acres into the three parcels has been authorized by a CDP. They also have failed to demonstrate Commission approval of Final Tract Map No. 781. Finally, the Commission staff letter dated 18 June 2004 did give the Kings a deadline to respond no later than July 31, 2004 as to whether or not they wished to accept offered terms of resolution.

The Respondents have very few actual defenses suggested in their Statement of Defense. The following paragraphs summarize the more specific defenses contained in the Statement of Defense, and set forth the Commission's response to each defense.

Kings' Defense: Legality of Parcels

1. "...An examination of the pertinent materials and applicable law, however, clearly shows that the Subject Parcels were created in accordance with the permits approved by the Coastal Commission. Even if this were not the case, relevant documents and percipient witnesses have made evident that the Coastal

Commission was fully aware of the subdivisions of the site in question and thus *de facto* approved those subdivision actions; the Kings have proceeded in reliance on that approval since that time.

Commission Response:

There have been several unpermitted actions taken by the Respondents, which collectively subdivided 5.88 acres of property into the three illegal parcels. As explained in detail above, the Commission has not approved the subdivision into three parcels in a CDP. The Commission has issued two CDPs for parcels owned by the Respondents, and has determined "no substantial issue" on an appeal of a County CDP to repair and maintain a culvert pipe located on one of the subject parcels. The original placement of the pipe was approved in P-79-117 before the Kings illegally created APN 045-022-30. In August of 1976, the Commission approved P-2034 for the creation of a one-acre parcel from an existing 8-acre parcel, which was part of a 30-acre holding owned by the Kings. The legally created one-acre parcel, APN 045-022-34 was approved (Parcel A) and all the remaining acreage was to be recombined into one parcel, "a single 29 acre parcel (Parcel B). Thus, after this August 1976 CDP action there should have been only two parcels: the one-acre parcel (which the Commission agrees was legally subdivided) and the combined 29-acre parcel. The Kings subsequently recorded on October 1, 1976 a parcel map that identified four parcels rather than 2, in violation of P-2034 and without the authorization of the Commission.

The second CDP application, P-79-117, was for 21 condominium units on the larger King parcel (noted in the staff report for the CDP as 29 acres). The approved project description and Commission findings of fact do not mention, much less create or authorize any other parcels beyond the parcel occupied with the 21-unit condominium development, and the beachfront property proposed to be transferred to the State of California. The Kings subsequently recorded Tract Map No. 781 in violation of the Commission's CDP action approving the condominium development. The recorded Tract Map created a separate and different Parcel B (APN 045-022-24 owned by Trestle Beach Homeowners Association), Parcel C (APN 045-321-24 owned by Trestle Beach Homeowners Association) and Parcel D (APN 045-321-23 owned by the Huangs). None of these parcels had been approved through a CDP permit or amendment to P-79-117. At the time of the 1979 recordation, what eventually became APN 045-022-025, APN 045-022-27 and APN 045-022-30 (owned by the Kings) were also identified on Tract Map No. 781 as portions of remainder parcels from prior parcel configurations. In December 1992, the Kings described for the first time the metes and bounds of APN 045-022-25, when they sold this parcel to David Gelbart. The creation of APN 045-022-25, 045-022-27 and 045-022-30 was not approved pursuant to a CDP.

In 1995, APN 045-022-30 appears as a described legal parcel by the Kings in a CDP application to repair and maintain a culvert in existence on the parcel. The Commission considered an appeal of a County CDP to repair the culvert (A-3-SC0-85-95), and determined that no substantial issue exists with respect to the appeal of the County's CDP action. The Commission's action on Appeal No. A-3-SCO-85-95 had nothing to do with parcel validity; in

fact it merely addressed whether or not a County permit issued for culvert repair was appealable to the Coastal Commission. The Commission's involvement in the appeal does not in any way imply that the Commission had knowledge of the Kings' unpermitted parcel creation since the Commission's scope was limited to whether or not the culvert repair permit met the criteria for appeal to the Commission. As explained above, the Commission learned of the unpermitted parcel creation when the County received a CDP application to build a residence on one of the parcels in 1998.

Exhibit A, No. 26 of the Respondents' attachments (Exhibit A) is a copy of CDP No. P-79-117 issued to the Kings after they met the conditions of approval attached to the CDP. The Kings signed and dated the CDP acknowledging receipt and accepting its contents on August 16, 1979. Exhibit B of CDP No. P-79-117 includes a letter from Santa Cruz County describing approval of the Tentative Tract Map for the Trestle Beach Subdivision and further describes the project as a development consisting of Parcel A: a 32 unit townhouse development with common open space and Parcel B: a remainder to be retained by the owners, the Kings. Thus, the Commission issued CDP No. P-79-117 with the understanding that only two parcels resulted from the CDP action, as evidenced by the issued CDP contained in Exhibit A, No. 26.

The Kings appear to rely on the County's determination that the subject parcels were legally created in compliance with the Subdivision Map Act, to support their assertion that the subdivision into three parcels did not violate the Coastal Act. However, the Coastal Act imposes independent legal obligations that must be followed prior to conducting development in the coastal zone, including subdivisions. The Kings were certainly aware of these Coastal Act obligations, yet they proceeded to record a parcel map and tract map that subdivided property without authorization in a CDP. Compliance with the Subdivision Map Act does not eliminate the need to obtain a coastal development permit to authorize all subdivisions after the effective date of the Coastal Act (which in this location was February 1973).

Kings Defense: Selective Enforcement

The Respondents have argued that the Commission is being selective in its enforcement of CDP requirements and that the Commission has failed to enforce on persons similarly situated. The Respondents have specifically raised unpermitted parcels owned by the Trestle Beach Homeowners Association and by the Huangs.

Commission Response

These parcels, APNS 045-321-24, 045-022-24, 045-321-23, have also been subdivided without benefit of a CDP, and the Commission opened violation investigations concerning these parcels at the same time as they contacted the Respondents. The Commission notes that the Respondents sold APN 045-32-24 and 045-022-24 to Trestle Beach Homeowners Association. The Kings have helped to create these additional unpermitted land divisions. The Commission continues to investigate and seek to resolve these cases. The Commission notes that neither of the landowners involved in the additional parcels have attempted to submit CDP applications

with the County to develop these parcels, like the Respondents have done with their property holdings. Resolution of these cases will continue. It is incorrect to suggest that the Commission is not enforcing permit standards on these illegally created parcels.

Kings Defense: Inordinate Delay

The administrative record for this dispute is lengthy, complicated, and very difficult to sort through due to the fact that many of the contested events occurred approximately thirty years ago...given the inordinate delay between the creation of the Subject Parcels and the Coastal Commission's decision to persecute the Kings for merely attempting to use and enjoy these parcels, it would be inequitable for the Coastal Commission to proceed with its claim of violation...

Commission Response

The Commission again notes the very significant amount of time and staff resources that has been spent trying to resolve this matter amicably with Respondents without success. This clearly cannot be a reason for avoiding an enforcement action. In addition, the length of time that unpermitted development has existed has no bearing on enforcement of the permit requirements of the Coastal Act. The Commission's enforcement program prioritizes and responds to violations as they are brought to its attention and based on imminent threats to coastal resources. The Commission first learned of this violation in 1998 when it received contact regarding the illegality of APN No. 045-022-25. The Commission responded with a letter to the Respondents (and others: Trestle Beach Homeowners Association and the Huangs), and indicated that the parcel(s) had been illegally created without a CDP (Exhibit B5). For seven years, the Commission and the Kings have attempted resolution of this matter. In the last year, the Commission has urged the Kings to submit a merger application to the County to no avail. The Commission must act to halt the continuing nature of this violation and to bring this matter to a close.

The assertion of unreasonable delay and prejudice implies a defense based on the doctrine of laches. The doctrine of laches does not apply in this case. It is well settled that the equitable defense of laches "will not ordinarily be invoked to defeat policy adopted for the public protection" (*City of San Francisco v. Pacello* (1978) 85 Cal.App.3d 637, 646⁵). In this case, the cease and desist order proceedings were initiated to bring the subject violation into compliance with the Coastal Act, which was adopted to protect coastal resources for the benefit of the public.

Even if the doctrine were applicable to this proceeding, it is well established that "laches is an equitable defense that requires *both* unreasonable delay *and* prejudice resulting from the delay. The party asserting and seeking to benefit from the laches bar bears the burden of proof on

⁵ Accord: *Morrison v. California Horse Racing Board* (1988) 205 Cal.App.3d 211, 219 ("Where there is no showing of manifest injustice to the party asserting laches, and where application of the doctrine would nullify a policy adopted for the public protection, laches may not be raised against a governmental agency.")

these factors." (*Mt. San Antonio Comm. Coll. Dist. V. Pub. Emp. Rel. Bd.* (1989) 210 Cal.App.3d 178.) The Respondents have contributed to delay in this proceeding, because prior to the commencement of formal enforcement proceedings, the Respondents have failed to meet deadlines for submittal of a CDP application regarding the unpermitted development. The Respondents cannot show any prejudice from the Commission's failure to bring this action at any earlier date.

Staff recommends that the Commission issue the following Cease and Desist Order:

CEASE AND DESIST ORDER CCC-05-CD-03

Pursuant to its authority under Public Resource Code Section 30810, the California Coastal Commission hereby orders John J. and Julia D. King and their agents, contractors and employees, and any person acting in concert with any of the foregoing ("hereinafter referred to as "Respondents") to cease and desist from engaging in any further development on the subject property unless authorized pursuant to the Coastal Act.

Pursuant to Coastal Act Section 30810(b), Respondents are further ordered to cease and desist from any attempts to transfer the parcels identified as APNS 045-022-25, 045-022-27 and 045-022-30 into separate ownership.

In addition, the Commission orders the following:

- A. The Respondents must submit a complete application to merge the three parcels (APNS 045-022-25, 045-022-27 and 045-022-30) to the County of Santa Cruz within 30 days of order issuance. The Respondents will take all actions necessary to effectuate merger of the three parcels within 60 days of the effective date of this order issuance. Respondents shall submit all documents that will be recorded to effectuate the merger to the Commission's Executive Director for review and approval prior to recordation.
- B. The Respondents must send a copy of the County recorded merger documents to the Executive Director, attention: Nancy Cave after recordation at the County.

I. Persons Subject to the Order

John J. and Julia D. King and their agents, contractors and employees, and any persons acting in concert with any of the foregoing.

II. Identification of the Property

The property that is subject to the order is described as follows:

The 5.88 acres of land adjacent to Paso Cielo, La Selva Beach, Santa Cruz County, illegally subdivided into separate parcels (APNS 045-022-25, 045-022-27 and 045-022-30). Respondents own or control all three parcels.

III. Description of Unpermitted Development

The development that is the subject of the Cease and Desist Order consists of unpermitted subdivision into three parcels (APNS 045-022-25, 045-022-27 and 045-022-30) by John J. and Julia D. King.

IV. Effective Date and Term of the Order

The effective date of the order is the date of its approval by the Commission. The order shall remain in effect permanently unless and until modified or rescinded by the Commission.

V. Findings

The order is issued on the basis of the findings adopted by the Commission at the April 2005 hearing, as set forth in the attached staff report.

VI. Compliance Obligation

Strict compliance with the order by all parties subject thereto is required. Failure to comply strictly with any term or condition of the order including any deadline contained in the order will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists, in addition to any other penalties authorized under Section 30820.

VII. Deadlines

Deadlines may be extended by the Executive Director for good cause. Any extension request must be made in writing to the Executive Director and received by Commission staff at least 10 days prior to expiration of the subject deadline.

VIII. Appeal

Pursuant to Public Resources Code Section 30803(b), any person or entity against whom the order is issued may file a petition with the Superior Court for a stay of this order.

Executed in _____ on _____

on behalf of the California Coastal Commission.

By: _____
Peter Douglas, Executive Director

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

CALIFORNIA COASTAL COMMISSION
Attention: Nancy Cave
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105

STATE OF CALIFORNIA OFFICIAL BUSINESS
Document entitled to free recordation
Pursuant to Government Code §27383

NOTICE OF VIOLATION OF THE COASTAL ACT
(Public Resources Code Section 30812)

I, Peter Douglas, declare:

1. I am the Executive Director of the California Coastal Commission.
2. A violation of the California Coastal Act of 1976 (Public Resources Code Section 30000, et seq.) has occurred involving those certain parcels of real property situated in the County of Santa Cruz, State of California, more particularly described as follows:

**Three parcels of land totaling 5.88 acres, at
Paso Cielo, La Selva Beach, Santa Cruz County
(Assessor's Parcel Numbers 045-022-25 = 2.46 acres, 045-022-27 = 1.75 acres,
and 045-022-30 = 1.67 acres)**

The violation consists of an attempted subdivision of 5.88 acres of property into three parcels (APNS 045-022-25, 045-022-27 and 045-022-30) without the authorization required by the California Coastal Act of 1976.

3. This property is located within the Coastal Zone as that term is defined in Section 30103 of the Coastal Act.
4. The record owners of said real property are: John J. and Julia D. King.

5. The violation of the Coastal Act (Violation File No. V-3-98-007) consists of the attempted unpermitted subdivision by John J. and Julia D. King into three parcels, which was not authorized in a Coastal Development Permit, in violation of the Coastal Act.
6. An application for a Coastal Development Permit to authorize any future development on the unpermitted parcels identified as APNS 045-022-25, 045-022-27 and 045-022-30 cannot be accepted for filing unless there is evidence that the development is proposed for a parcel created in compliance with the Coastal Act.
7. The requirements set forth in Section 30812 for notice and recordation of this Notice of Violation have been complied with. Recording this notice is authorized under Section 30812 of the California Public Resources Code.
8. The California Coastal Commission notified the record owner, John J. and Julia D. King, of its intent to record a Notice of Violation in this matter in a letter dated February 18, 2005.
 1. The Commission received a written objection to the recordation of the Notice of Violation on March 11, 2005 and conducted a public hearing on April 13, 2005. The Commission determined that a violation of the Coastal Act has occurred with this 3-lot subdivision. Therefore the Commission is recording the Notice of Violation as provided for under Section 30812 of the California Coastal Act.

Executed in _____, California, on _____.

I declare under penalty of perjury that the foregoing is true and correct.

PETER DOUGLAS, Executive Director

STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

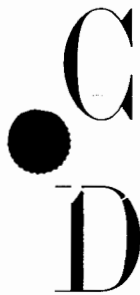
On this _____ day of _____, in the year _____, before me the undersigned
Notary Public, personally appeared Peter Douglas, personally known to me (or proved to me on
the basis of satisfactory evidence) to be the person who executed this instrument as Executive
Director of the California Coastal Commission and acknowledged to me that the California
Coastal Commission executed it.

Notary Public in and for Said State and County

Attachments and Exhibits

1. Statement of Defense (Exhibit A and Additional Attachments Nos. 1-62
2. Exhibit B - Commission Staff Exhibits
 - 1) Location Map
 - 2) Map identifying Three Unpermitted Parcels
 - 3) Letter dated June 12, 2000 from Rahn Garcia, Assistant County Counsel to Richard Emigh, agent for John J. and Julia D. King
 - 4) Letter dated February 14, 2005 from Peter Douglas to John J. and Julia D. King
 - 5) Letter dated March 24, 1998 from Charles Lester, District Manager of Central Coast Commission Office to Santa Cruz County Planning Commission
 - 6) Resolution No. 76-640, page 3, Condition One





A PROFESSIONAL CORPORATION

CASSIDY
SHIMKO
DAWSON

Sender's e-mail address:
dlk@ccsdlaw.com

March 11, 2005

VIA MESSENGER

Ms. Nancy L. Cave
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Re: John and Julia King - Alleged Coastal Act Violation No. V-3-98-007,
Assessor's Parcel Nos. 045-022-25, 045-022-27 and 045-022-30

Dear Ms. Cave:

This letter responds to both the letter from Executive Director Peter Douglas to Dr. and Mrs. King dated February 14, 2005, and the letter from you to Dr. and Mrs. King dated February 18, 2005, each regarding the Coastal Commission's Notification of Intent to Record a Notice of Violation of the Coastal Act and to Commence Cease and Desist Order Proceedings with respect to the above-referenced Assessor's Parcel Numbers. As you know, this firm represents Dr. and Mrs. King with respect to these matters. On behalf of the Kings, we object to your recordation of a Notice of Violation and request a hearing before the Coastal Commission pursuant to Section 30812 of the Coastal Act.

You have scheduled the hearing on the proposed Cease and Desist Order, and for the proposed recordation of a Notice of Violation in this matter, to take place during the Coastal Commission meeting scheduled for April 12-15, 2005, in Santa Barbara. Santa Barbara is several hours from La Selva Beach, where the Kings reside, and even further from San Francisco, where this office is located, and therefore attending the April 12-15, 2005 Coastal Commission meeting would be time-consuming, expensive, burdensome and inconvenient. Section 30812(c) of the Coastal Act provides that the hearing on these matters "may be postponed for cause for not more than 90 days after the receipt of the objection to recordation of the notice of violation." Accordingly, we request that the hearing on these matters be postponed until the Coastal Commission's meeting scheduled for May 11-13, 2005, which will take place in Marin, San Francisco, or Oakland. Any of these locations would be much closer and more convenient for us to attend, while not unduly affecting the Coastal Commission or its goals as no physical improvements are or will be undertaken on the subject properties prior to that date. Further, the

Ms. Nancy L. Cave
California Coastal Commission
March 11, 2005
Page 2 of 2

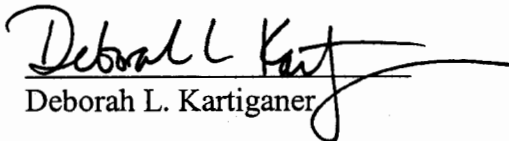
Kings and their attorneys would then have the necessary time to adequately prepare materials and arguments in defense of the Coastal Commission's claims.

Enclosed with this letter is a completed Statement of Defense form that responds to the allegations contained in the Notification of Intent to Record a Notice of Violation of the Coastal Act and to Commence Cease and Desist Order Proceedings. As this dispute has now existed for over three decades, the correspondence and background documents pertaining thereto are voluminous. In addition to the materials attached to the completed Statement of Defense, therefore, we also incorporate by reference all letters, plans, maps and other documents contained in both the Coastal Commission's files and in the files of the County of Santa Cruz that pertain to the above-referenced Assessors Parcel Numbers. We also reserve the right to submit additional materials, arguments and declarations of percipient witnesses and other persons on behalf of the Kings.

If you should have any questions regarding this letter, please call the undersigned at (415) 788-2040, or Richard Emigh (the Kings' land use consultant) at (831) 479-1452.

Very truly yours,

CASSIDY, SHIMKO & DAWSON
Attorneys for John and Julia King

By: 
Deborah L. Kartiganer

DLK/sd
encl.

cc: John and Julia King
Stephen K. Cassidy
Richard Emigh

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)

STATEMENT OF DEFENSE

John and Julia King

Alleged Violation No. V-3-98-007

1. Facts or allegations contained in the cease and desist order or the notice of intent that you admit (with specific reference to the paragraph number in the order):

ADMITTED: That by letters dated June 18, 2004, and November 22, 2004, Nancy Cave proposed that the Kings resolve the alleged violation by applying for a Coastal Development Permit ("CDP") application to merge APNs 045-022-25, 045-022-27 and 045-022-30 (the "Subject Parcels") into one parcel.

ADMITTED: That by letter dated December 22, 2004, Ms. Kartiganer requested a one-month postponement so that the Kings could meet with Santa Cruz County ("County") in order to submit a CDP application to the County.

This response does not address a Cease and Desist Order, as one has not been issued in this matter.

2. Facts or allegations contained in the cease and desist order or notice of intent that you deny (with specific reference to paragraph number in the order):

DENIED: That unpermitted development has occurred on the Subject Property.

DENIED: That the Subject Parcels were illegally subdivided and created without the benefit of a CDP.

DENIED: That the final map known as Tract No. 781 was not authorized by the Coastal Commission.

DENIED: That any time frame for submittal of the CDP was provided by Ms. Cave in her June 18, 2004 letter.

This response does not address a Cease and Desist Order, as one has not been issued in this matter.

3. Facts or allegations contained in the cease and desist order or notice of intent of which you have no personal knowledge (with specific reference to paragraph number in the order):

None.

This response does not address a Cease and Desist Order, as one has not been issued in this matter.

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)

4. **Other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the possible violation (be as specific as you can; if you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) copy(ies) if you can:**

This document is a preliminary Statement of Defense. The Kings intend to submit additional documentation prior to the Coastal Commission hearing on this matter.

Legality of Parcels

The administrative record for this dispute is lengthy, complicated, and very difficult to sort through due to the fact that many of the contested events occurred approximately thirty years ago, and many of the people involved in the contested matter have either retired or are otherwise indisposed. (Please see Exhibit B, attached hereto, for a brief chronology of events.) An examination of the pertinent materials and applicable law, however, clearly shows that the Subject Parcels were created in accordance with the permits approved by the Coastal Commission. Even if this were not the case, relevant documents and percipient witnesses have made evident that the Coastal Commission was fully aware of the subdivisions of the site in question and thus *de facto* approved those subdivision actions; the Kings have proceeded in reliance on that approval since that time. Finally, given the inordinate delay between the creation of the Subject Parcels and the Coastal Commission's decision to persecute the Kings for merely attempting to use and enjoy those parcels, it would be inequitable for the Coastal Commission to now proceed with its claim of violation.

The Coastal Commission's Proposed Remedy

The Coastal Commission has failed to explain how the merger of the Subject Parcels alone will "cure" any alleged flaw in the subdivision processes that affected the entire Trestle Beach property (comprised of over 20 condominium homeowners and other landowners) in the 1970s. This is particularly problematic for the Kings, given the fact that the Coastal Commission shows no signs of undertaking any violation proceeding against the owners of the Trestle Beach condominiums, who must be culpable of the same alleged Coastal Act violation of which the Kings have been accused. Since the Coastal Commission has the right to review additional development proposed on any of the parcels within the subdivision, the Coastal Commission's proceeding against the Kings is no more urgent in nature than its proceeding against any of the other affected landowners and homeowners. Therefore, it is inequitable for the Coastal Commission to pursue a claim against the Kings alone. In addition, the merger of the Subject Parcels would eliminate the possibility of building separate dwellings on each parcel, and thus would constitute a taking of all viable economic uses of two of the three parcels. This selective enforcement of rules and regulations, as well as the taking of development rights allocable among the Subject Parcels, would violate the Kings' equal protection and due process rights.

Proposal to Resolve Dispute

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)

The Kings continue to desire to settle this dispute in a manner that will be acceptable to the Coastal Commission but will also preserve the developmental viability of the Subject Parcels. If the residence and accessory structure that they have proposed are considered concurrently with their merger proposal, there is a possibility that the development and merger could both be approved, thus meeting the goals of both the Coastal Commission and the Kings. Without that possibility, the Kings see no reason to apply to merge the Subject Parcels, which were in fact created lawfully in all respects, including the requirements of the California Coastal Act of 1976 and the Coastal Zone Conservation Act of 1972.

The Kings have worked diligently and in good faith for over seven years to settle this dispute with the Coastal Commission (while the parcels at issue were clearly legally created almost thirty years ago, the Coastal Commission first notified the affected parties of the alleged violation twenty years later). The Kings have spent a great deal of time and money working with Coastal Commission staff, far more than any of the other affected parties, often waiting considerable amounts of time for Coastal Commission staff to respond to their efforts to resolve the matter. Once they learned of the Coastal Commission's agreement that they could submit a permit application for development of the site in conjunction with the merger of the Subject Parcels, the Kings began work on the application but did not have enough time to complete it before the date set by the Coastal Commission (see response to Section 5, below, for more information on this issue). In fact, technical reports are currently being prepared for the Subject Parcels in an effort to comply with County application prerequisites.

The Kings respectfully request that the Coastal Commission refrain from issuing a Notice of Violation and/or a Cease and Desist Order at this time, and that it instead defer consideration of this matter for a reasonable period of time while the Kings in good faith pursue the County application process. After almost thirty years of disagreement, there is no reason why these actions must take place at this time, especially in light of the fact that the Kings and the Coastal Commission are on the brink of amicably resolving a situation that otherwise could easily end up in court. A lawsuit to establish the current legality of the subject parcels would cost both the Kings and the Coastal Commission significant amounts of money and time that would be better spent on other endeavors. The Kings merely ask that they be given sufficient time to submit and process an application for residential development on the site, provided that they make a good faith effort to fulfill the application prerequisites in a timely manner. In light of the lengthy history of the dispute, it does not seem unreasonable for the Coastal Commission to grant this relatively short delay, which would neither cause any damage to coastal resources nor prejudice the Coastal Commission's legal rights or remedies in any manner.

5. Any other information, statement, etc. that you want to offer or make:

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)

Reason for Delay in Submitting CDP Application

While Ms. Cave did send a letter to the Kings dated June 18, 2004 (note that the Kings waited for this letter for over nine months after meeting with Coastal Commission staff), demanding that they apply to merge the Subject Parcels, Ms. Kartiganer's July 30, 2004, reply letter proposed that the Kings do so only in conjunction with an application to construct one new single-family dwelling plus one accessory dwelling on those parcels. Ms. Kartiganer requested a response to this proposal, which was tendered as an effort to settle the dispute and did not constitute an acknowledgement or admission of fault, and suggested that if it was acceptable to the Coastal Commission, the parties should discuss the appropriate method for memorializing the parties' agreement. The Kings refrained from any further action with respect to the Subject Parcels until the Coastal Commission replied to this proposal, since if the proposal were denied, the Kings would have spent significant amounts of money to prepare an application that might never have been submitted.

When Ms. Cave finally replied on November 22, 2004, almost four months later, she indicated that the concurrent submittal of a proposal to merge the parcels with a proposal to develop the merged parcel would be acceptable to the Coastal Commission. She set December 31, 2004 (only five weeks later) as the deadline for that submittal, although she subsequently extended the deadline to January 22, 2005. The Kings and their land use consultant, Richard Emigh, began preparing the application (including a proposed parcel merger map) for submittal. Due to the short time frame and the holidays, however, they did not have enough time to prepare the lengthy and complex technical reports required to be submitted along with the application. They therefore expected that they would meet with the County in late January 2005, submit the application itself, and proceed in good faith to accomplish the next steps in the development process. The County's refusal to receive the application until the required technical reports were prepared was unexpected and unfortunate, but the Kings have since begun the process to commission the reports and thus comply with the County's request.

The County has provided the Kings with a list of submittal requirements (see Exhibit A, attached hereto) that the Kings are currently in the process of commissioning and preparing. The Kings hope and expect that, by the date of the Coastal Commission hearing on this matter, they will be able to show that significant progress has been made in providing to the County the materials required as part of the development component of the permit application.

6. Documents, exhibits, declarations under penalty of perjury or other materials that you have attached to this form to support your answers or that you want to be made part of the administrative record for this enforcement proceeding (Please list in chronological order by date, author, and title, and enclose a copy with this completed form):

This Statement of Defense expressly incorporates by reference all correspondence, maps, plans and other documents that are currently in the Coastal Commission's files and Santa Cruz County's files pertaining to this matter. Some of these materials are included in the attached documentation, which consists of the following:

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)

<u>Tab</u>	<u>Date</u>	<u>Document</u>
1.	06/74	Tentative Parcel Map submitted (revised in April 1976)
2.	10/17/75	Draft Environmental Impact Report for MLD (Minor Land Division) Application
3.	12/19/75	Original Planning Director approval of MLD/Tentative Parcel Map
4.	04/76	Reissued Planning Director approval of revised MLD/Tentative Parcel Map
5.	06/25/76	Application to Coastal Zone Conservation Commission for Permit No. P-2034
6.	06/28/76	Coastal Zone Conservation Commission Application Summary for Permit No. P-2034 (with 8/12/76 cover letter)
7.	08/06/76	Letter from Edward Brown to John King regarding Permit No. P-2034
8.	08/31/76	Coastal Commission approval of Permit No. P-2034
9.	10/01/76	Recordation date of Parcel Map for MLD
10.	07/26/77	Inter-Office Correspondence from Richard Pearson (Chief of Development Processing) to Santa Cruz County Planning Commission
11.	09/20/78	Staff Report to Santa Cruz County Planning Commission regarding PUD
12.	11/15/78	Planning Commission Recommended Conditions of Approval for PUD
13.	12/78	Letter from Henry Baker to John King stating that the Santa Cruz County Board of Supervisors approved the Tentative Map for the PUD on 12/12/78.
14.	12/15/78	Application for Coastal Permit (No. P-79-117) stamped "received" by Coastal Commission
15.	01/08/79	Assessor's Parcel Map stamped "received" by Coastal Commission
16.	03/12/79	Quitclaim Deed
17.	04/03/79	Agreement Regarding Proposed Stream or Lake Alteration

<u>Tab</u>	<u>Date</u>	<u>Document</u>
18.	04/27/79	Letter from Bill Van Beckum to Bill Victorson
19.	05/29/79	Letter from Bill Van Beckum to Bill Victorson
20.	06/04/79	Letter from Kenneth Jones to William Victorson
21.	07/03/79	Coastal Commission Staff Report with Supplemental Information regarding Application Coastal Permit Application No. P-79-117
22.	07/05/79	Letter from Raynor Talley granting variance
23.	07/09/79	Memorandum to Coastal Commission attaching additional information for Coastal Permit Application No. P-79-117
24.	07/18/79	Agenda for Meeting
25.	07/24/79	Coastal Commission Staff Report with Supplemental Information regarding Coastal Permit Application No. P-79-117
26.	08/08/79	Memorandum stating corrected findings for Coastal Development Permit
27.	08/14/79	Notice of 7/30/79 approval of Coastal Permit Application No. P-79-117, with accompanying by Coastal Commission resolution and staff report
28.	08/13/79	Draft Resource Management Plan for Trestle Beach Condominiums
29.	11/09/79	Final Map (Tract No. 781) recordation date.
30.	05/13/80	Board of Supervisors resolution establishing the Trestle Beach County Service Area No. 20
31.	06/23/80	Letter to Central Coast Regional Commission (partial)
32.	06/27/80	Letter from V.R. Miller to Central Coast Regional Commission
33.	07/21/80	Letter from Bill Ingram to Tony Marchiano
34.	07/21/80	Letter from Stanley Nielsen to County of Santa Cruz
35.	09/25/80	Letter from Bill Ingram to Granite Construction Co.
36.	12/01/80	Letter from George Clever to Santa Cruz County Board of Supervisors
37.	12/09/80	Inter-Office Correspondence from Don Porath to Phil Sanfilippo

<u>Tab</u>	<u>Date</u>	<u>Document</u>
		regarding 11/6/79 approval of Final Map (Tract No. 781) by Board of Supervisors
38.	04/13/83	Message to Larry Musgrave from Les Strnad
39.	04/08/81	Final Subdivision Public Report by the California Department of Real Estate
40.	11/25/83	Undated notes regarding conference with Coastal Commission Staff
41.	06/12/89	Grant Deed
42.	12/27/95	Coastal Commission Staff Report regarding Appeal No. A-3-SCO-95-85
43.	05/02/97	Letter and attachments from Jack Nelson to Richard Emigh regarding Pre-Development Site Review
44.	12/19/97	Letter from Jonathan Wittwer to Don Bussey
45.	12/30/97	Memorandum from Rahn Garcia to Don Bussy regarding Certificate of Compliance Determination
46.	01/28/98	Letter from Robert Logan to Santa Cruz County Planning Commission
47.	03/09/98	Staff Report to Santa Cruz County Planning Commission
48.	03/13/98	Letter from Rahn Garcia to Santa Cruz County Planning Commission
49.	04/21/98	Letter from Jonathan Wittwer to Santa Cruz County Planning Commission
50.	04/27/98	Letter from Lee Otter to David Gelbart, John and Julia King, Shiu-Wen Huang and Shaw-Hwa Huang, and Trestle Beach Homeowners' Association
51.	09/10/98	Letter from Lee Otter to David Gelbart, John and Julia King, Shiu-Wen Huang and Shaw-Hwa Huang, and Trestle Beach Homeowners' Association
52.	10/20/98	Letter from Lee Otter to David Gelbart, John and Julia King, Shiu-Wen Huang and Shaw-Hwa Huang, and Trestle Beach Homeowners' Association
53.	06/22/99	Letter from Gerald Bowden to Richard Emigh
54.	08/05/99	Letter from Ravi Subramanian to Jeffery Barnett

<u>Tab</u>	<u>Date</u>	<u>Document</u>
55.	06/18/01	Letter from Nancy Cave to John and Julia King
56.	07/19/01	Letter from Nancy Cave to John and Julia King
57.	07/31/01	Letter from Richard Emigh to Nancy Cave
58.	07/30/04	Letter from Deborah Kartiganer to Nancy Cave
59.	06/18/04	Letter from Nancy Cave to John and Julia King
60.	11/22/04	Letter from Nancy Cave to Deborah Kartiganer
61.	02/14/05	Notification of Intent to Record a Notice of Violation of the Coastal Act and to Commence Cease and Desist Order Proceedings
62.	02/18/05	Notification of Intent to Record a Notice of Violation of the Coastal Act and to Commence Cease and Desist Order Proceedings (reissued)

EXHIBIT A

LIST OF SUBMITTAL REQUIREMENTS

SUBMITTAL REQUIREMENTS: WHAT TO SUBMIT

The following information and drawings must be included in the submittal package for your application. Additional information and project details may be required following a site visit and initial review of the proposed development.

DATE: _____ INTAKE STAFF: _____

Required	Submitted	Item to be Submitted	Description
<input checked="" type="checkbox"/>	<input type="checkbox"/>	List of Required Information For Development Review	Include this form completed and signed with your submittal materials. Attach all documentation and letters to this application.
PLANS TO BE SUBMITTED			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Site Plan:	Plans that show the entire property, drawn to scale showing property dimensions, existing structures and improvements.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Preliminary Building Plans: Floor Plans, Elevations and Cross Sections	Floor, elevations and cross sections plans. Note: Full construction plans are not submitted until you apply for a building permit (i.e. working drawings: roof, framing, foundation).
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Preliminary Landscape Plan	Required for residential subdivisions, development in a scenic corridor or coastal bluff, and commercial or industrial development.
			Additional Requirements May Apply:
			<input type="checkbox"/> City of Santa Cruz Water District Landscaping Requirements
			<input type="checkbox"/> County of Santa Cruz Urban Forestry Master Plan
			<input type="checkbox"/> County of Santa Cruz Dept. of Public Works Street Trees List
			<input type="checkbox"/> California Coastal Commission, Native Bluff Plant List
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Preliminary Grading Plan and Calculations	If the project proposes any site grading. (volume of earth moved is over 100 cubic yards, or cuts greater than 5 ft. or fills greater than 2 ft.)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Preliminary Engineered Site Improvement Plans	Required for all land divisions, commercial development permits, grading projects with 2,000 cubic yards or more, or any development projects on a coastal bluff.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Erosion Control Plan	Required to be submitted with a Discretionary Application if potential acceleration for erosion exists and/or when winter grading (Oct. 15 - Apr. 15) approval is requested. Note: Erosion Control plans are always required in the Building Application stage when a project proposes any site disturbance.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Stormwater Management Plans and Calculations	Required if proposed development results in an increase in impervious area, change in direction of existing drainage or for all commercial projects. A Civil Engineer must prepare offsite improvement plans or assessment and calculations.
<input type="checkbox"/>	<input type="checkbox"/>	Shadow Plans	Showing shadow patterns of major vegetation and buildings as cast on Dec. 21 st between 10:00 am and 2:00 pm.
<input type="checkbox"/>	<input type="checkbox"/>	Tentative Map	For all land divisions. Must be prepared by a licensed civil engineer or land surveyor.
<input type="checkbox"/>	<input type="checkbox"/>	Preliminary Engineered Site Improvement Plan for Tentative Map	Preliminary engineered improvement plans for all land divisions for drainage, grading, sanitation, circulation and roadway improvement.
<input type="checkbox"/>	<input type="checkbox"/>	Sign Plans	Include dimensions, location, number of signs, materials and colors for each sign. Specify lighting.
<input type="checkbox"/>	<input type="checkbox"/>	Lighting Plan	Shows location, number and type of lighting fixtures proposed, including specifications (manufacturer's sheet and details).

☐ **Design Review Materials**

standard, compact and accessible spaces, circulation widths, ~~various~~ spaces and striping plan. (A) 3/1

Additional information and documentation is required to be added to the Site Plan. Required when the project is subject to Chapter 13.11 of the County of Santa Cruz Code.

☐ **Lot Line Adjustment Plan**

Plan is required that illustrates the way that the property lines are proposed to be changed.

QUANTITY OF PLANS TO BE SUBMITTED☒ **Reduced Sets of Plans**

Submit **Two (2)** 8 1/2" x 11" reduction (reproducible quality) set of plans for each plan requirement (i.e. Site, Preliminary Building, Erosion, Landscape). This is for projects requiring Public Hearing review.

☒ **Number of Sets of Plans**

18 ~~20~~ ☒ folded sets of full-sized plans. The number of sets of plans will be listed on the "Required Reviewing Agencies" document attached. Please see ALL Plans requirements on the DETAILED INFORMATION FOR SUBMITTAL REQUIREMENTS.

☒ **Material and Color Sample Board**

Show a complete inventory of proposed exterior materials and colors (roofing, siding, trim). **Actual material is not acceptable.** Manufactures brochures or photos only. This is to be displayed on an 8-1/2" x 11" display.

☒ **Photographs of Project Site and Neighborhood Context**

Labeled color photographs showing the existing structure as seen from the street and adjacent lots, and of all adjacent uses (5 lots each side, 10 lots across street).

☒ **Staking**

Stake: building corners, property boundaries, septic leachfield location, driveway edges & other site improvements. Post a sign with the APN and owner's last name clearly visible from the access to the property.

☒ **Story Poles** *during processing*
The Project Planner will inform you when this will be required.

Construct 2 poles and apply orange netting outlining the proposed building, indicating the height of the structure.

☒ **Public Pedestrian Access**

Show on the Site Plan the location of existing and proposed public pedestrian access to and along shoreline.

DOCUMENTS, STATEMENTS, REPORTS AND CLEARANCES TO BE SUBMITTED☒ **Owner/Agent form**

Required if applicant is other than the property owner, or if work is proposed on a neighboring property (ex. Grading in an easement that goes through an adjacent property.)

☒ **Assessor's Parcel Map**

You may purchase a copy at the County Surveyors Office (4th Floor) or County Assessor's Office (1st Floor, Room 130)

☒ **Preliminary Title Report not more than 60 days old**

Legal lot description for all parcels, easements, deed restrictions, and all conditions, covenants and restrictions. Required for lot legality determinations and certain other projects.

☐ **Statement of Proposal and any supporting written material:**

Justification statement for the proposed project.

☐ **Variance**

Variances: a description of special circumstances that justify granting a variance.

☐ **Design Guidelines**

Design Guidelines: establishing the parameters of site planning, landscaping and architectural design.

☐ **Program Statement**

Commercial Development Permits: include uses, number of employees, hours of operation, delivery schedules, and use and storage of hazardous materials.

(A)
4/6

☐ **Sewer Availability Letter**

Letter from special district certifying ability to provide sewer service (only for districts not administered by the County Sanitation District).

☒ **Will Serve Letter - Water**

From local water service provider. For projects not on private wells.

☐ **Will Serve Letter - Sanitation**

From County Sanitation for projects located within the District boundary.

☐ **Copy of any recorded sewer easement**

Located on deed or separate recorded document.

☒ **Environmental Health Clearance**

For parcels on septic and/or wells (see Environmental Health Department, 3rd floor, room 312, or by phone 454-2022)

☒ **Technical Reports and Letters**

☐ The need for certain Technical Reports or letters can only be determined after a site visit by a Resource Planner in the Environmental Planning Section.

☐ **Hydrologic**
☒ **Hydrologic**
☒ **Habitat Restoration Plans**
☒ **Arborist Report**
☒ **Geotechnical/Soils Reference "Soils Report Requirement Guideline" document.**
☒ **Archaeologic Site Check**
☒ **Engineering Geology (Required in fault zone)**

Required when a project is within a fault zone, flood plain or flood way and meets the definition of development in chapter 16.10. Also may be required when a GHA determines more investigation is needed.

☒ **Disclosure Statement for Hazardous Materials**

Complete the attached form.

☒ **CC&R Statement**

When the project is in a development governed by a Homeowner's Association with limitations on design, uses or construction.

☐ **Request for Exceptions to the County Code**

Written justification for projects requesting exceptions to the County Code, General Plan and/or County Design Criteria, a written request that justifies the need for such an exception must be submitted. This is in addition to noting the proposed exception on the project plans and clearly depicting the proposed exception in graphic form.

☒ **Property Survey**

May be required for new construction projects. Always required when grading is proposed. Conducted by a licensed surveyor.

☒ **Three-dimensional Exhibits**

Three-dimensional exhibits (perspective, axonometric drawings or models). Downhill lots should show downhill elevation.

☒ **Fire Protection Requirements**

When requesting change to road standards talk to Fire Dept. _____ responsible for your parcel.

☒ **Property Deeds**

Needed for Certificates of Compliance.

☒ **Chain of Title**

Needed for Certificates of Compliance.

☒ **Preliminary Filing Fees List**

ESTIMATED FEES

List of estimated fees is being given to you for this proposed project. Additional fees may be required based on further review. Fees and deposits are due in full at the time the application is accepted and may be paid by check or money order to the "County of Santa Cruz."



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

OWNER-AGENT APPROVAL FORM

For persons other than the owner who wish to obtain a building, development and/or other permit, the approval of the owner is required.

This is the County's authorization to issue a permit to the agent listed below:

AGENT: NAME: Ricardo L. Emeric
ADDRESS: 413 Capitola Ave
CITY / STATE / ZIP CODE: Capitola Ca 95000
TELEPHONE: 831-479-1487

OWNER: NAME: John F. King
ADDRESS: 160 La Playa Road
CITY / STATE / ZIP CODE: La Jolla Beach, Ca 95078
TELEPHONE: (831) 688-2638

Dec 13, 09
DATE

[Signature]
SIGNATURE OF OWNER

045-022-25, 27, 30
ASSESSOR'S PARCEL NO.

Vacant No Status
PROJECT LOCATION

****ANY REFUNDS WILL BE MADE TO WHOMEVER MADE THE PAYMENT****

NOTE: One owner-agent form will be required for each permit required. For development permits, by signing this form, the owner is authorizing the agent to legally bind the owner to responsibility for payment of the County's cost for inspections and all other actions related to noncompliance with the permit conditions. The agent will be required to provide proof of service, by mail, to the owner of a copy of the executed acceptance of permit conditions.

owneragent form.doc/

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT B

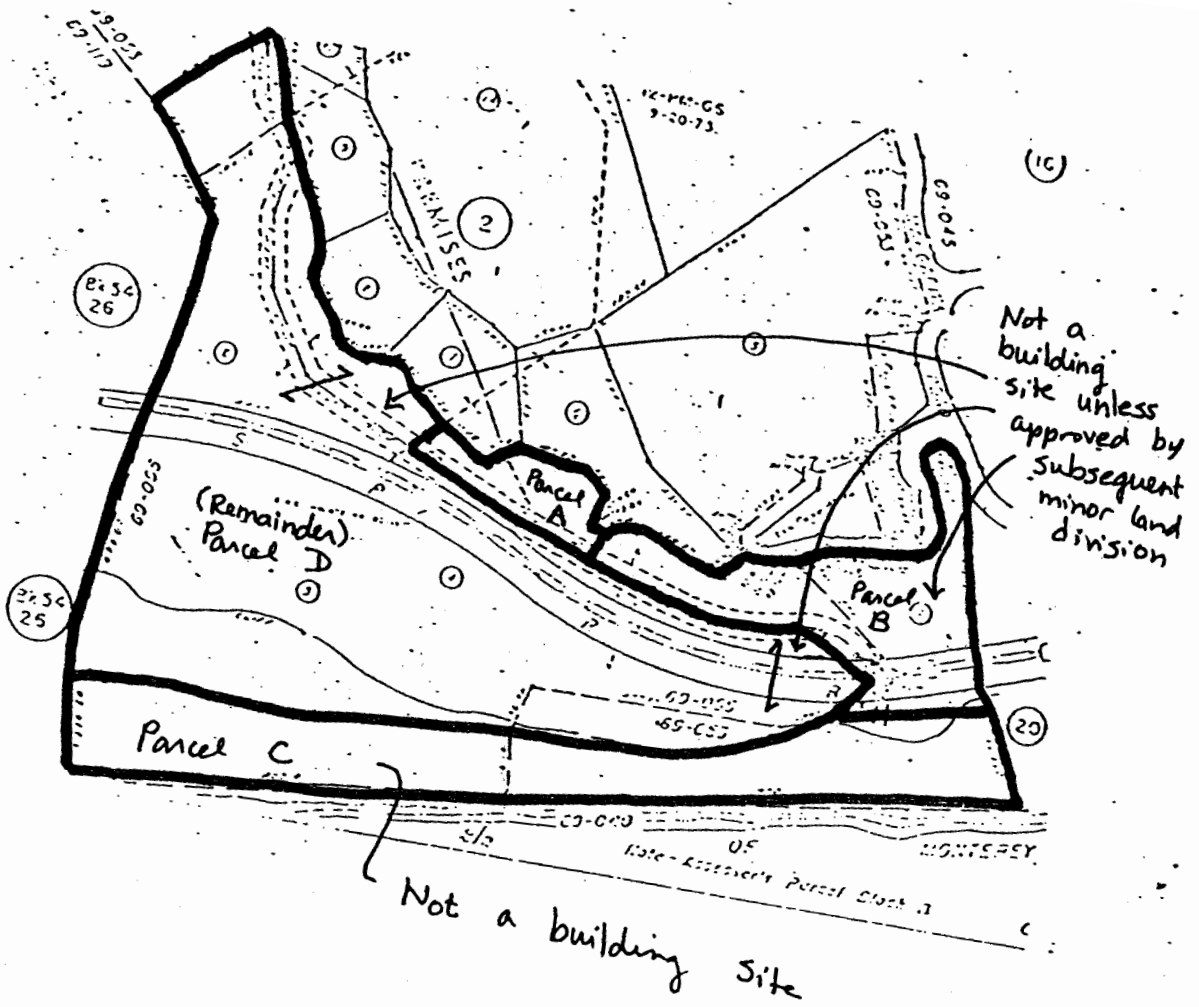
KING / TRESTLE BEACH PROPERTY CHRONOLOGY OF EVENTS

<u>Date</u>	<u>Event</u>
09/26/73	Original application for PUD (154 units)
06/74	Tentative Parcel Map submitted
02/01/75	Revised application for PUD (32 units)
07/18/75	Application for minor land division (MLD) to divide 1-acre building site in ravine
12/19/75	Planning Director approves MLD/Tentative Parcel Map
03/02/76	Board of Supervisors approves PUD for 20 units
04/76	Original Planning Director approval of MLD/Tentative Parcel Map is voided and new approval is issued (see <u>Map A</u> , attached hereto)
Undated	Coastal Commission Staff Report issued on Permit No. P-2034
08/31/76	Coastal Commission issues CDP for Permit No. P-2034 (see <u>Map B</u> , attached hereto)
10/01/76	Parcel Map recorded for MLD (see <u>Map C</u> , attached hereto)
01/10/78	Board of Supervisors approves the Tentative Map for PUD and extends time limits for 20-unit PUD. (This tentative map is amended in 9/78 - see <u>Map D</u> , below)
09/78	Planning Commission Staff Report issued, stating that PUD application has been amended to request 32 units and other changes. Planning Commission recommends creation of a separate parcel "B" to be composed of the land within the 200 foot agricultural setback to be retained by the applicant. (see <u>Map D</u> , attached hereto)
12/12/78	PUD/Tentative Map approved by Board of Supervisors for 32-unit development
01/08/79	Coastal Commission receives current copy of assessor's parcel map (see <u>Map E</u> , attached hereto)
07/30/79	Coastal Commission CDP issued for PUD, including a 200 foot agricultural buffer (rather than a 50 foot setback). States that project consists of 20-unit

condominium project, access road, parking, community sewage disposal system, and tree removal. The CDP includes conditions recognizing that a package plant would be the alternative utilized (see Condition 3.E & K).

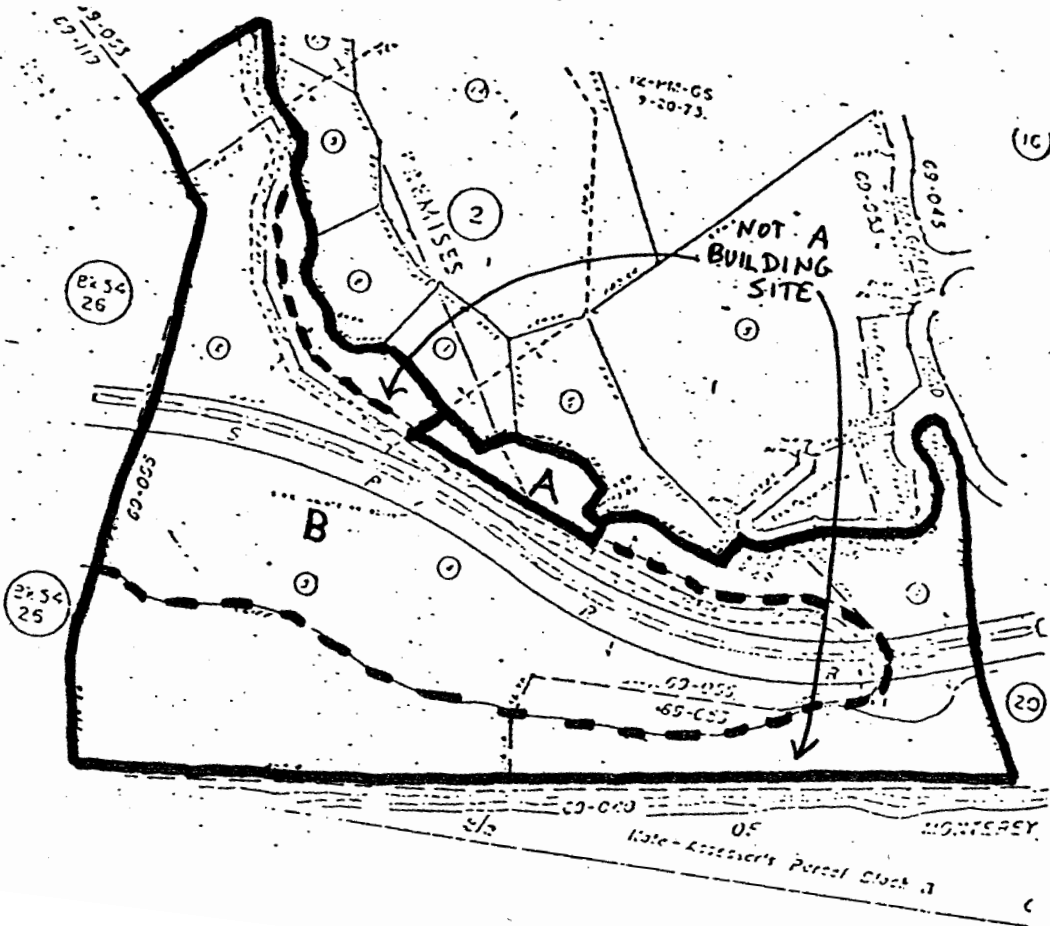
- 08/14/79 Amended Coastal Commission CDP issued for PUD. Amends approval to allow for 21 condominium units.
- 11/06/79 Final Map approved by the Board of Supervisors
- 11/09/79 Final Map recorded. The rest of the site is shown by faint lines that cite to the 1976 parcel map; pursuant to the Subdivision Map Act provisions in effect at that time, the "remainder" parcels shown on the map were validly created. Note – map is dated 5/79 but is not filed until 11/79. (see Map F, attached hereto)
- 01/01/80 The Subdivision Map Act begins to regulate directly the creation of remainders. Prior to this date, the Subdivision Map Act recognized remainders as an allowable result of a land division.
- 05/13/80 Board of Supervisors adopts a resolution establishing the Trestle Beach County Service Area No. 20
- 12/09/80 Amended Final Map approved by Board of Supervisors. The same as the 11/9/79 final map, except for minor changes to the siting of the townhouse units. (see Map G, attached hereto)

MAPS
A+C



MAP
B

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)



MAP
D

--- property boundary
 --- Area boundary
 --- PUD boundary

A - project boundary
 B - Reserved to owner

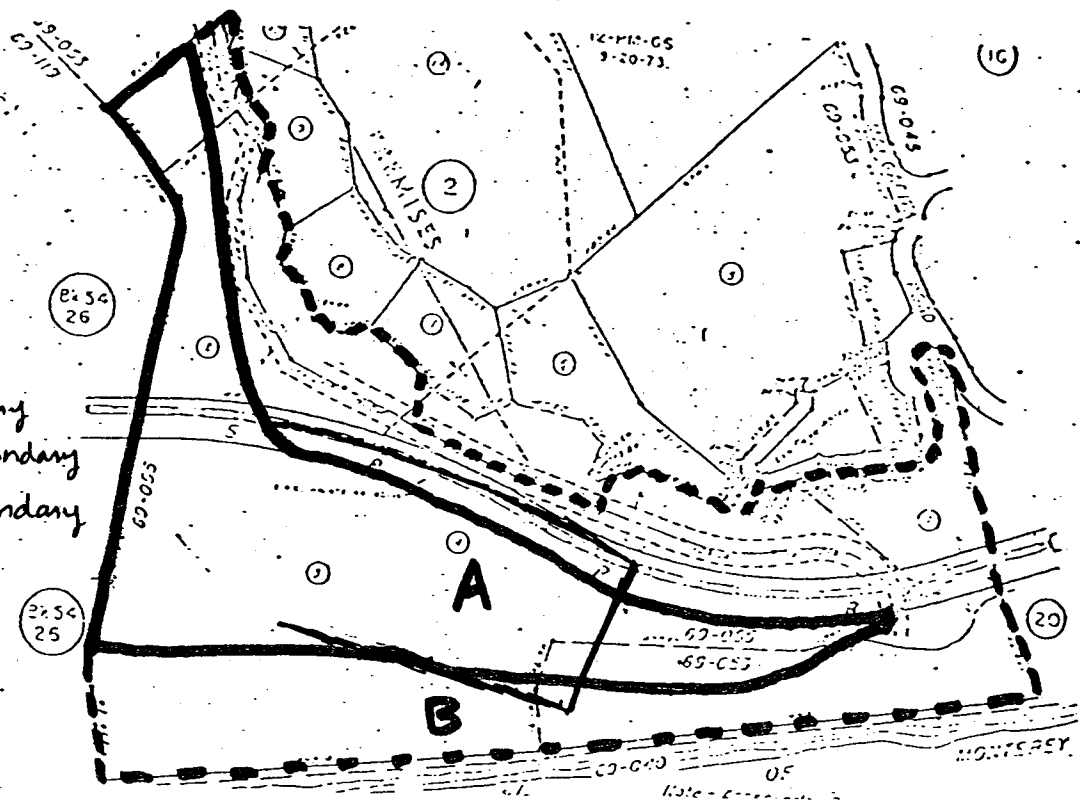
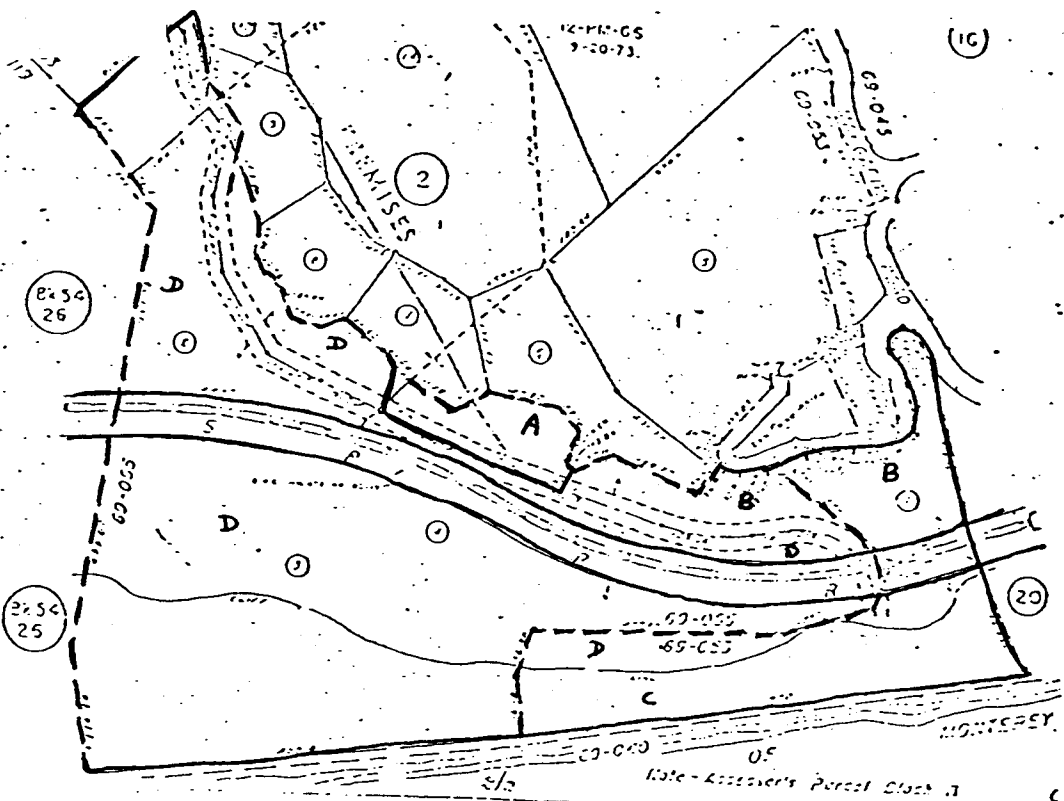


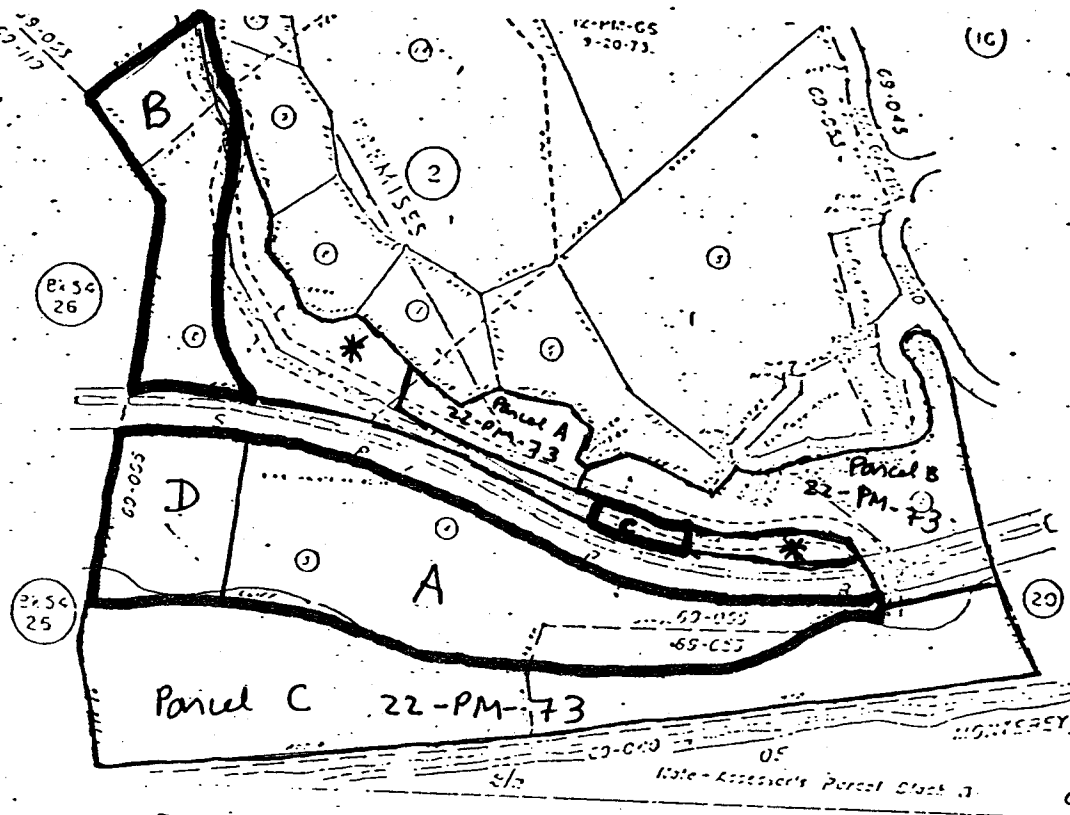
Exhibit A
 05-NOV-01
 CCC-05-CD-03
 (King)

Page 19 of 20

Map
E



MAPS
F+G



* Remainder Ptn. Pcl. "D" 22-PM-73

Exhibit A
CCC-05-NOV-01
CCC-05-CD-03
(King)



FOR TAX PURPOSES ONLY
THIS MAP IS NOT A GUARANTEE AS TO MAP ACTUALLY FOR ASSURES ANY
LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1999

KING SUBDIVISION TR. NO. 1272
80MB54 7/25/89

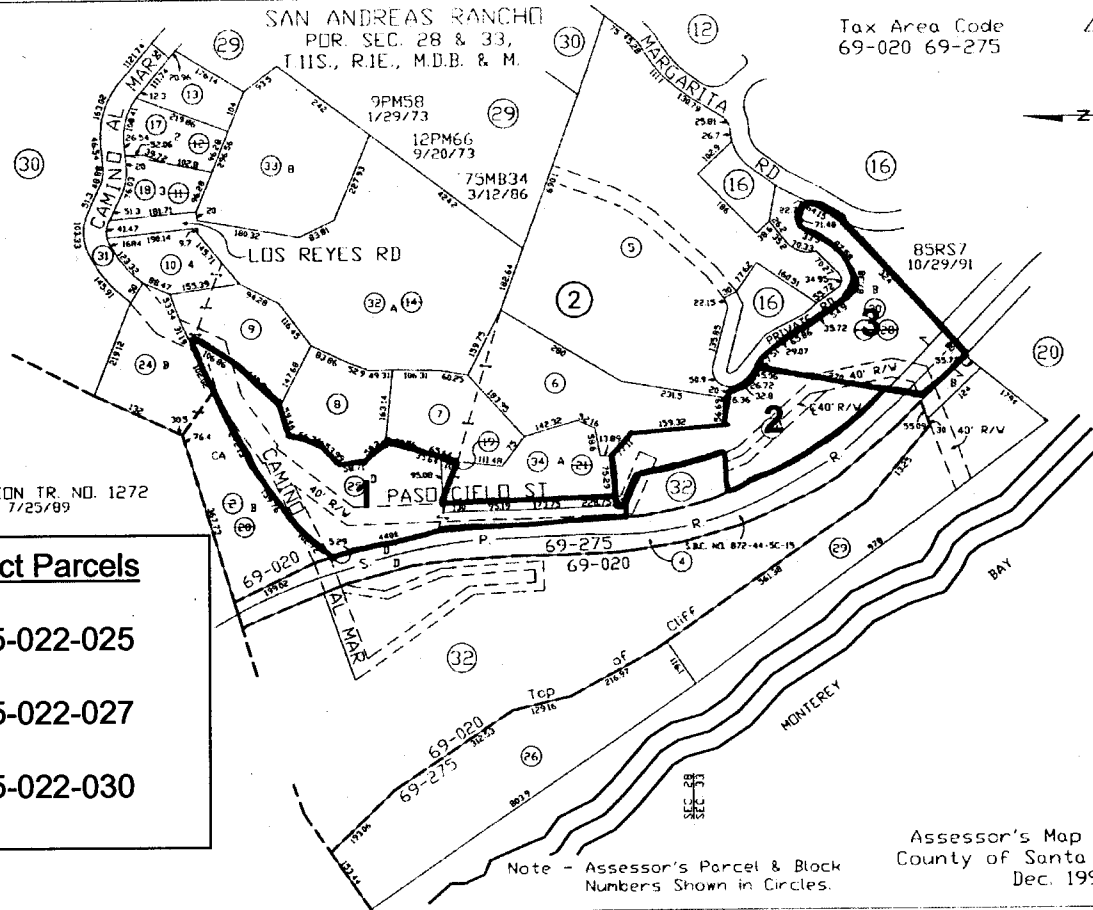
Subject Parcels

- 1: 045-022-025
- 2: 045-022-027
- 3: 045-022-030

SAN ANDREAS RANCHO
POR. SEC. 28 & 33,
T.11S., R.1E., M.D.B. & M.

Tax Area Code
69-020 69-275

45-02



Assessor's Map No. 45-02
County of Santa Cruz, Calif.
Dec. 1999

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

Electronically reviewed 2/7/99 by
Mr. J. C. [illegible]



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068
(831) 454-2040 FAX: (831) 454-2118

DWIGHT L. HERR, COUNTY COUNSEL
CHIEF ASSISTANTS
Deborah Steen
Samuel Torres, Jr.

RECEIVED

JUN 13 2000

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Mr. Richard Emigh
413 Capitola Avenue,
Capitola, CA 95010

June 12, 2000

Assistants
Harry A. Oberhelman III
Marie Costa
Jane M. Scott
Rahn Garcia
Tamara Rice

Pamela Fyfe
Ellen Aldridge
Kim Baskett
Lee Gulliver
Dana McRae

RECEIVED

JUN 16 2000

CALIFORNIA
COASTAL COMMISSION

Re: Parcel Legality Determination for APN 045-022-25

Dear Mr. Emigh:

Thank you for providing me a copy of your recent letter dated May 31, 2000 directed to Ms. Nancy Cave of the California Coastal Commission. In your letter you suggest that the County has concluded that APN 045-022-25 was a legally created parcel. This statement is incorrect.

While this Office has twice written on the subject of whether the parcel was legally created under the requirements of the Subdivision Map Act, those conclusions did not address whether the parcel complied with the requirements of the California Coastal Act. The question of compliance with the Map Act was raised during the processing of an application to build a dwelling on the subject parcel by the prior owner Dr. David Gelbart. However, the County was later advised by the staff of the Coastal Commission that the parcel may not have received a valid coastal development permit authorizing its creation.

In response to this new information the County conducted its own review which uncovered no evidence that the subject parcel had ever received the required coastal approval for its creation. Subsequently, the County requested that the Coastal Commission conduct a formal investigation and initiate any enforcement proceedings that may prove necessary. Both the County and the Coastal Commission have offered to revise their conclusions if the owner of the property could produce information which would confirm that the parcel was created pursuant to a valid coastal permit.

Emighresp

Exhibit B3
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 2

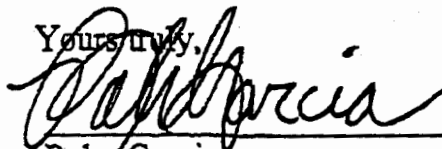
Mr. Richard Emigh
June 12, 2000
Page 2

By letter dated February 1, 1999, Ms. Joan Van der Hoeven of the County Planning Department notified Dr. Gelbart through his representative, that his application for construction of a dwelling on the subject parcel was deemed abandoned. At some point, Dr. Gelbart transferred ownership of the subject parcel back to Dr. John and Julia King.

On March 28, 2000, you submitted a new request on behalf of John and Julia King for a Certificate of Compliance for APN 045-022-25. Ms. Van der Hoeven advised you that because evidence of the parcel's legal creation under the Coastal Act did not exist, it would not qualify for a unconditioned Certificate of Compliance. Finally, you were notified that a Certificate of Compliance issued by the County would be conditioned to include all current County land division requirements, as well as require evidence of compliance with the Coastal Act.

I hope the foregoing information serves both to clarify and correct your letter to the Coastal Commission.

Yours truly,



Ralph Garcia
Assistant County Counsel

RG:rg

cc: Dan Carl, California Coastal Commission
Joan Van der Hoeven, Planning Department

Emighresp

Exhibit B 3
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 2 of 2

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



BY REGULAR AND CERTIFIED MAIL
Certified Mail No. 7002 3150 0004 3497 1428

February 14, 2005

John J. and Julia D. King
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Subject: Notification of Intent to Record a Notice of Violation
of the Coastal Act and to Commence Cease and
Desist Order Proceedings

Violation No.: V-3-98-007

Location: APNs: 045-022-25, 045-022-27, and 045-022-30,
Santa Cruz County

Violation Description: Unpermitted subdivision

Dear Dr. and Mrs. King:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission") to record a Notice of Violation of the Coastal Act and to commence Cease and Desist Order proceedings for unpermitted development. The unpermitted development consists of an unpermitted land subdivision and the attempted creation of parcels; it constitutes development under the Coastal Act and is therefore subject to Coastal Act and Santa Cruz County LCP permit requirements. We have reviewed Commission and Santa Cruz County coastal permit records and have determined that the required Coastal Development Permit was not obtained for this cited development. This unpermitted development is located on property you own at Paseo Cielo, La Selva Beach, Santa Cruz County, APNs 045-022-25, 045-022-27, and 045-022-30 ("subject property"). These parcels have been illegally subdivided and created without the benefit of a Coastal Development Permit ("CDP"). Accordingly, the subdivision and the creation of the parcels violate the Coastal Act.

"Development" is defined in section 30106 of the Coastal Act as follows:

"Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any

Exhibit B 4
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 5

materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...(emphasis added)

Pursuant to the California Coastal Act, Public Resources Code 31000 *et seq.*, and pursuant to Santa Cruz County LCP, the subdivision of a property may not proceed unless the County or the Commission on appeal finds that it is consistent with the resource protection policies of the LCP and the County approves a CDP that imposes any necessary terms and conditions to mitigate the impacts of the development.

In 1979, the Coastal Commission issued CDP No. P-79-117 to Dr. John J. King for development on property that included the three subject parcels. CDP No. P-79-117 authorized a 21-unit condominium development, but did not authorize a subdivision creating the three subject parcels. The CDP only authorized creation of one parcel consisting of the condominiums ("the Trestle Beach parcel"), and another parcel consisting of the rest of the property. After the CDP was issued, you recorded a final map (Tract No. 781) that purported to create the Trestle Beach parcel and several additional parcels. The creation of these additional parcels was not authorized in CDP No. P-79-117, or any subsequently issued CDP. Following recordation of Tract No. 781, you requested and obtained from the County, recognition of the subject property as three separate lots identified as APNs 045-022-25, 045-022-27 and 045-022-30. The recognition and creation of these three separate lots was not authorized in CDP No. P-79-117, or in any subsequently issued CDP. You have responded that the three subject parcels were legally subdivided pursuant to the Subdivision Map Act and subsequent changes to the Subdivision Map Act as it pertains to remainder parcels, and have maintained that no CDP is required for the division of the remainder parcel. As we have noted in the past (as have various Santa Cruz County staff and the Santa Cruz County Counsel), although the parcels may comply with the Subdivision Map Act, they are not legally divided lots pursuant to the County LCP or the Coastal Act, because they were created without the benefit of a CDP where one is clearly required. For the parcels to be legal, they must meet both Subdivision Map Act and Coastal Act requirements. Furthermore, in *Ojavan Investors v. California Coastal Commission* (1997) 54 CA4th 373, 388, 62 CR2nd 803, 812, the California Supreme Court found that the "California Subdivision Map Act did not overrule the California Coastal Act; if anything the reverse is true."

As you are aware, there have been repeated attempts over the past seven years to resolve this violation administratively¹. In a letter dated June 18, 2004 and in a subsequent letter

¹ Staff letter to Dr. David Gelbart, Dr. & Mrs. King, Mr. & Mrs. Huang, Trestle Beach Home Owners' Association dated 4/27/98

dated November 22, 2004, Nancy Cave of my staff gave you another opportunity to attempt to resolve this violation by submitting a complete CDP application to Santa Cruz County to merge the illegally subdivided lots that you own into one parcel. By letter dated December 22, 2004, Ms. Kortiganer requested a one-month postponement so that the Kings could meet with Santa Cruz County in order to submit a CDP application to the County. That one-month postponement was granted allowing you until January 22, 2005 to submit a complete CDP application to Santa Cruz County.

We understand that your representative met with County staff on January 26, 2005 and presented a CDP application that was clearly inadequate. The County determined that the CDP application that was presented was so incomplete that the County could not accept it for consideration. For example, the CDP application did not include numerous technical reports that had been previously noted as being required, in previous correspondence regarding this matter. (A letter from your attorney to Commission staff dated July 30, 2004, mentioned that the County informed you that, among other things, a geologic report review, soils report review, preliminary grading review, and archeological site check were necessary.) Accordingly, you have not submitted a complete CDP application seeking to resolve this matter.

In letters to you dated June 18, 2004 and November 22, 2004, we indicated that if you did not submit such an application to the County within the timeframe allowed, that the Commission might commence action to record a Notice of Violation against the three subject parcels that you currently own, pursuant to section 30812 of the Coastal Act.

Notice of Violation

The Commission's authority to record a Notice of Violation is set forth in section 30812 of the Coastal Act which states the following:

Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real

Staff letter to Dr. David Gelbart, Dr. & Mrs. King, Mr. & Mrs. Huang, Trestle Beach Home Owners' Association dated 4/21/99

Staff letter to Mr. Jeffrey Barnett dated 8/5/99

Staff meeting with Richard Emigh & Dr. King on 10/6/99

Staff letter to Richard Emigh dated 11/23/99

County of Santa Cruz Planning Department letter to Richard Emigh dated 4/12/00

County of Santa Cruz Office of County Counsel letter to Richard Emigh dated 6/12/00

Staff letter to Dr. & Mrs. King dated 6/18/01

Staff letter to Dr. & Mrs. King dated 7/19/01

Staff meeting with Richard Emigh, Deborah Kortiganer & Santa Cruz County staff on 9/8/03

Staff letter to Dr. & Mrs. King and Deborah Kortiganer dated 6/18/04

Staff letter to Deborah Kortiganer dated 11/22/04

Letter from Deborah Kortiganer to Nancy Cave dated 12/22/04

Exhibit B4
CCC-05-NOV-01
CCC-05-CD-03
(King)

property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

We are issuing this Notice of Intent to record a Notice of Violation because, as discussed above, unpermitted development has occurred at the subject property, in violation of the Coastal Act. If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether or not a violation has occurred, you must respond in writing, within 20 days of the postmarked mailing of the notification. If, within 20 days of mailing of the notification, you fail to inform the Executive Director of the Commission of an objection to recording a Notice of Violation, the Executive Director will record the Notice of Violation in the Santa Cruz County Recorder's Office as provided for under section 30812 of the Coastal Act. If you do submit a timely objection to the proposed filing of the Notice of Violation, a public hearing will be held at the next regularly scheduled Commission meeting for which adequate public notice can be provided, at which you may present evidence to the Commission why the Notice of Violation should not be recorded. If, after the Commission has completed its hearing and you have been given the opportunity to present evidence, the Commission finds that, based on substantial evidence, a violation has occurred, the Executive Director will record the Notice of Violation in the office of the Santa Cruz County Recorder. If the Commission finds that no violation has occurred, the Executive Director will mail a clearance letter to you.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether or not a violation has occurred, you must respond in writing, to the attention of Nancy Cave, no later than March 6, 2005.

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the Commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:

- (1) The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.*

Santa Cruz County has requested that the Commission assume primary responsibility for enforcing Coastal Act permit requirements for unpermitted lot creation on the subject property. I am issuing this Notice of Intent to commence Cease and Desist Order

Exhibit B 4
CCC-05-NOV-01
CCC-05-CD-03
(King)

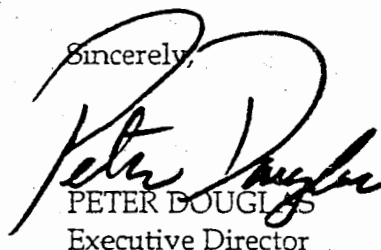
Page 4 of 5

proceedings because unpermitted development has occurred at the subject property. Commission staff previously notified you in letters dated April 27, 1998, April 21, 1999, June 18, 2001, July 19, 2001, June 18, 2004 and November 22, 2004 that you were in violation of the Coastal Act regarding the unpermitted subdivision, and gave you the opportunity to attempt to resolve this violation by submitting a complete CDP application to Santa Cruz County to merge the illegally subdivided lots that you own into one parcel. Despite these prior notice letters and our latest offer of resolution, you have failed to submit a complete CDP application with the County to merge the three lots still under your ownership. The Cease and Desist Order would order you to desist from further sale or transfer of the three lots identified as APNs: 045-022-25, 045-022-27 and 045-022-30, and would order to you merge the three lots into one lot.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations regarding the Notice of Intent to commence Cease and Desist Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's San Francisco office, directed to the attention of Nancy Cave, no later than March 6, 2005.**

The Commission staff is scheduling the hearing for the proposed Cease and Desist Order (and for the proposed recordation of a Notice of Violation in this matter, if you additionally request in writing a hearing on this issue) during the Commission meeting that is scheduled for April 12-15, 2005 in Santa Barbara. If you have any questions regarding this letter or the enforcement case, please call Nancy Cave at (415) 904-5290 or send correspondence to her attention at the address listed on the letterhead.

Sincerely,



PETER DOUGLAS
Executive Director

cc: Deborah Kortiganer, Esq.
Nancy Cave, Northern California Supervisor, Enforcement, Coastal Commission
Lisa Haage, Chief of Enforcement, Coastal Commission
Sandy Goldberg, Staff Counsel
Diane Landry, Central Coast Area Office Manager
Rahn Garcia, Santa Cruz County Counsel
Cathy Graves, Principal Planner, Santa Cruz County

Exhibit **34**
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page **5** of **5**

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4883
HEARING IMPAIRED: (415) 904-5200



March 24, 1998

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, California 95060

Re: Coastal Permit Application #96-0801 Gelbart

Dear Commissioners,

Coastal Commission staff has become aware of Dr. Gelbart's application (#96-0801) for a Santa Cruz County coastal permit for a single-family house on AP# 045-022-25 at the intersection of Paso Cielo and Camino Al Mar in La Selva Beach. In conjunction with the upcoming Planning Commission hearing we have received documents from the appellant's attorney and from County Counsel discussing the legality of the subject lot. In reviewing this information, we question whether this lot was legally created pursuant to the California Coastal Act.

Until 1983, the Coastal Commission had jurisdiction over all development approvals in this location; subsequently, the County assumed coastal permit authority. Section 30600(a) of the California Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. Development is broadly defined by Section 30106 of the Coastal Act:

"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511)...(emphasis added)

The creation of Dr. Gelbart's one acre parcel constituted "development" and therefore required a coastal development permit. Any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements.

We have read County Counsel's two letters concluding that the lot in question is a legal parcel. His analysis is based entirely on the Subdivision Map Act as applicable to the County. His analysis does not address whether the lot would be considered legal under the Coastal Act. In

Exhibit B5
CCC-05-NOV-01
CCC-05-CD-03
(King)

GELBR.DOC, RH

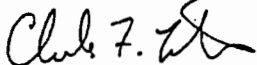
making such a determination the following factors are ones that we have discovered so far that would appear to be relevant:

- Neither the description of the condominium project approved under referenced coastal permit (P-79-117), nor the findings mention creation of the subject Gelbart parcel or AP# 045-022-27 as separate lots.
- The final map which shows these lots as part of a remainder parcel differs from the tentative map that was included in the P-79-117 application.
- There is no record of a subsequent coastal permit or permit amendment that authorizes the creation of buildable lots out of the remainder parcel.

We would suggest that this coastal permit not be approved until the matter of whether the lot in question was legally created under the Coastal Act is resolved. We would further suggest that County Counsel contact our legal counsel, Diane Landry, to further discuss and attempt to resolve this matter. Alternatively, if the parties involved do agree that no coastal permit has yet authorized the creation of the subject parcel, then you should direct Dr. Gelbart to amend his application to include an after-the-fact request to allow creation of the parcel. We look forward to hearing from County Counsel and working toward resolution of this matter.

Thank you for your anticipated cooperation.

Sincerely,



Charles Lester
District Manager
Central Coast District Office

cc: Diane Landry, Legal Counsel, California Coastal Commission Central Coast District Office
Nancy Cave, Manager, California Coastal Commission Enforcement Program
Jonathan Wittwer
Kirsten Powell, Law Office of Robert Logan
John King
Rahn Garcia, Assistant County Counsel

Exhibit *BS*
CCC-05-NOV-01
CCC-05-CD-03
(King)

RESOLUTION NO. 76-640

On the motion of Commissioner Franco
duly seconded by Commissioner Little
the following resolution was adopted:

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
CENTRAL COAST REGIONAL COMMISSION

RESOLUTION GRANTING PERMIT
FOR COASTAL DEVELOPMENT

WHEREAS, on June 28, 1976, the application of Dr. John King, 1595 Soquel Dr., Santa Cruz, CA, application number P-2034, was filed for a coastal development permit pursuant to Section 27400 of the Public Resources Code; and

WHEREAS, the project as hereinafter approved consists of division of a ±8 acre parcel and realignment of two adjacent parcels totalling 30 acres so as to establish a 1-acre single-family dwelling site separate from a proposed planned development; and

WHEREAS, this Commission has given written public notice of the nature of the proposed development and of the time and place of the public hearing thereof and has held a public hearing in accordance with said notice and the California Coastal Zone Conservation Act of 1972 and has otherwise complied with the provisions of said Act and the regulations of the California Coastal Zone Conservation Commission; and said public hearing commenced on July 26, 1976 and concluded on August 16, 1976; and

WHEREAS, this Commission finds as follows:

1. With this minor land division, a one-acre parcel would be created from an existing 8-acre parcel. This 8-acre parcel (APN 45-022-2), forms the eastern portion of a 30-acre site owned by the applicant, and is adjacent to and immediately west of the Los Barrancos subdivision. The purpose for creating the proposed one-acre parcel is to provide a building site for a SFD, envisioned to be designed similar to existing homes in Los Barrancos. (Homes in Los Barrancos are 1-and 2-story, use much natural exterior materials and finishes, and are generally well-landscaped.) Four Los Barrancos lots, located on the east side of a ravine, abut the 8-acre parcel from which the one-acre site would be divided. Three of these lots have SFDs built on them. The eastern edge of the proposed one-acre parcel is adjacent to two of these three lots.

The proposed 1-acre lot is adjacent to a 50 ft. ROW containing a 12-20 ft. dirt road, which has been dedicated to residents of Los Barrancos. Access to the proposed lot would be via this road. (The Attorney General has indicated that approval of the proposed land division would not destroy any rights of Los Barrancos residents to use this road.)

Division of this parcel, and subsequent development of it for a SFD, represents an extension of Los Barrancos development to the western, undeveloped portion of the ravine. In approving this minor land division, the County has designated all other land in the western portion of the ravine as "not a building site".

Exhibit B6
CCC-05-NOV-01
CCC-05-CD-03
(King)

RESOLUTION NO. 76-640

2. The one-acre site to be divided from the 30-acre parcel consists of $\frac{1}{4}$ acre of flat terrain, with the remainder of the site consisting of steep (70 to 90%) slopes which form the sides of a ravine. A soils report prepared for the site indicates that the soils are suitable for one SFD, provided that the SFD be located on the flat portion of the site and its footings be set back a minimum of 20 ft. from the top of the ravine. As proposed, the project is consistent with Coastal Plan Policy #67e.

3. Impacts of the proposed project on wildlife and vegetation will be slight, and therefore compatible with Coastal Plan Policy #29. Vegetation typical of a "mixed woodland" community is found on the one-acre site, with eucalyptus, coast live oak, Monterey pines, and fir the predominant trees. Removal of trees on the site to accommodate a dwelling would likely be minimal, as the developable portion of the site is fairly open.

The trees and dense foliage of the woodland environment provide shelter and nesting places for various small animal species, none rare or endangered. Development of the site for a SFD could cause displacement of some of these animals; however, animals displaced could easily make homes for themselves nearby in this dense woodland.

4. Use of the site for a SFD would necessitate a septic tank and seepage pits for sewage disposal. A soils report on the site indicates that soils from a depth of 19 to 40 ft. would be usable for seepage pits. This depth allows for adequate separation from groundwater and for an 8 ft. rise in the water table (53 ft., Oct. '75). Therefore, if properly placed on the site, a septic system would be consistent with Coastal Plan Policy #7d.

5. Aside from possibly being visible from homes on the eastern portion of the ravine, a structure on the site would only be visible from the presently unpaved ROW adjacent to the site. The presence of a structure on the site might disturb the recreational aspect of this ROW, which has been dedicated to residents of the Los Barrancos subdivision. However, careful development of the site, by following the design guidelines in Coastal Plan Policies 49f, 52, and 53a, by siting a structure as far back as possible (within the limits recommended in the soils report) from the ROW, by generously planting native trees between the structure and the ROW, and by finishing the structure's exterior in natural materials and tones, would significantly lessen the impact of such a disturbance.

6. Therefore, as conditioned, this project will have no adverse environmental or ecological effect, and is consistent with the goals, declarations and objectives of the Coastal Zone Conservation Act of 1972 as set forth in Section 27001 and 27302.

WHEREAS, the project as herein approved does not involve any of the types of development referred to in Public Resources Code Section 27401 and, accordingly; requires an affirmative vote of a majority of the total authorized membership of this Commission for approval thereof.

NOW, THEREFORE, BE IT RESOLVED that the Central Coast Regional Coastal Zone Conservation Commission hereby grants the permit, in accordance with the application submitted by the applicant, subject to the following terms and conditions:

Exhibit B6
CCC-05-NOV-01
2 CCC-05-CD-03
(King)

RESOLUTION NO. 76-640

1. This permit shall provide for the creation of a one-acre building site (parcel A) and the recombination of remaining portions of APN's 45-022-1, 2 and 3 into a single 29-acre parcel (parcel B). Parcel B shall be further described in accordance with attached Exhibit A.

2. All conditions of Santa Cruz County Minor Land Division No. 75-753 (see attached), unless herein modified, shall be a part of this permit as well.

Date: AUG 16 1976

Norman A. Walters
Norman A. Walters, Chairman

Attest:

E. Y. Brown

Edward Y. Brown, Executive Director

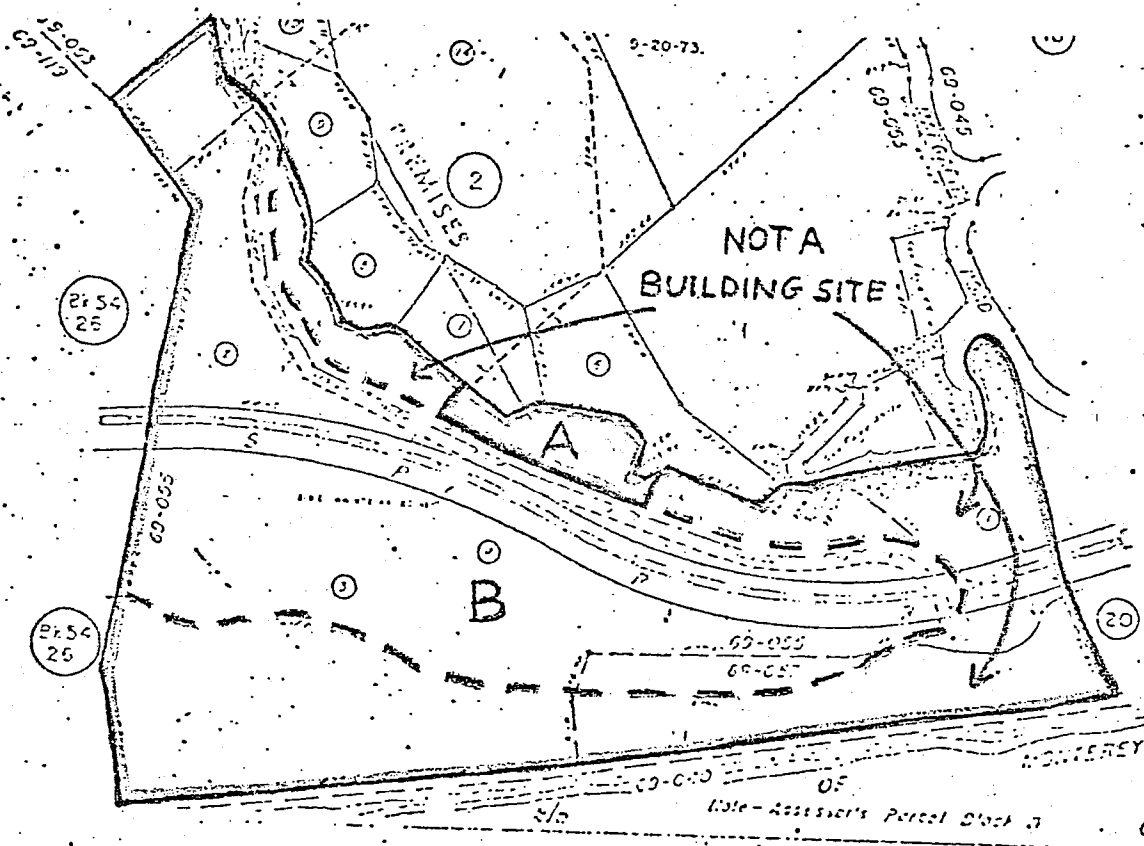
Affirmative Vote on Application:

Ayes:	10	Andresen, Bakalian, DePalma, Farr, Franco, Hughes, Little, McCarthy, Weinreb and Chairman Walters
Nays:	1	Patton
Absent:	3	Harry, Marmont and Ward
Abstentions:	0	

Exhibit B 6
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 3 of 4

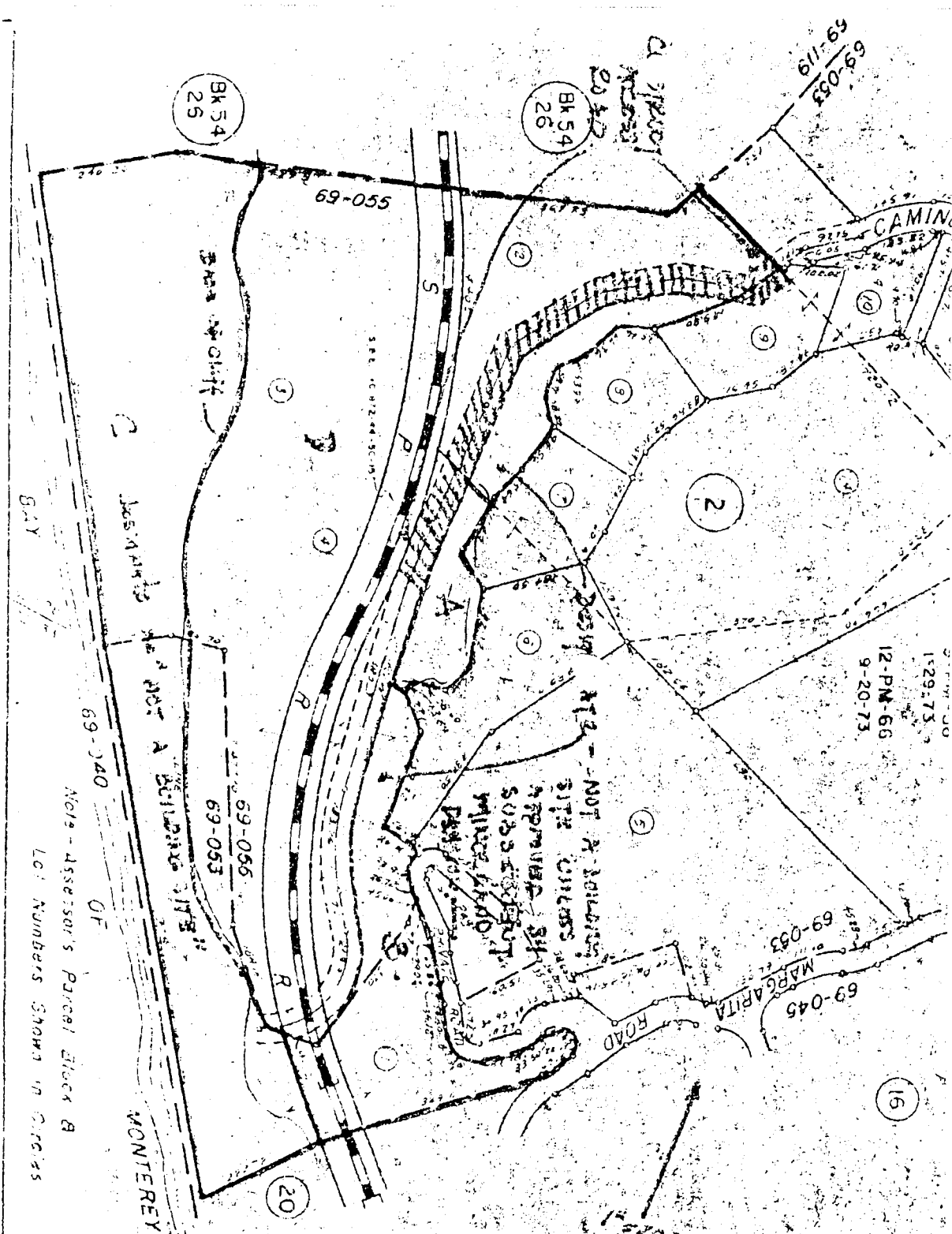
EXHIBIT A



PROPOSED.

P-2034





TENTATIVE PARCEL MAP -
 75,765 - M.L.D. -
 AP # 45-011-01-02-03-04-
 JOHN J. KING - DATED
 MAY 1974

Assessor's Map, No. 2, 1974
 County of Santa Cruz
 June 1974
 Note - Assessor's Parcel Block A
 Lot Numbers Shown in Circles

STEVE L.

DRAFT
ENVIRONMENTAL IMPACT REPORT
for
Minor Land Division Application
King Property, Trestle Beach

October 17, 1975

Prepared for: County of Santa Cruz,
Planning Department

By: Lisa Anderson, Environmental Consultant

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT "A"

TABLE OF CONTENTS

Preface-----	1
General Description/Location-----	2
Biology-----	5
Geology/Hydrology/Soils-----	6
Atmospheric Conditions-----	9
Sonic Conditions-----	9
Energy-----	9
Socio-Economic Setting-----	10
Alternatives-----	14
Short-Term Uses vs. Long-Term Productivity-----	14
Growth-Inducing Impacts-----	14
Persons Contacted-----	15
Bibliography-----	15
Appendices:	
A. Coastal Commission Criteria for Divisions of Land	
B. Soil Engineer's Report	
C. Fire Code Regulations	

LIST OF FIGURES

1. Local Vicinity-----	3
2. Site Plan-----	4
3. Adjacent Parcels-----	13

PREFACE

The following report addresses a minor land division proposal, submitted by Dr. John J. King, for the creation of a one acre lot on a thirty acre site near La Selva Beach.

A previous proposal to develop the property has been examined in the Trestle Beach Environmental Impact Report. (It is currently undergoing the review process by local governmental agencies.)

Although the two proposals are independent of one another, much of the information generated in the Trestle Beach EIR is applicable to the current minor land division proposal. Therefore, reference will be made to the Trestle Beach EIR in the following report, when appropriate, to avoid a reiteration of information.

Project Impact Summary

In the opinion of the author, the majority of the impacts associated with the following proposal can be mitigated.

The growth inducement and land use issues presented can be dealt with through policy decisions and conditions attached to the minor land division permit, if issued.

GENERAL DESCRIPTION/LOCATION

A minor land division application has been filed by Dr. John J. King (owner) for the creation of a one acre lot on a thirty acre parcel. The purpose of the land division would be to sell the lot for the construction of a single family dwelling.

The subject property is located three-quarters of a mile from La Selva Beach. Assessor's parcel numbers for the entire property are 45-021-1, 2 and 3. (Formerly 45-021-10, 36 and 38.) The lot would be split from parcel 45-021-3, and thus would be located in a ravine adjacent to a fifty foot right-of-way. (See Figure 2.) The site would offer approximately a one-quarter acre level building site, the remainder being undevelopable due to its location on steep slopes and in an intermittent creek bed.

It is envisioned by Dr. King that once the lot is sold, a three to four bedroom home would be built, similar in character to those in the Los Barrancos subdivision.

Access would be provided by improving the existing fifty foot right-of-way.

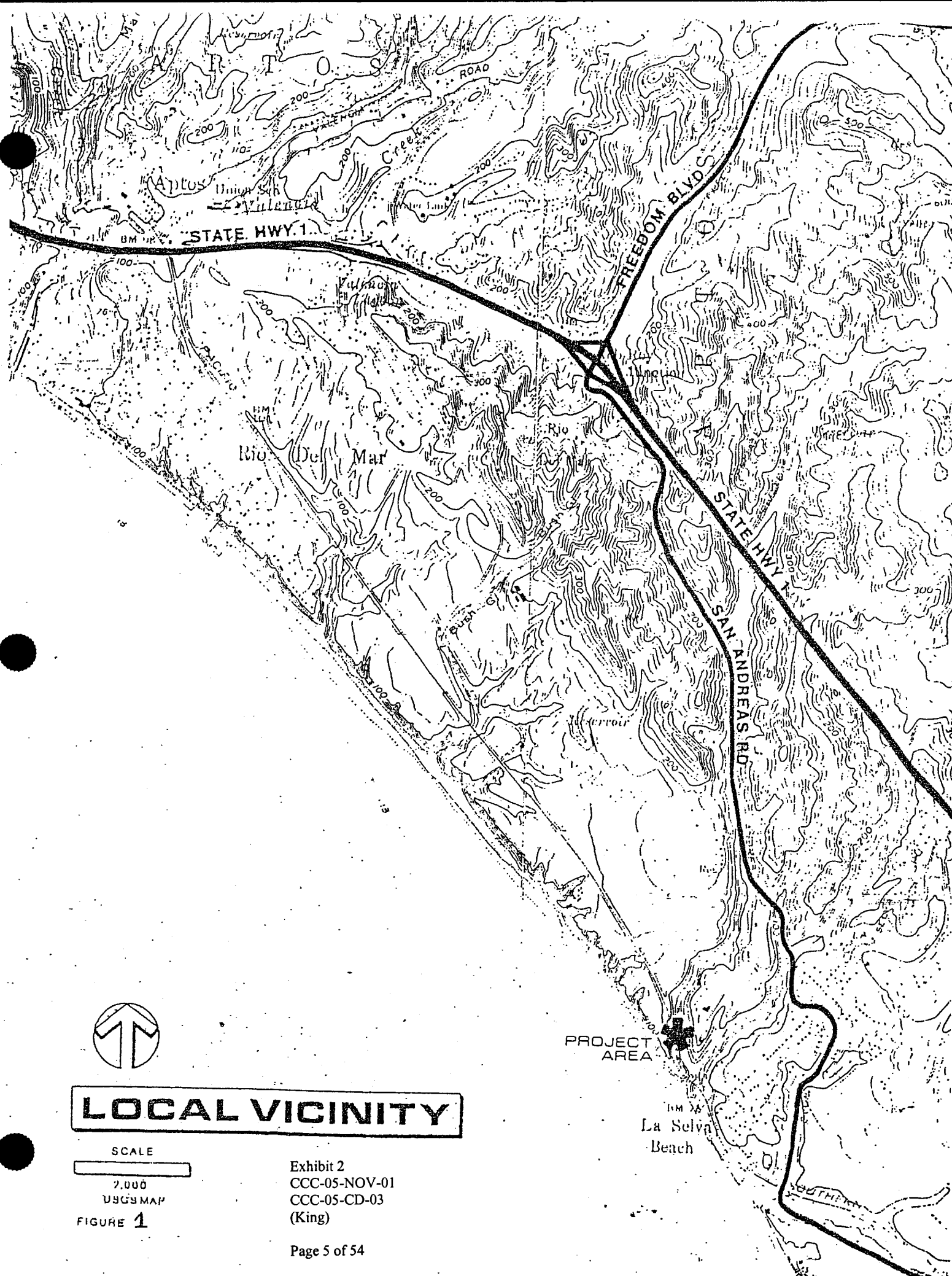
Context

The ravine is presently zoned Rural Residential -- one acre minimum building site. However, a proposed change in zoning, to UBS-1, is expected to be approved by the Board of Supervisors within the next two months. The revision is proposed in order to bring the zoning into conformance with the Aptos General Plan, which designates the site area as Riparian Corridor. Although policy generally dictates the exclusion of development from riparian corridors, the UBS zone designation allows for a review of proposals which would be consistent with the intentions of the plan. (Jan Fosselius, 1975.)

The proposal is not compatible with the County PROS Plan or the Tri-County Coastline Study. (For extended discussion, see Trestle Beach EIR, pg. 5.)

A permit for the minor land division would also have to be obtained from the Coastal Commission. Policy 165 of the Preliminary Coastal Plan affects minor land division. (See Appendix A.) Generally, the Commission would ask that the developer insure a maintenance of the watershed in its natural state and show a need for a development outside an urban area. (Mike Miller, 1975.) Unless a tentative map for the minor land division and preliminary plans for the future home are submitted concurrently to the Commission, two separate permits would have to be obtained.

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(King)



LOCAL VICINITY

SCALE



2,000

USGS MAP

FIGURE 1

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
(King)

SITE PLAN

KING PROPERTY
— MINOR LAND DIVISION



100'

LOS BARRANCOS

PROJECT SITE

PROPOSED
TRESTLE BEACH
ATRIUM HOUSES

BUILDING
AREA

SPRR

BLVD

100'
75'
50'
25'

MONTEREY BAY

FIGURE 2

BIOLOGY

Vegetation typical of the Mixed Woodland community covers the site. The trees that predominate on site include Eucalyptus, Coast Live Oak, and Monterey Pine.

The understory is composed of Wild Blackberry, Thimbleberry, Sticky Monkey Flower, and California Hazel. Poison oak is abundant on the site and in the entire ravine.

The intermittent stream* at the base of the arroyo, some forty feet below the proposed building site, does not support vegetation typical of a riparian corridor. With the exception of a number of Alders, the vegetation in the corridor is representative of an Oak woodland. During winter and spring months it is likely that the stream provides a fresh water source for the resident wildlife. (See Wildlife, Trestle Beach EIR, page 23.)

With the exception of one of the four lots adjacent to the ravine on the opposite bank, virtually no disturbance of the slope's vegetative cover has taken place. On one lot, the apparent felling of Eucalyptus trees has stripped away much of the vegetation on the ravine's steep banks.

Fire Potential

The ravine has a high fire potential due to its abundant brush cover.

Impacts:

Biotic Impacts numbers 1, 2, 3, 8, and 10, and Unavoidable and Irreversible Impact listed in the Trestle Beach EIR apply to this proposal.

In addition, disturbance of the bank of the ravine below the property could occur if trails were haphazardly made down to the creek or if vegetation was cleared from ravine. This could jeopardize the maintenance of the watershed in its present state as well as reduce water quality in the intermittent stream due to the introduction of soil from the slopes. Much of the soil that would be washed away presently supports vegetation.

Mitigation:

Stream bank alteration is prohibited without a permit from the State Department of Fish and Game as per Fish and Game Code Section 1602.

*Intermittent stream -- does not flow thirty days after the last measurable rainfall.

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Informing the future resident of this regulation and of the effects that poor bank maintenance could cause, is a possible mitigation measure.

Channeling of storm water as suggested in the Hydrology Section of this report is another possible mitigation measure.

Furthermore, the abundance of Poison oak on the banks may deter the residents from creating hillside trails, although some trails have been made, either by dogs or people, in other areas of the site bountifully blessed with Poison oak.

GEOLOGY/HYDROLOGY/SOILS

Geology

The site is underlain by Aromas Red Sands and Marine Terrace deposits. Both deposits are horizontally bedded although there may be slight warping of the Aromas Red Sands and the underlying Purisima formation. The recent deposits are of relatively low density, friable (crumbly) and erodable due to their relatively shallow burial and generally uncemented character. The stream bed is composed of recent alluvium deposits. (Harding-Lawson and Associates, 1973.)

The topography of the ravine is characterized by 70 to 95% slopes on its west bank. Aside from the right-of-way, the level area contained on the subject site is the only usable area on the west side of the ravine, from a development standpoint, until one approaches a flat area at the base of the ravine near the beach.

Slope Stability

Four landslides have taken place within 650 feet of the site. Three of these appear to be the result of oversteepening of the banks due to road construction. (Trestle Beach EIR.) A possible landslide scarp may exist at the northern end of the property continuing north towards the Southern Pacific Railroad right-of-way. This scarp would not affect the building area as its edge appears to be some 150 feet distant.

A soil engineer's report prepared for the site indicates that the soils are suitable for the support of a single family dwelling and septic system, provided that recommendations of the soil engineer are complied with.

The ability of the slopes to withstand horizontal ground acceleration of up to 0.15g in the event of an earthquake has been examined. This is in compliance with the standards set in the Uniform Building Code. Although it is felt by many that the Code sets minimum standards, the state of the art is such that it is difficult to determine the effect of ground acceleration on structural design. The cost of

such investigation is also extremely high.

Faulting, ground rupture and liquefaction were determined to be of very low potential hazard due to the nature of the soils, depth to groundwater and proximity of the faults to the site. (See Soil Engineer's Report, Appendix B.) However, some areas in the ravine may be susceptible to ground lurching and landsliding in the event of an earthquake. (Trestle Beach EIR.)

Hydrology

For a discussion of the hydrologic regime of the site, see Trestle Beach EIR, page 14.

Erosion

Little erosion is evident in the ravine except where trails have been made down the steep slopes to the creek bed or where the clearing of vegetation has taken place on the opposite (east) bank. Although underlying materials are quite erodable, the existing vegetation and natural drainage have prevented erosion.

Groundwater

The groundwater table was met at approximately 53 feet during mid-October. The rise in groundwater is not expected to exceed eight feet in depth at other times of the year, due to the coarseness of the underlying materials. (Dave Estrada, 1975.)

Homes in the area are not dependent upon individual groundwater sources. The nearest drafting of groundwater for domestic use may occur in the Los Barrancos subdivision. The Soquel Creek County Water District is presently negotiating for well rights in the green belt area approximately 50 feet from the intersection of Camino Al Barranco and San Andreas Roads. It is anticipated that the well would reach to a depth of nearly 500 feet, that it would be sealed off from upper strata with concrete at a 60 foot depth, and that it would be located at least 150 feet from any septic system in compliance with the State Health and Safety Code.

The proposed septic system would be located nearly 2400 feet away from this location and 20 feet above the Sanitary Seal. Therefore, the contamination of groundwater used for domestic purposes should not occur as a result of this development. (Mr. Johnson, Soquel Creek Water District, 1975.)

Soils

With the exception of the alluvial soils found in the streambed, the soil on-site is Elder sandy loam. These soils are well drained and have moderately rapid subsoil permeability. In level areas erosion

hazard is slight; however, this hazard increases with the steepening of slopes.

These soils have slight limitations for homesites and septic tanks, but moderate limitations for lawns. The soils can support crops climatically adapted to the area, thus they could support coastally dependent crops. However, the topography of the property and the immediately surrounding area is ill-suited to agricultural production.

Geologic/Hydrologic/Soils Impacts:

Impact:

Storm water runoff could cause erosion of the steep banks, particularly if the removal of vegetation takes place near the edge of the ravine or in the ravine itself.

Mitigation:

Both the soil engineer and the County watershed manager have suggested that runoff from the home and driveway be conveyed to the streambed below in a controlled manner, possibly through a redwood drain box. The soil engineer has also recommended that irrigation be controlled, perhaps through the planting of native species which require little watering; that minimal disturbance to existing vegetation take place; and, that a soil engineer be consulted prior to any on-site filling or excavation. A list of measures that help prevent soil erosion prior to and during construction is available from the County Soil Advisor, Dave Estrada.

Impact:

Conveyance of contaminated runoff from the residence would slightly degrade water quality of the intermittent stream and thus secondarily affect organisms in the creek and intertidal organisms in Monterey Bay. In the opinion of the County Watershed Manager, the runoff from the single family residence would not have a significantly detrimental effect on the stream as would, say, the runoff and accumulated wastes of a well-travelled street.

During winter months, the dilution factor (of pollutants) in the stream would be increased by the volume and flow of water in the channel, rendering them less harmful. In the summer, runoff would seep into the creekbed well before reaching the ocean. The drying effects of the sun and wind also tend to deactivate detergents. (Ron Johansen, 1975.)

The use of a shake roof and cement driveway as opposed to a tar and gravel roof and an asphalt driveway, additionally tend to prevent water pollution.

Unavoidable Adverse Impact:

The seismic hazards associated with this project are unavoidable.

ATMOSPHERIC CONDITIONS

(See Trestle Beach EIR.) It is the opinion of this author that the emissions from the one to two cars associated with the eventual development of this property would not have a significant effect on either the local or regional air basin. The construction of a home on the site may contribute to a short-term reduction of local air quality due to the disturbance of dust and the diesel emissions from trucks.

SONIC CONDITONS

The projected building site is approximately 100 feet to the east of the Southern Pacific Railroad tracks. It is estimated that peak noise in passing will be 72 dB(A) (17 dB(A) over acceptable outdoor residential standards), one hundred feet from the tracks where the house would be located. A house with all windows closed will substantially reduce these levels, in this case, to within five to ten dB(A) of acceptable indoor standards. (Ron Marquez, 1975.) The fact that the frequency and duration, of both peak and approaching noise levels, will be minimal (less than one-half hour per day), suggests that the residents of the home would be able to tolerate the existing situation. If the Trestle Beach Atrium Homes are approved for construction, traffic passing the site on the common 50 foot right-of-way will generate noise audible at the site.

See Sonic Conditions, pages 26 and 27, Trestle Beach EIR for an extended discussion of sonic conditions and impacts.

ENERGY

Energy use for the construction and maintenance of the home would be relatively insignificant. For the latest measures concerning energy conservation in buildings, see Energy, Environment and Building, Philip Steadman, 1975, Cambridge University Press.

SOCIO-ECONOMIC SETTING

For a discussion of community characteristics, employment and cultural setting of the project site area, see pages 28, 30 and 31 of the Trestle Beach EIR.

Economic Considerations

Dr. King presently has a buyer for the proposed lot. Although the sale price of the lot is undetermined, the land and improvements are expected to be similar in value to the lots and homes in the Los Barrancos subdivision; or from \$60,000. A new tax rate will soon be approved for the area. The previous rate was \$10.64 per \$100 of assessed value. The increase in taxes that would accrue to the County from the improvements would, of course, be offset by the costs of providing schools and other services to the residents, a figure that is difficult to quantify.

Land Use

The site is undeveloped. Some clearance of Eucalyptus has been done in the level area generally proposed as the building site. The remainder of the lot, with the exception of the creekbed itself, is extremely steep (73 to 93% slope) and well vegetated.

A 50 foot right-of-way extends approximately ten feet into the lot's level, buildable area. Presently, a twelve to twenty foot dirt road extends over this right-of-way. An easement for use of the right-of-way has been deeded to Los Barrancos residents. Therefore, it appears that no development will be allowable within the ten feet inward of the lot line.

A septic tank and seepage pits will be utilized for sewage disposal. These will have to be placed a minimum of five feet from the foundations of the house and the roadway. All development on the property should be placed as far back from the steep face of the ravine according to the soil engineer's report. Thus, although there appears to be adequate space for the proposed use, the home will have to be carefully planned in order to leave the watershed undisturbed and insure slope stability. (For surrounding land use, see Trestle Beach EIR, pages 31 to 32.)

Access

The residents would have to utilize San Andreas Road and the private roads within the Los Barrancos subdivision in order to obtain access to the site.

If the Trestle Beach Atrium Houses are built, an improved road would extend to the site, necessitating that only a driveway be built. However, if that development does not take place, an improvement of the existing dirt road to the site is proposed. The improvement would probably consist of an oil and gravel surface due to the fairly level contour of the road.

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Public Services

Water: Water would be available for a single family dwelling from the Soquel Creek County Water District. The developer of the property would be required to pay for the extension of a water main to the site from the nearest adequate source, and to pay a fee for connection to the main. The nearest source lies approximately 600 feet from the site in the Los Barrancos subdivision. (Robert Johnson, SCCWD.)

An agreement to serve the property would be subject to the approval of the Board of Directors of the Water District.

It is estimated that a dwelling of this size and type will require approximately 300 gallons of water per day.

According to the County Fire Marshall, a six inch water line extending to the home would be adequate for domestic and fire purposes.

Fire Protection: A 20 foot right-of-way to the driveway would be adequate for fire protection. Either a road of decomposed granite with an oil seal coating or a paved road would suffice.

In the case that Trestle Beach Atrium Houses are built, the use of the eight to ten inch line installed for that development's water use would be permissible for this house. However, if the one acre lot is developed prior to the Atrium houses, the six inch line serving this house would not be adequate for the eventual service of the Atrium houses.

It has also been suggested that the directives in the Uniform Fire Code, 1973 Edition, addressing the clearance of brush and vegetation from structures and roadways, be consulted because of the dense vegetation surrounding the building site. (See Appendix C.)

Sewage Facilities: It is proposed that a septic tank and seepage pits be utilized for sewage disposal.

Information contained in the soil engineer's report indicates that soils from a depth of 19 to 40 feet would be usable for seepage pits. This depth allows for adequate separation from groundwater and for an eight-foot rise in the present water table (53 feet, October 1975). It is felt by the County Soil Advisor that a greater rise in the level of the water table is unlikely due to the coarseness of the underlying materials.

It appears that approximately five seepage pits would be necessary for the disposal of effluent. The applicant would have to demonstrate that there would be adequate space for these pits plus an additional five pits, in case of failure. Septic systems on the opposite bank of the ravine in the Los Barrancos subdivision have

had a very low rate of failure. The applicant will also have to comply with all County standards in effect at the time he/she applies for a septic tank permit.

According to the soil engineer, the introduction of effluent from the dwelling's septic system into the underlying materials will not adversely affect slope stability provided that seepage pits are deep and are set back as far as possible from the face of the bank.

For Schools, Police Protection, and Solid Waste, see Trestle Beach EIR, pages 33 through 34.

Socio-Economic Impacts:

Aside from impacts 2, 5, 6, 7, and 9 listed on page 35 of the Trestle Beach EIR, the following impact could result as a consequence of this minor land division.

Impact:

If the improved right-of-way serving the site should become publicly maintained in the future, the two adjacent lots to the north and south of the site would automatically become legal parcels. (See Figure 3, numbers 1 and 2.) Parcel 1 is composed almost entirely of steep (70 to 90%) slopes, offering no developable area. Parcel 2 offers one level area of adequate buildable space; however, it lies over a pipe that conveys stream water to the beach and is directly adjacent to the beach, some 50 to 75 feet from the railroad trestle.

Mitigation:

As a provision of the minor land division permit, designate parcel 1 as non-buildable. Investigate the potential for construction on parcel 2 and designate it as non-buildable if environmental constraints are felt to be significant.

Unavoidable Adverse Impacts:

- Provision of public services to the site.
- Potential cost of providing services to the residence over and above the taxes accrued.
- Incrementally, a step towards the conversion of the west bank of the creek from open space to residential land use.
- Cars serving the home would travel the private roads in the Los Barrancos subdivision.

ADJACENT PARCELS KING PROPERTY



100'

LOS BARRANCOS

PROJECT
SITE

PROPOSED
ATRIUM HOUSES

SPRR

R/W

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(King)

MONTEREY BAY

FIGURE 3

ALTERNATIVES

Page 16 of 54

It is difficult to evaluate locational alternatives for the minor land division on the present thirty acre site as it is not yet known whether the Trestle Beach Atrium Houses will be built. In the event that they are not, it is conceivable that a single family dwelling could be placed on the bluff overlooking the ocean. Whether the appropriate agencies would find this acceptable could possibly be determined by the type and number of objections that were raised by the prior proposal.

The no project alternative would leave the western portion of the ravine intact. The homes on the eastern portion of the ravine have already rendered the riparian corridor somewhat less than pristine, so that this alternative would merely prevent an increment of further development.

If this application is approved, a delay in construction until the Trestle Beach Houses PUD is approved or denied might prove beneficial. For example, the cost and use of the road and the water lines could be shared by the future lot owner and the developer of the PUD.

SHORT-TERM USES vs. LONG-TERM PRODUCTIVITY

If the mitigation measures suggested in this report are adhered to, this project in itself should do little to alter the long-term productivity of the site; namely, the maintenance of the watershed.

Visually, the home would be fairly unobtrusive from the dry creekbed, were it to be used as a trail corridor during summer months. From the right-of-way, the home will be visible. This may disturb the recreational aspect of the presently unpaved right-of-way which has been dedicated to Los Barrancos as a pedestrian/equestrian path.

GROWTH-INDUCING IMPACTS

The minor land division and subsequent construction of a home could set the precedent for further development of the property, assuming that Trestle Beach Atrium Houses are not built. Development could be expected to be of a similar nature -- specifically, single family dwellings more in keeping with the character of Los Barrancos.

However, full scale development of this property could produce land use and public facility impacts outlined in the Trestle Beach EIR. If this is not felt to be desirable, the maximum allowable development of the property, given its public service constraints, could be determined by the County Planning Department. This would present the owner of the property with tangible limits to, and a time frame for, any desirable future development.

PERSONS CONTACTED

1. George Bestor -- Surveyor, (408) 373-2941
2. Ray Talley -- Environmental Health
3. Joe McCann -- Environmental Health
4. Ken Maybe -- Environmental Health
5. Ron Marquez -- County Planner
6. Robert Johnson -- Soquel Creek County Water District
7. Peter Monk -- Soil Engineer
8. Dan Neubauer -- Graphics
9. Jan Fosselius -- County Planner
10. Mike Murphy -- Coastal Commission
11. Mel Angel -- County Fire Marshall
12. Ron Hiles -- La Selva Beach Fire Department
13. Tom Nohrden -- County Sheriff's Department
14. Dave Estrada -- County Soil Advisor

BIBLIOGRAPHY

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Conservation Commissions.

Uniform Fire Code, 1973 Edition, Western Fire Chiefs Association, Inc.

Trestle Beach EIR, August 1975, Lisa Anderson.

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CCC-05-CD-03
(King)

commercial facilities within or adjoining residential development to minimize the need for outside travel, and (3) provide non-automobile circulation within the development (e.g. shuttles, bikepaths, and walkways).

[T-p6]

Regional Amplification

San Diego: Wherever feasible, the type and design of new commercial and industrial development shall be integrated with existing neighborhood patterns, and functional, design, and social relationships of existing and new uses maintained or enhanced. [A-p15RA]

APPENDIX A

165. Criteria for Divisions of Land. The division of land shall be permitted only if it is in accordance with an adopted subregional plan (see Policy 183) or, in the absence of a subregional plan, if all of the following conditions are met: (1) more than 80 per cent of the usable lots in a non-urbanized area have been developed to existing zoned capacity; (2) the parcels resulting from the division would be no smaller than the average size of surrounding parcels; (3) no significant growth-inducing impact or precedent for development in a natural resource or scenic resource area would be established by the division; (4) the division would not restrict future options for productive lands or lands of significance because of their scenic, wildlife, or recreational values; (5) all public services are readily available; and (6) the division conforms to other Coastal Plan policies (see especially Policy 33 regarding agricultural lands and Policy 37 regarding forestry lands). Where an increase in the number of parcels available for residential use is permitted, priority should be given to lands in or near already urbanized areas or other concentrations of development. This policy shall not be interpreted to require development of parcels that would adversely affect coastal natural and scenic resources. [I-p19]

166. Restrict Significant Developments in Areas Removed from Employment and Commercial Centers. The coastal agency shall permit significant new residential,

Page 18 of 54

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
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SOIL INVESTIGATION
for
KING PROPERTY
A MINOR LAND DIVISION
OF THE KING PROPERTY, TRESTLE BEACH,
LA SELVA BEACH, SANTA CRUZ COUNTY

APPENDIX B

by
PETER E. MONK
SOIL AND FOUNDATION ENGINEER
SCR75-E4-155
13 October 1975

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(King)

PETER E. MONK
Soil and Foundation Engineer

Santa Cruz
(408) 475-8625

162 Saratoga Avenue
Los Gatos, Ca. 95030
(408) 354-3208

SCR75-E4-155
13 October 1975

Ms. Lisa Anderson
302 Fifth Avenue
Santa Cruz, California 95062

Subject: King Property
A Minor Land Division
of the King Property, Trestle Beach,
La Selva Beach, Santa Cruz County
SOIL INVESTIGATION

Dear Ms. Anderson:

In accordance with your verbal authorization confirmed by a signed copy of our proposal, we have performed a soil investigation at the subject site in La Selva Beach, Santa Cruz County, California.

Our findings indicate that the site is usable from a soil viewpoint for the construction of a single family residence, provided the recommendations of this report are carefully followed in the design and construction phases of the project.

The accompanying report outlines our findings related to the field exploration and includes our recommendations and conclusions based on these findings.

Very truly yours,

Peter E. Monk

Peter E. Monk
C.E. 23119

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(King)

SOIL INVESTIGATION

Purpose and Scope

The purpose and scope of the soil investigation for the proposed development was to determine the existing soil conditions and based on the conditions revealed by the investigation, to provide recommendations for the construction of a single family residential structure.

The scope of our work included:

1. A field investigation, including a reconnaissance of the site and nearby area, and the drilling of a deep borehole to explore the soil conditions.
2. Review of the Soil Report by James C. Reynolds on the adjoining site.
3. Engineering analysis of data and formulation of recommendations for residential construction.
4. Preparation of this report with five copies.

Location and Description of the Site

The site of the King Property covered by this investigation is designated Parcel A on a plan contained in the Environmental Impact Report provided us by Lisa Anderson. Parcel A is adjacent to Parcels designated 45-021-

40 and 45-021-39 on the Assessor's Parcel Map, and is between these two parcels and the Southern Pacific Railroad right of way.

Figure No. 1 is a sketch map showing the shape of the property and its location relative to the above numbered parcels. Figure No. 2 is a sketch showing the approximate location of the deep test borehole relative to the edge of the steep valley into the adjacent wet weather stream. At the time of writing of this report we did not have available to us a topographic map with sufficient detail for us to locate the borehole location on the map of this site. It is our understanding that the boundary between the 50 ft. right of way and the subject property is of the order of 10 ft. on the ravine side of the existing access road. This access road is shown on our sketch plan Figure No. 2.

The site consists of a relatively flat portion adjacent to the existing access road, with the remainder of the site being ground which slopes at an angle of approximately 33° to 42° down to a rainy season stream approximately 40 ft. below. The flat portion of the site is covered with poison oak and relatively young trees. The sloping portions of the site have mature trees on them. Portions of the slopes show erosion scars which are partially brush covered.

Minor quantities of debris exist in the flat portion of the site.

Field Investigation

One test borehole was drilled to a depth of 65 ft. at the approximate location shown on Figure No. 2. The boring was drilled using a truck-mounted drill rig with a power-driven six-inch diameter continuous flight auger. The soils encountered were logged continuously in the field during the drilling operation by the Soil Engineer.

Samples were taken utilizing a two-and-one-half inch I.D. split barrel sampler with internal brass liners or a standard Terzaghi sampler. The samplers were driven by a 140-pound weight falling freely through a vertical height of thirty inches. The blows needed to drive the sampler a vertical distance of one foot is referred to as the penetration resistance of the in-situ soils. The resistance values as well as the type of sampler used are shown opposite the sampler depth on their respective logs. The penetration resistance values assist in determining the in-situ consistency of the subsurface soils. In addition, continuous dynamic penetration tests were carried out at two other locations using the standard hammer and drop, driving a two-inch diameter cone at the end of A rods. Figures Nos. 3 and 4, Appendix A, "Logs of Test Borings," show a graphic presentation of the soil profile and the results of the cone penetration tests.

Subsurface Soil Condition

As may be seen from the Log of Boring and the Penetration Test in Appendix A, the soils below the upper topsoil mantle are medium dense to very dense, and may be considered excellent materials for foundation support. From 7 ft. to 19 ft. the soil is a very stiff sandy clay. A laboratory direct shear test on the material showed values of $c = 2800$ psf $\phi = 15.5^\circ$. Below the more clayey soils in the upper 19 ft. the soil is a partially cemented silty sand with twelve percent clay content. Shear tests on a sample of this material gave values of $c = 700$ $\phi = 42.8^\circ$. Water was encountered, the exact depth of which could not be measured due to caving of the hole. The hole caved at a depth of 53 ft. and this is probably the approximate depth of the water table. The hole was drilled to a depth of 65 ft. and based on the disturbed cuttings brought to the surface, the boring was terminated in silty fine to medium sand.

Laboratory Tests

Direct shear tests and short hydrometer tests were run on a sample of the upper sandy clay and of the silty sand. The results were as follows:

Sandy Clay $c = 2800$ psf $\phi = 15.5^\circ$
Sand 40% Silt 30% Clay 30% by weight

Silty Sand $c = 700$ psf $\phi = 42.8^\circ$
Sand 78% Silt 10% Clay 12%

DISCUSSION, CONCLUSIONS, AND RECOMMENDATIONS

General

1. The site is suitable for the construction of a single family residence, provided the recommendations presented in this report are incorporated in the project design and that thorough inspection during construction is provided to ensure compliance with the following recommendations.
2. It is our understanding that the proposed development will not contain a basement.

Grading of the Site

3. Grading of the site will probably consist of relatively minor cuts and fills for the driveway and house pad.
4. Any fills should be compacted to a relative compaction of 90% as defined by ASTM test procedure D1557-70.
5. All existing topsoil and other deleterious material should be stripped from any areas to receive fill.
6. It is not anticipated at this time that fill will be placed on any slopes. Any plans to place fill on the slopes should be approved by the

Soil Engineer.

7. Fill and cut slopes should be no steeper than two horizontal to one vertical, unless approved by the Soil Engineer. Any fill slopes within 10 ft. of the top of the existing ravine slope should be approved by the Soil Engineer.
8. If import material is required for fill, it should be approved by the Soil Engineer five days prior to the importing of that material to the site. All such fill shall have a plasticity index of not more than ten, an R-value of not less than twenty-five, and should contain not more than 15% passing the No. 200 sieve by weight.
9. Panning to provide crawl space should not be done, since this invites ponding water under the house.
10. The existing soil below the upper topsoil layer is medium dense to very dense. Conventional spread footings or piers and grade beams may be used. Such foundations are subject to the set back limitations with respect to distance from the top of ravine slope given in Paragraphs 17 and 18.
11. Conventional spread footings may be used having an allowable bearing capacity of 2000 psf for footings at least 12 inches wide having a depth of effective embedment of at least 18 inches into natural soil.

12. Piers may be designed using an allowable skin "friction" of 500 psf. The upper 12 inches of piers below ground surface should not be considered to provide foundation support.
13. As an alternative, piers having a depth below finished ground surface greater than $2\frac{1}{2}$ ft. may be designed on the basis of an allowable end bearing of 4000 psf in natural soils.
14. Piers should be designed on the basis of allowable skin friction or end bearing but not both.
15. The above values of allowable bearing capacity and allowable skin friction may be increased by one-third for the combination of dead, live, and earthquake loads.
16. For friction between the underside of the footing and the firm native soil a factor of 0.4 may be used.
17. There should be a minimum 20 ft. horizontal distance between the face of the down slope to the ravine and the bottom of any end bearing pier or spread footing.
18. There should be a minimum 25 ft. horizontal distance between the face of the down slope to the ravine and the bottom of any skin "friction" pier.

Concrete Slabs-on-Grade

19. All concrete slabs-on-grade should be placed on a minimum of four-inch layer of clean coarse sand, clean crushed rock, or a mixture of sand and gravel, in order to serve as a capillary break and cushion layer. Where floor covering is anticipated, the use of a visqueen type barrier is recommended to prevent moisture condensation beneath the floor covering. A two-inch layer of sand cushion placed on top of the vapour barrier will prevent the membrane from being punctured during the placement of concrete. If sand is used on top of the membrane, the cushion layer below the membrane may be reduced by the thickness of the sand layer. The reduced thickness should not exceed two inches. The concrete slabs should be reinforced as required by the Structural Engineer but should have a minimum of wire mesh.

It is our understanding that the house floors will be structurally supported.

Site Drainage and Slope Protection

20. Positive surface drainage should be provided at all times. To accomplish this it is recommended that the site be graded to provide for the positive removal of surface water and to prevent ponding, both during and after construction.

21. The building and surface drainage facilities which have been con-

structed to conform to the above requirements must not be altered, nor any filling or excavation work performed, nor a swimming pool constructed without first consulting a soil engineer.

22. Irrigation at the site should not be done in an uncontrolled or unreasonable fashion.

23. Existing vegetation should be left undisturbed to the extent possible. New and existing slopes should be protected with suitable plantings to minimize erosion and surface slumping.

24. Runoff from the flat portion of the site and the access road should not be allowed to run over the ravine slope below in an uncontrolled manner. This runoff should be intercepted and taken down the slope in a manner which will prevent erosion.

Underground Utilities

25. Backfill for underground utilities placed on the site may consist of non-contaminated native or select granular materials. Backfill within the utility trenches on site should be compacted to a minimum of 90% relative compaction as defined by ASTM D1557-70.

26. The upper twelve inches of compacted material adjacent to structures having slabs-on-grade should be relatively impervious in order that perco-

lating water does not have free access to the area beneath the slab.

Geology

27. Area geology considerations were not a part of the scope of our work. It is our understanding from Ms. Anderson that the subject site is not in an area of known slide potential.

Seismicity

28. The study site is considered to be in a region of high seismic activity, as are all the sites in the San Francisco Bay Area. It is possible that an earthquake having a magnitude equal to or greater than those which are known to have occurred in the past may occur during the economic life of the proposed project.

29. Since no known fault exists within the site itself, it is our opinion that future ground rupture or faulting under the site is unlikely. It is possible, however, for large earthquakes to produce faulting which does not coincide with mapped faults.

30. The proximate active faults are the San Andreas Fault some 8 miles to the north east, the Zayante Fault some 5 miles to the north east, and the San Gregorio Fault some 17 miles to the south east.

The following comments are made regarding these faults in "Faults and

and Their Potential Hazard in Santa Cruz County, California":

NAME OF FAULT	POTENTIAL FOR SURFACE RUPTURE	MAGNITUDE	RECURRENCE INTERVAL YEARS
San Andreas	HIGH	8.5 (8.3 in 1906)	100 to 1000 - shorter end thought more realistic for 8.3
San Gregorio	Moderate to High	7.2 to 7.9	10-100 - for magnitude 6-7
Zayante	Moderate	7.4	hundred to thousands

The San Andreas poses a greater potential earthquake and ground rupture hazard than any other fault in Santa Cruz County.

31. The UBC requires a design factor of approximately .15g acceleration for structures. No specific figures are given for soil slopes and fills.

32. Ground accelerations higher than 0.15g could be experienced at this site in the event of a major earthquake. In recognizing the possible effects of earthquake activity on the planned building, a reasonable balance should be made between the probability of the occurrence of an earthquake that produces a specific acceleration and the cost associated with resisting that specific acceleration. Data relating to the probability of the occurrence of a specific ground acceleration has been developed by others, reference Table 4.6, page 81 of "Earthquake Engineering," Robert L. Wiegel, Editor, 1970. This table is presented on the next page.

Percent Probability of Acceleration at a Location in California

Acceleration %g	In Periods of Years			
	10	25	50	100
5	65	92	99	99
10	37	70	88	98
15	19	41	64	87
20	10	23	50	63
25	5	12	22	37
30	2.5	5.5	10	19
35	1	2.5	4.4	8.7

33. The appropriate design acceleration is strongly influenced by considerations regarding acceptable hazard. It may reasonably be inferred that for a non-critical structure such as a house, the UBC and other relevant local codes will reflect the acceptable hazard of the political jurisdiction in question.

34. In the event that the owner wishes to consider the use of a standard of acceptable hazard higher than that required by the local codes, the graphs of Figure No. 5 will be of value. Figure No. 5a is after Housner and No. 5b is after Schnabel and Seed, 1973, and show the Probable Seismic Acceleration Related to Earthquake Magnitude and Distance to Epicenter.

35. The California Division of Mines and Geology definition of Maximum

Probable earthquake for the San Andreas Fault is a magnitude of 8.3.

36. In a moderate proximate earthquake, damage due to moving objects such as tables and falling crockery will probably exceed damage due to cosmetic plaster cracking, for a structure designed to conform to current seismic design. The extent of the damage will be influenced by the acceleration at the site.

Slope Stability

37. The two major subsoil types are represented by the direct shear tests carried out on samples from a depth of 10 ft. in the sandy silty clay $c = 2800$ psf $\phi = 15.5^\circ$ and from a depth of 20 ft. in the partially cemented silty sand $c = 700$ psf $\phi = 43^\circ$.

Calculations based on Figure 10.19 Page 369 of Foundation Engineering Handbook indicate that for static considerations with a factor of safety of 1.5 applied to both c and ϕ that the safe height for a 40° slope in both the materials tested is many times greater than the actual height. The static factor of safety is therefore considerably greater than 1.5. The rough "rule of thumb" for most slopes is that there is a .2 to .3 change in factor of safety for each .1g increase in horizontal acceleration. Based on the very high factor of safety for the static condition, there is safety against a seismic event producing a .15g horizontal acceleration at the site.

The static stability of the slopes is confirmed by the very much steeper slopes in essentially similar material along the ocean cliffs.

The dynamic stability is confirmed by the presence of large trees ~~sub-~~
significantly ~~ciently~~ older than 1906 on the face of the ravine slope and at the base of the ravine. These trees indicate that the ravine slopes survived the 1906 earthquake.

Water Table

38. The existing water table is below the existing stream bed. It is reported in the EIR that within 12 days of rainfall, the stream is no longer flowing. This suggests that the stream is due to surface runoff and is not fed by ground water. It appears probable therefore that the natural water table is below the bottom of the stream bed at all times of the year. Due to the upper relatively impermeable layer, it is considered probable that nearly all rainfall runs off directly to the stream and that very little soaks into the ground at depth.

Liquefaction

39. Due to the low ground water table and the very high density of the soil, liquefaction is not considered probable.

Septic System

40. Due to the more impermeable soils in the upper 19 ft., it is probable that the County Health Department will require that deep pits be provided, draining into the underlying silty sand. From a soil engineering viewpoint, the deeper the septic system, the better. Similarly, the pits should be kept as far from the edge of the ravine as possible. Given a deep septic system, the sandy nature of the deeper soils and the relatively low input from a single family residence, it should be possible from a soil engineering standpoint to locate a septic system on the site. The location of the septic pits should be approved by the Soil Engineer.

The feasibility of a septic system was not a part of this report. We were requested to obtain the clay content of the two soil types at the site. The results are presented under Laboratory Testing in the body of the report.

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 this time, Peter E. Monk 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 of his representative, to ensure that the information and recommendations contained herein are called to the attention of the Architects and the Engineers for the project and incorporated into the plans, and that the necessary steps are taken to ensure that the Contractors and Sub-Contractors carry out such recommendations in the field.

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. This report should therefore be reviewed in the light of future planned construction and the then current applicable codes.

APPENDIX A

Plan Showing Location of Site

Sketch Plan Showing Approximate Location of Borehole

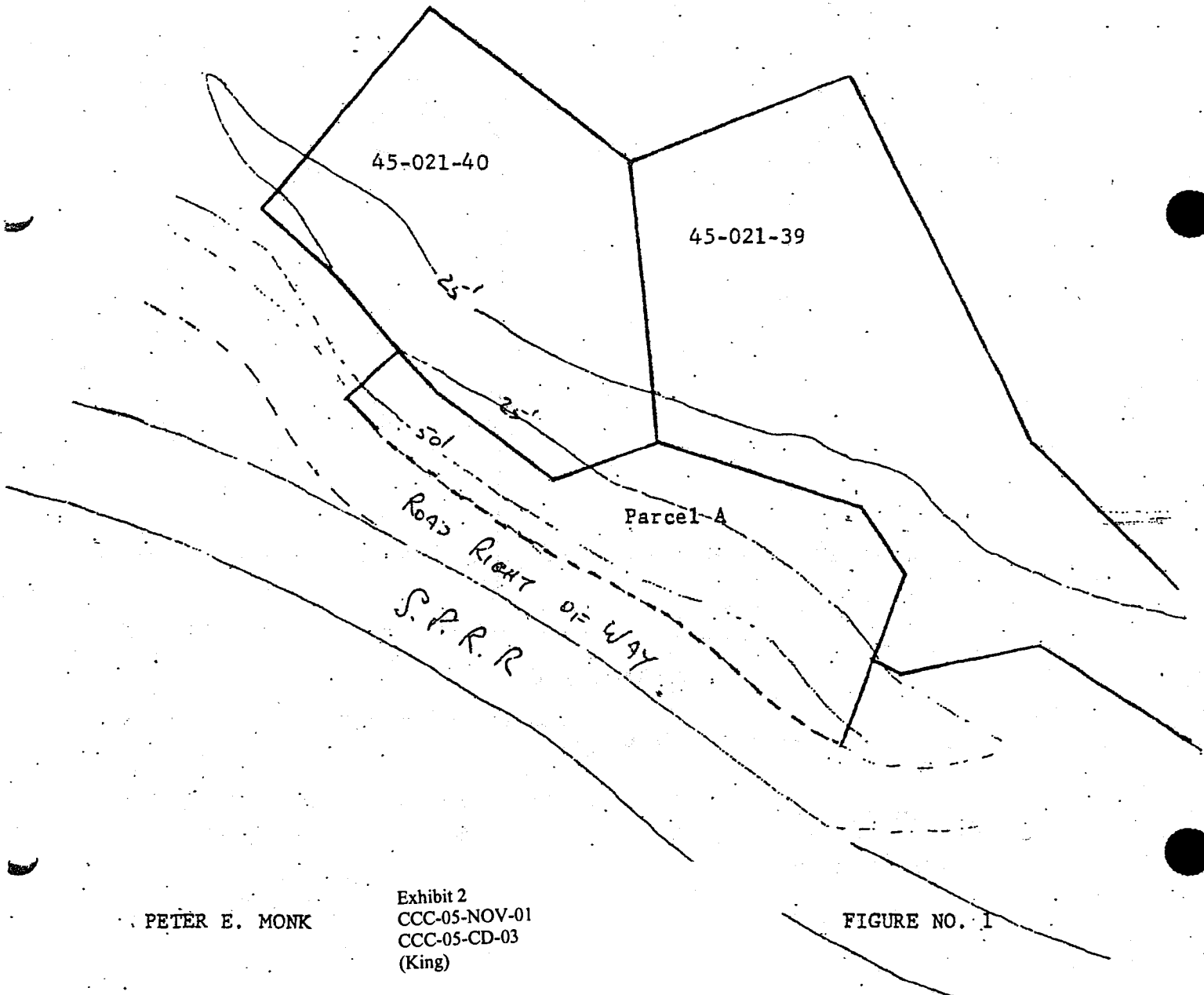
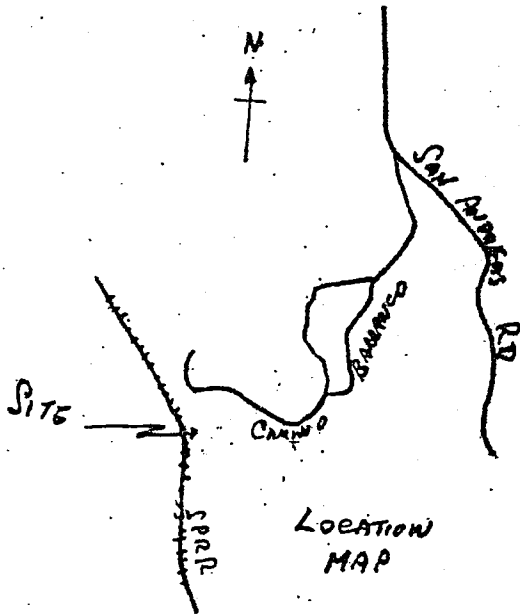
Logs of Borehole and Test Probes

Curves of Accelerations due to Seismic Activities
Related to Distance from Epicenter of Earthquake

SCR75-E4-155
13 October 1975

PLAN SHOWING LOCATION OF
PARCEL A OF KING PROPERTY
LA SELVA BEACH, CALIFORNIA

Scale 1" to 100'

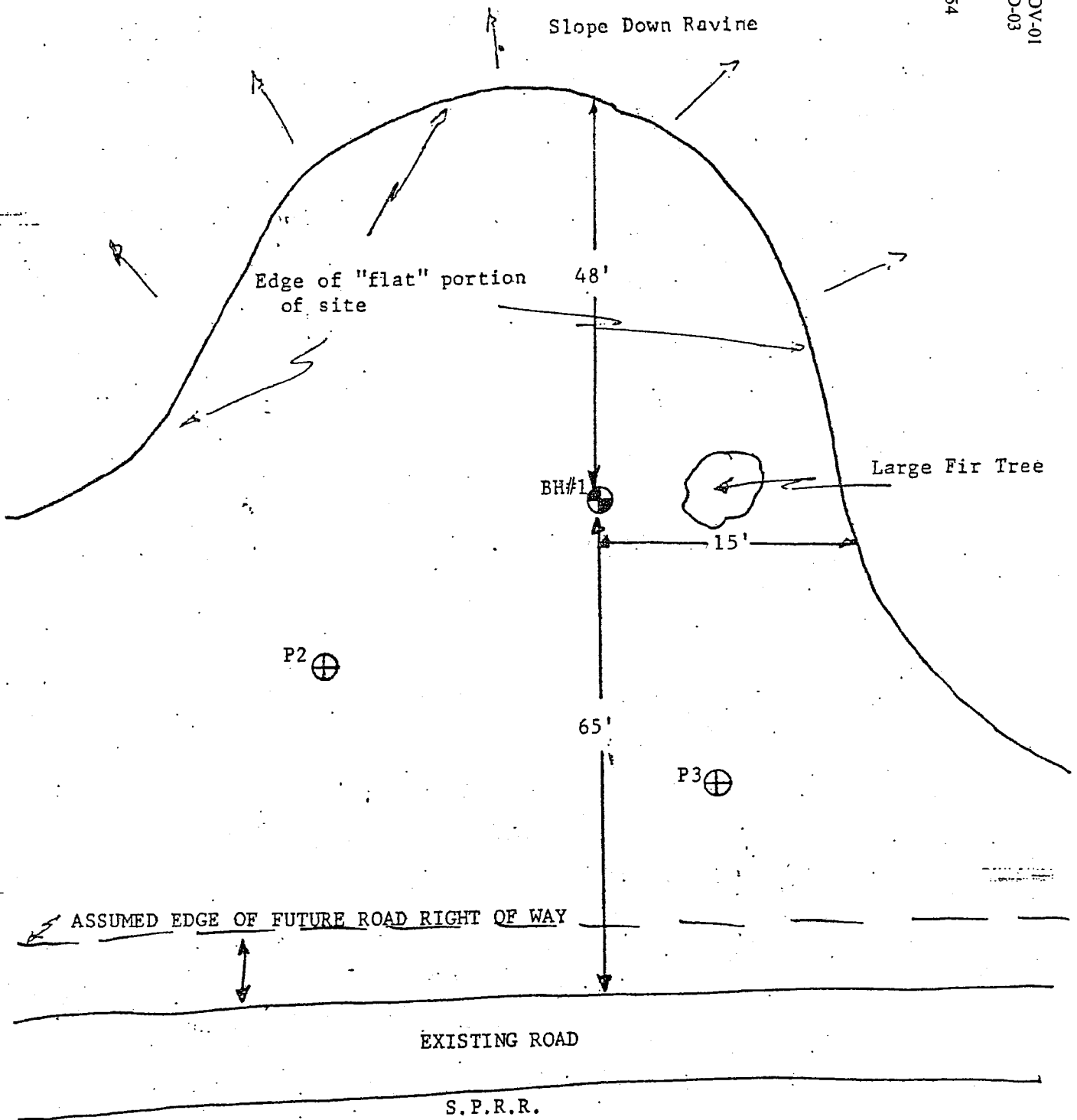


PETER E. MONK

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
(King)

FIGURE NO. 1

NOT TO SCALE



Test Borehole
Cone Penetration Tests

SKETCH PLAN SHOWING LOCATION
OF TEST BOREHOLE & PROBES

PETER E. MONK

FIGURE NO. 2

LOGGED BY		PM	DATE DRILLED		30 Sept. 1975	BORING DIAMETER		6"	BORING NO.		1
Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft.-lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS		
			SANDY TOPSOIL								
5	1-1		Very Dense Brown Silty Sand		60	45+					
10	1-2		Very Stiff Brown Sandy Clay		43	45+	107	20.5	c=2800psf Ø=15.5		
20	1-3		Very Dense to Extremely Dense Brown Silty Sand with some cementation		113	45+	102	4.6	c=700psf Ø=42.8		
30	1-4				130	45+					
45	1-5 T				140						
			Exhibit 2 CCC-05-NOV-01 CCC-05-CD-03 (King) Page 40 of 54								
PETER E. MONK				FIGURE NO. 3							

LOGGED BY <u>PM</u> DATE DRILLED <u>30 Sept. 1975</u> BORING DIAMETER <u>6"</u> BORING NO. <u>1</u>		Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft.-lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
50					VERY DENSE SILTY SAND						
55					<p>— Hole Caving Probable Water Level at 53 ft.</p>						
60					SATURATED VERY DENSE SILTY SAND						
65					<p>Boring Terminated at 65 ft. in SATURATED VERY DENSE SILTY SAND</p> <p>Samples 1 through 4 2½" Ø ID 1-5T Standard Terzaghi Sampler</p> <p>Exhibit 2 CCC-05-NOV-01 CCC-05-CD-03 (King)</p> <p>Page 41 of 54</p>						

PETER E. MONK

FIGURE NO. 3 continued.

TABLE I

TABLE OF PENETRATION RESULTS

(Two-inch Diameter Cone Driven by 140-pound Hammer Falling Thirty Inches.)

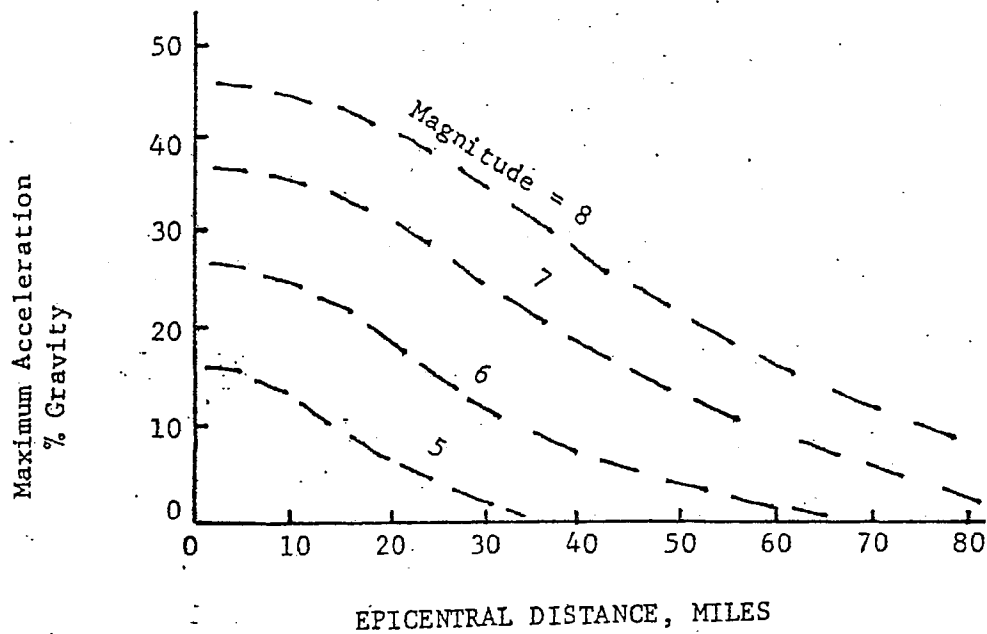
Depth in Feet	Blows per Foot		
	P1	P2	P3
1	31	22	25
2	34	28	28
3	52	45	43
4	61	42	59
5		65	

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CCC-05-NOV-01
CCC-05-CD-03
(King)

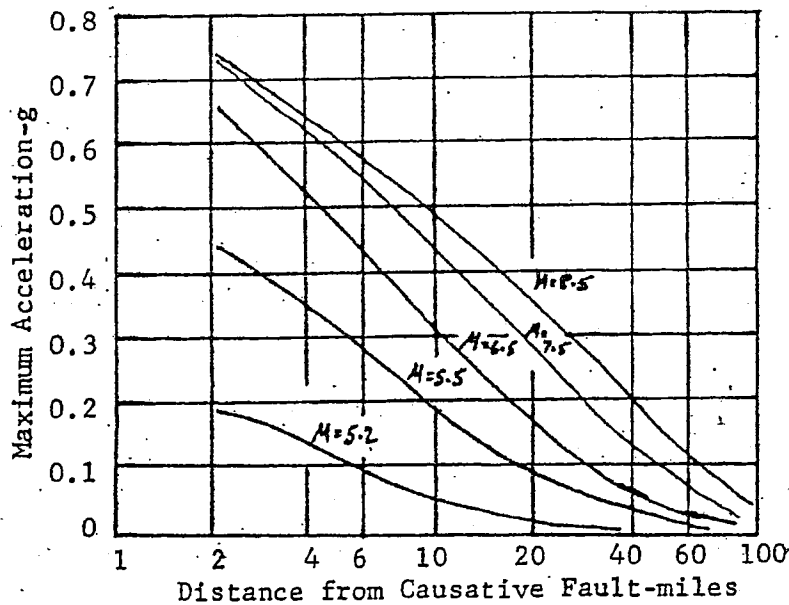
Page 42 of 54

PETER E. MONK

FIGURE NO. 4



MAXIMUM ACCELERATION vs. DISTANCE
(after Housner)



After Schnabel and Seed
from "Acceleration of Rock for Earthquakes
in the Western United States"
Bulletin of the Seismological Society of
America, Vol. 68, No. 2, April 1973

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
(King)
Page 43 of 54

APPENDIX B

Grading Specifications for Rock under Floor Slabs

GUIDE SPECIFICATIONS FOR ROCK UNDER FLOOR SLABS

Definition

Graded gravel or crushed rock for use under floor slabs shall consist of a minimum thickness of mineral aggregate placed in accordance with these specifications and in conformity with the dimensions shown on the plans. The minimum thickness is specified in the accompanying report.

Material

The mineral aggregate for use under floor slabs shall consist of broken stone, crushed or uncrushed gravel, quarry waste, or a combination thereof. The aggregate shall be free from adobe, vegetable matter, loam, volcanic tuff, and other deleterious substances. It shall be of such quality that the absorption of water in a saturated dry condition does not exceed 3% of the oven dry weight of the sample.

Gradation

The mineral aggregate shall be of such size that the percentage composition by dry weight as determined by laboratory sieves (U.S. Sieves) will conform to the following grading:

<u>Sieve Size</u>	<u>Percentage Passing Sieve</u>
3/4 in.	100
No. 4	0-12
No. 200	0-2

Placing

Subgrade, upon which gravel or crushed rock is to be placed, shall be prepared as outlined in the accompanying soil report.

APPENDIX C

(d) Exceptions: Nothing contained in this Section shall be construed to require any person to maintain any clearing on land where such person does not have the legal right to maintain such clearing, nor shall any provision of this Appendix be construed to require any person to enter upon or to damage property of another without consent of the owner thereof.

16. CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM STRUCTURES

(a) Any person owning, leasing, controlling, operating or maintaining any building or structure in, upon or adjoining any hazardous fire area, and any person owning, leasing or controlling any land adjacent to such buildings or structures, shall at all times:

1. Maintain around and adjacent to such building or structure an effective firebreak made by removing and clearing away, for a distance therefrom of not less than 30 feet on each side thereof, all flammable vegetation or other combustible growth. This Section shall not apply to single specimens of trees, ornamental shrubbery, or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.
2. Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth located from 30 feet to 100 feet from such building or structure as may be required by the Chief when he finds that because of extra hazardous conditions a firebreak of only 30 feet around such structures is not sufficient to provide reasonable firesafety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.
3. Remove that portion of any tree which extends within 10 feet of the outlet of any chimney.
4. Maintain any tree adjacent to or overhanging any building free of deadwood.
5. Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(b) In the event of any of the conditions prohibited by Subsection (a) of this Section exist, the Executive Body may instruct the Chief to give notice to the owner of the property upon which such condition exists, to correct such prohibited condition, and if the owner fails to correct such condition the Executive Body may cause the same to be done and make the expense of such correction a lien upon the property upon which such condition exists.

17. CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM ROADWAYS

(a) The Chief may remove and clear within 10 feet on each side of every roadway all flammable vegetation or other combustible growth, and may enter upon private property to do so. This Section shall not

EXHIBIT "B"

6. Prior to or concurrent with filing of the Parcel Map, the following checked items shall be complied with:

- ☐ Sign and submit the attached form to combine Assessor's Parcels.
- ☐ Sign and submit attached agreement witnessed by a Notary Public.
- ☐ Submit legal evidence (grant deed) that the legal owner(s) of the whole parcel before division is (are) other than
- ☒ A grant deed shall be submitted to grant to the County a ~~right-of-way~~ ^{basement} as indicated on the attached Tentative Parcel Map. (Parcel E)
- ☐ Submit proof of legal access from public road to this property (40-foot right-of-way if access was recorded after December 28, 1962).
- ☐ Submit and secure approval of engineered improvement plans to the Department of Public Works to reflect grading, base and paving of roads, curbs and gutters, sidewalks, storm drains, sanitary sewers, erosion control or other improvements required by the Subdivision Ordinance to the extent noted on the attached map. An agreement backed by financial securities, per Sections 13.08.510 and 512 of the Subdivision Ordinance, shall be executed to guarantee completion of this work.
- ☒ A grading permit shall be obtained from the Building Official prior to construction of driveway or access road. Submit evidence of compliance with submittal of Parcel Map.
- ☒ Construct an access road between the limits shown on the attached Tentative Parcel Map to the following standards, or better: Width of road base or paving shall be at least 16 feet. The minimum centerline radius should be at least 75 feet. Maximum grade shall not exceed 20%. A cul-de-sac shall be constructed to a radius of 32 feet. Asphalt berms are required where necessary to control drainage. Other drainage details shall conform to current engineering practice. All road construction materials shall conform to the State of California Standard Specifications.
- ☒ The road shall be constructed with an oil and screenings seal coat, medium type, on at least 5-inches of aggregate base, class 2. One and one-half inches of asphalt concrete pavement, type B, shall be provided in-lieu of a seal coat on portions of road where grade exceeds 10%.
- ☐ The road shall be constructed with one and one-half inches of asphalt concrete pavement, type B, on at least five inches of aggregate base, class 2.
- ☐ Repair existing access road. Fill and compact pot-holes with asphalt concrete pavement, type B.
- ☐ Road surface shall be over-laid with one and one-half inches of asphaltic concrete pavement, type B.
- ☐ Road surface shall be over-laid with an oil and screenings seal coat, medium type.
- ☐ Submit proof to satisfy the Health Department that the depth of usable ground water is greater than 100 feet below ground surface.
- ☐ Each well shall be developed to the requirements of the Health Department.
- ☐ Submit proof of adequate water supply to satisfy requirements of the Health Department.
- ☐ Submit certification by a Registered Sanitarian to ascertain suitability of soils for installation of individual septic tank system to satisfy requirements of the Health Department.
- ☐ A lot check is required on these parcels. Contact the Environmental Health Department to perform the lot check. A fee will be required.
- ☒ Submit proof of payment of fee in-lieu of park dedication. Receipt from the Planning Department will meet this requirement.
- ☒ Submit proof that there are no outstanding tax liabilities against the affected parcels. A certification from the Tax Collector's Office will satisfy this requirement.
- ☒ Parcels B+C to be combined with A, or combine with D and designate as "not a building site" on parcel map.
- ☒ Parcel Map may not be filed or building permit issued prior to effective date of PD zoning (Jan 16, 1976)

This Tentative Parcel Map is approved on Dec. 19, 1975 subject to the above conditions and the attached map, and expires one (1) year from the date stamped hereon.

14 Mo's.
Sincerely yours

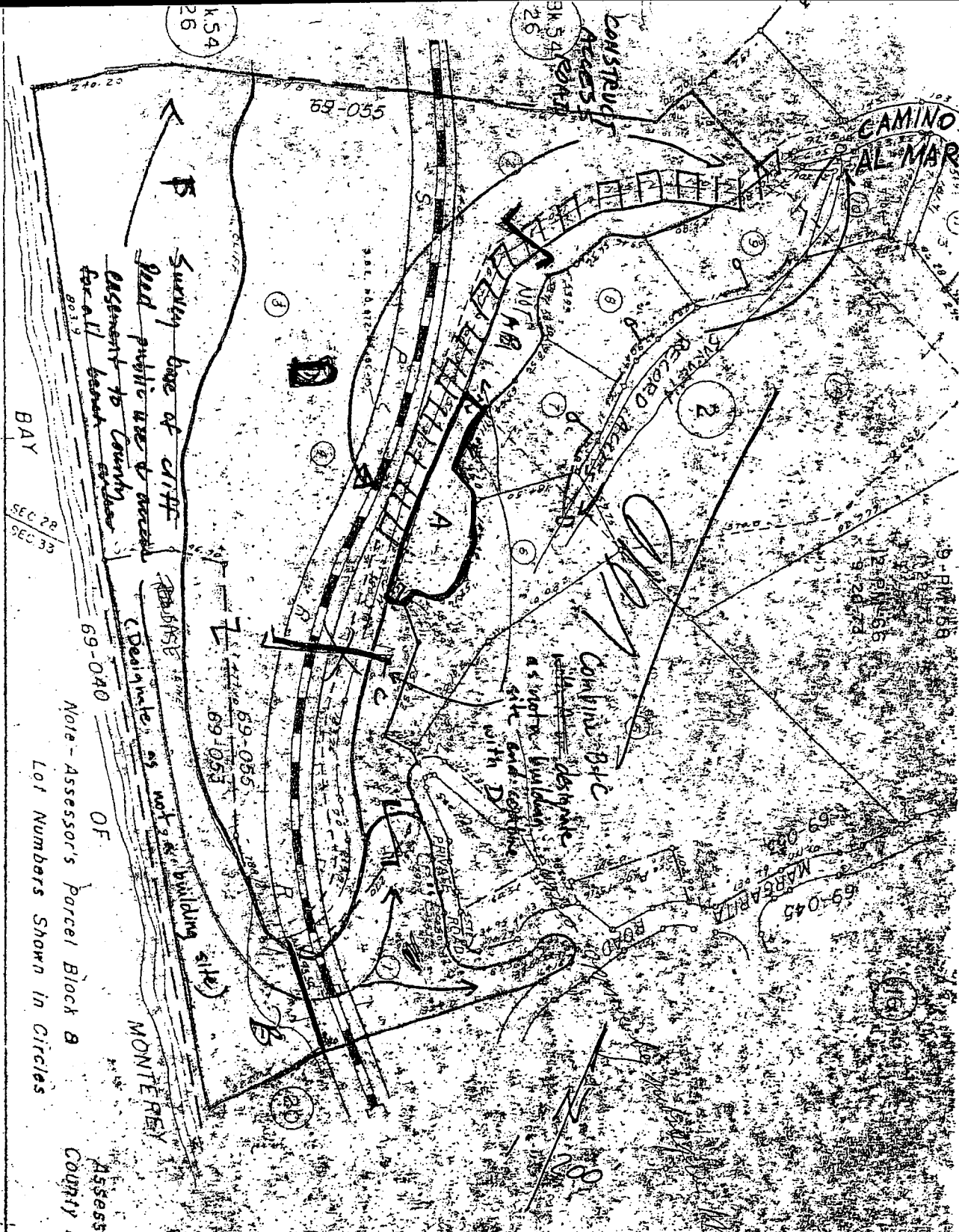
PLANNING DIRECTOR

By: Henry P. Baker

Attachment: Tentative Parcel Map

cc: County Surveyor
Applicant

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
(King)



Survey base of cliff
 and public use to access
 easement to County
 for all beach erosion

69-055
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SEC 28
 SEC 33
 BAY
 Note - Assessor's Parcel Block B
 Lot Numbers Shown in Circles

TENTATIVE PARCEL MAP
 75-753-MLD
 AP # 45-021-01, -02, -03, 04
 JOHN J. KING

Exhibit 2
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)
 Page 49 of 54

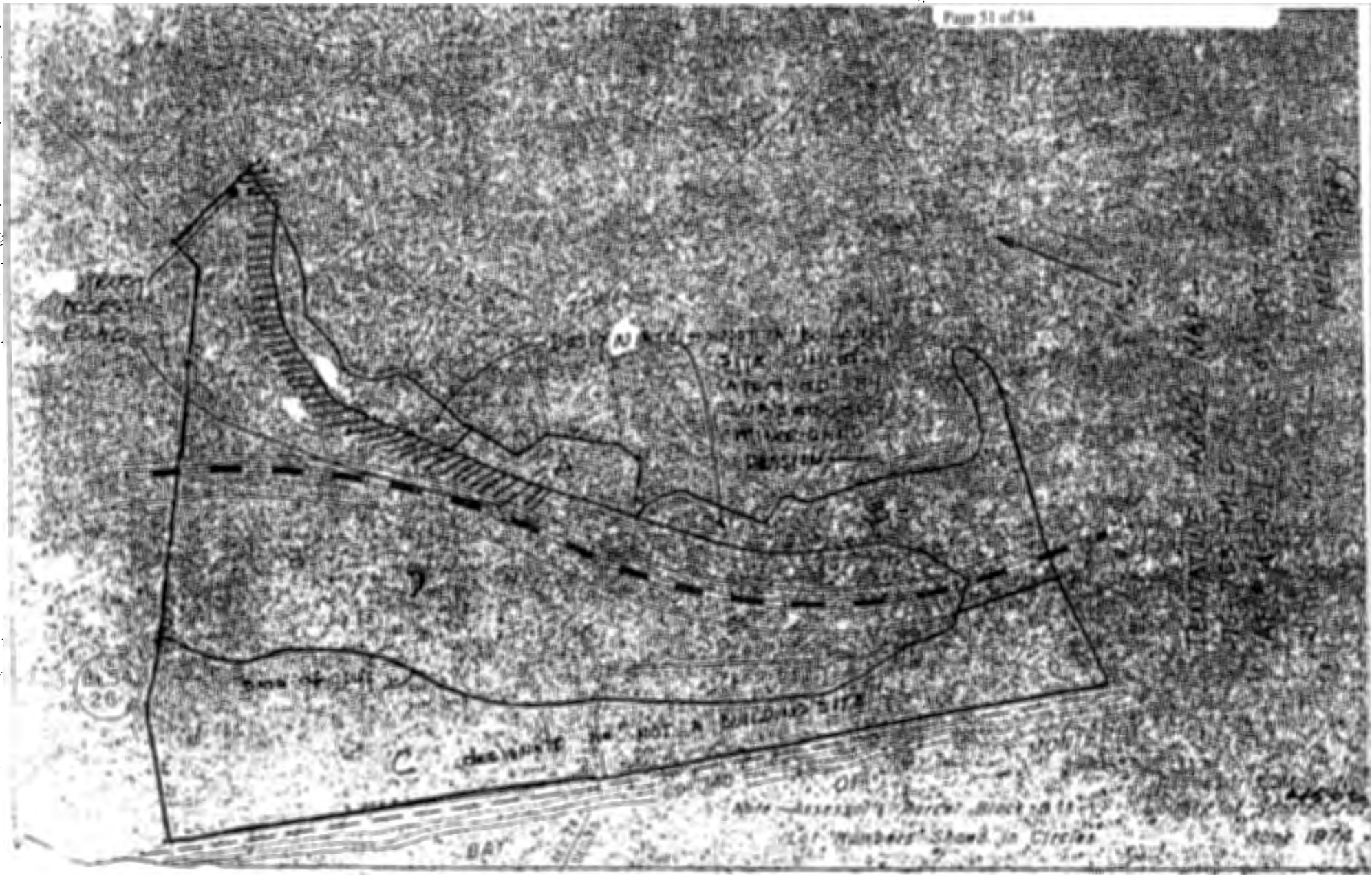
Assessor's Map No. 45-02
 County of Santa Cruz, Calif.
 June 1974

HP

GENERAL LOCATION Los Barrancos-

EXHIBIT "C"

Exhibit 2
CCC-05-NOV-01
CCC-05-CD-03
(King)



- Sign and submit the attached form to combine Assessor's Parcels.
 Sign and submit attached agreement witnessed by a Notary Public.
 Submit legal evidence (grant deed) that the legal owner(s) of the whole parcel before division is (are) other than _____
 A grant deed shall be submitted to grant to the County a right-of-way as indicated on the attached Tentative Parcel Map.
 Submit proof of legal access from public road to this property (40-foot right-of-way if access was recorded after December 28, 1962).
 Submit and secure approval of engineered improvement plans to the Department of Public Works to reflect grading, base and paving of roads, curbs and gutters, sidewalks, storm drains, sanitary sewers, erosion control or other improvements required by the Subdivision Ordinance to the extent noted on the attached map.
 An agreement backed by financial securities, per Sections 13.08.510 and 512 of the Subdivision Ordinance, shall be executed to guarantee completion of this work.
☒ A grading permit shall be obtained from the Building Official prior to construction of driveway or access road. Submit evidence of compliance with submittal of Parcel Map.
☒ Construct an access road between the limits shown on the attached Tentative Parcel Map to the following standards, or better: Width of road base or paving shall be at least 16 feet. The minimum centerline radius should be at least 75 feet. Maximum grade shall not exceed 20%. A cul-de-sac shall be constructed to a radius of 32 feet. Asphalt berms are required where necessary to control drainage. Other drainage details shall conform to current engineering practice. All road construction materials shall conform to the State of California Standard Specifications.
☒ The road shall be constructed with an oil and screenings seal coat, medium type, on at least 5-inches of aggregate base, class 2. One and one-half inches of asphalt concrete pavement, type B, shall be provided in-lieu of a seal coat on portions of road where grade exceeds 15%.
 The road shall be constructed with one and one-half inches of asphalt concrete pavement, type B, on at least five inches of aggregate base, class 2.
 Repair existing access road. Fill and compact pot-holes with asphalt concrete pavement, type B.
 Road surface shall be over-laid with one and one-half inches of asphaltic concrete pavement, type B.
 Road surface shall be over-laid with an oil and screenings seal coat, medium type.
 Submit proof to satisfy the Health Department that the depth of usable ground water is greater than 100 feet below ground surface.
 Each well shall be developed to the requirements of the Health Department.
 Submit proof of adequate water supply to satisfy requirements of the Health Department.
 Submit certification by a Registered Sanitarian to ascertain suitability of soils for installation of individual septic tank system to satisfy requirements of the Health Department.
 A lot check is required on these parcels. Contact the Environmental Health Department to perform the lot check. A fee will be required.
☒ Submit proof of payment of fee in-lieu of park dedication. Receipt from the Planning Department will meet this requirement.
☒ Submit proof that there are no outstanding tax liabilities against the affected parcels. A certification from the Tax Collector's Office will satisfy this requirement.

☒ NOTE AS SHOWN ON TENTATIVE MAP -

This Tentative Parcel Map is approved on Dec 19, 1975 subject to the above conditions and the attached map, and expires 14 months from the date stamped hereon.

Sincerely yours,

KAY BOWEN
PLANNING DIRECTOR

BY

Henry C Baker

Attachment: Tentative Parcel Map
cc: County Surveyor
Applicant

NOTE:

Santa Cruz County Code, Section 13.08.312 states: "A subdivider, or any person adversely affected by the decision of the Planning Director, for subdivisions for which a parcel map is required, may file an appeal with the Secretary of the Planning Commission within 15 days after the decision rendered by the Planning Director." If no appeal is submitted, this approval will become effective on JAN 16, 1976.

COUNTY OF SANTA CRUZ

INTER-OFFICE CORRESPONDENCE

Date: July 26, 1977

To : Planning Commission (August 3, 1977 meeting)

From: Richard Pearson, Chief of Development Processing

Subject: King PUD - MLD (Trestle Beach)

Questions have arisen about the concurrent approval by the County of a Planned Unit Development and Minor Land Division on the same property.

CHRONOLOGY:

- 9-26-73 King applies for 73-13-PUD and Tract 672 (154 units).
(R. Pearson, staff person)
- 10-01-73 EIR required.
- 11-12-73 Staff recommends conceptual PUD process, as proposal has major problems with general plan, density and services. Environmental assessment to be done rather than full EIR.
- 12-04-73 King agrees to conceptual procedure.
- 1-16-74 Scheduled PC hearing on PUD. King requests continuance to respond to staff recommendation of denial, and proposed Aptos general plan.
- 2-20-74 King requests continuance until 90 days after County adoption of new Aptos general plan.
- 10-01-74 Aptos general plan adopted. King property designated Urban 2-6 units per acre (blufftop) and Recreation - Scenic (ravine and beach).
- 2-01-75 King submits revised PUD for 32 units.
- 2-24-75 EIR required.
- 4-01-75 EIR contract for PUD signed. (L. Anderson, consultant)
- 7-10-75 King adds 7 lots in ravine to PUD.
- 7-18-75 King changes his mind and applies separately for 75-753-MLD to divide 1 acre building site in ravine, apparently because PUD is taking too long and may not be approved. King amends

PUD to not show division of 7 ravine lots. (S. Lemieux, staff person initially; R. Pearson, staff person after Lemieux leaves in 10-75)

- 9-02-75 EIR required on MLD.
- 9-09-75 ERC accepts EIR on PUD.
- 9-26-75 EIR contract for MLD signed. (L. Anderson, consultant)
- 10-10-75 EIR for PUD public review period ends.
- 11-03-75 ERC accepts EIR on MLD. Copies sent to Planning Commissioners as part of public review.
- 11-19-75 Scheduled PC day meeting on PUD; continued to December 11 night meeting at applicant's request.
- 12-04-75 EIR for MLD public review period ends.
- 12-11-75 PC recommends approval of PUD to Board of Supervisors. No mention or discussion of pending MLD.
- 12-19-75 H. Baker, Acting Planning Director, approves MLD. Conditions prepared by R. Pearson require dedication to County of public use and access easement for all beach areas.
- 3-02-76 Board of Supervisors approves PUD. No mention or discussion of already-approved MLD.
- 3-09-76 Board passes ordinance requiring MLDs to be considered by Zoning Administrator at public meeting. (Effective 4-09-76)
- 4-30-76 H. Baker, Deputy Planning Director, amends MLD approved conditions to delete dedication requirement.

DISCUSSION OF MLD-PUD:

Both the environmental consultant and the staff person had the mistaken impression that the MLD was an alternative for Dr. King if the PUD were not approved. This was not Dr. King's intent, as he has since stated, and as was fairly clearly implied by his statements in the EIR on the MLD. In fact, Dr. King planned to divide off further homesites in the ravine area, and did not understand that the PUD applied to all of his remaining property, and not just the blufftop.

Today, the PUD is still pending, but the parcel map for the MLD has been recorded, and the lot has been sold to Dr. Finegan.

6. Prior to or concurrent with filing of the Parcel Map, the following checked items shall be complied with:

- Sign and submit the attached form to combine Assessor's Parcels.
- Sign and submit attached agreement witnessed by a Notary Public.
- Submit legal description (grant deed) that the legal owner(s) of the whole parcel before division is (are) other than _____.
- A grant deed shall be submitted to grant to the County a right-of-way as indicated on the attached Tentative Parcel Map.
- Submit proof of legal access from public road to this property (40-foot right-of-way if access was recorded after December 28, 1962).
- Submit and secure approval of engineered improvement plans to the Department of Public Works to reflect grading, base and paving of roads, curbs and gutters, sidewalks, storm drains, sanitary sewers, erosion control or other improvements required by the Subdivision Ordinance to the extent noted on the attached map.
- An agreement backed by financial securities, per Sections 13.08.510 and 512 of the Subdivision Ordinance, shall be executed to guarantee completion of this work.
- ✓ A grading permit shall be obtained from the Building Official prior to construction of driveway or access road. Submit evidence of compliance with submittal of Parcel Map.
- ✓ Construct an access road between the limits shown on the attached Tentative Parcel Map to the following standards, or better: Width of road base or paving shall be at least 16 feet. The minimum centerline radius should be at least 75 feet. Maximum grade shall not exceed 20%. A cul-de-sac shall be constructed to a radius of 32 feet. Asphalt berms are required where necessary to control drainage. Other drainage details shall conform to current engineering practice. All road construction materials shall conform to the State of California Standard Specifications.
- ✓ The road shall be constructed with an oil and screenings seal coat, medium type, on at least 5-inches of aggregate base, class 2. One and one-half inches of asphalt concrete pavement, type B, shall be provided in-lieu of a seal coat on portions of road where grade exceeds 15%.
- The road shall be constructed with one and one-half inches of asphalt concrete pavement, type B, on at least five inches of aggregate base, class 2.
- Repair existing access road. Fill and compact pot-holes with asphalt concrete pavement, type B.
- Road surface shall be over-laid with one and one-half inches of asphaltic concrete pavement, type B.
- Road surface shall be over-laid with an oil and screenings seal coat, medium type.
- Submit proof to satisfy the Health Department that the depth of usable ground water is greater than 100 feet below ground surface.
- Each well shall be developed to the requirements of the Health Department.
- Submit proof of adequate water supply to satisfy requirements of the Health Department.
- Submit certification by a Registered Sanitarian to ascertain suitability of soils for installation of individual septic tank system to satisfy requirements of the Health Department.
- A lot check is required on these parcels. Contact the Environmental Health Department to perform the lot check. A fee will be required.
- ✓ Submit proof of payment of fee in-lieu of park dedication. Receipt from the Planning Department will meet this requirement.
- ✓ Submit proof that there are no outstanding tax liabilities against the affected parcels. A certification from the Tax Collector's Office will satisfy this requirement.
- ✓ NOTE A-7 shown on tentative map -

This Tentative Parcel Map is approved on Dec 19, 1975 subject to the above conditions and the attached map, and expires 14 months from the date stamped hereon.

Sincerely yours,
KAY BOWEN
PLANNING DIRECTOR

BY Henry C. Behr

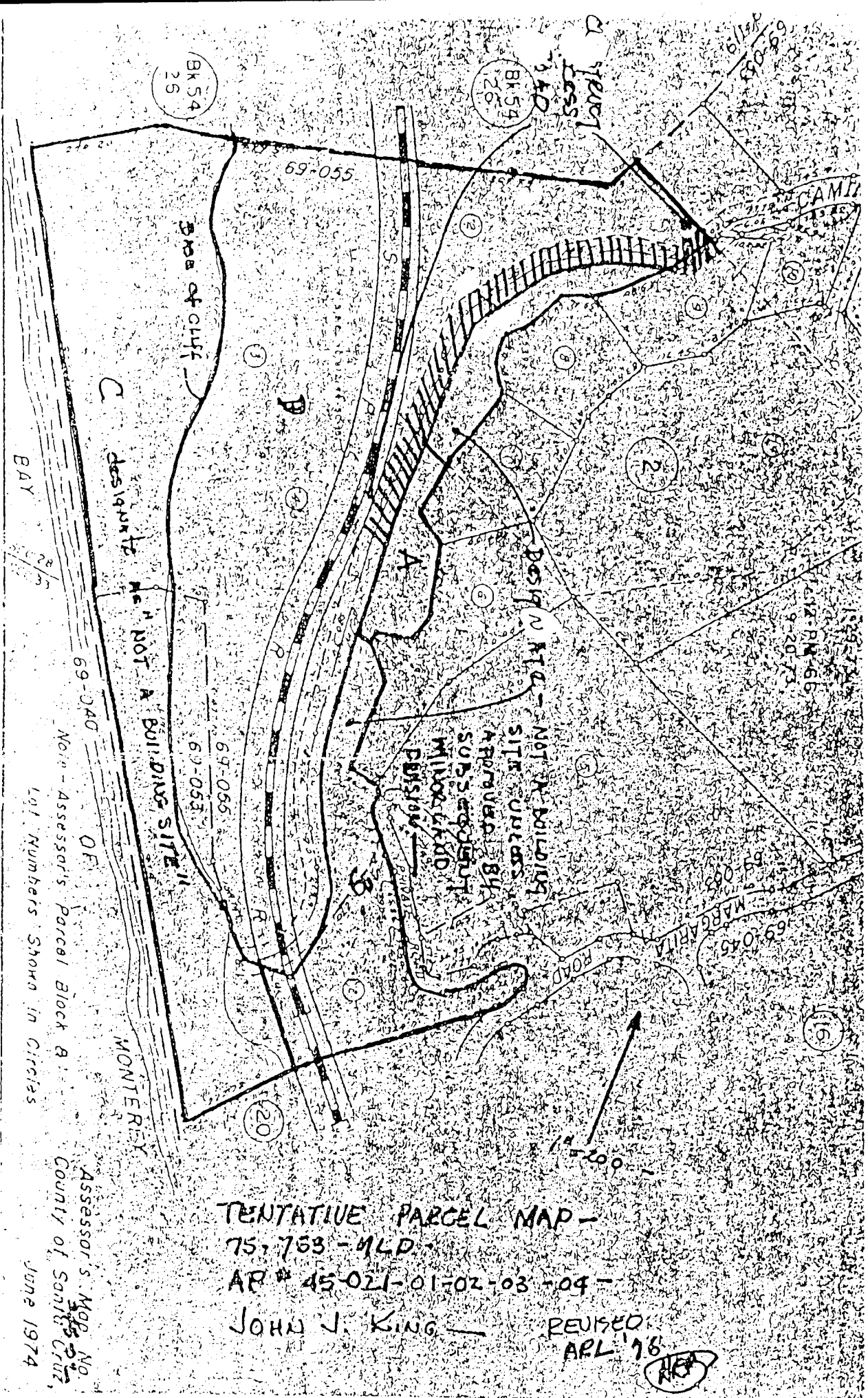
Attachment: Tentative Parcel Map
cc: County Surveyor
Applicant

NOTE:

Santa Cruz County Code, Section 13.08.312 states: "A subdivider, or any person adversely affected by the decision of the Planning Director, for subdivisions for which a parcel map is required, may file an appeal with the Secretary of the Planning Commission within 15 days after the decision rendered by the Planning Director." If no appeal is submitted, this approval will become effective on JAN 16, 1976.

PLN-31
4/76

Exhibit 3
CCC-05-NOV-01
CCC-05-CD-03
(King)
Page 2 of 3



TENTATIVE PARCEL MAP -

75-763-MLD

AP # 45-021-01-02-03-04-

JOHN J. KING -

REVISED

APR 16

APR 16

HRB

Page 1 of 3

Exhibit 4
CCC-05-NOV-01
CCC-05-CD-03
(King)

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- ✓ Submit proof that there are no outstanding tax liabilities against the affected parcels. A certification from the Tax Collector's Office will satisfy this requirement.
- ✓ NOTE A - shown on tentative map -

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Sincerely yours,

KAY BOWZEN
PLANNING DIRECTOR

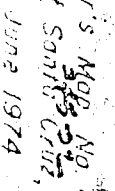
BY

Henry E. Baker

Attachment: Tentative Parcel Map
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Applicant

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CENTRAL COAST REGIONAL COMMISSION

APPLICATION FOR PERMIT

RECEIVED
JUN 25 1976

Section I. Applicant

1. Name, address and telephone number of applicant:

John J. King
255 Camino del Mar 95076 (408) 688-2638
 Zip (Area Code)

2. Name, address and telephone number of applicant's representative, if any, or method of contacting applicant when not at above phone between 8:00 a.m. and 5:00 p.m.

 Zip (Area Code)

Section II. Summary of Work Proposed and Project Location

3. Brief (one or two sentence) description of work proposed:

Minor land division - 1 acre

Construction Cost (Building Inspector's estimate): _____. Number of units, if residential development _____. Square footage of development, if office, commercial, or convention development _____.

Attach a site plan, plot plan or development plan.

4. Project information (in square feet):

(a) Size of parcel 1 ac sq. ft. or acres.

(b) Land coverage including all paving and decks _____ sq. ft.

(Please give figures for actual land coverage. Example: a two-story home may have 2,500 sq. ft. total, but will cover only 1,250 sq. ft. of the site.)

(c) Existing structures on parcel none

5. Brief description of project location (street address, city or county, nearest roads, etc.) and Assessor's parcel numbers. Attach Assessor's parcel map.

Extension of Camino del Mar
Los Banos, La Selva Beach

TO BE FILLED IN BY THE COMMISSION:

Application Number P-2034

Filing Fee \$ 75.00 / 6-25-76
 amount date received

Date Filed 6-28-76

Public Hearing Date _____
 (Not less than 21 days nor more than 90 days after filing)

Exhibit 5
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

6. (a) City or county General Plan designation for your property _____

_____ *Open space reserve* _____

(b) Current zoning on your property _____ *RR-1* _____

7. Attach to this application adequate illustrations (such as a U. S. Geological Survey 7½ minute quadrangle map and a detailed project map) to show: (a) precisely what development is proposed and where; (b) present uses, both public and private, concerning land and water areas in the vicinity of the site of the proposed project.

8. Does the proposed development consist only of a repair or improvement to an existing structure? Explain briefly and indicate the method of computing cost.

_____ *No* _____

9. Attach to this application sufficient documentation to show applicant's interest in the property (such as a copy of deed, title report, tax bill, leasehold agreements, or escrow instructions). Note: these must show applicant's name as owner, purchaser, or lessee.

10. List the name, address, and parcel number of each owner of record of property within 100' of each boundary of the property proposed for development. (Attach separate sheet if necessary.) Enclose one stamped and addressed envelope for each (at least 9½ x 4 1/8 size envelopes).

Section III. Detailed Description of Proposed Work

11. Explain any dredging, filling, and placing of structures in any beach, bay, estuary, salt or freshwater marsh, river mouth, slough or lagoon.

_____ *No* _____

12. (a) To what extent would the development reduce the size of any beach or other area usable for public recreation; or reduce or restrict public access to tidal and submerged lands, beaches or the line of mean high tide where there is no beach.

_____ *No* _____

(b) Would the project increase access to publicly-owned or public-used beaches, recreation areas, or natural reserves. Please explain.

No

13. Indicate height and size of all proposed structures visible from a State highway or public viewing point, including beach and tideland areas. Describe any interference with the line of sight toward the sea from any public road or viewing point. Attach photographs or architectural renderings.

None

14. Describe how the development would affect (a) water quality, including any run-off into any body of water or streambed; (b) any areas of open water free of visible structures; (c) existing or potential commercial and sport fisheries.

None

15. If the site is currently in agricultural use or if it was in such use on November 8, 1972, describe the crops or stock raised and the impacts on such use by the proposed development.

No

16. Explain the extent to which the development would affect (a) public parks or recreation areas; (b) wildlife or marine reserves; (c) areas of historic or archaeological importance.

None

17. Describe provisions made to dispose of solid and liquid wastes to avoid or minimize adverse effects upon coastal zone resources. (If located in a sewer connection ban-area or if a septic system is required, include copy of sewer permit or approval of septic system.) (Note: Montara, Moss Beach, El Granada, Princeton and Miramar applicants must have permits dated April 19 or earlier.)

Not applicable

18. Describe any proposed changes to the natural or existing land forms, including but not limited to the removal of any vegetation, trees, grading, etc., of 50 cu. yds. of material or more.

None

Attach grading and landscape plans and, if available, or if parcel is larger than one-half acre, a contour map.

19. What provisions have been made to assure an adequate water supply. (Name water supplier, if other than private well or spring.) (Note: Monterey Peninsula applicants must have existing meter. Half Moon Bay/El Granada applicants must have existing connection.)

Sequel Ch. Water District

20. Describe all utilities required and current location of service lines. Call utility companies for assistance. Connections requiring new or relocated poles, line extensions or increased capacity of service will require utility company drawings and/or description.

Underground - Gas, Telephone
Electric

21. Are any energy conservation devices or special insulation included in your proposal?

No

22. Explain how alteration to existing landforms and vegetation and the construction of structures will be performed to minimize adverse effects to scenic resources and danger of floods, landslides, erosion, siltation, or failure, in the event of an earthquake.

slope stability studies done
and approved by Santa Cruz County

Section IV. Other Permits or Approvals Needed

23. Has the project received all required permits and approvals from public agencies? If not, explain.

Yes

24. List all permits, permissions, or approvals required from public agencies for this project, and indicate whether these permits, permissions, or approvals have been (a) applied for and (b) granted. ("Public agencies" includes cities, counties, regional agencies, redevelopment agencies, etc., and also includes the State Lands Commission, the Army Corps of Engineers, and the appropriate Regional Water Quality Control Board.) Attach documentation of all other agency decisions, including any conditions imposed.

Marina Land Division - Santa Cruz County - approved

Section V. Project's Consistency with the California Coastal Zone Conservation Act of 1972

The California Coastal Zone Conservation Act of 1972 states, in Section 27402, that no permit shall be issued unless the regional commission has first found both of the following:

Exhibit 5
CCC-05-NOV-01
CCC-05-CD-03
(King)

(a) That the development will not have any substantial adverse environmental or ecological effect, and

(b) That the development is consistent with the following findings, declarations, and objectives:

(1) "The California coastal zone is a distinct and valuable natural resource belonging to all the people and existing as a delicately balanced eco-system; ...the permanent protection of the remaining natural and scenic resources of the coastal zone is a paramount concern to present and future residents of the state and nation; ...in order to promote the public safety, health and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to preserve the ecological balance of the coastal zone and prevent its further deterioration and destruction; ...it is the policy of the state to preserve, protect, and where possible, to restore the resources of the coastal zone for the enjoyment of the current and succeeding generations..."

(2) "(a) The maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

"(b) The continued existence of optimum populations of all species of living organisms.

"(c) The orderly, balanced utilization and preservation, consistent with sound conservation principles, of all living and non-living coastal zone resources.

"(d) Avoidance of irreversible and irretrievable commitments of coastal zone resources."

25. Please explain whether the project is consistent with the above requirements of law. Use additional paper if necessary.

Yes

26. Is project categorically exempt from environmental determination?

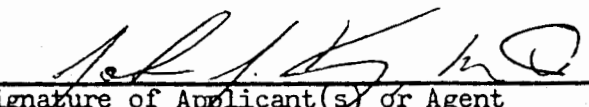
Yes ETR done & approved
ERC

Exhibit 5
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 5 of 8

Section VI. Certification

27. I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or of any information subsequently requested, shall be grounds for denying the permit, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.



Signature of Applicant(s) or Agent

Section VII. Authorization of Agent

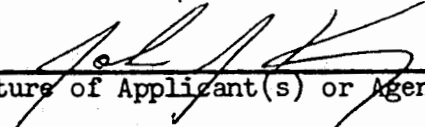
28. I hereby authorize _____ to act as my representative and bind me in all matters concerning this application.

Signature of Applicant(s)

Section VIII. Declaration that Notice Has Been Posted

29. I hereby declare that notice of this application for development (CCR-42) has been posted on the site in question, in a conspicuous and accessible location. (Please check _____ if notice will be posted later this date.)

6/24/76
Date



Signature of Applicant(s) or Agent

Directions for Posting:

Fill out CCR-42 (description of project, applicant name) and post on site. Upon receipt of agenda showing when your project is scheduled fill in hearing place and date. Failing to do so may jeopardize your scheduled hearing date.

Exhibit 5
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 6 of 8

LOCAL AGENCY APPROVAL FORM

This form is to be completed by the city or county planning department, or other agency with jurisdiction to give final approval to the development proposed.

1. Applicant: John J. King
2. Project Description: 1 acre minor land division
3. Project Address: La Bouverne
4. Assessor's Parcel No. 45-021-2 5. Local Agency Case No. 75-753
6. Zoning Designation: RR-1
7. General Plan Designation: Open Space Reserve
8. Local Approval Received: (Attach copies of all permits received to date, including letters granting variance or design review.)

☐ Zoning approval only; no other permits required before building permit. Includes setback, height, legal lot determination.

☐ Design/Architectural Review

☐ Variance for _____

☐ Preliminary only

☐ Site Supervision

☐ Septic system (complete form CCR-16 available at County Health Dept.)

☐ Tentative map/Parcel map

☐ Use Permit No. _____

☐ Zone change from _____

☐ Planned Development

☒ Other MLD-753-75
Minor Land Division

9. California Environmental Quality Act/Project Status
(Attach EIR or Negative Declaration, and check the following:)

☐ Categorically exempt _____. Class: _____. Item: _____
Describe exemption status: _____

☐ Negative Declaration Granted
Date: _____

☒ Environmental Impact Report Required
Final report certified: 11/19/75

10. Approvals still required and tentative hearing dates (list):

Signed: Marc G. May
Title: Assistant Planner

City or County: San Luis Obispo
Date: 6/25/76

CCR-15

Revised 5/76

NOTICE: SMALL PROJECTS MAY REQUIRE PERMITS

Although falling within the general exemption of the Act for single-family dwelling improvements under \$7,500 and maintenance dredging of existing navigation channels, certain classes of development may involve a risk of adverse environmental effects. Pursuant to Section 27405(a), a coastal zone development permit may be required in the following instances:

- (1) Erosion and landslide control measures, including but not limited to, construction and repair of seawalls, groins, retaining walls, rip-rap, use of gunite, non-emergency sandbags and drainage improvements.
- (2) Activities which alter the physical environment, such as grading, major landscaping, access construction or alterations, expansion or construction of water wells or septic systems, clearing or cutting of major vegetation and alteration of sand dunes.
- (3) Because of possible scenic or visual interference, the placement of any structure separated from or higher than the existing single-family residence; for example, a new detached garage or boathouse, fences and other barriers, utility poles, the addition of trees or other vegetation, or addition of a second story to a one-story house.
- (4) All construction in sensitive environmental areas, including but not limited to, beaches, coastal bluffs, sand dunes, marshes, drainage courses, fault zones, or active slide zones.

In any particular case, although a repair or improvement falls into one of the above classes, the Executive Director of the Regional Commission may, where he finds the impact of the development to be insubstantial, waive the requirement for the filing of an application.

FILING FEES

Administrative permit.....	\$ 25.00
Single family dwelling.....	50.00 ea.
Any item qualifying for the Consent Agenda.....	75.00 [see (2)→]
Lot split (one new lot created)..	75.00
Multiple residential	
2 - 9 units.....	75.00 or 250.00 [see (2)→]
10 - 16 units.....	250.00
17 units or more.....	15.00 per unit
Commercial or industrial development	
under 10,000 sq.ft.....	75.00 or 250.00 [see (2)→]
10,000-25,000 sq.ft.....	500.00
25,001-50,000 sq.ft.....	1,000.00
50,001-100,000 sq.ft.....	1,500.00
100,000 sq.ft. or more.....	2,500.00
Land division only	
less than 16 parcels.....	250.00
17 or more parcels.....	15.00 per lot

If you are unsure about the fee, or none is listed for your development, please contact the Central Coast Commission office.

(1) An administrative permit may only be issued for new developments valued by the building inspector at less than \$10,000, or for repair and improvement (addition) to existing structures valued by the building inspector at less than \$25,000. If your application is controversial, a hearing may be required (minimum fee \$50.00).

(2) The staff will determine if an item qualifies for the Consent Agenda. If you believe your item is of minimal concern to the Coastal Act, submit \$75.00 and we will advise you if additional fees are needed after we review the application.

Exhibit 5
CCC-05-NOV-01
CCC-05-CD-03
(King)

STATE OF CALIFORNIA

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

CENTRAL COAST REGIONAL COMMISSION

701 OCEAN STREET, ROOM 300
SANTA CRUZ, CALIFORNIA 95060
PHONE: (408) 426-7370



APPLICATION SUMMARY

P-2034

FILED: 6-28-76

CITY OR COUNTY: Santa Cruz

APPLICANT: Dr. John King
1595 Soquel Dr.
Santa Cruz

PROJECT: Between Los Barrancos subdivision
LOCATION: and SPRR, north of La Selva Beach
(See map)

DEVELOPMENT PROPOSED:

Division of a +8 acre parcel and realignment of two adjacent parcels totalling 30 acres so as to establish a 1 acre single-family building site separate from a proposed planned development (P-1862).

PLANNING DATA:

Parcel size: 30 acres total Proposed residential density: 1 unit/acre
(see figure 1)

Zoning: RR-1(rural residential) Allowable density: 1 unit/acre (maximum)

General Plan Designation: open space reserve

ABAG/Tri-County Plan Designation: growth area/resource limitations

Local Approvals received: Minor Land Division 753-75 (6-25-76)

SITE DATA:

Landform/slope: steeply sloping ravine

Vegetation: mixed oak woodland

Current land use: vacant

Other:

PROJECT DATA:

Proposed site coverage: Building Paving

Open Space Parking

Height of structures: Other:

ENVIRONMENTAL IMPACT DATA:

EIR Filed ☒ Negative Declaration ☐ Exempt ☐

Environmental Impact Summary attached.

Date July 21, 1976

Edward G. Brown, Jr.
Edward G. Brown, Executive Director

P-2034

CCR- Exhibit 6
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

CENTRAL COAST REGIONAL COMMISSION

701 OCEAN STREET, ROOM 300

SANTA CRUZ, CALIFORNIA 95060

PHONE: (408) 426-7272

STAFF COMMENTS

P-2034

APPLICANT: Dr. John King

PROJECT: Creation of 1 acre parcel, north
of La Selva Beach

ISSUE IDENTIFICATION:

Water quality ☒Geologic stability ☒Vegetation ☒Wildlife ☒Scenic Resources ☒Public Recreation ☐Development Patterns ☒Coastal Neighborhoods ☐

SITE REPORT:

Surrounding environment:

See attached discussion

Surrounding development:

See attached discussion

ENVIRONMENTAL IMPACT SUMMARY:

See EIR for "Trestle Beach" (P-1862)

Impacts identified include disruption of the natural biotic/hydrologic system of the ravine, increases in traffic and load on services, inducement of development on adjacent ravine parcels.

ISSUE DISCUSSION:

See attached.

P-2034

Development Patterns: This application is for a minor land division for the creation of a one acre lot on a 30 acre site located almost immediately northwest of the town of La Selva Beach. The 30 acre site is bounded on the east by the Los Barrancos subdivision, on the west by the ocean, on the north by land in agricultural production, and on the south by La Selva Beach. In May of this year, a Coastal Commission hearing was held on a proposed 20 unit condominium project (Trestle Beach Atrium Houses) to be located on a 5 acre bluff top in the western portion of the 30 acre site (P-1862). No recommendation was made on that permit application, however, as the applicant withdrew his application from active consideration pending a clarification from County Planning regarding conditions for the dedication of open space which were attached to the PUD permit.

The 30 acre site is virtually undeveloped. Souther Pacific RR owns a 50 ft. right of way that bisects the site, and parallels a ravine which runs NW-SE in the eastern portion of the site. East of the railroad right of way is a 50 ft. right of way containing a 12-20 ft. dirt road. The proposed 1 acre lot is adjacent to and east of this road. (see attached site location map).

The 1974 Aptos General Plan places the 30 acre site in two categories: the bluff top above the beach, urban residential (2-6 units per acre); and the beach and ravine, open space reserve. Present zoning on the property is U-BS-5 for the bluff top, U-BS-20 for the beach, and RR-1 for the ravine.

The 30 acre site presently consists of 3 parcels, APNs 45-022-1, 2, and 3, as shown in Figure 1, Existing. The 1 acre lot proposed to be split from the 30 acre site is located in parcel 2, on the edge of the ravine. As approved by the County, this 1 acre site would become Parcel A, as shown in Figure 1, Proposed. (In approving the Tentative Parcel Map for this minor land division, the County designated Parcels B, C, and that portion of D east of the railroad right of way as "Not building sites unless approved by subsequent minor land division.") The 1 acre site would offer approx. a $\frac{1}{4}$ acre level building site, the remainder being undevelopable due to its location on steep slopes and in an intermittent creek bed. It is envisioned by the applicant that once the lot is sold, a three to four bedroom home would be built, similar in character to those in the Los Barrancos subdivision. Access would be provided by improving the existing fifty foot right of way which extends from Los Barrancos.

Water would be available for an SFD on the site from the Soquel Creek County Water District. An agreement to serve the site, via a connection to the nearest source approx. 600 ft. from the site in the Los Barrancos subdivision, would be subject to the approval of the Water District.

According to the County Fire Marshall, a six inch water line extending to the site would be adequate for domestic and fire purposes; a 20 ft. right of way to the site would be adequate for fire protection vehicles.

Taken alone, this application for a minor land division appears reasonable in terms of its compatibility with adjacent (Los Barrancos) development and its minimal adverse effects on the environment (see issue discussions below). However, development on the site, along with improvements to the access road, could set the precedent for further development in the ravine area.

Water Quality: Conveyance of contaminated runoff from a residence on the 1 acre site could slightly degrade water quality of the adjacent intermittent stream. However, during winter months, the dilution factor of pollutants in the stream would be increased by the volume and flow of water in the channel, rendering them less harmful. In the summer, runoff would seep into the dry creekbed and not reach the ocean.

Disturbance of the bank of the ravine below the property could occur if trails were haphazardly made down to the creek or if vegetation were cleared from the ravine. This could reduce water quality in the stream due to the introduction of soil from the slopes.

A septic tank and seepage pits would be necessary for sewage disposal. Information contained in the soil engineer's report indicates that soils from a depth of 19 to 40 ft. would be usable for seepage pits. This depth allows for adequate separation from groundwater and for a 8 ft. rise in the water table (53 ft., Oct., 75).

Exhibit 6
CCC-05-NOV-01
CCC-05-CD-03
(King)

Geologic Stability: The one-acre site consists of a relatively flat portion adjacent to the existing access road, with the remainder of the site being ground which slopes steeply (70% to 95%) to the rainy season stream approximately 40 feet below. The site is underlain by Aromas Red Sands and Marine terrace deposits, which are of relatively low density, friable (crumbly) and erodible. Elder sandy loam is the soil type over these deposits. This soil is well drained and has moderately rapid subsoil permeability. In level areas erosion hazard is slight; however, this hazard increases with the steepening of slopes. A soil's report prepared for the site indicates that the soils are suitable for a single-family dwelling, provided that the dwelling's footings are set back a minimum of 20 feet from the top edge of the ravine. This report also indicates that the introduction of effluent from a septic system into the underlying materials would not adversely affect slope stability provided that seepage pits are deep and set back as far as possible from the ravine top.

To control erosion of the ravine edge, the soil's engineer has suggested that runoff from development of the site be conveyed to the streambed in a controlled manner; that irrigation be controlled, perhaps through the planting of native species which require little watering; that minimal disturbance to existing vegetation take place; and, that a soil engineer be consulted prior to any on-site filling or excavation.

Vegetation and Wildlife: Vegetation typical of a "mixed woodland" community is found on the one-acre site, with eucalyptus, coastlive oak, and Monterey pines the predominant trees. The understory is composed of poison oak, wild blackberry, thimbleberry, sticky monkey flower, and California Hazel. Removal of trees on the site to accommodate a dwelling would likely be minimal, as the developable portion of the site is fairly open.

While on-site soils can support crops climatically adopted to the area, and thus could support coastally dependent crops, the topography of the property and the immediately surrounding area is ill-suited to agricultural production.

The trees and dense foliage of the woodland environment provide shade, shelter, and nesting places for many animal species. Grey squirrels, red-shafted flickers, dusty-footed wood rats, and downy woodpeckers are examples of these. Many other species, especially birds, reside in the woodland but forage in the open field to the west (the site of the proposed Trestle Beach Homes).

The EIR cites the following as possible biotic impacts from development of the site: (1) the improper use of herbicides by developers or residents could adversely affect areas of natural vegetation and wildlife; (2) domestic pets could be introduced into the area—these animals, particularly cats and dogs, often compete with, prey on, or harass native wildlife species; (3) landscaping may act to replace cover and food sources; and (4) temporary noise associated with construction activities could be disturbing to wildlife.

Scenic Resources: Aside from possibly being visible from homes on the eastern portion of the ravine, a structure on the site would only be visible from the presently unpaved ROW adjacent to the site. However, the presence of a structure on the site may disturb the recreational aspect of this ROW which has been dedicated to Los Barrancos as a pedestrian/equestrian path.

Exhibit 6
CCC-05-NOV-01
CCC-05-CD-03
(King)

CENTRAL COAST
REGIONAL COASTAL ZONE CONSERVATION COMMISSION701 OCEAN STREET, ROOM 300
SANTA CRUZ, CALIFORNIA 95060
PHONE: (408) 426-7390

August 12, 1976

Mr. Francis Violich, A.I.P.
90 Tamalpais Road
Berkeley, CA 94708

RE: P-2034

Dear Mr. Violich:

Thank you for your recent letter regarding Dr. King's permit application for a minor land division. At your request, I am sending you a copy of the staff report as presented at the public hearing of July 26th. I am also enclosing a copy of the staff recommendation for Commission vote on the permit application; a vote will be taken on the application at the August 16th Commission meeting.

Sincerely,

Edward Y. Brown
Executive DirectorWilliam Van Beckum
Coastal Planner

WVB:jpc

Enclosures

Exhibit 6
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 5 of 6

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION

CENTRAL COAST REGIONAL COMMISSION

701 OCEAN STREET, ROOM 300

SANTA CRUZ, CALIFORNIA 95060

PHONE: (408) 426-7390



August 6, 1976

Dr. John King
255 Camino al Mar
La Selva Beach, CA 95076

Dear Applicant:

Re: Filing of Application

Your application to the Central Coast Regional Commission
for land division, numbered P-2034
appears to be complete.

Recommendation
A ~~public hearing~~ on your application has been scheduled for
August 16, 1976 at the Santa Cruz Board of
Supervisors Chambers, 701 Ocean Street, and the Commission will
Santa Cruz
consider it at that time. If there are any additional questions,
you will be contacted prior to the date of the meeting.

The filing fee for your application is \$ paid and must
be remitted before the meeting.

Very truly yours,

Edward Y. Brown
Executive Director

dc

Exhibit 7
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 4

CCR 7 1/74

July 16, 1976

John J. King
255 Camino Al Mar
La Selva Beach, CA 95076

1 acre land division

P-2034

July 26, 1976 at 9:00 a.m.
of Supr. Chambers, 701 Ocean, S.C.

Santa Cruz Co. Board

paid

Exhibit 7
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 2 of 4

RECEIPT		Date <u>July 25, 1976</u>	2254
Received From <u>John J. King</u>			
Address <u>1595 Soquel Dr., Ste. 400</u>			
<u>Santa Cruz</u>		Dollars \$ <u>75.88</u>	
For <u>Land division, 255 Camino al</u>			
<u>Mary La Selva Beach - P-2034</u>			
ACCOUNT		HOW PAID	
AMT. OF ACCOUNT		CASH	
AMT. PAID		CHECK <input checked="" type="checkbox"/>	858
BALANCE DUE		MONEY ORDER	
		By <u>Diana Chapman</u>	

8K800 Rediform

Exhibit 7
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

ACTION		DATE	INITIAL	COMMENTS
Application Received	✓	6-25-76	dc	envelopes; list of property owners OK
Fee Received				
Amount <u>\$75.00</u> <u>xx</u>	✓	6-25-76	dc	
Envelopes	✓	6-28-76	dc	
Location Card				
Alphabet File Card	✓			
Application Filed	✓	6-28-76	dc	
Applicant Notification	✓	7/16/76	ign	
Summary Completed				
Public Notification	✓	7/14/76	ign	
Hearing				
Commission Action				
Permit Issued				
Copy to State (File)				
Signed Permit Received				



PERMIT

August 31, 1976

Dr. John King
1595 Soquel Dr.
Santa Cruz, CA

RECEIVED
AUG 31 1976

CENTRAL COAST COMM.
REGION III

Dear Applicant:

Re: Regional Coastal Zone Commission
Permit Application No. P-2034

Pursuant to Public Resources Code Section 27400, your application for a permit to perform the work described in the above numbered application has been granted by the Central Coast Regional Commission in accordance with Resolution No. 76-640, passed on August 16, 1976; a copy of the resolution is attached hereto and made a part of this permit.

Please note:

- (1) That this permit will become effective only when you have returned to the Regional Commission the enclosed copy of this letter within 30 days signed by you acknowledging thereon that you have received a copy of this letter and that you understand its contents.
- (2) That upon completion of the development authorized by this permit you are required to notify the Regional Commission of such completion on the enclosed form provided for that purpose.
- (3) This permit is issued subject to the conditions stated in the resolution, and approved plans on file with the Regional Commission. Unless otherwise provided in the resolutions, all proposed changes must be submitted to the Commission prior to construction thereof.
- (4) Development under this permit must be commenced within six months of issuance.

Very truly yours,

Edward Y. Brown
Edward Y. Brown
Executive Director

(I) (We) acknowledge receipt of the above captioned Regional Commission Permit and understand its contents.

Signed *[Signature]*

Dated 9/2/76

Attachment

CCR-1 Revised 8/76

Exhibit 8
CCC-05-NOV-01
CCC-05-CD-03
(King)

RESOLUTION NO. 76-40

On the motion of Commissioner Franco
duly seconded by Commissioner Little
the following resolution was adopted:

CALIFORNIA COASTAL ZONE CONSERVATION COMMISSION
CENTRAL COAST REGIONAL COMMISSION

RESOLUTION GRANTING PERMIT
FOR COASTAL DEVELOPMENT

WHEREAS, on June 28, 1976, the application of Dr. John King, 1595 Soquel Dr., Santa Cruz, CA, application number P-2034, was filed for a coastal development permit pursuant to Section 27400 of the Public Resources Code; and

WHEREAS, the project as hereinafter approved consists of division of a ±8 acre parcel and realignment of two adjacent parcels totalling 30 acres so as to establish a 1-acre single-family dwelling site separate from a proposed planned development; and

WHEREAS, this Commission has given written public notice of the nature of the proposed development and of the time and place of the public hearing thereof and has held a public hearing in accordance with said notice and the California Coastal Zone Conservation Act of 1972 and has otherwise complied with the provisions of said Act and the regulations of the California Coastal Zone Conservation Commission; and said public hearing commenced on July 26, 1976 and concluded on August 16, 1976; and

WHEREAS, this Commission finds as follows:

1. With this minor land division, a one-acre parcel would be created from an existing 8-acre parcel. This 8-acre parcel (APN 45-022-2), forms the eastern portion of a 30-acre site owned by the applicant, and is adjacent to and immediately west of the Los Barrancos subdivision. The purpose for creating the proposed one-acre parcel is to provide a building site for a SFD, envisioned to be designed similar to existing homes in Los Barrancos. (Homes in Los Barrancos are 1-and 2-story, use much natural exterior materials and finishes, and are generally well-landscaped.) Four Los Barrancos lots, located on the east side of a ravine, abut the 8-acre parcel from which the one-acre site would be divided. Three of these lots have SFDs built on them. The eastern edge of the proposed one-acre parcel is adjacent to two of these three lots.

The proposed 1-acre lot is adjacent to a 50 ft. ROW containing a 12-20 ft. dirt road, which has been dedicated to residents of Los Barrancos. Access to the proposed lot would be via this road. (The Attorney General has indicated that approval of the proposed land division would not destroy any rights of Los Barrancos residents to use this road.)

Division of this parcel, and subsequent development of it for a SFD, represents an extension of Los Barrancos development to the western, undeveloped portion of the ravine. In approving this minor land division, the County has designated all other land in the western portion of the ravine as "not a building site".


Exhibit 8
CCC-05-NOV-01
CCC-05-CD-03
(King)

RESOLUTION NO. 76-40

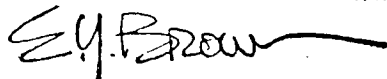
1. This permit shall provide for the creation of a one-acre building site (parcel A) and the recombination of remaining portions of APN's 45-022-1, 2 and 3 into a single 29-acre parcel (parcel B). Parcel B shall be further described in accordance with attached Exhibit A.

2. All conditions of Santa Cruz County Minor Land Division No. 75-753 (see attached), unless herein modified, shall be a part of this permit as well.

Date: AUG 16 1976


Norman A. Walters, Chairman

Attest:



Edward Y. Brown, Executive Director

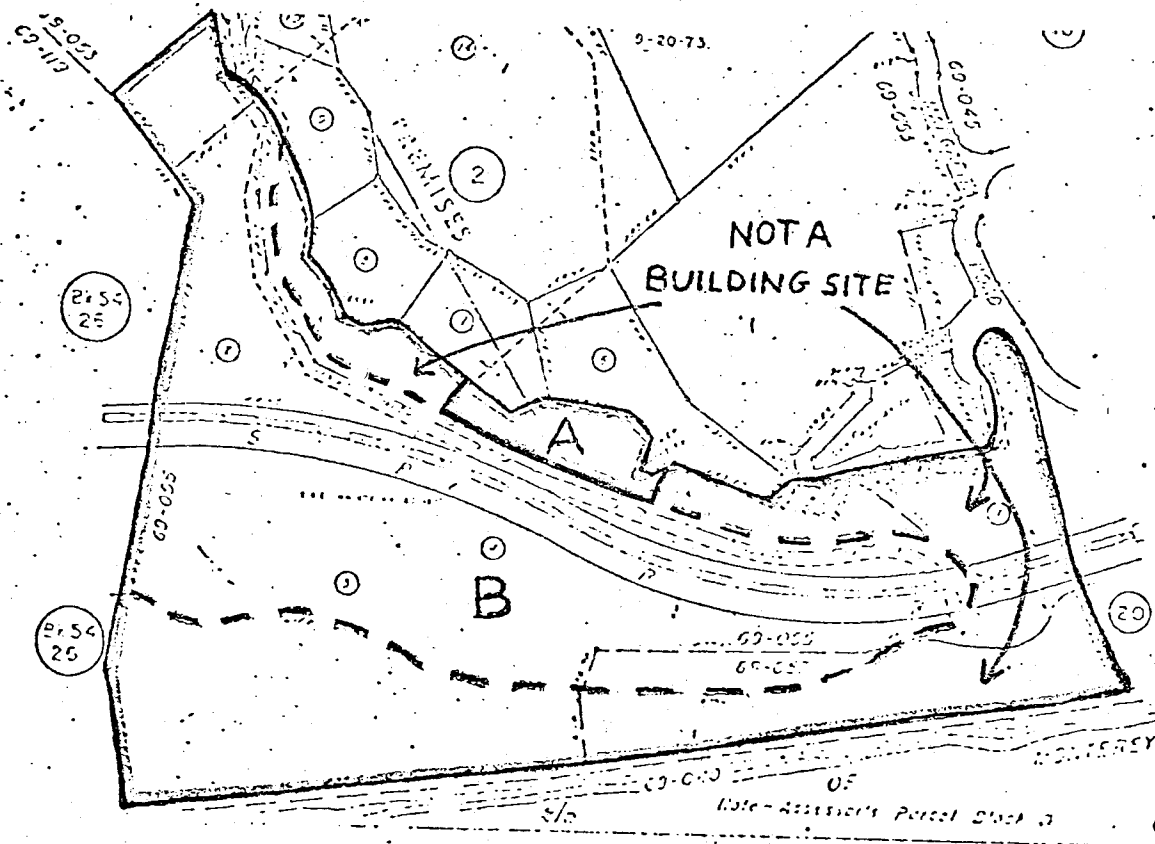
Affirmative Vote on Application:

Ayes:	10	Andresen, Bakalian, DePalma, Farr, Franco, Hughes, Little, McCarthy, Weinreb and Chairman Walters
Nayes:	1	Patton
Absent:	3	Harry, Marmont and Ward
Abstentions:	0	

Exhibit 8
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 3 of 4

EXHIBIT A



PROPOSED

Exhibit 8
CCC-05-NOV-01
CCC-05-CD-03
(King)

P-2034

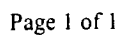


EXHIBIT E 11-1
COUNTY OF SANTA CRUZ

INTER-OFFICE CORRESPONDENCE

Date: July 26, 1977

To : Planning Commission (August 3, 1977 meeting)

From: Richard Pearson, Chief of Development Processing

Subject: King PUD - MLD (Trestle Beach)

Questions have arisen about the concurrent approval by the County of a Planned Unit Development and Minor Land Division on the same property.

CHRONOLOGY:

- 9-26-73 King applies for 73-13-PUD and Tract 672 (154 units).
(R. Pearson, staff person)
- 10-01-73 EIR required.
- 11-12-73 Staff recommends conceptual PUD process, as proposal has major problems with general plan, density and services. Environmental assessment to be done rather than full EIR.
- 12-04-73 King agrees to conceptual procedure.
- 1-16-74 Scheduled PC hearing on PUD. King requests continuance to respond to staff recommendation of denial, and proposed Aptos general plan.
- 2-20-74 King requests continuance until 90 days after County adoption of new Aptos general plan.
- 10-01-74 Aptos general plan adopted. King property designated Urban 2-6 units per acre (blufftop) and Recreation - Scenic (ravine and beach).
- 2-01-75 King submits revised PUD for 32 units.
- 2-24-75 EIR required.
- 4-01-75 EIR contract for PUD signed. (L. Anderson, consultant)
- 7-10-75 King adds 7 lots in ravine to PUD.
- 7-18-75 King changes his mind and applies separately for 75-753-MLD. to divide 1 acre building site in ravine, apparently because PUD is taking too long and may not be approved. King amends

PUD to not show division of 7 ravine lots. (S. Lemieux, staff person initially; R. Pearson, staff person after Lemieux leaves in 10-75)

- 9-02-75 EIR required on MLD.
- 9-09-75 ERC accepts EIR on PUD.
- 9-26-75 EIR contract for MLD signed. (L. Anderson, consultant)
- 10-10-75 EIR for PUD public review period ends.
- 11-03-75 ERC accepts EIR on MLD. Copies sent to Planning Commissioners as part of public review.
- 11-19-75 Scheduled PC day meeting on PUD; continued to December 11 night meeting at applicant's request.
- 12-04-75 EIR for MLD public review period ends.
- 12-11-75 PC recommends approval of PUD to Board of Supervisors. No mention or discussion of pending MLD.
- 12-19-75 H. Baker, Acting Planning Director, approves MLD. Conditions prepared by R. Pearson require dedication to County of public use and access easement for all beach areas.
- 3-02-76 Board of Supervisors approves PUD. No mention or discussion of already-approved MLD.
- 3-09-76 Board passes ordinance requiring MLDs to be considered by Zoning Administrator at public meeting. (Effective 4-09-76)
- 4-30-76 H. Baker, Deputy Planning Director, amends MLD approved conditions to delete dedication requirement.

DISCUSSION OF MLD-PUD:

Both the environmental consultant and the staff person had the mistaken impression that the MLD was an alternative for Dr. King if the PUD were not approved. This was not Dr. King's intent, as he has since stated, and as was fairly clearly implied by his statements in the EIR on the MLD. In fact, Dr. King planned to divide off further homesites in the ravine area, and did not understand that the PUD applied to all of his remaining property, and not just the blufftop.

Today, the PUD is still pending, but the parcel map for the MLD has been recorded, and the lot has been sold to Dr. Finegan.

PROPOSAL

Planned Unit Development and Subdivision Applications for Tract 899, Trestle Beach Condominium Subdivision, to amend and extend Planned Unit Development Permit No. 77-348-PUD and Subdivision Tentative Map 77-345-S (Tract #781) and increase the number of permitted condominium townhouse units from 20 to 32 residences on 30 acres, on property located at the end of Camino Al Mar between Los Barrancos Subdivision and Monterey Bay within the U-BS-5-acre, U-BS-20-acre, and RR-1-PD Zone District.

A.P.N. 45-022-01 & -15 LA SELVA BEACH AREA Second Supervisorial District

HISTORY

Planned Development Permit No. 73-13-PUD for 20 townhouse condominium units was originally issued for this project on March 7, 1976. Prior to the one year expiration date of that permit, the applicant applied to obtain Tentative Map approval for the project and to extend the time limits of the PUD. On January 10, 1978 the County approved subdivision and PUD permits 77-345-S and 77-348-PUD which are currently valid. To date the project has not been acted upon by the Coastal Commission, but applications have been filed with that body.

A copy of the existing PUD (and Tentative Map) conditions is attached to this staff report. Also, copies of the two previous staff reports are attached.

PROJECT DESCRIPTION

The applicant is now applying to amend and extend the PUD and Subdivision permits and to make the following changes in the project and the permit conditions:

1. increase the project density from 20 to 32 condominium townhouse units.
2. reduce the building setback from the agricultural use on the north side from 200 feet to 50 feet.
3. eliminate the condition requiring dedication of the beach land to the State and the park land and restroom facility to the County.
4. eliminate the condition requiring an Open Space Easement on the undeveloped portion of the property.
5. reduce the entrance road width from 28 feet to 24 feet.
6. realign the entrance road.

ANALYSIS

Density:

The applicant originally applied for a project containing 32 condominium townhouse units. This density of development is the maximum consistent with the Aptos Area General Plan which shows the 5.5 acres of developable bluff top as "Urban Residential", 2-6 dwelling units per acre. The County, however, limited the development to 20 units based on the application of Board of Supervisors' Resolution 125-72 (see attached). That resolution limits the number of multiple residential units to a maximum of 20 units in a development where sewers are not available. The applicability of Resolution 125-72 to this project has been reviewed and concurred

usable land and the increased area could be justified based on the ordinance provision which allows the Planning Commission to consider "the topography, soils, drainage, access, location and general utility of the land in the development available for dedication" in determining what land is to be dedicated. Some of this land behind the trestle may also be subject to public rights of use judging from the evidence of campfires, litter, etc. which indicate extensive use.

The restroom development was recommended in part to serve the residents of this project. There is no direct pedestrian connection between the proposed dwelling units and the beach, requiring more than 1/3 of a mile walk for residents going to the beach. It can be expected that public health hazards may occur if restroom facilities are not provided at a convenient distance. By locating a restroom behind the trestle, it can serve not only the residents of the project, but also persons reaching the beach from the proposed public access route from Los Barrancos as well as other users of the beach.

The County Environmental Health Service (EHS) has reviewed the proposed restroom location for adequacy for septic tank system installation. There are a number of limitations which will make placement of a septic system difficult and the EHS has indicated that further studies will be required before it will be known if a septic system can be installed (see attached memo). It may be necessary to either increase the dedication area to contain the septic system or install it on an easement outside the proposed dedication.

Open Space Easement:

The current permit requires all of the project area outside of the 20 dwelling units and the land dedicated to the public to be covered by an open space easement contract with the County running for a minimum period of 20 years. This would prevent the applicant from developing the additional proposed 12 units during that period.

The County can maintain control over allowing any future development on this property through the PUD permit and any future attempts to amend it. The requirement for an open space easement is, therefore, somewhat redundant. The easement, however, would limit the landowner's ability to apply for additional development as long as it would be in force.

Staff had previously recommended that if an open space easement was required, that it allow for up to 32 units to be built so that the property owner could return within the contract period to complete the proposed development when it was timely, i.e., when the adjacent agricultural use ceased and sewers were extended to the area. The Board of Supervisors, however, rejected this recommendation.

Road Width:

The 28 foot access road width was established based on the recommendations of the County Fire Marshal. This road width allows for the potential deployment of fire apparatus along the access road, which requires a width of 12 feet, while still maintaining a two-way traffic flow on 16 feet of pavement. This requirement was set based on the elimination of the secondary emergency access road out to Margareta Road in La Selva Beach.

Since the approval of this project, the County has adopted the Fire Safety Element to the County General Plan. That element establishes a policy that "new land divisions shall not be permitted . . . in locations with only one access route." This project is not consistent with that General Plan Policy.

The La Selva Beach Fire District staff has expressed concern over the elimination of the previously proposed emergency access road. Staff is attempting to obtain clarification of their position on this matter since the District had previously requested that the road be eliminated.

Road Location:

The applicant has requested that the entrance road be relocated to the alignment requested by Mr. Chiet at the previous hearings (see previous staff report). This location would involve about three times as much fill to be placed in the creek ravine and is believed to be unwarranted by staff. The currently approved alignment will come no closer than 70 feet to Mr. Chiet's residence and would incorporate design features proposed by Mr. Chiet's landscape architect to mitigate impacts on his home. The alternate route would have much greater impact on the riparian corridor, doubling the area disturbed and the length of creek placed in underground culvert.

RECOMMENDATION

1. Denial of the project expansion to 32 dwelling units based on County septic tank policy and the Agricultural Advisor's recommended agricultural setback.
2. Denial of requested project amendments to eliminate public dedication, reduce agricultural setbacks, reduce access road width, and change access road location.
3. Approval of the following amendments to the conditions of PUD 77-348-PUD and Tentative Map for Subdivision 77-345-S (Tract 781), including a two year time extension based on the previous PUD, subdivision, and EIR findings:
 - a) creation of a separate parcel "B" to be composed of the land within the 200 foot agricultural setback to be retained by the applicant when the adjacent agricultural use ceases and sewers are extended to serve the property.
 - b) restrict the required open space easement to parcel "A" which contains the 20 condominium units.
 - c) require expansion of parcel "E" to include the entire septic system for the public restroom, and require approval of the septic system by the Environmental Health Service prior to the recording of the Final Map.

JHW:gf
9/20/78

Exhibit 11
CCC-05-NOV-01
CCC-05-CD-03
(King)

amendments, deletions, and
ditions made by Planning
mission on 11/15/78.

PLANNING COMMISSION RECOMMENDED
APPROVED CONDITIONS - REVISED 1-3-78

for 12/12/78
includes B5
BS approve 12/12/78

TRESTLE BEACH TOWNHOUSES

77-348-PUD 78-1275-S
77-345-S 78-1276-PUD

I. PROJECT DESCRIPTIONS

- A. This PUD and Tentative Map approval is for a development which consists of the following elements:

32

- ended by P.C. parcel A: a 20-unit townhouse development with common open space.
leted by P.C. ~~parcel C: potential parcel for conveyance to the Soquel Creek Water District for the siting of water facilities.~~
leted by P.C. ~~parcel D: beach area to be conveyed in fee by the applicant to the State of California.~~
leted by P.C. ~~parcel E: beach service and support area to be conveyed in fee to the County of Santa Cruz.~~
ided by P.C. parcel B: remainder to be retained by owners.

B. Exhibits

All exhibits are specifically incorporated as conditions, except where modified by this permit. All exhibits are on file with the County Community Resources Agency.

- ended by P.C. A. Tentative Map, revised 1-3-78- 9/22/78
B. Grading Plan; revised 7-1-77 dated 6-77 (Alternative "B")
C. Site Plan; dated 7-5-77 9/11/78
D. Elevations; dated 7-5-77
E. Sections; dated 7-5-77
F. Typical Floor Plans; dated 7-5-77
G. Rendering; dated 7-5-77
H. Environmental Impact Report; dated 8-27-75 (project description only)

II. GENERAL CONDITIONS

- leted by P.C. A. ~~Prior to recording the Final Map the applicant shall enter into an Open Space Easement with the County for all the common open space in parcel A. The easement shall contain a provision preventing the filing of a notice of non-renewal for a period of 10 years.~~

- Deleted by P.C. B. ~~Prior to recording the Final Map the applicant shall make an irrevocable offer of dedication of Parcel D to the State of California and shall dedicate Parcel E to the County of Santa Cruz along with an access easement from Camino Al Mar for construction, maintenance, policing and emergency access purposes.~~

Exhibit 12
CCC-05-NOV-01
CCC-05-CD-03
(King)

C. Implementation

1. Implementation of this permit shall only take place through the subdivision procedure of Chapter 13.08 of the County Code.
2. This permit shall remain effective until the expiration of the tentative map.
3. Acceptance of the final map by the Board of Supervisors shall constitute implementation. If the tentative map expires with no Final Map having been accepted, this permit shall lapse and be null and void.

D. No Building permits or Grading permits shall be issued nor construction of improvements begun prior to the recording of the Final Map for this development.

E. Prior to the recording of the Final Map, all final improvements plans, including all plans required in this permit, shall be submitted to staff for review and approval. These plans shall include but not be limited to:

1. Complete site plans, including plans for landscaping and grading.
2. Complete improvements plans for water facilities, streets, sanitation facilities, drainage, erosion control, etc.
3. A detailed geologic report demonstrating the stability of the proposed building siting and foundation design.

F. Prior to recording the Final Map a resource management program shall be submitted by the applicant for staff review and approval. Once approved, this program shall be a condition of this permit. The purpose of this program is to ensure the preservation, conservation and management of this land and its natural resources for the enjoyment of the residents of this development. The resource management program shall be incorporated into the covenants and restrictions of the home owners association and all lots, along with sufficient funding measures to ensure its implementation. The plan shall address the following areas:

1. erosion control
2. drainage (including sedimentation and pollution control)
3. wildlife resource
4. vegetation resource
5. developed area landscaping and development
6. proposed budget and timing
7. environmentally sound construction methods

Trestle Beach Townhouses
Added Conditions

ded by P.C.

II.J. The following statement shall be included on the Final Map and in each parcel deed for this subdivision:

"The subdividers and purchasers of this property acknowledge the fact that this land is adjacent to property utilized for agricultural purposes, and recognize the inconvenience or discomfort which may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor."

ded by P.C.

II.K. Prior to recording the Final Map, the subdivider shall execute a hold harmless agreement with the owner for his benefit and the benefit of lessees, successors, and assignees of the agricultural property bordering the subdivision on the west known as Assessor's Parcel Number 54-261-05 to protect them against actions brought by any subsequent owners of the subdivision lots which arise from a continuance of the agricultural operations on such agricultural property.

II.L. Prior to recording the Final Map, the applicant shall obtain a variance to Resolution 125-92 from the County Health Officer in accordance with the provisions of Section 11.76.090 of the County Code.

" Prior to recording the Final Map, the applicant shall obtain a variance to Resolution 125-92(?) from the County Health Office in accordance with the parameters (?) of Section 11.76.090(?) of the County Code."

↑
how to do
w/ density
residences
vis - vs
sewer capacity

- G. All improvements required in section III of this permit are conditions for the recording of the Final Map and shall be guaranteed by agreement and securities as specified by the County Code prior to recording the Final Map.
- H. Minor variations to this permit which do not increase the density, decrease the open space ratio, or change the general concept may be reviewed and approved by the CRA Director at the request of the applicant or staff.
- I. The applicant shall establish a home owners association, with an assured source of financing, to assume maintenance responsibility for the roads, drainage facilities, landscaping, common open space, and other common facilities.

III. Improvements

A. General

- 1. All engineering designs shall conform to the County Design Criteria Manual, unless otherwise specified in this permit.
- 2. All improvement plans shall contain title blocks with signature space provided for all necessary agency approvals as required by these conditions. All improvement plans submitted to the Department of Public Works for review and approval shall contain the signatures indicating required agency approvals.
- 3. One set of approved reproducible plans for all required improvements shall be submitted to the Department of Public Works prior to construction for file copies.
- 4. Improvement plans, except for landscaping plans, as required for this project shall be prepared and presented over the signature of a Registered Civil Engineer. Landscape improvement plans shall be prepared and presented over the signature of a Registered Landscape Architect or Building Architect.

B. Road, parking and access

- 1. All roadways within the development shall be privately maintained. Public access from Camino Al Mar shall not be restricted by any obtrusive means such as gates, fences or large signs.

amended by P.C.

- 2. The main access road from Camino Al Mar shall be improved with asphalt concrete pavement to a width of ²²~~28~~ feet with curbs and gutters to County Standards. The access road to parcel 45-022-16 shall be improved with seal coat on 5 inches of base rock to a minimum width of ¹²~~18~~ feet. An all weather fire access road extending from parcel 45-022-16 to the ~~public restrooms~~ shall be provided

Margareta Road

if required by the La Jolla Beach and Recreation District and

Amended by P.C.

improved with 5 inches of base rock to a width of 12 feet with a crash
curb around at the end developed to the requirements of the gate
County Fire Marshal. *Since the fire access road is provided,
the main access road may be narrowed to 24 feet in width.*

Amended by P.C.

3. Both ends of the fire access road shall be provided with ~~break~~ traffic
chains to prevent the entrance and parking of unauthorized vehicles/stra
No parking shall be permitted on the fire access road.
4. A pedestrian and equestrian pathway shall be provided connecting
the Los Barancos Subdivision and this development to the beach.
5. An irrevocable offer of dedication to the County shall be made for
the easement along the roadway connecting Camino Al Mar to the
beach to become effective at such time as the roads in Los Banancos
become public.
6. The existing road bed providing access under the trestle to the
bluff top shall be barricaded to all vehicle traffic.
7. The railroad grade crossing shall be provided with crossing guard
devices.

Amended by P.C.

8. A minimum of one parking space shall be provided for each bedroom
within the development. *up to two spaces per unit.*
9. A one-foot non-access strip along the northwestern boundary of
parcel A shall be deeded to the County.

C. Water System and Fire Protection

1. The applicant shall submit plans showing the location and capacity
of fire hydrants and the water main, distribution and storage
system, indicating prior approval by the Soquel Creek County Water
District and the La Selva Beach Fire District, and the County
Fire Marshal.
2. All requirements of the fire district and Fire Marshal as to road-
way design, emergency access crash gates, water system requirements,
and vegetation alteration shall be met.
3. Prior to recording the final map, the entire property shall be
annexed to the La Selva Fire Protection District.

D. Sanitation

Amended by 3/3

1. All ~~septic tank~~ ^{*SANITATION*} and seepage pit systems shall meet the requirements
of the Environmental Health Service.
2. Sufficient percolation testing to insure system operation shall be
performed to the requirements of the Environmental Health Service
prior to recording the final map.

deleted by P.C.

- ~~3. A public restroom facility shall be built and dedicated to the County on Parcel E to the specifications of the County Community Resources Agency. This requirement shall fulfill County requirements for Park dedication fees. A pedestrian walkway connecting the restroom to the beach shall be provided.~~

E. Grading, drainage and erosion control

1. All grading shall be minimized.
2. All cuts and fills shall be re-contoured to natural-appearing land forms.
3. Provisions shall be made at the top of all cut or fill areas to direct drainage away from the exposed faces.
4. Positive slope and drainage facilities shall be provided along the bluff top to insure that no drainage or runoff passes over the edge of the cliff.
5. Wherever piped or channeled storm waters are discharged into natural drainage courses, energy dissipators shall be used to prevent scouring, and the outlet facility shall spread the waters over a large area to allow percolation into the soil.
6. No removal of vegetation or grading shall be permitted during the rainy season of any year, which is defined as that period between November 15th and April 1st.
7. Erosion control measures such as planting of grasses, groundcover, etc., shall be undertaken in all areas disturbed by construction and shall be planted and established prior to November 15th of any year during which construction has taken place. Additionally, any and all erosion control measures recommended by Public Works or the CRA staff to immediately stabilize the area shall be implemented.
8. No tree removal, brush cutting or clearing of vegetation shall be permitted in areas not specifically approved for construction unless pursuant to the approved Resource Management Program. Improvement plans for all phases shall include complete landscaping and erosion control plans which shall be subject to approval by staff.
9. Final grading plans shall be subject to staff approval and shall show the location and size of all mature trees within and adjacent to all areas to be graded.
10. The existing roadway fill crossing over the creek shall be removed.
11. The embankment above the existing access road in the vicinity of the Cheit residence shall be filled and recontoured to reestablish a stable and more natural looking landform.

F. Landscaping

1. The applicant shall submit a final landscaping plan, indicating plant materials, irrigation system, timing, and special features, subject to approval by the Planning staff.
2. Native plant materials shall be used wherever possible. Exotic plant materials shall be limited to those plants specifically adapted to climate and soils on the site.
3. Plant cover shall be provided for all landscaped areas.
4. An irrigation system shall be provided for permanent maintenance of the landscaped areas.
5. The selection, location and grouping of plant materials shall be done in such a way as to create a natural-appearing coastal landscape.
6. The northwestern property boundary between the railroad tracks and the bluff shall be provided with a continuous wood or wood-and-wire 6-foot fence to prevent the passage of pets and people and a vegetation screen to intercept the drift of agricultural chemicals. The vegetation screen shall be made up of a mixture of plant sizes for both immediate and long term effects ~~with the tall trees set back 50 feet from the property line.~~
7. A continuous hedge of 5-gallon California Wildrose (Rose California) shall be planted along the cliff top extending from the western property boundary to the railroad trestle.
8. A 4-foot fence shall be constructed along the south side of the access road between station 1+00 to station 4+40 as required for headlight and noise buffering.

deleted by P.C.

IV. Architectural and Site Restrictions

- A. No building shall be closer than 50 feet from the top of the bluff.
- 50
recommended by P.C. B. No residential unit shall be closer than 200 feet to the northwestern boundary.
- C. A comprehensive program for the improvement and/or construction of all signing, mail boxes and other features, including fire hydrants, water meters, storage areas, exterior lighting, etc., shall be submitted.
- D. Roofs of all structures shall be in dark, earthen colors of non-glare materials except for solar collectors.
- E. The exteriors of all structures shall have a rustic finish, with a maximum use of stained or natural materials, and a minimum use of painted or other artificial surfaces.

Trestle Beach Townhouses
Conditions - 1-3-78 Revision

- F. Fences or walls shall not be permitted except where required by this permit. All fences or walls shall conform to the architectural concept of the project.
- G. All storage and disposal areas shall be screened.
- H. Buildings shall be limited to 25-feet in height.
- I. All lighting shall be subdued and glare-free.
- J. All water fixtures shall be equipped with low-flow fixtures.
- K. No access shall be provided or allowed down the bluff face from the bluff top to the beach. All pedestrian traffic shall make use of the existing road bed passing under the trestle from the bluff top or shall use the roadway through the ravine.
- L. The existing mature pine trees on the bluff top shall be retained.
- M. An Engineering Geology Report shall be prepared for the project by a registered engineering geologist evaluating the stability of the building placement and evaluating the hazards due to cliff erosion and seismicly induced cliff failure. Final building placement and foundation design shall be designed for a minimum project life time of 50 years.

JHW/gh/ec

Conditions as approved with amendments by the B/S 12/12/78

JHW -



HENRY R. BAKER, DIRECTOR

PLANNING COMMISSION

John J. King
255 Camino Al Mar
La Selva Beach, CA 95076

The Santa Cruz County Board of Supervisors at its meeting on December 12, 1978 approved the Tentative Map of Tract No. 899 (Trestle Beach Subdivision) subject to the following conditions:

I. PROJECT DESCRIPTIONS

- A. This PUD and Tentative Map approval is for a development which consists of the following elements:
 - parcel A: a 32 unit townhouse development with common open space.
 - parcel B: remainder to be retained by owners.
- B. Exhibits
All exhibits are specifically incorporated as conditions, except where modified by this permit. All exhibits are on file with the County Community Resources Agency.
 - A. Tentative Map; revised 9-22-78
 - B. Grading Plan; dated 6-77 (Alternative "B")
 - C. Site Plan; dated 9-11-78
 - D. Elevations; dated 7-5-77
 - E. Sections; dated 7-5-77
 - F. Typical Floor Plans; dated 7-5-77
 - G. Rendering; dated 7-5-77
 - H. Environmental Impact Report; dated 8-27-75 (project description only)

II. GENERAL CONDITIONS

- A. Implementation
 - 1. Implementation of this permit shall only take place through the subdivision procedure of Chapter 13.08 of the County Code.
 - 2. This permit shall remain effective until the expiration of the tentative map.
 - 3. Acceptance of the final map by the Board of Supervisors shall constitute implementation. If the tentative map expires with no Final Map having been accepted, this permit shall lapse and be null and void.
- B. No Building Permits or Grading Permits shall be issued nor construction of improvements begun prior to the recording of the Final Map for this development.

EXHIBIT B (1) P-79-117

Exhibit 13
CCC-05-NOV-01
CCC-05-CD-03
(King)

- C. Prior to the recording of the Final Map, all final improvements plans, including all plans required in this permit, shall be submitted to staff for review and approval. These plans shall include but not be limited to:
1. Complete site plans, including plans for landscaping and grading.
 2. Complete improvements plans for water facilities, streets, sanitation facilities, drainage, erosion control, etc.
 3. A detailed geologic report demonstrating the stability of the proposed building siting and foundation design.
- D. Prior to recording the Final Map a resource management program shall be submitted by the applicant for staff review and approval. Once approved, this program shall be a condition of this permit. The purpose of this program is to ensure the preservation, conservation and management of this land and its natural resources for the enjoyment of the residents of this development. The resource management program shall be incorporated into the covenants and restrictions of the home owners association and all lots, along with sufficient funding measures to ensure its implementation. The plan shall address the following areas:
1. erosion control
 2. drainage (including sedimentation and pollution control)
 3. wildlife resource
 4. vegetation resource
 5. developed area landscaping and development
 6. proposed budget and timing
 7. environmentally sound construction methods
- E. All improvements required in section III of this permit are conditions for the recording of the Final Map and shall be guaranteed by agreement and securities as specified by the County Code prior to recording the Final Map.
- F. Minor variations to this permit which do not increase the density, decrease the open space ratio, or change the general concept may be reviewed and approved by the CRA Director at the request of the applicant or staff.
- G. The applicant shall establish a home owners association, with an assured source of financing, to assume maintenance responsibility for the roads, drainage facilities, landscaping, common open space, and other common facilities.
- H. The following statement shall be included on the Final Map and in each parcel deed for this subdivision:
- "The subdividers and purchasers of this property acknowledge the fact that this land is adjacent to property utilized for agricultural purposes, and recognize the inconvenience or discomfort which may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor."

EXHIBIT B (2)

P-79-117

Exhibit 13
CCC-05-NOV-01
CCC-05-CD-03
(King)

- I. Prior to record, the Final Map, the subdivisor shall execute a hold harmless agreement with the owner for his benefit and the benefit of lessees, successors, and assigns of the agricultural property bordering the subdivision on the west known as Assessor's Parcel Number 54-261-05 to protect them against actions brought by any subsequent owners of the subdivision lots which arise from a continuance of the agricultural operations on such agricultural property.
- J. Prior to recording the Final Map, the applicant shall obtain a variance to Resolution 125-72 from the County Health Officer in accordance with the provisions of Section 11.76.040 of the County Code.

III. IMPROVEMENTS

A. General

1. All engineering designs shall conform to the County Design Criteria Manual, unless otherwise specified in this permit.
2. All improvement plans shall contain title blocks with signature space provided for all necessary agency approvals as required by these conditions. All improvement plans submitted to the Department of Public Works for review and approval shall contain the signatures indicating required agency approvals.
3. One set of approved reproducible plans for all required improvements shall be submitted to the Department of Public Works prior to construction for file copies.
4. Improvement plans, except for landscaping plans, as required for this project shall be prepared and presented over the signature of a Registered Civil Engineer. Landscape improvement plans shall be prepared and presented over the signature of a Registered Landscape Architect or Building Architect.

B. Road, parking and access

1. All roadways within the development shall be privately maintained. Public access from Camino Al Mar shall not be restricted by any obtrusive means such as gates, fences or large signs.
2. The main access road from Camino Al Mar shall be improved with asphalt concrete pavement to a width of 28 feet with curbs and gutters to County Standards. The access road to parcel 45-022-16 shall be improved with seal coat on 5 inches of base rock to a minimum width of 16 feet. An all weather fire access road extending from parcel 45-022-16 to Margareta Road shall be provided if required by the La Selva Beach Fire Protection District and be improved with 5 inches of base rock to a width of 12 feet with a crash gate at the end developed to the requirements of the Fire District; if the fire access road is provided, the main access road may be narrowed to 24 feet in width.
3. Both ends of the fire access road shall be provided with traffic restraints to prevent the entrance and parking of unauthorized vehicles. No parking shall be permitted on the fire access road.
4. A pedestrian and equestrian pathway shall be provided connecting the Los Barrancos Subdivision and this development to the beach.
5. An irrevocable offer of dedication to the County shall be made for the easement along the roadway connecting Camino Al Mar to the beach to become effective at such time as the roads in Los Barrancos become public.

EXHIBIT B (3)

P-79-117

Exhibit 13
CCC-05-NOV-01
CCC-05-CD-03
(King)

6. The existing road bed providing access under the trestle to the bluff top shall be barricaded to all vehicle traffic.
 7. The railroad grade crossing shall be provided with crossing guard devices.
 8. A minimum of one parking space shall be provided for each bedroom within the development up to two spaces per unit.
 9. A one-foot non-access strip along the northwestern boundary of parcel A shall be deeded to the County.
- C. Water System and Fire Protection
1. The applicant shall submit plans showing the location and capacity of fire hydrants and the water main, distribution and storage system, indicating prior approval by the Soquel Creek County Water District and the La Selva Beach Fire District, and the County Fire Marshal.
 2. All requirements of the fire district and Fire Marshal as to roadway design, emergency access crash gates, water system requirements, and vegetation alteration shall be met.
 3. Prior to recording the final map, the entire property shall be annexed to the La Selva Fire Protection District.
- D. Sanitation
1. All sanitation systems shall meet the requirements of the Environmental Health Service.
 2. Sufficient percolation testing to insure system operation shall be performed to the requirements of the Environmental Health Service prior to recording the final map.
- E. Grading, drainage and erosion control
1. All grading shall be minimized.
 2. All cuts and fills shall be re-contoured to natural-appearing land forms.
 3. Provisions shall be made at the top of all cut or fill areas to direct drainage away from the exposed faces.
 4. Positive slope and drainage facilities shall be provided along the bluff top to insure that no drainage or runoff passes over the edge of the cliff.
 5. Wherever piped or channeled storm waters are discharged into natural drainage courses, energy dissipators shall be used to prevent scouring, and the outlet facility shall spread the waters over a large area to allow percolation into the soil.

EXHIBIT B (4)

P-79-117

Exhibit 13
CCC-05-NOV-01
CCC-05-CD-03
(King)

6. No removal of vegetation or grading shall be permitted during the rainy season of any year, which is defined as that period between November 15th and April 1st.
7. Erosion control measures such as planting of grasses, groundcover, etc., shall be undertaken in all areas disturbed by construction and shall be planted and established prior to November 15th of any year during which construction has taken place. Additionally, any and all erosion control measures recommended by Public Works or the CRA staff to immediately stabilize the area shall be implemented.
8. No tree removal, brush cutting or clearing of vegetation shall be permitted in areas not specifically approved for construction unless pursuant to the approved Resource Management Program. Improvement plans for all phases shall include complete landscaping and erosion control plans which shall be subject to approval by staff.
9. Final grading plans shall be subject to staff approval and shall show the location and size of all mature trees within and adjacent to all areas to be graded.
10. The existing roadway fill crossing over the creek shall be removed.
11. The embankment above the existing access road in the vicinity of the Cheit residence shall be filled and recontoured to reestablish a stable and more natural looking landform.

F. Landscaping

1. The applicant shall submit a final landscaping plan, indicating plant materials, irrigation system, timing, and special features, subject to approval by the Resources Agency staff.
2. Native plant materials shall be used wherever possible. Exotic plant materials shall be limited to those plants specifically adapted to climate and soils on the site.
3. Plant cover shall be provided for all landscaped areas.
4. An irrigation system shall be provided for permanent maintenance of the landscaped areas.
5. The selection, location and grouping of plant materials shall be done in such a way as to create a natural-appearing coastal landscape.
6. The northwestern property boundary between the railroad tracks and the bluff shall be provided with a continuous wood or wood-and-wire 6-foot fence to prevent the passage of pets and people and a vegetation screen to intercept the drift of agricultural chemicals. The vegetation screen shall be made up of a mixture of plant sizes for both immediate and long term effects.
7. A continuous hedge of 5-gallon California Wildrose (Rose California) shall be planted along the cliff top extending from the western property boundary to the railroad trestle.
8. A 4-foot fence shall be constructed along the south side of the access road between station 1+00 to station 4+40 as required for headlight and noise buffering.

EXHIBIT B (5)

P-79-117

Exhibit 13
CCC-05-NOV-01
CCC-05-CD-03
(King)

IV ARCHITECTURAL AND SITE RESTRICTIONS

- A. No building shall be closer than 50 feet from the top of the bluff.
- B. No residential unit shall be closer than 50 feet to the northwestern boundary.
- C. A comprehensive program for the improvement and/or construction of all signing, mail boxes and other features, including fire hydrants, water meters, storage areas, exterior lighting, etc., shall be submitted.
- D. Roofs of all structures shall be in dark, earthen colors of non-glare materials except for solar collectors.
- E. The exteriors of all structures shall have a rustic finish, with a maximum use of stained or natural materials, and a minimum use of painted or other artificial surfaces.
- F. Fences or walls shall not be permitted except where required by this permit. All fences or walls shall conform to the architectural concept of the project.
- G. All storage and disposal areas shall be screened.
- H. Buildings shall be limited to 25-feet in height.
- I. All lighting shall be subdued and glare-free.
- J. All water fixtures shall be equipped with low-flow fixtures.
- K. No access shall be provided or allowed down the bluff face from the bluff top to the beach. All pedestrian traffic shall make use of the exiting road bed passing under the trestle from the bluff top or shall use the roadway through the ravine.
- L. The existing mature pine trees on the bluff top shall be retained.
- M. An Engineering Geology Report shall be prepared for the project by a registered engineering geologist evaluating the stability of the building placement and evaluating the hazards due to cliff erosion and seismically induced cliff failure. Final building placement and foundation design shall be designed for a minimum project/life time of 50 years.

NOTE: This Tentative Map approval expires on March 11, 1980. The subdivider should also note that Final Map and Improvement Plan processing may take a period of months. Since this processing must be accomplished prior to the expiration date, the subdivider should plan accordingly.

HENRY R. BAKER, DIRECTOR
COMMUNITY RESOURCES AGENCY

by: John H. Warren
John H. Warren
Senior Planner

EXHIBIT B (6)

P-79-117

Exhibit 13
CCC-05-NOV-01
CCC-05-CD-03
(King)

M. 1044
JES STURNAD
Please msg.
"People's Coastal"
CALIFORNIA COASTAL COMMISSION
Central Coast Regional Commission
Application for Permit

Exhibit 14
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 8

Section I - Applicant

1. Name, address and telephone number of applicant:

John J. King
1595 Signal Dr
Santa Cruz 95065 476-0700
zip (area code/telephone number)

2. Name, address and telephone number of applicant's representative, if any, or method of contacting applicant if not at above phone between 8 a.m. and 5 p.m.:

William A. Vetterson
1667 Signal Dr #1 Oak Road
Santa Cruz 95060 425-0241
zip (area code/telephone number)

☒ Please check here if you want your representative to receive all information pertinent to this application; otherwise, the information will be sent directly to the applicant.

Section II - Summary of Proposed Development

3. Describe the proposed development. Include all incidental improvements such as utilities, roads, etc., as well as demolition or removal of existing structures.

32 unit new townhouse PUD
Road & utilities to be developed
a project. No demolition

4. Description of project location (street address, city or county, nearest roads, etc.) and assessor's parcel numbers.

End of Camino al Mar, Los
Barrancos Subdiv. La Jolla Beach
45-022-1 & 15

5. Has this application been submitted previously to the California Coastal Zone Conservation Commission? If yes, state previous application number. No

REGION III
CENTRAL COAST COMM.

to be filled in by the Commission:

Application Number P-79-117
Filing Fee \$ 280.00

Date Received 8/15/78
Date Filed DEC 15 1978
Public Hearing Date 12/15/78
(Not less than 21 days nor more than 42 days after filing)

Section III - Description of Proposed Development

6. Present use of property. If residential, state number of units.

Undeveloped

7. If construction requires demolition and/or removal of existing structures state type and age of structure to be demolished.

None

8. Nature of proposed development. If residential, state number of units and unit mix (number of one-bedroom, two-bedroom, etc. units).

16 - 2 Bedroom
15 - 3 Bedroom 32 unit townhouse - residential
1 - 4 Bedroom

9. Describe present zoning and general plan designations of the property. Explain whether the proposed project is consistent with zoning and local plans.

Bluff top is U-BS-5 Beach is U-BS-20 Rayne is RR-1
Aptos General Plan: Urban residential. Plan is
consistent with zoning and local plans.

10. Project height: from average finished grade (AFG) 25 ft.
" " from centerline of frontage road (CFR) N/A ft.
" " Height of any structure above roofline of highest habitable floor None ft.

11. Total number of floors in building including subterranean floors, lofts, and mezzanines 2.

12. Gross structural area including covered parking and accessory buildings
50,425 sq. ft.

13. Lot area (within property lines) 8.9 sq. ft.
Lot coverage by buildings 35,355 sq. ft.
Total lot coverage including paving 87,605 sq. ft. May be reduced by 4600 sq. ft. if parking is reduced

14. Number of parking spaces 81, covered 32, open _____
primary _____, size _____; tandem _____, size _____

15. The setbacks required by the local agency for development of the property: PUD
Front: *N/A Rear: *N/A Sideyard: *N/A
*except 50' setback from north property line
Explain any variance issued for compliance with above requirements.

16. Estimated cost of the development: \$ 3,000,000

Exhibit 14
CCC-05-NOV-01
CCC-05-CD-03
(King)

Section IV - Detailed Description of Development

The relationship of the development to applicable items below should be explained fully. Attach additional sheets if necessary.

17. Will the development extend onto or adjoin any beach, tidelands, submerged lands or public trust lands?

No

18. Will the development maintain, enhance, or conflict with public access to the shoreline and along the coast?

No

19. Will the development protect existing lower cost visitor and recreational facilities? Will it provide public recreational opportunities?

Unit will be privately owned but
will probably be available for lease
in some instances

20. Will the development protect or provide low and moderate income housing opportunities? Will it displace low or moderate income housing?

It will displace no other
housing. Some units may be moderate

21. Will alternatives to private vehicle use be provided or facilitated? How will the development affect traffic on coastal access roads?

No effect on coastal
road. No alternative to private vehicle

22. Describe current location of service lines for all necessary utility connections and any necessary extensions or relocations of service lines. Be sure to indicate how many new poles (if any) are required; contact utility company for assistance.

Electric:

P.A.E. - To Honanua

Water:

Loquel Ch

(if on a mutual water system, please indicate name or system.)

Sewer:

Other:

23. What water conservation features are included in the project?

All plumbing fixtures will be equipped with
flow reduction devices.

24. Does the development involve diking, filling or dredging of open coastal waters, wetlands, estuaries or lakes? What alternatives are available? How will the adverse environmental effects of this be minimized?

No

25. How will the development affect biological productivity of coastal waters?

No effect

26. Describe how grading will be conducted so as to minimize alteration of landforms? If on a bluff or in an area of high geologic risk, how will the project design assure stability and minimize erosion?

Project engineered & designed to minimize grading & protect bluff

27. Is the development proposed within or in close proximity to an existing developed area? Will it be visually compatible with the character of surrounding areas? If in a special community or neighborhood, how will it protect unique local character?

Project adjacent to, but not visible from, La Selva Beach & La Bamba

28. Is the proposed development coastal-dependent? Will it displace any coastal-dependent facilities?

No

29. Is the development proposed near sensitive habitat areas, parks or recreation areas? How will the project design prevent adverse environmental impacts on these areas?

No

Exhibit 14
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 4 of 8

30. Is the development proposed within or adjoining land suitable for agriculture? Will it convert agricultural land to another use? How is the project consistent with continued local agricultural viability?

Project adjacent to but consistent with agricultural. Fenced & vegetative screen

31. Is the development proposed within or near a known archaeological or paleontological site? If the project will adversely impact such a site, what mitigation measures are proposed?

No

Exhibit 14
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 5 of 8

32. List all permits, permissions or approvals required from public agencies for this development and indicate those applied for or granted.

Project approved by all local agencies. Bd. of Supervisors - 12/12/78

Section V - California Environmental Quality Act/Project Status

33. Check one of the following:

a. Categorically exempt _____ Class: _____ Item: _____

Describe exemption status and date granted: _____

b. Date negative declaration status granted: _____

c. Date environmental impact report approved: 8/27/75
accepted 4/25/77.

Section VI - Development's Consistency with the California Coastal Act of 1976

The California Coastal Act of 1976 provides in Public Resources Code Section 30604(a) that a coastal development permit shall be issued if the Regional Commission finds that the proposed development is in conformity with the provisions of Chapter 3 of the Act and will not prejudice the ability of the local government to prepare a local coastal program that is in conformity with the provisions of Chapter 3 of the Act.

Please explain whether the proposed development is consistent with these requirements of law. Use additional paper if necessary.

Project in area designated on County and Area Plan as urban residential. Approved by Council of Santa Cruz.
Proposed development is in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, and will not prejudice the ability of the local government to prepare a coastal program conforming to these provisions.

Section VII - Attachments

The following items must be submitted with this form as part of the application.

1. Verification of the applicant's interest in the property, such as a copy of current tax bill, grant deed, signed or certified escrow instructions or title report.
2. An assessor's parcel map of the property.
3. Local government verification of consistency with local requirements, such as an issued building permit, a letter or Regional Commission "Preliminary Approval" form completed by an appropriate local government official, and, for all land divisions or condominium conversions, an approved tentative tract map. Any use permit or variance granted as part of this approval as well as all conditions imposed on it must be included with this verification.
4. Materials for notification of nearby property owners:
and occupants
 - 1) A list of all property owners of record within 100 ft. of the applicant's property, together with a drawing showing the relationship of these properties to the applicant's.
 - 2) A list of names and addresses of all other parties known to the applicant to have an interest in the proposed development.
 - 3) One stamped, business-letter sized envelope addressed to each of the above owners of record and other interested parties.

Names and addresses of property owners are available in County Assessors' offices and some Recorders' offices. Applicants should make every effort to verify that the names of present property owners are provided to the Regional Commission staff. Public copies of assessors' tax rolls sometimes do not reflect recent sales. Inability of the staff to notify present owners of your application and scheduled hearing may result in delay of the hearing or in the voiding of any permit issued to you as a result of that hearing.

5. In addition to verification of local government approval in Item 3 above, documentation of all other permits, permissions or approvals granted by public agencies must be attached to this application. All conditions imposed on these approvals must be included. "Public agencies" include cities, counties, regional agencies, redevelopment agencies, air pollution control districts, State Regional Water Quality Control Boards, the State Lands Commission and the U.S. Army Corps of Engineers. Where septic systems are proposed local health department or Regional Water Quality Control Board approval should be provided.
6. Development location and vicinity maps. Maps should show precisely where the development is proposed and present land and water uses in the project vicinity. U.S. Geological Survey 7½ minute series quadrangle map, Thomas Brothers map, road map or area maps prepared by local governments may provide a suitable base map.
7. Project plans, for all work proposed, including:
 - 1) A site plan of all proposed work, including structures to be removed or demolished and parking plan.
 - 2) Floor plans for all proposed buildings and elevations of all proposed structures.
 - 3) Grading and drainage plans. Grading plan should show existing and proposed contours, state amount of proposed excavation and fill and specify any necessary borrow or deposition sites. Drainage plans should show drainage pattern for all runoff from the site, location of swales, ditches and culverts, and specify size of all drainage structures.
 - 4) Plans for all necessary utility service line extensions and any proposed energy conservation measures.
8. A copy of any Negative Declaration, Environmental Impact Report or Environmental Impact Statement prepared for the project. Comments of all reviewing agencies and responses to them should be included.
9. If the development is proposed on a bluff-face, bluff top or in an area of high geologic risk, a comprehensive, site-specific geology soils report must be submitted.

Page 6 of 8

 Exhibit 14
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

SUPPLEMENTARY INFORMATION — Central Coast Region

34. Describe any alteration of vegetation on project site, including pruning or removal of trees. Tag all trees to be removed and note on site plan.

See resource management program. Tree removal
will be limited to that required for access road and for
parking west of railroad right-of-way (primarily eucalyptus.) **

35. List names, address and parcel numbers of property owners and occupants to whom notice must be sent (within 100 feet of your property) and submit envelopes addressed to each. Envelopes for occupants may be addressed simply "occupants" and mailing address. (Attach additional sheet if necessary.)

cf. attached

** All cacti on the bluff top will be retained

Section VIII - Certification

1. I hereby certify that I or my authorized representative will complete and post the "Notice of Intent" form furnished me by this Commission in a conspicuous place on the development property upon receipt of said notice from the Regional Commission.
2. I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or of any information subsequently requested shall be grounds for denying the permit, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.

John P. King
 Signature of Applicant(s) or Agent

Section IX - Authorization of Agent

I hereby authorize William J. Ventura to act as my representative and bind me in all matters concerning this application.

John P. King
 Signature of Applicant(s)

LOCAL AGENCY REVIEW FORM

This form is to be completed by the planning department of city, county, or other agency with jurisdiction to give construction approval to the development proposed.

1. Applicant: J. King
2. Project Description: 32 units
3. Project Address: Camino al Mar, LSO
4. Assessor's Parcel No. 44-0228-1+15 5. Local Agency Case No. 77-1296-PUD
6. Zoning Designation: URS-S, URS-20, PR-1-PD 77-1275-S (TRACT 877)
7. General Plan Designation: URBAN RESIDENTIAL 2-604/AC (ARTIS AREA GP)
8. Local Approval Received: (Attach copies of all permits received to date, including letters granting variance or design review.)

☐ Zoning approval only; no other permits required before building permit. Includes setback, height, legal lot determination.

☐ Design/Architectural Review

☐ Variance for _____

☐ Preliminary only

☐ Site Supervision

☐ Septic system (complete form CCR-16 available at County Health Dept.)

☒ Tentative map/Parcel map

B/S approved 12/12/78

☐ Use Permit No. _____

☐ Zone change from _____

☒ ^{UNIT} Planned Development

☐ Other _____

9. California Environmental Quality Act/Project Status
(Attach EIR or Negative Declaration, and check the following:)

☐ Categorically exempt _____ Class: _____ Item: _____
Describe exemption status: _____

☐ Negative Declaration Granted
Date: _____

☒ Environmental Impact Report Required
Final report certified: 4-25-77 By _____

COUNTY ENVIRONMENTAL REVIEW COMMITTEE

10. Approvals still required and tentative hearing dates (list): FOR CURRENT APPEAL (PROPOSITION 8-77-75)
(see conditions)

Signed: John H. Wanner
Title: Senior Planner

City or County: San Luis Obispo
Date: 12-21-78

CCR-15

Revised 5/76

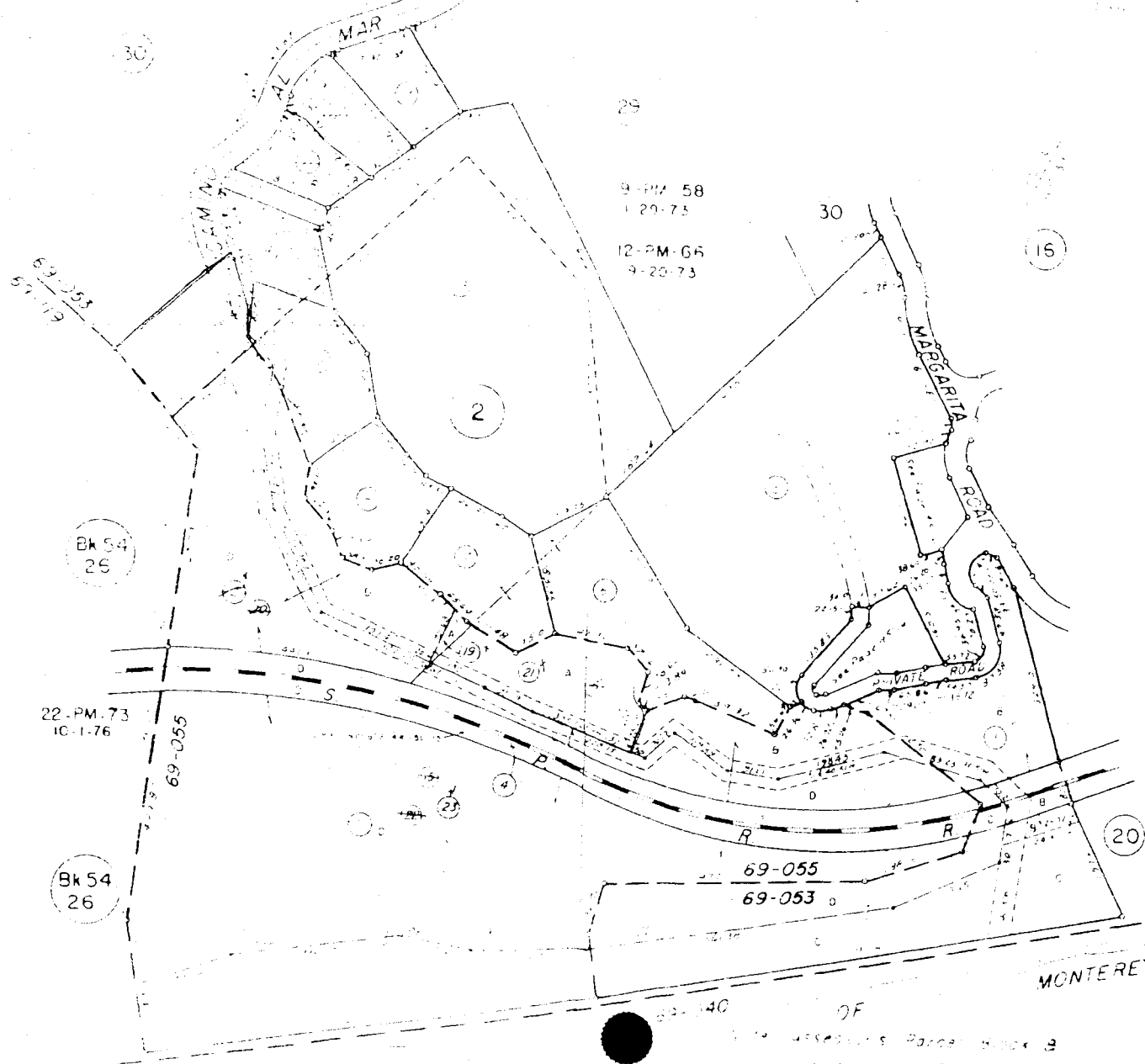
Exhibit 15
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1

JOHN ANDREAS RANCH
PCR SEC 28 & 33, T11S, R1E, MDBBM

Tax Area Code
59-048
69-053
69-055

45-



REVISED
JAN 9-1-78
NO MAP NO 45-02

1/2/78
RECEIVED
JAN 8 1979

CENTRAL COAST COMM.
REGION III

Assessor's No 45-02
County of Santa Cruz, Cal.

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHER WISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME _____
ADDRESS _____
CITY & STATE _____
ZIP _____

Title Order No. _____ Escrow No. _____

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Quitclaim Deed

(dedication to public entity)

The undersigned declares that the documentary transfer tax is \$ NIL and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
☒ unincorporated area ☐ city of _____

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

JOHN J. KING, JULIA D. KING, LEWIS E. HANCHETT, JR., GWYNN HANCHETT,
his wife, and COUNTY BANK OF SANTA CRUZ

do hereby remise, release and forever quitclaim to
STATE OF CALIFORNIA

the following described real property in the _____ county of Santa Cruz
state of California:

SITUATE in Rancho San Andreas and being Parcel
C as said parcel is shown on the map entitled, "Parcel
Map of Lands of John J. King, Et Ux.", recorded in Volume
22 of Parcel Maps, at Page 73, Santa Cruz County Records.

SANTA CRUZ COUNTY ASSESSORS PARCEL NUMBER 45-022-23

RESERVING UNTO GRANTORS an easement over the subject property
for ingress and egress including vehicles for the sole purpose
of maintenance of the cliffs located on the adjacent land of
Grantor and abutting the subject property.

Dated March 12, 1979.

STATE OF CALIFORNIA } ss.
COUNTY OF _____ }
On _____ before me, the under-
signed, a Notary Public in and for said County and State, personally
appeared _____

_____ known to me
to be the person whose name _____ subscribed to the within
instrument and acknowledged that _____ executed the same.

Signature of Notary

John J. King
Julia D. King
Lewis E. Hanchett, Jr.
Gwynn Hanchett
COUNTY BANK OF SANTA CRUZ

By: [Signature]
EXHIBIT 16
CCC-05-NOV-01
CCC-05-CD-03
(King)
Page 1 of 3

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE: IF NO PARTY SO SHOWN, MAIL AS DIRECTED ABOVE

Name _____ Street Address _____ City & State _____

RECORDING REQUESTED BY _____

AND WHEN RECORDED MAIL TO _____

MAIL TAX STATEMENTS TO _____

Exhibit 16
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

Page 2 of 3

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Individual Quitclaim Deed

THIS FORM FURNISHED BY TICOR TITLE INSURERS

A.P.N. _____

The undersigned grantor(s) declare(s):

Documentary transfer tax is \$ _____.

() computed on full value of property conveyed, or

() computed on full value less value of liens and encumbrances remaining at time of sale.

() Unincorporated area: () City of _____, and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

JOHN J. KING, JULIA D. KING, LEWIS E. HANCHETT, JR. and GWYNN HANCHETT

hereby REMISE(S), RELEASE(S) AND FOREVER QUITCLAIM(S) to

STATE OF CALIFORNIA

the following described real property in the
 State of California:

County of **SANTA CRUZ**

THIS DEED being executed to correct the QUITCLAIM DEED dated
 March 12, 1979 to describe the reserved and also the appurtenant
 easements that were not specifically set out.

See ATTACHED EXHIBIT "A" for descriptions which
 exhibit is made a part hereof.

THIS DEED is given without warranty, expressed or implied.

Dated April 13, 1979

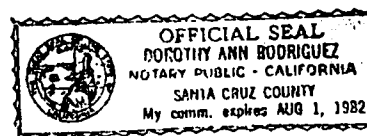
STATE OF CALIFORNIA }
 COUNTY OF Santa Cruz } ss.

On April 13, 1979, before me, the under-
 signed, a Notary Public in and for said State, personally appeared
John J. King, Julia D. King, Lewis E. Hanchett, Jr. and Gwynn Hanchett

known to me
 to be the person(s) whose name(s) subscribed to the within
 instrument and acknowledged that they executed the same.
 WITNESS my hand and official seal.

Signature Dorothy Ann Rodriguez

John J. King
Julia D. King
Lewis E. Hanchett, Jr.
Gwynn Hanchett



(This area for official notarial seal)

Title Order No. _____

Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT "A"

Parcel 1

SITUATE in Rancho San Andreas and being Parcel C as said parcel is shown on the map entitled, "Parcel Map of Lands of John J. King, Et Ux.", recorded in Volume 22 of Parcel Maps, at Page 73, Santa Cruz County Records.

SANTA CRUZ COUNTY ASSESSOR'S PARCEL NUMBER 45-022-23

Reserving unto the Grantors an easement twenty (20) feet in width for ingress and egress including vehicles for the sole purpose of maintenance of the cliffs located on the adjacent land of the Grantors. The route for said ingress and egress may reasonably be designated or re-designated by Grantee its successor or assigns.

Parcel 2

An easement for ingress and egress over the adjoining land of the undersigned Grantors shown as a forty (40) foot right of way for road and utility purposes on the parcel map referred to in Parcel 1 above.

Parcel 3

An easement for ingress and egress over Camino Al Mar and Camino Al Barranco as shown on the subdivision map entitled Los Barrancos De Aptos Tract No. 284 filed for recording July 17, 1964 in Volume 40, Page 92, Maps of Santa Cruz County.

F-4907C

Exhibit 16
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 3 of 3

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and MID COAST ENGINEERS of WATSONVILLE, State of CALIF., hereinafter called the operator, is as follows:

WHEREAS, pursuant to Section 1603 of California Fish and Game Code, the operator, on the 13 day of FEBRUARY, 19 79, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of the following water: UNNAMED RAVINE, in the County of SANTA CRUZ, State of California, S _____ T _____ R _____.

WHEREAS, The Department (represented by WAYNE HOWE has made an inspection of subject area on the 27 day of FEBRUARY, 19 79, and) has determined that such operations may substantially adversely affect existing fish and wildlife resources including: NO FISH POPULATIONS AFFECTED.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the operator's work. The operator hereby agrees to accept the following recommendations as part of his work: Numbers 1, 2, 3, 4, 6, 8, 9, 15, 21, 22 from the list of recommendations on the back of this page and the following special recommendations:

1. All work in or near the stream or lake shall be confined to the period APRIL 3, 1979 - NOV 15, 1979

A - BEFORE ANY WORK IS DONE WITHIN THE STREAM CHANNEL A DAM SHALL BE PLACED, FOLLOWING STANDARD RECOMMENDATIONS # 6 & 8, SO THAT THE WORK AREA CONTAINS NO FLOWING WATER,

B - SUFFICIENT WATER SHALL AT ALL TIMES BE ALLOWED TO PASS DOWNSTREAM TO MAINTAIN ANIMAL LIFE BELOW THE DAM.

C - PHONE NUMBERS FOR RECOMMENDATION # 22

408-688-1120

408-728-1803

Exhibit 17
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1

If the operator's work changes from that stated in the notification specified above, this agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the operator to trespass on any land or property, nor does it relieve the operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated agreement does not necessarily constitute Department of Fish and Game endorsement of the proposed operation.

This agreement becomes effective on APRIL 3, 1979 and terminates NOV. 15, 1979.

Operator [Signature] Department Representative Wayne Howe

Title Owner Title Warden

Organization Orlando Beach Development Department of Fish and Game, State of California

Date 4/5/79 Date 4-3-79

* If inspection was not made, cross out words within parentheses.

CALIFORNIA COASTAL COMMISSION
CENTRAL COASTAL REGIONAL COMMISSION101 OCEAN STREET, ROOM 310
SANTA CRUZ, CALIFORNIA 95060
(408) 426-7390

April 27, 1979

Bill Victorson
#1 Oak Road
Santa Cruz, Ca. 95060

Dear Bill:

Following my preliminary review with you on April 19th of the "Applicant's Response" both Ed Brown and Sue Hansch have reviewed the "Response"; yesterday I had a chance to discuss with them their review. The following concerns came out of that discussion.

In order to justify a recommendation for approval of a project at the site, we would need more definitive information on the proposed package treatment plant including the results of the final soil testing and analysis for the alternative sites, final design and proposed location for the system, and evidence of conceptual approval by the Regional Water Quality Control Board of the system for 32 units.

Additionally with regards to our concerns of avoiding conflicts between development on the site and the agricultural use of the adjacent parcel, more evidence is needed that the prevailing wind direction over the bluff tops is from the southwest; that is, it is necessary to substantiate that the wind information supplied by the Watsonville airport is applicable to the La Selva Beach-Seascape area. The provision of this additional material relating to the two items is considered critical in determining whether the project will be recommended for approval as proposed.

According to information contained in the "Response", the final soil testing results were to be available by April 16th. The "Response" also indicates on page 2 that the alternative sites considered "are marked on the attached drawing"; that drawing does not seem to be included in the "Response". Likewise, the cover sheet to the draft copy of the "Response" which we received on 4/11/79 included a list of 10 items of additional information that would be provided by 4/13/79. From that list we have not yet received the following items:

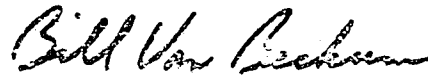
Exhibit 18
CCC-05-NOV-01
CCC-05-CD-03
(King)

1. Map showing adjacent average parcel size in the Los Barrancos and La Selva Beach developed area of which the project is a part;
2. Portions of the Soils Report addressing cliff setback and septic suitability;
3. Cross section of proposed foundations types;
4. Map showing vegetational communities on-site
5. Statement from Mr. Frank Thomas, C.E. about the failure of the Sand Dollar System and its bearing on the design of the proposed treatment plant;
6. Revised map showing the location of the Package Treatment Plant, as proposed as well as the two alternative sites.

Once in receipt of the above information, we can proceed to schedule the application for a recommendation. Hopefully the information will enable us to develop a recommendation that is satisfactory to both our office and to Dr. King.

Sincerely,

Edward Y. Brown
Executive Director



Bill Van Beckum
Coastal Planner

BVB:cm

Exhibit 18
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION
CENTRAL COASTAL REGIONAL COMMISSION701 OCEAN STREET, ROOM 310
SANTA CRUZ, CALIFORNIA 95060
(408) 426-7390

May 29, 1979

Mr. Bill Victorson
#1 Oak Road
Santa Cruz, Ca. 95060

Dear Bill:

As I indicated to you in our May 25th conversation, our office has not yet received evidence of conceptual approval by the RQCB of Dr. King's proposed package treatment plant. Once we are in receipt of that information we can, pursuant to my April 27, 1979 letter to you, proceed to schedule Dr. King's application for a recommendation.

Sincerely,

Edward Y. Brown
Executive Director

A handwritten signature in cursive script that reads "Bill Van Beckum".

Bill Van Beckum
Coastal Planner

BVB:cm

Exhibit 19
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1

June 4, 1979

Mr. William S. Victorson
c/o Dr. John J. King, M. D.
1883 Sequoia Drive
Santa Cruz, California 95065

Dear Mr. Victorson:

This Board's staff has reviewed the Trostle Beach Environmental Impact Report and additional information furnished us in a meeting on May 9, 1979 with the proponents of the development. Treatment of domestic wastewater from the proposed 32-unit development will be provided by a package activated sludge wastewater treatment plant. Wastewater disposal is proposed by seepage pits on a slope located southeast of the development. You have indicated that the process has been to establish a public agency to assume responsibility and maintain the system. Also, you indicated concept approval is necessary from this office to complete your application to the Coastal Commission. To satisfy that condition, at present we have no objection to the concept of the project as proposed. We do have some concerns of the design of the disposal area which will have to be resolved when you submit your Report of Waste Discharge. As discussed with you, it will take between 90 and 120 days after a complete Report of Waste Discharge is received for our Board to adopt Waste Discharge Requirements. (Since the DIR did not address the current proposed system of wastewater disposal (package plant and seepage pits), amendments to the original documents will be required.

If you have any further questions on this matter, please call Mr. Jay Cano at this office.

Very truly yours,

W. R. Jones
KIMETH R. JONES
Executive Officer

KRJ:JFC:nd

cc: Central Coastal Regional Commission, Santa Cruz
Santa Cruz County Planning Department
Santa Cruz County Health Department

RECEIVED

JUN 6 1979

CENTRAL COAST COMM
REGION III

EXHIBIT A

P-79-117

Exhibit 20
CCC-05-NOV-01
CCC-05-CD-03
(King)

4-3/11

Date: 4-2-79
Hearings: Open
Scheduled for: 7-16-79
Prepared on: 7-3-79
BY: BVB

Staff Report Supplemental Information

P-79-117 Dr. John King: 32 unit condominium project (2,3, and 4 bedroom units in six separate 1 and 2 story buildings); access road; parking; community sewage disposal system; tree removal; adjacent to Monterey Bay and immediately northwest of La Selva Beach, South Santa Cruz county.

In response to concern expressed at the April 2nd hearing on this permit application, the applicant has submitted two documents answering in detail the Commission's questions. These documents - received at the Commission's office on 4-20-79 and 5-14-79 - have been distributed to the Commissioners at their 4-23-79 and 7-9-79 meetings. Material discussed in the documents relate to: specific environmental considerations; sewage and foundation systems; agricultural considerations (including information on prevailing wind direction); growth inducement; siting of new development; housing policies; and visual considerations.

As shown in the 5-14-79 document, the proposed sewage package treatment plant has been relocated, in the southern portion of the applicant's property, from the west to the east side of the Southern Pacific tracks; recent soils testings have been favorable for a plant at the new location. It should be noted that the final EIR for the project (prepared in 1975 when individual septic systems were anticipated for the project's units) does not specifically address the impacts of a package treatment plant on the site; however, staff conversations with staff from the County Public Works and Environmental Health Departments and with Regional Water Quality Control Board (RWQCB) staff have led to the conclusion that a package treatment plant system which can effectively serve the project's sewage disposal needs without adverse environmental impacts technically could be developed on the site (attached Exhibit A is a letter from RWQCB staff addressing the issue of the sewage system; Exhibit B is a letter from the Director of the County Environmental Health Service granting a variance for the construction of 32 condominium units on the site). As noted in Exhibit A, "It will take between 90 and 120 days after a complete Report of Waste Discharge is received by our Board to adopt Waste Discharge Requirements"; the adoption of such requirements would be necessary prior to construction of the package plant system. Additionally, prior to the system's construction, LAFCO and Board of Supervisors approval of the applicant's request for annexation to County Service Area #2 (Place de Mer) would be necessary; the applicant has recently formalized such a request to LAFCO. (LAFCO on 6-6-79 has already considered and approved annexation of the project site to the La Selva Beach Fire Protection District.)

The location map, site plan and architectural rendering of the proposed project - from the project staff report - are attached as Exhibit C. Exhibit D is a copy of recent correspondence from the attorney for the La Selva Beach Improvement Association.

Attached Exhibits

- A. Regional Water Quality Control Board Letter
- B. County Environmental Health Service Letter
- C. Location Map, Site Plan, and Architectural Rendering
- D. La Selva Beach Improvement Association Letter

Exhibit 21
CCC-05-NOV-01
CCC-05-CD-03
(King)

TALLEY, M.P.H.
ENVIRONMENTAL
SERVICE

ENVIRONMENTAL HEALTH SERVICE
701 OCEAN STREET, FOURTH FLOOR
SANTA CRUZ, CALIFORNIA 95060
(408) 425-2341

July 5, 1979

RECEIVED
JUL 5 1979
CENTRAL COAST COMM.
REGION III

Turnbull Associates
Architects & Planners
1200 The Embarcadero
San Francisco, CA 94111

Attention: Robert Simpson

SUBJECT: TRESTLE BEACH, TRACT 781, SEWAGE DISPOSAL

Re:lemen:

I have reviewed the material presented by Bowman and Williams, Consulting Civil Engineers, submitted to support a variance to Santa Cruz County Code Section 11.76.040, (b). You are requesting a variance to allow construction of 12 dwelling units in addition to the 20 units permitted under the criteria of Board of Supervisor's Resolution No. 125-72.

From review of the submitted materials, I find that the 12 additional dwelling units will not have a significant impact on the treatment and disposal of the project's wastewaters.

The secondary quality effluent will be discharged into seepage pits located in sandy material at depth. The sand formation terminates at the site at sea level and undoubtedly any water encountered at sea level would be saline. There are no wells in the vicinity of the effluent disposal area. It appears the hydraulic gradient is directed towards the Bay and the effluent should not commingle with groundwater. The possibility of lateral movement of wastewater with seepage to the surface of the slopes will be mitigated by terminating the tops of the seepage pits below a clayey stratum located approximately 15 feet below the surface.

The variance to allow construction of 32 dwelling units in Tract 781, Trestle Beach is hereby granted.

Very truly yours,

L. Raynor Talley
L. RAYNOR TALLEY, R. S.
DIRECTOR OF ENVIRONMENTAL HEALTH

RT:ljb

Bowman & Williams
Community Resources Agency
Public Works Department
Regional Water Quality Control Board
Coastal Commission, Att: Bill Van Beckum

EX-100-10

P-74-17

Exhibit 22
CCC-05-NOV-01
CCC-05-CD-03
(King)

Memorandum

TO: COMMISSIONERS

DATE: 7/9/79

FROM: Staff

SUBJECT:

Attached is information regarding Coastal Permit application P-79-119, first heard on 4/2/79. This report has been provided by the Applicant, Dr. John J. King. Please retain this report, as this application is scheduled to be back before the Commission - with a preliminary recommendation - on the July 16th meeting. (Note: two reports - with "received" dates of 4/20/79 and 5/14/79 - are attached for those Commissioners or alternates who were not present at the April 23 commission meeting. A copy of the 4/20/79 report was handed out to Commissioners present at the April 23rd meeting; those Commissioners are now receiving only the 5/14/79 report.)

BVB/cw

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

B1B

JOHN J. KING, M. D.
A MEDICAL CORPORATION
1595 SOQUEL DRIVE, SUITE 400
SANTA CRUZ, CALIFORNIA 95065
—
GENERAL SURGERY
—
TELEPHONE (408) 476-0700

MAY 11, 1979

RECEIVED

MAY 14 1979

MR. BILL VAN BECKUM
COASTAL PLANNER
CALIFORNIA COASTAL COMMISSION
701 OCEAN STREET
SANTA CRUZ, CALIFORNIA 95060

CENTRAL COAST COMM.
REGION III

DEAR BILL:

IN RESPONSE TO YOUR APRIL 26th LETTER THE FOLLOWING IS SUBMITTED:

1. DEFINITIVE INFORMATION CONCERNING THE PACKAGE TREATMENT PLANT AND LOCATION (THE "FINAL" SITE INDICATED ON THE PREVIOUS DRAWINGS IS OUR PROPOSED LOCATION). ENCLOSURE A
Sec 7 Below
2. PREVAILING WIND DIRECTION INFORMATION. ENCLOSURE B
3. MAP SHOWING ADJACENT PARCEL SIZE. ENCLOSURE B
4. SOILS REPORT REFLECTING SETBACK AND SEPTIC SUITABILITY. ENCLOSURE A
5. FOUNDATION CROSS SECTION. ENCLOSURE C
6. MR. FRANK THOMAS STATEMENT CONCERNING SAND DOLLAR FAILURE. ENCLOSURE D
7. PACKAGE TREATMENT PLANT LOCATION, REVISED MAP. ENCLOSURE E, AND A.
**MAP OF SETBACKS (E2)*
8. VEGETATIONAL COMMUNITIES ON-SITE MAP. ENCLOSURE F.

YOU INDICATED THAT IT WOULD PROBABLY BE TWO WEEKS FROM THIS DATE WHEN WE COULD BE SCHEDULED FOR THE NEXT COMMISSION MEETING. BASED UPON THIS PROJECTION, I HAVE ASK OUR GROUP NOT TO SCHEDULE ANY SUMMER VACATION UNTIL JUNE. ALSO BECAUSE OF THE MANY OTHER DEADLINES REQUIRED IN THE BUILDING PERMIT PROCESS, I HOPE YOU CAN ARRANGEE OUR MEETING BY THE 21st.

THANKS AGAIN TO YOU, SUE AND ED FOR ALL OF YOUR EFFORT. THIS PROJECT HAS BEEN IN PROCESS FOR MANY YEARS AND I KNOW DR. KING IS MOST APPRECIATIVE OF YOUR HELP IN DEVELOPING A JUSTIFIABLE FAVORABLE RECOMMENDATION.

SINCERELY,

FOR JOHN J. KING, M.D.

Bill
WILLIAM S. VICTORSON

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 2 of 19



HARDING-LAWSON ASSOCIATES

ENGINEERS, GEOLOGISTS AND GEOPHYSICISTS

55 MITCHELL BOULEVARD, P.O. BOX 3030
SAN RAFAEL, CALIFORNIA 94902 415/472-1400 TELEX 340523

ALASKA
CALIFORNIA
HAWAII
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NIGERIA

May 10, 1979

5955,002.01

Dr. John J. King
c/o Mr. Bill Victorson
One Oak Road
Santa Cruz, California 95060

Dear Dr. King:

Supplemental Report
Soil Investigation
Planned Trestle Beach Development
La Selva Beach, California

This letter supplements our soil investigation report for the Trestle Beach development dated April 19, 1979. This supplement is in regard to the planned on-site sewage treatment facilities and its possible affect upon slope stability within the development. In our report we indicated the need for precautionary measures relative to the on-site facility including the recommendation for a conservative design to reduce ground-water buildup in the area of the leaching pits.

Subsequent to the submittal of our report, we are in receipt of engineering design information for the treatment facilities prepared by Bowman and Williams, Civil Engineers, transmitted to us by your architects. The information includes estimates of the rise in the water table that would occur in the area of the leaching pits located at the more southerly location as a result of disposal of approximately 10,000 gallons per day of effluent. The rise in water table would be a small fraction of a foot at a distance of 100 feet from the pits. Consequently the rise would not be significant with respect to the nearest slopes which lie at least 200 to 300 feet away from the pit location within the elevation range that could conceivably be influenced by the leaching pit operation.

We understand from discussions with Bowman and Williams that the facility would contain about 20 pits; this is estimated to be a conservative approach based on their experience with similar facilities in the area. Furthermore, we understand that the treatment plant and leaching pit facility will include installation of water level monitoring devices also in accordance with our recommendations.

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

Dr. John J. King
May 10, 1979 - Page 2 -

HARDING-LAWSON ASSOCIATES

Based on the information provided us relative to the leaching pit design in relation to our geological data, we believe that the design is conservative and in accordance with our recommendations and should have no significant influence on slope stability within the development.

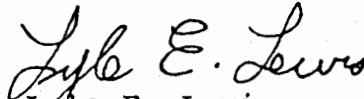
We trust this provides the information you require.

Yours very truly,

HARDING-LAWSON ASSOCIATES



E. C. Winterhalder,
Engineering Geologist - 272



Lyle E. Lewis,
Civil Engineer - 16360

ECW/LEL/ib

1 copy submitted

3cc: MLTW/Turnbull Associates, Architects & Planners
Pier 1-1/2 The Embarcadero
San Francisco, California 94111

1cc: Bowman and Williams, Civil Engineers
P. O. Box 1620
Santa Cruz, CA 95060

Attention: Frank Thomas

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 4 of 19

(1 - 1)

CONCLUSIONS AND RECOMMENDATIONS

Based on our investigation, we conclude that the medium dense to dense sands that underlie the site will provide satisfactory support for the planned structures. Because of the risk from possible future erosion and localized bluff instability, structures should be located a minimum distance of 50 feet back from the tops of the bluffs. Structures within about 100 feet from the top of the bluffs and steeply sloping areas should be supported on drilled, cast-in-place, reinforced concrete pile and grade beam foundations. At greater distances from the bluffs, spread foundations can be used which are bottomed either in dense sands or well compacted fills. The on-site natural sandy soils can be used in compacted fills if free of excessive organic matter.

Ocean Bluff Stability

As we discussed in our previous report, there is an inherent risk to any construction near ocean bluffs. The risks at this site are related to several processes of erosion, seismic shaking and possible changes in ground-water conditions through the new construction which could influence seismic stability. The work of Dupre, 1974 indicates that the terrace deposits in this area as elsewhere along the Monterey Bay shoreline are not unusually susceptible to seismically induced soil liquefaction. Dupre rates them as of low risk, the lowest of all Quaternary soil types in the region. Our investigation confirms that they are dense to very dense and investigations by others (Seed, et al.) have shown that

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

dense sands even where saturated are not likely to liquefy from strong earthquake shaking.

We estimate that over the average lifetime of a development (about 50 years) a substantial cliff retreat is to be expected. The anticipated extent varies from about 25 to possibly as much as 50 feet.

All of the factors that can influence cliff retreat are too complex to permit a precise estimate of future performance. There could be a combination of unusually adverse circumstances such as heavy rainstorm and/or a strong earthquake that would accelerate the rate. For this reason we recommend that the construction be designed to promote good runoff at the same time directing the flow away from the bluffs so as to minimize erosion.

The proposed on-site sewage treatment facilities including leaching pits to dispose of the effluent will have the tendency to add to the normal surface water infiltration and ground-water buildup at least locally within the leaching pit area. Consequently, we recommend that the facility should be located as far from the residential building area as is practical. For this reason, we favor the more southerly of the two alternative sites. Secondly, we recommend that the size and number of leaching pits be designed conservatively so as to promote infiltration and dissipation of the effluent and reduce possible buildup of the ground-water table. A monitoring well should be installed near the leaching pit area to measure the buildup above the present ground-water table. If a significant buildup (say 10 feet) occurs,

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

a geotechnical consultant should be retained to evaluate the effect on bluff stability.

Building Foundations

Within 100 feet of the top of the bluff and on steep slopes, building foundations should be drilled, cast-in-place piles. The piles will gain support from skin friction in the clayey sand. The piles should have a minimum diameter of 16 inches and minimum length of 18 feet and should be designed for a skin friction value of 1000 pounds per square foot (psf). Pile capacities can be increased by one-third for wind or seismic forces.

To allow a margin of safety for loss of soil support, we recommend that the upper 12 feet of soil be neglected in computing vertical pile capacities. Also, the upper 12 feet of pile should be designed to resist an active lateral earth force. This force should be determined by using an equivalent fluid weight (efw) of 30 pounds per cubic foot (pcf). The active force should be resisted by a uniform passive pressure of 1000 psf applied at a depth of 12 feet and below. Piles should be connected with grade or tie beams to help resist lateral movement.

Building foundations 100 feet or more from the top of bluff can be either spread footings or drilled piles. If spread footings are used, the existing ground should be overexcavated and recompacted as described in the grading section.

Spread footings should be bottomed in either compacted fill or firm natural ground (the medium dense or dense clayey sand). Spread footings should be designed for a maximum allowable dead

plus live load bearing pressure of 2000 psf. This value can be increased by 50 percent for wind or seismic forces. Footings should be bottomed at least 12 inches below the lowest adjacent finish grade. Continuous footings should be at least 12 inches wide and isolated footings should be at least 18 inches wide.

Lateral loads on footings can be resisted by either passive pressure on footing sides or friction on footing bottoms. For determining passive pressure use an efw of 300 pcf for footings against either compacted backfill or firm natural ground. The upper foot of soil should be neglected in computing resistance. For friction use a factor of 0.4.

If drilled piles are used they should be designed for a skin friction and uniform passive pressure of 1000 psf. The upper four feet of soil should be neglected in computing pile vertical and lateral capacities.

Ground Floors

Floors can be either slab-on-grade or structurally supported. If slab-on-grade floors are used, they should be underlain by compacted fill as described in the grading section.

To provide a capillary moisture break, slab-on-grade floors should be underlain with at least four inches of clean, free-draining gravel or crushed rock. Just prior to placing the rock the subgrade should be rolled to a smooth, firm surface. In areas where penetration of moisture vapor through the slab-on-grade floor would be objectionable, an impervious membrane should be provided.

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

Retaining Walls

Retaining wall spread footings should be designed in accordance with our recommendations for building footings except that 2600 psf can be used as a maximum for a triangular bearing pressure distribution.

Walls free to rotate should be designed for an active efw of 35 pcf and walls fixed should be designed for an active efw of 55 pcf.

Retaining walls should be backdrained to prevent the buildup of hydrostatic pressure. The backdrain should consist of a one-foot-thick blanket of free-draining crushed rock which extends to within one foot of the top of the wall. The top foot should be capped with one foot of clay to prevent the infiltration of surface water. The rock blanket should be drained with either a 4-inch perforated pipe or weep holes 10 feet or less on center.

Grading

In areas to be graded, surface vegetation and the upper two inches of soil containing organic material should be stripped. If suitable, this material can be used for landscaping; it should not be used as compacted fill.

The upper soft and loose soil in its present state will not provide satisfactory support for slab-on-grade floors or spread footings. Where slab-on-grade floors are used with spread footings, the upper four feet of existing ground should be removed and replaced as properly compacted fill. The excavation should extend at least three feet beyond exterior footing and slab lines. Where

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

slab-on-grade floors are used with drilled piers, the upper two feet of existing fill should be removed and replaced with compacted fill. In this case, the excavation should extend two feet beyond exterior footing lines.

All fill material should be of low expansion potential,* free of rocks larger than six inches in maximum dimension and free of organic material. Most on-site material appears to meet these requirements. Fill should be moisture conditioned, placed in lifts eight inches or less in thickness, and compacted to a relative compaction** of 90 percent.

Fill and cut slopes should be two horizontal to one vertical (2:1) or flatter. Fill slopes should be compacted to produce a firm, smooth surface.

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 10 of 19

* Liquid limit of 40 or less and plasticity index of 15 or less.

** Relative compaction refers to the in-place dry density of soil expressed as a percentage of the maximum dry density of the same material, as determined by the ASTM D1557-70(C) test procedure.

NOTE: 9 Pages of technical data (boring logs, particle size analyses, etc.), which followed this page in applicant's submittal, is on file at the Commission's office.

JOHN J. KING, M. D.
A MEDICAL CORPORATION
1805 SOQUEL DRIVE, SUITE 400
SANTA CRUZ, CALIFORNIA 95065
—
GENERAL SURGERY
—
TELEPHONE (408) 476-0700

MAY 9, 1979

MR. JAY CANO
WATER RESOURCES CONTROL ENGINEER
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD
1122 A LAUREL LANE
SAN LUIS OBISPO, CALIFORNIA 93401

DEAR MR.CANO:

THANKS TO YOU AND MR.BALDRIDGE FOR OUR MEETING THIS MORNING.

ENCLOSED IS A COPY OF MR.BILL VAN BECKUM'S, CALIFORNIA COASTAL
COMMISSION PLANNER, LETTER REQUESTING CONCEPTUAL APPROVAL OF THE
PROJECT.

PLEASE REVIEW THE OVERALL CONCEPT OF OUR PROJECT INCLUDING THE EIR
AND ENGINEERING DRAWINGS THAT WE FURNISHED TODAY.

AS I INDICATED, IN ORDER FOR US TO COMPLETE THE COASTAL COMMISSION
APPLICATION, WE NEED YOUR RESPONSE AS SOON AS POSSIBLE.

I WILL CALL YOU ON MONDAY MAY 14 TO DETERMINE IF YOU HAVE ANY QUESTIONS.

AGAIN THANK YOU.

SINCERELY,

FOR JOHN J. KING, M.D.

William S. Victorson
WILLIAM S. VICTORSON

CC: WILLIAM SUTTON
BOB SIMPSON
FRANK THOMAS
JOHN J. KING.M.D.

Exhibit 23
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 11 of 19

List of Surrounding Parcel Sizes

<u>Area & Lot Type:</u>	<u>Parcel Dimensions:</u>	<u>Total Square Ft:</u>
<u>La Selva</u>		
A	50' x 100'	5,000
B	100' x 100'	10,000
C	150' x 100'	15,000
D	200' x 100'	20,000
E	100' x 100'	10,000
F	50' x 50'	2,500
G	50' x 150'	7,500
H	75' x 75'	5,625
I	50' x 100'	5,000
J	200' x 50'	10,000
K	75' x 100'	7,500
<u>Los Barrancos</u>		
L	200' x 100'	20,000
M	300' x 200'	60,000 (approx.)
<u>Seascape</u>		
N	50' x 100'	5,000

Please Note: Base map used was a 1" = 400' scale zoning map prepared by the County of Santa Cruz

The accompanying map is a 75% reduction of the original map



BOWMAN & WILLIAMS
CONSULTING CIVIL ENGINEERS

A CALIFORNIA CORPORATION

1011 CEDAR • P.O. BOX 521 • SANTA CRUZ, CA. 95061 • (408) 426-3560

May 11, 1979

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CCC-05-NOV-01
CCC-05-CD-03
(King)

Mr. Bill Victorson
1 Oak Road
Santa Cruz, California 95060

Page 14 of 19

Re: Sand Dollar Beach - Effluent
Disposal Pits
File No. 17879

Dear Mr. Victorson:

This letter will cover the #5 item of page 2 of the Coastal Commission letter addressed to you, dated April 26, 1979, relative to the "failure of the Sand Dollar system and its hearing on the design of the proposed treatment plant."

It should be understood that the following information has been furnished by the Santa Cruz County Department of Public Works, the agency responsible for the operation and maintenance of all County sanitation facilities.

It should also be understood that the Sand Dollar "failure" was by no means a "plant failure." The system lost no operating time, nor was it necessary to suspend or curtail service.

Briefly, the Sand Dollar effluent disposal pits were constructed by drilling 40 inch diameter holes to a depth of approximately 50 feet and filling these holes with drain rock. Drain rock is a durable rock graded over a very narrow range of size, resulting in a material with a large void ratio. Plant effluent is piped into the top of the pit and released to drop through the rock, which disperses and distributes the flow through the pit. In addition to the distributive function, the rock also slows down the flow velocity to protect the pit walls.

In operation, the pits fill to various levels, because the rate of inflow to the pits is greater than the rate of outflow by seepage, so that in a line of pits those first in line will fill during high inflow periods and drain more slowly during the low inflow period, with a resultant fluctuation of the water surface.

Over a period some ten years, this fluctuation led to an erosion of the pit walls, i.e. sand from the pit walls migrated into the voids in the drain. This continued migration led to the formation of a cavity large enough to cause subsidence of the surface

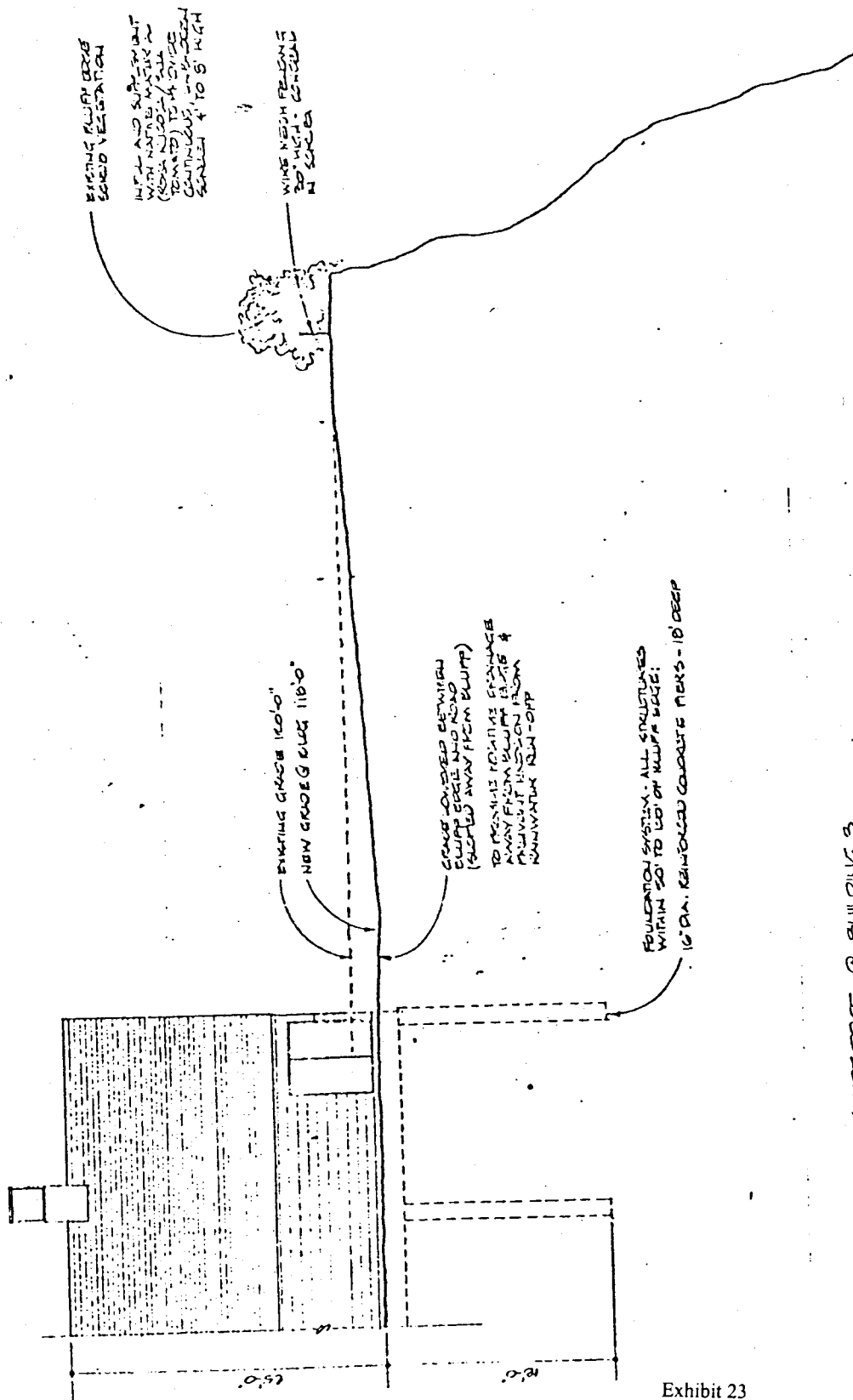


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 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

- Qf MAN-MADE FILL INCLUDING RAILWAY BALLAST
- Qal RECENT ALLUVIUM - UNCONSOLIDATED STREAM AND BEACH SEDIMENTS
- Qc RECENT COLLUVIUM - UNCONSOLIDATED SLOPE DEBRIS AND STREAM OUTWASH DEPOSITS
- Ql TERRACE DEPOSITS - LOOSELY CONSOLIDATED BEACH AND SHALLOW MARINE SEDIMENTS
- / LANDSLIDE AREA
- GEOLOGIC CONTACT
- PREVIOUS TEST PIT LOCATION, 1973
- TEST BORING LOCATION

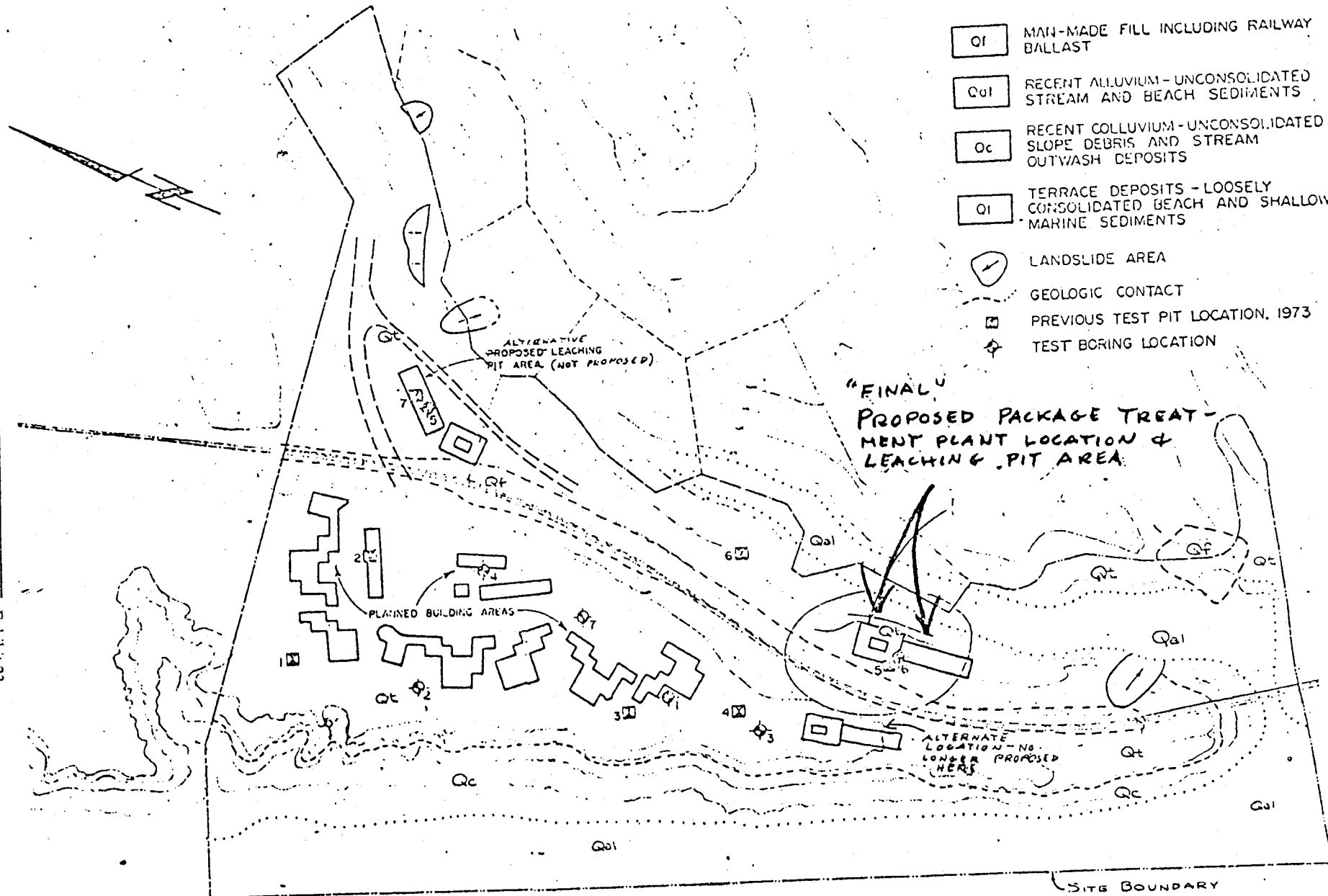


Exhibit 23
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)
 Page 16 of 19

Reference: Preliminary map titled Building Locations
 by MLTW/ Turnbull Associates. Dated 2/5/79

Scale: 1" = 100'

PACIFIC OCEAN

HARDING-LAWSON ASSOCIATES Consulting Engineers and Geologists 1001 10th Street, Suite 100 San Diego, California 92101	SHEET PLAN B GEOLOGY TRISTLE BEACH LA SENA BEACH, CALIFORNIA	PLATE 1
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These subsidences were not large enough, and caused no interference with the operation of the plant or of the disposal pits. They did present a potential liability to the County so that remedial construction was undertaken.

The pit reconstruction plan was identical to the original with the addition of a casing or pit lining to prevent a recurrence of the pit wall erosion cycle with eventual surface subsidence. The department, as a result of this occurrence, has adopted this construction as a minimum for County operated and maintained plants.

Since the proposed Trestle Beach system will begin this category, the seepage pit construction, in addition to the rest of the plant, will be constructed to the standards stipulated by the department.

The direct result of the foregoing will be to increase the initial construction cost of the plant. This increase is acceptable to the project owners, since it will also provide for better reliability of the system.

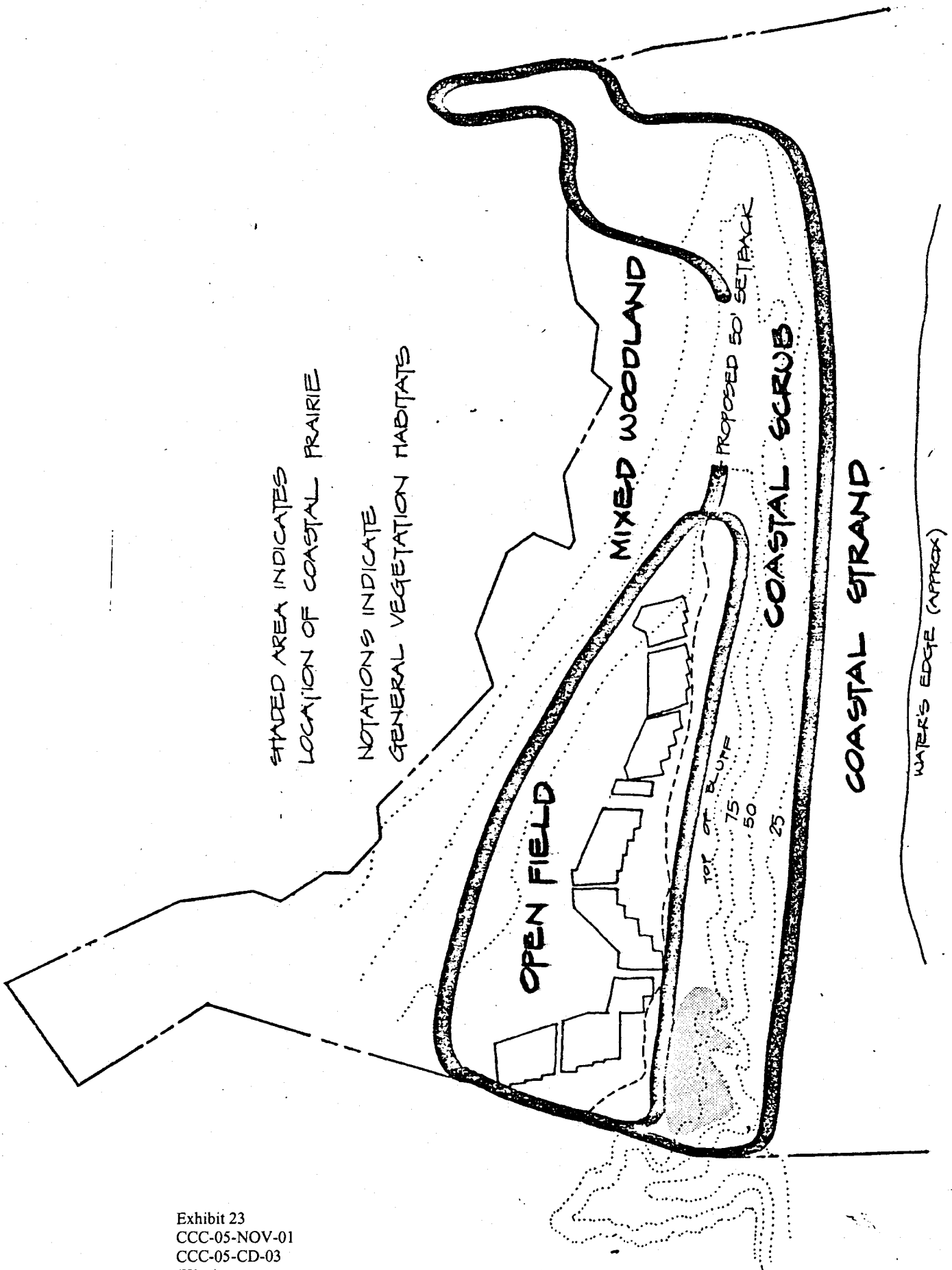
Very truly yours,

BOWMAN & WILLIAMS

R. F. Thomas

R. F. Thomas
R.C.E. 11875

RFT:kw



SHADED AREA INDICATES
LOCATION OF COASTAL PRAIRIE

NOTATIONS INDICATE
GENERAL VEGETATION HABITATS

AGENDA

July 18, 1979

Exhibit 24
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1

Meeting with Brown, Strnad, King, Victorson, VB
12:30 Coastal Commission Office

1. Vacation Rental Program
2. Annexation to Existing Service Area
3. Review of Commissioners Packet
4. Review of Procedure to be Followed at July 30 Commission Meeting
5. Review of Specific Questions Which Currently May Not Have Specific Answers Available

top A. Site Sewage Treatment Plant, Site Description *300 from contract*

B. Additional Information Concerning Wind Direction

C. Issue of Beach Land Dedication - *12 acres*

D. Los Barrancos Home Owners Association Access Issue

E. Low Cost Housing Alternatives

F. Tree Clearing

G. Measure J Exemption

Victor

King

VB

VB - *respond to info already given in previous packet*

VB - *respond with 1 hour to previous packet*

VB - *add info about funding & other aspects of*

VB - *add info about funding & other aspects of*

VB

VB

before changes

DATE HEARD: 4/2/79, 7/16/79
HEARING OPEN
SCHEDULED FOR: 7/30/79
PREPARED ON: 7/24/79
BY: BVB:cm

191
EJB 7/24

STAFF REPORT SUPPLEMENTAL INFORMATION

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 18

P-79-117 DR. JOHN KING: 32 unit condominium project (2,3, and 4 bedroom units in six separate 1 and 2 story buildings); access road; parking; community sewage disposal system; tree removal; adjacent to Monterey Bay and immediately northwest of La Selva Beach, South Santa Cruz County.

Many of the concerns expressed by the Commission at its July 16th hearing on this permit application have already been addressed in documents prepared by staff, (in the 3/23/79 staff report and the 7/3/79 "Staff Report Supplemental Information") or by the applicant (in the "Applicant's Response to Coastal Commission Staff Report and Commissioners' Questions"; received 4/20/79, and in a letter dated 5/11/79, received 5/14/79; these two documents submitted by the applicant were distributed to members of the Commission at their 4/23/79 and 7/9/79 meetings).

Excerpts from these documents are either quoted or attached herein as exhibits to answer some of the following areas of Commission concern:

- Project visibility: See Exhibit A (from "Applicant's Response", 4/20/79).
- 50' and 200' setbacks: See Exhibit A site plan.
- Beach access: See Exhibit B (from "Application Response", 4/20/79).
- Clarification of 6/30/79 letter to Commission from Wm. H. Woolsey, Attorney for the La Selva Beach Improvement Association: The letter expressed concerns that unless the Commission acted on the permit request at its 7/16/79 meeting, the La Selva Beach Fire Protection District Board would not be able to act on the LAFCO request for annexation of the project to the District by 8/6/79, the expiration date for District action on the request, and that consequently the applicant could not reapply for annexation for a year. According to Mr. Roy Johnston, Chairman of the District Board, it is true that the Board cannot approve the request by August 6th, since action by the Commission is pending. Mr. Johnston further indicated that the Board will, prior to August 6th, deny the request "without prejudice"; according to Mr. Johnston, the effect of that action will be that if and when the Commission approves the permit request, LAFCO will be in a position to immediately (without waiting a year) re-submit the annexation request to the District Board for its action.

Concerns in the letter over "public access" relate to a recommendation which was contained in a July 1977 Planning Commission Staff Report on a proposed 20-unit condominium project for the site; that staff report recommended "that the County require the dedication of land on the eastern end of the property to provide public access to the beach from Margarita Road." That recommendation, however, was never made an actual condition of the project.

Concerns in the letter with "public toilets" relate to a situation that was described in 3/22/79 staff report for the current project: "The County PUD permit issued in January 1978 for the 20 unit project included a condition requiring that an area behind the trestle be dedicated to the County and that public restroom facilities be constructed there. Subsequently, County staff investigations of the proposed restroom site resulted in the conclusion that it did not appear an appropriate location for a restroom, as physical constraints prohibited conformance to County septic system standards".

- Wind direction: See Exhibit C (from "Applicants Response", 4/20/79) and Exhibit D (from applicant's 5/11/79 letter). As the prevailing wind direction appears to be from the southwest, Mr. Ron Tyler, the County Agricultural Advisor, has stated that 50 feet setback from the adjacent agricultural land to the north appears adequate. Furthermore, to discourage trespassing onto that property, and to intercept the drift of agricultural chemicals, applicant, in accordance with County PUD permit conditions, plans to construct a continuous 6-foot fence and vegetative screen along the northwest property line. Mr. Tyler has also advised that the vegetative screen be set back at least 15 feet from the northwest property line, and that the 6-foot fence have at least one strand of barb-wire at its top. In response to a Commissioner's question as to whether the State Division of Harbors small craft refuge study contains information on wind direction for So. Santa Cruz Co., the answer is no; as there are no small craft harbors in that portion of the County, no Division of Harbors studies have been made of that area.
- Beach dedication: The quitclaim deed for the site's beach, which has been given unconditionally to the State Department of Recreation (DPR), includes easements for ingress and egress over Camino Al Mar and Camino Al Barranco (which are in the Los Barrancos subdivision and which are maintained by the subdivisions Homeowners Association) and over the site's existing dirt road which runs from the western terminus of Camino Al Mar to the beach. According to Mr. Gordon McDaniel, land agent for the DPR, the deed is being submitted to the Department of General Services for processing, which includes the acceptance by the Department of Finance. Mr. McDaniel does not foresee any reason why the beach would not be accepted.
- On-site land trails: See attached Exhibit E, letter from applicant to Commissioner Levy.
- Southern Pacific RR crossing: The applicant has indicated that a contract to allow for the crossing of the railroad right-of-way by the main access road and the sewage treatment plant's lines will likely be signed within 3 weeks.
- Package Sewage Treatment Plant location: See Exhibit F (from applicant's 5/11/79 letter) and Exhibit A. The system is not proposed to be located in the bottom of the site's drainage corridor; no riparian vegetation is proposed for removal to accommodate the system. Final location and design of the system would be subject to approval by the Regional Water Quality Control Board; additionally the plant could not be built until the Board adopts waste discharge requirements. Review of the proposed system by the Board and the County Environmental Health Service should assure that the system will have no adverse impacts on the nearby (±150-200 ft. distant) Fairbanks' septic system.

The Staff Report Supplemental Information dated 7/3/79 indicated that a request was being made to annex the project to County Service Area #2 (Place de Mer). According to Mr. Ted Durkee of LAFCO, this is no longer the case; instead, a request will be made to LAFCO for the establishment of a separate service district, which would be financed by service charges.

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

- Fish and Game Requirements: Exhibit G is a copy of an "agreement regarding proposed stream or lake alterations" between the State Department of Fish and Game and Mid-Coast Engineers, engineers for the project. Conditions in that agreement refer to a dam to be placed in the site's stream channel prior to commencement of construction. According to Mr. Bill Ingram of Mid-Coast Engineers, the dam would be a small, temporary diversion dam north of the proposed main access road (between the road and the agricultural parcel).

Attached Exhibit H is a letter from the applicant proposing alternatives to recommended conditions 2 (a) and 2 (b) of the 7/9/79 Executive Director's Preliminary Recommendation on the project; those conditions dealt with the establishment of a rental program for 50% of the project's units, and with methods to provide housing opportunities for persons of low and moderate income. The applicant's letter includes specific alternative program descriptions, which were further followed with proposals for funding the programs. While some of these programs have been found, in the Executive Director's 7/25/79 revised Recommendation, to be consistent with Coastal Act policies, due to a lack of specific program details for others, a complete replacement of a rental program by the applicant-suggested alternatives cannot be justified at this time.

Correspondence received at the Commission office since the July 16th hearing is attached as Exhibit I.

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

IX. VISUAL CONCERNS

Section 30251 of the Coastal Act states that:

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding land areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

p.7
30251

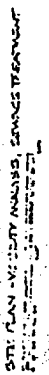
The project architect, together with the applicant, have achieved a site and unit design which appears to be consistent with the aims of this policy, namely:

- 1) The buildings proposed have been designed with exterior finishes (natural cedar shingles, minimal use of color) to cause them to lie back unobtrusively against the natural vegetation on the site.
- 2) To prevent (reduce) visibility from the adjacent beach areas, the buildings have been set low into the site. The highest point of any roof will be no greater than 23 ft. above the adjacent bluff edge. Further shielding from view is provided by reinforcement of the existing bluff edge scrub vegetation to form a continuous screen 4' to 8' in height. Where indentations or gullies in the bluff configuration might permit a diagonal view of the buildings from beach areas to the north, localized groups of Monterey Pine will be planted to prevent visibility.
- 3) No portions of the buildings will be visible silhouetted against the sky from any beach area or other adjacent parcel. Windows which show light at night and become reflective surfaces under some day time light conditions are all held below 15' above grade and will not be visible from any beach area or adjacent property. Development adjacent to the project is characterized by brief glimpses of roof lines against a foreground and backdrop of extensive vegetation, therefore the proposed project will be compatible with neighboring development.
- 4) The proposed vegetation plantings on the bluff edge combined with provisions for runoff detention and redirection should serve to retard existing bluff face erosion. This should, in the long run, contribute to a natural succession of the currently eroded bluff face, thereby restoring the visual quality of the area of the site which is most visible from public beaches.

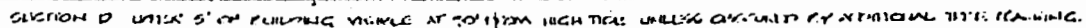
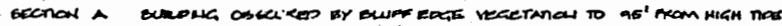
Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT A

12 700 117



Page 5 of 18



Page 6 of 18

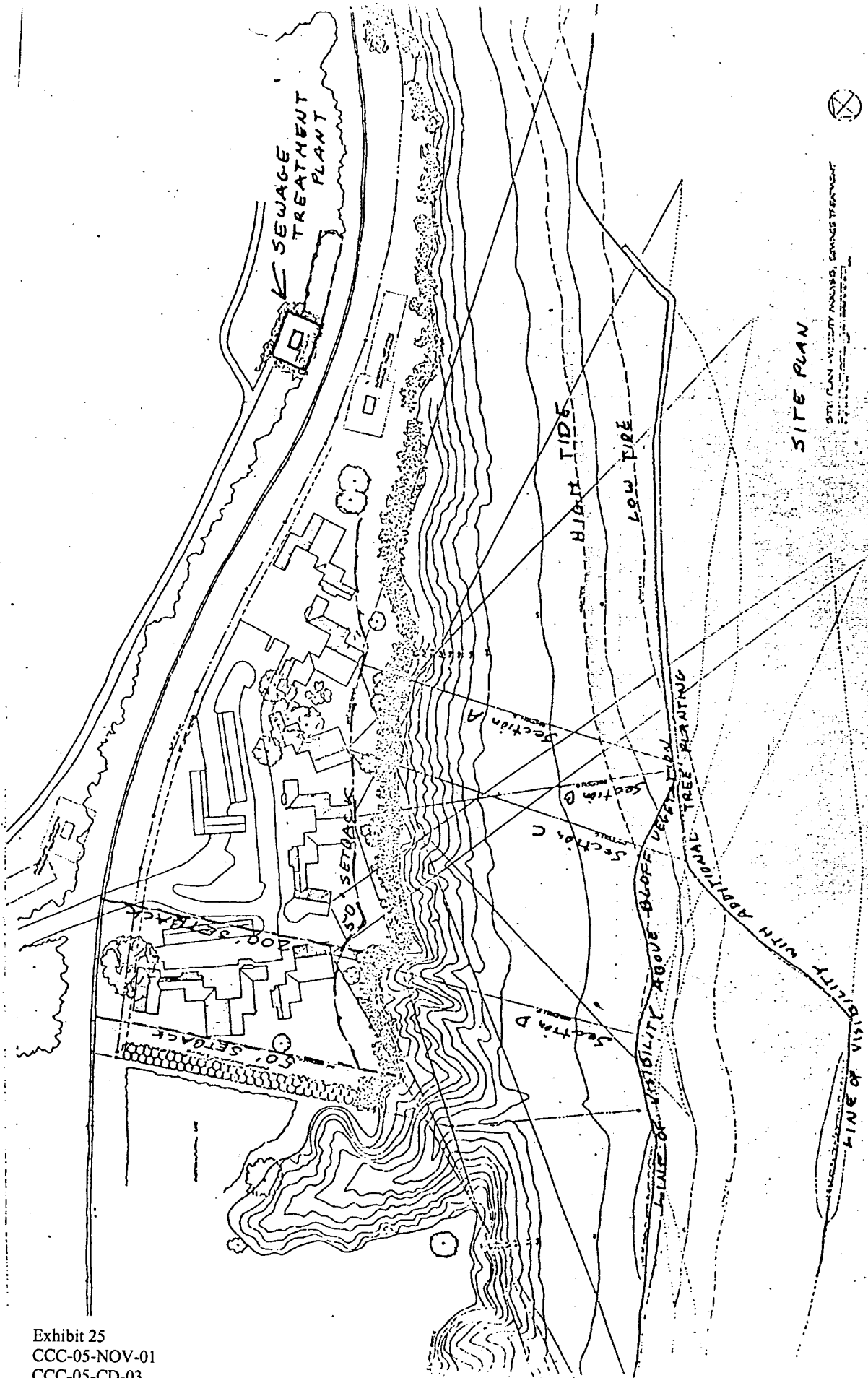


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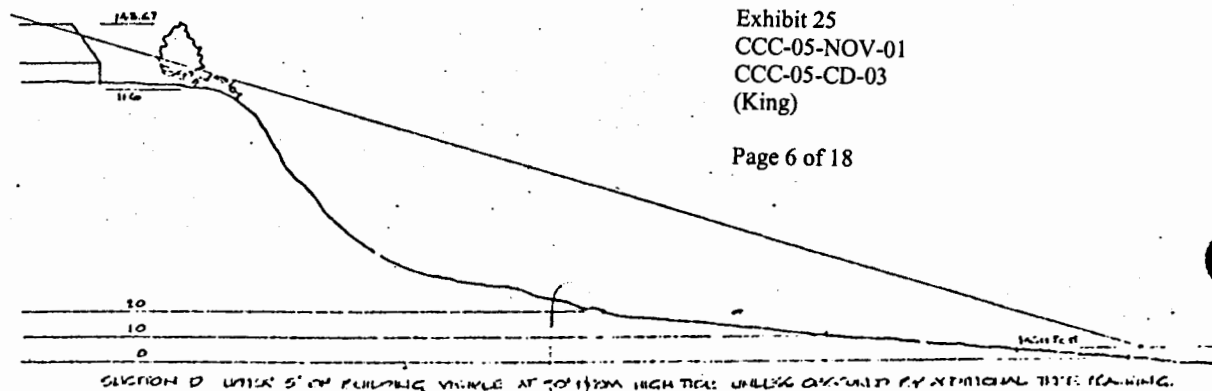
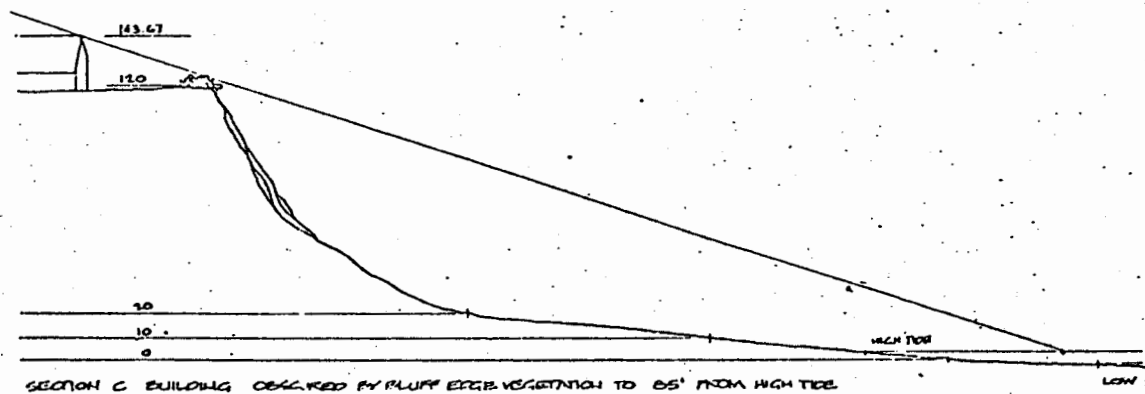
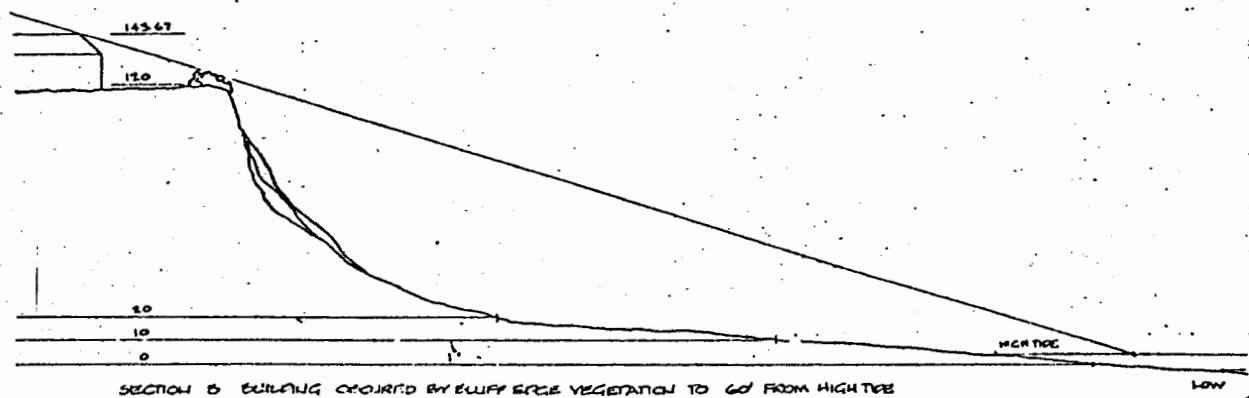
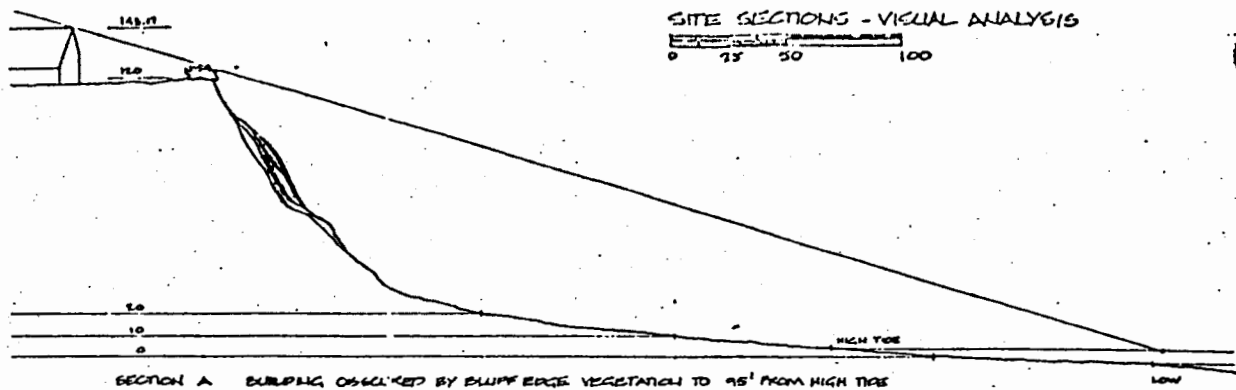


Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 6 of 18

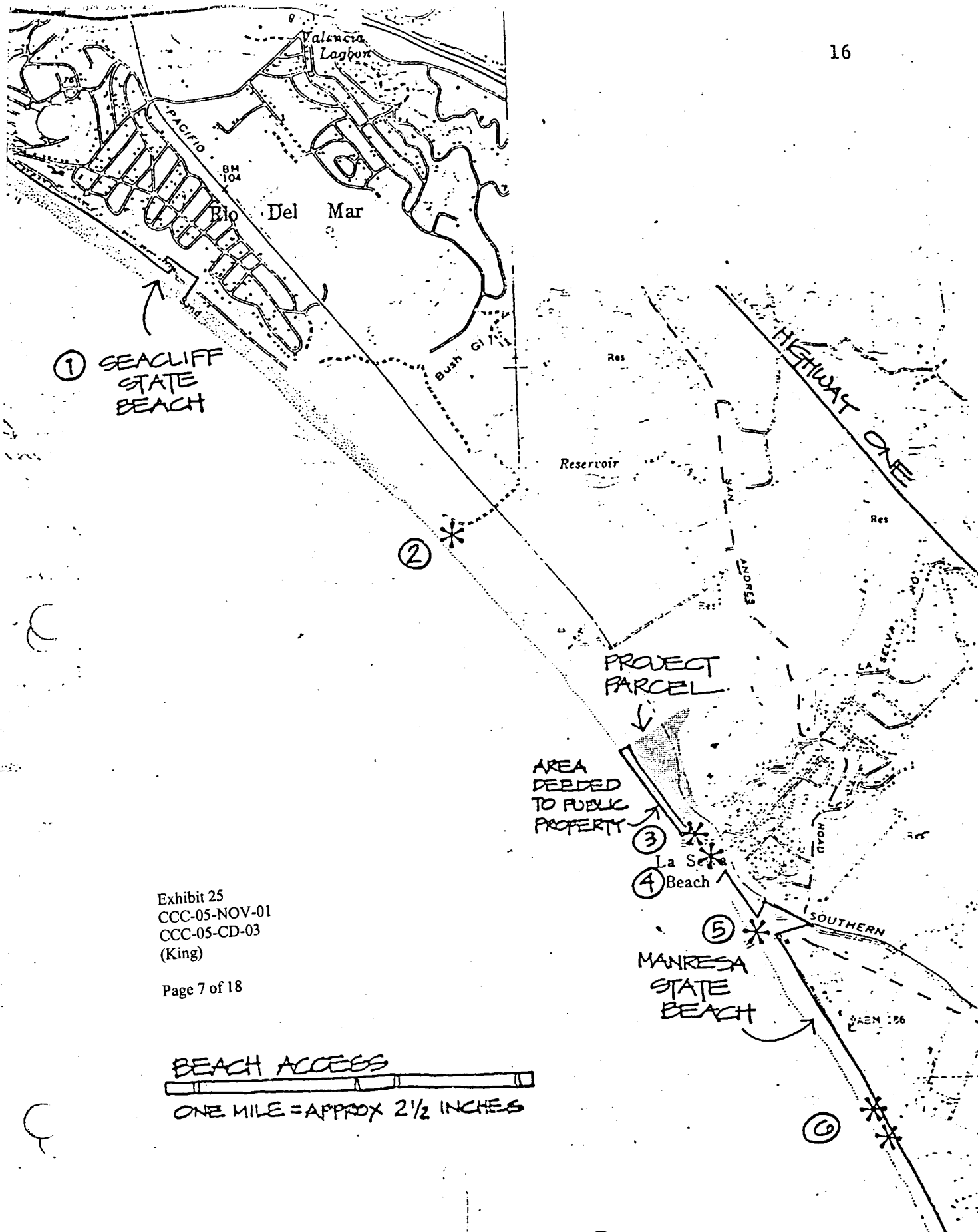


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 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

Page 7 of 18

EXHIBIT B

P-79-117

1) Seacliff State Beach

This area includes a State maintained parking lot and trail access.

2) An unmaintained dirt trail extends from the area of the Seascape Blvd/Sumner Ave intersection, to the beach.

3) A dirt trail continues to the beach from a dirt road which begins at the terminus of Camino Al Barranco in the Los Barrancos development.

4) A private trail and parking is available for residents of La Selva Beach. It is not used by the general public.

5) Manresa State Beach

There is a State maintained trail and parking lot at this location.

6) Manresa State Beach

There are two unmaintained dirt trails on State Property. A dirt road leads from Zils Road to the trailhead. Space is available for parking, although the area is not developed or maintained.

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(King)

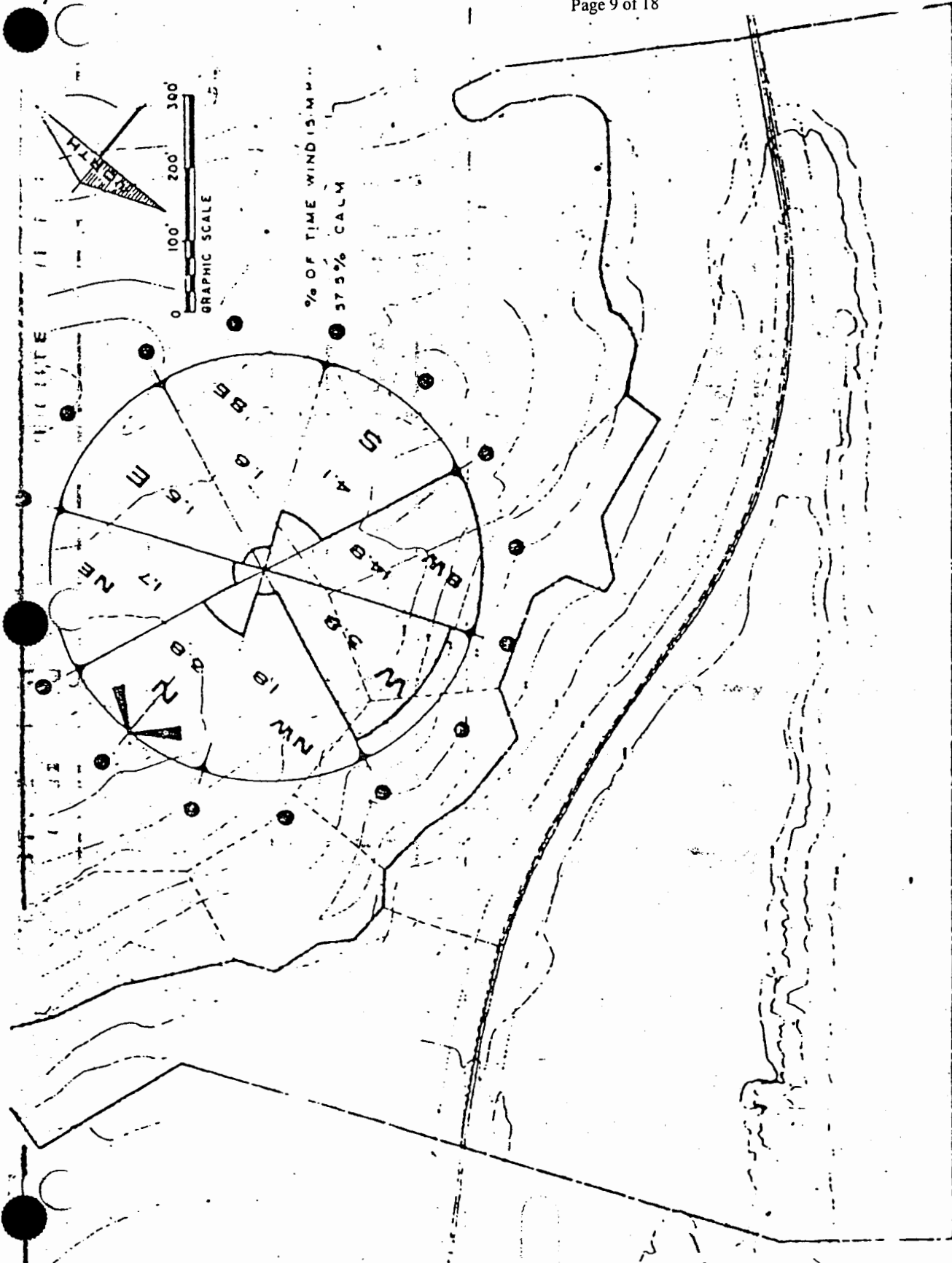


EXHIBIT C

P-79-117

FIGURE	15
TRESTLE BEACH SANTA CRUZ COUNTY	WILSEY & HAM 1025 HILSDALE BLVD FOSTER CITY, CALIF.

Addendum to the Trestle Beach Presentation--
Additional Wind Direction Information

In response to questions from Mr. Bill Van Beckum the following information concerning wind directions on the site were obtained:

1) Utilizing wind pruning/wind sculpturing of on-site vegetation to determine prevailing wind direction is an accepted field method. All of the agencies contacted (see below #3) were unanimous in this response.

The wind sculpturing on-site clearly indicates that the prevailing winds come from the W/SW or S/SW. Pictures illustrating this wind pruning will be available prior to the hearing.

2) The only method available to the applicant to substantiate the wind directions provided by the Watsonville Airport and on-site wind pruning of vegetation is a year long study utilizing sophisticated and expensive equipment which (as the National Weather Service put it) will "Tell you the same thing that the vegetation will."

3) Of the seven agencies and two individuals contacted every one of the people indicated that in their professional opinion and experience the winds in the area of the site blow predominantly from the W/SW or S/SW. Each of these sources is willing to be contacted concerning this:

Watsonville Airport - Flight Controller
National Weather Service - Mr. Tim Summers, Meteorologist
Yacht Harbor District - Mr. Kurt Skelton, Harbormaster
Air Resources Board (Technical Services Division) -
Mr. Arndt Lorenzen, Meteorologist
Coast Guard - QM 1st Class Bansmer, Officer of the Day
Dept. of Navigation & Ocean Development - Mr. John Habel
Agricultural Commission - Mr. R. Simmons, Agricultural
Commissioner
Mr. Troy Nelson (salmonfisher), 20 years experience in
Monterey Bay
Mr. Michael Burdick (yachtsman), 18 years experience in
Monterey Bay

4) It appears that the consensus of opinion amongst all those contacted, is that the prevailing winds in the area are from the W/SW or S/SW. The on-site vegetation bears this out. This information is the only substantiation it is possible to achieve without extensive and expensive wind studies which, most agree, would say the same thing.

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 10 of 18

EXHIBIT D

P-79-117

JOHN J. KING, M. D.
A MEDICAL CORPORATION
1595 SOQUEL DRIVE, SUITE 400
SANTA CRUZ, CALIFORNIA 95065
GENERAL SURGERY
TELEPHONE (408) 476-0700

RECEIVED

JUL 23 1979

TRAIL COAST COMM.
REGION III

July 18, 1979

Mrs. Robley Levy
27 Asta Drive
La Selva Beach, CA 95076

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 11 of 18

Dear Robin:

I am writing to answer your questions concerning the existing trails on the bluff top and whether they indicated prolonged public usage.

As a neighbor I am sure that you know the access from La Selva Beach has always been fenced, and the one gate that exists has a "No Trespassing" and "Private" sign on it. Also the portion of my property leading from that gate to the beach has always been posted with signs indicating that the property is private. This of course has not entirely excluded trespassing, but I attempt to re-enforce it by questioning anybody I find on the property as to their business and to advise them that it is private property. In the main, the people crossing the property are farm workers going to La Selva Beach to buy beer (they then leave the cans on the property) and people who sit on the cliff top with binoculars watching the nude bathers below. Whenever I find motorcyclists on my property I advise them of the private ownership, and this also pertains to the occasional horseback rider who uses the property without permission.

The people that use the property with my permission have included Dr. Paul Levin's boy scout troop who have frequently camped on the property, of course my own children and their friends. I believe that most defined trails are made by the people on horseback to whom I have given permission to ride on the property or ride to the beach.

The trail that leads from La Selva Beach under the railroad trestle up to the cliff top was almost overgrown with poison oak until we started the recent rounds of soil testing and drilling for percolation tests and foundation tests. For these tests large rigs have had to make their way to the cliff top, reopening trails that had almost overgrown.

At different times I have erected fences and cables, only to have them torn down; the same has been true of almost all of the "No Trespassing" and "Private Property" signs that I have erected. The signs that did exist on the beach were washed out by last winter's storms, but even signs placed by the railroad to protect their trestle have been torn down by the public.

I believe the fence across the north boundary of the property which is to be erected to protect the adjacent farmland will more effectively protect the people who use my property.

EXHIBIT E

P-79-11.

Mrs. Robley Levy
July 18, 1979
Page 2

As I understand the residuals of pesticides, the danger is not at the time they are sprayed, as spraying is never done when there is any wind movement, but the residuals on the plants can be dangerous from 30 to 60 days. Dogs, cats and children playing in or going through these vegetable crops can get the organic phosphates on their clothing or their fur and carry it home and contaminate an entire household or family. The question of wind direction or drift of chemicals is completely inconsequential when compared to exposure by invasion of the fields by pedestrian traffic. We have only 200 feet of contiguous border with Bontadelli while Aptos Seascap has over 1200 feet.

I hope this helps answer the questions, as having lived with this project since 1971 I am beginning to feel like a walking compendium of land use restrictions. Thank you for your interest.

Very truly yours,

John J. King, M.D.
JJK/cab
cc: Coast Commission

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 12 of 18

RECENT COLLUVIUM
SLOPE DEBRIS AND STREAM
OUTWASH DEPOSIT

TERRACE DEPOSITS - LOOSELY
CONSOLIDATED BEACH AND SHALLO
MARINE SEDIMENTS

LANDSLIDE AREA

GEOLOGIC CONTACT

PREVIOUS TEST PIT LOCATION, 1973

TEST BORING LOCATION

Qc

Qt

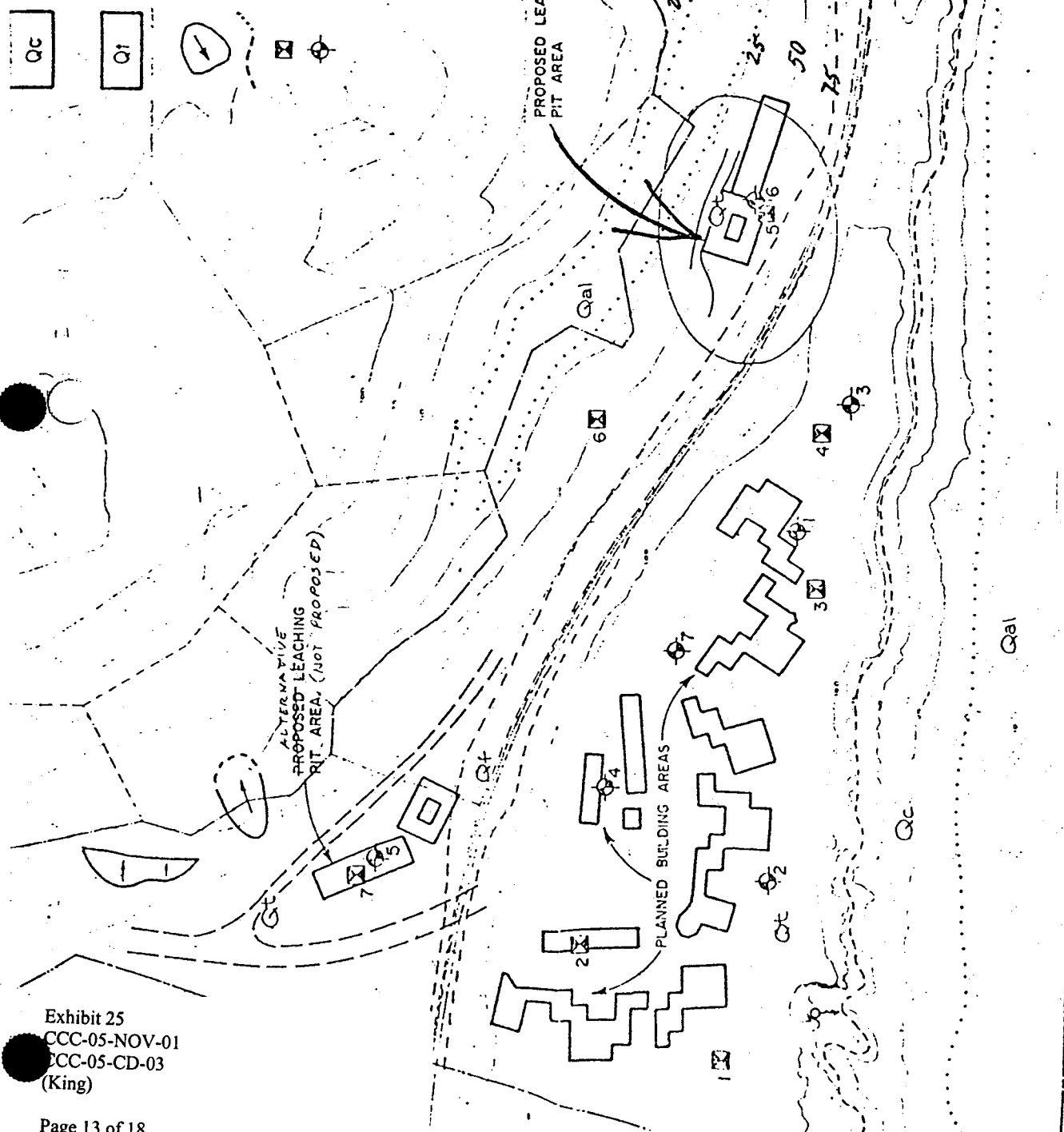


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CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT F

P-79-117

Notification No. III-101-79 TIIP No. _____

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and MID COAST ENGINEERS of WATSONVILLE, State of _____, hereinafter called the operator, is as follows:

WHEREAS, pursuant to Section 100.3 of California Fish and Game Code, the operator, on the 13 day of FEB, 1979, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: UNNAMED RAVINE, in the County of SANTA CRUZ, State of California, S _____ T _____ R _____

WHEREAS, The Department (represented by WAYNE HOWE) has made an inspection of subject area on the 27 day of FEB, 1979, and) has determined that such operations may substantially adversely affect existing fish and wildlife resources including: NO FISH POPULATIONS AFFECTED

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the operator's work. The operator hereby agrees to accept the following recommendations as part of his work: Numbers 1, 2, 3, 4, 6, 8, 9, 15, 21, 22 from the list of recommendations on the back of this page and the following special recommendations:

1. All work in or near the stream or lake shall be confined to the period: APR 3 - NOV 15, 1979
2. BEFORE ANY WORK IS DONE WITHIN THE STREAM CHANNEL, A DAM SHALL BE PLACED FOLLOWING STANDARD RECOMMENDATIONS #6 & 8 SO THAT THE WORK AREA CONTAINS NO FLOWING WATER
3. SUFFICIENT WATER SHALL AT ALL TIMES BE ALLOWED TO PASS DOWNSTREAM TO MAINTAIN HUMID LIFE BELOW THE DAM

RECEIVED
JUL 2 1979
CENTRAL COAST
REGIO II

If the operator's work changes from that stated in the notification specified above, this agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5943, may result in prosecution.

Nothing in this agreement authorizes the operator to trespass on any land or property, nor does it relieve the operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated agreement does not necessarily constitute Department of Fish and Game endorsement of the proposed operation.

This agreement becomes effective on APRIL 3 1979 and terminates NOV 15, 1979
Operator MID COAST ENGINEERS Wayne Howe
Title (Signed by John King) Title Wooden
Organization _____ Department of Fish and Game, State of California
Date _____ Date 4-3-79

* If inspection was not made, cross out words within parentheses.

FG 1080 (1-77)

EXHIBIT G

P-79-117

RECOMMENDATIONS

1. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel or lake margin within the high water mark of the stream or lake shall be restored to as near their original condition as possible.
2. Restoration shall include the revegetation of stripped or exposed areas.
3. Rock, riprap, or other erosion protection shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.
4. Installation of bridges, culverts, or other structures shall be such that water flow is not impaired and upstream or downstream passage of fish is assured at all times. Bottoms of temporary culverts shall be placed at or below stream channel grade. Bottoms of permanent culverts shall be placed below stream channel grade.
5. Plans for design of concrete sills and other features that could potentially impede fish migrations must be approved by Department engineers.
6. When any dam (any artificial obstruction) is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain fishlife below the dam.
7. An adequate fish passage facility must be incorporated into any barrier that obstructs fish passage.
8. Any temporary dam (any artificial obstruction) constructed shall only be built from material such as clean gravel which will cause little or no siltation.
9. No equipment will be operated in live stream channels.
10. Equipment shall not be operated in the stream channels of flowing live streams except as may be necessary to construct crossings or barriers and fills at channel changes.
11. When work in a flowing stream is unavoidable, the entire streamflow shall be diverted around the work area by a barrier, temporary culvert, and/or a new channel capable of permitting upstream and downstream fish movement. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock riprap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and the removal shall normally proceed from downstream in an upstream direction.
12. Temporary fills shall be constructed of nonerodible materials and shall be removed immediately upon work completion.
13. Equipment shall not be operated in the lake or its margin except during excavation and as may be necessary to construct barriers or fills. If work in the lake is unavoidable, a curtain enclosure to prevent siltation of the lake beyond the immediate working area shall be installed. The enclosure and any supportive material shall be removed when the work is completed.
14. Silt settling basins shall be located away from the stream or lake to prevent discolored, silt-bearing water from reaching the stream or lake.
15. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.
16. Wash water containing mud or silt from aggregate washing or other operations shall not be allowed to enter a lake or flowing streams.
17. a) A silt catchment basin shall be constructed across the stream immediately below the project site. This catchment basin shall be constructed of gravel which is free from mud or silt.
b) Upon completion of the project and after all flowing water in the area is clear of turbidity, the gravel along with the trapped sediment shall be removed from the stream.
18. If operations require moving of equipment across a flowing stream, such operations shall be conducted without substantially increasing stream turbidity. For repeated crossings, the operator shall install a bridge, culvert, or rock-fill crossing as specified in comments below.
19. If a stream channel has been altered during the operations, its low flow channel shall be returned as nearly as possible to its natural state without creating a possible future bank erosion problem, or a flat wide channel or sluice-like area. If a lake margin has been altered, it shall be returned as nearly as possible to its natural state without creating a future bank erosion problem. The gradient of the streambed or lake margin shall be as nearly as possible the same gradient as existed prior to disturbance.
20. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
21. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
22. The operator will notify the Department of Fish and Game of the date of commencement of operations and the date of completion of operations at least five days prior to such completion.

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

JOHN J. KING, M. D.
A MEDICAL CORPORATION
1595 SOQUEL DRIVE, SUITE 400
SANTA CRUZ, CALIFORNIA 95065
—
GENERAL SURGERY
—
TELEPHONE (408) 476-0700

July 23, 1979

California Coastal Commission
Central Coastal Regional Commission
701 Ocean Street, Room 310
Santa Cruz, CA 95060

RECEIVED
JUL 23 1979
CENTRAL COAST COMM.
REGION III

Attn: Edward Y. Brown
Executive Director

Dear Mr. Brown:

The Coastal Act of 1976 includes several policies strongly encouraging the use of ocean front land for recreational facilities. The Act also suggests the expansion and improved operations of upland support services as being highly desirable.

In response to these requirements the applicant suggests that the following alternatives be considered in lieu of the Preliminary Findings, Page 6, Recommended Conditions 2a and b.

Prior to the commencement of construction the applicant shall submit for Executive Director review and approval:

- A) A five year beach maintenance program acceptable to the Department of Parks and Recreation (D.P.R.) to assure that the public use of the 12 acre sandy beach area (Page 4, paragraph 1) be without excessive cost to the D.P.R.
- B) A five year operational support grant acceptable to the La Selva Fire Protection District (L.S.B.F.P.D.) chairman to assure the continued operation of the highly successful land and sea emergency rescue unit.
- C) A five year operational support grant acceptable to the Saint Francis Youth Camp Director to assure the continued operation of this unique visitor serving facility.
- D) A five year partial operational support grant acceptable to the Santa Cruz County Housing Authority (S.C.C.H.A.) to assure that the S.C.C.H.A. housing program continues to meet the housing needs of low and moderate income families.

Exhibit 25
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 16 of 18

EXHIBIT H

P-79-117

Comment:

Rental unit allocation of any amount places a severe economic hardship on the applicant. \$250,000 has been expended to date for the design and permit process of this condominium project. The elaborately designed, unique custom 2,3 and 4 bedroom condominiums can not be economically rented without costly major redesign of the completed plans which are now in the permit review process.

In addition; this low density small project is being developed by a family venture which has secured a financing commitment for 32 condominiums. "Take out funds" will not be committed for any rental units, thus placing the project in economic jeopardy.

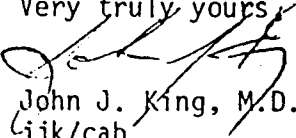
By giving up all development rights to 1800 feet of sandy beach, the applicant has provided the Department of Parks and Recreation (D.P.R.) with 12 acres of prime coastal area, expanding the recreational facilities of Manresa State Park. In order to assure that visitor use will be properly accommodated by appropriate D.P.R. management services, the applicant will provide budgetary support for five years. Negotiations are presently under way to develop a five year budget to be presented to the Director prior to the start of construction.

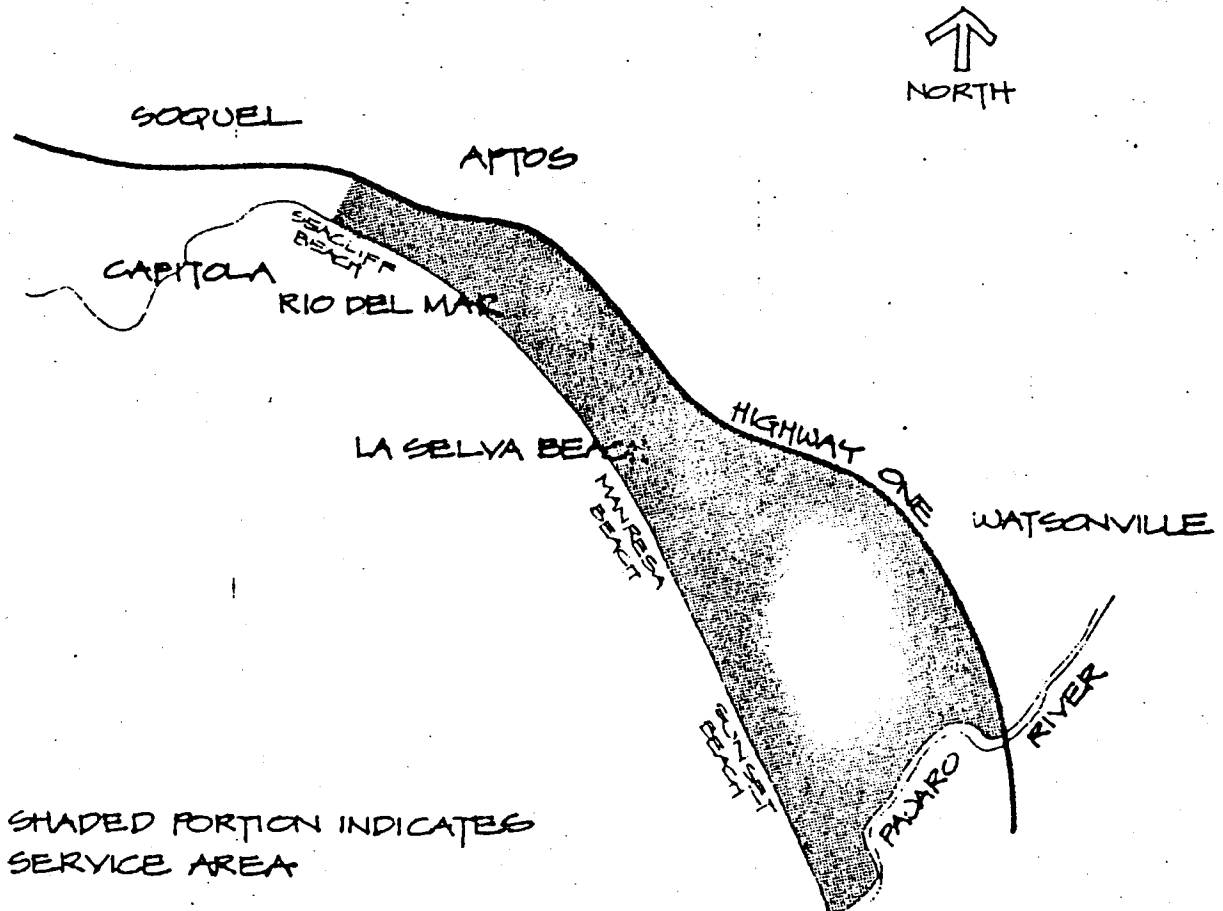
The La Selva Fire Protection District provides a highly successful south county rescue program which serves visitors to the beaches from Seacliff to the Pajaro River. Needed operation funds will be granted by the applicant.

The Saint Francis non-demominational youth program provides children of all economic and social backgrounds from many areas a unique opportunity to visit the coastal area. Children and adults use the facilities throughout the entire year. Funds are needed for the rehabilitation and maintenance of the existing facilities to insure program continuation.

Operational support for the Santa Cruz Housing Authority in the south county area will address concerns for farmworker housing, working families in search of affordable homes. The applicant proposes to earmark funds for appropriate portions of a five year project budget to be developed in planning sessions soon to be initiated with housing personnel.

Very truly yours,


John J. King, M.D.
jjk/cab



1. Surf Rescue
2. Back-up Rescue Support to Aptos Fire District
3. Land Emergency Service - Accidents and Fire
4. 24 Hours - 365 Days
5. Highly Trained
6. Volunteer Supported

SERVICE AREA OF THE
LA SELVA BEACH RESCUE UNIT

Memorandum

TO: COMMISSIONERS

DATE: August 8, 1979

FROM: Edward Y. Brown
Executive DirectorSUBJECT: Corrected findings and conditions for Coastal Development
Permit P-79-117 DR. JOHN KING

This permit, a request for 32 condominium units and related improvements, was approved by the Commission at its 7/30/79 meeting with altered conditions, including the establishment of a 200 foot buffer rather than a 50 foot setback as proposed - from adjacent agricultural lands to the north. The effect of the 200 ft. buffer is the elimination of two of the proposed six structures containing the condominium units.

At the July 30th meeting, it was assumed that the approved four structures contained a total of 20 condominium units. In fact, however, two eliminated structures contained a total of only 11 units. I believe it was the Commission's intent to approve for construction the remaining four structures outside the 200 ft. buffer, which, it turns out, contain a total of 21 units. The corrected findings and conditions, being presented to the Commission for its review on 8/13/79, reflect this situation.

EYB/BVB/cw

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 20

4-2-79; 7/16/79
Hearing used
Scheduled For: 7/30/79
Prepared On: 7-9-79
Revised On: 7/25/79
As Approved: 7/30/79
By: EYE:BVB

EXECUTIVE DIRECTOR'S RECOMMENDATION

P-79-117 Dr. John King: 32 unit condominium project (2,3, and 4 bedroom units in six separate 1 and 2 story buildings); access road; parking; community sewage disposal system; tree removal; adjacent to Monterey Bay and immediately northwest of La Selva Beach, South Santa Cruz County.

RECOMMENDATION:

We recommend adoption of the following findings and approval of a project for the proposed development as conditioned.

FINDINGS

BACKGROUND

1. The applicant originally applied for a Coastal Permit to develop a condominium project (20 units) at this site in 1976 (P-1862). Prior to Commission action however, the applicant withdrew the permit request from active consideration. Subsequently, the plans were revised and an amended permit application (P-78-132) was submitted to the Commission; that application, again for 20 units, was also withdrawn prior to Commission action. Then, in December 1978, the applicant received Santa Cruz County Board of Supervisors approval for 32 rather than 20 condominium units on the site; the current Coastal Permit application represents the project as approved in the County Planned Unit Development Permit (PUD) of December, 1978.

The 1975 Environmental Impact Report (EIR) prepared for the project as originally conceived (for 32 units but reduced to 20 units by the time of the applicant's first Coastal Permit request) was accepted by the County as adequate for the current proposal.

**DEVELOPMENT
PATTERNS
(30250 a)
AND
LAND
RESOURCES
(30241)**

2. The 29-acre project site is located almost immediately northwest of the town of La Selva Beach, and extends from the Los Barrancos subdivision, on San Andreas Road, west to the beach. It is bounded on the north by land in agricultural production and on the south by La Selva Beach and Margarita Road.

The 1974 Aptos General Plan is the basic general plan covering the property, and designates the bluff top as urban residential, 2-6 units per acre, and the ravine (the eastern portion of the site) as scenic reserve, 10-40 acres per unit. Present zoning is U-BS-5 for the bluff and RR-1 for the ravine. The area of the bluff top, the area proposed for development, is approx. 5.36 acres, so a development of 32 units yields a density of approximately 5.9 du/ac, and thus conforms with the County Aptos General Plan. The project site is located within the Urban Service Boundary established as part of the County Growth Management Process.

Section 30250 (a) states:

New development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted

According to the Statewide Interpretive Guidelines "Siting New Development" definitions, the La Selva Beach community and the nearby adjacent Los Barrancos de Aptos subdivision (consisting of 48 lots and created in 1963) would be considered "developed areas". The project site essentially is the last major undeveloped parcel in the area bounded by the agricultural parcel to the north, and by the Los Barrancos and La Selva Beach areas. It appears that the site is part of the Los Barrancos/La Selva Beach developed area as the site falls into

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

the Interpretive Guidelines category of "lands within rural or suburban communities that constitute distinct, identifiable and generally compact towns or villages." Furthermore, creation of the development should not result in the overburdening of public services, particularly as sewage treatment for the parcel will be provided by a package treatment plant and all other services (water, fire, access) to adequately service the proposed development are available.

Therefore, and as conditioned, the project is consistent with the requirements of Section 30250(a). (For additional discussion on the sewage treatment system, as well as on "water, fire, access," see below.)

Although the building site contains the same prime soil type (Elkhorn Sandy Loam Class II) as the property under cultivation to the north, its size makes its cultivation economically unfeasible according to Ernest Bontadelli, who farms the adjacent property. To discourage trespassing onto the property, and to intercept the drift of agricultural chemicals, applicant, in accordance with County PUD permit conditions, plans to construct a continuous 6-foot fence and vegetative screen along the northwest property line. In addition, the condominiums are proposed to be set back 50 feet from that boundary. As the prevailing wind direction appears to be from the southwest, Mr. Ron Tyler, the County Agricultural Advisor, has stated that 50 feet setback appears adequate. However, without precise wind-direction data, no finding can be made that a 50 foot setback is adequate to protect residents of the proposed condominium from adverse impacts associated with pesticide spray drift from the agricultural parcel. Therefore, and consistent with the County's "Measure J Agricultural Task Force Report and Recommendations" (adopted 11/28/78), which includes the recommendation that "A 200 foot critical area should be attached to the edge of ... type 1(a) lands boundary. Within this critical area a buffer zone should be established for the purpose of reducing agricultural - urban land use conflicts." The project units are conditioned to be set back 200 feet from the agricultural lands (resulting in a decrease in project size from 32 to 21 condominium units).

Mr. Tyler has also advised that the vegetative screen be set back at least 15 feet from the northwest property line, and that the 6-foot fence have at least one strand of barb-wire at its top. As conditioned to include these two measures as well as a 200 foot setback, the project is consistent with Section 30241 of the Act, which states in part,

" The maximum amount of prime agricultural land shall be maintained in agricultural production...and conflicts shall be minimized between agricultural and urban land uses through all of the following: (a) by establishing stable boundaries separating urban and rural areas...to minimize conflicts between agricultural and urban land uses...(e) by assuring that... all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands."

HAZARDS/
EROSION
(30352 a)
AND SEWAGE
SYSTEM
(30231)

3. The 29 acre site is located on an elevated marine terrace adjacent to Monterey Bay. A cliff varying between 80 and 105 ft. fronts the bay. The cliff is usually protected from wave action by a broad beach; waves rarely attack the seacliff, and the cliff is not subject to surf erosion except under very adverse weather conditions.

Runoff and subsurface flow cause some cliff recession on the site. The rate of erosion is approx. 2" - 3"/year on the cliff face, and approximately 6"/year in the gully areas along the cliff. Erosion of geologic materials on other areas of the site is minimal, as existing vegetation and natural drainage patterns have kept erosion in check.

Foundation recommendations prepared by a soils engineer for the proposed structures, suggested that, "satisfactory foundation support away from the cliffs and steep slopes can be provided for medium to light structures such as a two to three story wood frame dwelling utilizing conventional shallow spread footing support in the undisturbed sandy natural soils. Deepened foundations will be needed for the structures located within a zone of about 50' to 100' from the cliff". 50 ft. is the proposed, and required by the County, setback of the structures.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

Construction of the 28 ft. wide access road would involve cut and fill operations through the "mixed woodland" area between the bluff top and Los Barrancos. Preliminary grading plans indicate the cut and fill is located on soils having good engineering capabilities for roads.

The county is requiring that an Engineering Geology Report be prepared for the project, which is to be designed for a minimum project life time of 50 years.

The drainage plan submitted by the applicant indicates surface runoff being directed, via a system of catch basins and culverts, away from the access road and bluff top development into the ravine (which contains a seasonal stream) east of the railroad tracks. A county condition is requiring that wherever piped or channeled storm waters are discharged into natural drainage courses, energy dissipators must be used to prevent scouring and to allow percolation into the soil.

As proposed, a community sewage disposal system (package treatment plant) would be utilized for the project. According to existing County regulations, (Resolution 125-72 and Section 11.76.040 of the County Code), the maximum number of condominium units which could be built on the 5.36 acre developable portion of the site and be dependent upon septic tank systems is 20 units; the Board of Supervisors in its approval of the 32 unit project, however, conditioned the applicant to obtain a variance, prior to recording of the Final Map, from Res. 125-72 in accordance with the provisions of Section 11.76.040. The Director of the County Environmental Health Service has granted this variance. Mr. Bill Leonard of the Regional Water Quality Control Board has stated that prior to the Board's approval of a package treatment plant for the site, a public agency would have to assume responsibility for managing the plant; according to Mr. Ted Durkee of LAFCO, a request is being made to LAFCO for the formation of a separate County Service Area.

The preliminary plans for the package treatment plant describe a conventional gravity collection system feeding into a sewage treatment plant, incorporating approx. 27 leaching pits, in the southern portion of the site. A plan for the site has received conceptual approval by Regional Water Quality Control Board staff; however, prior to construction of a system: the plant must also meet the Waste Discharge Requirements yet to be established by the Board; final design plans for the plant would need to be revised and approved by the Board and by the County Department of Public Works; LAFCO and Board of Supervisors approval for annexation of the project to County Service Area #2 is yet necessary; and, a public agency must accept responsibility to maintain the system.

Section 30253 of the Act requires that "New development shall...assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability...". Section 30231 requires that "The biological productivity and the quality of coastal waters, streams, wetlands...shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff..." As conditioned, the plans for the condominium project and sewage treatment system are compatible with these sections of the Act.

PUBLIC
SERVICES
(30254)

4. The site is within the service area of the Soquel Creek County Water District. A 6" water main presently extends from the Los Barrancos subdivision to within 700 to 800 ft. of the property. Plans (with prior approval by the Soquel Creek County Water District, the La Selva Beach Fire District and the County Fire Marshal) for connection to this main, and for improving and extending a line from La Selva Beach to the site, must be submitted to the County for approval per its PUD permit conditions. An "environmental assessment," and schematic drawing of the proposed water facility improvements and extensions have been submitted to staff by the applicant. In a conversation with staff on 3-22-78, a representative of the Soquel Creek County Water District indicated that there should be no difficulty in providing a water system meeting minimum fire flow requirements for the project, and that the potential for saltwater intrusion into the system would be low.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

The PUD permit also requires that prior to recording the final map, the entire property shall be annexed to the La Selva Fire Protection District; at its 6-6-79 meeting, LAFCO approved this annexation. As approved by the County in December, the project's main access road will be 28 feet in width to accommodate emergency vehicles.

As conditioned, the project is consistent with Sec. 30254 of the Act and will not, individually or cumulatively, preclude the availability of essential public services to "priority" coastally-dependent land uses.

PUBLIC
ACCESS
AND
RECREATION
(30212
and
30221)

5. Resident access to the site is planned to be provided by construction of a road extending from an existing road, Camino al Mar, in the Los Barrancos subdivision. Applicant proposes at-grade crossing of the proposed road at the railroad tracks. Some fill of the ravine adjacent to the railroad right-of-way will be necessary to accommodate such a crossing. Negotiations are presently underway with Southern Pacific to permit this crossing.

Beginning at the present terminus of Camino al Mar, a dirt road follows the ravine in the eastern portion of the site, and branches down to the beach at the railroad trestle, and up to the bluff and the open field of the bluff top. This road has been deeded to the residents of Los Barrancos as a pedestrian and equestrian beach access.

Since the April 2nd hearing on this application, the applicant has given unconditionally, a quitclaim deed for the +12 acre beach portion of the site, to the State Department of Parks and Recreation (DPR). This deed includes an easement for ingress and egress over the existing dirt road referred to above. According to Mr. Gordon McDaniel of the DPR, with the deeding of this road to the State, the public is receiving use rights (non-vehicular) to the road. Section 30212 of the Act requires that:

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 2 of Article XV of the California Constitution.

While the public trail will provide access through the site to the beach, it should be noted that this access does not extend to San Andreas Road; the only roads between the site and San Andreas Road are the private roads of the Los Barrancos subdivision. It is expected that any signing of the beach or trail will be developed by DPR as a part of their park management program. Attached Exhibit A shows existing public beach access points near the site.

The Executive Director's recommendation includes the condition for permit approval that the applicant's offer to donate operation/management funds totalling \$30,000 to support two South Santa Cruz County coastal recreation support services (the Department of Parks and Recreation, DPR, beach management program, Manresa State Beach, and the La Selva Beach Fire Protection District's land and sea emergency rescue unit, which has as its service area that portion of South County from Seacliff Beach to the Pajaro River) be formalized as a program to be implemented. Such a program would provide for, directly and indirectly, opportunities to maintain and expand coastal recreation/access opportunities for a variety of persons and families. (An approach similar to this was incorporated in the State Commission's findings and conditions for Oceanview condominium project near Sand Dollar Beach, Appeal No. 504-77; conditions of that permit included the provision of State Park facilities improvements and donation of operation/management fund to the to the DPR). As conditioned,

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

therefore, the project is consistent with the policies contained in Section 30212 and with Section 30221.

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.

HOUSING
OPPORTUNITIES
(30213)

6. Section 30213 of the Act provides:

30213. Lower cost visitor and recreational facilities and housing opportunities for persons of low and moderate income shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of the Government Code.

According to the 1977 AMBAG draft Housing Opportunity Plans, there is an unmet need for low and moderate income housing in "market area 9" of approximately 11,439 units (approximately $\frac{1}{2}$ of the population of that AMBAG "market area" is in the area from the city of Santa Cruz to La Selva Beach, inclusive.) This need represents approximately 19.0% of the AMBAG region's total unmet low and moderate income housing needs.

The applicant expects that the condominiums would sell in the range of \$200,000-\$300,000 per unit. As proposed, then, the project units cannot be considered available to low and moderate income persons.

Although estimated project costs are high (\$90,000 - \$100,000 per unit), estimated sale prices are high as well. Particularly in a unique beach front location such as the project site, it is possible to transfer costs among the units and retain marketability. Requiring 15% of the units to be affordable to moderate income families, therefore, is both feasible and consistent with the current requirements of the Santa Cruz County General Plan.

As conditioned, therefore (condition 3 B), the project is found to be consistent with Section 30213. Condition 3 B contains three alternatives in order to allow the applicant the maximum amount of flexibility while at the same time providing housing opportunities for persons of low and moderate income consistent with the provisions of the Coastal Act and with the County's housing element as amended by Measure J. Under the first alternative, three (or 15%) of the permitted 21 units would be made affordable to the upper range of moderate income families.

Under the second alternative, the applicant would purchase a site (or sites) within the southern Santa Cruz County Coastal Zone appropriately zoned to allow the construction of 6 housing units, and offer the site(s) for dedication to the Housing Authority. Under the third alternative, proposed by the applicant, the applicant would dedicate to the County Housing Authority funds totalling \$100,000, or equivalent valued lands, for use in a program (or programs) expanding farm labor housing opportunities for persons of low income in the South Santa Cruz County Coastal Zone.

Alternative 1 could require a limited redesign of the project to provide the low and moderate income housing units, while alternatives 2 and 3 would allow the applicant to retain the original project design while providing housing opportunities for persons of low and moderate incomes within South Santa Cruz County.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

SCENIC
RESOURCES
(30251)

7. Existing vegetation on the east and south portions of the site will prevent the condominiums from being visible from adjacent Los Barrancos and La Selva Beach properties; no Los Barrancos or La Selva Beach residence is visible from the bluff top project site, so it does not appear that there can be any reciprocal views of the site. While a few Seascape residences can now be seen from the site, the proposed screen of Monterey Cypress trees parallel to the north property line should effectively block future views. Nonetheless, it appears that the bluff-top project will be minimally visible from the beach below (although not silhouetted against the sky from the beach area or any adjacent parcel). As conditioned, however - for Executive Director review of the exterior building materials to be used and of a final landscaping plan - the project will not have any adverse impacts on the area's scenic resources; therefore, the project is consistent with Sec. 30251.

VEGETATION
AND
WILDLIFE
(30240)

8. Plant communities found on the subject property include Mixed Woodland, Coastal Scrub, Open Grassland Field, and Coastal Strand. The condominiums are proposed to be built on a 5.36 acre level portion of the bluff top now in "open field", covered with annual grasses, native wildflowers and a few trees. Applicant intends to retain these trees, but to clear approximately 1.35 acres of the field to accommodate the buildings, bluff top roadway system (not including main access road), parking and walkways.

The "Mixed Woodland" on the northeast and east edges of the field consists of dense stands of Coast Live Oak, Monterey pine, Madrone, California Buckeye, Acacia, Eucalyptus and Poison Oak. Approximately, 0.7 acre of this woodland will have to be cleared to accommodate the main access road; this strip consists mostly of Eucalyptus, with some Monterey pine.

A "Coastal Scrub" community is located along the top and face of the steep bluffs facing the beach. This vegetation aids a great deal in controlling erosion of the steep and sandy slopes of the bluffs, but is extremely fragile and sensitive to the effects of foot traffic. The "Coastal Strand", found at the base of the bluffs, is termed a "pioneer community" because its species are the first organisms to inhabit the relatively sterile sands of the beach. Applicant does not expect any disturbance of these coastal strand and coastal scrub communities to occur, as the condominiums will be set back 50 ft. from the cliff's edge; however, increased use of the site will probably impact this vegetation at least minimally.

To mitigate these impacts, the EIR recommends the use of native vegetation, for landscaping, and care to protect existing native species, especially native oaks and shrubs growing in the cliff face. Conditions of this permit reflect the concerns of the EIR.

All four vegetative types - woodland, coastal scrub, open field, and coastal strand - on the parcel provide food, shelter, and nesting for numerous animal and insect species. However, no rare or endangered species of plant or animal life were found on the site during field investigations.

The project as conditioned is consistent with the policies of Sec. 30240 of the Act relating to the protection of environmentally sensitive habitat areas.

COASTAL
ACT
CONSISTENCY
(30604)/CEQA

9. As conditioned, the proposed development will have no significant adverse environmental impacts as identified by CEQA, is consistent with the policies of Chapter 3 of the Coastal Act, and will not prejudice the ability of the County of Santa Cruz to prepare a local Coastal Program which would conform to the policies of Chapter 3 of the Act. Approval of this permit shall in no way be considered as a precedent for future development on similar sites along the South Santa Cruz County coast.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

RECOMMENDED CONDITIONS

1. This permit is for the development of 21 condominium units and associated improvements as specifically described. These units shall have a minimum setback of 200 feet from the adjacent agricultural lands to the north. Prior to commencement of construction (meaning in this condition, and where used in other conditions, prior to the commencement of any alteration of the site), the applicant shall submit for Commission review and approval, revised site plans reflecting the provisions of this condition.

2. All conditions of the project's Planned Unit Development Permit, and any strengthening amendments thereto, shall be a part of this permit as well (see attached Exhibit B).

3. Prior to commencement of construction the applicant shall submit for Executive Director review and approval:

A. A program specifying the donation, based upon the applicant's offer, of operation/management funds totalling \$30,000 to one or both of the following South Santa Cruz County coastal recreation support services:

1) A five year beach management and operation program developed in conjunction with the California Department of Parks and Recreation (DPR to assure full public use and adequate maintenance of Manresa State Beach (including the 12 acre sandy beach area dedicated by the applicant). The applicant's responsibility will be a financial grant to the DPR as specified in the applicant's offer; and the first year grant will be payable within 30 days of Executive Director approval of the program, with subsequent grants payable yearly thereafter.

2) A five year operational support grant acceptable to the La Selva Fire Protection District (L.S.B.F.P.D.) Board specifically to assure the continued operation of the land and sea emergency rescue unit.

Within 120 days following commencement of construction, the applicant shall submit a report to the Executive Director on the degree of the support services program success. If the Executive Director determines that the intent of this condition is not being met, he shall have the discretion to bring the report to the Commission for its re-evaluation of the condition.

B. One of the following:

1) A recordable agreement with the California Coastal Commission to make three units of the development available for sale to households of moderate income only (household whose income lies between 80-120% of the median for the County). The agreement shall allow sale and resale of the unit at prices not to exceed the unit price limits established for 2, 3, and 4 bedroom units by Santa Cruz County Resolution No. 152-79, only to households deemed eligible by the Housing Authority of Santa Cruz County. This agreement shall be executed to cover a period of 30 years from the date of first sale and shall allow sales price of the units to be increased an amount only equal to an increase in 2, 3, or 4 bedroom unit price lists established by Santa Cruz County plus any increase in the cost of screening applicants for purchase.

The above required sale and resale agreement shall bind the permittee and any successors interest in the unit and shall be recorded as a covenant to run with the land in the deed for the unit as a Declaration of Restrictions. This Declaration of Restrictions shall include all applicable resale controls and occupancy restrictions and shall be free of all prior liens and encumbrances except for tax liens.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

or

2) An offer to dedicate to the Housing Authority of Santa Cruz County a parcel (or parcels) of vacant land zoned to allow a minimum of 6 residential units, located in Santa Cruz County in that portion of the Coastal Zone between Aptos Creek on the north and the County line on the south. The site(s) shall be approved by the Executive Director of this Commission in consultation with the Housing Authority. The offer of dedication shall run with the land, binding successors and assigns, shall be recorded free of all prior liens and encumbrances except for tax liens, and shall be insured by title insurance acceptable to the Executive Director. The approved offer shall be recorded and evidence thereof submitted to the Executive Director.

The offer of dedication shall provide that as a condition of conveyance of fee title, the grantee agency or organization shall agree to accept the restrictions on the subsequent use of the land to be granted as limited to housing for persons of low and moderate income. Prior to the acceptance of the grant of fee title, and prior to commencement of construction, the grantee shall submit to the Executive Director for his review and approval the documents containing the terms and conditions of the acceptance of the subject units, parcel, or interest in the parcel.

or

3) A program offering to dedicate to the Housing Authority of Santa Cruz County funds totalling \$100,000 or equivalent valued lands for use in a program (or programs) expanding farm labor housing opportunities for persons of low income in the South Santa Cruz County Coastal Zone. The approved offer shall be recorded and evidence thereof submitted to the Executive Director.

The offer of dedication shall provide that as a condition of either conveyance of fee title to lands or donation of funds for program implementation, the grantee agency or organization shall agree to accept the restrictions on the subsequent use of the land or funds to be granted as limited to housing for persons of low income. Prior to the acceptance of the grant of fee title, or of donated funds, and prior to commencement of construction, the grantee shall submit to the Executive Director for his review and approval the documents containing the terms and conditions of the acceptance of the dedication of land or program funding assistance.

C. A copy of the Engineering Geology Report required by the County Use Permit Condition IV.M; this report shall meet the requirements established by the Statewide Interpretive Guidelines' section on "Geologic Stability of Blufftop Requirement". The applicant shall comply with the approved recommendations of that report.

D. Final grading and on-site percolation and drainage plans (patio, roads, etc.) Collected or concentrated runoff from rooftops and other impervious areas shall be discharged in a manner which prevents erosion and promotes on-site percolation (e.g. through the use of dry-wells, water energy dissipators).

E. Detailed site and design plans for the package treatment sewage disposal plant for the 21 condominium units; evidence of all necessary approvals by the County (Environmental Health Department, Public Works Department, and Board of Supervisors) and the Regional Water Quality Control Board (RWQCB) for construction and maintenance of the package plant for the 21 condominium units. All adopted RWQCB discharge requirement conditions for the project shall be a part of this permit as well.

F. Evidence of LAFCO approval for annexation of the project site to County Service Area or information of a separate County Service area

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

- G. Plans for the service access route to the package treatment plant.
- H. Evidence of acceptance, by the La Selva Beach Fire Protection District, of project site annexation to that District.
- I. A landscape plan with emphasis on native and drought-resistant plants, for Executive Director's review and approval. This plan shall include landscaping along the bluff top edge to prevent pedestrian use of that area. The plan shall clearly specify: limits of vegetation disruption associated with project construction and means to notify contractors of such; procedures for erosion control and re-establishment of native plant cover, including the prompt revegetation of slopes bared during construction, to prevent accelerated erosion; and proposed landscaping species. Additionally, the applicant shall stake the borders of those portions of the main access road in which are located trees proposed for removal; following staff inspection of those areas, a determination will be made by the Executive Director as to whether those areas contain any significant trees that should be retained; should the Executive Director require the retention of any specific trees within the staked areas, the applicant shall then submit whatever revised plans are necessary (e.g. access road relocation plans and associated revised grading plans) to insure retention of those trees. Only those trees subsequently authorized by the Executive Director for removal shall be removed. All other major vegetation on the project site (either existing/retained or installed per the approved landscape plan) shall be maintained in good condition; a separate Coastal Development Permit shall be required for the removal of any of this vegetation. Lastly, the vegetation screen required by the County Use Permit condition III.F.6. shall be planted 15 feet south of the northwestern property boundary; the 6-foot fence required by that condition shall have at least one strand of barb-wire along its top.
- J. Plans for measures to comply with the conditions of the Fish and Game permit attached at Exhibit C; all conditions of that permit shall become parts of this permit as well.
- K. Evidence of permission, from the Southern Pacific Railroad, for the main access roads and sewage treatment plant lines crossing of the railroad tracks.
- L. Samples of, or specifications for, materials to be used for the structures' exteriors. (The structures allowed by this permit shall have their exteriors, including roof materials, finished in earth-tones and/or shall consist of natural weathering materials. All windows within view of public use areas shall have low-glare, tinted glass. Exterior lighting which would be visible from public use view areas is not authorized by this permit.)
4. Construction equipment activity shall be limited to the actual areas to be disturbed according to approved plans. No vehicles of any kind shall pass over areas to be left in their natural state according to approved plans.
5. Any excavated materials shall be carefully removed so that spoils are neither placed within or allowed to slide into that area seaward to the upper edge of the bluff, nor into the ravine running parallel to, and east of, the Southern Pacific railroad tracks. Off-site disposition of excavated spoils within the coastal zone shall be subject to prior review and approval by the Executive Director.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

6. Water conservation features shall be incorporated in all plumbing fixtures including flow restrictors or aerators on all interior faucets.

7. All utility connections shall be installed underground. Unless waived by the Executive Director, a separate Coastal Development Permit shall be required for any additional development on the site and any additions to the permitted development, including (but not limited to) placement of antennas or other minor structures above roof level of permitted structures, or elsewhere within public view areas.

8. Permittee shall stipulate in writing that he understands and agrees to the above conditions, and further that he understands that he will remove any portion of the building or lighting that may not conform with the above conditions or the representations made by the applicant to the Commission.

9. Nothing in this permit shall be construed to constitute a waiver of any sort or a determination on any issue of prescriptive rights which may exist on the project site.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

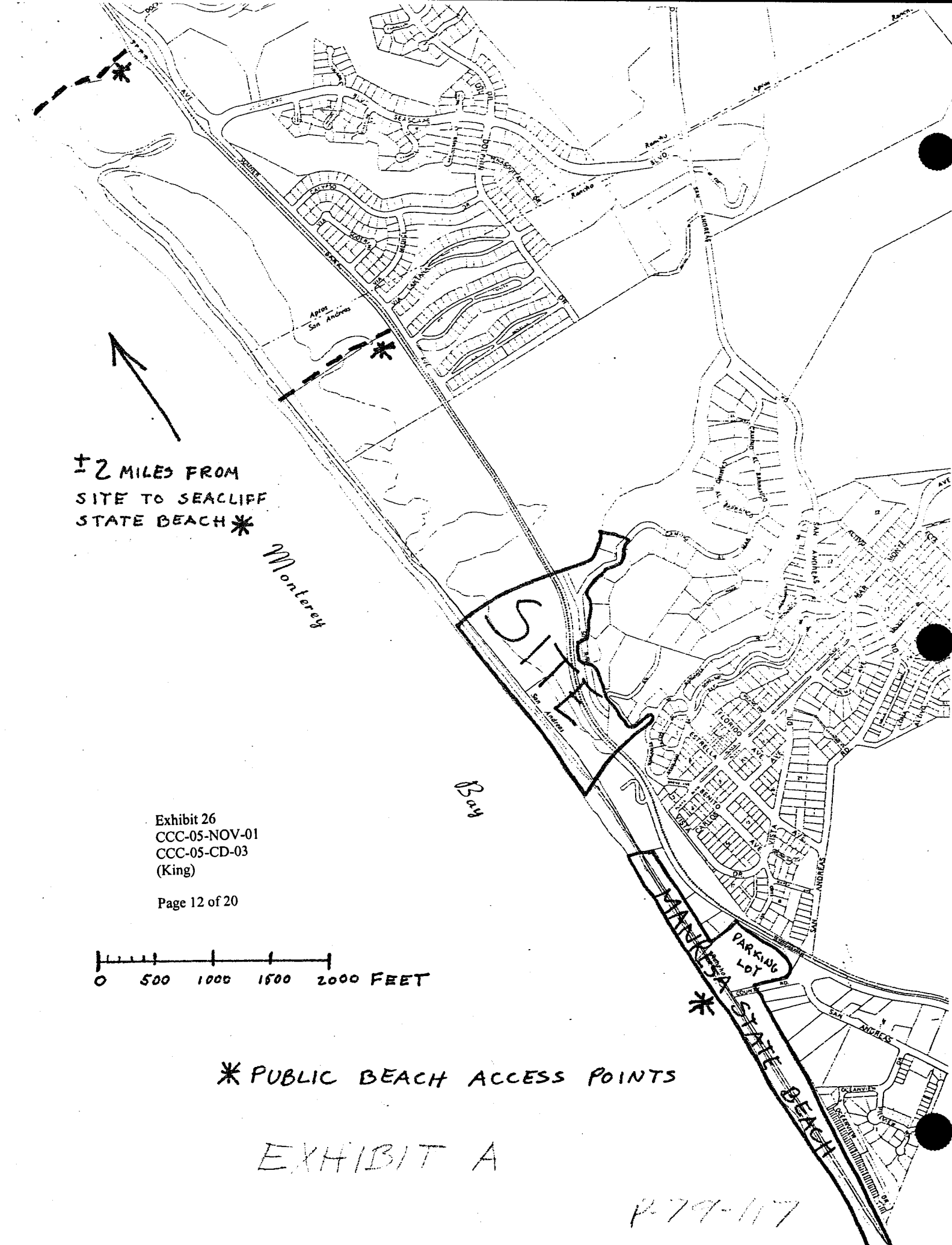


Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

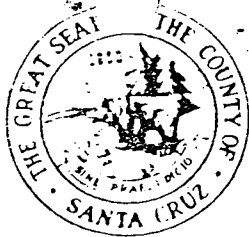
Page 12 of 20

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* PUBLIC BEACH ACCESS POINTS

EXHIBIT A

P-77-117



HENRY R. BAKER, DIRECTOR

PLANNING COMMISSION

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 13 of 20

John J. King
255 Camino Al Mar
La Selva Beach, CA 95076

The Santa Cruz County Board of Supervisors at its meeting on December 12, 1978 approved the Tentative Map of Tract No. 899 (Trestle Beach Subdivision) subject to the following conditions:

I. PROJECT DESCRIPTIONS

A. This PUD and Tentative Map approval is for a development which consists of the following elements:

parcel A: a 32 unit townhouse development with common open space.

parcel B: remainder to be retained by owners.

B. Exhibits

All exhibits are specifically incorporated as conditions, except where modified by this permit. All exhibits are on file with the County Community Resources Agency.

A. Tentative Map; revised 9-22-78

B. Grading Plan; dated 6-77 (Alternative "B")

C. Site Plan; dated 9-11-78

D. Elevations; dated 7-5-77

E. Sections; dated 7-5-77

F. Typical Floor Plans; dated 7-5-77

G. Rendering; dated 7-5-77

H. Environmental Impact Report; dated 8-27-75 (project description only)

II. GENERAL CONDITIONS

A. Implementation

1. Implementation of this permit shall only take place through the subdivision procedure of Chapter 13.08 of the County Code.

2. This permit shall remain effective until the expiration of the tentative map.

3. Acceptance of the final map by the Board of Supervisors shall constitute implementation. If the tentative map expires with no Final Map having been accepted, this permit shall lapse and be null and void.

B. No Building Permits or Grading Permits shall be issued nor construction of improvements begun prior to the recording of the Final Map for this development.

EXHIBIT B (1)

P-79-117

- C. Prior to the recording of the Final Map, all final improvements plans, including all plans required in this permit, shall be submitted to staff for review and approval. These plans shall include but not be limited to:
1. Complete site plans, including plans for landscaping and grading.
 2. Complete improvements plans for water facilities, streets, sanitation facilities, drainage, erosion control, etc.
 3. A detailed geologic report demonstrating the stability of the proposed building siting and foundation design.
- D. Prior to recording the Final Map a resource management program shall be submitted by the applicant for staff review and approval. Once approved, this program shall be a condition of this permit. The purpose of this program is to ensure the preservation, conservation and management of this land and its natural resources for the enjoyment of the residents of this development. The resource management program shall be incorporated into the covenants and restrictions of the home owners association and all lots, along with sufficient funding measures to ensure its implementation. The plan shall address the following areas:
1. erosion control
 2. drainage (including sedimentation and pollution control)
 3. wildlife resource
 4. vegetation resource
 5. developed area landscaping and development
 6. proposed budget and timing
 7. environmentally sound construction methods
- E. All improvements required in section III of this permit are conditions for the recording of the Final Map and shall be guaranteed by agreement and securities as specified by the County Code prior to recording the Final Map.
- F. Minor variations to this permit which do not increase the density, decrease the open space ratio, or change the general concept may be reviewed and approved by the CRA Director at the request of the applicant or staff.
- G. The applicant shall establish a home owners association, with an assured source of financing, to assume maintenance responsibility for the roads, drainage facilities, landscaping, common open space, and other common facilities.
- H. The following statement shall be included on the Final Map and in each parcel deed for this subdivision:
- "The subdividers and purchasers of this property acknowledge the fact that this land is adjacent to property utilized for agricultural purposes, and recognize the inconvenience or discomfort which may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor."

- I. Prior to recording the Final Map, the subdivider shall execute a hold harmless agreement with the owner for his benefit and the benefit of lessees, successors, and assigns of the agricultural property bordering the subdivision on the west known as Assessor's Parcel Number 54-261-05 to protect them against actions brought by any subsequent owners of the subdivision lots which arise from a continuance of the agricultural operations on such agricultural property.
- J. Prior to recording the Final Map, the applicant shall obtain a variance to Resolution 125-72 from the County Health Officer in accordance with the provisions of Section 11.76.040 of the County Code.

III. IMPROVEMENTS

A. General

1. All engineering designs shall conform to the County Design Criteria Manual, unless otherwise specified in this permit.
2. All improvement plans shall contain title blocks with signature space provided for all necessary agency approvals as required by these conditions. All improvement plans submitted to the Department of Public Works for review and approval shall contain the signatures indicating required agency approvals.
3. One set of approved reproducible plans for all required improvements shall be submitted to the Department of Public Works prior to construction for file copies.
4. Improvement plans, except for landscaping plans, as required for this project shall be prepared and presented over the signature of a Registered Civil Engineer. Landscape improvement plans shall be prepared and presented over the signature of a Registered Landscape Architect or Building Architect.

B. Road, parking and access

1. All roadways within the development shall be privately maintained. Public access from Camino Al Mar shall not be restricted by any obtrusive means such as gates, fences or large signs.
2. The main access road from Camino Al Mar shall be improved with asphalt concrete pavement to a width of 28 feet with curbs and gutters to County Standards. The access road to parcel 45-022-16 shall be improved with seal coat on 5 inches of base rock to a minimum width of 16 feet. An all weather fire access road extending from parcel 45-022-16 to Margareta Road shall be provided if required by the La Selva Beach Fire Protection District and be improved with 5 inches of base rock to a width of 12 feet with a crash gate at the end developed to the requirements of the Fire District; if the fire access road is provided, the main access road may be narrowed to 24 feet in width.
3. Both ends of the fire access road shall be provided with traffic restraints to prevent the entrance and parking of unauthorized vehicles. No parking shall be permitted on the fire access road.
4. A pedestrian and equestrian pathway shall be provided connecting the Los Barrancos Subdivision and this development to the beach.
5. An irrevocable offer of dedication to the County shall be made for the easement along the roadway connecting Camino Al Mar to the beach to become effective at such time as the roads in Los Barrancos become public.

EXHIBIT B (3)

P-79-117

6. The existing road bed providing access under the trestle to the bluff top shall be barricaded to all vehicle traffic.
7. The railroad grade crossing shall be provided with crossing guard devices.
8. A minimum of one parking space shall be provided for each bedroom within the development up to two spaces per unit.
9. A one-foot non-access strip along the northwestern boundary of parcel A shall be deeded to the County.

C. Water System and Fire Protection

1. The applicant shall submit plans showing the location and capacity of fire hydrants and the water main, distribution and storage system, indicating prior approval by the Soquel Creek County Water District and the La Selva Beach Fire District, and the County Fire Marshal.
2. All requirements of the fire district and Fire Marshal as to roadway design, emergency access crash gates, water system requirements, and vegetation alteration shall be met.
3. Prior to recording the final map, the entire property shall be annexed to the La Selva Fire Protection District.

D. Sanitation

1. All sanitation systems shall meet the requirements of the Environmental Health Service.
2. Sufficient percolation testing to insure system operation shall be performed to the requirements of the Environmental Health Service prior to recording the final map.

E. Grading, drainage and erosion control

1. All grading shall be minimized.
2. All cuts and fills shall be re-contoured to natural-appearing land forms.
3. Provisions shall be made at the top of all cut or fill areas to direct drainage away from the exposed faces.
4. Positive slope and drainage facilities shall be provided along the bluff top to insure that no drainage or runoff passes over the edge of the cliff.
5. Wherever piped or channeled storm waters are discharged into natural drainage courses, energy dissipators shall be used to prevent scouring, and the outlet facility shall spread the waters over a large area to allow percolation into the soil.

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 16 of 20

EXHIBIT B (4)

P-79-117

6. No removal of vegetation or grading shall be permitted during the rainy season of any year, which is defined as that period between November 15th and April 1st.
7. Erosion control measures such as planting of grasses, groundcover, etc., shall be undertaken in all areas disturbed by construction and shall be planted and established prior to November 15th of any year during which construction has taken place. Additionally, any and all erosion control measures recommended by Public Works or the CRA staff to immediately stabilize the area shall be implemented.
8. No tree removal, brush cutting or clearing of vegetation shall be permitted in areas not specifically approved for construction unless pursuant to the approved Resource Management Program. Improvement plans for all phases shall include complete landscaping and erosion control plans which shall be subject to approval by staff.
9. Final grading plans shall be subject to staff approval and shall show the location and size of all mature trees within and adjacent to all areas to be graded.
10. The existing roadway fill crossing over the creek shall be removed.
11. The embankment above the existing access road in the vicinity of the Cheit residence shall be filled and recontoured to reestablish a stable and more natural looking landform.

F. Landscaping

1. The applicant shall submit a final landscaping plan, indicating plant materials, irrigation system, timing, and special features, subject to approval by the Resources Agency staff.
2. Native plant materials shall be used wherever possible. Exotic plant materials shall be limited to those plants specifically adapted to climate and soils on the site.
3. Plant cover shall be provided for all landscaped areas.
4. An irrigation system shall be provided for permanent maintenance of the landscaped areas.
5. The selection, location and grouping of plant materials shall be done in such a way as to create a natural-appearing coastal landscape.
6. The northwestern property boundary between the railroad tracks and the bluff shall be provided with a continuous wood or wood-and-wire 6-foot fence to prevent the passage of pets and people and a vegetation screen to intercept the drift of agricultural chemicals. The vegetation screen shall be made up of a mixture of plant sizes for both immediate and long term effects.
7. A continuous hedge of 5-gallon California Wildrose (Rose Californica) shall be planted along the cliff top extending from the western property boundary to the railroad trestle.
8. A 4-foot fence shall be constructed along the south side of the access road between station 1+00 to station 4+40 as required for headlight and noise buffering.

EXHIBIT B (5)

P-79-117

IV ARCHITECTURAL AND SITE RESTRICTIONS

- A. No building shall be closer than 50 feet from the top of the bluff.
- B. No residential unit shall be closer than 50 feet to the northwestern boundary.
- C. A comprehensive program for the improvement and/or construction of all signing, mail boxes and other features, including fire hydrants, water meters, storage areas, exterior lighting, etc., shall be submitted.
- D. Roofs of all structures shall be in dark, earthen colors of non-glare materials except for solar collectors.
- E. The exteriors of all structures shall have a rustic finish, with a maximum use of stained or natural materials, and a minimum use of painted or other artificial surfaces.
- F. Fences or walls shall not be permitted except where required by this permit. All fences or walls shall conform to the architectural concept of the project.
- G. All storage and disposal areas shall be screened.
- H. Buildings shall be limited to 25-feet in height.
- I. All lighting shall be subdued and glare-free.
- J. All water fixtures shall be equipped with low-flow fixtures.
- K. No access shall be provided or allowed down the bluff face from the bluff top to the beach. All pedestrian traffic shall make use of the exiting road bed passing under the trestle from the bluff top or shall use the roadway through the ravine.
- L. The existing mature pine trees on the bluff top shall be retained.
- M. An Engineering Geology Report shall be prepared for the project by a registered engineering geologist evaluating the stability of the building placement and evaluating the hazards due to cliff erosion and seismicly induced cliff failure. Final building placement and foundation design shall be designed for a minimum project life time of 50 years.

NOTE: This Tentative Map approval expires on March 11, 1980. The subdivider should also note that Final Map and Improvement Plan processing may take a period of months. Since this processing must be accomplished prior to the expiration date, the subdivider should plan accordingly.

HENRY R. BAKER, DIRECTOR
COMMUNITY RESOURCES AGENCY

Exhibit 26
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 18 of 20

by: John H. Warren
John H. Warren
Senior Planner

EXHIBIT B (6)

F-79-117

Notification No. III-109-79 THP No. _____

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and MID COAST ENGINEERS of WATSONVILLE, State of _____, hereinafter called the operator, is as follows:

WHEREAS, pursuant to Section 1003 of California Fish and Game Code, the operator, on the 12 day of FEB, 1979, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: UNNAMED RAVINE, in the County of SANTA CRUZ, State of California, S _____ T _____ R _____.

WHEREAS, The Department (represented by WAYNE HOWE) has made an inspection of subject area on the 27 day of FEB, 1979, and) has determined that such operations may substantially adversely affect existing fish and wildlife resources including: NO FISH POPULATIONS AFFECTED

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the operator's work. The operator hereby agrees to accept the following recommendations as part of his work: Numbers 1, 2, 3, 4, 6, 8, 9, 15, 21, 22 from the list of recommendations on the back of this page and the following special recommendations:

1. All work in or near the stream or lake shall be confined to the period: APR 3 - NOV 15, 1979
 2. BEFORE ANY WORK IS DONE WITHIN THE STREAM CHANNEL, A DAM SHALL BE PLACED FOLLOWING STANDARD RECOMMENDATIONS #6 & 8 SO THAT THE WORK AREA CONTAINS NO FLOWING WATER
 3. SUFFICIENT WATER SHALL AT ALL TIMES BE ALLOWED TO PASS DOWNSTREAM TO MAINTAIN ANIMAL LIFE BELOW THE DAM
- RECEIVED
JUL 9 1979
CENTRAL COUNTY
REGION III

If the operator's work changes from that stated in the notification specified above, this agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this agreement and with other pertinent Code Sections, including but not limited to Fish and Game Code Sections 5650, 5652 and 5948, may result in prosecution.

Nothing in this agreement authorizes the operator to trespass on any land or property, nor does it relieve the operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated agreement does not necessarily constitute Department of Fish and Game endorsement of the proposed operation.

This agreement becomes effective on APRIL 3 1979 and terminates NOV 15, 1979

Operator MID COAST ENGINEERS _____
Title (Signed by John King) _____ Title Wayne Howe _____
Department Representative

Organization _____ Department of Fish and Game, State of California

Date _____ Date 4-3-79

* If inspection was not made, cross out words within parentheses.

FG 1060 (1-77)

EXHIBIT C (1) 1-79-117

RECOMMENDATIONS

1. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel or lake margin within the high water mark of the stream or lake shall be restored to as near their original condition as possible.
2. Restoration shall include the revegetation of stripped or exposed areas.
3. Rock, riprap, or other erosion protection shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.
4. Installation of bridges, culverts, or other structures shall be such that water flow is not impaired and upstream or downstream passage of fish is assured at all times. Bottoms of temporary culverts shall be placed at or below stream channel grade. Bottoms of permanent culverts shall be placed below stream channel grade.
5. Plans for design of concrete sills and other features that could potentially impede fish migrations must be approved by Department engineers.
6. When any dam (any artificial obstruction) is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain fishlife below the dam.
7. An adequate fish passage facility must be incorporated into any barrier that obstructs fish passage.
8. Any temporary dam (any artificial obstruction) constructed shall only be built from material such as clean gravel which will cause little or no siltation.
9. No equipment will be operated in live stream channels.
10. Equipment shall not be operated in the stream channels of flowing live streams except as may be necessary to construct crossings or barriers and fills at channel changes.
11. When work in a flowing stream is unavoidable, the entire streamflow shall be diverted around the work area by a barrier, temporary culvert, and/or a new channel capable of permitting upstream and downstream fish movement. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock riprap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and the removal shall normally proceed from downstream in an upstream direction.
12. Temporary fills shall be constructed of nonerodible materials and shall be removed immediately upon work completion.
13. Equipment shall not be operated in the lake or its margin except during excavation and as may be necessary to construct barriers or fills. If work in the lake is unavoidable, a curtain enclosure to prevent siltation of the lake beyond the immediate working area shall be installed. The enclosure and any supportive material shall be removed when the work is completed.
14. Silt settling basins shall be located away from the stream or lake to prevent discolored, silt-bearing water from reaching the stream or lake.
15. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.
16. Wash water containing mud or silt from aggregate washing or other operations shall not be allowed to enter a lake or flowing streams.
17. a) A silt catchment basin shall be constructed across the stream immediately below the project site. This catchment basin shall be constructed of gravel which is free from mud or silt.
b) Upon completion of the project and after all flowing water in the area is clear of turbidity, the gravel along with the trapped sediment shall be removed from the stream.
18. If operations require moving of equipment across a flowing stream, such operations shall be conducted without substantially increasing stream turbidity. For repeated crossings, the operator shall install a bridge, culvert, or rock-fill crossing as specified in comments below.
19. If a stream channel has been altered during the operations, its low flow channel shall be returned as nearly as possible to its natural state without creating a possible future bank erosion problem, or a flat wide channel or sluice-like area. If a lake margin has been altered, it shall be returned as nearly as possible to its natural state without creating a future bank erosion problem. The gradient of the streambed or lake margin shall be as nearly as possible the same gradient as existed prior to disturbance.
20. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
21. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
22. The operator will notify the Department of Fish and Game of the date of commencement of operations and the date of completion of operations at least five days prior to such completion.

P-79-117

CENTRAL COAST REGIONAL COMMISSION
701 OCEAN STREET, ROOM 310
SANTA CRUZ, CALIFORNIA 95060
PHONE: (408) 726-7320



RECEIVED
AUG 14 1979

August 14, 1979

CENTRAL COAST COMM.
REGION III

PERMIT

John J. King
c/o William Victorison
#1 Oak Road
Santa Cruz, Ca. 95060

Dear Applicant:

Re: Regional Coastal Commission
Permit Application No. P-79-117

Pursuant to Public Resources Code Section 30600, your application for a permit to perform the work described in the above numbered application has been granted by the Central Coast Regional Commission in accordance with Resolution No. 79-159, passed on July 30, 1979; a copy of the resolution is attached hereto and made a part of this permit.

Please note:

(1) That this permit will become effective only when you have returned to the Regional Commission the enclosed copy of this letter, within 10 working days signed by you acknowledging thereon that you have received a copy of this letter and that you accept its contents.

(2) That upon completion of the development authorized by this permit you are required to notify the Regional Commission of such completion on the enclosed form provided for that purpose.

(3) This permit is issued subject to the conditions stated in attached documents, and approved plans on file with the Regional Commission. Unless otherwise provided in the conditions, all proposed changes must be submitted to the Commission prior to construction thereof.

(4) Development under this permit must be commenced within one year of issuance.

Very truly yours,

Edward Y. Brown
Executive Director

(I) (We) acknowledge receipt of the above captioned Regional Commission Permit and accept its contents.

Signed

Dated Aug 16, 1979

Attachment
ww

Exhibit 27
CCC-05-NOV-01
CCC-05-CD-03
(King)

CCR-1 Revised 1/77



RESOLUTION NO. 79-159

On the motion of Commissioner Leavy
duly seconded by Commissioner Forbus
the following resolution was adopted:

RESOLUTION GRANTING PERMIT
FOR COASTAL DEVELOPMENT

WHEREAS, on July 30, 1979, the application of John J. King
application number P-79-117 was filed for a coastal development permit pursuant
to Section 30600 of the Public Resources Code;

and

WHEREAS, the project as hereinafter approved consists of

21-unit condominium project (as amended), (2, 3, and 4 bedroom units in six
separate 1 and 2 story buildings); access road; parking; community sewage
disposal system; tree removal; adjacent to Monterey Bay and immediately
northwest of La Selva Beach, South Santa Cruz County.

and

WHEREAS, this Commission has given written public notice of the nature of
the proposed development and of the time and place of the public hearing thereof and
has held a public hearing in accordance with said notice and the California Coastal
Act of 1976 and has otherwise complied with the provisions of said Act and the reg-
ulations of the California Coastal Commission; and said public hearing
commenced on April 2, 1979 and concluded on July 30, 1979.

and

NOW, THEREFORE, BE IT RESOLVED that the Central Coast Commission does hereby
grant said permit, in accordance with the application submitted by the applicant and
subject to the Commission's findings and conditions of approval, if any, as cited in
the attached staff report, with the following changes:

(See attached staff report)

DATED: July 30, 1979

MARY W. HENDERSON, CHAIRMAN

ATTEST:

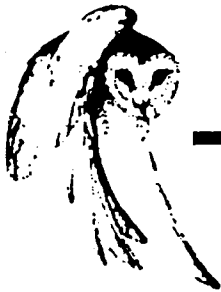
EDWARD Y. BROWN, EXECUTIVE DIRECTOR

Affirmative Vote on Application:

AYES: 15 - Commissioners Bedesem, Blohm, Franco, Nix, Garcia, Hughes, Hummel,
Leavy, Levy, Forbus, McCarthy, Taylor, Walters, Wyman, Henderson
NAYES: 0
ABSENT: 1 - Commissioner Lyon
ABSTENTIONS: 0

RESOLUTION NO. 79-159

Exhibit 27
CCC-05-NOV-01
CCC-05-CD-03
(King)



KATE BURDICK

PLANNING & LAND USE
CONSULTANT

P.O. BOX 1174 APTOS, CA 95003
408*688*6219

Draft

RESOURCE MANAGEMENT PLAN

for the

Trestle Beach Condominiums

of

Dr. John King

August 13, 1979

RECEIVED
JUN 19 1980

CENTRAL COAST COMM.
REGION III

Exhibit 28
CCC-05-NOV-01
CCC-05-CD-03
(King)

INTRODUCTION

In compliance with the Permit Condition _____ (permit No.) the following Resource Management Plan (R.M.P.) is presented to the County of Santa Cruz, Community Resources Agency. The RMP was prepared not only to satisfy requirements for the filing of the Final Map of Tract _____, by Dr. John King for the Trestle Beach Condominium project, but also in the spirit of conservation and enhancement of the natural resources on site.

The architectural design and outlay was prepared by Turnbull Associates of San Francisco. Landscaping plans were conducted by Turnbull and Associates in conjunction with Mai Albergast, of Saratoga Corporation, a non-profit entity dedicated to the propagation and proliferation of rare and endangered plant species. The RMP has been prepared by Kate Burdick Associates in cooperation with the above-mentioned firms.

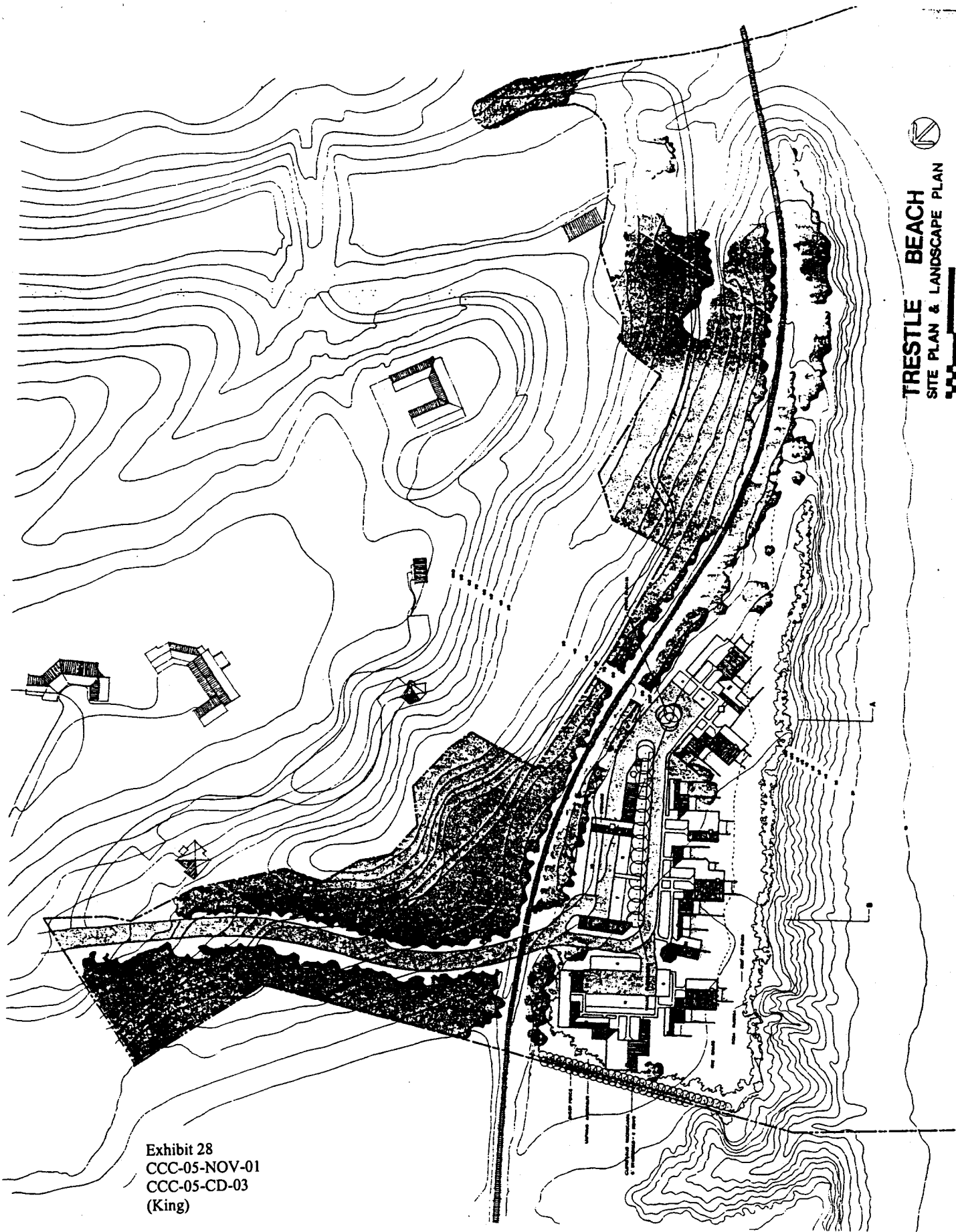
The project site is located one mile northwest of the community of La Selva Beach and is comprised of a variety of habitats including coastal strand, coastal prairie, oak woodland and eucalyptus grove. A thirty unit condominium project has been designed for the bluff, pursuant to the visual, aesthetic and environmental concerns of the Santa Cruz County Community Resources Agency and the Central Coastal Commission.

OBJECTIVES OF THE PLAN

During the permit review process, a variety of concerns surfaced regarding both the conservation of on-site habitats and the use of vegetation to ameliorate adverse conditions, such as erosion. Therefore, the objectives of the RMP, listed below, result from an extensive and thorough consideration of the site and the coastal resource involved, by planning staff, coastal commissioners, and consultants.

- . Control erosion and maximize slope stability through the use of vegetation, fencing and pathways.
- . Minimize the spread of intrusive, non-native plant species.
- . Rehabilitate and manage rare or unique productive native plant species.
- . Ensure long-term maintenance of productive native plant species.
- . Inventory wildlife on an informal basis over time.
- . Evaluate proposed landscaping, fencing and footpaths as to their compatibility with the above objectives.

Each of these objectives is addressed separately in the following pages.



TRESTLE BEACH
SITE PLAN & LANDSCAPE PLAN

0 50 100

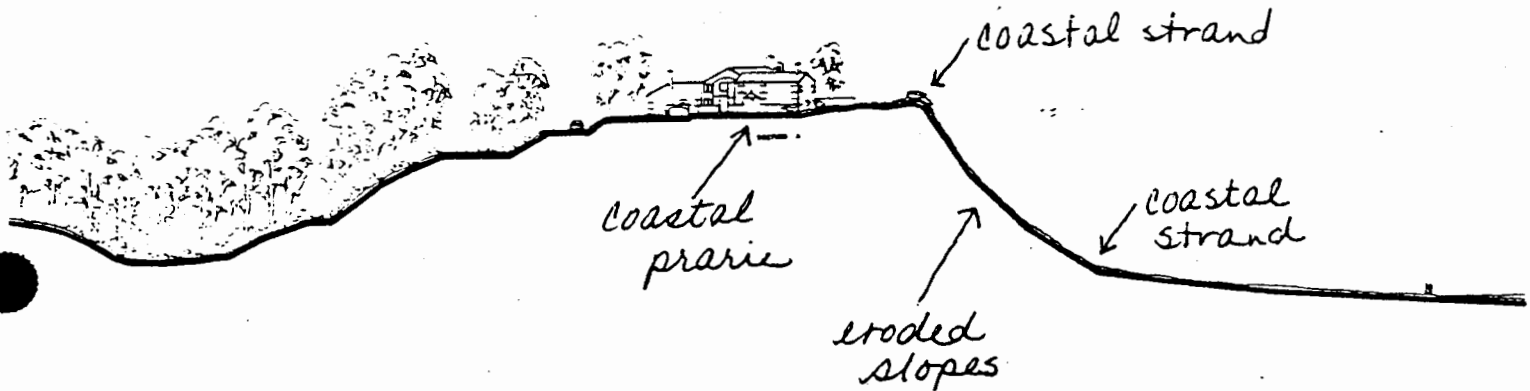
MJW/TURNBULL ASSOCIATES, INC./TRESTLE

Exhibit 28
CCC-05-NOV-01
CCC-05-CD-03
(King)

EROSION CONTROL/SLOPE SUITABILITY

Setting

Prior to enhancing or even actively managing the important biotic resources on-site, a comprehensive erosion control program must be instituted. There are several areas on-site where active erosion could affect the longevity of existing biotic resources (see Figure 1). The existing erosion is located in two areas on the western portion of the site. The erosion "pockets" are characterized by slight slopes at the base covered in native coastal strand vegetation, merging into almost vertical slopes which are topped by mixed coastal strand/coastal prairie vegetation.



In order to evaluate the best methods to minimize long-term erosion the following alternatives were evaluated: 1) leaving the eroded areas "as is" with a passive control system consisting solely of redirecting runoff from the site away from the eroded areas, 2) actively restoring vegetation on the affected areas via hand planting of seeds, rhizomes, and/or transplants of indigenous species, 3) regrading the entire eroded area and hydromulching it with indigenous plant seeds, and 4) allowing bluff edge vegetation to migrate northwards as erosion occurs.

Leaving the eroded area "as is"

The erosion on-site is primarily a function of wind, rain, and (to a lesser extent) runoff from the site. This erosion

will continue at its current rate (inches per year) into the foreseeable future. Many plant species are establishing themselves in the eroded area. Due to the severity of the erosion this process is extremely localized and "spotty" and would not be expected to solve long-term erosion as the degree of slope, thinness of soil cover, constant wind and persistent activities of rodents will serve to constantly minimize viability of natural succession in these areas. The primary effects of this erosion would be loss of cliff edge/top vegetation due to undercutting. Therefore, leaving site "as is", while redirecting surface runoff, will allow a gradual loss of several areas now covered in native plants.

Active replanting of slopes by hand

The eroded slopes are almost vertical and are characterized by thin soil cover. Therefore, the suitability of this area to the foot access necessary to hand plant the eroded areas is minimal. The planting holes would, in these soils, wash out fairly quickly and, with irrigation, well before plants are established. Any disturbance of the existing slopes and soils could result in aggravation of erosion in those areas. Therefore due to the slope, erodible nature of the soils and potential effects of the necessary irrigation (to establish both seeds and transplants) this alternative could result in an increase of the very problem it would seek to correct.

Regrading of the eroded area

In order to achieve a stable slope the regrading activities would: (a) eliminate all the bluff face vegetation, (b) eliminate all the bluff edge/top vegetation, (c) cut into the terrace some ± 50 feet, thereby eliminating a large proportion of the native cover and most of the residential units, (d) create an obviously artificial slope in direct variance to all bluff contours in the area, and (e) create erosion potential on adjacent nongraded areas.

Exhibit 28
CCC-05-NOV-01
CCC-05-CD-03
(King)

Upon evaluation of the above alternatives, it became obvious that active programs to reduce erosion would be unsuitable either because of inherent site limitations or severity of impacts generated. In addition, as erosion will affect plant communities rather than structures on-site, the objective of the erosion "control" plan should be directed at preserving affected plant communities. Therefore the following tactic was deemed most appropriate:

Allow natural migration of cliff edge species to the north/inland as erosion occurs, together with a program of propagation in areas slow to expand.

This alternative would consist of two activities, one passive and one active. The bi-annual (every other year) program of site review performed by Mr. Randall Morgan or an associate would monitor the progress of erosion. Footpaths would be moved inland from the bluff edge a minimum of six feet. Natural succession should result in a gradual inland movement of plant species from the bluff edge as foot traffic which currently limits this movement is eliminated. If, however, erosion accelerates faster than the successional movement, the Home-owners Association would be notified and would become responsible for funding transplant and propagation efforts to ensure the continued presence of affected species. In this manner the plants on-site will have every opportunity to "hold their own" against the inevitable encroachment of erosion. It should be noted that current estimates indicate that re-planting would occur only a few times during the life of the project and in small localized areas.

In addition, access over the cliff face should be prohibited as shown in the existing plans. Runoff from the terrace should be directed away from the cliff face as shown in existing plans. Trees which would retard plant growth should not be allowed in areas of retreating bluff top.

Management Tasks/Scheduling

- Bi-annual Survey:
 - Botanist/April-June, every other year
- Propagation and Replanting (if deemed necessary by bi-annual survey);
 - Replanting diagram - Botanist, supervision/direction of replanting Botanists
 - Replanting - Homeowners Association gardener or similar personnel (need not be experienced if under supervision of Botanist)
 - Scheduling of replanting: Botanist
 - Responsibility for replanting: Homeowners Association

MINIMIZATION OF INVASIVE NON-NATIVE PLANTS

The area of conflict between important natives and potentially invasive non-natives is limited to the "front" areas of the site. A bi-annual "grubbing out" of invasive species (broom, ivy, eucalyptus, etc.) could be accomplished under the direction of Mr. Randall Morgan or a similarly qualified botanist.

The program is simple to maintain after the initial removal effort is accomplished. The mechanics of this program require that undesirable plants are marked with a stake, tag, dab of paint, etc. The marked plants are then removed, by hand, using suitable instruments that will not result in loss of adjacent species (e.g. not a shovel, preferably a trowel or some similar small hand tool). This activity should occur during the spring/summer period to ensure maximum retention of important species and complete identification of undesirable species.

Management Tasks/Scheduling

--Initial "Grubbing Out":

- Marking plants: Botanist
- Removing Plants: Gardener/laborers under direction of Botanist
- Timing: April-June
- Responsibility: Dr. J. King

--Bi-Annual "Grubbing Out"

- Marking plants: Botanist
- Removing plants: Gardener/laborers under direction of Botanist
- Timing: April-June
- Responsibility: Homeowners Association

MAINTENACE OF EXISTING NATIVE PLANT COMMUNITIES

After extensive discussions with Randall Morgan, Mai Albergast, Bob Simpson, and John Gilchrist, it has been determined that the best management technique for the species on-site is "let it alone." Despite the apparent simplicity of this approach it is based on a thorough analysis of the needs and habits of the plants on-site. Several suggestions for ensuring long-term survival of these plants are listed below and include:

- Prohibit grading in biotic areas during construction by utilizing a chain link fence to preclude even random access by heavy equipment
- Do not irrigate any areas which are left in native ground covers
- Do not plant species in landscaped areas which could spread into protected sites (see next section)
- Do not fertilize or mow protected areas
- Do not allow random access ways to be established. Define paths and sign them
- Utilize drip irrigation (not sprinkler) for all landscaped areas
- Allow natural reseeding of graded areas adjacent to native areas or utilize stockpiled seeds and rhizomes collected prior to grading to replant these areas
- Do not prevent successive changes into graded areas by provision of irrigation, fertilizers or the planting of species not native to the site
- Do not utilize Monterey Pine for screening on the bluff edge as these would shade out natives in the area
- Preclude spread of Monterey Pine from the buffer area by bi-annual grubbing out of seedlings (see recommendations of previous section)
- Utilizing a low fence (2 - 3 feet), fence off the entire area, thereby discouraging random access but not creating an unsightly barrier. This could also serve to discourage pets and people (e.g. renters) who are unfamiliar with the value of the area
- Provide for bi-annual monitoring of the areas. If areas are declining in diversity/density to a significant degree then Mr. Randall Morgan should be consulted to determine causes. The Homeowners Association should be bound to implement mitigation measures identified by this botanist.
- Prohibit access over cliff face

Exhibit 28
CCC-05-NOV-01
CCC-05-CD-03
(King)

The consensus of opinion is that the populations on-site will continue to prosper if invasives are regularly eliminated, no irrigation or fertilizers are applied, footpaths are clearly marked and policed, construction activities are closely monitored, natural expansion of native populations is allowed to occur, and the other objectives of this plan are adhered to. This association has persisted despite relatively heavy use of the site and could be expected to continue into the future if properly treated.

Management Tasks/Scheduling

- Construction fence
 - Siting of fence: Botanist & Project Architect
 - Weekly monitoring of fencing during construction: Botanist
 - Responsibility: Dr. J. King
- Stockpiling of seeds and rhizomes from graded area prior to grading activities: Botanist in conjunction with a semi-skilled work team
 - Responsibility: Dr. J. King
 - Scheduling: April-June, prior to construction
- Provision of raised wood walkways
 - Location: Botanist and Project Architect
 - Responsibility: Dr. J. King
- Bi-Annual Monitoring
 - Report: Botanist
 - Responsibility: Homeowners Association

EVALUATION OF PROPOSED LANDSCAPING

The existing landscaping plan for the site was prepared by . The entire plan and species list was reviewed by this consultant, Randall Morgan, and Mai Albergast. It was determined that the majority of the plan is suitable for the site, assuming that the objectives of the landscaping plan should be low water use, low maintenance, use of non-invasive species, and emphasis on use of plants native to the site or the region. There are a few areas of the landscaping plan where the aforementioned objectives are not met, primarily with respect to use of native plant species. The applicant has exhibited a sincere willingness to rework those areas of the plan which are in conflict with these objectives. A revised landscaping plan should eliminate conflicts and ensure retention and enhancement of biotic resources on the site. The plan should also ensure that an attractive, primarily native, low maintenance and low water use common area will be established with plants that provide habitat for wildlife and birds. A new landscaping plan consistent with the above objectives is currently being prepared and will be submitted prior to filing the Final Subdivision Map.

WILDLIFE INVENTORY

Based on results of the EIR and a subsequent site investigation by biologist, Randall Morgan (April to July 1979, attached), it is concluded that significant native wildlife populations or species habitat do not occur on this site. Therefore, it is recommended that the biologist conducting the bi-annual plant survey, also furnish to the County a list of wildlife observed on-site. This will provide an informal accounting of wildlife use, and allow a second method for monitoring site changes.

Management Tasks/Scheduling

- Wildlife Survey: Botanist or other trained personnel
- Responsibility: Homeowners Association

TRESTLE BEACH - Native & Significant Non-native Vegetation
(Site Visits April 4 - July 23, 1979)

* Non-native

Trees:

- * Eucalyptus globulus (Blue Gum) - invading open areas from dense grove on inland edge of site. Spread should be controlled by removing at least young trees under 18" dbh.
- * Pinus radiata (Monterey Pine) - scattered trees, either planted or adventive, but not native to site. Should be removed or prevented from spreading.
- Quercus agrifolia (Coast Live Oak) - along inland edge, being crowded out by Eucalyptus.
- Salix hindsiana (Sandbar Willow) - extensive colony at foot of cliff (on property boundary). Locally rare, known from only one other location in Santa Cruz County.

Shrubs, Vines:

- Arctostaphylos crustacea tomentosiformis (Brittle-leaf Manzanita) - one young plant in brushy area at south end; a chance seedling growing out of habitat - occurs nowhere on immediate coast.
- Artemisia pycnocephala (Beach Sagewort) - common on cliff face, and a few volunteering on flat.
- Baccharis pilvaris (Coyote Brush) - Common. Prostrate coastal form and intermediates with upright inland form.
- Ceanothus thyrsiflorus (Blue Blossom) - few at brushy south end.
- * Cotoneaster sp. (Cotoneaster) - adventive on flat, but not seriously invasive; attractive to birds.
- * Cytisus monspessulanus (French Brrom) - common invasive shrub; colonies at northeast and southwest, etc. Should be persistently removed as long as seedlings continue to appear.
- Diplacus aurantiacus (Bush Moneky Flower) - common subshrub.
- Eriophyllum confertiflorum (Yellow Yarrow) - small subshrub; few near edge of bluff near south near. Of interest because out of habitat-normally occurs away from ocean.
- E. staechadifolium (Lizard Tail) - fairly common.
- Lonicera hispidula (Hairy Honeysuckle) - fairly common.
- Lupinus arboreus (Yellow Bush Lupine) - common low on cliff.
- Rhamnus californica (Coffee Berry) - fairly common on edge of bluff, etc.
- Rhus diversiloba (Poison Oak) - common; dwarfed in open areas but flourishing under Eucalyptus.
- Rubus ursinus (California Blackberry) - common with Poison Oak.

Ferns:

Pityrogramma triangularis (Goldback Fern) - few on face of cliff.

Pteridium aquilinum (Bracken) - fairly common.

Grasses, Sedges, Rushes:

Agrostis californica (California Bentgrass) - small group on cliff face; establishes new southernmost range limit for the species. Locally rare.

A. hallii (Hall's Bentgrass) - patches on bluff.

Bromus carinatus (California Brome) - fairly common.

Carcx barbarae (Santa Barbara Sedge) - dwarfed plants on cliff face.

C. brevicaulis (Short-stemmed Sedge) - patches on cliff face etc.

C. montereyensis/harfordii complex (Sedge) - common.

* Cortadenia jubata (Pampas Grass) - scattered plants. Should be removed to prevent spread.

Danthonia californica (California Oatgrass) - fairly common.

Distichlis spicata stolonifera (Saltgrass) - base of cliff.

Elymus glaucus (Western Wild Rye) - common on cliff edge.

E. triticoides (Alkali Ryegrass) - patch on cliff face.

Festuca rubra (Red Fescue) - patch on cliff.

Juncus patens (Common Rush) - fairly common.

Koeleria cristata (Junegrass) - small group on cliff face.

Luzula multiflora (Wood Rush) - fairly common.

Stipa lepidota (Small-flowered stipa) - colony at back of field.

S. pulchra (Purple Needlegrass) - common.

Trisetum canescens (Tall Trisetum) - one or more on cliff face.

Flowering Herbs:

Acaena californica (California Acaena) - on cliff face,

Achillea borealis (Yarrow) - few.

Agoseris grandiflora (Mountain Dandelion) - scattered plants.

Anaphalis margaritacea (Pearly Everlasting) - patch at inland edge. Uncommon locally.

Armenia maritima (Sea Thrift) - few on cliff face. Uncommon locally.

Aster chilerisis (Common Aster) - fairly common.

Calochortus albus (White Globe Lily) - few on cliff face.

Dwarf coastal form which is locally rare.

Castilleja wightii (Wight's Paintbrush) - common on flat etc.

Centaureum davyi (Davy's Centaury) - one or more near south end.

Chloragalum pomeridianum (Soap Plant) - cliff face.

Cirsium brevistylum (Indian Thistle) - few at inland edge.

C. quercetorum (Brownie Thistle) - colony at edge of cliff. Locally rare.

Clarkia rubicunda (Farewell-to-Spring) - small colony on cliff face at north end.

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Subscribed and sworn to before me on the 6 day of December 1979 by the County Clerk of Santa Cruz County, California, and that after examination I accepted said map for registration on the day of December 1979 at _____ in Volume 67 of _____ of Santa Cruz County records.

COUNTY CLERK'S AFFIDAVIT

Serial No. 56967
I hereby certify that the map was on file on the 6 day of December 1979 by the County Clerk of Santa Cruz County, California, and that after examination I accepted said map for registration on the day of December 1979 at _____ in Volume 67 of _____ of Santa Cruz County records.

Richard S. Smith
County Clerk of Santa Cruz County,
State of California, District of Santa Cruz

COUNTY SUPERVISOR'S CERTIFICATE

I hereby certify that I have examined the within final map, that all applicable provisions of the Subdivision Map Act, and the Santa Cruz County Ordinance No. 100, have been complied with, and that I have determined that this map is technically correct and conforms with the provisions of the law. This map is hereby approved by the Board of Supervisors of the County of Santa Cruz on the _____ day of _____, 1979.

20190 Nov 1 1979

Richard S. Smith
County Clerk of Santa Cruz County,
State of California

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Subscribed and sworn to before me on the 6 day of December 1979 by the County Clerk of Santa Cruz County, California, and that after examination I accepted said map for registration on the day of December 1979 at _____ in Volume 67 of _____ of Santa Cruz County records.

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20190 Nov 1 1979

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County Clerk of Santa Cruz County,
State of California

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20190 Nov 1 1979

Richard S. Smith
County Clerk of Santa Cruz County,
State of California

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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20190 Nov 1 1979

Richard S. Smith
County Clerk of Santa Cruz County,
State of California

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20190 Nov 1 1979

Richard S. Smith
County Clerk of Santa Cruz County,
State of California

TRACT NO. 781
TRESTLE BEACH
RANCHO SAN ANDREAS
SANTA CRUZ COUNTY
CALIFORNIA

MID COAST ENGINEERS
CIVIL ENGINEERS & LAND SURVEYORS
801 C EAST LAKE AVE., MOUNTAIN VIEW, CALIFORNIA
BY
Richard S. Smith
County Clerk of Santa Cruz County,
State of California

20190 Nov 1 1979
MAY 1979
SHEET 1 OF 4 SHEETS

SCALE 1" = 50'

SOUTHERN

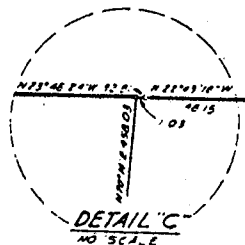
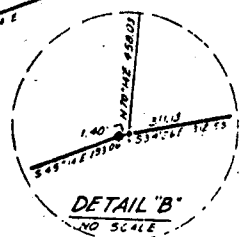
PAVING RAILROAD

R/W

PARCEL C
(SEE SHEET 2)

PARCEL D

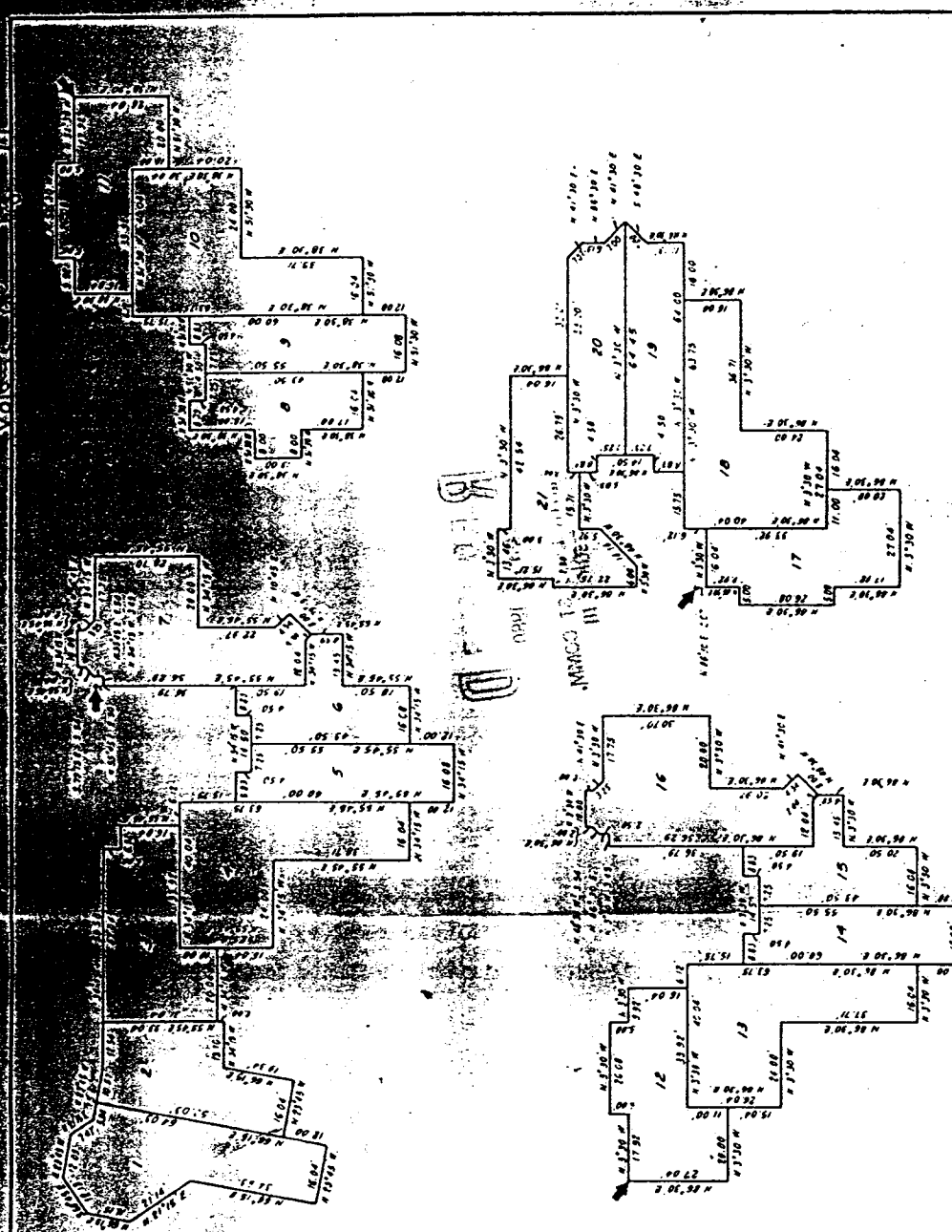
PARCEL
(Common Area)



NOTE
See Sheet 4 for complete lot dimensions.

TRACT NO. 781	
TRESTLE BEACH	
RANCHO SAN ANDREAS	
SANTA CRUZ COUNTY	CALIFORNIA
MID COAST ENGINEERS	
CIVIL ENGINEERS & LAND SURVEYORS	
801 C EAST LAKE AVE., WATSONVILLE, CALIFORNIA	
BY <i>Stanley O. Nelson</i>	
JOB NO. 7710	STANLEY O. NELSON, C.S. 3235
MAY, 1979	
SHEET 3 OF 4 SHEETS	

Exhibit 29
CCC-05-NOV-01
CCC-05-CD-03
(King)



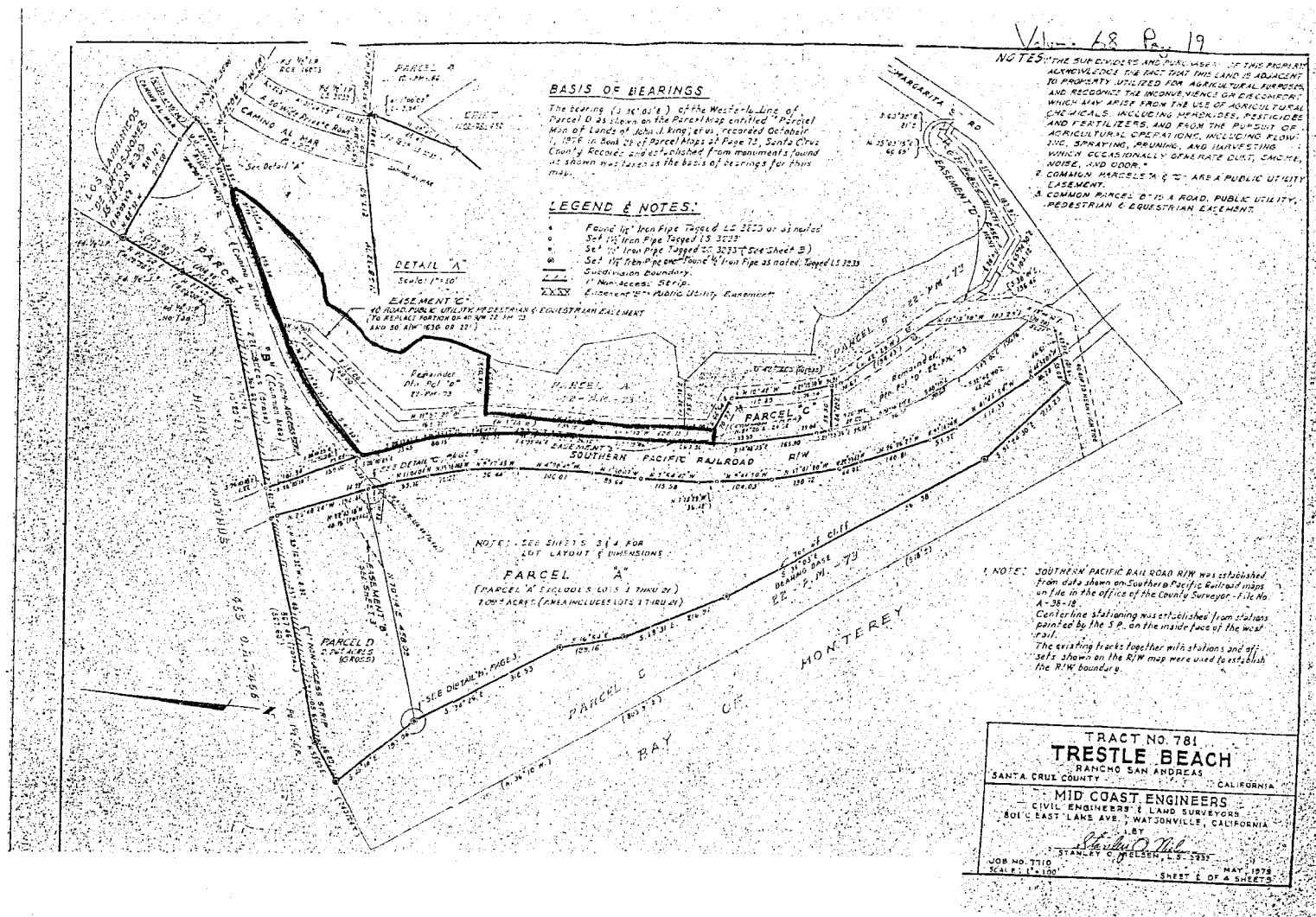
TRACT NO. 781
TRESTLE BEACH
SANTA CRUZ COUNTY
CALIFORNIA
MID COAST ENGINEERS
CIVIL ENGINEERS
601 EAST LAKE AVE.
SAN JOSE, CALIFORNIA
JOB NO. 7710
Stanley O. Pelletier
May 1979
SHEET 1 OF 1

SCALE: 1" = 20'

NOTES:

Angles are right angles unless shown otherwise.
Denotes point 1 of 10 on Street 1.

Exhibit 29
CCC-05-NOV-01
CCC-05-CD-03
(King)



Rec'd 6/30/80
GDB

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO. 388-80

On the motion of Supervisor Liddicoat
duly seconded by Supervisor Forbus
the following resolution is adopted:

RESOLUTION ESTABLISHING TRESTLE BEACH
COUNTY SERVICE AREA NO. 20

WHEREAS, this Board by its Resolution No. 312-80
adopted May 13, 1980, declared its intention to establish a
county service area in a certain area of the unincorporated
territory of Santa Cruz County, and for that purpose fixed a time
and place for public hearing on said resolution, and

WHEREAS, at the time and place fixed, no protest were
received and the property owners affected urged the formation of
said service area.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the
Board of Supervisors of Santa Cruz County, California, that said
Board of Supervisors does hereby so declare and determine that
Trestle Beach County Service Area No. 20 be and it hereby is
established.

BE IT FURTHER RESOLVED AND ORDERED that the boundaries
of Trestle Beach County Service Area No. 20 shall be as set forth
in Exhibit "A", attached hereto and by this reference made a part
hereof.

BE IT FURTHER RESOLVED AND ORDERED that the types of
services to be performed in Trestle Beach County Service Area No.
20 shall include the following:

Miscellaneous extended services, to-wit:

Operation & Maintenance of Sanitary
Sewer System

BE IT FURTHER RESOLVED AND ORDERED that the County
Clerk shall comply with the provisions of Government Code
§§54900 et seq.

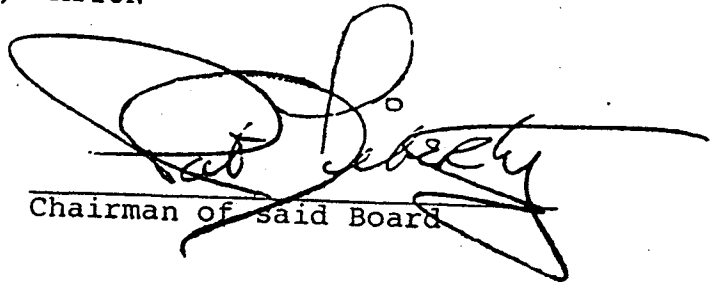
Exhibit 30
CCC-05-NOV-01
CCC-05-CD-03
(King)

PASSED AND ADOPTED by the Board of Supervisors of the
County of Santa Cruz, State of California, this 17th day
of June, 1980, by the following vote:

AYES: SUPERVISORS FORBUS, LIDDICOAT, LIBERTY

NOES: SUPERVISORS MATTHEWS, PATTON

ABSENT: SUPERVISORS NONE


Chairman of said Board

ATTEST: HELEN J. BRIGHTWELL
Clerk of said Board

Approved as to form:

CA Carlson
County Counsel

Distribution: Assessor
Auditor-Controller
County Counsel
Surveyor
Public Works

STATE OF CALIFORNIA COUNTY OF SANTA CRUZ	SS
I GEORGE T. NEWELL, County Administrative Officer and ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California do hereby certify that the foregoing is a true and correct copy of a resolution passed and adopted by and entered in the minutes of the said board. In witness whereof I have hereunto set my hand and affixed the seal of the said Board, on <u>June 30th</u> 19 <u>80</u>	
GEORGE T. NEWELL, County Administrative Officer By <u>Carol Webb Hanson</u> Deputy	

Central Coast Regional Commission
701 Ocean Street, Room 310
Santa Cruz, CA 95060

RECEIVED
JUN 23 1980

Attention: Mr. J. R. Stenard
Re: Regional Coastal Commission
Permit Application No. P-79-117

Gentlemen:

We are extremely sorry that we violated certain of the conditions pertaining to your permit for the construction of the 21 unit condominium project known as Trestle Beach. We assure you that the violations on our part were inadvertent, and were due to our late entry into the project as managing partner, after the permits had been acquired from your commission and the county, and the fact that we did not have the background as to the negotiations that had taken place. We have not worked with the Coastal Commission before, and failed to appreciate the distinctions between providing data to the county on the one hand and the Commission on the other. We trust you realize that we did not wilfully neglect your conditions, but rather made some assumptions that may not have been entirely accurate. Our grading contractor, Granite Construction Company, Watsonville, informed the county prior to commencement of the work, but did not notify your office. We were not aware of the need to notify you before commencement, and assumed that everything was being done in accordance with all permits.

We intend to work closely and in good faith with your staff, beginning with our meeting on June 20, 1980, at which time you reviewed with us the various conditions precedent to your permit.

Our understanding of the status of the conditions as of the conclusion of the meeting and our subsequent on-site inspection is as follows (references refer to the conditions on pages 7 thru 10 of the Executive Directors Recommendations attached to the Permit):

1. Minor variations to the building and parking structures as occur between your last site plan and the final site plan that may exist will be discussed with you by Mr. Simpson, MLTW/Turnbull Associates. I asked Mr. Simpson to contact Mr. Van Beckum as soon as possible. He may already have done so by the time this letter is delivered.
2. Conditions of the PUD permit (Exhibit B) have all been met, and we will provide you with a copy of the Engineering Geology Report. We have ordered a copy of this report, and it should be available for delivery to you no later than June 24. We were unable to locate the county copy, although it had been filed with them.
- 3A. The annexation to the La Selva Fire Prot. District had been approved and we shall remit to them the amount of \$30,000 prior to June 30, 1980. A copy of the letter from the District requesting the money has been given to you.
- 3B. Housing authority: You agreed to review whether our offer to provide low income housing on another of our projects in Aptos Village would satisfy this condition. If not, we

Exhibit 31
CCC-05-NOV-01
CCC-05-CD-03
(King)
Page 1 of 2

LS
need to attach to. coms
What about re-located blips
- how do they fit in?

Los Banneros violate

June 27, 1980

Rec'd 6/30/80
BVB

Central Coast Regional Commission
701 Ocean St
Santa Cruz, CA 95060

Re: Permit P 79-111
Attention: Mr. William Van Beckum

Gentlemen:

Mr. Marchionna of our organization and Mr. Van Beckum spoke today about additional information and documents you want for your Monday meeting. The following items were discussed.

1. Granite Construction has a contract with us to do all the grading, paving, utility and related work on Trestle Beach Tract No. 781, per plans and specifications by MLTW/Turnbull. You have a set of these plans. I am enclosing the front page of our contract with Granite describing the scope of their work.
2. LAFCO. I am enclosing copies of the following documents:
 - a. Resolution by LAFCO authorizing proceedings to create CSA
 - b. Letter from the Director of Public Works to the County Board of Supervisors dated 5/6/80 stating that LAFCO had approved the application for establishing Trestle Beach CSA #20 and requesting the Board to accept the letter of request signed by two members of the Board, and adopt the resolution of Intention to begin the proceedings.
 - c. Copy of letter dated 5/6/80 signed by two supervisors to the Board of Supervisors requesting institution of proceedings to establish CSA #20
3. Sanitary Permit. Plans and specifications for the sanitary plant have been submitted to the County Sanitation District. A copy of the approval from this District is attached.
4. Fish and Game. Mr. Wayne Howe on 5/28/80 inspected the site and waived the requirements for a coffer dam. Messrs. Van Beckum and Strnad have each indicated that they would phone Mr. Howe to verify this.
5. A letter has been prepared by Mr. Myron Jacobs of Jacobs, Haro & Associates, Soils Engineers, regarding the tree removal in the roadways.
6. Granite Construction has estimated 91 working days for the completion of their work on the site. PG & E has informed us that they will require 4 or 5 weeks to complete the utilities once Granite has completed their work.
7. A check in the amount of \$30,000 has been made available to the La Selva Fire Protection District. They have requested that it not be

Exhibit 32
CCC-05-NOV-01
CCC-05-CD-03
(King)

delivered to them until after July 1, 1980, their new fiscal year.

8. We agree to pay the Housing Authority the amount of \$100,000 upon their request

9. A copy of the Resource Management Plan dated 9/11/79 is attached.

I believe this answers all your questions. This letter will be hand delivered to you Monday morning, at which time we hope to have a minute to discuss the contents with you, and ascertain if any additional information is required.

Very truly yours,

TRESTLE BEACH ASSOCIATES

By: 

V. R. Miller

P. S. I just spoke to the Clerk of the Board of Supervisors. The Board of Supervisors adopted the resolution creating the CSA #20 on June 17, 1980. I am attaching a copy of the resolution to this letter.



Mid Coast Engineers

Civil Engineers and Land Surveyors

801-C East Lake Avenue
Watsonville, California 95076
(408) 724-2580

Bill S. Ingram
Civil Engineer

Stanley O. Nielsen
Land Surveyor

July 21, 1980

Mr. Tony Marchiano
Trestle Beach Associates
P. O. Box 995
Aptos, CA 95003

Exhibit 33
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1

Re: Trestle Beach Subdivision

Dear Tony:

As requested, the following is in response to the Coastal Commission staff letter V-80-21, Page 3, dated July 7, 1980, Item B "Construction Disturbance Mitigation Measures".

Item B-I-A & B: In April or May, representatives of Granite Construction Company and Wayne Howe of Fish and Game met at the site and reached a mutual agreement as to the procedure to conduct the grading operation in accordance with Fish and Game Agreement, Notification No. III-109-79. Having heard no complaints, we assume the work is progressing in a satisfactory manner.

Item B-I-C/Sheets C-1 thru C-6 and Sheet G-1: indicates our drainage plans for surface runoff on the project. Bill Von Beckan of the staff was to send us a copy of their riprap for review to change our outfalls, but we have not received any drawing yet to review. The outfalls will be flagged next week.

Item B-I-D: By a copy of this letter to Granite Construction, they are directed to comply with this condition.

Item B-II: This item is in Bob Simpson's scope of work. We are forwarding a copy to Bob for this item.

If there are any other problems, please contact us.

Yours very truly,
MID-COAST ENGINEERS

BSI

Bill S. Ingram
Civil Engineer

BSI/erm

cc: Bob Williams, Granite Construction
Bob Simpson



Mid Coast Engineers

Civil Engineers and Land Surveyors

801-C East Lake Avenue
Watsonville, California 95076
(408) 724-2580

FILE COPY

Bill S. Ingram
Civil Engineer

Stanley O. Nielsen
Land Surveyor

July 21, 1980

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

Attention: Mr. Mark Eymard

Re: Trestle Beach Subdivision Improvement Plans, Sheet G-1
Service Road to Sewer Treatment Plant

Dear Mark:

As per our meeting of June 24, 1980 we are requesting the road width to be reduced from sixteen feet (16') to twelve feet (12'). The reason for this is to reduce the amount of cut and fill required, thus enabling us to save trees and vegetation that otherwise would have to be removed.

Your cooperation in this matter has been greatly appreciated and we look forward to hearing from you as soon as possible.

Yours very truly,

MID-COAST ENGINEERS


Stanley O. Nielsen
Land Surveyor

Trestle Beach Associates,
Owners

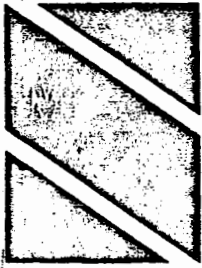
By: 

SON/erm

cc: La Selva Beach Fire Dept.
Mr. Les Strnad, Coastal Commission
Mr. George Clever, Public Works Dept.
County of Santa Cruz

Exhibit 34
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1



Mid Coast Engineers

Civil Engineers and Land Surveyors

801-C East Lake Avenue
Watsonville, California 95076
(408) 724-2580

September 25, 1980

Bill S. Ingram
Civil Engineer

Stanley O. Nielsen
Land Surveyor

FILE COPY

Granite Construction Co.
P.O. Box 900
Watsonville, CA 95076

Attention: Lon Dugger

Exhibit 35
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 1

Re: Trestle Beach Subdivision, Contract Change
Order No. 1

Dear Lon:

As requested by Mr. Les Sternod of the Regional Coastal Commission Office we are making the following changes:

- (1) Utility Road Station 1+50
Change Drop Inlet from Christy U36 Y71R 422 Grate to Santa Rosa Concrete Drop Inlet, Model 16-C4 with Standard Frame and Grate or equal as per detail attached.
- (2) Utility Road Station 9+15+
Change Drop Inlet from Christy U36 Y71R 422 Grate to Santa Rosa Concrete Drop Inlet, Model 16-C4 with Standard Frame and Grate or equal as per detail attached.
- (3) Existing Headwall at inlet end of 24 inch R.C.P. under railroad tracks North of Building No. 8. Construct sacked concrete weir as per detail attached.
- (4) Utility Road Station 3+50
Place 25+ sacks concrete rip-rap slope protection at outlet end of 24" CMP as directed by the engineer.

Please contact Tony Marchionna of Milmar Development Company as to the additional cost of the above items, and thank you for your attention to this matter.

Very truly yours,

MID-COAST ENGINEERS

Bill S. Ingram

Bill S. Ingram
Civil Engineer

BSI/erm
Attachment
cc: Les Sternod
Tony Marchionna
Dick Jansen

DEPARTMENT OF
PUBLIC WORKS

COUNTY OF SANTA CRUZ

GOVERNMENTAL CENTER

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060

D.A. PORATH (408) 425-2032
DIRECTOR OF PUBLIC WORKS

December 1, 1980

PHIL W. SANFILIPPO (408) 425-2133
ASST. DIRECTOR ENGINEERINGJOHN A. FANTHAM (408) 425-2481
ASST. DIRECTOR OPERATIONS

FILE COPY

SANTA CRUZ COUNTY BOARD OF SUPERVISORS
701 Ocean Street
Santa Cruz, California 95060

Board of Supervisors	After Board Action	No.
APPROVED	counts moved for	
County of Santa Cruz	Director	/
Date 12-9-80	O.A.O.	/
By <i>[Signature]</i>	Co. Counsel	/
Deputy Clerk of the Board	Public Works	/
	Recorder	/

SUBJECT: AMENDED MAP OF TRESTLE BEACH, TRACT 781
LA SELVA BEACH AREA

P-N O

Members of the Board:

Submitted herewith is an amended final map of Trestle Beach, Tract 781, containing four sheets. The original final map for this project was approved by your Board on November 6, 1979. This map is being resubmitted to reflect minor changes in the locations of the townhouse lots from those shown on the original map. This map has been duly checked and processed by this department and is now submitted for your consideration.

When your Board considered this project in 1979, the Subdivision Agreement and financial securities were submitted and approved.

The Planning Department has advised us that this subdivision complies with the tentative map requirements.

The 1980/81 taxes have been paid in full.

It is recommended that the Board of Supervisors take the following action:

1. Approve the amended final map of Trestle Beach, Tract 781.

Exhibit 36
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 4

FILED *December 9, 1980*
GEORGE T. NEWELL, COUNTY
ADMINISTRATIVE OFFICER AND EX-OFFICIO
CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SANTA CRUZ, CALIFORNIA
BY *[Signature]* DEPUTY

27

2. Direct the Clerk of the Board of Supervisors to execute the Certificate of the Board of Supervisors and submit the final map to the County Recorder for recording.

Yours truly,

D. A. PORATH
County Surveyor

By:

George H. Clever, Jr.
George H. Clever, Jr.
Deputy County Surveyor

GHC:mla

Attachment

cc: Planning Department
Mid-Coast Engineers

Exhibit 36
CCC-05-NOV-01
CCC-05-CD-03
(King)

RECOMMENDED FOR APPROVAL:

Page 2 of 4

G.T. Newell
County Administrative Officer



12/12

No.	Routing Date	Info	Copy	Atch	Sign.
1	Director		✓		DP
	Asst. Dir. Oper.				
	Drainage				
	Equip.				
	Road Maint.				
	Sanitation				
	Traffic				
	Permits				
2	Asst. Dir. Eng.		✓		PWS
	Design				
3	Surveyor		✓		gh
	Construction				
	San. Eng.				
	Drainage				
	Real Property				
	Business Manager				
R 4	Secretary		✓		DP

COUNTY OF SANTA CRUZ

INTER-OFFICE CORRESPONDENCE

FILE COPY

Date: December 10, 1980

To : Asst. Director-Engineering Phil Sanfilippo

From: Director of Public Works Don Porath

Subject: AMENDED MAP OF TRESTLE BEACH, TRACT #781
Board of Supervisors Agenda Item #27 - 12/9/80

At their meeting on December 9, 1980, the Board of Supervisors, on a vote of 4 to 1 (Patton NO), approved the amended final map of Trestle Beach, Tract #781.

DP/ra

Exhibit 36
CCC-05-NOV-01
CCC-05-CD-03
(King)

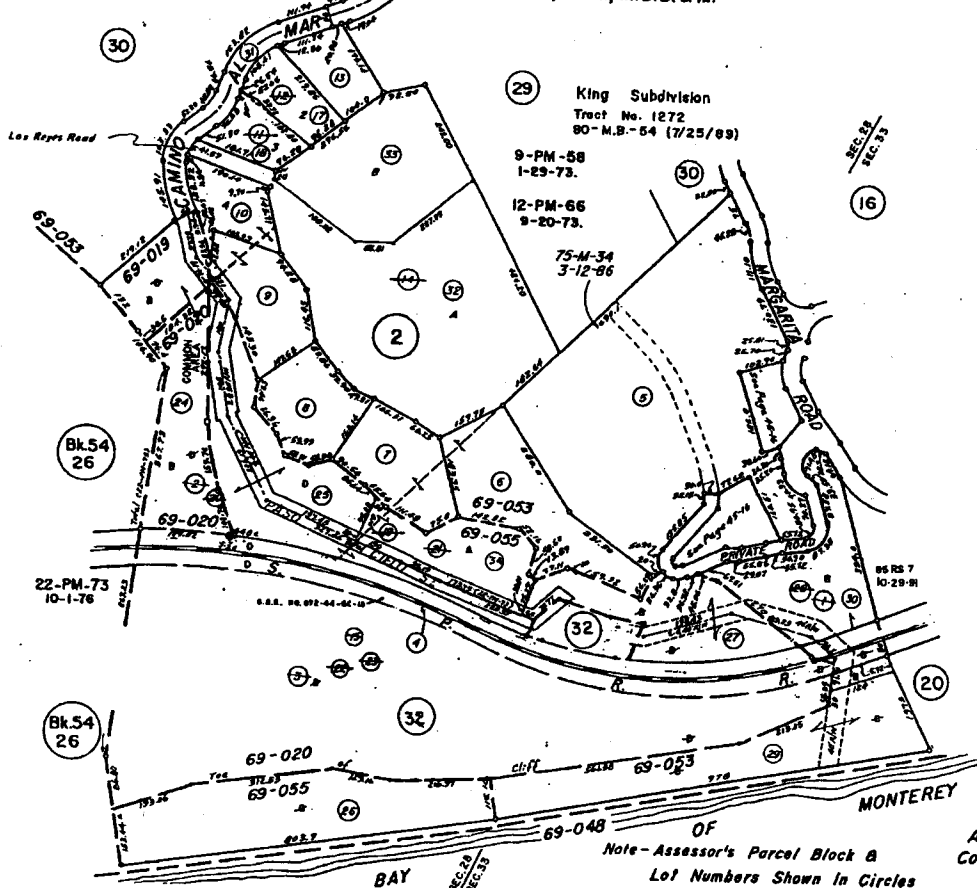
FOR TAX PURPOSES ONLY

Scanned

SAN ANDREAS RANCHO
POR. SEC. 28 & 33, T.11S., R.1E., M.D.B. & M.

Tax Area Code
69-020
69-053
69-055

45-0.



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

Assessor's Map No. 45-02
County of Santa Cruz, Calif.
June 1974

Exhibit 36
CCC-05-NOV-01
CCC-05-CD-03
(King)

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

FILE COPY

Date: December 10, 1980

To : Asst. Director-Engineering Phil Sanfilippo

From: Director of Public Works Don Porath

Subject: AMENDED MAP OF TRESTLE BEACH, TRACT #781
Board of Supervisors Agenda Item #27 - 12/9/80

At their meeting on December 9, 1980, the Board of Supervisors, on a vote of 4 to 1 (Patton NO), approved the amended final map of Trestle Beach, Tract #781.

DP/ra

Exhibit 37
CCC-05-NOV-01
CCC-05-CD-03
(King)

11A

(EV. 9-70)

TO: Larry Musgrave

SUBJECT:

DATE

4-13-83

Landscaping Improvement
Trestle Beach - King P-79-11

Les Strnad has reviewed your submittal and has determined that a formal amendment is not required. Landscaping plan conforms to previous Coastal Permit approval. Enclosed is the \$25⁰⁰ fee. You may commence work as described in your letter of April 11, 1983.

RETURN TO	SIGNED Kurtis Terry	ADDRESS 701 Ocean St Rm 310	PHONE 426-7390
R			
E			
P			
L			
Y			

SIGNED	ADDRESS	DATE

SEND PARTS 1 AND 3 INTACT — PART 3 WILL BE RETURNED WITH REPLY

Exhibit 38
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 7

SHORELINE LANDSCAPE DESIGN (lic. no.387031)

Lawrence Musgrave
9262 Newell Creek Road
Ben Lomond, Ca. 95005

NESTLE BEACH SUBDIVISION: PROPOSED LANDSCAPE IMPROVEMENT

The immediate areas in front of existing units have been landscaped according to approved plans. This proposed landscape plan is a supplementation and completion of the original design. No grade changes are intended - nor further removal of existing vegetation.

FORMAL PLANTING AREAS:

These landscaped areas are intended as visual accent points which blend into the broader landscape vista. A typical example would include: three (1 to 2 ton) granite boulders (indigenous to the area) with groupings of Echium Fastuosum, Limonium Perezii, Coreopsis Verticillata, Ceanothus and Marguerite - with Arctostaphylos 'Emerald Carpet' and hybrid clump gazania. This type of planting would be concentrated around the entrance areas of the project - perhaps focusing attention to a formal name sign.

BLUFF AREA PLANTING:

Baccharis 'TwinPeaks' groundcover will be planted from flats 12" o.c. between the back of existing units and the natural vegetation growing at the edge of the bluff. This planting will both aid erosion control and aesthetically improve the ocean side of the property with a native look. Dodonea shrubs are to place strategically near units to aid in privacy. Bluff side irrigation will be supplied from the hose bibs of existing units.

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APR 11 1983

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COASTAL COMMISSION
CENTRAL COAST DISTRICT

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PLANT LIST

TREES

BOTANICAL NAME	COMMON NAME	SIZE	QUAN.
BETULA VERRUCOSA	WHITE BIRCH	15 GAL	11
CUPRESSUS MACROCARPA	MONTEREY CYPRESS	15 GAL	10
EUCALYPTUS FICIFOLIA	ROSEA	15 GAL	5
MAGNOLIA GRANDIFLORA	ST. MARY	15 GAL	3
METROSIDEROS EXCELSUS	NEW ZEALAND CHRISTMAS	15 GAL	4
MYOPORUM LAETUM		24" BOX	3
PINUS RADIATA	MONTEREY PINE	15 GAL	6

SHRUBS

CEANOTHUS CONCHA		5 GAL	10
CEANOTHUS GRISEUS HORIZONTALIS	YANKEE POINT	1 GAL	200
CHRYSANTHEMUM FRUTESCENS	MARGUERITE DAISIES	5 GAL	24
CORZOPSIS VERTICILLATA		1 GAL	12
DODONAEA VISCOSEA	PURPLE HOP BUSH	5 GAL	50
ECHINUM FASTUOSUM	PRIDE OF MADEIRA	5 GAL	30
EURIOPS PECTINATUS		45 GAL	24
LIMONIUM PEREZII	LIMONIUM	1 GAL	15
RHODODENDRON SP.	AZALEA	5 GAL	12
JUNIPERUS CALIFORNICENSIS	GOLD COAST JUNIPER	5 GAL	

GROUND COVER

ARCTOSTAPHYLOS	EMERALD CARPET	FLATS	
BACCHARIS PILULARIS	TWIN PEAKS	FLATS	
GAZANIA HYBRID CLUMP	AZTEC QUEEN, MOONGLORY	FLATS	

VINES

BOUGAINVILLEA	SAN DIEGO RED	5 GAL	2
JASMINUM POLYANTHUM		5 GAL	2

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CCC-05-NOV-01
CCC-05-CD-03
(King)

65'4" included in 5'1'17" app'd add'l 40' panel

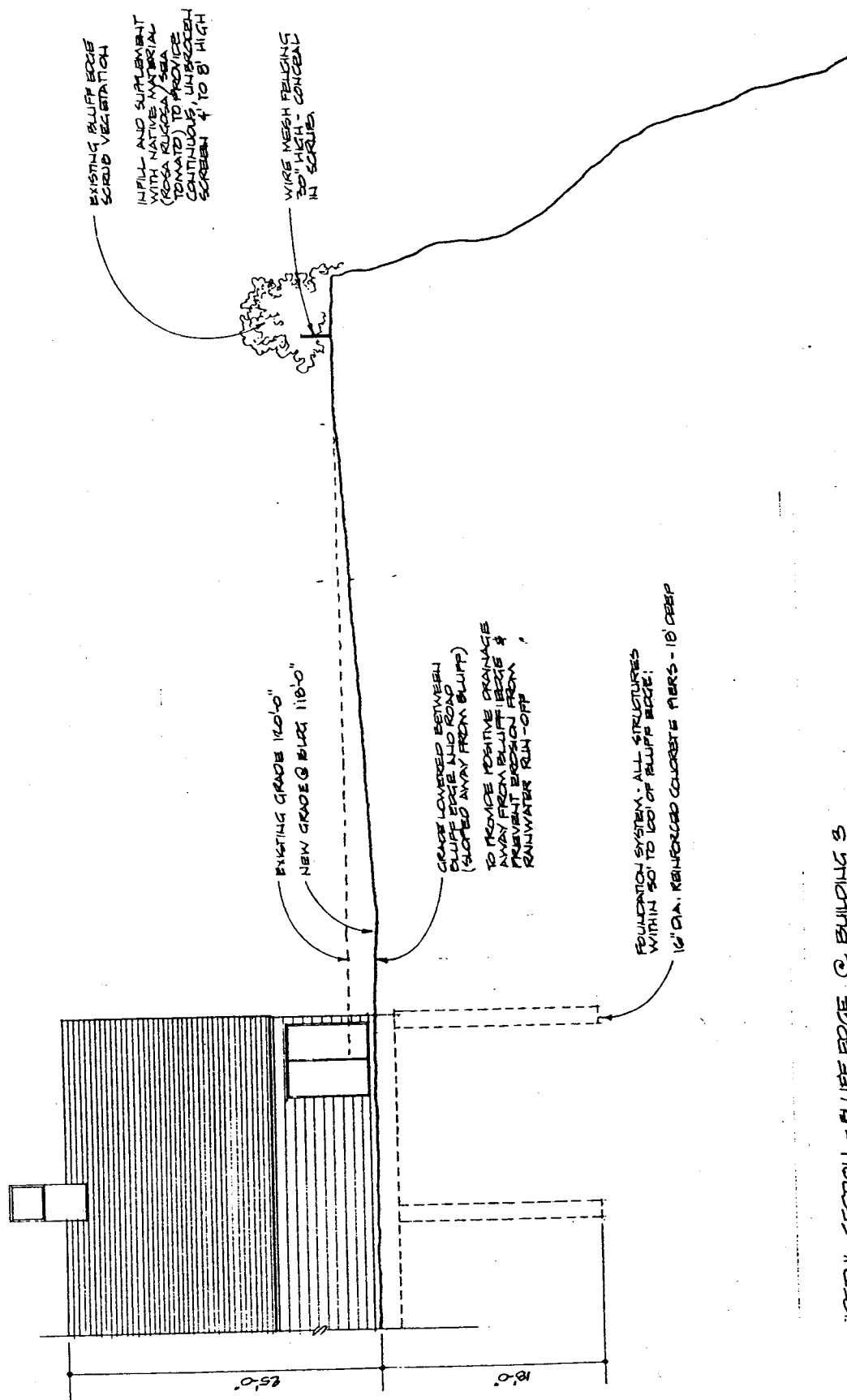


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CCC-05-NOV-01
CCC-05-CD-03
(King)

LA SELVA IMPROVEMENT ASSOCIATION

COMMUNITY CLUBHOUSE

314 ESTRELLA AVENUE

LA SELVA BEACH • WATSONVILLE

SANTA CRUZ COUNTY
CALIFORNIA

BIB
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FILE
print Tressle Beach
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SEP 10 1979
September 3, 1979
CENTRAL COAST COMM.
REGION III

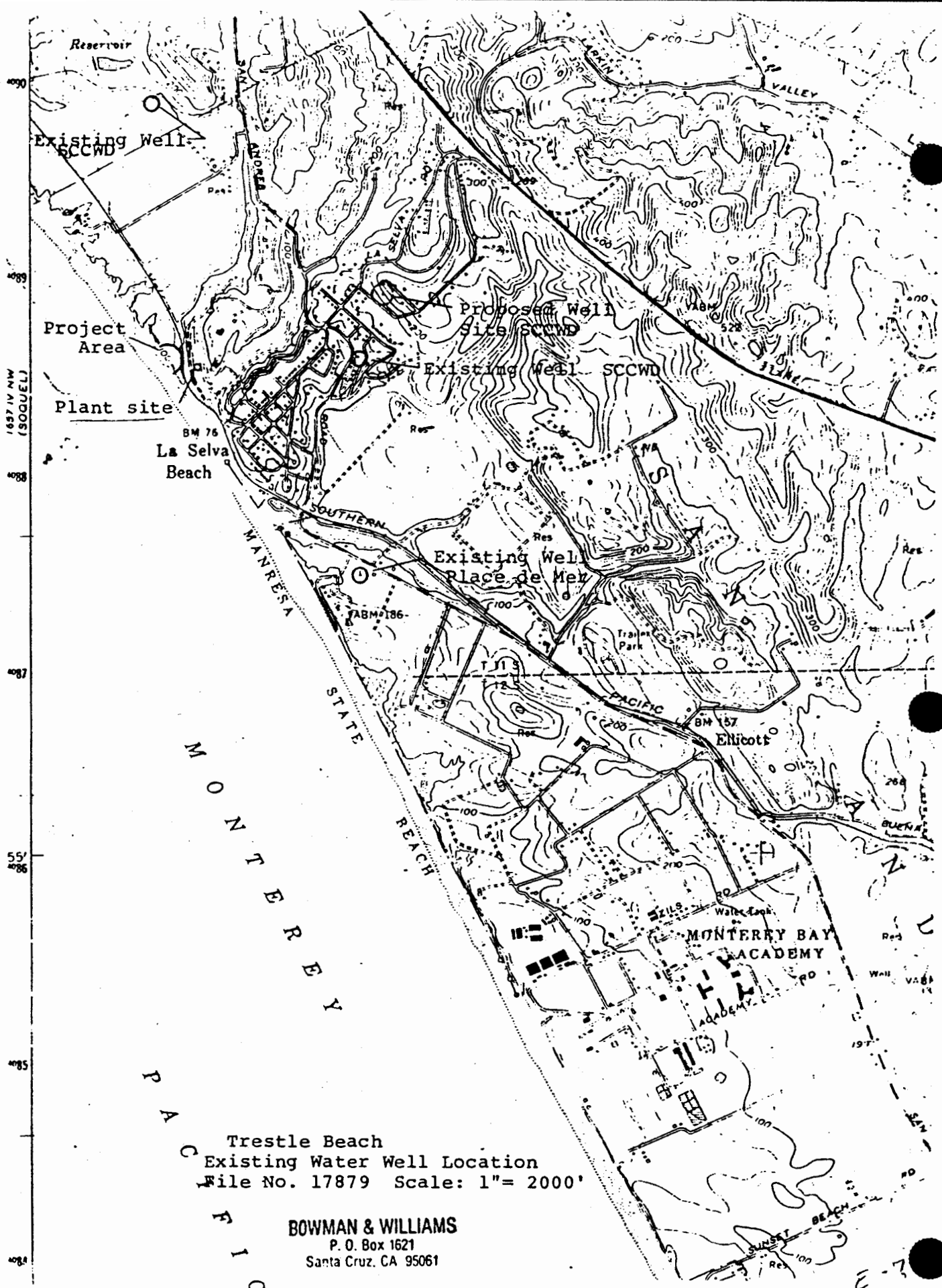
Honorable Commissioners of the Coastal Commission:

On behalf of the La Selva Beach Improvement Association I would like to extend our gratitude and appreciation of the stance you took with regards to the Dr. King Tressle Beach Project. It was apparent that you took into strong consideration the many cares and concerns that the neighboring communities and agricultural lands had and acted accordingly. Your final decision on the project brought a great deal of relief to the people in this community who have been following the development of this project for 2 years....So glad it is ended and has turned out beneficial to most everyone concerned.

Keep up your good work and Thanks again.

Judith A. Leguillon

Judith A. Leguillon,
President,
La Selva Beach Improvement Association



Trestle Beach
Existing Water Well Location
File No. 17879 Scale: 1" = 2000'

BOWMAN & WILLIAMS
P. O. Box 1621
Santa Cruz, CA 95061

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DEPARTMENT OF REAL ESTATE
OF THE
STATE OF CALIFORNIA

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

In the matter of the application of

TRESTLE BEACH ASSOCIATES,
A General Partnership

for a Final Subdivision Public Report on

AMENDED MAP
TRACT NO. 781
TRESTLE BEACH
SANTA CRUZ COUNTY, CALIFORNIA

PLANNED DEVELOPMENT
FINAL SUBDIVISION
PUBLIC REPORT

FILE NO. 017,670 SF L00
ISSUED: April 8, 1981
EXPIRES: April 7, 1986

This Report Is Not a Recommendation or Endorsement of the Subdivision
But Is Informative Only.

Buyer or Lessee Must Sign That He Has Received and Read This Report.

This Report Expires on Date Shown Above. If There Has Been a Material Change in the Offering, an Amended Public Report Must Be Obtained and Used in Lieu of This Report.

Section 35700 of the California Health and Safety Code provides that the practice of discrimination because of race, color, religion, sex, marital status, national origin or ancestry in housing accommodations is against public policy.

Under Section 125.6 of the California Business and Professions Code, California real estate licensees are subject to disciplinary action by the Real Estate Commissioner if they make any discrimination, distinction or restriction in negotiating a sale or lease of real property because of the race, color, sex, religion, ancestry or national origin of the prospective buyer. If any prospective buyer or lessee believes that a licensee is guilty of such conduct, he or she should contact the Department of Real Estate.

READ THE ENTIRE REPORT on the following pages before contracting to purchase a lot in this SUBDIVISION.

COMMON INTEREST SUBDIVISION GENERAL INFORMATION

The project described in the attached Subdivision Public Report is known as a common-interest subdivision. Read the Public Report carefully for more information about the type of subdivision. The subdivision includes common areas and facilities which will be owned and/or operated by an owners' association. Purchase of a lot or unit automatically entitles and obligates you as a member of the association and, in most cases, includes a beneficial interest in the areas and facilities. Since membership in the association is mandatory, you should be aware of the following information before you purchase:

Your ownership in this development and your rights and remedies as a member of its association will be controlled by governing instruments which generally include a Declaration of Restrictions (also known as CC&R's), Articles of Incorporation (or association) and Bylaws. The provisions of these documents are intended to be, and in most cases are, enforceable in a court of law. Study these documents carefully before entering into a contract to purchase a subdivision interest.

In order to provide funds for operation and maintenance of the common facilities, the association will levy assessments against your lot/unit. If you are delinquent in the payment of assessments, the association may enforce payment through court proceedings or your lot/unit may be liened and sold through the exercise of a power of sale. The anticipated income and expenses of the association, including the amount that you may expect to pay through assessments, are outlined in the proposed budget. Ask to see a copy of the budget if the subdivider has not already made it available for your examination.

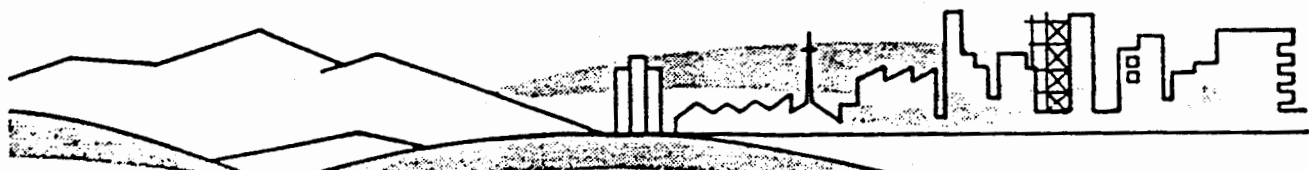
A homeowner association provides a vehicle for the ownership and use of recreational and other common facilities which were designed to attract you to buy in this subdivision. The association also provides a means to accomplish architectural control and to provide a base for homeowner interaction on a variety of issues. The purchaser of an interest in a common-interest subdivision should contemplate active participation in the affairs of the association. He or she should be willing to serve on the board of directors or on committees created by the

board. In short, "they" in a common-interest subdivision is "you". Unless you serve as a member of the governing board or on a committee appointed by the board, your control of the operation of the common areas and facilities is limited to your vote as a member of the association. There are actions that can be taken by the governing body without a vote of the members of the association which can have a significant impact upon the quality of life for association members.

Until there is a sufficient number of purchasers of lots or units in a common-interest subdivision to elect a majority of the governing body, it is likely that the subdivider will effectively control the affairs of the association. It is frequently necessary and equitable that the subdivider do so during the early stages of development. It is vitally important to the owners of individual subdivision interests that the transition from subdivider to resident-owner control be accomplished in an orderly manner and in a spirit of cooperation.

When contemplating the purchase of a dwelling in a common-interest subdivision, you should consider factors beyond the attractiveness of the dwelling units themselves. Study the governing instruments and give careful thought to whether you will be able to exist happily in an atmosphere of cooperative living where the interests of the group must be taken into account as well as the interests of the individual. Remember that managing a common-interest subdivision is very much like governing a small community . . . the management can serve you well, but you will have to work for its success.

DRE



SPECIAL NOTES

IF YOU HAVE RECEIVED A PRELIMINARY PUBLIC REPORT FOR THIS SUBDIVISION, YOU ARE ADVISED TO CAREFULLY READ THIS FINAL PUBLIC REPORT SINCE IT CONTAINS INFORMATION THAT IS MORE CURRENT AND PROBABLY DIFFERENT THAN THAT INCLUDED IN THE PRELIMINARY REPORT.

GEOLOGIC CONDITIONS: THE UNIFORM BUILDING CODE, CHAPTER 70, PROVIDES FOR LOCAL BUILDING OFFICIALS TO EXERCISE PREVENTIVE MEASURES DURING GRADING TO ELIMINATE OR MINIMIZE DAMAGE FROM GEOLOGIC HAZARDS SUCH AS LANDSLIDES, FAULT MOVEMENTS, EARTHQUAKE SHAKING, RAPID EROSION OR SUBSIDENCE. THIS SUBDIVISION IS LOCATED IN AN AREA WHERE SOME OF THESE HAZARDS MAY EXIST. SOME CALIFORNIA COUNTIES AND CITIES HAVE ADOPTED ORDINANCES THAT MAY OR MAY NOT BE AS EFFECTIVE IN THE CONTROL OF GRADING AND SITE PREPARATION.

PURCHASERS MAY DISCUSS WITH THE DEVELOPER, THE DEVELOPER'S ENGINEER, THE ENGINEERING GEOLOGIST AND THE LOCAL BUILDING OFFICIALS TO DETERMINE IF THE ABOVE-MENTIONED HAZARDS HAVE BEEN CONSIDERED AND IF THERE HAS BEEN ADEQUATE COMPLIANCE WITH CHAPTER 70 OR AN EQUIVALENT OR MORE STRINGENT GRADING ORDINANCE DURING THE CONSTRUCTION OF THIS SUBDIVISION.

THE SOILS REPORT INDICATES THAT THE ACTIVE SAN ANDREAS FAULT LIES APPROXIMATELY 10 MILES EAST OF THE SUBDIVISION, AND THE ACTIVE PALO - COLORADO - SAN GREGORIO FAULT LIES APPROXIMATELY 17 MILES WEST. THE REPORT ALSO STATES THAT ALTHOUGH THE SITE LIES NEAR OCEAN BLUFFS, THE TERRACE DEPOSITS IN THE AREA ARE NOT UNUSUALLY SUSCEPTIBLE TO LIQUEFACTION INDUCED BY SEISMIC SHAKING.

THIS REPORT COVERS ONLY LOTS A, B, AND C OF THE RECORDED SUBDIVISION MAP.

THIS PROJECT IS A COMMON-INTEREST SUBDIVISION OF THE TYPE REFERRED TO AS A "PLANNED DEVELOPMENT". IT INCLUDES COMMON AREAS AND COMMON FACILITIES WHICH WILL BE MAINTAINED BY AN UNINCORPORATED OWNERS ASSOCIATION.

THE ASSOCIATION HAS THE RIGHT TO LEVY ASSESSMENTS AGAINST YOU FOR MAINTENANCE OF THE COMMON AREAS AND OTHER PURPOSES. YOUR CONTROL OF OPERATIONS AND EXPENSES IS LIMITED TO THE RIGHT OF YOUR ELECTED REPRESENTATIVES TO VOTE ON CERTAIN PROVISIONS AT MEETINGS.

SINCE THE COMMON PROPERTY AND FACILITIES WILL BE MAINTAINED BY AN ASSOCIATION OF HOMEOWNERS, IT IS ESSENTIAL THAT THIS ASSOCIATION BE FORMED EARLY AND PROPERLY. THE HOMEOWNER ASSOCIATION MUST HOLD THE FIRST ELECTION OF THE ASSOCIATION'S GOVERNING BODY WITHIN 45 DAYS AFTER 51% SELL OUT OF THE INTERESTS AUTHORIZED FOR SALE UNDER THE FIRST PUBLIC REPORT FOR THE SUBDIVISION; OR, IN ANY EVENT, NO LATER THAN SIX MONTHS AFTER CLOSING THE FIRST SALE (REGULATIONS 2792.17 AND 2792.19); AND PREPARE AND DISTRIBUTE TO ALL HOMEOWNERS A BALANCE SHEET AND INCOME STATEMENT (REGULATION 2792.22).

THE DEVELOPER ESTIMATES ALL COMMON FACILITIES AND THE RESIDENTIAL STRUCTURES IN THE TOTAL PROJECT WILL BE COMPLETED BY APPROXIMATELY JULY 1, 1981.

THE SUBDIVIDER ADVISES THAT NO ESCROWS WILL CLOSE UNTIL ALL COMMON FACILITIES, IMPROVEMENTS, LANDSCAPING, AND ALL STRUCTURES HAVE BEEN COMPLETED; A NOTICE OF COMPLETION HAS BEEN FILED AND ALL CLAIM OF LIENS HAS EXPIRED OR A TITLE POLICY ISSUED TO EACH PURCHASER CONTAINING AN ENDORSEMENT AGAINST ALL CLAIM OF LIENS. (SECTION 11018.5 OF THE BUSINESS AND PROFESSIONS CODE).

THE SUBDIVIDER MUST PAY ALL THE MONTHLY ASSESSMENTS WHICH HE OWES TO THE HOMEOWNERS ASSOCIATION FOR UNSOLD LOTS — THE PAYMENTS MUST COMMENCE ON THE FIRST DAY OF THE MONTH AFTER SUBDIVIDER CLOSES FIRST SALE. (REGULATIONS 2792.9 AND 2792.16).

THE SUBDIVIDER HAS STATED THAT HE WILL PROVIDE YOU WITH A COPY OF THE ARTICLES OF ASSOCIATION, RESTRICTIONS AND BYLAWS, BY POSTING THEM IN A PROMINENT LOCATION IN THE SALES OFFICE AND/OR FURNISHING YOU COPIES PRIOR TO CLOSE OF ESCROW. THESE DOCUMENTS CONTAIN NUMEROUS MATERIAL PROVISIONS THAT SUBSTANTIALLY AFFECT AND CONTROL YOUR RIGHTS, PRIVILEGES, USE, OBLIGATIONS AND COSTS OF MAINTENANCE AND OPERATION. YOU SHOULD READ AND UNDERSTAND THESE DOCUMENTS BEFORE YOU OBLIGATE YOURSELF TO PURCHASE A LOT.

THE SUBDIVIDER STATED HE WILL FURNISH THE CURRENT BOARD OF OFFICERS OF THE HOMEOWNERS ASSOCIATION THE BUILDING PLANS TO INCLUDE DIAGRAMS OF LOCATION OF MAJOR COMPONENTS, UTILITIES, AND RELATED DATA.

THESE ITEMS WILL BE IMPORTANT TO THE BOARD OF OFFICERS OR THOSE WHO WILL MANAGE OR REPAIR COMMON FACILITIES IN THIS SUBDIVISION.

THE SUBDIVIDER OF THIS PROJECT HAS INDICATED THAT HE INTENDS TO SELL ALL OF THE LOTS IN THIS PROJECT. HOWEVER, ANY OWNER, INCLUDING THE SUBDIVIDER, HAS A LEGAL RIGHT TO LEASE THE LOTS. PROSPECTIVE PURCHASERS SHOULD CONSIDER THE POSSIBLE EFFECTS ON THE DEVELOPMENT IF A SUBSTANTIAL PORTION OF THE LOTS BECOME RENTAL PROPERTIES.

IF YOU PURCHASE FIVE OR MORE SUBDIVISION INTERESTS (LOTS/UNITS, OR MEMBERSHIPS) FROM THE SUBDIVIDER, HE/SHE IS REQUIRED TO NOTIFY THE REAL ESTATE COMMISSIONER OF THE SALE. IF YOU INTEND TO SELL YOUR INTERESTS OR LEASE THEM FOR MORE THAN ONE YEAR, YOU ARE REQUIRED TO OBTAIN AN AMENDED SUBDIVISION PUBLIC REPORT BEFORE YOU CAN OFFER THEM FOR SALE OR LEASE.

WARNING: WHEN YOU SELL YOUR LOT TO SOMEONE ELSE, YOU MUST GIVE THAT PERSON A COPY OF THE DECLARATION OF RESTRICTIONS, ARTICLES OF ASSOCIATION, AND OF THE BYLAWS.

NOTE: IF YOU FORGET TO DO THIS, IT MAY COST YOU A PENALTY OF \$500.00 — PLUS ATTORNEY'S FEES AND DAMAGES (SEE CIVIL CODE SECTION 1360).

THE SUBDIVIDER ADVISES THAT A RAILROAD RIGHT OF WAY RUNS BETWEEN THE PARCELS A, B AND C IN THE PROJECT (SUBDIVIDER WILL CONSTRUCT AUTOMATIC WARNING DEVICES TOGETHER WITH ACTUATING AND OPERATING CIRCUITS), ALSO A DRAINAGE SCALE CROSSES ONE PARCEL AND THE PROJECT IS NEAR A CLIFF BLUFF OVER THE BEACH, ALL OF WHICH COULD BE A POSSIBLE HAZARD.

INTERESTS TO BE CONVEYED: You will receive fee title to a specified lot, together with an undivided fractional fee interest, in Parcel A, as a tenant in common area together with a membership in the Trestle Beach Homeowners' Association and rights to use the common area, Parcels B and C.

LOCATION AND SIZE: This subdivision is located in Santa Cruz County at Camino Al Mar near Barranco Road approximately four miles northwest of Watsonville.

This is a subdivision which consists of approximately 9.7 acres divided into 21 lots in addition to the common areas which consists of an undivided fractional interest in Parcel A and Parcels B and C, owned by the Homeowners' Association, on which community facilities consisting of a car barn, open parking, a mailroom and recreational building, landscaping and sprinkler system, private roads, and pathways will be constructed.

MANAGEMENT AND OPERATION: The Trestle Beach Homeowners' Association, which you must join, manages and operates the common areas in accordance with the Restrictions, Articles of Association and the Bylaws.

Also the Los Barrancos de Aptos Homes Association, which you must join, manages and operates its common areas in accordance with its Restrictions, Articles of Incorporation and Bylaws.

MAINTENANCE AND OPERATIONAL EXPENSES: The subdivider has submitted a budget for the maintenance and operation of the common areas and for long-term reserves. This budget was reviewed by the Department of Real Estate in January, 1981. You should obtain a copy of this budget from the subdivider. Under this budget, the monthly assessment against each subdivision unit is \$75.00 of which \$22.84 is a monthly contribution to long-term reserves and is not to be used to pay for current operating expenses.

IF THE BUDGET FURNISHED TO YOU BY THE DEVELOPER SHOWS A MONTHLY ASSESSMENT FIGURE WHICH VARIES 10% OR MORE FROM THE ASSESSMENT AMOUNT SHOWN IN THIS PUBLIC REPORT, YOU SHOULD CONTACT THE DEPARTMENT OF REAL ESTATE BEFORE ENTERING INTO AN AGREEMENT TO PURCHASE.

The Los Barrancos de Aptos Homes Association advises that the calendar 1981 dues are \$450.00 per lot. The subdivider's title company advises that these dues are to be paid directly to the Los Barrancos de Aptos Homes Association by the individual Trestle Beach lot owners, and are not paid to or collected by the Trestle Beach Homeowners' Association.

These associations may increase or decrease assessments at any time in accordance with the procedures prescribed in their respective CC&R's or Bylaws. In considering the advisability of a decrease (or a smaller increase) in assessments, care should be taken not to eliminate amounts attributable to reserves for replacement or major maintenance.

THE BUDGET INFORMATION INCLUDED IN THIS PUBLIC REPORT IS APPLICABLE AS OF THE DATE OF BUDGET REVIEW AS SHOWN ABOVE. EXPENSES OF OPERATION ARE DIFFICULT TO PREDICT ACCURATELY AND EVEN IF ACCURATELY ESTIMATED INITIALLY, MOST EXPENSES INCREASE WITH THE AGE OF FACILITIES AND WITH INCREASES IN THE COST OF LIVING.

Monthly assessments will commence on all lots on the first day of the month following the closing of the first sale of a lot. From that time, the subdivider is required to pay the association a monthly assessment for each lot which he owns.

The remedies available to the association against owners who are delinquent in the payment of assessments are set forth in the CC&R's. These remedies are available against the subdivider as well as against other owners.

The subdivider has posted a bond, as partial security for his obligation to pay these assessments. The governing body of the association should assure itself that the subdivider has satisfied his obligations to the association with respect to the payment of assessments before agreeing to a release or exoneration of the security.

TITLE: A title report shows title, among other things, to be subject to:

An agreement affecting said land for the purposes stated herein, upon the terms, Covenants and Conditions referred to therein, between the parties named herein

For : Rights, duties and obligations now and in the future between John J. King, Julia D. King, Lewis E. Hanchett Jr., and Los Barrancos de Aptos Homeowners Association

Dated : April 9, 1980

Executed By : John J. King, et al

Recorded : July 28, 1980 in Book 3218 Page 545 Official Records.

EASEMENTS: Easements for utilities, rights of way, pedestrian, equestrian, and other purposes are shown on the Title Report and Subdivision Map recorded in the Office of the Santa Cruz County Recorder, Book 70 of Maps, at Page 4.

An easement in favor of the Santa Cruz Railroad Company is Recorded in Book 27 of Deeds, Page 554, Santa Cruz County.

Easements are recorded in favor of Burghard, Book 232, Page 355 of Official Records; in favor of Bestor, Book 1630, Page 221 of Official Records. Santa Cruz County.

The map of said tract has irrevocably dedicated for public use Parcel "B" for roadway, public utility, pedestrian and equestrian purposes to become effective at such time as the roads in the Los Barrancos Subdivision become public.

RESTRICTIONS: This subdivision is subject to Restrictions recorded in the Office of the Santa Cruz County Recorder, Book 1637, Page 657 thru 682, Amended by a document recorded May 20, 1980, Instrument No. 22133.

These Restrictions are governed by the Los Barrancos de Aptos Homes Association.

Vehicular access to public roads will lie across the common area of Los Barrancos de Aptos. Members of Trestle Beach Homeowners' Association are entitled to use the following Los Barrancos de Aptos common facilities: tennis court, swimming pool and cabana. In accordance with said Restrictions you will be a Class B member and will have the rights and obligations thereof, including the payment of assessments.

FOR INFORMATION AS TO YOUR OBLIGATIONS AND RIGHTS, YOU SHOULD READ THE RESTRICTIONS. THE SUBDIVIDER SHOULD MAKE THEM AVAILABLE TO YOU.

This subdivision is also subject to Restrictions recorded in the Office of the Santa Cruz County Recorder, Book 3283, at Page 523 on January 8, 1981 as Instrument Number 916.

These Restrictions are governed by the Trestle Beach Homeowners' Association, which include, among other provisions, the following:

Annexation of Additional Property. It is the intent of Declarant and Declarant's predecessor(s) to develop the properties contained in Exhibits "A" and "B". In furtherance of that intent, additional property may be annexed to the Project at

any time upon the vote or written consent of two thirds of each class of members. If the additional portion of any residential property that is annexed under this subsection to the Association is the real property contained within Exhibit "B" there shall be no admission or entrance fee charged for such annexation. This provision cannot be amended.

Assessments for Los Barrancos De Antos Homes Association. The Declarant, for each Lot owned within the properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay assessments to the Los Barrancos De Aptos Homes Association pursuant to the Agreement dated April 9, 1980, referred to in Article II, 2 and the Declaration of Covenants and Restrictions, Articles of Incorporation and Bylaws of the Los Barrancos De Aptos Homes Association.

Short-Term Rentals. Daily rentals of Lots are precluded. "Short-Term Rental" shall be deemed to mean any rental for a period of less than one year. Each Lot owner shall be required to enter into written lease agreements with any tenants and to provide copies of such lease agreements to the Board of the Association prior to the time that the prospective tenant is allowed to take possession of the property or prior to any sub-lease agreement.

FOR INFORMATION AS TO YOUR OBLIGATIONS AND RIGHTS, YOU SHOULD READ THE RESTRICTIONS. THE SUBDIVIDER SHOULD MAKE THEM AVAILABLE TO YOU.

USES AND ZONING: The subdivision is zoned for Residential purposes. The area to the north is zoned agricultural. La Selva Beach and Margarita Road lie south of the site.

This subdivision is located within the Coastal Zone and has obtained the appropriate permit from the Central Coast Regional Commission.

The map of said tract contains the following note:

The subdividers and purchasers of this property acknowledge the fact that this land is adjacent to property utilized for agricultural purposes, and recognize the inconvenience or discomfort which may arise from the use of agricultural chemicals, including herbicides, pesticides, and fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning, and harvesting which occasionally generate dust, smoke, noise, and odor.

TAXES: The maximum amount of any tax on real property that can be collected annually by counties is 1% of the full cash value of the property. With the addition of interest and redemption charges on any indebtedness, approved by voters prior to July 1, 1978, the total property tax rate in most counties is approximately 1.25% of the full cash value.

For the purchaser of a lot or unit in this subdivision, the "full cash value" of the lot or unit will be the valuation, as reflected on the tax roll, determined by the county assessor as of the date of purchase of the lot or unit or as of the date of completion of an improvement on the lot if that occurs after the date of purchase.

CONDITIONS OF SALE: If your purchase involves financing, a form of deed of trust and note will be used. These documents may contain the following provisions:

An Acceleration Clause. This means that if you sell the property, or default in your payment, the lender may declare the entire unpaid loan balance immediately due and payable.

A Balloon Payment. This means that your monthly payments are not large enough to pay off the loan with interest during the period for which the loan is written, and that at the end of this period, you must pay the entire remaining balance in one payment. If the remaining balance is a sizeable one, you may be

concerned with the possible difficulty in refinancing the balance.

BEFORE SIGNING, YOU SHOULD READ AND THOROUGHLY UNDERSTAND ALL LOAN DOCUMENTS.

PURCHASE MONEY HANDLING: The subdivider must impound all funds received from you in an escrow depository until legal title is delivered to you. (Refer to Section 11013.2 (a) of the Business and Professions Code).

If the escrow has not closed on your lot within six (6) months of the date of your deposit receipt, you may request return of your deposit.

FILLED GROUND: Some lots contain filled ground. The information concerning filled ground and soil conditions is available at Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California 95060.

SOILS CONDITIONS: A soils and geologic report is available at Planning Department, County of Santa Cruz, 701 Ocean Street, Santa Cruz, California 95060.

WATER: The Soquel Creek County Water District has been formed to provide certain municipal-type services, including water service.

The construction and installation of the facilities are completed. Although none are contemplated here, a county water district has the power to form special assessment districts. Special assessment bonds, as well as general obligation bonds, could be sold to finance and install any additional improvements.

The district property tax is in addition to county taxes and subject to the same limits imposed by Proposition 13.

If taxes or assessments are not paid, the tax or assessment lien may be foreclosed and the property sold.

SEWAGE DISPOSAL: The County of Santa Cruz Department of Public Works advises that the property is served by the Santa Cruz County Service Area No. 20. However, the subdivision has been required to construct its own separate wastewater collection and treatment system according to plans approved November 27, 1979. Final occupancy for all units is conditioned upon the construction by the developer and acceptance by Santa Cruz County of the new Trestle Beach wastewater treatment plant and sewer system.

The subdivider's title company advises as of this date all of the service charges under County Service Area No. 20 will be included in the property tax bill. The charges will be for maintenance costs.

The County Service Area may levy assessments per lot or may levy an ad valorem tax.

STREETS AND ROADS: As of the date of this report, streets have not been completed. The subdivider has posted a letter of credit with the county to ensure completion to the county standards.

The streets within this subdivision have been dedicated to the county for public use but not for maintenance.

An engineer estimates it will cost the Homeowners' Association \$1.50 per lineal foot per year to maintain the roads at county standards.

The private drives on Parcel A within this project will be maintained by the homeowners' association. The costs of repair and maintenance of these private streets are included in the budget and are a part of your regular assessment.

For further information in regard to this subdivision, you may call 415-557-0486 or examine the documents at the Department of Real Estate, 185 Berry Street, Room 5816, San Francisco, California 94107.

LRB/0026/bf
File No. 017,670 SF L00

Page 9 of 9 Pages

Exhibit 39
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 9 of 9

NOV 25 1983

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREACoastal Commission Permit

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At a conference held with Coastal Commission staff, a physical copy of the Coastal Permit could not be found; however, Mr. Les Strnad (Chief of Regulatory Functions) confirmed: 1. That a Commission Permit for 21 units had been issued; 2. That he had inspected the subject development and found same to be in conformance with the conditions of the Permit; and 3. That he had signed the Commission off.

Of concern to the appraiser, was the 11 unit difference between the County Permit and the Commission Permit. Mr. Strnad reported that the original development plans called for 32 units with the questioned 11 units to be built on subject Parcel D. The Coastal Commission deleted the questioned 11 units due to County Ordinances which require a 200' set-back from the agricultural pursuits adjoining the subject's northerly boundary.

Mr. Strnad further reported the right of the development owner to apply for an amendment to the Commission Permit which, in effect, would request an additional 11 units. Since the denial of the 11 units, in the first place, stemmed from existing County Ordinances, it appears unlikely that an

amendment request would be granted unless: 1. The germane County Ordinances are modified; or, 2. Land uses on the adjoining property are changed to uses other than agriculture. It was concluded that neither a change in Ordinances or a change in land use is probable in the foreseeable future. Therefore, the questioned 11 subject units were deemed to have no value impact, other than a possible token increment, on the subject property.

Subdivision Final Report

The State of California's Department of Real Estate issued a Final Report on April 8, 1981 and amended same on July 22, 1982. The Report expires April 7, 1986.

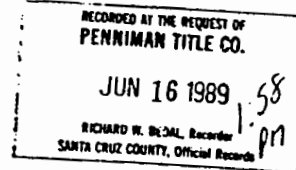
RECORDING REQUESTED BY

AMERICAN TITLE INSURANCE COMPANY
Escrow #41-0232-WLC Title #132424

AND WHEN RECORDED MAIL TO

Hun-Lin Lin
1628 Randolph Parkway
Los Altos, CA 94022

RE	MI
71	
SF	SM
5	
OP	LN
CO	
20	



SPACE ABOVE THIS LINE FOR RECORDER'S USE

REAL PROPERTY TRANSFER TAX:

\$ None

[] FULL VALUE

[] EQUITY VALUE

[X] INTERSPOUSAL TRANSFER

APN 45-321-23

Quitclaim Deed

THIS FORM FURNISHED BY AMERICAN TITLE INSURANCE COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

HUN-LIN LIN, husband of the herein vestee

hereby REMISE, RELEASE AND FOREVER QUITCLAIM to

SHIU-WEN HUANG, a married woman, as her sole and separate property

the following described real property in the
State of California:

County of Santa Cruz

See legal description attached hereto and made a part hereof as Exhibit "A".

See Public Notification Requirements 16.50.090 (b) and (c) attached hereto and made a part hereof as Exhibit "B".

Hun-Lin Lin, husband of Shiu-Wen Huang, executes this deed for the express purpose of relinquishing any community interest he might now have or might hereafter acquire in the above described property, it being his intention to vest the same in Shiu-Wen Huang, a married woman, as her sole and separate property.

HUN-LIN LIN

HUN-LIN LIN

Dated June 13, 1989

STATE OF CALIFORNIA

COUNTY OF Santa Clara

} ss.

On June 13, 1989

before me, the undersigned, a Notary Public in and for said County and State, personally appeared Hun-Lin Lin

proven to me on the basis of
satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

(Seal)

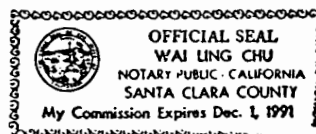
Signature

WAI LING CHU

Name (Typed or Printed)

Notary Public in and for said County and State

If executed by a Corporation the Corporation Form of Acknowledgment must be used.



MAIL TAX STATEMENTS TO RETURN ADDRESS ABOVE

Exhibit 41
CCC-05-NOV-01
CCC-05-CD-03
(King)

When recorded mail this deed and, unless otherwise shown below, mail tax statements to:

Penniman Title Company, Inc.

SHIU-WEN HUANG
SHAW-HWA HUANG
1628 RANDOLPH PARKWAY
LOS ALTOS, CA 94022

ESCROW NO. 3-41-0232-WLC
ORDER NO. 132424 -TIM

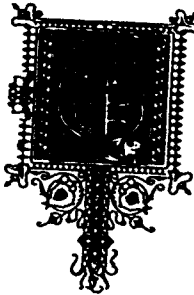
RECORDED AT THE REQUEST OF
PENNIMAN TITLE CO.

JUN 16 1989

RICHARD R. BESAL, Recorder
SANTA CRUZ COUNTY, Official Records

038937

SPACE ABOVE THIS LINE FOR RECORDER'S USE
REAL PROPERTY TRANSFER TAX
\$ 220.00 ☒ Full Value ☐ Equity
CITY CONVEYANCE TAX
\$ 0.00 ☒ N/A
SURVEY MONUMENT PRESERVATION
Fund Fee \$ ☒ N/A
A.P.N. 45-321-023



Grant Deed

RE	MI
8	1
SF	SM
6	
CP	LN
20	

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged

WELLS FARGO BANK, N.A., A NATIONAL BANKING ASSOCIATION

hereby GRANT(s) to

SHIU-WEN HUANG, A MARRIED WOMAN AS HER SOLE AND SEPARATE PROPERTY AND SHAW-HWA HUANG, A SINGLE WOMAN

the following described real property in the
County of SANTA CRUZ State of CALIFORNIA

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "A".
SEE PUBLIC NOTIFICATION REQUIREMENTS 16.50.090(b) and (c) ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "B".

Dated JUNE 12, 1989
STATE OF CALIFORNIA.
COUNTY OF

On the undersigned, a Notary Public in and for said County and State,
personally appeared

WELLS FARGO BANK, N.A.
A NATIONAL BANKING ASSOCIATION

proved to me on the basis of satisfactory evidence to be the person(s)
whose name(s) is/are subscribed to the within instrument, and
acknowledged to me that he/she they executed the same.

By: H. P. Moore, A.Y.P.
BY: Richard T. Muma AWP

STATE OF CALIFORNIA
County of San Francisco } SS.

(ASSOCIATION ACKNOWLEDGEMENT)

On June 14, 1989, before me, a Notary Public in and for said
State, personally appeared Gay E. Moore and Richard T. Muma
to me on the basis of satisfactory evidence to be the
Assistant Vice Presidents

of Wells Fargo Bank, N.A., a National Banking Association that executed the within
instrument and known to me to be the person(s) who executed the within instrument
on behalf of the Association therein named, and acknowledged to me that such
Association executed the same.

WITNESS My Hand and Official Seal.

NP0111387

Richard T. Muma
Notary's Signature

Exhibit 41
CCC-05-NOV-01
CCC-05-CD-03
(King)

132424-TIM

jg/mhh

SITUATE in the County of Santa Cruz, State of California

PARCEL ONE:

ALL of Parcel D, as shown upon that certain amended map entitled, "Tract No. 781 - Trestle Beach", which map was filed for record in the Office of the Recorder of the County of Santa Cruz, State of California, on December 9, 1980 in Volume 70 of Maps at Page 4.

PARCEL TWO:

EASEMENT for ingress and egress as set forth in an unrecorded Agreement dated August 26, 1980 and executed by and between Southern Pacific Transportation Company, a Delaware corporation and Trestle Beach Associates.

PARCEL THREE:

AN easement for public utility purposes as set forth in an unrecorded Agreement dated August 26, 1980 and executed by and between Southern Pacific Transportation Company, a Delaware Corporation and Trestle Beach Associates.

PARCEL FOUR:

A non-exclusive easement 50.00 feet in width for utilities, drainage, ingress, egress, pedestrian, equestrian and vehicular purposes, described by its centerline as follows:

BEGINNING at the intersection of the centerline of Camino Al Mar, with the Western boundary of Tract No. 384 "Los Barrancos De Aptos", County of Santa Cruz, State of California, per the map filed July 17, 1964, in Map Book 40, Page 92, Records of Santa Cruz County; thence along the centerline of the right of way 50.00 feet in width, as described in the Deed from John J. King, et ux., to George C. Bestor, et ux., dated July 9, 1964, recorded July 10, 1964, in Volume 1630, Page 221, Official Records of Santa Cruz County.

- (1) North 47° 30' West 111.74 feet; thence tangent
- (2) 142.26 feet along the arc of a curve to the left, through an angle of 49° 24', on a radius of 165.00 feet; thence tangent

-2-

Exhibit 41
CCC-05-NOV-01
CCC-05-CD-03
(King)

132424-TIM

con't jg

- (3) South 83° 06' West, 46.54 feet; thence tangent
- (4) 62.46 feet along the arc of a curve to the right.
- (5) North 65° 47' West, 51.30 feet; thence tangent
- (6) 80.87 feet along the arc of a curve to the left through an angle of 51° 29', on a radius of 90.00 feet to a point of compound curvature; thence tangent
- (7) 132.65 feet along the arc of a curve to the left through an angle of 30° 24', on a radius of 250.00 feet to a point.

PARCEL FIVE:

A non-exclusive easement for utilities, drainage, ingress, egress, pedestrian, equestrian and vehicular purposes over that certain parcel of land described as easement "C" as shown upon that certain amended map entitled, "Tract No. 781 - Trestle Beach", which map was filed on December 9, 1980, in Volume 70 of Maps, Page 4, Records of Santa Cruz County.

PARCEL SIX:

AN easement for utilities, drainage, ingress, egress, pedestrian, equestrian and vehicular purposes over Parcels B and C as shown upon filed map herein above referred to in Parcel One, as reserved in the Deed from Wells Fargo Bank, N. A., a National Banking Association to Trestle Beach Homeowners Association, recorded July 29, 1983, in Volume 3603, Page 368, Official Records of Santa Cruz County.

PARCEL SEVEN:

EASEMENTS for utilities, drainage, ingress, egress, pedestrian and equestrian purposes over Parcel A, as shown upon the filed map herein above referred to, as reserved in the Deed from Wells Fargo Bank, N.A., a National Banking Association, to Menlo Development Company, a California corporation, recorded August 18, 1983, in Volume 3612, Page 471, Official Records of Santa Cruz County, and various other Deeds of record.

APN: 45-321-23

-3-

Exhibit 41
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

EXHIBIT B

RED EXCERPT FROM:

Cruz County Code Section 16.50.090 (b) and (c) PUBLIC NOTIFICATION REQUIREMENT

"The property described herein is adjacent to land utilized for agricultural purposes and residents of said property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, pesticides and fertilizers; and from the pursuit of agricultural operations including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noises and odor. The County has established a 200 foot agricultural buffer setback on the herein described property to separate agricultural parcels and non agricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code. Santa Cruz County has established agriculture as a priority use on productive agriculture lands, and residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

"The undersigned...do hereby certify to be the owner(s) of the hereinafter legally described real property located in the County of Santa Cruz, State of California....and do hereby acknowledge that the property described herein is adjacent to land utilized for agricultural purposes, and that residents or users of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including herbicides, insecticides, and

fertilizers, and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke noise and odor. It is understood that the county has established a 200 foot agricultural setback on the herein described property to separate agricultural parcels and non-agricultural uses involving habitable spaces to help these conflicts. Any development on this property must provide a buffer and setback as specified in County Code."

"And further acknowledge that Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and that residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations."

"This statement of acknowledgement shall be recorded and shall be binding upon the undersigned, any future owners, encumbrances, their successors, heirs or assignees. statements contained in this statement of acknowledgement are required to be disclosed to prospective purchasers of the property described herein, and required to be included in any deposit receipt for the purchase of the property, and in any deed conveying the property."

State of California
County of Santa Cruz

I hereby certify under penalty of perjury that the foregoing is a true and correct copy of exhibit "B."

Stephen R. Tripp
Stephen R. Tripp
for Penniman Title Company
JUNE 16, 1989

Exhibit 41
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

Filed: 12/27/95
49th Day: 2/14/96
180th Day: 6/24/96
Staff: RHyman-SC
Staff Report: 1/25/96 1735P
Hearing Date: 2/9/96
Commission Action:

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

LOCAL GOVERNMENT: Santa Cruz County

DECISION: Approval with conditions

APPEAL NO.: A-3-SCO-95-85

APPLICANT: JOHN & JULIA KING AGENT: KATY KING

PROJECT LOCATION: West side of Margarita Rd., 400 ft. from Cresta Way,
La Selva Beach, Santa Cruz County

PROJECT DESCRIPTION: Repair, replace and reconstruct an existing culvert
and outlet

APPELLANT: James Fairbanks

SUBSTANTIVE FILE DOCUMENTS: Santa Cruz County LCP, Santa Cruz County permits
95-0280, Emergency 4901, 89-0806

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 30

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends that the Commission open and continue the public hearing to determine whether a substantial issue exists with respect to the grounds on which the appeal has been filed for the following reasons:

Pursuant to Section 30621 of the Coastal Act, an appeal must be heard within 49 days from the date an appeal of a Coastal Development Permit issued pursuant to a certified Local Coastal Program is received. An appeal of the above described decision was received in the Commission office and filed on December 27, 1995. In accordance with Section 13112 of the California Code of Regulations, staff requested on December 27, 1995 that the local government forward all relevant documents and materials regarding the subject permit. Although the documents were received, it was just discovered that the current plans were not included. County staff will be forwarding these plans once they are located. Since the subject development is already long complete pursuant to an emergency permit, there is no urgency to hear this matter. Therefore, pursuant to Section 13112 of the Commission's Administrative Regulations, the Commission should open and continue the Substantial Issue hearing at the February 9, 1996 meeting. After receipt and evaluation of the subject plans, the appeal will be scheduled for a full substantial issue hearing at a subsequent Commission meeting.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

IMPORTANT PUBLIC HEARING NOTICE

The proposed project described in this notice has been appealed to the Coastal Commission. The Commission has scheduled a public hearing at the place and time below. There are limits to the scope of the hearing, please review this notice for the rules governing the hearing.

HEARING DATE AND LOCATION:

DATE: February 9, 1996
TIME: Meeting starts 9:00 a.m.
PLACE: U.S. Grant Hotel
326 Broadway
San Diego
(619)232-3121

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 2 of 30

APPEAL PROCEDURES BEFORE COASTAL COMMISSION:

There are two parts to the Appeals procedures:

1. Substantial Issue Determination
2. Action on Coastal Permit.

If the staff recommends that there is a "substantial issue", the matter will immediately proceed to a "de novo" hearing on the merits of the project, unless three Commissioners decide to debate the substantial issue question. Thus, it is possible that there will be no public hearing on the "substantial issue" question.

If the staff recommends against substantial issue, then only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify at the "substantial issue" part of the appeal process. These parties will have three minutes total to enunciate their position to the Commission; all other testimony from other persons must be submitted in writing. The Commission will then vote on whether it finds "substantial issue".

If the Commission then decides there is a substantial issue, the next step would be a hearing and action on the merits of the project ("de novo" hearing) and any person may testify at this stage of the process.

No one can predict how quickly the Commission will complete agenda items or how many will be postponed to a later date. The Commission begins each day at the time listed and considers each item in order, except in extraordinary circumstances. Staff at the appropriate commission office can give you more information prior to the hearing date and you can call the staff at the hearing location for last-minute information.

Questions regarding the staff report or the hearing should be directed to Steve Guiney or Les Strnad at the above address and phone number.

(See over for project name & description)

6. NEW APPEALS. See AGENDA HEADINGS description on page 14.

- a. Appeal No. A-3-95-79 (Andrews & Lee, Pismo Beach) Appeal of Anatol J. Jordan and Lanier & Dee Harper from decision by City of Pismo Beach granting permit with conditions to Steve Andrews/Bellstone & James Lee for 25-lot subdivision (23 residential lots & 2 open space lots) on south side of Beachcomber Drive, Pismo Beach, San Luis Obispo County. (SG-SC)
- b. Appeal No. A-3-95-84 (Guntert, Santa Cruz Co.) Appeal of Commissioners Giacomini & Calcagno from decision of Santa Cruz County granting permit with conditions to Ronald Guntert for 2-story single-family home and coastal bluff structure, 220 Geoffroy Drive, Live Oak, Santa Cruz County. (RH-SC)
- c. Appeal No. A-3-95-85 (King, Santa Cruz Co.) Appeal of James Fairbanks from decision of Santa Cruz County granting permit with conditions to John King to repair, replace, and reconstruct culvert and outlet, on west side of Margarita Road, La Selva Beach, Santa Cruz County. (LO-SC)

7. PERMIT AMENDMENTS. See AGENDA HEADINGS description on page 14. An Amendment below may be moved to the Consent Calendar for this area by the Executive Director when, prior to taking up the Consent Calendar, staff and the applicant are in agreement on the staff recommendation. If an item is moved to the Consent Calendar it will be processed like other Consent Calendar items (See above) except that if that item is subsequently removed from the Consent Calendar by a vote of 3 or more commissioners, the item will be acted upon at the meeting in the order in which it originally appears on this Meeting Notice and in the manner material amendments are processed.

- a. Permit No. 4-91-11-A (Morro Bay Parks Dept.) Request by City of Morro Bay Recreation and Parks Department to amend permit for park and boat launch facility to add 250-ft-long side tie dock, concrete stairway to bay, and replace boarding floats for existing launch ramp at Tidelands Park, Morro Bay, San Luis Obispo County. (SG-SC)
- b. Permit No. 3-94-39-A (Wilde & Miller, Carmel) Request by Kirstie Wilde & Paul Miller to revise plans for 2-story home with height, siting and lot coverage essentially the same, grading reduced, and driveway materials changed from cobblestone to exposed aggregate & tire strips, west side of North San Antonio Avenue between 2nd & 4th Avenues, Carmel, Monterey County. (JS-SC)

SUBCOMMITTEE MEETING The subcommittee of the Commission appointed to evaluate the employment performance of the Executive Director will meet at the conclusion of the regular agenda of the Commission's meeting on Friday, February 9. Pursuant to Government Code Section 11126(a), the subcommittee may meet in closed session.

Future Meetings: The next meetings of the Coastal Commission will be March 12-15 in Santa Barbara, and April 9-12 in Carmel.

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

Date: December 27, 1995Commission Appeal # A-3-SC0-95-85COMMISSION NOTIFICATION OF APPEAL

TO: Santa Cruz County Planning Department

FROM: Tami Grove, District Director, Central Coast District, California Coastal Commission. *TG*

Please be advised that the local coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Section 30602 or 30625. Therefore, the decision has been stayed pending Commission action on the appeal. P.R.C. Section 30623.

Local Permit #95-0280Name of Applicant John King

Project Description, Location: repair, replace and reconstruct an existing culvert and outlet on the west side of Margarita Road, 400 feet south of Cresta Way, Santa Cruz County, APN 045-022-030

Local Decision: Approval with conditionsName of Appellant(s): James C. FairbanksDate Appeal Filed: December 27, 1995

The Commission Appeal# assigned to this appeal is A-3-SC0-95-85. The Commission hearing date--substantial issue determination and possible vote for this appealed item is tentatively set for February 6-9, 1996. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the local jurisdiction consideration of this coastal development permit must be delivered to the Central Coast Area Office of the Commission (California Administrative Code Section 13112). Please include copies of the following: plans; relevant photographs; staff reports and related documents; findings, if not already forwarded; all correspondence; and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact the Area Office noted above.

H7: 4/88
106K

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☒ Planning Director/Zoning Administrator c. ☐ Planning Commission
b. ☐ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: November 17, 1995

7. Local government's file number (if any): 95-0280

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

KATY KING for JOHN J. & JULIA D. KING
255 CAMINO AL BARANCO
LA SELVA BEACH CA 95076

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) CYNTHIA PASSARO
41 MARGARITA ROAD
LA SELVA BEACH, CA 95076

(2) _____

(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

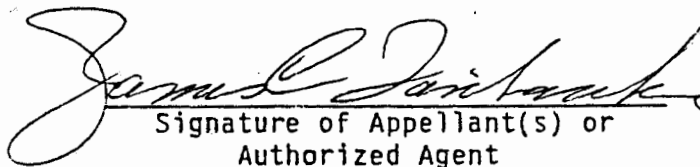
1. THIS MATTER WAS CONTINUED SEVERAL TIMES FROM THE ORIGINAL 10-6-95 HEARING. I ATTENDED TWO HEARINGS. ALTHOUGH I MADE ATTEMPTS TO OBTAIN INFORMATION REGARDING THE LAST HEARING DATE FROM JOE HANNA THE PROJECT PLANNER HE DID NOT CALL ME BACK. I DID NOT HAVE NOTICE OF THE LAST HEARING.

2. THIS CULVERT PROJECT DIRECTLY IMPACTS THE FLOW OF WATER ACROSS MY PROPERTY. THE ORIGINAL CULVERT WAS CONSTRUCTED WITHOUT PERMIT AND RESULTED IN MASSIVE DAMAGE TO MY PROPERTY IN 1982. NOW THE SAME DESIGN SITS AND AWAITS THE NEXT MAJOR STORM. THIS CULVERT SYSTEM IS WITHOUT BENEFIT OF ADEQUATE ENGINEERING.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.


Signature of Appellant(s) or
Authorized Agent

Date NOVEMBER 29, 1995

NOTE: If signed by agent, appellant(s)
must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date _____

PROOF OF SERVICE BY MAIL

I, the undersigned, state that I am a citizen of the United States and employed in the County of Santa Cruz, State of California; that I am over the age of eighteen years and not a party to the within action; that my business address is 133 Mission Street, Suite 230, Santa Cruz, California; that on the date set out below, I served a true copy of the following:

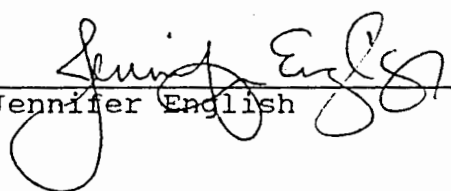
APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

on the persons listed below, by placing said copy enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office mail box at Santa Cruz, California, addressed as follows:

COUNTY OF SANTA CRUZ,
ZONING ADMINISTRATOR
4TH FLOOR
701 OCEAN STREET
SANTA CRUZ, CA 95060

KATY KING, JOHN J. KING
JULIA D. KING
255 CAMINO AL BARANCO
LA SELVA BEACH CA 95076

Executed at Santa Cruz, California, this 29 day
of NOVEMBER, 1995. I declare under penalty of perjury that the
foregoing is true and correct.



Jennifer English

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTRECEIVED
NOV 29 1995

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREASECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

JAMES C. FAIRBANKS
35 MARGARITA ROAD, LA SELVA BEACH
CALIFORNIA, 95076 (408) 684-1167
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Santa Cruz, Zoning Administrator
2. Brief description of development being appealed: Construction of drainage culvert.
3. Development's location (street address, assessor's parcel no., cross street, etc.): Unimproved property A.P.N. 045-022-50
West side of Margarita Road
4. Description of decision being appealed:
 - a. Approval; ~~no special conditions:~~ CONDITIONS UNKNOWN
 - b. Approval with special conditions: _____
 - c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:APPEAL NO: 8-3-SCD-95-85DATE FILED: 12/27/95DISTRICT: Central Coast

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 8 of 30

CALIFORNIA COASTAL COMMISSION

15 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

MEMORANDUM

December 10, 1993

TO: Persons Whose City or County Coastal Development Permits
Have Been Appealed to the Coastal Commission

FROM: Coastal Commission

SUBJECT: Notice Concerning Important Disclosure Requirements

Starting on January 1, 1993, a new California law required that all persons who apply to the Coastal Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission staff on their behalf." (Public Resources Code section 30319.) On January 1, 1994, the law will also require that applicants disclose the same information with respect to persons who will communicate, for compensation, on behalf of their business partners. The law also applies to persons whose permits have been appealed to the Coastal Commission. The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do two things. The first thing is that you must fill in the enclosed form and submit it to the appropriate Coastal Commission area office as soon as possible. Please list all representatives who will communicate on your behalf or on behalf of your business partners for compensation with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

Second, if you determine after you have submitted the enclosed form that one or more people will be communicating on your behalf or on behalf of your business partners for compensation who were not listed on the completed form, you must provide a list in writing of those people and their addresses to the Coastal Commission area office. The list must be received before the communication occurs.

Page 1 of 2

2538L

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 9 of 30

LIST OF PERSONS WHO WILL COMMUNICATE
ON BEHALF OF PERSONS WHOSE PERMITS HAVE
APPEALED TO THE COASTAL COMMISSION

Name of Person Whose Permit
Has Been Appealed

Project and Location

Commission Appeal No.

Persons Who Will Communicate
For Compensation on Behalf of
Applicant or Applicant's Business
Partners With Commission or Staff

NAMES

ADDRESSES

CALIFORNIA COASTAL COMMISSION

COASTAL COAST AREA OFFICE
MONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

DSL
2/27/96

Filed: 12/27/95
49th Day: 2/14/96
180th Day: 6/24/96
Staff: RHyman-SC
Staff Report: 1/23/96 1734P
Hearing Open: 2/9/96
Hearing Date: 3/14/96
Commission Action:



STAFF REPORT: APPEAL

NO SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: Santa Cruz County

DECISION: Approval with conditions

APPEAL NO.: A-3-SCO-95-85

APPLICANT: JOHN & JULIA KING AGENT: KATY KING

PROJECT LOCATION: West side of Margarita Rd., 400 ft. from Cresta Way,
La Selva Beach, Santa Cruz County

PROJECT DESCRIPTION: Repair, replace and reconstruct an existing culvert
and outlet

APPELLANT: James Fairbanks

SUBSTANTIVE FILE DOCUMENTS: Santa Cruz County LCP; Santa Cruz County permits
95-0280, Emergency 4901, 89-0806; Coastal Commission permits: P-79-117, P-2034

SUMMARY OF STAFF RECOMMENDATION AND MOTION:

I. SUMMARY OF STAFF RECOMMENDATION: NO SUBSTANTIAL ISSUE

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the following reasons:

The appellant contends that the approved culvert project is not adequately engineered. However, the record indicates that a hydrologic analysis was completed, the project was engineered, the installation was inspected by an engineer, and conditions of approval required an engineer to direct, observe, and approve construction. Also, erosion control was required pursuant to local coastal program provisions.

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

II. MOTION FOR "NO SUBSTANTIAL ISSUE".

Staff recommends a YES vote on the following motion:

MOTION:

I move that the Commission determine that Appeal No. A-3-SCO-95-85 raises no Substantial Issue with respect to the grounds on which the appeal has been filed.

Staff recommends a "YES" vote. To pass the motion, a majority of the Commissioners present is required. Approval of the motion means that the County coastal permit 95-0280 is valid.

Table of Contents

1. Appellant's Contentions	p. 2
2. Local Government Action	p. 3
3. Appeal Procedures	p. 3
4. Staff Recommendation on Substantial Issue	p. 4
5. Recommended Findings and Declarations	p. 4

Exhibits:

1. Location Map
2. Project Plans
3. Emergency Permit
4. County Coastal Permit

1. APPELLANT'S CONTENTIONS:

The Commission received an appeal on this matter from James Fairbanks which contends in full:

1. This matter was continued several times from the original 10-6-95 hearing. I attended two hearings. Although I made attempts to obtain information regarding the last hearing date from Joe Hanna the project planner he did not call me back. I did not have notice of the last hearing.
2. This culvert project directly impacts the flow of water across my property. The original culvert was constructed without permit and resulted in massive damage to my property in 1982. Now the same design sits and awaits the next major storm. This culvert system is without benefit of adequate engineering.

2. LOCAL GOVERNMENT ACTION:

The proposed project is a culvert repair and replacement in La Selva Beach in southern Santa Cruz County (see Exhibits 1 and 2). The County approved the project originally through an emergency permit on January 19, 1995 (see Exhibit 3). Conditions of approval required a regular permit application. This subject follow-up permit was heard by the zoning administrator on October 6, 1995 and continued until November 17, 1995, when it was approved with three conditions (see Exhibit 4). A notice of this action was received in the Commission's office on December 26, 1995. The appellant did not appeal through the County's process, rather he appealed directly to the Commission (which is his option because the County charges appeal fees). The appeal was filed on December 27, 1995. The Coastal Commission opened and continued the hearing on February 9, 1996, pending receipt of project plans.

3. APPEAL PROCEDURES:

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county. (Coastal Act Sec. 30603(a))

In this case, development on the subject site is appealable because it is located seaward of the first public road. The grounds for appeal are limited to the allegation that the development does not conform to the standards set forth in the certified LCP or to the Coastal Act's public access policies.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," and no Commissioner objects, the substantial issue question will be considered moot, and the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the

Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Sec. 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission during the substantial issue stage of the hearing are the applicant, persons who opposed the application before the local government (or their representatives), and the local government; all other testimony from other persons must be submitted in writing. Any person may testify during the de novo stage of an appeal.

4. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE:

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed, pursuant to PRC Section 30603. The appropriate motion is found on page 2 of the staff report.

5. RECOMMENDED FINDINGS AND DECLARATIONS.

The Commission finds and declares for Appeal No. A-3-SCO-95-85 the following:

a. Appellant's Contention

The appellant objects to the County's issuance of a coastal permit to repair and replace a storm damaged culvert. The appellant contends that the subject culvert project was approved without adequate engineering. He is concerned that, like the previous culvert, this one will fail and cause damage to his property (see pages 2-3 for his verbatim contention).

b. Governing Local Coastal Program Provisions

The appellant did not cite specific instances of Local Coastal Program policies that he felt were violated. No LCP policies explicitly require adequate engineering. The most relevant Land Use Plan policy for analyzing the proposed culvert repair appears to be:

6.3.4: Require approval of an erosion control plan for all development.
... Vegetation removal shall be minimized. ...

This policy is in the Public Safety and Noise chapter, which has an overall goal of protecting human life, private property, and the environment. Chapter 16.22 of the County Code (certified Coastal Implementation Plan), entitled, "Erosion Control" provides further guidance.

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

A series of Land Use policies (5.2.1-5.2.11) requires protection of riparian corridors and wetlands. Setbacks are required; exceptions may be allowed only under certain circumstances pursuant to environmental review. Evidence of California Department of Fish and Game approval is necessary (5.2.3). Management plans are required for development in or adjacent to wetlands (5.2.9). Specific implementation provisions are found in County Code Chapters 16.30 "Riparian Corridor and Wetland Protection" and 16.32 "Sensitive Habitat Protection."

c. County Action

On November 17, 1995 the County approved the subject permit to repair, replace and reconstruct the existing culvert and outlet (see Exhibit 4). This was a follow-up to an emergency permit granted for the work on January 19, 1995 (#4901E) (see Exhibit 3). That permit was conditioned for engineering approval, engineered backfill, erosion control, and obtaining a regular permit. The follow-up permit required erosion control to be completed and permanently maintained.

d. Substantial Issue Analysis

The County approval raises some procedural and format concerns, but no substantial issues. The subject site in La Selva Beach is approximately two acres in size. It was once part of the Trestle Beach condominium site (approved under coastal permit P-79-117). It contains a coastal lagoon (identified as Las Barrancas drainageway in the Commission ReCAP report) at the confluence of two culverted streams. The easterly watercourse, which is in a culvert as it traverses the subject property, is the subject of this appeal.

A new culvert segment is necessary to replace a failed 80 foot section of 48" culvert and is already installed, pursuant to the emergency permit mentioned above. Although project plans lack detail and clarity, the permitted culvert was engineered. It was designed based on hydrologic calculations for the entire drainage basin. An engineer was required to and did monitor the installation. The Commission is not in a position to independently evaluate or challenge the engineering's technical adequacy. At worst, the culvert could fail again. It would then have to be repaired and replaced, pursuant to subsequent approval.

Although the appellant claims that the original culvert, which goes under a roadway on his property, was not permitted, the record indicates otherwise. The Coastal Commission approved the culvert as part of the Trestle Beach permit in 1979.

The subject County coastal permit is conditioned for erosion control, as required by the cited County policy.

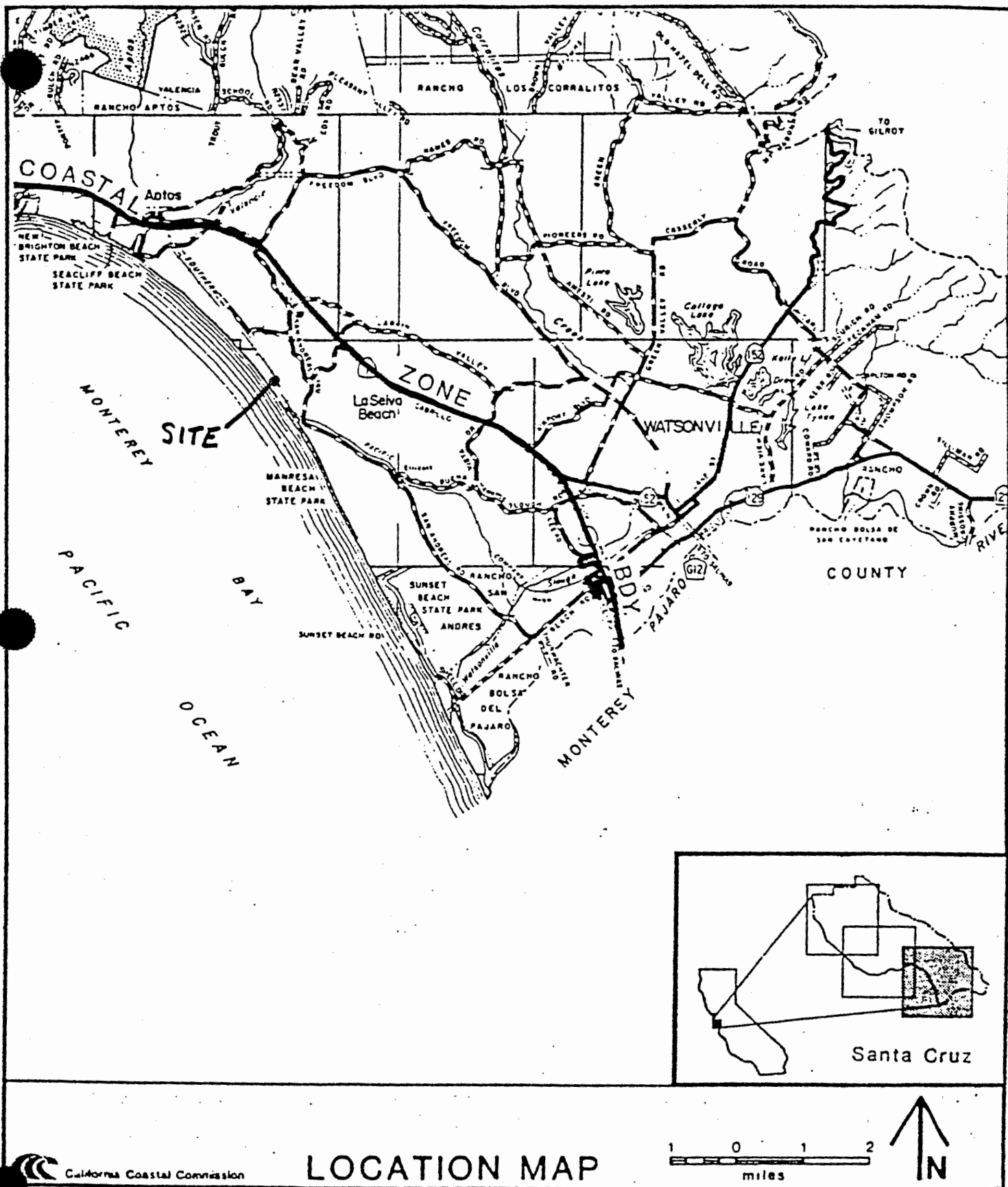
Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

The culvert does empty into a coastal lagoon. The County permit file does not contain a biotic report, nor are specific requisite findings made to authorize work in and adjacent to a wetland. However, the permitted project is less extensive than one previously approved, involves no additional wetland fill, does not cause any noticeable significant resource impacts, and is already installed. While some procedural aspects of the Local Coastal Program were not followed, the substantive protection policies have not been violated. Therefore, the lack of paperwork does not give rise to a significant issue.

The certified Local Coastal Program contains provisions not only to protect riparian corridors, but to restore degraded ones. There are two drainages on site. The subject drainage, which flows under a road, has been altered to such an extent that restoration would be difficult. The other drainageway, which is not the subject of this appeal, is in poorer condition, with evidence of erosion and lack of groundcover and offers more opportunities for restoration (e.g., bridge, shorter culvert). The coastal lagoon also suffers from the presence of debris (asphalt and concrete pieces, discarded sections of culvert) and a lack of native buffer vegetation. County Code Section 16.32.090b3 requires restoration commensurate with the scale of the proposed development. Given the limited scale and location of the subject development, more extensive protective and restorative measures are not justified by this permit. Should an application to develop the vacant site be submitted, the issues of an appropriate access road location and design and associated stream crossing/restoration would deserve reappraisal as part of that coastal permit consideration. (Note: this finding is not an endorsement of any future development; in an earlier file this site is denoted "unbuildable."). Also, nothing in this substantial issue determination regarding the subject culvert limits the ability of either the County to enforce its ordinances and previous permit that apply to the other culvert and remainder of the site or the Coastal Commission to enforce its previous permits that apply to the site.

The appellant also claims that he was not notified of the final hearing on this matter. While substantiation of this claim is beyond the scope of this report, evidence of his participation in the process does exist in the form of his correspondence in the file. Any procedural problems, if they occurred, do not in this case independently give rise to substantial issue. No substantial issues with regard to this project's conformance with Local Coastal Program policies are raised by this appeal.

Additionally, there is no impact from this project on public access to the nearby beach and consistency with Coastal Act access policies is maintained.



County of Santa Cruz

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Exhibit 1
Sheet 3 of 3
A-3-SCO-95-85

January 12, 1995

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

Attn: Joe Hanna
Re: King Property, 'APN 045-022-27/30

As you know, approximately 80 lineal feet of existing 48" diameter corrugated metal pipe, which crosses the property from east to west, has failed. As a result, the soil over and around the failed section of pipe has eroded, creating an open and apparently unstable gully. This is a hazardous condition that will probably get worse with additional storm runoff. In order to mitigate this hazardous condition, the owner has asked Granite Construction Company to remove and replace the existing failed section of pipe. As requested by the owner, Granite will perform the following work:

1. Excavate and remove the existing failed section of pipe.
2. Place 6" minimum drain rock bedding on the bottom of the excavation, underneath the new pipe.
3. Furnish, install, and backfill approximately 80 lineal feet of new galvanized, bituminous-coated 48" diameter CMP.
4. Place 12" minimum native soil at top of the pipe backfill and grade to match the contour of the surrounding area. *← LEFT LOW*

I have attached a sketch of the proposed trench section for your records. If you have any questions or comments, please notify me immediately.

Sincerely,

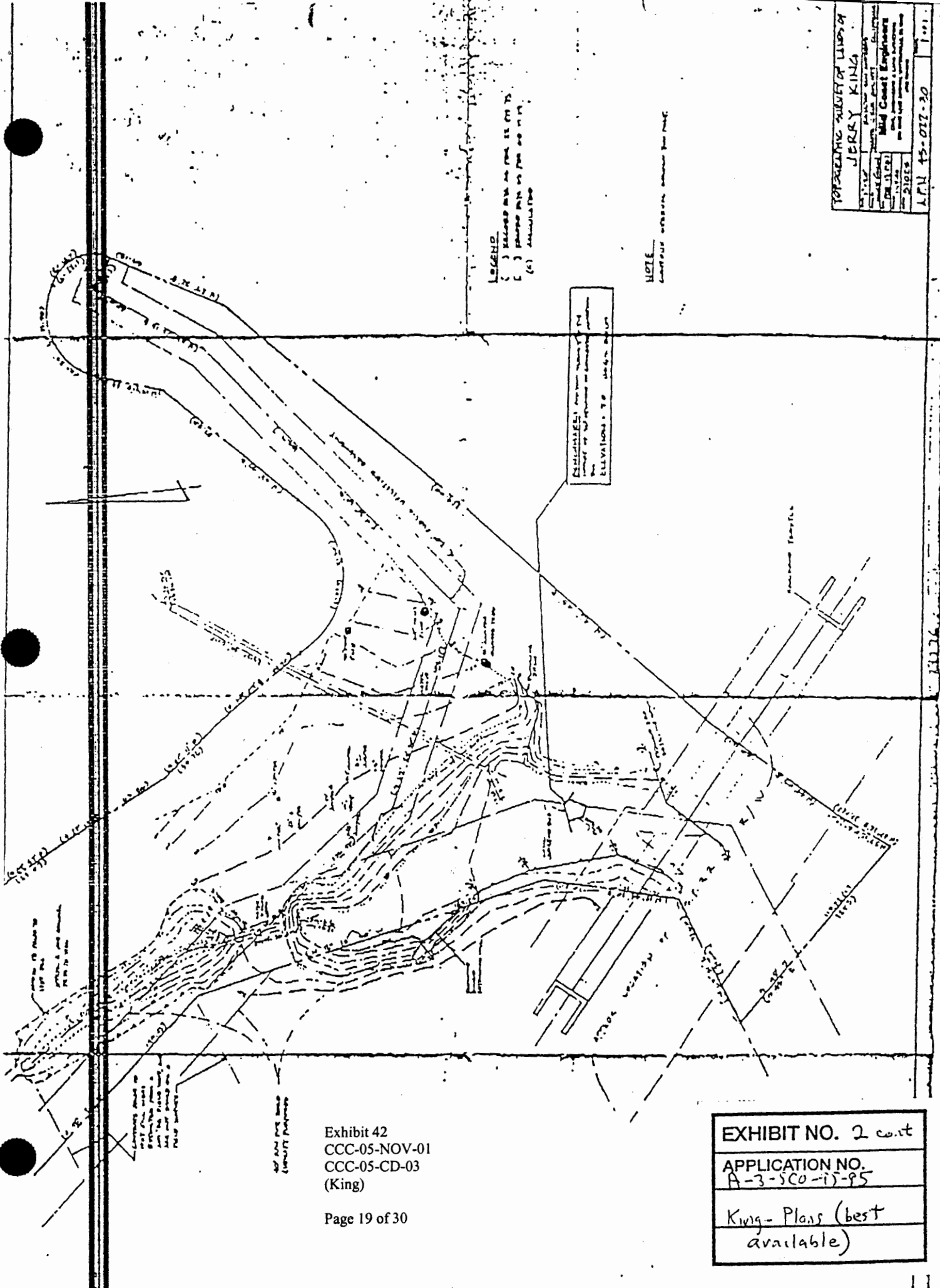
Todd A. Hill

Todd A. Hill
Estimator

cc: Dr. Jerry King.

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT NO. 2
APPLICATION NO. A-3-SC0-45-85 King
Proposed Project

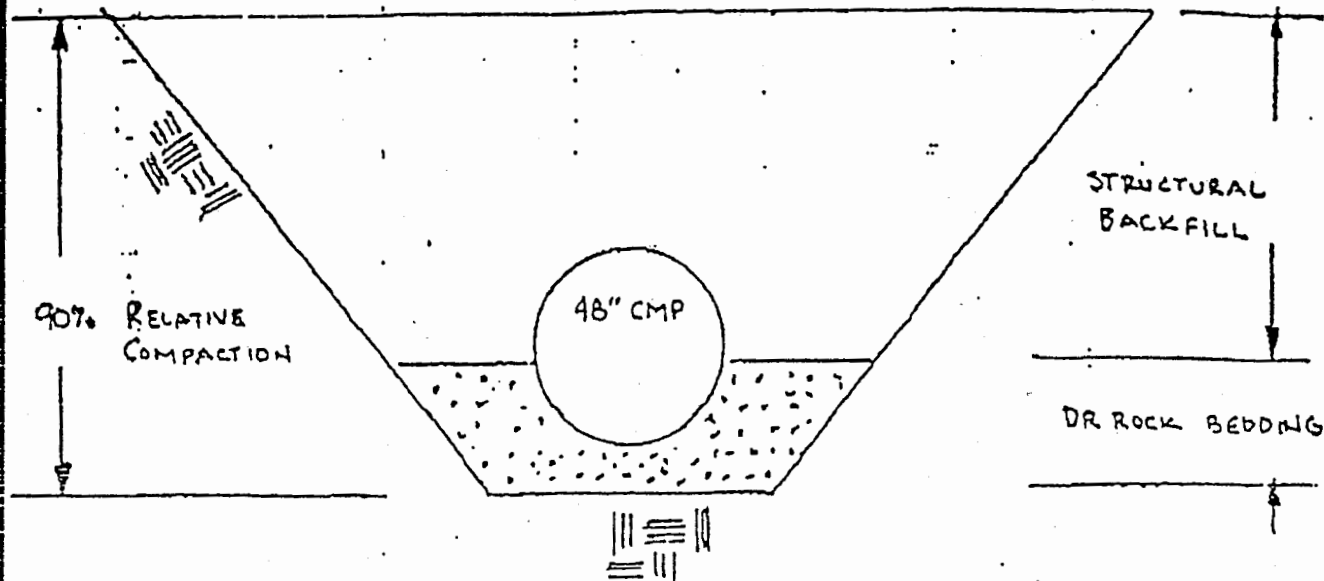


TOPGRAPHIC SURVEY OF LANDS OF	
JERRY KING	
Surveyed by	Mid Coast Engineers
Scale	1 inch = 1 mile
Sheet	1 of 1
APN	43-017-20

Exhibit 42
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

EXHIBIT NO. 2 cont
APPLICATION NO. A-3-500-15-95
King- Plans (best available)

TYPICAL TRENCH SECTION
NO SCALE



22-141 30 SHEETS
22-142 100 SHEETS
22-144 200 SHEETS



Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 20 of 30

Ex 2 cont.

TOTAL P.03



January 18, 1995

Mr. John King
595 Soquel Drive, Ste. 400
Santa Cruz CA 95062

SUBJECT: Permit conditions for Emergency Permit 4901. APN: 045-022-30

Permit Conditions:

1. A State-registered civil engineer shall direct, observe and approve all pertinent aspects of the culvert construction.
2. The trench backfill shall be installed as engineered fill with a minimum 90% relative compaction.
3. It is the property owner's responsibility to control erosion at all times. Sediment may not leave the project site and enter the adjacent watercourse.

/kingcu1

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 21 of 30

EXHIBIT NO. 3

APPLICATION NO.
A-3-SC0-95-85Emergency Permit



RECEIVED
DEC 26 1995
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

COUNTY OF SANTA CRUZ
Planning Department

PERMIT

REFERENCE #

APPEAL PERIOD 12/27/95 - 1/10/96

Owner John King

Permit Number 95-0280

Address 1595 Soquel Dr. Suite 400

Parcel Number(s) 045-022-30

Santa Cruz CA 95062

PROJECT DESCRIPTION AND LOCATION

Proposal to repair, replace and reconstruct an existing culvert and outlet. Requires a Coastal Zone Permit and a Grading Permit. Located on the west side of Margarita Road, 400 feet south of Cresta Way. SUBJECT TO ATTACHED CONDITIONS.

Approval Date: 11/17/95

Effective Date: 12/01/95

Exp. Date (if not exercised) 12/01/97

Coastal Appeal Exp. Date: Call Coastal Comm.

Denied by: _____

Denial Date: _____

_____ This project requires a coastal zone permit which is not appealable to the California Coastal Commission. It may be appealed to the Planning Commission. The appeal must be filed within 10 working days of action by the decision body.

X

_____ This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 working days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 10 working days of action by the decision body.

_____ This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work.

A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit. **THIS PERMIT IS NOT A BUILDING PERMIT.**

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

Signature of Owner/Agent

Staff Planner

Date

11-17

Date

EXHIBIT NO. 4

APPLICATION NO.

A-3-SC0-95-85

King County Coastal
Permit

Distribution: Applicant - white, File - yellow, Clerical - pink, Coastal Commission - goldenrod

Page 22 of 30

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

COUNTY OF SANTA CRUZ
PLANNING DEPARTMENT

Date: 10-6-95
Agenda Item: 1
Time: 10:00 A.M.

STAFF REPORT TO THE ZONING ADMINISTRATOR

APPLICATION NO: 95-0280
APPLICANT: John & Julia King
OWNER: John & Julia King

APN: 045-022-30

PROJECT DESCRIPTION: Proposal to repair, replace and reconstruct an existing culvert and outlet. Requires a coastal and grading permit.

LOCATION: The project is located on the westside of Magarita Road at 400 feet from Cuesta Way.

FINAL ACTION DATE: October 30, 1995

PERMITS REQUIRED: Coastal Zone Permit and Grading Permit for grading of approximately 400 cubic yards.

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA per Section 1802 of the CEQA guidelines.

COASTAL ZONE: XXXXyes no APPEALABLE TO CCC: XXXXyes no

PARCEL INFORMATION

PARCEL SIZE: 80,803.8 square feet

EXISTING LAND USE: PARCEL: non-developed residential lot
SURROUNDING: Residential and recreational

PROJECT ACCESS: Margarita Road

PLANNING AREA: La Selva Beach

LAND USE DESIGNATION: Urban Low Density Residential

ZONING DISTRICT: Rural Residential/Public & Community Facility

SUPERVISORIAL DISTRICT: 2

ENVIRONMENTAL INFORMATION

Item

A. Scenic

B. Drainage

Comments

A. Within scenic corridor;
visible from beach

B. Culvert replaced under observation of
a geotechnical engineer.

SERVICES INFORMATION

W/in Urban Services Line: yes XX no

Water Supply: Private water system

Sewage Disposal: Septic system

Fire District: County Fire

Drainage District: Zone 4 Drainage District

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 23 of 30

EXHIBIT 4
cont

Applicant: John & Julia King
Application # 95-0280
APN: 045-022-03

Page 2

DISCUSSION

Replacement of the culvert on the King property became necessary due to failure of a pre-existing culvert. The pre-existing culvert apparently failed due to corrosion, poor placement, and heavy storm activity. The original culvert placement took place in 1987 without County authorization. After several years of project review, permit application no. 89-0806 was issued (January 16, 1990) to rectify the unauthorized grading. The current permit authorized the replacement of this previous work. Mr. King requested an emergency permit to repair the damaged culvert and this emergency permit was issued in January 19, 1995. The proposed scope of work of the emergency permit is the same as this application.

RECOMMENDATION

Staff recommends approval of Application No, 95-0280, based on the attached finding and conditions.

EXHIBITS

- A. Findings
 - 1. Coastal Zone Permit Findings
 - 2. Development Permit Findings
- B. Conditions
- C. Environmental
- D. Location Map
- E. Assessor's Map
- F. Zoning Map
- G. Project Plans

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.

Report Prepared By: Joe Hanna
Phone Number (408) 454-3175
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 24 of 30

EXHIBIT 4
cont.

COASTAL ZONE PERMIT FINDINGS

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE LUP DESIGNATION.

The proposed grading use allowed in the R-1-6 zone district and consistent the Rural Residential General Plan Land Use Classification.

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

Public access exists to the beach to the north of the project site. No public access exists along or through this parcel. One water line and easement exists on site. No other utility easements exist across the lot. It is not within an open space easement.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 ET SEQ.

Section 13.20.130 of the County Code established the design criteria for coastal zone developments. It requires that new development be sited, designed and landscaped to be visually compatible and integrated with the character of the surrounding neighborhood. The proposed work will be a replacement and restoration of the pre-existing conditions. It is proposed that the existing vegetation remain undisturbed to the extent possible. Therefore, the project as proposed will minimize site disturbance and will be visually compatible with the surrounding area.

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY SECTION 2 AND 7, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The project site is not priority site within the coastal zone. It is not designated for recreational or visitor serving purposes. The residential lot is not appropriate for public shoreline access due to the lagoon between this parcel and the structure. Pedestrian access to the beach already exists nearby.

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The project site is within the scenic corridor of the Local Coastal Program require that development minimize visual intrusion from the beach and from scenic highways. Grading on this site will be visible from nearby homes and the beach. After completion of the grading, the site will eventually return to the pre-storm damage appearance.

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.

The proposal to reconstruct the culvert will not effect public health and safety in the area. The grading will not impact any property or improvements in the area.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

The proposed replacement of a storm damaged culvert meets the objectives for development within the Rural district.

3. THAT THE PROPOSED USE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The accomplished re-grading and culvert placement comply with all provisions of the General Plan and are consistent with the zoning.

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.

The project will not increase the use of utilities or level of traffic.

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

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.

The culvert replacement will not alter pre-existing physical conditions and consequently will not have an adverse impact on land use intensities and dwelling unit densities of the neighborhood.

Conditions of approval

Coastal Zone and Grading Permit
Application No. 95-0280 APN: 045-022-03

PLANNING AREA: La Selva Beach
LOCATION: Margarita Road

EXHIBITS

- I. Prior to final inspection, the following shall be complied with.
- A. All grading shall be completed.
 - B. Erosion control shall be completed.
- II. Operational Conditions.
- A. Erosion Coastal plantings, drainage, improvements, and erosion control shall be permanently maintained.
- III. Special Permit Conditions.
- A. A state-registered civil engineer shall direct, observe and approve all pertinent aspects of the culvert construction.
 - B. The trench back fill shall be installed as engineered fill with a minimum 90% of relative compaction. A final compaction report is required.

MINOR VARIATIONS TO THIS APPROVED MINOR LAND DIVISION OR DEVELOPMENT PERMIT WHICH DO NOT AFFECT THE OVERALL CONCEPT OR DENSITY MAY BE APPROVED BY THE PLANNING DIRECTOR AT THE REQUEST OF THE APPLICANT OR THE PLANNING DEPARTMENT STAFF.

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 27 of 30

EXHIBIT 4
Cont

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200

Date: April 12, 1996Commission Appeal # A-3-SCO-95-85

COMMISSION NOTIFICATION OF FINAL APPEAL ACTION

TO: Dan Shaw, Planning Director
Santa Cruz County Planning Department

FROM: Les Strnad, Deputy District Director
Rick Hyman, Coastal Planner

RE: Appeal of Local Permit # 95-0280 to the California Coastal
Commission

Name of Applicant JOHN and JULIA KING

Project Description, Location: Repair, replace and reconstruct an existing
culvert and outlet, west side of Margarita Rd., 400 ft. from Cresta Way,
La Selva Beach, Santa Cruz County

Local Decision Approval with Conditions

Pursuant to 14 Cal. Admin. Code Section 13120, please be advised that the
California Coastal Commission, on March 14, 1996 and by vote of 9 to 0,
took the following final action on this appeal:

- a. X no substantial issue
- b. ___ approval
- c. ___ approval with conditions
- d. ___ denial

Any terms and conditions of the local decision remain unchanged where the
Commission vote is "no substantial issue." Where the Commission vote is for
"approval" or "approval with conditions," the Commission decision replaces the
local coastal permit decision. Approval by the Commission may include
modified or Commission-imposed conditions; if so, they are attached.

Please contact us if you have any questions.

H8: 4/88

cc: John and Julia King
James Fairbanks

0619C

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4863

HEARING IMPAIRED: (415) 904-5200



April 12, 1996

Dr. and Mrs. John King
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Dear Dr. and Mrs. King:

As you know the Coastal Commission acted on an appeal of your recent culvert repair project on your La Selva Beach property. The Commissioners found "no substantial issue" as to the specific contentions and project before them. This was a necessary project that was reasonably well-executed.

However, our staff site inspection raised concerns about the condition of other portions of the site. The parcel contains a coastal lagoon; such wetlands provide especially valuable habitats and are protected under the Coastal Act.

There is a history of permits which apply to the subject site, dating back to the Trestle Beach project. Permit approval of that project required a resource management plan which called for the maintenance of native plant communities. Although somewhat crude by current standards, its basic guidance remains applicable today. Also, work authorized on the other culvert was to be consistent with County Grading and Erosion Control Ordinances (County permits 89-0806, 90-1017).

Rather than us attempting to further analyze and apply any of those relevant permit requirements to the current situation, we would rather defer to a more positive approach. To that end, we would recommend that you take the initiative to maintain and possibly enhance your property's natural resources. To assist you we are enclosing a booklet by our sister agency -- the Coastal Conservancy -- "Options for Wetland Conservation: A Guide for California Landowners." Hopefully, you will find some helpful suggestions that you may wish to pursue. For example, there may be opportunities for using some University programs if you are interested in some assistance in managing your wetland resources. If you want to discuss these ideas further, please do not hesitate to call.

Sincerely,

Tami Grove
District Director

A handwritten signature in cursive script that reads "Rick Hyman".

Rick Hyman
Coastal Planner

TG/RH/cm
Enclosures
cc: Dan Shaw, Planning Director
0254R

Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

Santa Cruz County RCD Announces Natural Resource Consultation Program

Santa Cruz County landowners, land managers, homeowners, developers, growers and property owner associations now have available a central source for addressing natural resource issues. Expert technical assistance is available to help you with these topics:

Soil Identification and Mapping	Gully Stabilization and Restoration	Prime Farmland Investigation
Wildlife Habitat Enhancement	Soil Interpretations for Agricultural or Engineering Purposes	Pond Development Potential
Soil Fertility Management	Riparian Corridor Restoration and Management	Road Drainage and Management
Erosion Control Planning	Surface and Subsurface Drainage Control	Native Vegetation Management

The Santa Cruz County RCD is a non-regulatory agency able to assist you in remediation or mitigation of permit violations. Consultations include an authoritative and comprehensive written report by the appropriate staff expert.

Charles Beutler: Soil Scientist with NRCS for 30 years; participated in soil survey for over one million acres in California; coauthor of the Santa Cruz County Soil Survey.

Steve Singer: 15 years of local experience in soil, vegetation and wildlife management; Certified Professional Erosion and Sediment Control Specialist; author, "Groundcover, A Planting Guide for Erosion Control and Site Improvement in the Central Coast."

Call (408) 688-1562 or (408) 427-3297 to schedule a consultation.

Publications Available from the Santa Cruz County RCD

For a complete list of publications available, or to order materials, write the Santa Cruz County RCD at 3233 Valencia Ave., Suite B6, Aptos, CA 95003, or call (408) 688-1562.

AGRICULTURAL CROPS AND EROSION CONTROL:

A variety of brochures available.

EARTHQUAKE:

- Basic Overview of Seismic Hazards
- Faults and Earthquakes in California
- Guidelines for Evaluating the Hazards of Surface Fault Rupture
- How Earthquakes Are Measured
- Management Tips for Earthquake Damaged Slopes
- How Soil Surveys Can Help Evaluate Earthquake Damage
- Using Plastic to Cover Large Cracks in the Soil

GULLY CONTROL:

A variety of brochures to assist with the problem.

HOME DRAINAGE:

- Drainage Control for Hillside Homes
- Sizing Downspouts & Gutters for Roof Runoff in Santa Cruz County
- Drainage for Landslide Control
- Water Management As an Aid to the Stabilization of Coastal Cliffs

MISCELLANEOUS:

- Conservation Practices that Help Control Runoff—The "4-D Formula"
- *Conservation Tips for Builders
- Landscape Professionals with Erosion Control Training
- Poison Oak Control in the Home Garden
- Coordinated Resource Management and Planning
- And many others.

PONDS:

A variety of brochures available.

ROAD DRAINAGE:

- Culvert Standards
- Proper Road Culvert Use

SLOPE STABILITY:

- Do's and Don'ts in Hillside Living
- *Erosion Control for Mountain Homesites
- Hazards from Mudslides...In Hillside and Wildfire Areas
- Horizontal Well Drillers
- Landslides — The Descent of Man
- Monitoring Rainfall Conditions in Santa Cruz County
- Mudslide Repair Tips
- Redwood Retaining Walls
- Seeding Mudslides for Erosion Control
- Slope Failure
- *Tips on Preventing Landslides

SOILS:

A variety of brochures available regarding local soils.

STREAMBANK EROSION:

- Gabions
- In the Event of a Flood
- *Pipe and Wire Revetment — Construction Specifications
- Rock Rip-rap — Construction Specifications
- Streambank Erosion

VEGETATION — HERBACEOUS:

- Availability of Santa Cruz County Erosion Control Mix
- Fertilizer and Mulch
- Grass Cover for Erosion Control
- Kikuyugrass/Using for Erosion Control on Coastal Bluffs
- Proper Erosion Control on Newly Shaped Slopes
- Legumes for Orchard and Vineyard Cover Crops
- *Mulching for Erosion Control on Newly Shaped Slopes
- Pasture Seed Mixes for Santa Cruz County
- Seed, Fertilize, and Mulch
- Seeding and Revegetation
- Seeding Steep Road Cuts for Surface Erosion Control
- Steps to Preventing Erosion on Bare Soil Areas & Construction Sites
- *Straw Mulch
- Vegetative Cover — Blackberry Vines (Planting Specifications)
- Vegetated Filter Strip

VEGETATION — WOODY:

A variety of brochures available.

WATER CONSERVATION:

- *Irrigation...When and How Much?
- Be Water Wise, Use What You Need, But Not a Drop More
- Drip Irrigation
- Drought and the Garden
- How to Save Water in the Landscape
- Self-controlled Sprinklers
- *Water Conservation Tips for Stretching Water on Pasture and Range
- Water-efficient Plants

WILDFIRE PREVENTION:

- *Broadcast Seeding Method for Burned Areas
- Care and Maintenance of Wood Shingle and Shake Roofs
- Brush Management — Protecting Your Home Against Wildfire
- Fire Hazard Rating of Trees and Shrubs
- Fire Safe, California — Make Your Home Fire Safe
- Fire Retardant Groundcovers for the Santa Cruz Mountains
- Fire Safety Tips for the Santa Cruz Mountains and Other Rural Areas
- Guide to Plants for Use in a Fire Escape
- Greenbelting: It Could Save Your Home
- Greenbelt and Shaded Fuelbreaks for Fire Hazard Reduction
- Guidelines for the Establishment and Maintenance of Fire Retardant Groundcovers
- Landscaping Against Fire
- Protecting Your Home Against Brushfire
- *Reseeding Grasses and Clovers on Burned Areas

WILDLIFE HABITAT:

Instructions available for building houses for barn owls, kestrels, songbirds, wood ducks, and bats.

* These publications ma Exhibit 42
CCC-05-NOV-01
CCC-05-CD-03
(King)

atural Resources Conservation Service.
/ costs.

Natural Resources

Fall/Winter 1995

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET ROOM 400 SANTA RUZ, CALIFORNIA 95060
(408) 454-2580 FAX (408) 454-2111 TDD (408) 454-2123

May 2, 1997

Richard [redacted]
706 [redacted] [redacted]
Capitol [redacted] CA 9

SUBJECT: Pre-employment Review (PDSR) 97-0232 for A145-022-30

Dear Applicant:

Dear Applicant:

Please find enclosed your completed Pre-development Site Review. It consists of a form that describes the site conditions and call out technical and zoning requirements for receiving a building permit.

18.

environmental constraints.

The proposed project is subject to several environmental constraints. Part of the enclosed identifies environmental/technical reports, reviews and permits that will be required for your proposal. However, the nature of those requirements and the reports might not be able to solve the site constraint problem. Also, if you have conflicts with County development regulations. Also, if you require private technical consulting services, consultants must at the earliest contact County geologist Joe H. in order to discuss the scope of the project and information.

If you have any questions or for any information, please contact the Planner for zoning questions (Part 9) and the Resource Planner for the financial portion (Part 10) listed on page 10 of the P.S.R.

Thank you for your participation

Sincerely,

ek Nelson

FOR:

MARTIN JACOBSON
Principal Planner - Zoning

KENDRICK
Principal Planner - Environmental Planning

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 36

enclosure



PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET
FAX (408) 454-2131

SANTA CRUZ, CALIFORNIA 95060
(408) 454-2580

PRE-DEVELOPMENT SITE REVIEW

PART 1: ZONING INFORMATION

Note to Applicant: Please remember that the more accurately and completely you describe your project, the better the zoning information the Department can provide to you.

To be completed by applicant:

Propessor's Parcel Number(s): 045-022-30
Project Address (if any): None

Please complete the following sections as fully and accurately as possible.
Describe the buildings and uses existing on the property now:

None

Describe the project you are applying for:
Build 4000 SF of 1000 sq ft structure
w/ parking and driveway

If you are planning to grade (i.e. move earth to create a driveway, road, or pad for a structure) as a part of your project, estimate the cut and fill (i.e. amount of earth to be removed or placed, and the depth):

For Foundation Approx 75 cu yd Road 20 cu yd

Please note: If your property is in a development governed by a Homeowners' Association, please check your CC&R's for limitations on design, uses, or construction.

[Signature]
SIGNATURE

4-5-97
DATE

Richard L. Emig
NAME OF PERSON REQUESTING INFORMATION

B. To be completed by Planning Staff:

PARCEL INFORMATION

APN(s): 045-022-30

(See attached computer
print-out for parcel characteristics)

Parcel was created in 1976 (year) by: ☐ N/A due to project scope

- ☒ parcel map 22 PM 73
☐ final map _____
☐ recorded deed _____
☐ Certificate of compliance _____
☐ other _____

Parcel size (complete at least one):

EMIS Estimate 80,803
Owner's Information _____
Survey Information ?
Planner's Calculation _____

1.855 ACR.

Land Use:

Is the Assessor's Land Use Code consistent with the applicant's statement?

☒ Yes ☐ No

Zone District: RR (RURAL RESIDENTIAL)

Is the project use allowed in zone district?

☒ Yes ☐ No

General Plan Land Use Designation:

Are zoning and General Plan land use designation consistent?

☒ Yes ☐ No

Does inconsistency affect whether or not use is allowed?

☒ Yes ☐ No

List permits granted:

Coastal Permit Denial for Tramp cars on-site

Code Compliance:

Is there an unresolved complaint or violation:

☐ Yes ☒ No None known

If yes, fees due for code compliance activity up to the current date are \$ _____. This fee must be paid when you make any application at the Zoning Counter, OR when you pick up your building permit, whichever comes first.

Is there a valid discretionary permit on file for the current use?

- ☒ N/A
☐ Yes _____
☐ No _____
☐ Pre-existing non-conforming

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)



COUNTY OF SANTA CLARA

ACCESS

N/A due to project scope ()

Access is via:

- ☐ arterial
☐ collector
☒ local
☐ private road

Is a Zoning Administrator approval required for a <40' right of way?

☐ Yes ☒ No

For projects within the Urban Services Line:

Is a plan line approved for the street?

☐ Yes ☐ No

Is dedication of right of way required?

☐ Yes ☐ No

If so, indicate right of way width shown _____,
right of way width required _____, and
dedication required _____.

Does the property have curb, gutter, sidewalk, utility easements?

☒ Yes ☐ No

COASTAL ZONE

N/A: outside coastal zone ()

Is the parcel within the Urban Rural boundary?

☒ Yes ☐ No

Is the parcel in a scenic resource area?

☒ Yes ☐ No

Is the parcel within a special community?

☐ Yes ☒ No

Is design review required?

☒ Yes ☐ No

due to type of project SFD

due to location _____

Is the parcel within a sensitive habitat?

☐ Yes ☒ No

Is the proposed use a principal permitted use?

☒ Yes ☐ No

Is the project in the appealable area?

☒ Yes ☐ No

Does the project qualify for an exemption?

☐ Yes ☒ No

If yes, Section 13.20. _____

Does the project qualify for an exclusion?

☐ Yes ☒ No

If yes, Section 13.20. _____

Is a coastal permit required?

☒ Yes ☐ No

Is it appealable?

☒ Yes ☐ No

SITE STANDARDS

Do district site standards or special site standards apply?

- ☒ district RR (Rural Residential)
☐ special _____ (permit #)
☐ substandard parcel <80% _____ standard used

Site and structural dimensions exceptions that apply to project include:

- ☐ right-of-way dedication ☐ height exceeding 28'
☐ corner lot ☐ double frontage

see Page 4 "Comments"

Exhibit 43

CCC-05-NOV-01

CCC-05-CD-03

(King)

- ☐ steep lot ☐ accessory structures
☐ structural encroachments ☐ solar access
☐ other _____
☐ other _____

The site standards given on the left side of the chart below are those for the zone district in which the property is located, unless modified by any factors mentioned above. Site conditions that are not shown on our maps may change your minimum setback on any side. If a different setback is determined by a site visit, the more restrictive setback will apply. (If the project includes multiple buildings, complete this section for each one.)

	Required Site Standards for This Parcel	Site Standards Shown on Project Plans
Front Yard		
Side Yards		
Rear Yard		
Height		
# of Stories		
Lot Coverage		
Floor/Area Ratio		
Distance Between Structures		

Note
*

Comments (i.e., do not have adequate plans to determine floor area ratio, or explanation of how 8' X 5' setbacks work):

Parcel Map 22 PM73 states that this parcel is not buildable without a subsequent minor land division approval by the County. Contiguous ownership by King of more than 4 parcels would require a Subdivision Application and approval by the Board of Supervisors. For projects requiring design review, attach copy of regulations. The Board of Supervisors.

PARKING

- ☐ N/A: no additional bedrooms
☐ N/A: no existing parking deleted
☐ N/A: due to project scope

* Parking spaces required (8 1/2' X 18' each) _____ spaces shown _____
 Are the required number of spaces shown? ☐ Yes ☐ No
 Does parking area exceed 50% of required front yard? ☐ Yes ☐ No

Exhibit 43
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

DECLARATIONS

The declaration(s) checked below will be required as a condition of approval of a permit for the project:

- ☐ Agricultural acknowledgment
- ☐ Timber production acknowledgment
- ☐ Accessory structure
- ☐ Affidavit to combine parcels

The following declarations may be required after zoning or building permit application review by Environmental Planning staff:

- Declaration of Geologic Hazards
- Declaration of Limits and Elevations of the 100 year flood plain
- Dedication of an open space or conservation easement.

CODE COMPLIANCE FEES

☒ No applicable fees:

☐ For projects in violation, Code Compliance Staff time charged at hourly rate through resolution of violation. (See page 2)

CAPITAL IMPROVEMENT FEES*

These are direct contributions to accounts that fund parks, roads, and child care facilities. The Planning Department collects the fees and disperses them to the appropriate agencies.

☐ No applicable fees

Park Dedication
Transportation Improvement
Roadside Improvement
Roadway Improvement
Child Care Facilities

\$ 930. per bedroom
\$ 0
\$ 0
\$ 0
\$ 109. per bedroom

*Note: These fees are collected when the building permit is issued. This estimate is based on the current fee schedule. The actual fee will be charged according to the schedule in effect when the permit is issued.

SUMMARY

Based on the information you have given, and staff review of the location of your property and the land use regulations governing it, your project:

☐ Appears to meet all Zoning regulations.

NOTE:

1. The need for some technical reviews can only be determined after site visit. Therefore, see also Part 2 and Part 3 of this report.
2. Lot coverage and Floor Area Ratio standards are given in this report (page 4). However, we cannot determine whether the project meets the standard until all plans that include elevations are submitted with your building permit application.

☒ Requires the following discretionary approvals:

- Minor Land Division	
- Coastal Permit	

General Comments:

1. See Part 2 of this report for further information regarding constraints due to technical and/or environmental resources.
2. See Part 3 of this report for instructions on your next step(s) toward a building permit.

3. See Note on Page 4.
No building without an approved
subdivision by Board of Supervisors

Prepared by R. Staben

Date: 4/13/97

Phone Number: (408) 454-3190

PART 2: SITE REVIEW

RESOURCES AND CONSTRAINTS SUMMARY

Resource/ Constraint	No	Yes: Present On Map**	Yes: Noted In Field*
• State Fault Zone	<u>X</u>	—	—
• County Fault Zone (fault trace w/in 300')	<u>X</u>	—	—
• F.E.M.A. Flood Zone A or V	—	<u>X</u>	<u>X</u>
• F.E.M.A. Floodway	<u>X</u>	—	—
• Landslide, Potential Slope Instability	—	—	<u>X</u>
• 1989 Groundcracking	—	—	—
• Liquefaction Zone A or B	—	—	—
• Riparian Corridor, Riparian Woodland, or Wetland *	—	—	<u>X</u>
• Archaeologic Sensitivity Area	—	<u>X</u>	—
• Sensitive Habitat *	—	<u>X</u>	<u>X</u>
↓ Specify: * <u>Intermittent back beach pond and inte. mittent streams.</u>			
• Paleontology	—	—	—

***Describe field condition:**

Most of the parcel has been very substantially altered
in the past by a combination of human activities
(including culverting of two intermittent streams, fill
in the stream canyon above (on top of the culverts) and
natural processes (coastal erosion processes, flooding,
landsliding, slope and stream erosion).

The FEMA-mapped 100-year floodplain has been altered
by placement of a culvert and fill in it.

See additional information below.

**Copy of map attached.

This site visit included:

_____ Biotic Site Check _____ Other
_____ Riparian pre-site

ACCURACY OF SUBMITTED MATERIAL:

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| • Relief generally accurate as presented? | _____ | <u>X</u> |
| • Setbacks to creeks, cliffs, other physical features correct? | _____ | <u>X</u> |
| • All significant features shown on plot plan? | _____ | <u>X</u> |

Remarks: The steep slope above the proposed driveway and above/behind the proposed structures and septic system are not shown. The drainage ravine along the southeast property line (including at the proposed driveway) and the abrupt drop in grade along the driveway route are not shown. This is not a reliable map/plan.

SITE CONDITIONS: Check appropriate box and briefly elaborate on "yes" and "possible" responses.

GEOTECHNICAL/GRADING

- | | <u>YES</u> | <u>NO</u> | <u>POSSIBLE</u> |
|---|------------|-----------|-----------------|
| • Existing unclassified fill or cut, and/or unauthorized grading | _____ | _____ | <u>X</u> |
| <u>Some fill has been placed under prior permit. The quality of the fill, over the years, is not well documented. I observed broken asphalt and concrete protruding from the surface of the fill. Unauthorized grading was conducted in the 1980's.</u> | | | |
| • Visible signs of slope failure (current) or indications of previous instability (consider natural slopes, cuts & embankments) | <u>X</u> | _____ | _____ |

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

	<u>YES</u>	<u>NO</u>	<u>POSSIBLE</u>
• Potential for failure of natural or artificial slopes in proximity to proposed/structures	<u>X</u>	—	—
• Indications of potentially adverse soil conditions	<u>X</u>	—	—

Remarks: Several times, previously installed culvert systems have failed catastrophically in winter conditions, with large volumes of fill material blown out of the filled-in stream canyon area. A repeat washout could destroy the proposed building site. Upstream landsliding, flooding, and other conditions, may cause repeated destruction of the building site. See below also.

ACCESS ROAD/DRIVEWAY	<u>YES</u>	<u>NO</u>	<u>POSSIBLE</u>
• Grading required	<u>X</u>	—	—
• Potential slope instability along road	<u>X</u>	—	—

Remarks: There is an active, raw landslide from last winter on the steep slope between Margarita Rd. and the proposed driveway. The abrupt drop in grade along the driveway route may also be due to landsliding. The lower portion of the proposed driveway is located in an existing drainage ravine.

EROSION AND DRAINAGE	<u>YES</u>	<u>NO</u>	<u>POSSIBLE</u>
• Drainage problems that require mitigation	<u>X</u>	—	—
• Potentially high groundwater at building site	<u>X</u>	—	—
• Existing accelerated erosion or high erosion potential at building site <u>X</u> road <u>X</u>	<u>X</u>	—	—

Remarks: A 100 year flood event, or upstream landsliding, or coastal erosion processes and coastal wave runup, threaten the building site. The development must conform to Coastal Bluff policies 6.2.10 through 6.2.21 of the 1994 General Plan (enclosed). 100 year stability of the site must be demonstrated, and may not rely on structural engineering measures such as shoreline protection, retaining walls, or deep piers.
Page 9
Coastal Hazard Area and Coastal Bluff standards apply to this site.

RIPARIAN CORRIDOR, RIPARIAN WOODLAND,
WETLAND

YES

NO

POSSIBLE

- Riparian resource accurate on plot plan

— X —

- Development meets required buffer

— X —

*The majority of the site is within a riparian arroyo.**
Specify buffer: *The buffer setback from the pond, + structures, is 110 ft.**
The intermittent back beach pond is not called out on the plan.
The location of existing redwood retaining wall does not appear
complete or accurate. Features in the ponding area are very sketchy.
**Riparian Exception Permit required for development in these areas.*

OTHER SENSITIVE HABITAT AND/OR SPECIES

YES

NO

POSSIBLE

- Mapped species or habitat

— X —

Specify: _____

- Resource observed on site

— X —

Specify: _____

- Significant trees to be removed in Coastal Zone

X — —

Remarks: *Numerous significant trees are located at the*
proposed driveway, structures, and sept. areas.

ARCHAEOLOGY

YES

NO

POSSIBLE

Note: Archaeologic review is only required if the project requires a discretionary permit, or is within 500 feet of a recorded archaeologic site.

- Development on or within mapped resource area

X — —

Remarks: *An Archeologic Site Review is required.*

INVESTIGATIONS & PREVIOUS INFORMATION: YES NO POSSIBLE

- 1989 earthquake site visit or Geologic Hazard Assessment X
- Previous Geologic Hazard Assessment, geologic report, or geotechnical report(s) X
- Other technical report(s) X
- Unresolved violation(s) X

Remarks: A 1988 Geologic Hazard Assessment was done and is out of date. Other Planning Dept. files have information on previous grading and drainage projects.

POLICIES AND GRADING PERMITS: YES NO POSSIBLE*

- A grading permit is required X

→ Note: A grading permit is required if earthwork involves any of the following: cuts exceeding five feet in height, fill exceeding two feet in depth, fill beneath a structure, fill altering or obstructing a drainage course, or total earthwork volume exceeding 100 cubic yards.

*The applicant is responsible for applying for grading permits if the work exceeds the parameters listed above. If the information you have submitted for this report is not detailed enough to determine whether a permit is needed (indicated by a check mark in the "possible" column), you must further refine your grading plan, calculate the grading volume, and then apply for a permit if any of the parameters are reached. Grading exceeding the thresholds in the Coastal Zone also requires a Coastal Permit.

Site disturbance and grading must be minimized. The proposed structure(s) and road(s) must be designed to fit the existing topography and to limit earthwork (County Code Section 16.22.050). Building and discretionary permit applications will be reviewed for compliance with this policy. Grading more than 1000 cubic yards requires Environmental Review.

- This site will require special attention by the designer and owner to ensure that grading is minimized. X

Remarks: _____

New roads are not allowed to cross slopes steeper than 30% if there is an alternative building site that does not require such a road (County Code Section 16.22.050).

- | | <u>YES</u> | <u>NO</u> | <u>POSSIBLE</u> |
|--|------------|-----------|-----------------|
| • New road or driveway crossing slope greater than 30% | <u>X</u> | — | — |
| • An alternate site appears to exist | — | — | <u>X</u> |

Remarks: Alternative building sites and driveways were not evaluated.

CODE COMPLIANCE:

- | | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| • An unresolved environmental violation or complaint was identified for this parcel.
(See page 2) | — | <u>X</u> |
| • If yes, the following actions are necessary to resolve the violation: _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

PART 3D:* NEXT STEPS FOR PROCESSING THIS PROJECT

Here are the next steps for processing a permit for your proposal.

A. The following zoning related applications are required for this project:

	REQ'D	CURRENT FEE
Coastal Zone permit	<u>X</u>	<u>AT COST</u>
Agricultural Buffer	<u> </u>	<u> </u>
Variance	<u> </u>	<u> </u>
Environmental Exemption	<u>X</u>	<u>\$ 23</u>
Intake Fee	<u>X</u>	<u>\$ 81</u>
Other <u>Minor Land Division</u>	<u>X</u>	<u>AT COST</u>
Other <u> </u>	<u> </u>	<u> </u>
Other <u> </u>	<u> </u>	<u> </u>

- B. No additional environmental and technical reviews, applications, or information are required for this project. Your next step will be to make application at the Zoning Counter for the zoning related approvals identified in Section A (above). A list of materials you will need to make these applications is attached. Call 454-3252 for information about appointments and the hours of the Zoning Counter.
- C. ✓ Additional environmental and technical reviews or information are required for this project. THIS INFORMATION MUST BE SUBMITTED ALONG WITH YOUR APPLICATION FOR THE ZONING RELATED APPROVALS INDICATED IN SECTION A. Making application for the technical reviews and permits indicated below and making application for the approvals listed in Section A (above), is your next step. See Sections 1, 2 & 3.
- D. Additional environmental and technical reviews or information are required for this project. THIS INFORMATION CAN BE SUBMITTED WITH YOUR BUILDING PERMIT APPLICATION AND IS NOT REQUIRED UNTIL AFTER THE ZONING RELATED APPLICATIONS LISTED IN SECTION A ARE APPROVED. Your next step will be to make application at the Zoning Counter for the zoning related approvals identified in Section A (above). Later, when you apply for building permits, you must also make application for the technical reviews and permits called out below. Call 454-3252 for appointments and the hours of the Zoning and Building counters. See Sections 4, 5 & 6.

**This form is used when the project requires a discretionary approval.*

1. **ENVIRONMENTAL AND TECHNICAL REPORTS AND REVIEWS:**
Required ALONG WITH zoning related applications.

Make application for these reviews at the Zoning Counter. Call 454-3252 for hours and Zoning Counter information. A list of material you will need to make these applications is attached.

	<u>REQ'D</u>	<u>CURRENT FEE</u>
Geologic Hazard Assessment**		
Geotechnical Report	<u>X</u>	Private consulting firm. Guidelines and a list of local firms are attached.
Geotechnical Report Review	<u>X</u>	<u>\$ 569</u>
Engineering Geologic Report	<u>X</u>	Private consulting firm. Guidelines are attached.
Surveyed topographic map	<u>X</u>	Private consulting surveyor or civil engineer.
Geologic Report Review	<u>X</u>	<u>\$ 972</u>
Biotic Site Check		
Archaeologic Site Check	<u>X</u>	<u>\$ 219</u>

Other: (Biotic, archaeologic, and paleontologic reports and reviews, restoration plans for violations, etc.) Indicate fees.

See also, information in cover letter with this PDR.

** May result in a requirement for geotechnical, geologic or hydrologic report, and/or engineered plans.

2. **ENVIRONMENTAL AND PERMIT APPLICATIONS:** Required ALONG WITH zoning related applications.

Make applications for these permits at the Zoning Counter. Call 454-3252 for hours and information about appointments. A list of materials you will need to make these applications is attached.

	<u>REQ'D</u>	<u>CURRENT FEE</u>
• Riparian Exception	<u>X</u>	<u>\$ 822</u>
• Riparian Pre-Site		
• Grading Permit	<u>X</u>	<u>\$ 765</u> (@ 251 to 1000 cubic yds.)
• Significant Tree	<u>X</u>	<u>\$ 230</u>
Remarks: Removal Permit		

3. ENVIRONMENTAL AND TECHNICAL INFORMATION:

Required ALONG WITH zoning related applications. (Circle if applicable.)

- Engineered grading plan for: building site road other
- Engineered drainage plan for: building site road other
- Surveyed topographic map for: building site road other
- Erosion control plan for: building site road other

Remarks: "Other" refers to all areas involved in, affecting, or affected by the proposed development.

4. ENVIRONMENTAL AND TECHNICAL REPORTS AND REVIEWS THAT CAN BE SUBMITTED WITH BUILDING PERMIT APPLICATION, AFTER ZONING APPROVAL:

	<u>REQ'D</u>	<u>CURRENT FEE</u>
Geologic Hazard Assessment**	_____	
Geotechnical Report	_____	Private consulting firm. Guidelines and a list of local firms are attached.
Geotechnical Report Review	_____	
Engineering Geologic Report	_____	Private consulting firm. Guidelines are attached.
Surveyed topographic map	_____	Private consulting surveyor or civil engineer.
Geologic Report Review	_____	_____
Biotic Site Check	_____	_____
Archaeologic Site Check	_____	_____
Other: (Biotic, archaeologic, and paleontologic reports and reviews.) Indicate fees.		
	_____	_____

** May result in a requirement for geotechnical, geologic or hydrologic report, and/or engineered plans.

5. ENVIRONMENTAL AND PERMIT APPLICATIONS THAT CAN BE SUBMITTED WITH BUILDING PERMIT APPLICATION, AFTER ZONING APPROVAL:

	<u>REQ'D</u>	<u>CURRENT FEE</u>
* Riparian Exception	_____	_____
* Riparian Pre-site	_____	_____
* Grading Permit	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. TECHNICAL INFORMATION THAT CAN BE SUBMITTED WITH BUILDING PERMIT APPLICATION, AFTER ZONING APPROVAL:
(circle if applicable)

• Engineered grading plan:	building site	road	other
• Engineered drainage plan:	building site	road	other
• Surveyed topographic map:	building site	road	other
• Erosion control plan:	building site	road	other

NOTE: An intake fee of \$60 is charged for some technical reviews and visits to the Zoning Counter. It may be possible to minimize the intake fee if you make your applications during one visit.

LIMITATIONS

This report is valid for one year from the date of the site visit, subject to the following conditions:

- This review may become invalid if the development envelope is modified or relocated. Small modifications within the one year period may be accepted, if a site visit verifies that there are no resulting modifications to this report. A fee will be charged for the follow-up site visit.
- If the site conditions are altered by a natural event (earthquake, flood, landslide), or by unauthorized grading or clearing, this information may become invalid.
- This review is based on County regulations in effect at the time of the site visit. Changes in State or County regulations may cause additional resources or constraints to be identified and/or additional information to be required, or may otherwise modify this report.
- This review covers environmental issues regulated through the Planning Department only. Other County and community agencies may have land use regulations as well. Contact the Environmental Health Department for information about septic system approval, at (408) 454-2022. Contact your local Fire Department for information about fire protection requirements. Also, see the attached Information Sheet/Scope of Services.
- For projects requiring a discretionary approval, such as a Coastal Permit or Variance, the decision maker (Zoning Administrator, Planning Commission or Board of Supervisors), may impose additional requirements as part of the public hearing process.

Date: 5-2-97

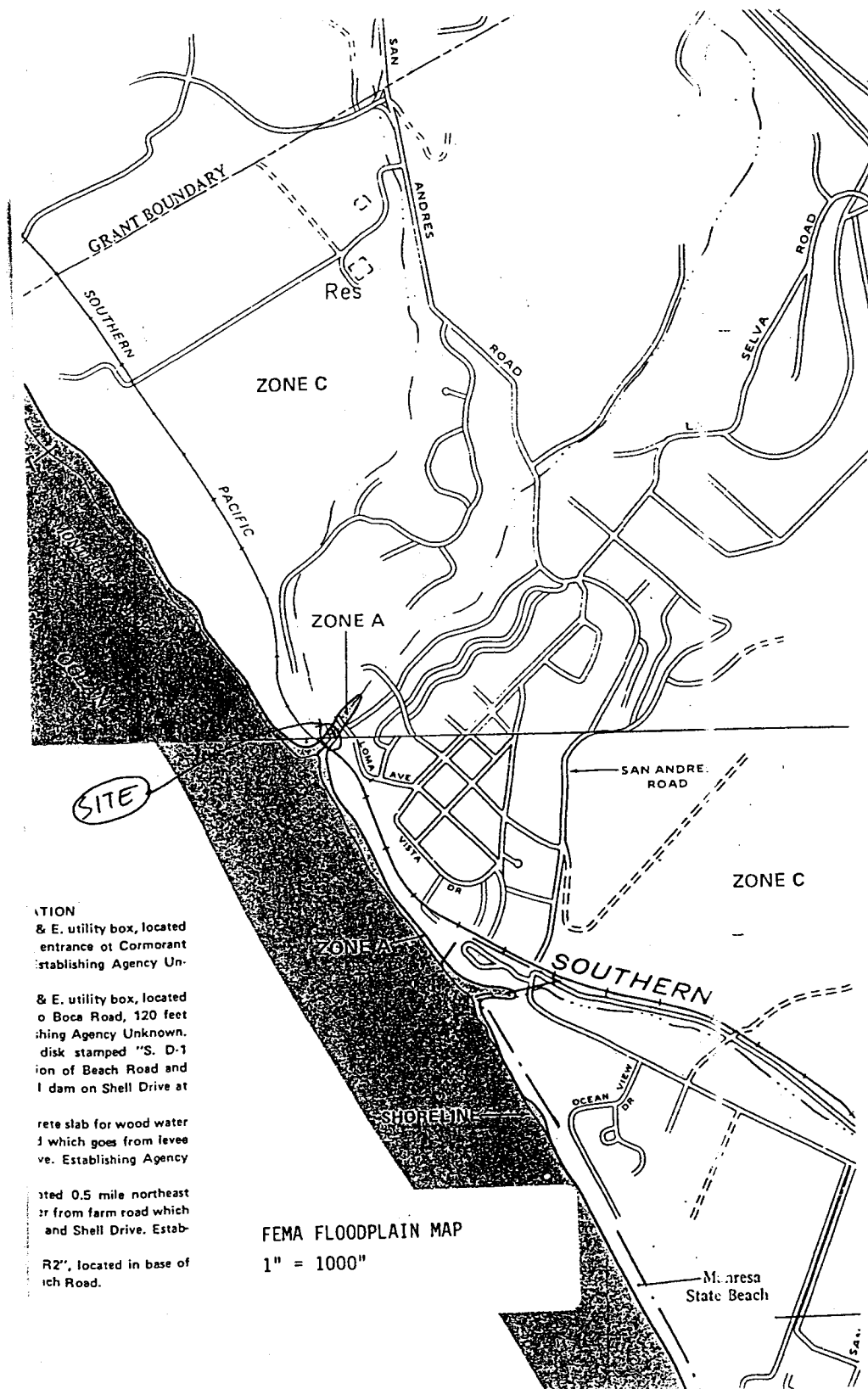
If you have any questions about Zoning Information given in Part 1, please call Bob Stakem at 454-3190.

Site visit performed by: Jack Nelson

If you have questions about Part 2, Part 3 or the follow-up actions you need to take, please call me at 454-3163.

cc: PDSR File
Project File

part3d/941/wpd



ATION
& E. utility box, located
entrance of Cormorant
Establishing Agency Un-

& E. utility box, located
o Boca Road, 120 feet
ishing Agency Unknown.
disk stamped "S. D-1
ion of Beach Road and
I dam on Shell Drive at

rete slab for wood water
d which goes from levee
ve. Establishing Agency

sted 0.5 mile northeast
r from farm road which
and Shell Drive. Estab-

R2", located in base of
ch Road.

FEMA FLOODPLAIN MAP

1" = 1000"

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 19 of 36

Programs

- a. Implement a program to document the public and private costs of landslides, to identify existing landslides, and revise County maps as additional information becomes available. Require property owners and public agencies to control landslide conditions which threaten structures or roads. (Responsibility: Planning Department)
- b. Maintain and periodically update public information brochures concerning landslide hazards and guidelines for hillside development as new information becomes available. (Responsibility: Planning Department)

COASTAL BLUFFS AND BEACHES

Policies

6.2.10 Geologic Hazards Assessment in Coastal Hazard Areas

- (LCP) Require a geologic hazards assessment for all development proposals within coastal hazard areas, including all development within 100 feet of a coastal bluff. Other technical reports may be required if significant potential hazards are identified by the hazards assessment.

6.2.11 Setbacks from Coastal Bluffs

- (LCP) All development, including cantilevered portions of a structure, 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 a 100-year lifetime of the structure, as determined through geologic and/or soil engineering reports.

6.2.12 100-Year Site Stability

- (LCP) The 100-year stability of the building site shall not be dependent upon structural engineering measures (such as shoreline protection, retaining walls or deep piers). Exceptions may be granted for improvements to existing structures where consistent with policy 6.2.13 and where there is no feasible building site located outside the setback area, and where structural protection measures that are determined to be able to provide 100 year stability of the building site are already in place. Shoreline protection structures shall only be allowed on lots where both adjacent parcels are already similarly protected, or where necessary to protect existing development.

6.2.13 Improvement to Existing Structures

- (LCP) Improvements to existing structures located within the 25-foot minimum setback shall not encroach closer to the top of the bluff. All building additions, including second story and cantilevered additions, shall comply with the 25-foot setback.

6.2.14 Site Development to Minimize Hazards

- (LCP) Require all development to be sited and designed to avoid or minimize hazards as determined by the geologic hazards assessment or geologic and engineering investigations.

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

Chapter 6: Public Safety and Noise

6.2.15 New Development on Existing Lots of Record

- (LCP) Allow development 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) Where 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, friction pier or deep caisson foundation;
 - (b) Where mitigation of the potential hazard is not dependent on shoreline protection structures except on lots where both adjacent parcels are already similarly protected; and
 - (c) Where a deed restriction indicating the potential hazards on the site and the level of prior investigation conducted is recorded on the deed with the County Recorder.

6.2.16 Structural Shoreline Protection Measures

- (LCP) Limit structural shoreline protection measures to structures which protect existing structures, vacant lots which through lack of protection threaten adjacent developed lots, public works, public beaches, or coastal-dependent uses. Require any application for shoreline protective measures to include a thorough analysis of all reasonable alternatives, including but not limited to, relocation or partial removal of the threatened structure, protection of the upper bluff or area immediately adjacent to the threatened structure, and engineered shoreline protection such as beach nourishment, revetments, or vertical walls. Permit structural protection measures only if non-structural measures (e.g., building relocation or change in design) are infeasible from an engineering standpoint or not economically viable. The protection structure must not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, increase erosion on adjacent properties, or cause harmful impacts on wildlife and fish habitats or archeological or paleontological resources. The protection structure must be placed as close as possible to the development requiring protection and must be designed to minimize adverse impacts to recreation and to minimize visual intrusion. Shoreline protection structures shall be designed to meet approved engineering standards for the site as determined through the environmental review process. Structural protection measures should only be considered where a significant threat to an existing structure exists, or where seawalls have been constructed on adjoining parcels. Detailed technical studies will be required to accurately define the oceanographic conditions affecting the site. All shoreline protective structures shall incorporate permanent survey monuments for future use in establishing a survey monument network along the coast for use in monitoring seaward encroachment or slumping of revetments and erosion trends. No approval shall be given for shoreline protective structures that do not include permanent monitoring and maintenance programs. Such programs shall include a report to the County every five years or less, as determined by a qualified professional, after construction of the structure, detailing the condition of the structure and listing any recommended maintenance work. Maintenance programs shall be recorded and shall allow for County removal or repair of a shoreline protective structure, at the owner's expense, if its condition creates a public nuisance or if necessary to protect public health and safety.

6.2.17 Prohibit New Building Sites in Coastal Hazard Areas

- (LCP) Do not allow the creation of new building sites, lots, or parcels in areas subject to coastal hazards, or in the area necessary to ensure a stable building site for the minimum 100-year lifetime, or where development would require the construction of public facilities or utility transmission lines within coastal hazard areas or in the area necessary to ensure a stable building site for the minimum 100-year lifetime.

6.2.18 Prohibit New Structures In Coastal Hazard Areas

- (LCP) Exclude areas subject to coastal inundation, as defined by geologic hazards assessment or full geologic report, from use for density calculations. Prohibit new structures, public facilities, and service transmission systems in coastal hazard areas unless they are necessary for existing residences or to serve vacant lots which through lack of protection threaten adjacent developed lots, public facilities, public beaches or coastal dependent uses.

6.2.19 Drainage and Landscape Plans

- (LCP) Require drainage and landscape plans recognizing potential hazards on and off site to be approved by the County Geologist prior to the approval of development in the coastal hazard areas. Require that approved drainage and landscape development not contribute to offsite impacts and that the defined storm drain system or Best Management Practices be utilized where feasible. The applicant shall be responsible for the costs of repairing and/or restoring any off-site impacts.

6.2.20 Reconstruction of Damaged Structures on Coastal Bluffs

- (LCP) Permit reconstruction of structures located on or at the top of a coastal bluff which are damaged as a result of coastal hazards, including slope instability and seismically induced landslides, and where loss is less than 50 percent of the value, in accordance with recommendations from the hazards assessment. Encourage relocation to a new footprint provided that the new location is landward of the previous site at the best possible site not affecting resources (e.g., the most landward location, or landward of the area necessary to ensure a stable building site for the minimum 100-year lifetime, or not necessitating a future shoreline protective structure). Exemption: Public beach facilities and damage which results from non-coastal related hazards, such as fire, and replacements consistent with Coastal Act Policy 30610(g).

6.2.21 Reconstruction of Damaged Structures due to Storm Wave Inundation

- (LCP) Permit the reconstruction of individual structures located in areas subject to storm wave inundation, which are damaged as a result of coastal hazards and loss is less than 50 percent of the value in accordance with recommendations from the geologic hazards assessment and other technical reports, as well as with policy 6.2.16. Encourage relocation to a new footprint provided that the new location is landward of the previous site at the best possible site not affecting resources (e.g., the most landward location, or landward of the area necessary to ensure a stable building site for the minimum 100-year lifetime, or not necessitating a future shoreline protective structure). If more than 75 percent of the neighborhood, structures and public facilities are damaged, reconstruction must take place in accordance with the requirements of policy 6.2.15. Exceptions: Public beach facilities and damage which results from non-coastal hazards such as fire, and replacements consistent with Coastal Act Policy 30610(g).

Programs

- (LCP) a. Relocate if feasible, essential public facilities such as sewer lines to locations outside of coastal hazard areas when they are due for expansion or replacement. (Responsibility: Public Works)
- b. Zone areas subject to coastal erosion, inundation, and potential bluff failure to the Geologic Hazards Combining District (Responsibility: Planning Department)
- (LCP) c. Develop and implement a program to correct existing erosion problems along coastal bluffs caused by public drainage facilities. (Responsibility: Public Works)
- d. Review existing coastal protection structures to evaluate the presence of adverse impacts such as pollution problems, loss of recreational beach area, and fishkills and implement feasible corrective actions. (Responsibility: Environmental Health, Planning Department)

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

COUNTY OF SANTA CRUZ
INTER-OFFICE CORRESPONDENCE

Extra

DATE: November 2, 1995
TO: Martin Jacobson, Zoning Administrator
FROM: Joe Hanna, County Geologist
SUBJECT: King Property's Coastal Permit

At the October 6, 1995 meeting of the Zoning Administrator, testimony was presented Mr. John Fairbanks that indicated that I was misinformed concerning the history of the King property's road extension culvert. The primary concern expressed by Mr. John Fairbanks was that the culvert was damaged in 1982 and replaced without a permit. Mr. Fairbanks believed that this culvert replacement would potentially cause damage to his access roadway should the new culvert capacity or design be inadequate and cause water to back-up into the culvert under his own roadway. Mr. Fairbanks was also concerned that the pipe was not connected properly to the culvert on this own property and was damaging a riparian corridor.

To help resolve these questions you requested that I complete a more thorough research into the history of the culvert, and to help clarify this issue I have completed the following chronology:

1. King Roadway Culvert extension placed originally with Trestle Beach Development.

The road culvert extension originally place was on the King property as part of the Trestle Beach Development (see attached Exhibit A). All the drainage calculations, and other specifications were approved with this development, and the culvert placement was inspected by the County. The Trestle Beach plans indicate that a culvert was placed 1978 in a location similar to the new culvert approved by the 1995 emergency permit.

2. King Roadway Culvert extension damaged 1982-83

King culvert was damaged in the winter of 1982 to 1983. Apparently, the Kings did talk to the County's geologist, even so, the culvert was repaired without County Planning Department review, or inspection. Other erosion occurred in vicinity of this extension.

3. King grading proposal

The King's conducted unauthorized grading and when stopped, proposed extension of another culvert system adjacent to the roadway culvert extension (see appl.#87-0590 attached). This permit application showed work in the vicinity of the outlet of the roadway extension

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

culvert, but did not show that replacement of a large portion of this culvert. Rather, the permit showed extensive grading and work on the other culvert.

The staff reviewed application 87-0590 and denied the proposal because the work exceeded that necessary to prevent erosion. Staff did recognize the existence of the repair of the roadway culvert extension without authorization, but took no action to resolve this apparent violation. A limited permit was issued, application 89-0806 (see attached,) to attach a head wall to the other culvert.

4. January, 1995

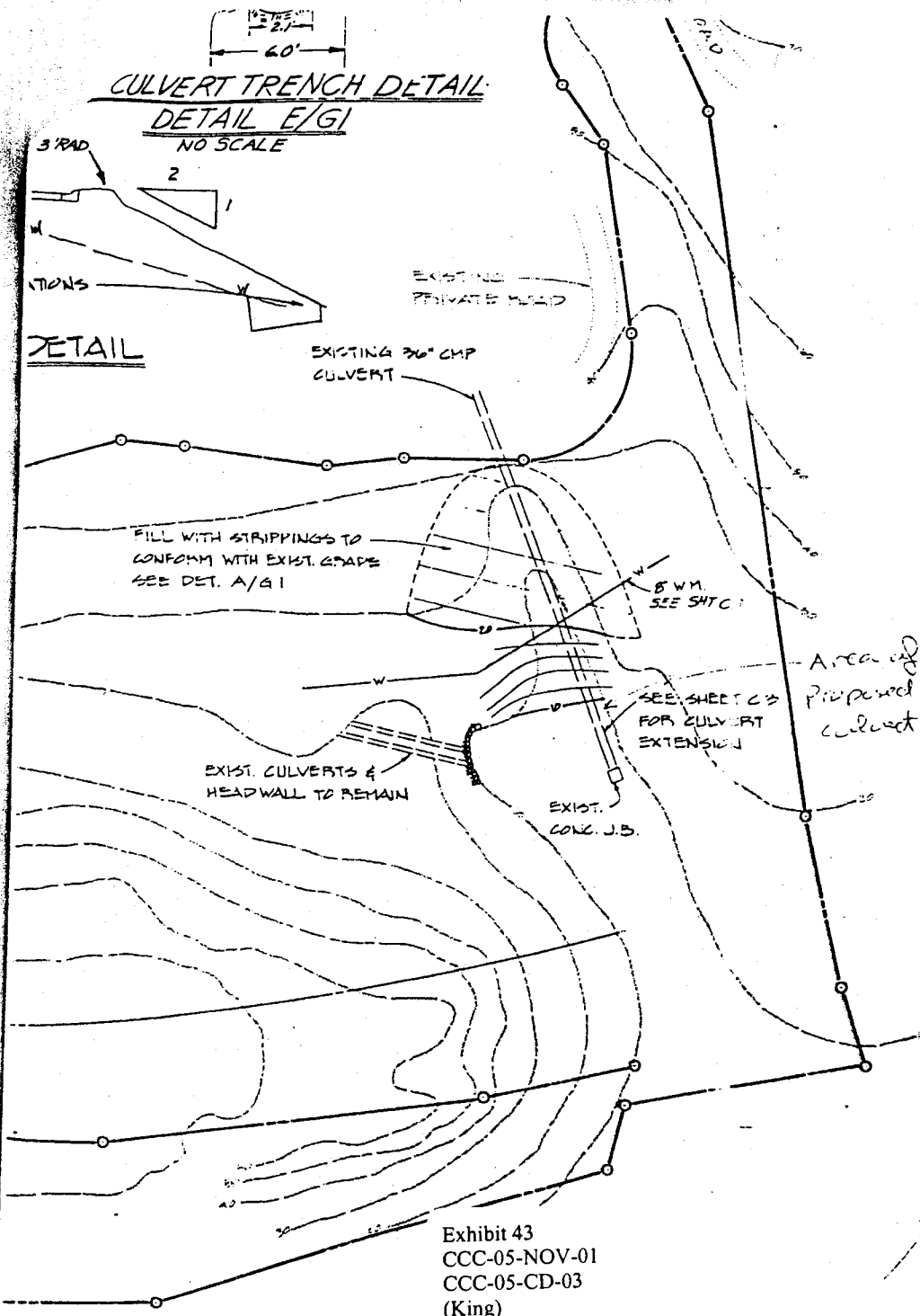
King roadway culvert extension was damaged in the January 1995 storms. The Kings requested an emergency permit to repair the damage. Joel Schwartz initially inspected the problem, and subsequently confirmed that an erosion problem existed on the King property. The requested emergency permit was approved and emergency work was conducted after January 20, 1995. A request by the Kings to combine emergency repair on culvert extension into a regular permit that included other work similar to what the Kings had proposed in the 1987 was denied. Finally a permit application was accepted as complete on 5-9-95 (see attached permit information).

SUMMARY:

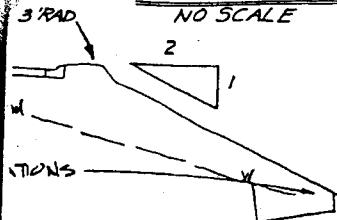
The emergency permit for King roadway culvert extension repair was approved to abate an erosive condition. The corrective action is exempt from the Riparian Ordinance, but does require a grading and coastal permit. The culvert's drainage capacity is based upon engineering calculations, and the culvert was placed in compliance to the ordinance and manufacture's requirements. The culvert replaced in 1995 has similar or better drainage transmission characteristics than the original culvert placed with the Trestle Beach development and the culvert placed in 1982. Consequently, the culvert is less likely to undergo a capacity related failure. This year's failure was apparently related to the improper 1982 culvert placement rather than a capacity problem. The 1995 culvert replacement was inspected by Haro, Kasunich & Associates, a civil engineering firm, the contractor and the County and is in general compliance to County Ordinance. These inspections and proper placing of this culvert suggest that the culvert will less likely fail from improper placement in the future. Based upon these factors, I recommends approval of this permit.

king/056

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)



CULVERT TRENCH DETAIL
DETAIL E/G1
 NO SCALE



DETAIL

FILL WITH STRIPPINGS TO
 CONFORM WITH EXIST. GRADE
 SEE DET. A/G1

EXIST. CULVERTS &
 HEADWALL TO REMAIN

EXIST.
 CONC. J.B.

5' W.M.
 SEE SHEET C

SEE SHEET C3
 FOR CULVERT
 EXTENSION

Area of
 proposed
 culvert

Exhibit 43
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

Page 26 of 36

Trestle Beach Development 80%
 Culvert Placement

BEACH

TRESTLE BEACH, I
 1585 SOQUEL DRN
 SANTA CRUZ, CAL

MLTW/Tumbull As
 Architects & Plann

Pier 1 1/2
 The Embarcadero
 San Francisco
 California 94111

Peter A. Culley Assoc
 Structural Engineers
 530 Howard
 San Francisco, Calif

David Ovenden
 Electrical Engineer
 Pier 33 North
 San Francisco, Calif

Mid Coast Engineers
 Civil Engineers
 (Site Development)
 801-C East Lake Ave
 Watsonville, California

Bowman and Willian
 Civil Engineers
 (Sewage Treatment)
 1011 Cedar
 Santa Cruz, California

Title
GRADING P

Scale 1"=50'
 0 20 40 60

Drawn
 Date 7/9/77
 Sheet No.

G1

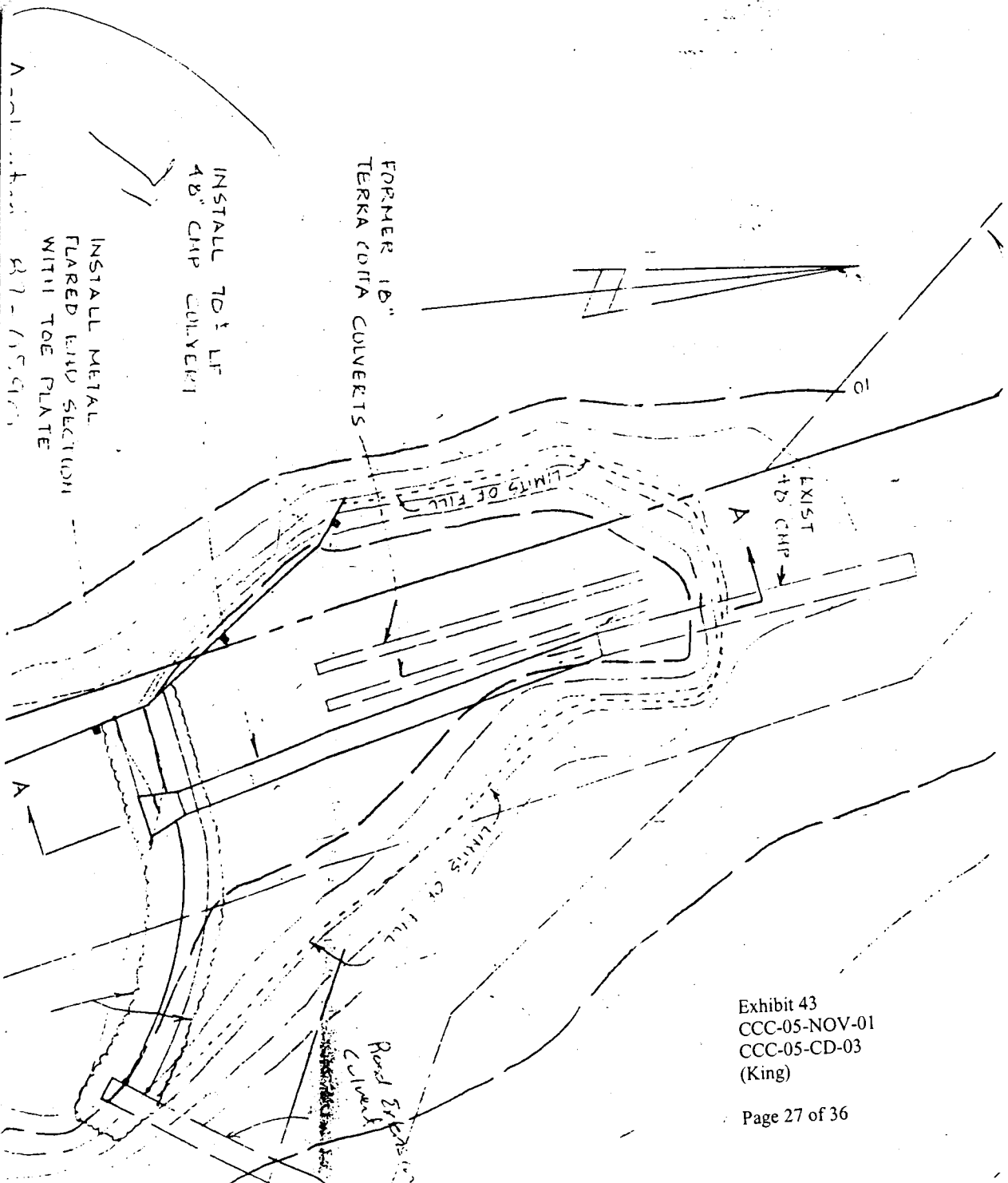
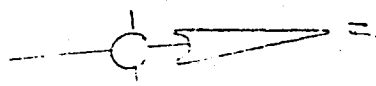


Exhibit 43
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

20"
VAL 2 FT



Approx. location of
exist. 2" galv. pipe
w/ end cap

Install Metal Flared End
Section w/ Toe Plate

Redwood County
Retaining Wall (exist)

Application 89-08006

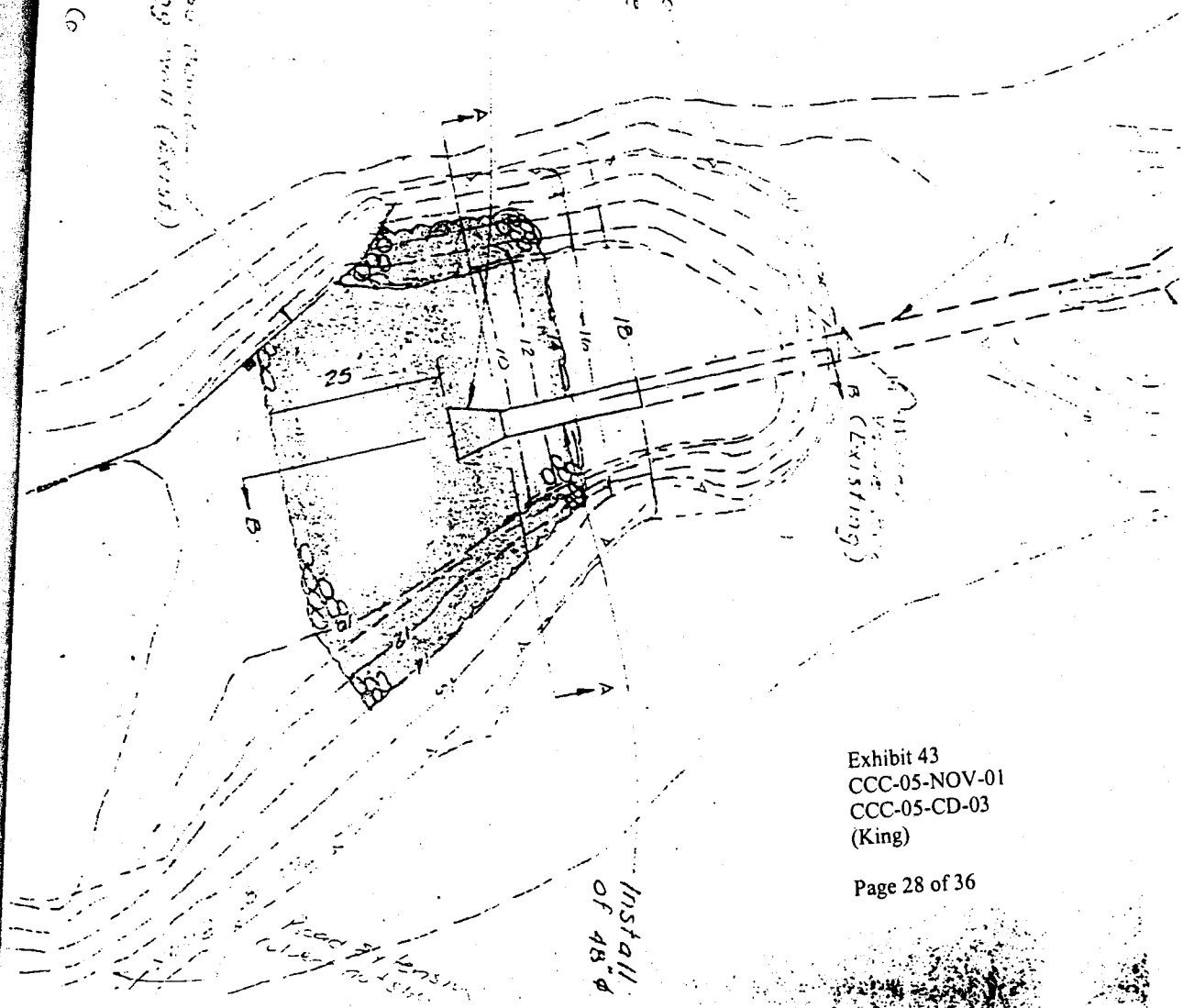


Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

1/97 XR5
16:22

COUNTY OF SANTA CRUZ - ALUS 3.0
CROSS REFERENCE BY APN
APPLICATIONS AND PERMITS BY APN

I-ALPSA110
ALSSA110 → SPN
no.

APN: 04502230
PAGE: 1

INVESTIGATIONS? : YES
PARCEL NOTEBOOK? : YES
SPLIT/COMBO? : NO

APPLICATION			PERMIT		TYPE(S)
SEL	APPL NO	STATUS	PERM NO.	CO ISSUED	
1	87-0590	COMPLETED			EH1 - <i>Leslie, for SFD</i>
2	88-0211	WITHDRAWN			C7C EAS EG4 EIA ER2 - <i>2000 yds proposed</i>
3	89-0806	APPROVED - <i>add 20' pipe, place fill + riprap</i>			EC2 EIA ER2 - <i>Giov. fill - Giov.</i>
4	90-0025	DENIED - <i>3 R.R. cars (L. hand culvert)</i>			C7A EIE
5	90-0025A	DENIED - <i>appeal</i>			P7Z
6	90-0025B	DENIED - <i>higher appeal (B. 5)</i>			P7P
7	90-1017	APPROVED - <i>extend 19-0006 [0564] (?)</i>			EC5 Schneider
8	91-0025	VOID - <i>unknown - no descr.</i>			C7A
9	91-0944	ABANDONED <i>6 ft chain-link</i>			C7A EIE
10	95-0280	APPROVED - <i>repair, replace, deconst. (e) culvert</i>			C7A EGO EIE HCL INB <i>Hanna + []</i>
11	97-0232	PENDING			EID INA ZPD

KEY APN (PARCEL) PA2-EXIT
TO SELECT, PLACE A 'Y' IN THE (SELECT) FIELD AND PRESS ENTER

- 16-10-070 (d) Slope Stab
All den located away from potentially unstable areas
- G.P. 6.2.4 - deny if G.H. cannot be mitigated to acceptable risk

PP3: C2, RSL (= Sig tree applies), I stream, Floodplain, Fldz A,
Scenic, aicus, soil 107

Geol maps: Debris flows, landslides, affecting upstream
stream areas

FEMA: 100 floodplain

* Add. history: see 11-2-95 flume memo (w/ drags.) in 95-0280
fill

97 IV
17:33

COUNTY OF SANTA CRUZ - ALUS 3.0
LAND USE AGENCY
LIST OF INVESTIGATIONS BY APN

I-ALPCC100
ALSCC100A
PAGE: 1

APN: 04502230

	CONTACT DATE	PERMIT NUMBER	INVEST CODE	DATE RESOLVED	RETAG?	DATE ARCHIVED
1.	10/12/90		B90	8/11/95 *		6/24/96
2.	10/29/90		E20	6/30/93 *		6/24/96
3.	11/07/91		Z80	8/11/95 - chain link fence		6/24/96
4.	5/05/94		E40	2/15/96 - removed 12-14		6/24/96

19.250 - resolved by DL, no info

*** - END OF LIST - ***
POSITION CURSOR TO LINE FOR DISPLAY, AND PRESS 'ENTER'

PF2-EXIT

* Road grading - 7-6-93: "Work related to 1982 FEMA permit - work does not constitute a violation - C. Powell"

* re catrazes - 1-19-95 entry: culvert blown out, as observed by PP + JS; so emerg. permit must be issued.
(7-95, catrazes removed)

Lot Numbers Shown in Circles

2/13

RAY

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

COUNTY OF SANTA CRUZ - ALUS 3.0
CONFIDENTIAL PARCEL NOTEBOOK INQUIRY

I-ALPLU110
ALSLU110
PAGE 1

PARCEL NO.: 045 022 30

SUBJECT:

04502230 RECDOS 05/16/95 MIB
NOTICE OF CODE VIOLATION VOL 4909 PG 757

04502230 MISCELL 02/07/96 GLH
EMERGENCY PERMIT #4901E ISSUED 1/19/95 TO REPLACE ABOUT 80 LINEAL FEET
OF FAILED CULVERT AND BACKFILL EROSION GULLY FORMED AFTER PIPE FAILED.
FILE IS IN RECORDS ROOM.

*not in XRS or SJ3 or DS3 - maybe see 95-0280 (followup
permanent
permit)*

PF7-SCROLL BACK
PF4-VIEW SUBJECTS

PF8-SCROLL FORWARD
PA2-CANCEL

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

AND FORWARD WITH FILE.

DATE

COUNTER STAFF

April 5 1997
Lee Murray

STAFF: IS THE FOLLOWING MATERIAL INCLUDED IN THE MATERIALS BEING SUBMITTED? Please check off each item.

1. GENERAL INFORMATION:

- ☒ Name and address of owner and applicant/Owner authorization form
- ☒ Assessors Parcel Map
- ☒ Vicinity Map
- ☒ Clear directions to site

2. PLOT PLAN

- ☒ 4 copies
- ☒ to scale: *1" = 20'* (note the scale)
- ☒ North arrow
- ☒ Parcel lines or corners
- ☒ Development envelope outlined (Area for structures, driveway & septic field, if known)
- N/A* Copies of any existing technical reports
- ☒ Existing and proposed structures
- ☒ Existing and proposed roads
- ☒ Physical features accurately located: creeks, ravines, cliffs, power poles, notable trees, etc.
- ☒ Generalized relief (topography)

3. ADVISE THE APPLICANT TO DO THE FOLLOWING SITE PREPARATION:

- ☐ Development site staked & labeled (building corners or corners of building envelope).
- ☐ Sign on road with name and Assessors Parcel Number.

Will mail in a couple of days.

4. ADVISE THE APPLICANT TO CONTACT THE ENVIRONMENTAL HEALTH SERVICES DEPARTMENT FOR INFORMATION ABOUT SEPTIC SUITABILITY, AND LOCAL AGENCY FOR FIRE PROTECTION REQUIREMENTS.

5. Application complete for intake? Yes ☒ No ☐

DO NOT forward to Zoning and Environmental Planning if any of the above listed items are not attached.

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

Scanned

Tax Area Code 45
69-020
69-053
69-055

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 33 of 36

8 OF State of CA
Note - Assessor's Parcel Block 8
Lot Numbers Shown in Circles

Assessor's Map No. 45-02
County of Santa Cruz, Calif.
June 1974

Scanned

King Subdivision
Tract No. 1272
80-M.B.-54 (7/25/89)

9-PM-58
1-29-73.

12-PM-66
9-20-73.

75-M-34
3-12-86

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 34 of 36

Bk.54
26

22-PM-73
10-1-76

Bk. 54
26

Commonwealth
Tribal Board
45-221-26

- John King
050

MONTEREY

ING DEPARTMENT

MENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
FAX (408) 454-2131 TDD (408) 454-2123

OWNER-AGENT APPROVAL FORM

For persons other than the owner who wish to obtain a building, development and/or other permit, the approval of the owner is required.

This is the County's authorization to issue a permit to the agent listed below:

Agent: Name: RICHARD L. EMIGH
Address: 706 CAPITOLA AVE SUITE J
City: CAPITOLA CA 95010
Telephone: (408) 479-1452

Owner: Name: JOAN JULIA KING
Address: 1595 SORQUEL DR SU 100
City: SANTA CRUZ CA 95067
Telephone: _____

5-18-99
Date

[Signature]
Signature of Owner

045-022-30
Assessor's Parcel Number

LA SENA Beach Area
Project Location

NOTE: One owner-agent form will be required for each permit required. For development permits, by signing this form, the owner is authorizing the agent to legally bind the owner to responsibility for payment of the County's cost for inspections and all other actions related to noncompliance with the permit conditions. The agent will be required to provide proof of service by mail to the owner of a copy of the executed acceptance of permit conditions.

oaaf/056

Exhibit 43
CCC-05-NOV-01
CCC-05-CD-03
(King)



DEVELOPMENT PERMIT APPLICATION

APPLICATION NO.: **97-0232**

PHONE: (408) 454-2130

PRINT DATE: 04/04/1997

APPLICATION DATE: 04/04/1997

PARCEL NO. SITUS ADDRESS
045-022-30 NOT AVAILABLE

PROJECT DESCRIPTION:

Proposal to construct a single-family dwelling, accessory dwelling unit and driveway. Requires a Pre-Development Site Review. Property located on the west side of Margarita Road, about 300 feet south of Estrella Street.

DIRECTIONS TO PROPERTY: HIGHWAY 1 TO SAN ANDREAS ROAD TO PLAYA BLVD, TURN RIGHT ON ESTRELLA TO MARGARITA ROAD. ACCESS IS NOT DEVELOPED YET, YOU HAVE TO WALK TO THE SITE, JUST SOUTH OF A PVT. RD., GATED OPENING WHERE THE CALLOS WAS.

OWNER: KING JOHN J & JULIA D ETAL 1595 SOQUEL D. SU 400 SANTA CRUZ CA 95062
APPLICANT: RICHARD EMIGH 706 CAPITOLA VENUE, SUITE J CAPITOLA CA 95010
BUS. PHONE: (408) 479-1452
SEND HEARING NOTICE AND STAFF REPORT TO APPLICANT

STATEMENT OF INTEREST IN PROPERTY: DESIGNER

APPLICATION FEES:	RECEIPT: 00019939	DATE PAID: 04/04/1997
PRE-DEVELOPMENT SITE REVIEW/ENVIRONMENTAL		340.00
APPLICATION INTAKE A		60.00
PRE-DEVELOPMENT SITE REVIEW/ZONING		173.00
*** TOTAL ***		573.00 ***

PARCEL CHARACTERISTICS FOR: 04502230
 ZONE DISTRICT(S): RR
 GENERAL PLAN LAND USE DESIGNATION(S): URBAN OPEN SPACE
 GENERAL PLAN LAND USE DESIGNATION(S): URBAN LOW RESIDENTIAL
 PLANNING AREA: LS
 URBAN RURAL BOUNDARY: WITHIN U/R BOUNDARY
 COASTAL ZONE: WITHIN COASTAL ZONE
 GENERAL PLAN RESOURCES & CONSTRAINTS: ISTREAM
 GENERAL PLAN RESOURCES & CONSTRAINTS: GW
 GENERAL PLAN RESOURCES & CONSTRAINTS: FLOODPLAIN
 GENERAL PLAN RESOURCES & CONSTRAINTS: SCENIC
 GENERAL PLAN RESOURCES & CONSTRAINTS: ARCRES
 ASSESSOR LAND USE CODE: LOT/RURAL ZONE
 DISTRICT SUPERVISOR: Walt Symons
 PARCEL SIZE: 1.855 ACRES (EMIS ESTIMATE)

THIS PARCEL SIZE HAS BEEN CALCULATED BY EMIS, THE COUNTY'S GEOGRAPHIC INFORMATION SYSTEM, AND IS AN ESTIMATE ONLY. IF A MINIMUM PARCEL SIZE IS REQUIRED TO MEET COUNTY STANDARDS, YOU MAY NEED TO OBTAIN A SURVEY TO DEMONSTRATE THAT YOU HAVE SUFFICIENT LAND AREA.

H-1

LAW OFFICE OF JONATHAN WITTWER

365 LAKE AVENUE
POST OFFICE BOX 1184
SANTA CRUZ, CA 95061
(408) 475-0724
FAX: (408) 475-0775
E-MAIL: jwitt@cruzio.com

December 19, 1997

Delivered by Facsimile to (408) 454-2131
December 19, 1997

Don Bussey, County Zoning Administrator
County Governmental Center
701 Ocean Street, Room 400
Santa Cruz, CA 95060

Re: **Proposal to Construct a Two-Story Single-Family Dwelling**
Application Number: 96-0801
Applicant: Thomas Rahe
Owner: David R. Gelbart
Assessor's Parcel Number: 045-022-25
Hearing Date: January 2, 1998

Dear Mr. Bussey:

This Office represents David R. Gelbart, owner of Assessor's Parcel Number 045-022-25 ("subject parcel"), who seeks the requisite permits to construct a two-story single-family dwelling on said property. For the Zoning Administrator Agenda of October 3, 1997, the Staff Report recommended approval of Application Number 96-0801, based on specified attached findings and conditions.

The only issue regarding such recommended approval which is of concern to my client and which this letter will address, is the status of the subject parcel as a legal parcel, and the consequences thereof, in terms of conditions which may be imposed prerequisite to development of the parcel. It is my understanding that resolution of this issue has not yet occurred, and in fact further analysis of the issue was the primary reason the Zoning Administrator Hearing was continued to January 2, 1998.

Exhibit 44
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 9

99

EXHIBIT D

H-1

Don Bussey, County Zoning Administrator
Parcel Legality of Gelbart Parcel
Page 2
December 19, 1997

Summary Conclusion

The analysis contained in this letter concludes that:

- (1) the subject parcel was legally created by a Parcel Map, the validity of which was final in 1979, at which time no certificate of compliance was required, or could have been required, for sale or development of a remainder parcel;
- (2) Even if for some reason the 1985 legislation which first allowed a local agency to require a certificate of compliance prior to sale of a remainder parcel was applicable retroactively (contrary to the rules of statutory interpretation established by the California Supreme Court), the subject parcel would still be entitled to an unconditional certificate of compliance; and
- (3) Even if for some reason a conditional certificate of compliance was required, the County should not impose a secondary access condition which was not in effect at the time the subject parcel was lawfully created in 1979 and which would have the effect of depriving the property owner of all reasonable use of his property.

Analysis

At page 3, the October 3, 1997 Staff Report identifies the issue as determining whether "Assessor's Parcel Number 045-022-25 has status as a legal parcel of land for land planning purposes."

Exhibit E to the Staff Report is Inter-Office Correspondence dated August 6, 1996 stating that:

"Prior to issuance of any permits for development of this [subject] parcel, a Certificate of Compliance must be obtained. This lot is the result of two subdivision actions by John King; 1. An MLD in 1975/76 which designated the gulch area of this parcel as unbuildable (see attached Map) and 2. The Trestle Beach Subdivision which designated this entire parcel as a Remainder."

It is noteworthy that a "Conditional" Certificate of Compliance was not identified as the prerequisite to issuance of any permit for development of the subject parcel. However, it

Exhibit 44
CCC-05-NOV-01
CCC-05-CD-03
(King)

100

Page 2 of 9

EXHIBIT D

H-1

Don Bussey, County Zoning Administrator
Parcel Legality of Gelbart Parcel
Page 3
December 19, 1997

is even more important to determining the legality of the subject parcel to review the effect of the actual subdivision approvals which created the subject parcel.

(1) THE SUBJECT PARCEL WAS CREATED BY A PARCEL MAP, THE VALIDITY OF WHICH WAS FINAL IN 1979, AT WHICH TIME NO CERTIFICATE OF COMPLIANCE WAS REQUIRED FOR SALE OR DEVELOPMENT OF A REMAINDER PARCEL.

The subject parcel, in its current configuration, is shown on the 1979 Trestle Beach Parcel Map as a "Remainder" parcel. This Parcel Map was approved by the County of Santa Cruz in 1979 and authorized for recordation. The effect of such approval and recordation was the creation of the subject parcel. It is shown on the recorded Parcel Map and all of the parcels surrounding it are clearly legal parcels. Pursuant to Government Code Section 66463 and County Code § 14.01.330 (in effect since at least 1975), the County's approval of the Parcel Map establishes that it conformed to all the conditions imposed by the County Subdivision Ordinance and the tentative map approval. Government Code Section 66468 and County Code § 14.01.339 (in effect since at least 1975) then provide that:

"[t]he 'filing for record of a ... parcel map by the county recorder shall automatically and finally determine the validity of such map.'" (emphasis added)

Thus, the recordation of a parcel map designating a remainder parcel vests a "created" legal remainder parcel². This was acknowledged by the California Attorney General's statement in interpreting Government Code Section 66424.6 that

"a remainder parcel is thus created by a division of property for the purpose of sale, lease or financing, ..." (77 Ops.Ca.Atty.Gen 185, 189 [1994] emphasis added)

¹This together with the Certificate required by Government Code section 66450 mean that any technical imperfections are not longer relevant.

²This can also be seen from the fact that an amendment to a recorded parcel map is not permitted if it would affect existing property rights. See Government Code Sections 66469(f) and 66472.1 and Curtin, *Subdivision Map Act Practice*, § 7.39.

H-1

Don Bussey, County Zoning Administrator
Parcel Legality of Gelbart Parcel
Page 4
December 19, 1997

This means that the subject parcel was a legally created parcel as a result of both the 1979 Parcel Map designating it as a remainder.

The owner of a legally created remainder parcel may at a later time change his mind and decide to sell a remainder parcel. 77 Ops.Ca.Aity.Gen 185, 192 [1994]. For a remainder parcel created today (or for that matter after 1985), a local agency could require a certificate of compliance prior to the sale of such parcel. However, for a remainder parcel legally created in 1979, the owner thereof had a vested right to change his mind and sell the parcel without obtaining a certificate of compliance from a local agency such as the County.

To otherwise interpret the 1985 amendment of Government Code Section 66424.6 which first authorized a local agency to require a certificate of compliance to sell a remainder parcel would be to apply such amendment retroactively. The California Supreme Court has held that legislation is presumed to operate prospectively, not retroactively; thus:

"In the absence of an express retroactivity provision, a statute will not be applied retroactively unless it is very clear from extrinsic sources that the Legislature ... must have intended retroactive application." *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1209.

There is no express provision or extrinsic source rendering the 1985 amendment of Government Code Section 66424.6 retroactive.

Furthermore, the creator of a legal remainder parcel by a 1979 Parcel Map was entitled to rely on the language of Government Code Section 66499.35(d) which provides that:

"A recorded ... parcel map shall constitute a certificate of compliance with respect to the parcels of real property described therein."

The 1979 Parcel Map of the Trestle Beach Subdivision designates the subject parcel "D" and describes it as a remainder parcel. As the Attorney General has explained, this created the subject parcel as a legal remainder parcel. The recorded 1979 Parcel Map thus constituted a certificate of compliance with respect to the subject parcel. The legal remainder parcel status, and its certified compliance, cannot properly be retroactively

H-1

Don Bussey, County Zoning Administrator
Parcel Legality of Gelbart Parcel
Page 5
December 19, 1997

taken away by the subsequent 1985 legislation. That legislation should be applied only to remainder parcels created after its effective date of January 1, 1986.

- (2) **EVEN IF FOR SOME REASON THE 1985 LEGISLATION WHICH FIRST ALLOWED A LOCAL AGENCY TO REQUIRE A CERTIFICATE OF COMPLIANCE PRIOR TO SALE OF A REMAINDER PARCEL WERE APPLICABLE RETROACTIVELY, THE SUBJECT PARCEL WOULD STILL BE ENTITLED TO AN UNCONDITIONAL CERTIFICATE OF COMPLIANCE.**

Pursuant to Government Code Section 66499.35(d), quoted above, and in effect as of 1979 and to this date, the 1979 Trestle Beach Subdivision Parcel Map itself continues to operate as a Certificate of Compliance for the subject parcel.

Nevertheless, if the question were to be, as stated in the October 3, 1997 Staff Report, "whether the parcel is entitled to a Certificate of Compliance pursuant to Government Code Section 66499.35 and County Code Section 14.01.109", then the answer is "yes." As is stated in Curtin, *Subdivision Map Act Practice* § 8.9, under Government Code Section 66499.35, the local agency must issue a certificate of compliance (unconditional) if the property complies with the Subdivision Map Act, or a conditional certificate of compliance indicating what remedial acts are necessary to bring the property into compliance. This concept was phrased as follows by Andrew B. Gustafson, Assistant County Counsel for the County of Ventura in a letter dated February 6, 1991 to the California Attorney General, citing *Hunt v. County of Shasta* (1990) 225 Cal.App.3d 432:

"The owners of lots ... have a right to obtain an unconditional certificate of compliance if the lots are legal or a conditional certificate of compliance if the lots are illegal."

In other words, if the real property in question was created in compliance with the California Subdivision Map Act and local ordinances enacted pursuant thereto, the local agency shall issue an unconditional certificate of compliance for the property in question.

Here, as set forth above, the subject parcel was unquestionably legally created in compliance with the California Subdivision Map Act and local ordinances enacted

H-1

Don Bussey, County Zoning Administrator
Parcel Legality of Gelbart Parcel
Page 6
December 19, 1997

pursuant thereto. There is no question that it complied with County land use regulations at the time of its creation. As a result, it is at minimum entitled to an unconditional Certificate of Compliance, rather than a conditional one³.

(3) EVEN IF FOR SOME REASON A CONDITIONAL CERTIFICATE OF COMPLIANCE WERE REQUIRED, THE COUNTY SHOULD NOT IMPOSE A SECONDARY ACCESS CONDITION WHICH WAS NOT IN EFFECT AT THE TIME THE SUBJECT PARCEL WAS LAWFULLY CREATED IN 1979.

If for some reason a conditional certificate of compliance were appropriately required, the conditions to be imposed should not include a secondary access. Government Code Section 66499.35(b) merely provides that a local agency "may as a condition of granting a certificate of compliance, impose the conditions which would have been applicable to the division of the property at the time the applicant acquired his or her interest in [the subject parcel]." Thus, the County is not required to impose a condition requiring a secondary access and in fact has the discretion not to do so.

At the time the subject parcel was created, there was no requirement for a secondary access. If Dr. Gelbart were to rescind his acquisition of the subject parcel and title were to revert to the prior owner, Dr. King who acquired his interest in the subject parcel when he created it in 1979, no condition requiring secondary access could be imposed. Furthermore, Dr. King could simply construct his residence on the subject parcel under the common practice for remainder parcels described in 62 *Ops.Ca.Atty.Gen.* 246 [1979] and restated with favor in 77 *Ops.Ca.Atty.Gen.* 185 at 192 [1994]. When the practicalities of the situation are added to the equation, namely that there is another home already constructed on Paso Cielo further away from the nearest through road (San Andreas), there should not be any condition imposed requiring an impossible to obtain secondary access. Furthermore, given the existence of a lawfully created remainder parcel, any condition which resulted in all reasonable use of such parcel being denied would have to be justified on the basis of demonstrable need to

³Although County Code § 14.01.107.6 (enacted after 1979) literally requires a conditional certificate of compliance prior to the sale of a remainder parcel, and even if it could be retroactively applied to a remainder lawfully created in 1979, to disallow sale based on an unconditional certificate of compliance would be contrary to the holding in *Hunt, supra*, and preempted by the language of Government Code Section 66424.6.

Don Bussey, County Zoning Administrator
Parcel Legality of Gelbart Parcel
Page 7
December 19, 1997

protect the public health and safety or to prevent a nuisance, a difficult standard to meet. See *Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 120 L.Ed.2d 798.

For the foregoing reasons, it is respectfully requested that you decline to require a conditional certificate of compliance for the subject parcel, or, in any event, refrain from imposing a condition requiring a secondary access thereto. Thank you for your consideration of this matter.

Sincerely,


Jonathan Wittwer

cc: County Counsel
Client
Thomas Rahe

H-1

LAW OFFICE OF JONATHAN WITTWER

365 LAKE AVENUE
POST OFFICE BOX 1184
SANTA CRUZ, CA 95061
(408) 475-0724
FAX: (408) 475-0775
E-MAIL: jonwitt@cruzio.com

December 23, 1997

Delivered by Facsimile to (408) 454-2131
December 23, 1997

Don Bussey, County Zoning Administrator
County Governmental Center
701 Ocean Street, Room 400
Santa Cruz, CA 95060

Re: Proposal to Construct a Two-Story Single-Family Dwelling
Application Number: 96-0801
Applicant: Thomas Rahe
Owner: David R. Gelbart
Assessor's Parcel Number: 045-022-25
Hearing Date: January 2, 1998

Dear Mr. Bussey:

This Office has become aware that question has been raised regarding the relocation of the right-of-way for pedestrian and equestrian passage over the Gelbart property referenced above. This Office represents David R. Gelbart, owner of Assessor's Parcel Number 045-022-25 ("subject parcel"), who seeks the requisite permits to construct a two-story single-family dwelling on said property.

The recorded DECLARATION OF COVENANTS AND RESTRICTIONS, LOS BARRANCOS DE APTOS expressly provides that the right of way for pedestrian and equestrian passage connecting Tract #384 with the beach frontage owned by John J. King and Julia D. King is subject to:

"the right of said John J. King and Julian D. King, or either of them, to change the location of said right-of-way from time to time at the discretion of said John J. or Julia D. King, or either of them." (See Art. II, Section 2.01(c) attached)

Exhibit 44
CCC-05-NOV-01
CCC-05-CD-03
(King)

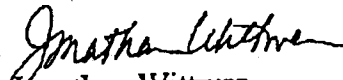
Don Bussey, County Zoning Administrator
Relocation of Easement for Gelbart Parcel
Page 2
December 23, 1997

Thus, relocation of the easement in question, subject to the consent of one of the Kings is expressly authorized by the applicable declaration of covenants and restrictions.

Enclosed please find a letter dated December 22, 1997 from John J. King confirming that he consents to Dr. Gelbart's relocation of the road to accommodate his building site. Dr. King further states his willingness to provide any further clarification of such approval which Planning Staff may need.

Please advise if you have any further questions in this regard. Thank you for your consideration of this matter.

Sincerely,


Jonathan Wittwer

encls. (1) Letter of John J. King, M.D.
(2) Pertinent pages from Declaration of Restrictions

cc: Joan Van der Hoeven, Project Planner
County Counsel
Client
Thomas Rahe
Dr. John J. King

COUNTY OF SANTA CRUZ

INTER-OFFICE CORRESPONDENCE

CONFIDENTIAL ATTORNEY-CLIENT INFORMATION

DATE: December 30, 1997
TO: Don Bussy, Zoning Administrator
FROM: Rahn Garcia, Assistant County Counsel
SUBJECT: Certificate of Compliance Determination Concerning APN
045-022-25 of Application #96-0801

You requested this Office to review the conditional certificate of compliance recommended for Assessor's Parcel Number 045-022-25 (hereinafter "subject property") as part of Application #96-0801, and determine its appropriateness. It is the opinion of this Office that based on Santa Cruz County Code Section 14.01.108 and Government Code Section 66499.35, the subject property is a legal parcel. Furthermore, under Subdivision (d) of Section 66499.35, the final map of the Trestle Beach Subdivision constitutes the subject property's certificate of compliance.

BACKGROUND

Application #96-0801 is a proposal to construct a two-story single-family dwelling on property located on the east side of Paso Cielo, south of its intersection with Camino Al Mar in La Selva Beach. The project requires a Coastal Zone permit, Grading permit, a front yard Variance, a Riparian Exception, and a determination of the lot's legal status. Planning staff has recommended approval of the application.

Planning staff have raised the issue of the subject property's legal status, recommending that a Conditional Certificate of Compliance be required. The following analysis will review the subject property's legal status and determine whether the parcel was created in accordance with the requirements of the Subdivision Map Act (Government Code Sections 66410 et seq.), as well as the applicable subdivision regulations of the County.

HISTORY

On October 1, 1976, a Parcel Map was recorded for Minor Land Division 75-753 (see copy of Parcel Map recorded in Book 22, Page

7
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Exhibit 45
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT D

73, attached as Exhibit "A"). This minor land division (MLD) resulting in four parcels including Parcel D which was approximately 17.8 acres in size and parenthetically identified as a "Remainder". A notation stating "NOT A BUILDING SITE UNLESS APPROVED BY SUBSEQUENT MINOR LAND DIVISION" is shown on a portion of parcel "D" that currently part of the subject property.

On November 9, 1979, a Final Subdivision Map was recorded (Volume 68, Page 19) creating Tract No. 781 known as Trestle Beach. See Subdivision Map for Tract No. 781, Trestle Beach, attached as Exhibit "B". This subdivision contained four parcels created from a portion of what was Parcel "D" in MLD 75-753. The balance of Parcel D from MLD 75-753, was left in two remainder parcels, one of which is the subject property, and both remainder displaying the following designation on the map: "Remainder Ptn. Pcl. "D" 22-PM-73".

The current owner of the subject property is David R. Gelbart, who acquired his interest by Deed from John and Julia King (recorded December 23, 1992 at Volume 5175, Pages 459-462 of the Official Records of the County of Santa Cruz). The Kings had reacquired their interest from Gwynn Corbet Hanchett that same day by Deed recorded at Volume 5175, Pages 455-457 (John King was the original subdivider of the property).

These 1992 Deed conveyances separately described APN 045-022-25 by metes and bounds for the first time. Previous recorded Deed conveyances did not describe the subject property, but rather described larger tracts of land of which the subject property was a part. See copies of deeds affecting the subject property dated April 18, 1977 at Book 2747, Page 278; April 18, 1977 at Book 2747, Page 284; June 18, 1980 at Book 3205, Page 214; December 23, 1992 at Volume 5175, Page 455, and December 23, 1992 at Volume 5175, Page 459; attached to Staff Report to the Zoning Administrator dated October 3, 1997.

PARCEL LEGALITY DETERMINATION
UNDER THE STATE SUBDIVISION MAP ACT

1. Subject Property was Created as a Remainder.

At the time of the Final Map's recording, the Subdivision Map Act did not require a subdivider to include a "remainder" as part of the subdivision. In 1969, the Attorney General determined that the Map Act excluded "remainders" from its definition of a subdivision subject to the act. The Map Act, at that time, defined a "subdivision" to mean:

"any real property, improved or unimproved,
or portion thereof...which is divided for the
purpose of sale, lease, or financing, whether
immediate or future..." Business and

Professions Code Section 11535(a) (Emphasis added)

The statute's use of the phrase "or portion thereof" indicated the Legislature's intent to permit a subdivider to exclude a portion of his or her property from a subdivision. 52 Ops.Cal.Atty.Gen. 79 (1969). The Legislature subsequently amended Government Code Section 66424 of the Map Act (formerly Business and Professions Code Section 11535) to delete the words "or portion thereof" (Stats. 1974, ch. 1536, p.3467). The Attorney General determined that this change now evidenced the Legislature's intent to require that remainders be included as part of the subdivision. 59 Ops.Cal.Atty.Gen.640 (1976). Shortly after this opinion was issued, the Legislature once more amended Section 66424, to again include the phrase "or any portion thereof" (Stats. 1977, ch.234, §3). The Attorney General concluded that this return to the prior language meant that Section 66424 should again be read to authorize a subdivider to omit a remainder from a subdivision. 62 Ops.Cal.Atty.Gen. 246 (1979).

2. Regulation of Remainders under the Map Act.

Remainders were recognized as an allowable result of a land division under the Subdivision Map Act prior to 1980 (See 52 Ops.Cal.Atty.Gen. 79 (1969); 59 Ops.Cal.Atty.Gen.640 (1976) infra). Effective January 1, 1980, Government Code Section 66424.6, directly regulated the creation of 'remainders' for the first time (Stats. 1979, ch.383, p.1441, §1). Section 66424.6 stated, in pertinent part, as follows:

"When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.

Section 66424.6 did not become effective until two months after the recordation of the Trestle Beach Subdivision Final Map that first identified the subject property. Thus, because the subject property was created as a remainder, it was not required to be part of the Trestle Beach Subdivision.

3. Parcel Described on Recorded Final Map Presumed Legal.

Government Code Section 66499.35 of the Subdivision Map Act requires local agencies to determine whether a parcel is in compliance with the Map Act as well as any local subdivision ordinance if so requested by the parcel's owner. The local agency must respond to such a request by issuing either a conditional or unconditional certificate of compliance. Subdivision (d) of Government Code Section 66499.35 states as

GELBART2.WPD

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follows:

"(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein." (Emphasis added.)

As previously noted, the subject property was identified on the Trestle Beach Subdivision Final Map recorded on November 9, 1979. While the Final Map shows the subject property, it is not described in its entirety by metes and bounds. However, the Final Map does reference the 1976 minor land division Parcel Map which created the larger parcel of which APN 45-022-25 was a portion. The 1979 Final Map and the referenced 1976 Parcel Map, taken together, provide a complete metes and bounds description of the subject property.

Because the subject property was a "remainder" not subject to regulation under the Subdivision Map Act at the time of its creation, its description as a separate parcel on the Trestle Beach Subdivision Final Map created it as a legal parcel pursuant to Government Code Section 66499.35.

PARCEL LEGALITY DETERMINATION UNDER
THE COUNTY'S SUBDIVISION REGULATIONS

1. Parcel Shown on Recorded Final Map Presumed Legal.

County Code Sections 14.01.108 through 14.01.112 govern Parcel Legality Status Determinations. Section 14.01.108 provides, in pertinent part that:

"If the County determines that the parcel in question is shown on a duly filed and recorded Final Map, Parcel Map, or Official Map (as defined at Government Code Section 66499.50 et seq.) or entitled to an Unconditional Certificate of Compliance, or has satisfied all conditions of a Conditional Certificate of Compliance, such parcel shall be determined to be a legal parcel so long as it is not combined or merged with another parcel or in violation of the Subdivision Map Act or the Santa Cruz County Subdivisions Ordinance." (Emphasis added.)

Thus, if the County determines that a parcel is "shown" on a duly filed and recorded Final Map, the parcel would be legal under Section 14.01.108. The subject property is shown as a remainder on the Trestle Beach Subdivision Final Map recorded on November 9, 1979.

Section 14.01.108 does not require that the parcel be partitioned or even described by metes and bounds. At the time of the Final Map's recordation in November of 1979, the County's Subdivision regulations were contained in Chapter 13.08 of Santa Cruz County Code (Ordinance No. 2093, adopted February 1975). Subdivision (e) of Section 13.08.212 required that a remainder be shown on a parcel map, however, there was no similar requirement concerning the location of remainders on either a tentative or a final map. Because the County's Subdivision Regulations did not regulate the creation of remainders shown on final maps in November of 1979, the subject property complied with the County's regulations for the division of property.

The County's current regulations governing the designation and recognition of 'remainders' is contained in Section 14.01.107.6 of the County Code which was enacted on March 3, 1992. This section requires that a conditional certificate of compliance be obtained before a designated remainder is subsequently sold. However, because this provision contains no express language making it retroactive, it could not be applied retroactively to a parcel created in 1979.

CONCLUSION

At the time the subject property was shown as a separate parcel on the Trestle Beach Subdivision Final Map recorded in 1979, it complied with both the Subdivision Map Act and the Subdivision regulations of the County. Based on County Code Section 14.01.108 and Government Code Section 66499.35, the subject property is conclusively presumed to be lawfully created, and pursuant to Subdivision (d) of Section 66499.35, the 1979 Final Map for the Trestle Beach Subdivision constitutes the subject property's certificate of compliance.

Please note that a certificate of compliance verifies compliance with the requirements of the Subdivision Map Act and any local subdivision ordinance, and does not constitute an entitlement to develop the property.

RG:rg
Attachments

cc: Jonathan Wittwer, Esq.
Kirstin Powell, Esq.

GELBART2WPD

Exhibit 45
CCC-05-NOV-01
CCC-05-CD-03
(King)

Vol. 22, Page 73, Parcel Map

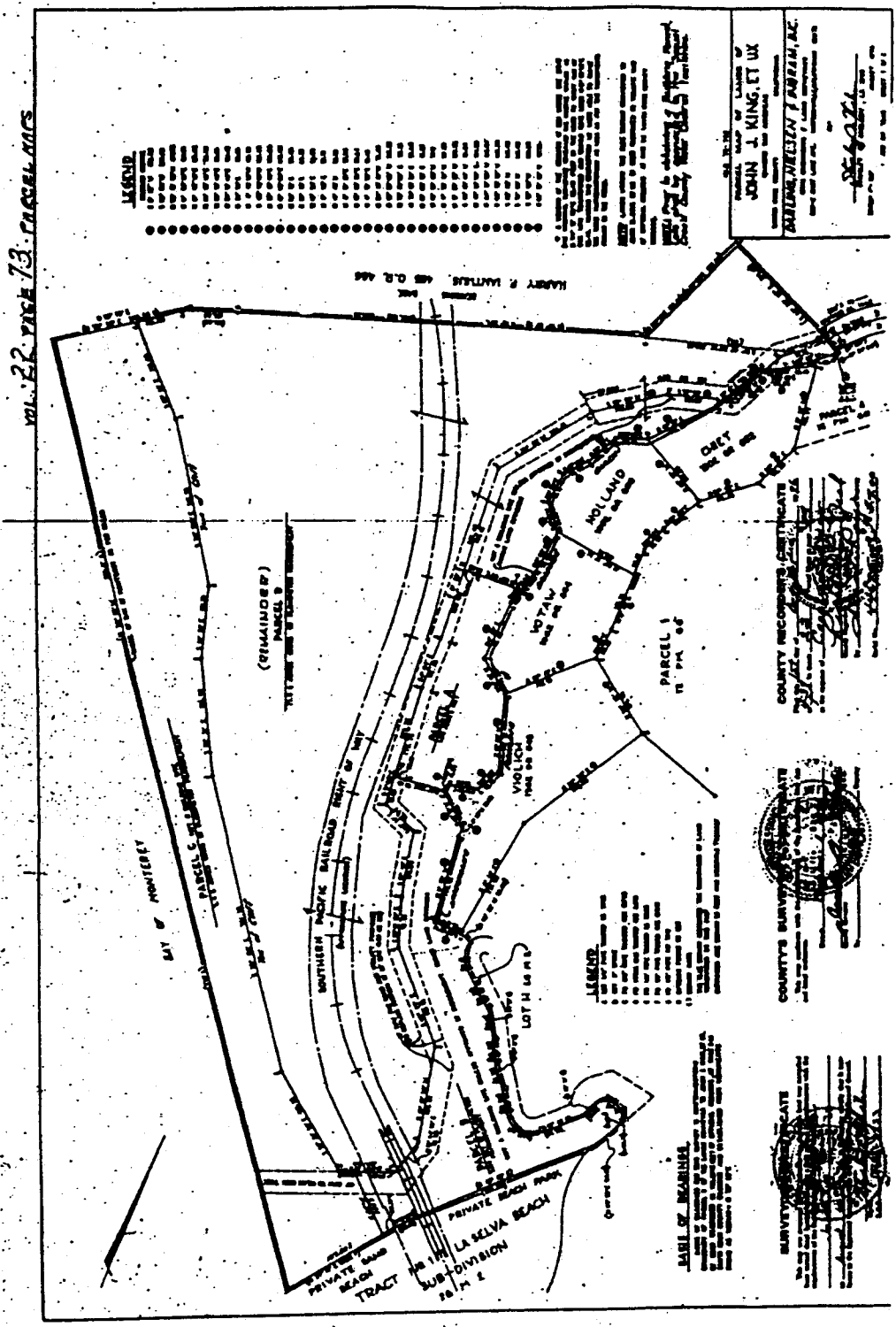


EXHIBIT "A"

Exhibit 45
CCC-05-NOV-01
CCC-05-CD-03
(King)

119

EXHIBIT D

THE LAW
OFFICES OF
ROBERT
J. LOGAN

255 WEST JULIAN STREET, SUITE 302
SAN JOSE, CA 95110-2406
TELEPHONE - (408) 287-2156
FACSIMILE - (408) 280-1749

January 28, 1998

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

RE: Appeal of Zoning Administrator's Decision
Application No. 96-0801

Dear Commissioners:

On January 9, 1998, our office filed an appeal of the Zoning Administrator's decision on the Gelbart project, Application No. 96-0801, on behalf of our client, Mr. Ken Corday. The purpose of this letter is to further explain the basis for our appeal and to challenge the approval of this project. We do not believe that the opinion of the County Counsel pertaining to the legality of this parcel is correct. We also oppose the granting of a variance for the front yard setback and a riparian exception because they are not legally substantiated.

LEGALITY OF THE PARCEL

In his December 30, 1997, opinion on the legality of the parcel, Mr. Rahn Garcia, County Counsel, stated that the Gelbart property, APN 045-022-25, was a legal parcel because it appeared on the final map of the Trestle Beach Subdivision as a "Remainder." This opinion is misguided for several reasons. Most importantly, the final map is inconsistent with the tentative map which was approved by the Board of Supervisors in 1978. Despite numerous requests to various County departments, including the planning department, the surveyor and the Clerk of the Board of Supervisors, neither the County nor we have been able to find any documentation to support this variation in maps. Without formal approval of the changes, the subdivision is illegal.

We have also learned that the Coastal Commission had no knowledge of the changes in the final map, as the Commission granted a Coastal Development permit based solely on the tentative map. The changes in the map subsequent to the issuance of the Coastal Development permit void the permit.

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Exhibit 46
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 7

EXHIBIT B

Another problem with the County Counsel's opinion is that the analysis is flawed. The Gelbart property did not appear on the final map. The Gelbart property and the area adjacent to Parcel C on the final map constituted one remainder parcel, not two (2) parcels as Mr. Garcia's opinion suggests. Based on the defects in the County Counsel's opinion, which will be more fully outlined below, the Zoning Administrator's determination that the Gelbart property was a legal parcel was improper and must be overturned.

A. Background.

In 1976, a minor land division was approved by the County which created four (4) parcels. One of those parcels, Parcel D, included what is now the Gelbart property. Parcel D was designated as a "Remainder" and a notation stating "NOT A BUILDING SITE UNLESS APPROVED BY SUBSEQUENT MINOR LAND DIVISION" was shown on a portion of Parcel D. On December 12, 1978, the Board of Supervisors conditionally approved a tentative map for the creation of the Trestle Beach Subdivision. That map included Parcel A, which was the location of the condominium project which had been a portion of Parcel D of the minor land division in 1976, and Parcel B which was a remainder retained by the owner. The Gelbart property was a portion of Parcel B. On November 9, 1979, a Final Subdivision Map was recorded which, according to Mr. Garcia, created four (4) parcels. One of those four (4) parcels was a remainder parcel which is the Gelbart property. In fact, only three (3) parcels for Subdivision Map purposes were created, excluding the remainder parcel.

B. Basis of Illegality.

1. The Original Approvals Failed to Follow the Map Act Requirements.

"After approval or conditional approval of the tentative map and prior to expiration of such map, the subdivider may cause the real property included within the map, or any part thereof, to be surveyed and a final map thereof prepared in accordance with the approved or conditionally approved tentative map." (Government Code section 66456). A final map must be in conformance with the tentative map. However, in this matter, the tentative map and the accompanying conditions, allowed only two (2) parcels, one of which was a remainder parcel.

The final map placed another parcel in the middle of the remainder parcel but did not create two (2) remainder parcels. Instead, it created a noncontiguous remainder parcel. Therefore, the sale of only a portion of that lot to Dr. Gelbart did

not comply with the Subdivision laws. At no time did the tentative map or the conditions imposed on that map approve a third parcel or the two (2) remainder parcels.

The acceptance of a final map by the County requires the engineer or surveyor to attest that the final map conforms to the tentative map. (Government Code section 66442). In this case, the final map was not in conformance with the tentative map, as it included another parcel, Parcel C, neither anticipated nor approved by the County Board of Supervisors. To add an additional parcel, the Board of Supervisors must approve the change in the tentative map. Despite numerous requests for documentation approving this addition, the County has been unable to locate any such documentation. Neither the Planning Department, the County Surveyor, or the Coastal Commission have any information related to this change. (Currently, the Clerk of the Board of Supervisors is searching her files for documents related to this project). Without Board of Supervisor approval for this change, the subdivision is illegal. Therefore, the Gelbart property cannot be a legal parcel.

2. The Coastal Permit Issued for the Subdivision was Based on the Creation of Only Two Parcels.

The Coastal Commission also reviewed the 1978 tentative map and corresponding conditions. Based on those documents, the Commission granted a Coastal Development permit. When the final map was changed and another parcel added to the Trestle Beach Subdivision, the conditions of the approval of the Coastal Development permit changed. If the County Counsel's analysis is accepted, three (3) parcels were created without Coastal Commission consideration. Both the application submitted by the previous owner and the application summary prepared by the Coastal Commission envisioned a 32 unit condominium project, access road, parking, community sewage disposal system, and tree removal. (Please see attached Exhibits "A" and "B"). In fact, the Coastal Commission knew nothing of the additional parcel until we informed them of this variation on the final map.

On August 8, 1979, the Coastal Commission issued its findings and conditions for the Coastal Development permit. This permit allowed "the development of 21 condominium units and associated improvements as specifically described." (Please see attached Exhibit "C"). At no time did the Coastal Commission consider the remainder parcel, because for map purposes it was not a legal parcel. The only reference to the remainder parcel was in a condition concerning the Landscape Plan. That condition required that prior to the removal of any vegetation, a separate Coastal Development permit would be required. (Please see Condition I of Exhibit C). By

referring to the Landscape Plan submitted to the County, it is apparent that it was the intent of the County and the Coastal Commission to retain the property which is now the Gelbart property in its wooded condition without further development. Any removal of that vegetation would require a separate permit. Because no further permits were issued, the remainder parcel and Parcel C are not developable under the Coastal Act.

C. The Analysis of the County Counsel is Misguided and Contravenes the Purposes of the Map Act.

The County Counsel claims that because the final map included a description of the Gelbart property as a separate parcel on the Trestle Beach Subdivision, it is a legally created parcel. In fact, the Gelbart property was never specifically described on the final map. The final map, which must conform to the tentative map, permitted only one remainder parcel. This remainder parcel included what is now the Gelbart property as well as the property located to the south of Parcel C. Therefore, the Gelbart property was never a "parcel of real property described therein" as required by Government Code section 66499.35(d).

The County Counsel further claims that under County Code sections 14.01.108-14.01.112 the Gelbart property is a legal parcel because it appears on a duly filed and recorded final map. However, this lot does not appear on a duly filed and recorded final map. Without Board approval, the final map should not have been recorded as it was. Additionally, based on the tentative map conditions and application, the only remainder parcel shown on the final map was one noncontiguous parcel, which the final map divided by Parcel C.

The EIR prepared in 1975 for the project, considered by both the Planning Department and the Coastal Commission, stated "the 5.5 acre bluff would be the only area within the site which would be acceptable for development according to County standards." Based on the language of the permits, it is reasonably certain that neither the Planning Department nor the Coastal Commission considered the Gelbart property a separate legal parcel in 1979. Rather, it was a portion of a larger remainder parcel. Despite the statement of the EIR that the only developable portion of the property was the bluffs and the apparent intent of the Planning Department and the Coastal Commission, the County Counsel now claims that the Gelbart property is a legal parcel proper for development. Relying on the County Counsel's opinion, the Zoning Administrator determined that because the Gelbart property was shown on the final map, it was a legal parcel. Consequently, no further requirements were necessary to develop that property.

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Exhibit 46
CCC-05-NOV-01
CCC-05-CD-03
(King)

The purpose of the Map Act is "to encourage orderly community development by providing for the regulation and control of the design and improvement of the subdivision, with a proper consideration of its relation to adjoining areas." Curtin, California Land Use and Planning Law. (1997). There was no regulation or control of the design and improvement of the remainder parcel. In fact, it was never considered. Finding the Gelbart lot a legal parcel ignores the purpose of the Map Act and establishes a parcel which was never regulated or controlled in any manner. We urge you to overturn the Zoning Administrator's decision and require a review of the County Counsel's opinion.

VARIANCE

In order to grant a variance, the law requires findings presented in the case which are supported by substantial evidence that it is justified. The applicant should be exempt from zoning requirements only if it is shown by substantial evidence that the property owner would suffer a unique hardship without the variance because his/her property is different from others to which the regulation applies. (Government Code section 65906). The findings which demonstrate this must "bridge the analytic gap between the raw evidence and the ultimate decision." Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d 506, 113 Cal.Rptr. 836.

In this case, the Zoning Administrator granted a variance to reduce the 40 foot front yard setback to 14.5 feet. The findings "justifying" this variance recite factual determinations about the status of the property, but give no justification for the need to eliminate over 25 feet from the front yard setback.

One such finding relied on by the Zoning Administrator was the "unique shape" of the property. The mere fact that the property is a unique shape does not justify special treatment. The findings also state "[t]he strict application of the zoning ordinance would deprive this property owner of privileges enjoyed by other property owners in the vicinity . . ." However, this finding does not bridge the analytic gap between the evidence and the decision to grant the variance. There are no facts to demonstrate this claim.

Although other property owners have been granted variances for front yard setbacks, each decision must be made on a case-by-case basis. In those cases, the findings may have justified the variance. In this case, the findings do not provide enough detail to support the same result. Precedence plays no role in granting variances. "The

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Exhibit 46
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 5 of 7

party seeking the variance must shoulder the burden of demonstrating before the zoning agency that the subject property satisfies the requirements therefor." Topanga Association for a Scenic Community v. County of Los Angeles (1974) 11 Cal.3d at 521.

The findings presented by staff that the Gelbarts are not being given special treatment in this matter because other property owners have been granted variances for set backs is insufficient. Three (3) other parcels apparently have been granted variances to reduce required setbacks. This should not be a basis for granting another variance. "A frontal attack on the present ordinance or a legislative proceeding to determine whether the area should be rezoned might be proper, but a variance would not." (1 Appendix to Sen.J. (1970 Reg.Sess.) Final Rep. of the Joint Committee on Open Space Land (1970) p. 95) (cited in Topanga, at 521.)

In this matter, the findings as outlined in the Staff Report fail to bridge the analytic gap between the evidence and the ultimate decision by the Zoning Administrator. There is little factual basis on which a variance is warranted. Therefore, the variance must be denied.

RIPARIAN EXCEPTION

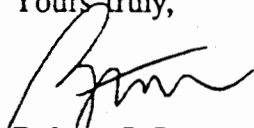
The Zoning Administrator granted a riparian exception to reduce the setback from 30 feet to 15 feet based on the Staff's recommendation the use of "the area of 20 foot riparian buffer and additional 10 foot building setback which is to be developed as domestic landscaping, patio, driveway, and parking . . ." Conditions of Approval 4(l). The purpose of a riparian corridor is to "minimize or eliminate any development activities in the riparian corridor in order to preserve, protect and restore riparian corridors . . ." County Code section 16.30.010.

Staff's justification for granting the exception is "the site is very limited in buildable space outside the riparian corridor and riparian buffer", "development of a portion of the riparian buffer and riparian building setback is necessary due to the limited building space outside the riparian area", and "due to the need for a right-of-way road and a septic system behind the new house, there is no feasible way to move the proposed building footprint further away from the riparian arroyo." (See 1-2-98 Staff Report to the Zoning Administrator). The sole justification for this exception is that without it the home cannot be built. That justification is not sufficient to warrant the encroachment of a riparian corridor. To allow the encroachment violates not only the letter, but the spirit of the Riparian Corridor and Wetlands Protection ordinance.

If a property owner can claim a riparian corridor is preventing the development of their property and be granted an exception, there is no need for the ordinance. The County is responsible for the maintenance and protection of these important areas. A policy that simply grants exceptions erodes rather than protects these areas. In order to ensure the protection of the riparian corridor, the County must specifically find why this exception is necessary and will not prove to be detrimental to the area. The findings as presented fail to do that.

What makes this exception even more unreasonable is the use to which the Gelbarts will put the corridor. The area is intended to be used for a driveway and parking. The close proximity of asphalt, gas, oil, and other toxic automotive products to the riparian corridor poses a potential problem for the surrounding habitat and properties located downstream. Staff's findings attempted to show that by encroaching on the riparian corridor, the corridor will be improved by the removal of non-native species from the area as well as the removal of dead or dying trees. Although this may be a benefit, does any potential benefit outweigh the potential dangers of this exception? Without further review, this is impossible to determine. However, the Zoning Administrator refused to consider the possible ramifications of this exception. We urge you to carefully reconsider the decision of the Zoning Administrator and the impacts of the development on this protected area.

Yours truly,


Robert J. Logan

RJL:kc

Attachments

cc: Barry Felsen
Joan Van der Hoeven, Project Planner
Rahn Garcia, County Counsel
Diane Landry, Coastal Commission

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Exhibit 46
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 7 of 7

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET ROOM 400 SANTA CRUZ, CALIFORNIA 95060
(408) 454-2580 FAX (408) 454-2131 TDD (408) 454-2123

March 9, 1998

Agenda Date: March 25, 1998

ITEM NUMBER: H-1

Santa Cruz County Planning Commission
701 Ocean Street
Santa Cruz, CA 95060

RE: APPEAL OF THE ZONING ADMINISTRATOR'S DECISION ON A PROPOSAL TO CONSTRUCT A TWO-STORY SINGLE-FAMILY DWELLING. REQUIRES A COASTAL ZONE PERMIT, A SOILS REPORT REVIEW, A GRADING PERMIT, A VARIANCE TO REDUCE THE REQUIRED 40-FOOT FRONT YARD TO ABOUT 14.5 FEET, AND A RIPARIAN EXCEPTION.

LOCATED AT: PASO CIELO, LA SELVA BEACH

APPLICANT: THOMAS RAHE, ARCHITECT, FOR DAVID GELBART

APPELLANT: ROBERT LOGAN, ESQ., FOR KEN CORDAY

APPLICATION No. 96-0801 APN: 045-022-25

Dear Members of the Planning Commission:

Introduction

Application #96-0801 was approved by the Zoning Administrator on January 2, 1998. On January 9, 1998, an Appeal of the approval was filed by Robert Logan, San Jose, on behalf of Mr. Ken Corday, La Selva Beach.

Appeal Issues

The January 28, 1997 letter of appeal from Robert Logan, Esq., (Exhibit B) challenges the approval by the Zoning Administrator of the Coastal Zone Permit Number 96-0801 on January 2, 1998. The appellant does not concur with the conclusions of County Counsel that the parcel is a legal lot of record due to an inconsistency with the final and tentative maps approved for the Trestle Beach Subdivision. The appellant further states that as no further permits were issued, the remainder parcel and Parcel C are not developable under the Coastal Act. Finally, the appellant states that the Gelbart property was never specifically described on the final map.

The appellant states that the granting of a variance to reduce the required front setback from 40 feet to 14.5 feet should not be justified by the unique shape of the lot and that although other property owners have been granted variances for front yard setbacks, that each decision must be made on a case-by-case basis. The appellant further disputes the granting of a riparian exception to reduce the setback from 30 feet to 15 feet with the sole justification for the granting of the riparian exception being that without it the home cannot be built.

Exhibit 47
CCC-05-NOV-01
CCC-05-CD-03
(King)

H-1

Site and Project Description

Architect Thomas Rahe applied for a Coastal Zone Permit on November 21, 1996 to construct a two-story single-family dwelling of approximately 3,411 square feet, on a vacant lot at Paso Cielo off Camino Al Mar, in between the Los Barancos and Trestle Beach developments of La Selva Beach. The neighborhood is predominantly single-family residential use.

The proposed project is located on a 2.4 acre parcel on the east side of Paso Cielo just south of the intersection with Camino Al Mar. The lot was determined by County Counsel to be a legal parcel as it was shown as a separate parcel on the Trestle Beach Subdivision Final Map recorded in 1979. It complied with both the Subdivision Map Act and the Subdivision regulations of Santa Cruz County at the time of its creation. The lot is bounded by an intermittent stream requiring a riparian setback on the eastern property line, steep slopes along the northwest of the property, and a Southern Pacific Railway Line adjacent to the western property line. The property is heavily vegetated with non-native eucalyptus trees which are proposed to be removed and the parcel restored to a native woodland. The project site was evaluated and determined not to constitute a monarch butterfly overwintering habitat. A public easement granting coastal access to residents of Los Barancos and Trestle Beach crosses the parcel and will be maintained.

The property carries an Urban Open Space General Plan designation and lies within the Rural Services Line of La Selva Beach which has residential densities of an urban nature. The implementing zoning is Rural Residential (R-R). The project complies with all required development regulations with the exception of meeting the required 40 foot front setback from Paso Cielo, and complying with the required 30 foot setback from the intermittent stream riparian corridor and 10 foot riparian corridor buffer setback to the proposed residence.

Response to Issues of The Appeal

Due to the complexity of the parcel legality issues, County Counsel's office was consulted to review this issue. In their memorandum dated December 30, 1997 (Exhibit "O" of the Staff Report to the Zoning Administrator), County Counsel concluded that the parcel in question was presumed to be lawfully created. Thus, Planning staff has processed this application in reliance and in accordance with this presumption. A second detailed response from County Counsel is anticipated prior to your Commission's public hearing which will also conclude that the parcel was legally created.

Variance findings were presented based on the special circumstances applicable to the lot which include the limited area for development due to the required riparian setbacks, steep slopes, bisection of the lot with the coastal access corridor and right-of-way, and septic system setback from the intermittent stream on the property. Strict application of the zoning ordinance would deprive this property owner of privileges enjoyed by other property owners in the vicinity under identical zoning classification who have built similar single-family homes in the vicinity. A variance to permit construction of a single-family dwelling would not be materially detrimental to property or improvements in the vicinity in that the project shall be required to meet all conditions of the Soils Report prepared for the project by Haro, Kasunich & Associated dated November 1, 1996 and accepted by the Planning Department on December 18, 1996 (Exhibit J of the Zoning Administrator staff report), and with the oak woodland restoration

plan accepted by the Planning Department on July 11, 1997 (Exhibit L of the Zoning Administrator staff report). Granting of a variance for the project would not constitute a grant of special privilege to this lot as variances to the zoning regulations have been granted in the immediate vicinity for reduced setbacks and riparian exceptions.

Granting of the riparian exception is based upon findings which conclude that removal of diseased, non-native eucalyptus and monterey pine trees is necessary to implement a program of native habitat restoration. Development within a portion of the riparian buffer is necessary due to the limited building envelope outside of the riparian area. Environmental Planning staff concluded that the riparian corridor will be substantially increased in terms of habitat value once the riparian arroyo woodland restoration work is completed. Due to the need for the right-of-way and coastal access and the placement of the septic system, there is no feasible way to locate the proposed building footprint any further away from the riparian area. The proposed tree removal provides for health and safety because these trees are considered to be hazardous due to their diseased and weakened condition. The removed trees will be replaced with native trees in accordance with the restoration plan on a one tree planted per one tree removed basis. The planting of these trees will aid in erosion control and provide additional screening of the proposed residence over the longer term. The trees are to be removed by a qualified state licensed tree service contractor and shall be felled or sectionally removed to avoid damage to existing oaks and redwoods in the canyon.

Conclusion

In making his decision, The Zoning Administrator considered all relevant comments and ordinances and based his decision to approve the Coastal Permit subject to the findings and conditions of the staff report. In addition, this decision is justified and supported by the facts presented for consideration and found in the administrative record. This decision is not tainted by any errors or abuse of discretion on the part of the Zoning Administrator. Finally, a fair and impartial hearing was conducted by the Zoning Administrator.

Recommendation

Staff recommends that your Commission deny the appeal and uphold the Zoning Administrator's approval of Application #96-0801 based on the Findings and Conditions adopted by the Zoning Administrator on January 2, 1998.

Sincerely,

Joan Van der Hoeven

Joan Van der Hoeven, AICP
Planner III

Reviewed by:

Martin J. Jacobson

MARTIN J. JACOBSON, AICP
Principal Planner
Development Review

Exhibit 47
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 3 of 4

EXHIBITS:

- A. Appeal letter of Kirsten Powell, Esq., Law Office of Robert Logan, dated January 9, 1998.
- B. Letter re-appeal by Robert J. Logan, Esq., dated January 28, 1998.
- C. Coastal Zone Permit, Findings and Conditions of Approval, dated January 2, 1998.
- D. Zoning Administrator Staff Report of January 2, 1998.
- E. Appeal response letter of Assistant County Counsel, Rahn Garcia, forthcoming.

cc: Thomas Rahe, 345 Lake Ave., Suite B, Santa Cruz, CA 95062.
David R. Gelbart, M.D., 2126 Soquel Ave., Santa Cruz CA 95062.
Ken Corday, 34 Margarita Road, La Selva Beach, CA 95076.
Kirsten M. Powell, Esq., 255 W. Julian St., Suite 302, San Jose 95110.
Jonathan Wittwer, Esq., 365 Lake Avenue, Santa Cruz, CA 95062.
Harry Taub, Esq., 3380 Chardonnay Rd., Soquel, CA 95073.

Exhibit 47
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 4 of 4

OFFICE OF THE
COUNTY COUNSEL

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DWIGHT L. HERR
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CHIEF ASSISTANTS



COUNTY OF SANTA CRUZ

701 OCEAN STREET, ROOM 505, SANTA CRUZ, CALIFORNIA 95060-4068

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TAMYRA RICE
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ELLEN LEWIS
KIM BASKETT
LEE GULLIVER
DANA McRAE

ASSISTANTS

March 13, 1998

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

Dear Members of the Commission:

On January 9, 1998, Mr. Ken Corday filed an appeal of the Zoning Administrator's approval of Application 96-80801. Your Commission subsequently received a letter dated January 28, 1998, from Mr. Corday's legal representative Robert J. Logan, Esq. challenging this Office's conclusion that APN 045-022-25 is a legal parcel under the Subdivision Map Act (see Memorandum of Rahn Garcia, Assistant County Counsel, dated December 30, 1997). Upon further review of the supporting documents and for the reasons set forth below, it remains the position of this Office that the subject property is a legal parcel.

BACKGROUND

Application #96-0801 is a proposal to construct a two-story single-family dwelling on property located on the east side of Paso Cielo, south of its intersection with Camino Al Mar in La Selva Beach. The project requires a Coastal Zone permit, Grading permit, a front yard Variance, a Riparian Exception, and a determination of the lots legal status. On January 2, 1998, the Deputy Zoning Administrator approved Application #96-0801.

In his letter on behalf of the Appellants, Attorney Robert J. Logan detailed his challenges to the initial determination that the subject property was legally created. In addition, the Applicant challenged the Deputy Zoning Administrator's findings made in granting the variance and riparian exception for the project. This letter will address the issues raised by Mr. Logan concerning the subject property's legality, while Planning staff will respond separately concerning the variance and riparian exception issues.

GELBART3.WPD

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

HISTORY

A detailed examination of the lengthy and complex history behind the Trestle Beach Subdivision is necessary in order to properly analyze the creation of the subject property. The following is a chronology of the pertinent events:

1973:

The original developer, Dr. John J. King, owned approximately 30 acres of land (APN 45-021-10, 36, and 38), located between San Andreas Road and the beach directly west of the Los Barrancos subdivision. Dr. King applied for a Planned Unit Development (PUD) and subdivision approval for 154 units in September of 1973. The processing of the application was put on hold by Dr. King until after the adoption of a general plan for the Aptos area. The Plan adopted by the Board of Supervisors designated the property as Urban (2-6 units per acre) and Recreation-Scenic.

February 1975:

The PUD was subsequently revised in February of 1975 with the number of units requested lowered to 32, with all the units to be grouped together on the bluff area overlooking the beach. An EIR for the project was begun.

July 1975:

In a letter dated July 21, 1975, from John Gilchrist, Senior Planner for the County of Santa Cruz to Robert McHugh, the Trestle Beach Subdivision Project Developer, Mr. Gilchrist noted that Dr. King had revised his original proposal by adding the creation of 7-8 lots in the canyon area of the property. However, Dr. King subsequently changed his mind again and he separately applied for a Minor Land Division (MLD 75-753) to create a one acre building site in the canyon (the "Finegan" property).

A separate EIR was prepared for this Minor Land Division. The Draft EIR dated October 17, 1975, prepared by Lisa Anderson (See copy attached as Exhibit "A") included a discussion on page 12, of Socio-Economic Impacts possibly generated by the proposed minor land division, including the following:

"If the improved right-of-way serving the site should become publicly maintained in the future, the two adjacent lots to the north and south of the site would automatically become legal parcels (See Figure 3, numbers 1 and 2.) Parcel 1 is composed almost entirely

of steep (70 to 90%) slopes, offering no developable area. Parcel 2 offers one level area of adequate building space; however, it lies over a pipe that conveys stream water to the beach and is directly adjacent to the beach, some 50-75 feet from the railroad trestle."

The following mitigation is then listed, again on page 12:

"As a provision of the minor land division permit, designate parcel 1 as non-buildable. Investigate the potential for construction on parcel 2 and designate it as non-buildable if environmental constraints are felt to be significant." (Emphasis added.)

Parcel 1 on Figure 3 is north of the proposed new lot and appears to lie between the forty foot road right-of-way and the eastern boundary of King's property (see Figure 3 in Exhibit "A").

December 1975:

On December 19, 1975, the Acting Planning Director approved the MLD (the Planning Director had authority at that time to approve such a division). See copy of Minor Land Division Application 75-753 and tentative map attached as Exhibit "B". This approval included the following condition "Parcels B + C to be combined with Parcel A, or combined with D and designate as 'not a building site' on parcel map". Parcels B and C on the tentative parcel map corresponds to Parcels 1 and 2 identified on Figure 3 in the Draft EIR.

On December 11, 1975, the Planning Commission recommended approval of the Trestle Beach Subdivision PUD.

March 1976:

On March 2, 1976, a PUD with a total of 20 units located on the bluff area was approved by the Board of Supervisors (#73-13-PUD). There was no discussion of the Minor Land Division when the PUD was heard by the Board.

April 1976:

In April of 1976, an amendment to MLD 75-753 was approved deleting a requirement that Parcel E (the beach portion of the King property) be dedicated. Approval of this amendment "voided" the original approval (see Exhibit "B"). The revised tentative map now showed King property divided into four parcels: parcel A (a new building site in the canyon); parcel B the southeastern

portion of King's property up to the railroad trestle; parcel C the beach; and parcel D containing the remainder of King's property. The area of Parcel D located east of the fifty foot right-of-way and north of the Finegan property was designated as "not a building site unless approved by subsequent minor land division". See Revised - April-'76 Minor Land Division Application 75-753 and revised tentative map attached as Exhibit "C".

October 1976:

On October 1, 1976, a Parcel Map was recorded for the MLD (see copy of Parcel Map recorded in Book 22, Page 73, attached as Exhibit "D"). This division resulting in the creation of four parcels, A through D. Parcel A created a new building site. Parcel C was comprised of the beach area directly below the site of the PUD units proposed by Dr. King. Parcel D was approximately 17.8 acres in size and parenthetically identified as a "Remainder". A notation stating "NOT A BUILDING SITE UNLESS APPROVED BY SUBSEQUENT MINOR LAND DIVISION" is shown on a portion of parcel D that is currently part of the subject property, as well as on a portion of Parcel B.

July 1977:

In July of 1977, the Planning Commission was scheduled to hear a request from Dr. King to amend and extend the PUD approved by the Board of Supervisors in December. In a memorandum addressed to the Planning Commission dated July 26, 1977 (see copy of memorandum attached Exhibit "E"), Chief of Development Processing Richard Pearson provided a chronology of Dr. King's Trestle Beach development. Pearson notes in his discussion that:

"Both the environmental consultant and the staff person had the mistaken impression that the MLD was an alternative for Dr. King if the PUD were not approved. This was not Dr. King's intent, as he has since stated, and as was fairly clearly implied by his statements in the EIR on the MLD. In fact, Dr. King planned to divide off further homesites in the ravine area, and did not understand that the PUD applied to all of his remaining property, and not just the blufftop."
(Emphasis added.)

The record does not indicate whether this memorandum was actually received or considered by either the Planning Commission or the Board of Supervisors in their deliberations on this matter. Due to problems with vacancies and time deadlines, the Planning Commission was not able to hear Dr. King's application, and the

matter was referred to the Board of Supervisors for their consideration on November 15, 1977. The Board's consideration of this matter was eventually completed on January 10, 1978.

January 1978:

On January 10, 1978, the Board of Supervisors approved an amendment and extension of the PUD and subdivision application of Dr. King (#77-348-PUD and #77-345-S).

August 1978:

On August 15, 1978, Dr. King filed new applications for tentative map approval.

September 1978:

The Planning Commission staff report dated September 27, 1978, states in the Project Description that the applicant was seeking an amendment which would, among other things, increase the number of townhouse units allowed to 32, and eliminate the condition requiring an open space easement on the undeveloped portion of the property.

The staff eventually recommended that the open space easement be limited to parcel "A" which contained the townhouse units to be developed. The Planning Commission approved Dr. King's application and referred this matter to the Board of Supervisors.

December 1978:

On December 12, 1978, the Board of Supervisors heard Dr. King's new applications. The Board adopted the Planning Commission's recommendations which made a number of changes from the previously approved PUD, including an increase from 20 to 32 in the number of units located on the bluff top (#78-1276-PUD and #78-1275-S). The Planning Commission had recommended the increase in units, along with a reduction in the agricultural buffer and deletion of an open space easement. In his opening staff report, John Warren of the Planning Department reported that the Commission determined that the open space easement in the bluff top was no longer necessary because the entire bluff top was not recommended for development. Warren also noted that the Commission felt that the open space easement was not needed in the ravine area because:

"...presently the ravine is marked on the existing parcel map as not a building site and it contains

primarily land which is classified by the County as non-developable"

Tape of the Board of Supervisors Meeting: December 12, 1978.

July 1979:

The California Coastal Commission approved Coastal Permit P-79-117 for the project on July 30, 1979. However, the Commission added a number of new conditions including a reduction in the number of units permitted back down to 21. The Coastal Commission's records do not indicate whether development in the ravine area was ever raised as an issue by the staff or the Coastal Commission itself.

November 1979:

On November 9, 1979, a Final Subdivision Map was recorded creating Tract No. 781 known as Trestle Beach (see copy of Subdivision Map for Tract No. 781, Trestle Beach, attached as Exhibit "F"). This townhouse subdivision contained four parcels created from a portion of what was parcel D in MLD 75-753. Those four parcels were identified on the final map as A, B, C and D. However, a portion of the "parent parcel" (parcel D from the 1976 MLD) was "left over" after the creation of these four parcels. This left over area was comprised of two pieces: (1) the subject property, and (2) an area lying south of parcel C and east of the railroad right-of-way (hereafter referred to as the "southern remnant"). Both of these areas carried the following designation on the final map: "Remainder Ptn. Pcl. "D" 22-PM-73". An amended final map for the subdivision making minor changes to the siting of the townhouse units on parcel A was later recorded on December 10, 1980.

December 1992:

The current owner of the subject property is David R. Gelbart, who acquired his interest by Deed from John and Julia King, the original subdivider of the property (recorded December 23, 1992 at Volume 5175, Pages 459-462 of the Official Records of the County of Santa Cruz). The Kings had reacquired their interest from Gwynn Corbet Hanchett that same day by Deed recorded at Volume 5175, Pages 455-457.

These 1992 Deed conveyances separately described APN 045-022-25 by metes and bounds for the first time. Previous recorded Deed conveyances did not describe the subject property, but rather described larger tracts of land of which the subject property was

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Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

a part. See copies of deeds affecting the subject property dated April 18, 1977 at Book 2747, Page 278; April 18, 1977 at Book 2747, Page 284; June 18, 1980 at Book 3205, Page 214; December 23, 1992 at Volume 5175, Page 455, and December 23, 1992 at Volume 5175, Page 459; attached to Staff Report to the Zoning Administrator dated October 3, 1997.

PARCEL LEGALITY DETERMINATION

In his letter, Robert J. Logan, Esq. cited three principle arguments against this Office's opinion that the subject property constituted a legal parcel: (1) that the Final Map filed for the Trestle Beach Subdivision in 1979 did not legally create the subject property; (2) that the subject property was only a portion of one "noncontiguous" remainder parcel created by the Final Map; and (3) that recognition of the subject property as a legal remainder contravenes the purpose of the Subdivision Map Act. Each of these challenges will be separately examined.

1. DID THE TRESTLE BEACH SUBDIVISION FINAL MAP LEGALLY CREATE THE SUBJECT PROPERTY?

Mr. Logan asserts that the subject property was not legally created because the final map for the Trestle Beach Subdivision accepted by the Board of Supervisors did not legally conform to the previously approved tentative map. Mr. Logan claims that "parcel C" as it appears on the final map was never properly approved by the Board of Supervisors, therefore the entire subdivision was illegal. Because the subdivision was illegal, Mr. Logan concludes that the subject property was likewise not lawfully created. Notwithstanding Mr. Logan's claim to the contrary, the record shows that the final map (including the creation of parcel C), was properly reviewed and approved.

The California Subdivision Map Act or SMA (Government Code Section 66410 et seq.) grants authority to cities and counties to regulate and control the design and improvement of subdivisions within their boundaries. Government Code Section 66411. The primary goals of the SMA have been summarized as follows:

"1. To encourage orderly community development by providing for the regulation and control of the design of improvement of the subdivision, with proper consideration of its relation to adjoining areas;

2. To ensure that the areas within the subdivision that are dedicated for public purposes will be properly improved by the subdivider so that they will not become an undue burden on the community;

3. To protect the public and individual transferees from fraud and exploitation."

61 Ops.Cal.Atty.Gen. 299, 301 (1978)

Under the SMA, approval of a final map is ministerial as long as the final map conforms to all the conditions of approval attached to the tentative map. Government Code Section 66458. The county surveyor must examine the final map and certify: (1) that he or she has examined the map; (2) that the subdivision as shown is substantially the same as it appeared on the tentative map; (3) that all provisions of the SMA and any local ordinances applicable at the time of the tentative map approval have been complied with; and (4) that he or she is satisfied that the map is technically correct. Government Code Section 66442.

Parcel C lies east of the railroad right-of-way immediately south of the subject property (see Exhibit "F"). While the Final Map identifies parcel C, the creation of this parcel was not shown on the tentative map approved by the Board of Supervisors. When the tentative map was approved, it had not yet been determined whether the proposed development would be served by individual septic tank systems or a community sewage disposal system (package treatment plant). The permit issued by the Coastal Commission, however, included conditions recognizing that a package plant would be the alternative utilized. Parcel C is the location of package treatment plant and leach pit disposal area approved for the Trestle Beach Subdivision. Creation of a public agency to accept responsibility for the operation of the system was a requirement of the Regional Water Quality Control Board. Ownership of the site by the Trestle Beach Subdivision Homeowners Association would have been required by the County prior to creation of the County Service Area to operate the facility. Pursuant to his statutory duties, the County Surveyor examined and certified on November 1, 1979, that the final map complied with the SMA and County Subdivision Ordinance. The Surveyor also determined that the map was technically correct and conformed with the tentative map approved on December 12, 1978. The Board of Supervisors subsequently approved the map on November 6, 1979.

Even assuming that Mr. Logan's assertion that the final map did not legally conform to the tentative map when the County Surveyor certified it, and the Board of Supervisors approved it in 1979, it is now well beyond the time established under the SMA to challenge such an error. Government Code Section 66468 provides that the filing of a final map for recording automatically and finally determines the validity of that map and gives constructive notice of its existence. However, any judicial review is subject to a 90 day statute of limitations:

GELBART3.WPD

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

"Any action or proceeding to attack, review, set aside, void or annul the decision of an advisory agency, appeal board or legislative body concerning a subdivision, or any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced and service of summons effected within 90 days after the date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or such proceedings, acts or determinations."

Government Code Section 66499.37 (Portion.)

The ninety day limitation established by Section 66499.37 ensures that judicial resolution of SMA disputes occur as expeditiously as is consistent with the requirements of due process of law. Hunt v. County of Shasta (1990) 225 Cal.App.3d 432.

Thus, the approval of the final map which included the creation of parcel C complied with the tentative map conditions approved by both the Board of Supervisors as well as the Coastal Commission.

2. DID THE TRESTLE BEACH SUBDIVISION CREATE ONE OR TWO REMAINDERS?

Mr. Logan next asserts that the subject property was not specifically described on the final map of the Trestle Beach Subdivision and that it was actually just a part of one "noncontiguous" remainder parcel existing on either side of parcel C. If the subject property was an undivided part of a larger remainder as Mr. Logan contends, then the sale of the subject property to David R. Gelbart in 1992 was in violation of the SMA.

A. Remainders were recognized but not regulated by the SMA when the Trestle Beach Subdivision final map was recorded.

At the time of the Final Maps recording, the Subdivision Map Act did not require a subdivider to include a "remainder" as part of the subdivision. Furthermore, remainders were recognized as an allowable result of a land division under the Subdivision Map Act prior to 1980 (See 52 Ops.Cal.Atty.Gen. 79 (1969); 59 Ops.Cal.Atty.Gen.640 (1976) *infra*).

In 1969, the Attorney General determined that the Map Act excluded "remainders" from its definition of a subdivision subject to the act. The Map Act, at that time, defined a "subdivision" to mean:

"any real property, improved or unimproved,
or portion thereof...which is divided for the
purpose of sale, lease, or financing, whether
immediate or future..." Business and
Professions Code Section 11535(a) (Emphasis
added)

The statutes use of the phrase "or portion thereof" indicated the Legislatures intent to permit a subdivider to exclude a portion of his or her property from a subdivision. 52 Ops.Cal.Atty.Gen. 79 (1969). The Legislature subsequently amended Government Code Section 66424 of the Map Act (formerly Business and Professions Code Section 11535) to delete the words "or portion thereof" (Stats. 1974, ch. 1536, p.3467). The Attorney General determined that this change now evidenced the Legislatures intent to require that remainders be included as part of the subdivision. 59 Ops.Cal.Atty.Gen.640 (1976). Shortly after this opinion was issued, the Legislature once more amended Section 66424 to again include the phrase "or any portion thereof" (Stats. 1977, ch.234, §3). The Attorney General concluded that this return to the prior language meant that Section 66424 should again be read to authorize a subdivider to omit a remainder from a subdivision. 62 Ops.Cal.Atty.Gen. 246 (1979).

Effective January 1, 1980, Government Code Section 66424.6, directly regulated the creation of remainders for the first time (Stats. 1979, ch.383, p.1441, §1). Section 66424.6 stated, in pertinent part, as follows:

"When a subdivision, as defined in Section 66424, is of a portion of any unit or units of improved or unimproved land, the subdivider may designate as a remainder that portion which is not divided for the purpose of sale, lease, or financing.

Section 66424.6 did not become effective until two months after the recordation of the Trestle Beach Subdivision Final Map that first identified the subject property. Thus, because the subject property was created as a remainder, it was not required to be included as part of the Trestle Beach Subdivision.

B. Parcel Described on Recorded Final Map Presumed Legal.

Government Code Section 66499.35 of the Subdivision Map Act requires local agencies to determine whether a parcel is in compliance with the Map Act as well as any local subdivision ordinance if so requested by the parcels owner. The local agency must respond to such a request by issuing either a conditional or unconditional certificate of compliance. Subdivision (d) of Government Code Section 66499.35 states as follows:

"(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein." (Emphasis added.)

As previously noted, the subject property was identified on the Trestle Beach Subdivision final map recorded on November 9, 1979. While the final map shows the subject property, it is not described in its entirety by metes and bounds. However, the final map does reference the 1976 minor land division parcel map which created the larger parcel of which APN 45-022-25 was a portion. The 1979 final map and the referenced 1976 parcel map, taken together, provide a complete metes and bounds description of the subject property.

Because the subject property was a "remainder" not subject to regulation under the Subdivision Map Act at the time of its creation, its description as a separate parcel on the Trestle Beach Subdivision final map created it as a legal parcel pursuant to Government Code Section 66499.35.

C. The Trestle Beach Subdivision final map created two remainders, not one single contiguous parcel.

As previously stated, if the Trestle Beach Subdivision final map created one "contiguous" remainder rather than two, the sale of the subject property in 1992 constituted an unlawful division of property in violation of the SMA. The SMA defines when units of land in common ownership are considered "contiguous", such that their division must meet the requirements of the Act.

Government Code Section 66424 provides a definition of what constitutes a subdivision under the SMA. Section 66424 states that the unit or units of land shown on the latest equalized county assessment roll shall be considered "contiguous" even though separated by certain interests in land:

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Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

"Subdivision" means the division, by any subdivider, of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in subdivision (f) of Section 1351 of the Civil Code, a community apartment project, as defined in subdivision (d) of Section 1351 of the Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the Civil Code.

Government Code Section 66424 (Emphasis added.)

The issue raised is whether the subject property is part of one contiguous unit of land joined with that portion of parcel D from MLD-75-753 located east of the railroad right-of-way and south of parcel C (hereafter referred to as the "southern remnant").

We begin by noting that although both the subject property and the southern remnant currently have separate assessor parcel numbers, a county assessor's parcel designation has no effect on whether that parcel has complied with the requirements of the SMA. 62 Ops.Cal.Atty.Gen. 147 (1979). The function of the assessor is to raise revenue and not regulate the division of land.

A review of the parcel map filed for MLD-75-753 and the final map filed for the Trestle Beach Subdivision will assist in understanding the relationship between the subject property and the southern remnant.

i. 1976 Parcel Map from MLD-75-753.

Parcel D created by MLD 75-753 in 1976 is outlined on the map entitled "MLD Remainder" (see Exhibit "G"). It is one parcel which exists on both the west and east side of the Southern Pacific Railroad right-of-way. It also appears that the portion of parcel D that lies to the east of the right-of-way is a continuous area of land not separated by the creation of parcel A. As previously noted, this parcel map carries a written statement on the northeastern portion of parcel D, in the area to the east of the forty foot right-of-way connecting with Camino Al Mar, that describes the area as not being a building site unless approved by a subsequent MLD.

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Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

ii. Trestle Beach Subdivision Final Map.

The Trestle Beach Subdivision was located entirely on parcel D as that parcel was shown on the map for MLD 75-753. Parcel D was divided into parcels A through D. There is a portion of the "parent" parcel D left over once the parcels included within the subdivision (parcels A through D) are eliminated (see copy of map entitled "Subdivision Remainders" attached as Exhibit "H"). Within this leftover area, the subject property appears separated from the southern remnant by the newly created parcel C.

iii. Analysis.

In applying the Subdivision Map Act's definition of "contiguous" to these circumstances, it could be argued that the subject property and the southern remnant are not separated by the railroad right-of-way, but rather by the intervening parcel (parcel C on the Trestle Beach Subdivision Final Map). The subject property does not contact the southern remnant except by extension along the railroad right-of-way. Alternatively, it can be argued that the subject property and the southern remnant's common ancestry (parcel D on the Parcel Map for MLD-75-753) has not been altered, and that these areas remain contiguous along the railroad right-of-way.

The California Attorney General has reviewed SMA's use of the term "contiguous" on two occasions. In 56 Ops.Cal.Atty.Gen 105, 108 (1973), the Attorney General was asked whether commonly-owned parcels on either side of a road would be considered a contiguous unit such that their division into five or more parcels would require a subdivision? The Attorney General concluded that commonly-owned units of property divided by a subdivision's street would still be considered contiguous:

"...it is clear that the Legislature intended to set forth a clear statement of what constitutes a 'contiguous unit' in order to prevent possible avoidance of the regulation of subdivision as well as to recognize the realities of modern subdivision situations...the Legislature apparently intended to remove any discretion from local governing bodies to determine which such parcels would or would not be treated as contiguous units."

In 61 Ops.Cal.Atty.Gen 299 (1978), the Attorney General considered whether commonly owned units of land would be considered as contiguous property even though they were separated by a canal owned in fee simple by a third party. The Attorney General stated that the term "contiguous" has two usual and

ordinary meanings that were mutually exclusive: (1) being in physical contact, or (2) being near, but not in actual physical contact. 61 Ops.Cal.Atty.Gen 299 at p.301. After reviewing the purpose of the SMA and noting that case law has liberally construed the SMA to require the highest possible standards for orderly community development, the Attorney General concluded that contiguous units should be interpreted as including units which were not in physical contact. 61 Ops.Cal.Atty.Gen 299 at p.301-302. The Attorney General, however, added an additional element to be considered. Borrowing from the concept of "unity of use" applied in eminent domain cases for the awarding of severance damages (City of Los Angeles v. Wolfe (1971) 6 Cal.3d 326, 333-336; People v. Thompson (1954) 43 Cal.2d 13, 18, 23), the Attorney General included a requirement that nearby properties demonstrate a reasonable ability to be used together to create a single subdivision project as a condition to being considered "contiguous". 61 Ops.Cal.Atty.Gen 299 at p.302. The Attorney General acknowledged that the application of this criteria would require a case by case evaluation.

Applying these principles to the case at hand, it appears that the subject property had no pre-existing shared or interrelated use with the southern remnant, other than their both being part of a larger parent parcel. The two properties are separated by more than 200 feet in distance by the intervening parcel owned by a third party. The intervening property is used as a package treatment plant and leach pit area which effectively eliminates any shared or coordinated development opportunities between the parcels. The only element common to both properties is the forty foot easement serving both of them, as well as the railroad right-of-way which cannot be traversed laterally to establish access. Practically speaking, the railroad right-of-way serves only as a non-accessible connection between the properties, not as a separation.

In conclusion, the term "contiguous" as used in Section 66424 should be construed to include commonly owned units of land that are separated by a railroad right-of-way, but not where all of the following circumstances apply: (1) the units are separated by a parcel owned by a third party; and (2) the right-of-way between the units does not provide any access between the units; and (3) the units taken together would not reasonably constitute a single subdivision project. Such a construction of section 66424 is reasonable and effectuates the Legislature's apparent intent.

Because the subject property and the southern remnant are not contiguous, the subject property was a valid separate remainder not subject to any regulation under the SMA at the time of its creation. Furthermore, since the subject property was properly

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described on the final map of the Trestle Beach Subdivision, it is a legal parcel pursuant to Government Code Section 66499.35 (see Memorandum of Rahn Garcia, Assistant County Counsel, dated December 30, 1997, for further discussion of Section 66499.35).

3. WOULD RECOGNITION OF THE SUBJECT PROPERTY AS A LEGAL
REMAINDER CONTRAVENE THE PURPOSE BEHIND THE SMA?

Appellant's final argument is that the purpose behind the SMA of controlling development would be frustrated if the subject property were recognized as a legal remainder. In particular, Mr. Logan argues that the subject property was never subjected to SMA regulation as was the Trestle Beach Subdivision itself. However, this argument overlooks the fact that at the time of the filing of the final map in 1979 which created the subject property, the SMA did not regulate the creation of remainders. Perhaps that is why legislation expanding the scope of the SMA to include the creation of remainders was subsequently enacted.

CONCLUSION

The subject property, in its current configuration as a single parcel, is shown on the final map of the Trestle Beach Subdivision recorded in 1979. Under the SMA, the recording of a final map is a final determination of the validity of the map. Furthermore, the SMA provides that a recorded map constitutes a certificate of compliance with respect to the parcels of real property described by the map. Because it complied with all the requirements of the SMA in effect at the time that the Trestle Beach Subdivision final map was recorded, the subject property is a legal parcel.¹

DWIGHT L. HERR, COUNTY COUNSEL

By


Rahn Garcia
Assistant County Counsel

cc: Robert J. Logan, Esq.
Jonathan A. Wittwer, Esq.

¹See Memorandum of Rahn Garcia, Assistant County Counsel, dated December 30, 1997, for analysis of the subject property's legality under the County's Subdivision Regulations.

STEVE L.

DRAFT
ENVIRONMENTAL IMPACT REPORT
for
Minor Land Division Application
King Property, Trestle Beach

October 17, 1975

Prepared for: County of Santa Cruz,
Planning Department

By: Lisa Anderson, Environmental Consultant

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT "A"

TABLE OF CONTENTS

Preface-----	1
General Description/Location-----	2
Biology-----	5
Geology/Hydrology/Soils-----	6
Atmospheric Conditions-----	9
Sonic Conditions-----	9
Energy-----	9
Socio-Economic Setting-----	10
Alternatives-----	14
Short-Term Uses vs. Long-Term Productivity-----	14
Growth-Inducing Impacts-----	14
Persons Contacted-----	15
Bibliography-----	15
Appendices:	
A. Coastal Commission Criteria for Divisions of Land	
B. Soil Engineer's Report	
C. Fire Code Regulations	

LIST OF FIGURES

1. Local Vicinity-----	3
2. Site Plan-----	4
3. Adjacent Parcels-----	13

PREFACE

The following report addresses a minor land division proposal, submitted by Dr. John J. King, for the creation of a one acre lot on a thirty acre site near La Selva Beach.

A previous proposal to develop the property has been examined in the Trestle Beach Environmental Impact Report. (It is currently undergoing the review process by local governmental agencies.)

Although the two proposals are independent of one another, much of the information generated in the Trestle Beach EIR is applicable to the current minor land division proposal. Therefore, reference will be made to the Trestle Beach EIR in the following report, when appropriate, to avoid a reiteration of information.

Project Impact Summary

In the opinion of the author, the majority of the impacts associated with the following proposal can be mitigated.

The growth inducement and land use issues presented can be dealt with through policy decisions and conditions attached to the minor land division permit, if issued.

GENERAL DESCRIPTION/LOCATION

A minor land division application has been filed by Dr. John J. King (owner) for the creation of a one acre lot on a thirty acre parcel. The purpose of the land division would be to sell the lot for the construction of a single family dwelling.

The subject property is located three-quarters of a mile from La Selva Beach. Assessor's parcel numbers for the entire property are 45-021-1, 2 and 3. (Formerly 45-021-10, 36 and 38.) The lot would be split from parcel 45-021-3, and thus would be located in a ravine adjacent to a fifty foot right-of-way. (See Figure 2.) The site would offer approximately a one-quarter acre level building site, the remainder being undevelopable due to its location on steep slopes and in an intermittent creek bed.

It is envisioned by Dr. King that once the lot is sold, a three to four bedroom home would be built, similar in character to those in the Los Barrancos subdivision.

Access would be provided by improving the existing fifty foot right-of-way.

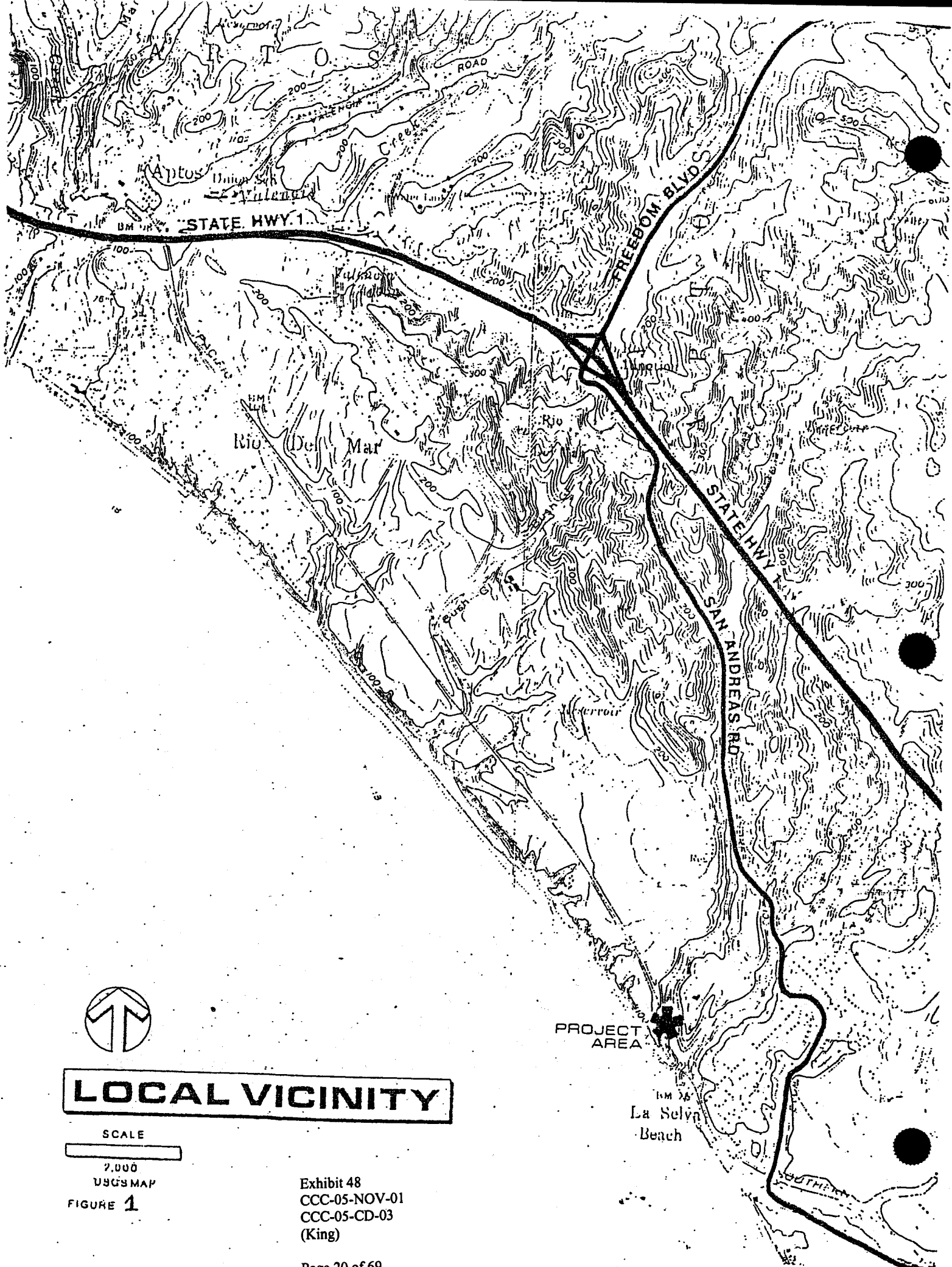
Context

The ravine is presently zoned Rural Residential -- one acre minimum building site. However, a proposed change in zoning, to UBS-1, is expected to be approved by the Board of Supervisors within the next two months. The revision is proposed in order to bring the zoning into conformance with the Aptos General Plan, which designates the site area as Riparian Corridor. Although policy generally dictates the exclusion of development from riparian corridors, the UBS zone designation allows for a review of proposals which would be consistent with the intentions of the plan. (Jan Fosselius, 1975.)

The proposal is not compatible with the County PROS Plan or the Tri-County Coastline Study. (For extended discussion, see Trestle Beach EIR, pg. 5.)

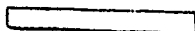
A permit for the minor land division would also have to be obtained from the Coastal Commission. Policy 165 of the Preliminary Coastal Plan affects minor land division. (See Appendix A.) Generally, the Commission would ask that the developer insure a maintenance of the watershed in its natural state and show a need for a development outside an urban area. (Mike Miller, 1975.) Unless a tentative map for the minor land division and preliminary plans for the future home are submitted concurrently to the Commission, two separate permits would have to be obtained.

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)



LOCAL VICINITY

SCALE



1000

USGS MAP

FIGURE 1

Exhibit 48
 CCC-05-NOV-01
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 (King)

SITE PLAN

KING PROPERTY

— MINOR LAND DIVISION



100'

LOS BARRANCOS

PROJECT SITE

PROPOSED
TRESTLE BEACH
ATRIUM HOUSES

BUILDING
AREA

SPRR

BLW

100'
75'
50'
25'

MONTEREY BAY

FIGURE 2

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

BIOLOGY

Vegetation typical of the Mixed Woodland community covers the site. The trees that predominate on site include Eucalyptus, Coast Live Oak, and Monterey Pine.

The understory is composed of Wild Blackberry, Thimbleberry, Sticky Monkey Flower, and California Hazel. Poison oak is abundant on the site and in the entire ravine.

The intermittent stream* at the base of the arroyo, some forty feet below the proposed building site, does not support vegetation typical of a riparian corridor. With the exception of a number of Alders, the vegetation in the corridor is representative of an Oak woodland. During winter and spring months it is likely that the stream provides a fresh water source for the resident wildlife. (See Wildlife, Trestle Beach EIR, page 23.)

With the exception of one of the four lots adjacent to the ravine on the opposite bank, virtually no disturbance of the slope's vegetative cover has taken place. On one lot, the apparent felling of Eucalyptus trees has stripped away much of the vegetation on the ravine's steep banks.

Fire Potential

The ravine has a high fire potential due to its abundant brush cover.

Impacts:

Biotic Impacts numbers 1, 2, 3, 8, and 10, and Unavoidable and Irreversible Impact listed in the Trestle Beach EIR apply to this proposal.

In addition, disturbance of the bank of the ravine below the property could occur if trails were haphazardly made down to the creek or if vegetation was cleared from ravine. This could jeopardize the maintenance of the watershed in its present state as well as reduce water quality in the intermittent stream due to the introduction of soil from the slopes. Much of the soil that would be washed away presently supports vegetation.

Mitigation:

Stream bank alteration is prohibited without a permit from the State Department of Fish and Game as per Fish and Game Code Section 1602.

*Intermittent stream -- does not flow thirty days after the last measurable rainfall.

Informing the future resident of this regulation and of the effects that poor bank maintenance could cause, is a possible mitigation measure.

Channeling of storm water as suggested in the Hydrology Section of this report is another possible mitigation measure.

Furthermore, the abundance of Poison oak on the banks may deter the residents from creating hillside trails, although some trails have been made, either by dogs or people, in other areas of the site bountifully blessed with Poison oak.

GEOLOGY/HYDROLOGY/SOILS

Geology

The site is underlain by Aromas Red Sands and Marine Terrace deposits. Both deposits are horizontally bedded although there may be slight warping of the Aromas Red Sands and the underlying Purisima formation. The recent deposits are of relatively low density, friable (crumbly) and erodable due to their relatively shallow burial and generally uncemented character. The stream bed is composed of recent alluvium deposits. (Harding-Lawson and Associates, 1973.)

The topography of the ravine is characterized by 70 to 95% slopes on its west bank. Aside from the right-of-way, the level area contained on the subject site is the only usable area on the west side of the ravine, from a development standpoint, until one approaches a flat area at the base of the ravine near the beach.

Slope Stability

Four landslides have taken place within 650 feet of the site. Three of these appear to be the result of oversteepening of the banks due to road construction. (Trestle Beach EIR.) A possible landslide scarp may exist at the northern end of the property continuing north towards the Southern Pacific Railroad right-of-way. This scarp would not affect the building area as its edge appears to be some 150 feet distant.

A soil engineer's report prepared for the site indicates that the soils are suitable for the support of a single family dwelling and septic system, provided that recommendations of the soil engineer are complied with.

The ability of the slopes to withstand horizontal ground acceleration of up to 0.15g in the event of an earthquake has been examined. This is in compliance with the standards set in the Uniform Building Code. Although it is felt by many that the Code sets minimum standards, the state of the art is such that it is difficult to determine the effect of ground acceleration on structural design. The cost of

such investigation is also extremely high.

Faulting, ground rupture and liquefaction were determined to be of very low potential hazard due to the nature of the soils, depth to groundwater and proximity of the faults to the site. (See Soil Engineer's Report, Appendix B.) However, some areas in the ravine may be susceptible to ground lurching and landsliding in the event of an earthquake. (Trestle Beach EIR.)

Hydrology

For a discussion of the hydrologic regime of the site, see Trestle Beach EIR, page 14.

Erosion

Little erosion is evident in the ravine except where trails have been made down the steep slopes to the creek bed or where the clearing of vegetation has taken place on the opposite (east) bank. Although underlying materials are quite erodable, the existing vegetation and natural drainage have prevented erosion.

Groundwater

The groundwater table was met at approximately 53 feet during mid-October. The rise in groundwater is not expected to exceed eight feet in depth at other times of the year, due to the coarseness of the underlying materials. (Dave Estrada, 1975.)

Homes in the area are not dependent upon individual groundwater sources. The nearest drafting of groundwater for domestic use may occur in the Los Barrancos subdivision. The Soquel Creek County Water District is presently negotiating for well rights in the green belt area approximately 50 feet from the intersection of Camino Al Barranco and San Andreas Roads. It is anticipated that the well would reach to a depth of nearly 500 feet, that it would be sealed off from upper strata with concrete at a 60 foot depth, and that it would be located at least 150 feet from any septic system in compliance with the State Health and Safety Code.

The proposed septic system would be located nearly 2400 feet away from this location and 20 feet above the Sanitary Seal. Therefore, the contamination of groundwater used for domestic purposes should not occur as a result of this development. (Mr. Johnson, Soquel Creek Water District, 1975.)

Soils

With the exception of the alluvial soils found in the streambed, the soil on-site is Elder sandy loam. These soils are well drained and have moderately rapid subsoil permeability. In level areas erosion

hazard is slight; however, this hazard increases with the steepening of slopes.

These soils have slight limitations for homesites and septic tanks, but moderate limitations for lawns. The soils can support crops climatically adapted to the area, thus they could support coastally dependent crops. However, the topography of the property and the immediately surrounding area is ill-suited to agricultural production.

Geologic/Hydrologic/Soils Impacts:

Impact:

Storm water runoff could cause erosion of the steep banks, particularly if the removal of vegetation takes place near the edge of the ravine or in the ravine itself.

Mitigation:

Both the soil engineer and the County watershed manager have suggested that runoff from the home and driveway be conveyed to the streambed below in a controlled manner, possibly through a redwood drain box. The soil engineer has also recommended that irrigation be controlled, perhaps through the planting of native species which require little watering; that minimal disturbance to existing vegetation take place; and, that a soil engineer be consulted prior to any on-site filling or excavation. A list of measures that help prevent soil erosion prior to and during construction is available from the County Soil Advisor, Dave Estrada.

Impact:

Conveyance of contaminated runoff from the residence would slightly degrade water quality of the intermittent stream and thus secondarily affect organisms in the creek and intertidal organisms in Monterey Bay. In the opinion of the County Watershed Manager, the runoff from the single family residence would not have a significantly detrimental effect on the stream as would, say, the runoff and accumulated wastes of a well-travelled street.

During winter months, the dilution factor (of pollutants) in the stream would be increased by the volume and flow of water in the channel, rendering them less harmful. In the summer, runoff would seep into the creekbed well before reaching the ocean. The drying effects of the sun and wind also tend to deactivate detergents. (Ron Johansen, 1975.)

The use of a shake roof and cement driveway as opposed to a tar and gravel roof and an asphalt driveway, additionally tend to prevent water pollution.

Unavoidable Adverse Impact:

The seismic hazards associated with this project are unavoidable.

ATMOSPHERIC CONDITIONS

(See Trestle Beach EIR.) It is the opinion of this author that the emissions from the one to two cars associated with the eventual development of this property would not have a significant effect on either the local or regional air basin. The construction of a home on the site may contribute to a short-term reduction of local air quality due to the disturbance of dust and the diesel emissions from trucks.

SONIC CONDITONS

The projected building site is approximately 100 feet to the east of the Southern Pacific Railroad tracks. It is estimated that peak noise in passing will be 72 dB(A) (17 dB(A) over acceptable outdoor residential standards), one hundred feet from the tracks where the house would be located. A house with all windows closed will substantially reduce these levels, in this case, to within five to ten dB(A) of acceptable indoor standards. (Ron Marquez, 1975.) The fact that the frequency and duration, of both peak and approaching noise levels, will be minimal (less than one-half hour per day), suggests that the residents of the home would be able to tolerate the existing situation. If the Trestle Beach Atrium Homes are approved for construction, traffic passing the site on the common 50 foot right-of-way will generate noise audible at the site.

See Sonic Conditions, pages 26 and 27, Trestle Beach EIR for an extended discussion of sonic conditions and impacts.

ENERGY

Energy use for the construction and maintenance of the home would be relatively insignificant. For the latest measures concerning energy conservation in buildings, see Energy, Environment and Building, Philip Steadman, 1975, Cambridge University Press.

SOCIO-ECONOMIC SETTING

For a discussion of community characteristics, employment and cultural setting of the project site area, see pages 28, 30 and 31 of the Trestle Beach EIR.

Economic Considerations

Dr. King presently has a buyer for the proposed lot. Although the sale price of the lot is undetermined, the land and improvements are expected to be similar in value to the lots and homes in the Los Barrancos subdivision; or from \$60,000. A new tax rate will soon be approved for the area. The previous rate was \$10.64 per \$100 of assessed value. The increase in taxes that would accrue to the County from the improvements would, of course, be offset by the costs of providing schools and other services to the residents, a figure that is difficult to quantify.

Land Use

The site is undeveloped. Some clearance of Eucalyptus has been done in the level area generally proposed as the building site. The remainder of the lot, with the exception of the creekbed itself, is extremely steep (73 to 93% slope) and well vegetated.

A 50 foot right-of-way extends approximately ten feet into the lot's level, buildable area. Presently, a twelve to twenty foot dirt road extends over this right-of-way. An easement for use of the right-of-way has been deeded to Los Barrancos residents. Therefore, it appears that no development will be allowable within the ten feet inward of the lot line.

A septic tank and seepage pits will be utilized for sewage disposal. These will have to be placed a minimum of five feet from the foundations of the house and the roadway. All development on the property should be placed as far back from the steep face of the ravine according to the soil engineer's report. Thus, although there appears to be adequate space for the proposed use, the home will have to be carefully planned in order to leave the watershed undisturbed and insure slope stability. (For surrounding land use, see Trestle Beach EIR, pages 31 to 32.)

Access

The residents would have to utilize San Andreas Road and the private roads within the Los Barrancos subdivision in order to obtain access to the site.

If the Trestle Beach Atrium Houses are built, an improved road would extend to the site, necessitating that only a driveway be built. However, if that development does not take place, an improvement of the existing dirt road to the site is proposed. The improvement would probably consist of an oil and gravel surface due to the fairly level contour of the road.

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

Public Services

Water: Water would be available for a single family dwelling from the Soquel Creek County Water District. The developer of the property would be required to pay for the extension of a water main to the site from the nearest adequate source, and to pay a fee for connection to the main. The nearest source lies approximately 600 feet from the site in the Los Barrancos subdivision. (Robert Johnson, SCCWD.)

An agreement to serve the property would be subject to the approval of the Board of Directors of the Water District.

It is estimated that a dwelling of this size and type will require approximately 300 gallons of water per day.

According to the County Fire Marshall, a six inch water line extending to the home would be adequate for domestic and fire purposes.

Fire Protection: A 20 foot right-of-way to the driveway would be adequate for fire protection. Either a road of decomposed granite with an oil seal coating or a paved road would suffice.

In the case that Trestle Beach Atrium Houses are built, the use of the eight to ten inch line installed for that development's water use would be permissible for this house. However, if the one acre lot is developed prior to the Atrium houses, the six inch line serving this house would not be adequate for the eventual service of the Atrium houses.

It has also been suggested that the directives in the Uniform Fire Code, 1973 Edition, addressing the clearance of brush and vegetation from structures and roadways, be consulted because of the dense vegetation surrounding the building site. (See Appendix C.)

Sewage Facilities: It is proposed that a septic tank and seepage pits be utilized for sewage disposal.

Information contained in the soil engineer's report indicates that soils from a depth of 19 to 40 feet would be usable for seepage pits. This depth allows for adequate separation from groundwater and for an eight foot rise in the present water table (53 feet, October 1975). It is felt by the County Soil Advisor that a greater rise in the level of the water table is unlikely due to the coarseness of the underlying materials.

It appears that approximately five seepage pits would be necessary for the disposal of effluent. The applicant would have to demonstrate that there would be adequate space for these pits plus an additional five pits, in case of failure. Septic systems on the opposite bank of the ravine in the Los Barrancos subdivision have

had a very low rate of failure. The applicant will also have to comply with all County standards in effect at the time he/she applies for a septic tank permit.

According to the soil engineer, the introduction of effluent from the dwelling's septic system into the underlying materials will not adversely affect slope stability provided that seepage pits are deep and are set back as far as possible from the face of the bank.

For Schools, Police Protection, and Solid Waste, see Trestle Beach EIR, pages 33 through 34.

Socio-Economic Impacts:

Aside from impacts 2, 5, 6, 7, and 9 listed on page 35 of the Trestle Beach EIR, the following impact could result as a consequence of this minor land division.

Impact:

If the improved right-of-way serving the site should become publicly maintained in the future, the two adjacent lots to the north and south of the site would automatically become legal parcels. (See Figure 3, numbers 1 and 2.) Parcel 1 is composed almost entirely of steep (70 to 90%) slopes, offering no developable area. Parcel 2 offers one level area of adequate buildable space; however, it lies over a pipe that conveys stream water to the beach and is directly adjacent to the beach, some 50 to 75 feet from the railroad trestle.

Mitigation:

As a provision of the minor land division permit, designate parcel 1 as non-buildable. Investigate the potential for construction on parcel 2 and designate it as non-buildable if environmental constraints are felt to be significant.

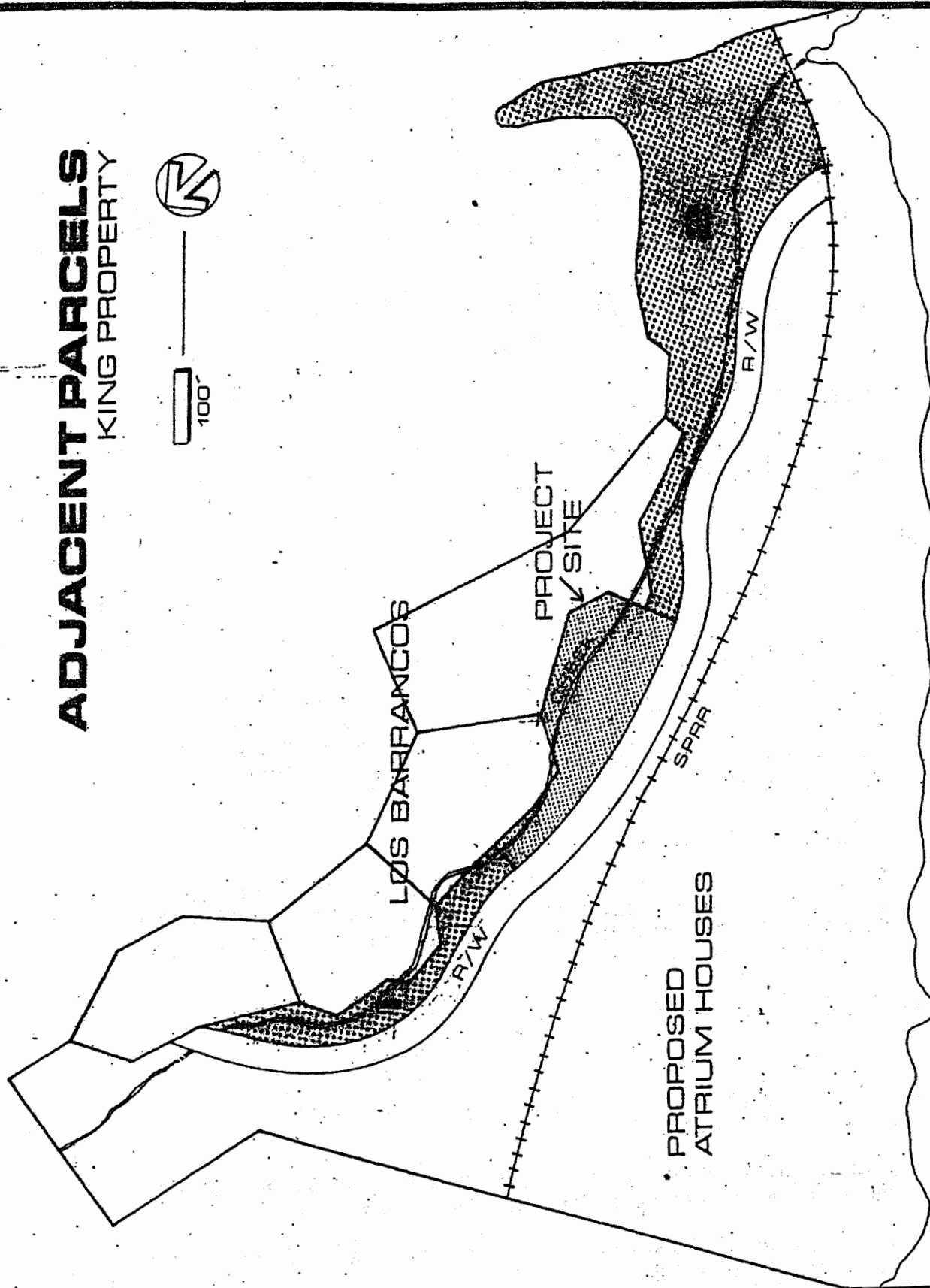
Unavoidable Adverse Impacts:

- Provision of public services to the site.
- Potential cost of providing services to the residence over and above the taxes accrued.
- Incrementally, a step towards the conversion of the west bank of the creek from open space to residential land use.
- Cars serving the home would travel the private roads in the Los Barrancos subdivision.

ADJACENT PARCELS KING PROPERTY



100'



MONTEREY BAY

FIGURE 3

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

ALTERNATIVES

Page 31 of 69

It is difficult to evaluate locational alternatives for the minor land division on the present thirty acre site as it is not yet known whether the Trestle Beach Atrium Houses will be built. In the event that they are not, it is conceivable that a single family dwelling could be placed on the bluff overlooking the ocean. Whether the appropriate agencies would find this acceptable could possibly be determined by the type and number of objections that were raised by the prior proposal.

The no project alternative would leave the western portion of the ravine intact. The homes on the eastern portion of the ravine have already rendered the riparian corridor somewhat less than pristine, so that this alternative would merely prevent an increment of further development.

If this application is approved, a delay in construction until the Trestle Beach Houses PUD is approved or denied might prove beneficial. For example, the cost and use of the road and the water lines could be shared by the future lot owner and the developer of the PUD.

SHORT-TERM USES vs. LONG-TERM PRODUCTIVITY

If the mitigation measures suggested in this report are adhered to, this project in itself should do little to alter the long-term productivity of the site; namely, the maintenance of the watershed.

Visually, the home would be fairly unobtrusive from the dry creekbed, were it to be used as a trail corridor during summer months. From the right-of-way, the home will be visible. This may disturb the recreational aspect of the presently unpaved right-of-way which has been dedicated to Los Barrancos as a pedestrian/equestrian path.

GROWTH-INDUCING IMPACTS

The minor land division and subsequent construction of a home could set the precedent for further development of the property, assuming that Trestle Beach Atrium Houses are not built. Development could be expected to be of a similar nature -- specifically, single family dwellings more in keeping with the character of Los Barrancos.

However, full scale development of this property could produce land use and public facility impacts outlined in the Trestle Beach EIR. If this is not felt to be desirable, the maximum allowable development of the property, given its public service constraints, could be determined by the County Planning Department. This would present the owner of the property with tangible limits to, and a time frame for, any desirable future development.

PERSONS CONTACTED

1. George Bestor -- Surveyor, (408) 373-2941
2. Ray Talley -- Environmental Health
3. Joe McCann -- Environmental Health
4. Ken Maybe -- Environmental Health
5. Ron Marquez -- County Planner
6. Robert Johnson -- Soquel Creek County Water District
7. Peter Monk -- Soil Engineer
8. Dan Neubauer -- Graphics
9. Jan Fosselius -- County Planner
10. Mike Murphy -- Coastal Commission
11. Mel Angel -- County Fire Marshall
12. Ron Hiles -- La Selva Beach Fire Department
13. Tom Nohrden -- County Sheriff's Department
14. Dave Estrada -- County Soil Advisor

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Trestle Beach EIR, August 1975, Lisa Anderson.

commercial facilities within or adjoining residential development to minimize the need for outside travel, and (3) provide non-automobile circulation within the development (e.g. shuttles, bikepaths, and walkways).

[T-p6]

Regional Amplification

San Deigo: Wherever feasible, the type and design of new commercial and industrial development shall be integrated with existing neighborhood patterns, and functional, design, and social relationships of existing and new uses maintained or enhanced. [A-pl5RA]

APPENDIX A

165. Criteria for Divisions of Land. The division of land shall be permitted only if it is in accordance with an adopted subregional plan (see Policy 183) or, in the absence of a subregional plan, if all of the following conditions are met: (1) more than 80 per cent of the usable lots in a non-urbanized area have been developed to existing zoned capacity; (2) the parcels resulting from the division would be no smaller than the average size of surrounding parcels; (3) no significant growth-inducing impact or precedent for development in a natural resource or scenic resource area would be established by the division; (4) the division would not restrict future options for productive lands or lands of significance because of their scenic, wildlife, or recreational values; (5) all public services are readily available; and (6) the division conforms to other Coastal Plan policies (see especially Policy 33 regarding agricultural lands and Policy 37 regarding forestry lands). Where an increase in the number of parcels available for residential use is permitted, priority should be given to lands in or near already urbanized areas or other concentrations of development. This policy shall not be interpreted to require development of parcels that would adversely affect coastal natural and scenic resources. [I-p19]

166. Restrict Significant Developments in Areas Removed from Employment and Commercial Centers. The coastal agency shall permit significant new residential,

SOIL INVESTIGATION
for
KING PROPERTY
A MINOR LAND DIVISION
OF THE KING PROPERTY, TRESTLE BEACH,
LA SELVA BEACH, SANTA CRUZ COUNTY

APPENDIX B

by
PETER E. MONK
SOIL AND FOUNDATION ENGINEER
SCR75-E4-155
13 October 1975

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

PETER E. MONK
Soil and Foundation Engineer

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SCR75-E4-155
13 October 1975

Ms. Lisa Anderson
302 Fifth Avenue
Santa Cruz, California 95062

Subject: King Property
A Minor Land Division
of the King Property, Trestle Beach,
La Selva Beach, Santa Cruz County
SOIL INVESTIGATION

Dear Ms. Anderson:

In accordance with your verbal authorization confirmed by a signed copy of our proposal, we have performed a soil investigation at the subject site in La Selva Beach, Santa Cruz County, California.

Our findings indicate that the site is usable from a soil viewpoint for the construction of a single family residence, provided the recommendations of this report are carefully followed in the design and construction phases of the project.

The accompanying report outlines our findings related to the field exploration and includes our recommendations and conclusions based on these findings.

Very truly yours,

Peter E. Monk

Peter E. Monk
C.E. 23119

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

SOIL INVESTIGATION

Purpose and Scope

The purpose and scope of the soil investigation for the proposed development was to determine the existing soil conditions and based on the conditions revealed by the investigation, to provide recommendations for the construction of a single family residential structure.

The scope of our work included:

1. A field investigation, including a reconnaissance of the site and nearby area, and the drilling of a deep borehole to explore the soil conditions.
2. Review of the Soil Report by James C. Reynolds on the adjoining site.
3. Engineering analysis of data and formulation of recommendations for residential construction.
4. Preparation of this report with five copies.

Location and Description of the Site

The site of the King Property covered by this investigation is designated Parcel A on a plan contained in the Environmental Impact Report provided us by Lisa Anderson. Parcel A is adjacent to Parcels designated 45-021-

40 and 45-021-39 on the Assessor's Parcel Map, and is between these two parcels and the Southern Pacific Railroad right of way.

Figure No. 1 is a sketch map showing the shape of the property and its location relative to the above numbered parcels. Figure No. 2 is a sketch showing the approximate location of the deep test borehole relative to the edge of the steep valley into the adjacent wet weather stream. At the time of writing of this report we did not have available to us a topographic map with sufficient detail for us to locate the borehole location on the map of this site. It is our understanding that the boundary between the 50 ft. right of way and the subject property is of the order of 10 ft. on the ravine side of the existing access road. This access road is shown on our sketch plan Figure No. 2.

The site consists of a relatively flat portion adjacent to the existing access road, with the remainder of the site being ground which slopes at an angle of approximately 33° to 42° down to a rainy season stream approximately 40 ft. below. The flat portion of the site is covered with poison oak and relatively young trees. The sloping portions of the site have mature trees on them. Portions of the slopes show erosion scars which are partially brush covered.

Minor quantities of debris exist in the flat portion of the site.

Field Investigation

One test borehole was drilled to a depth of 65 ft. at the approximate location shown on Figure No. 2. The boring was drilled using a truck-mounted drill rig with a power-driven six-inch diameter continuous flight auger. The soils encountered were logged continuously in the field during the drilling operation by the Soil Engineer.

Samples were taken utilizing a two-and-one-half inch I.D. split barrel sampler with internal brass liners or a standard Terzaghi sampler. The samplers were driven by a 140-pound weight falling freely through a vertical height of thirty inches. The blows needed to drive the sampler a vertical distance of one foot is referred to as the penetration resistance of the in-situ soils. The resistance values as well as the type of sampler used are shown opposite the sampler depth on their respective logs. The penetration resistance values assist in determining the in-situ consistency of the subsurface soils. In addition, continuous dynamic penetration tests were carried out at two other locations using the standard hammer and drop, driving a two-inch diameter cone at the end of A rods. Figures Nos. 3 and 4, Appendix A, "Logs of Test Borings," show a graphic presentation of the soil profile and the results of the cone penetration tests.

Subsurface Soil Condition

As may be seen from the Log of Boring and the Penetration Test in Appendix A, the soils below the upper topsoil mantle are medium dense to very dense, and may be considered excellent materials for foundation support. From 7 ft. to 19 ft. the soil is a very stiff sandy clay. A laboratory direct shear test on the material showed values of $c = 2800$ psf $\phi = 15.5^\circ$. Below the more clayey soils in the upper 19 ft. the soil is a partially cemented silty sand with twelve percent clay content. Shear tests on a sample of this material gave values of $c = 700$ $\phi = 42.8^\circ$. Water was encountered, the exact depth of which could not be measured due to caving of the hole. The hole caved at a depth of 53 ft. and this is probably the approximate depth of the water table. The hole was drilled to a depth of 65 ft. and based on the disturbed cuttings brought to the surface, the boring was terminated in silty fine to medium sand.

Laboratory Tests

Direct shear tests and short hydrometer tests were run on a sample of the upper sandy clay and of the silty sand. The results were as follows:

Sandy Clay $c = 2800$ psf $\phi = 15.5^\circ$
Sand 40% Silt 30% Clay 30% by weight

Silty Sand $c = 700$ psf $\phi = 42.8^\circ$
Sand 78% Silt 10% Clay 12%

DISCUSSION, CONCLUSIONS, AND RECOMMENDATIONS

General

1. The site is suitable for the construction of a single family residence, provided the recommendations presented in this report are incorporated in the project design and that thorough inspection during construction is provided to ensure compliance with the following recommendations.
2. It is our understanding that the proposed development will not contain a basement.

Grading of the Site

3. Grading of the site will probably consist of relatively minor cuts and fills for the driveway and house pad.
4. Any fills should be compacted to a relative compaction of 90% as defined by ASTM test procedure D1557-70.
5. All existing topsoil and other deleterious material should be stripped from any areas to receive fill.
6. It is not anticipated at this time that fill will be placed on any slopes. Any plans to place fill on the slopes should be approved by the

Soil Engineer.

7. Fill and cut slopes should be no steeper than two horizontal to one vertical, unless approved by the Soil Engineer. Any fill slopes within 10 ft. of the top of the existing ravine slope should be approved by the Soil Engineer.
8. If import material is required for fill, it should be approved by the Soil Engineer five days prior to the importing of that material to the site. All such fill shall have a plasticity index of not more than ten, an R-value of not less than twenty-five, and should contain not more than 15% passing the No. 200 sieve by weight.
9. Panning to provide crawl space should not be done, since this invites ponding water under the house.
10. The existing soil below the upper topsoil layer is medium dense to very dense. Conventional spread footings or piers and grade beams may be used. Such foundations are subject to the set back limitations with respect to distance from the top of ravine slope given in Paragraphs 17 and 18.
11. Conventional spread footings may be used having an allowable bearing capacity of 2000 psf for footings at least 12 inches wide having a depth of effective embedment of at least 18 inches into natural soil.

12. Piers may be designed using an allowable skin "friction" of 500 psf. The upper 12 inches of piers below ground surface should not be considered to provide foundation support.
13. As an alternative, piers having a depth below finished ground surface greater than $2\frac{1}{2}$ ft. may be designed on the basis of an allowable end bearing of 4000 psf in natural soils.
14. Piers should be designed on the basis of allowable skin friction or end bearing but not both.
15. The above values of allowable bearing capacity and allowable skin friction may be increased by one-third for the combination of dead, live, and earthquake loads.
16. For friction between the underside of the footing and the firm native soil a factor of 0.4 may be used.
17. There should be a minimum 20 ft. horizontal distance between the face of the down slope to the ravine and the bottom of any end bearing pier or spread footing.
18. There should be a minimum 25 ft. horizontal distance between the face of the down slope to the ravine and the bottom of any skin "friction" pier.

Concrete Slabs-on-Grade

19. All concrete slabs-on-grade should be placed on a minimum of four-inch layer of clean coarse sand, clean crushed rock, or a mixture of sand and gravel, in order to serve as a capillary break and cushion layer. Where floor covering is anticipated, the use of a visqueen type barrier is recommended to prevent moisture condensation beneath the floor covering. A two-inch layer of sand cushion placed on top of the vapour barrier will prevent the membrane from being punctured during the placement of concrete. If sand is used on top of the membrane, the cushion layer below the membrane may be reduced by the thickness of the sand layer. The reduced thickness should not exceed two inches. The concrete slabs should be reinforced as required by the Structural Engineer but should have a minimum of wire mesh.

It is our understanding that the house floors will be structurally supported.

Site Drainage and Slope Protection

20. Positive surface drainage should be provided at all times. To accomplish this it is recommended that the site be graded to provide for the positive removal of surface water and to prevent ponding, both during and after construction.

21. The building and surface drainage facilities which have been con-

structed to conform to the above requirements must not be altered, nor any filling or excavation work performed, nor a swimming pool constructed without first consulting a soil engineer.

22. Irrigation at the site should not be done in an uncontrolled or unreasonable fashion.

23. Existing vegetation should be left undisturbed to the extent possible. New and existing slopes should be protected with suitable plantings to minimize erosion and surface slumping.

24. Runoff from the flat portion of the site and the access road should not be allowed to run over the ravine slope below in an uncontrolled manner. This runoff should be intercepted and taken down the slope in a manner which will prevent erosion.

Underground Utilities

25. Backfill for underground utilities placed on the site may consist of non-contaminated native or select granular materials. Backfill within the utility trenches on site should be compacted to a minimum of 90% relative compaction as defined by ASTM D1557-70.

26. The upper twelve inches of compacted material adjacent to structures having slabs-on-grade should be relatively impervious in order that perco-

lating water does not have free access to the area beneath the slab.

Geology

27. Area geology considerations were not a part of the scope of our work. It is our understanding from Ms. Anderson that the subject site is not in an area of known slide potential.

Seismicity

28. The study site is considered to be in a region of high seismic activity, as are all the sites in the San Francisco Bay Area. It is possible that an earthquake having a magnitude equal to or greater than those which are known to have occurred in the past may occur during the economic life of the proposed project.

29. Since no known fault exists within the site itself, it is our opinion that future ground rupture or faulting under the site is unlikely. It is possible, however, for large earthquakes to produce faulting which does not coincide with mapped faults.

30. The proximate active faults are the San Andreas Fault some 8 miles to the north east, the Zayante Fault some 5 miles to the north east, and the San Gregorio Fault some 17 miles to the south east. The following comments are made regarding these faults in "Faults and

and Their Potential Hazard in Santa Cruz County, California":

NAME OF FAULT	POTENTIAL FOR SURFACE RUPTURE	MAGNITUDE	RECURRENCE INTERVAL YEARS
San Andreas	HIGH	8.5 (8.3 in 1906)	100 to 1000 - shorter end thought more realistic for 8.3
San Gregorio	Moderate to High	7.2 to 7.9	10-100 - for magnitude 6-7
Zayante	Moderate	7.4	hundred to thousands

The San Andreas poses a greater potential earthquake and ground rupture hazard than any other fault in Santa Cruz County.

31. The UBC requires a design factor of approximately .15g acceleration for structures. No specific figures are given for soil slopes and fills.

32. Ground accelerations higher than 0.15g could be experienced at this site in the event of a major earthquake. In recognizing the possible effects of earthquake activity on the planned building, a reasonable balance should be made between the probability of the occurrence of an earthquake that produces a specific acceleration and the cost associated with resisting that specific acceleration. Data relating to the probability of the occurrence of a specific ground acceleration has been developed by others, reference Table 4.6, page 81 of "Earthquake Engineering," Robert L. Wiegel, Editor, 1970. This table is presented on the next page.

Percent Probability of Acceleration at a Location in California

Acceleration %g	In Periods of Years			
	10	25	50	100
5	65	92	99	99
10	37	70	88	98
15	19	41	64	87
20	10	23	50	63
25	5	12	22	37
30	2.5	5.5	10	19
35	1	2.5	4.4	8.7

33. The appropriate design acceleration is strongly influenced by considerations regarding acceptable hazard. It may reasonably be inferred that for a non-critical structure such as a house, the UBC and other relevant local codes will reflect the acceptable hazard of the political jurisdiction in question.

34. In the event that the owner wishes to consider the use of a standard of acceptable hazard higher than that required by the local codes, the graphs of Figure No. 5 will be of value. Figure No. 5a is after Housner and No. 5b is after Schnabel and Seed, 1973, and show the Probable Seismic Acceleration Related to Earthquake Magnitude and Distance to Epicenter.

35. The California Division of Mines and Geology definition of Maximum

Probable earthquake for the San Andreas Fault is a magnitude of 8.3.

36. In a moderate proximate earthquake, damage due to moving objects such as tables and falling crockery will probably exceed damage due to cosmetic plaster cracking, for a structure designed to conform to current seismic design. The extent of the damage will be influenced by the acceleration at the site.

Slope Stability

37. The two major subsoil types are represented by the direct shear tests carried out on samples from a depth of 10 ft. in the sandy silty clay $c = 2800$ psf $\phi = 15.5^\circ$ and from a depth of 20 ft. in the partially cemented silty sand $c = 700$ psf $\phi = 43^\circ$.

Calculations based on Figure 10.19 Page 369 of Foundation Engineering Handbook indicate that for static considerations with a factor of safety of 1.5 applied to both c and ϕ that the safe height for a 40° slope in both the materials tested is many times greater than the actual height. The static factor of safety is therefore considerably greater than 1.5. The rough "rule of thumb" for most slopes is that there is a .2 to .3 change in factor of safety for each .1g increase in horizontal acceleration. Based on the very high factor of safety for the static condition, there is safety against a seismic event producing a .15g horizontal acceleration at the site.

The static stability of the slopes is confirmed by the very much steeper slopes in essentially similar material along the ocean cliffs.

The dynamic stability is confirmed by the presence of large trees ~~sur-~~
significantly ~~ficiently~~ older than 1906 on the face of the ravine slope and at the base of the ravine. These trees indicate that the ravine slopes survived the 1906 earthquake.

Water Table

38. The existing water table is below the existing stream bed. It is reported in the EIR that within 12 days of rainfall, the stream is no longer flowing. This suggests that the stream is due to surface runoff and is not fed by ground water. It appears probable therefore that the natural water table is below the bottom of the stream bed at all times of the year. Due to the upper relatively impermeable layer, it is considered probable that nearly all rainfall runs off directly to the stream and that very little soaks into the ground at depth.

Liquefaction

39. Due to the low ground water table and the very high density of the soil, liquefaction is not considered probable.

Septic System

40. Due to the more impermeable soils in the upper 19 ft., it is probable that the County Health Department will require that deep pits be provided, draining into the underlying silty sand. From a soil engineering viewpoint, the deeper the septic system, the better. Similarly, the pits should be kept as far from the edge of the ravine as possible. Given a deep septic system, the sandy nature of the deeper soils and the relatively low input from a single family residence, it should be possible from a soil engineering standpoint to locate a septic system on the site. The location of the septic pits should be approved by the Soil Engineer.

The feasibility of a septic system was not a part of this report. We were requested to obtain the clay content of the two soil types at the site. The results are presented under Laboratory Testing in the body of the report.

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 this time, Peter E. Monk 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 of his representative, to ensure that the information and recommendations contained herein are called to the attention of the Architects and the Engineers for the project and incorporated into the plans, and that the necessary steps are taken to ensure that the Contractors and Sub-Contractors carry out such recommendations in the field.

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. This report should therefore be reviewed in the light of future planned construction and the then current applicable codes.

APPENDIX A

Plan Showing Location of Site

Sketch Plan Showing Approximate Location of Borehole

Logs of Borehole and Test Probes

Curves of Accelerations due to Seismic Activities
Related to Distance from Epicenter of Earthquake

SCR75-E4-155
13 October 1975

PLAN SHOWING LOCATION OF
PARCEL A OF KING PROPERTY
LA SELVA BEACH, CALIFORNIA

Scale 1" to 100'

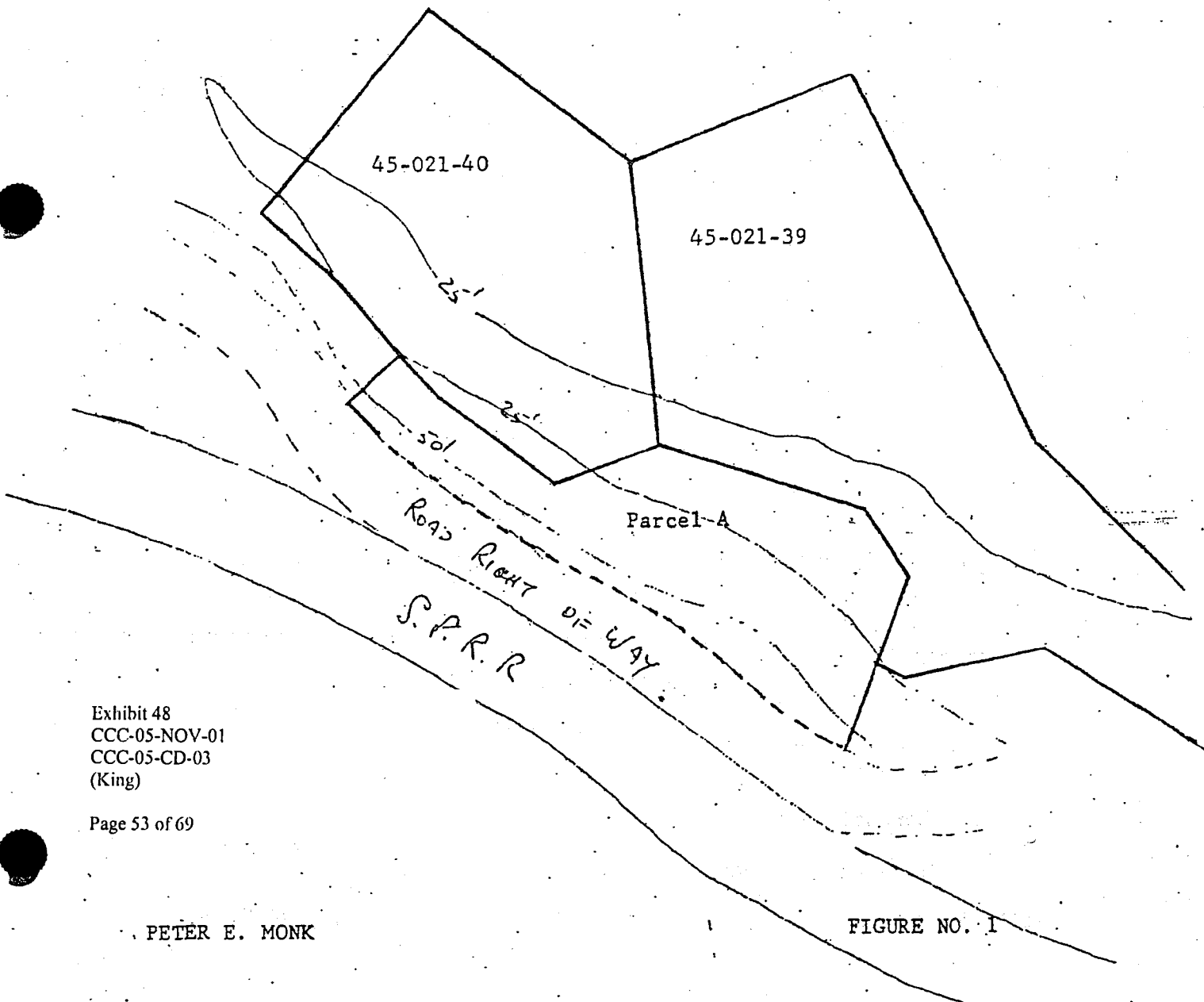
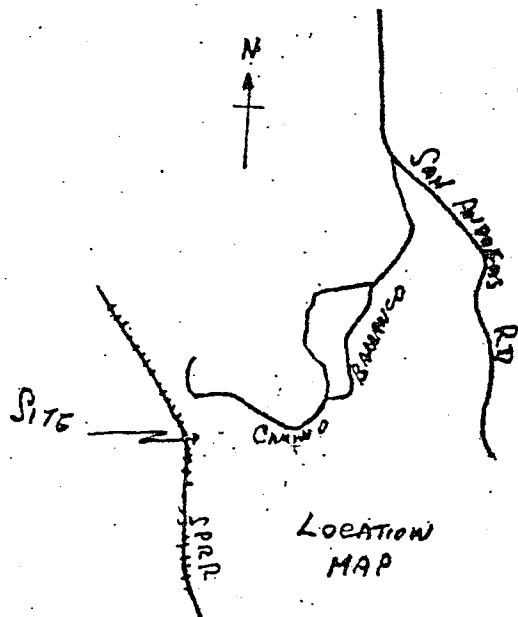
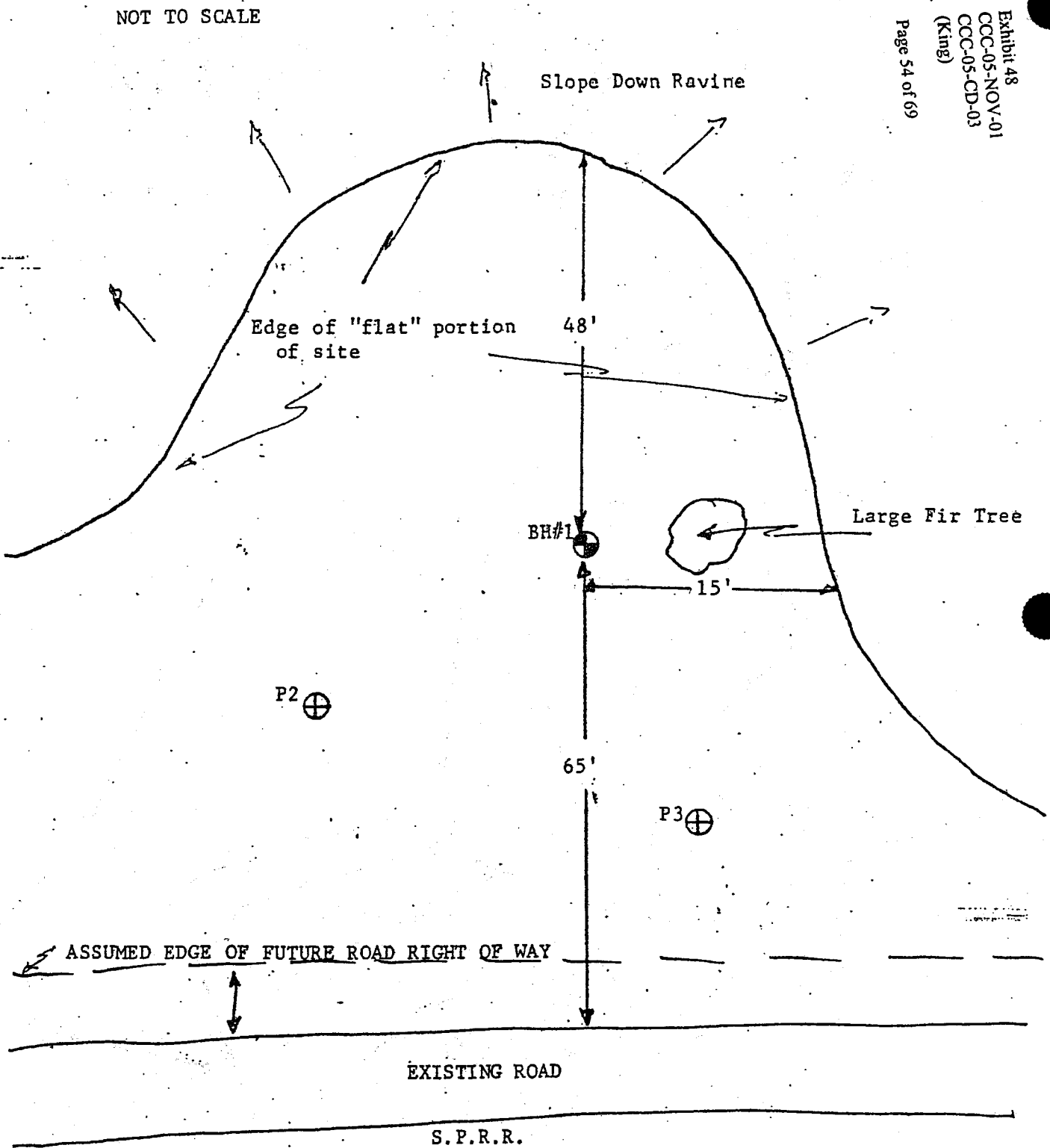


Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 53 of 69

PETER E. MONK

FIGURE NO. 1



Test Borehole

Cone Penetration Tests

PETER E. MONK

SKETCH PLAN SHOWING LOCATION
OF TEST BOREHOLE & PROBES

FIGURE NO. 2

LOGGED BY <u>PM</u> DATE DRILLED <u>30 Sept. 1975</u> BORING DIAMETER <u>6"</u> BORING NO. <u>1</u>									
Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft.-lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
			SANDY TOPSOIL						
5	1-1		Very Dense Brown Silty Sand		60	45+			
10	1-2		Very Stiff Brown Sandy Clay		43	45+	107	20.5	c=2800psf Ø=15.5
15									
20	1-3		Very Dense to Extremely Dense Brown Silty Sand with some cementation		113	45+	102	4.6	c=700psf Ø=42.8
25									
30	1-4				130	45+			
35									
40									
45	1-5 T		Exhibit 48 CCC-05-NOV-01 CCC-05-CD-03 (King) Page 55 of 69		140				

PETER E. MONK

FIGURE NO. 3

LOGGED BY <u>PM</u> DATE DRILLED <u>30 Sept. 1975</u> BORING DIAMETER <u>6"</u> BORING NO. <u>1</u>									
Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft-lbs.	Qu - t. s. f. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
50			VERY DENSE SILTY SAND						
55			<p>— Hole Caving Probable Water Level at 53 ft.</p> <p>SATURATED VERY DENSE SILTY SAND</p>						
60									
65			<p>Boring Terminated at 65 ft. in SATURATED VERY DENSE SILTY SAND</p> <p>Samples 1 through 4 2½" Ø ID 1-5T Standard Terzaghi Sampler</p>						
			<p>Exhibit 48 CCC-05-NOV-01 CCC-05-CD-03 (King)</p> <p>Page 56 of 69</p>						

PETER E. MONK

FIGURE NO. 3 continued.

TABLE I

TABLE OF PENETRATION RESULTS

(Two-inch Diameter Cone Driven by 140-pound Hammer Falling Thirty Inches.)

Depth in Feet	Blows per Foot		
	P1	P2	P3
1	31	22	25
2	34	28	28
3	52	45	43
4	61	42	59
5		65	

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CCC-05-NOV-01
CCC-05-CD-03
(King)

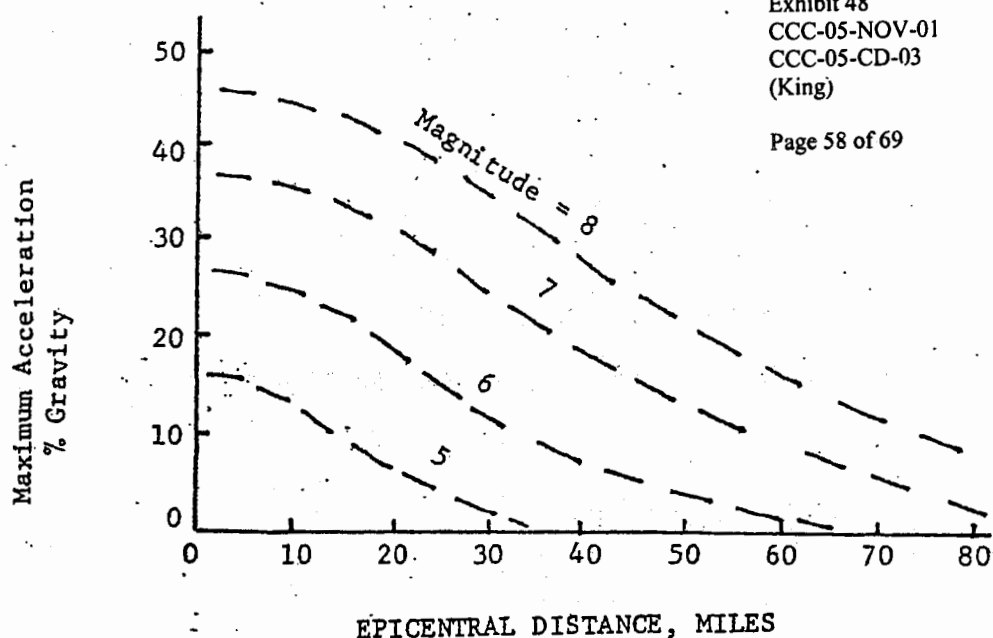
Page 57 of 69

PETER E. MONK

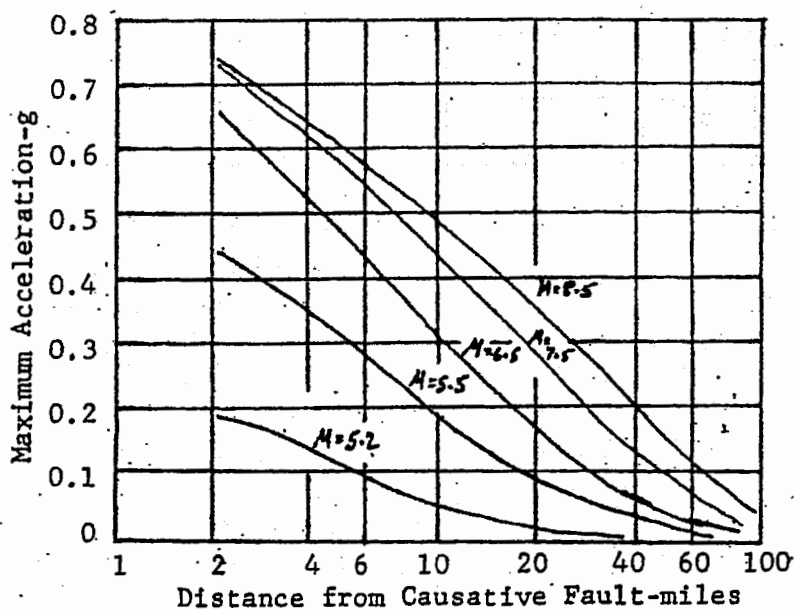
FIGURE NO. 4

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 58 of 69



MAXIMUM ACCELERATION vs. DISTANCE
(after Housner)



After Schnabel and Seed
from "Acceleration of Rock for Earthquakes
in the Western United States"
Bulletin of the Seismological Society of
America, Vol. 68, No. 2, April 1973

APPENDIX B

Grading Specifications for Rock under Floor Slabs

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 59 of 69

GUIDE SPECIFICATIONS FOR ROCK UNDER FLOOR SLABS

Definition

Graded gravel or crushed rock for use under floor slabs shall consist of a minimum thickness of mineral aggregate placed in accordance with these specifications and in conformity with the dimensions shown on the plans. The minimum thickness is specified in the accompanying report.

Material

The mineral aggregate for use under floor slabs shall consist of broken stone, crushed or uncrushed gravel, quarry waste, or a combination thereof. The aggregate shall be free from adobe, vegetable matter, loam, volcanic tuff, and other deleterious substances. It shall be of such quality that the absorption of water in a saturated dry condition does not exceed 3% of the oven dry weight of the sample.

Gradation

The mineral aggregate shall be of such size that the percentage composition by dry weight as determined by laboratory sieves (U.S. Sieves) will conform to the following grading:

<u>Sieve Size</u>	<u>Percentage Passing Sieve</u>
3/4 in.	100
No. 4	0-12
No. 200	0-2

Placing

Subgrade, upon which gravel or crushed rock is to be placed, shall be prepared as outlined in the accompanying soil report.

APPENDIX C

(d) Exceptions: Nothing contained in this Section shall be construed to require any person to maintain any clearing on land where such person does not have the legal right to maintain such clearing, nor shall any provision of this Appendix be construed to require any person to enter upon or to damage property of another without consent of the owner thereof.

16. CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM STRUCTURES

(a) Any person owning, leasing, controlling, operating or maintaining any building or structure in, upon or adjoining any hazardous fire area, and any person owning, leasing or controlling any land adjacent to such buildings or structures, shall at all times:

1. Maintain around and adjacent to such building or structure an effective firebreak made by removing and clearing away, for a distance therefrom of not less than 30 feet on each side thereof, all flammable vegetation or other combustible growth. This Section shall not apply to single specimens of trees, ornamental shrubbery, or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.
2. Maintain around and adjacent to any such building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth located from 30 feet to 100 feet from such building or structure as may be required by the Chief when he finds that because of extra hazardous conditions a firebreak of only 30 feet around such structures is not sufficient to provide reasonable firesafety. Grass and other vegetation located more than 30 feet from such building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.
3. Remove that portion of any tree which extends within 10 feet of the outlet of any chimney.
4. Maintain any tree adjacent to or overhanging any building free of deadwood.
5. Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(b) In the event of any of the conditions prohibited by Subsection (a) of this Section exist, the Executive Body may instruct the Chief to give notice to the owner of the property upon which such condition exists, to correct such prohibited condition, and if the owner fails to correct such condition the Executive Body may cause the same to be done and make the expense of such correction a lien upon the property upon which such condition exists.

17. CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM ROADWAYS

(a) The Chief may remove and clear within 10 feet on each side of every roadway all flammable vegetation or other combustible growth, and may enter upon private property to do so. This Section shall not

6. Prior to or concurrent with filing of the Parcel Map, the following checked items shall be complied with:

- ☐ Sign and submit the attached form to combine Assessor's Parcels.
- ☐ Sign and submit attached agreement witnessed by a Notary Public.
- ☐ Submit legal evidence (grant deed) that the legal owner(s) of the whole parcel before division is (are) other than _____.
- ☒ A grant deed shall be submitted to grant to the County a ~~right-of-way~~ basement as indicated on the attached Tentative Parcel Map. (Parcel E)
- ☐ Submit proof of legal access from public road to this property (40-foot right-of-way if access was recorded after December 28, 1962).
- ☐ Submit and secure approval of engineered improvement plans to the Department of Public Works to reflect grading, base and paving of roads, curbs and gutters, sidewalks, storm drains, sanitary sewers, erosion control or other improvements required by the Subdivision Ordinance to the extent noted on the attached map. An agreement backed by financial securities, per Sections 13.08.510 and 512 of the Subdivision Ordinance, shall be executed to guarantee completion of this work.
- ☒ A grading permit shall be obtained from the Building Official prior to construction of driveway or access road. Submit evidence of compliance with submittal of Parcel Map.
- ☒ Construct an access road between the limits shown on the attached Tentative Parcel Map to the following standards, or better: Width of road base or paving shall be at least 16 feet. The minimum centerline radius should be at least 75 feet. Maximum grade shall not exceed 20%. A cul-de-sac shall be constructed to a radius of 32 feet. Asphalt berms are required where necessary to control drainage. Other drainage details shall conform to current engineering practice. All road construction materials shall conform to the State of California Standard Specifications.
- ☒ The road shall be constructed with an oil and screenings seal coat, medium type, on at least 5-inches of aggregate base, class 2. One and one-half inches of asphalt concrete pavement, type B, shall be provided in-lieu of a seal coat on portions of road where grade exceeds 10%.
- ☐ The road shall be constructed with one and one-half inches of asphalt concrete pavement, type B, on at least five inches of aggregate base, class 2.
- ☐ Repair existing access road. Fill and compact pot-holes with asphalt concrete pavement, type B.
- ☐ Road surface shall be over-laid with one and one-half inches of asphaltic concrete pavement, type B.
- ☐ Road surface shall be over-laid with an oil and screenings seal coat, medium type.
- ☐ Submit proof to satisfy the Health Department that the depth of usable ground water is greater than 100 feet below ground surface.
- ☐ Each well shall be developed to the requirements of the Health Department.
- ☐ Submit proof of adequate water supply to satisfy requirements of the Health Department.
- ☐ Submit certification by a Registered Sanitarian to ascertain suitability of soils for installation of individual septic tank system to satisfy requirements of the Health Department.
- ☐ A lot check is required on these parcels. Contact the Environmental Health Department to perform the lot check. A fee will be required.
- ☒ Submit proof of payment of fee in-lieu of park dedication. Receipt from the Planning Department will meet this requirement.
- ☒ Submit proof that there are no outstanding tax liabilities against the affected parcels. A certification from the Tax Collector's Office will satisfy this requirement.
- ☒ Parcels B+C to be combined with A, or combine with D and designate as "not a building site" on parcel map.
- ☒ Parcel Map may not be filed or building permit issued prior to effective date of PD zoning (Jan 16, 1976)

This Tentative Parcel Map is approved on Dec. 19, 1975 subject to the above conditions and the attached map, and expires one ~~(1)~~ 1 1/2 year from the date stamped hereon.

14 Mo's

Sincerely yours

PLANNING DIRECTOR

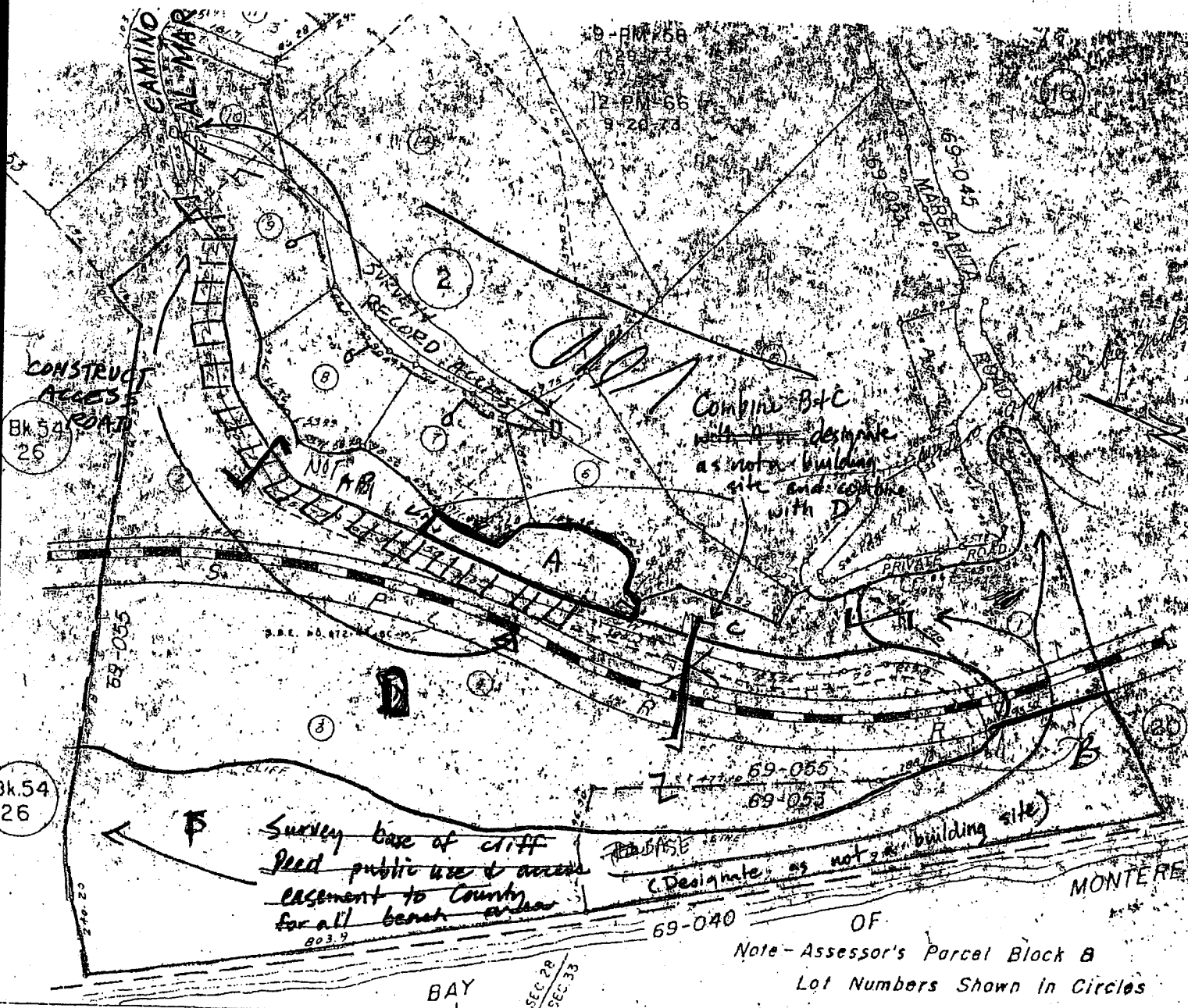
By: Henry P. Behr

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

Attachment: Tentative Parcel Map

cc: County Surveyor
Applicant

Page 63 of 69



TENTATIVE PARCEL MAP
 75-753-MLD
 AP # 45-021-01, 02, 03, 04
 JOHN J. KING

Exhibit 48
 CCC-05-NOV-01
 CCC-05-CD-03
 (King)

Page 64 of 69

Note - Assessor's Parcel Block B
 Lot Numbers Shown in Circles

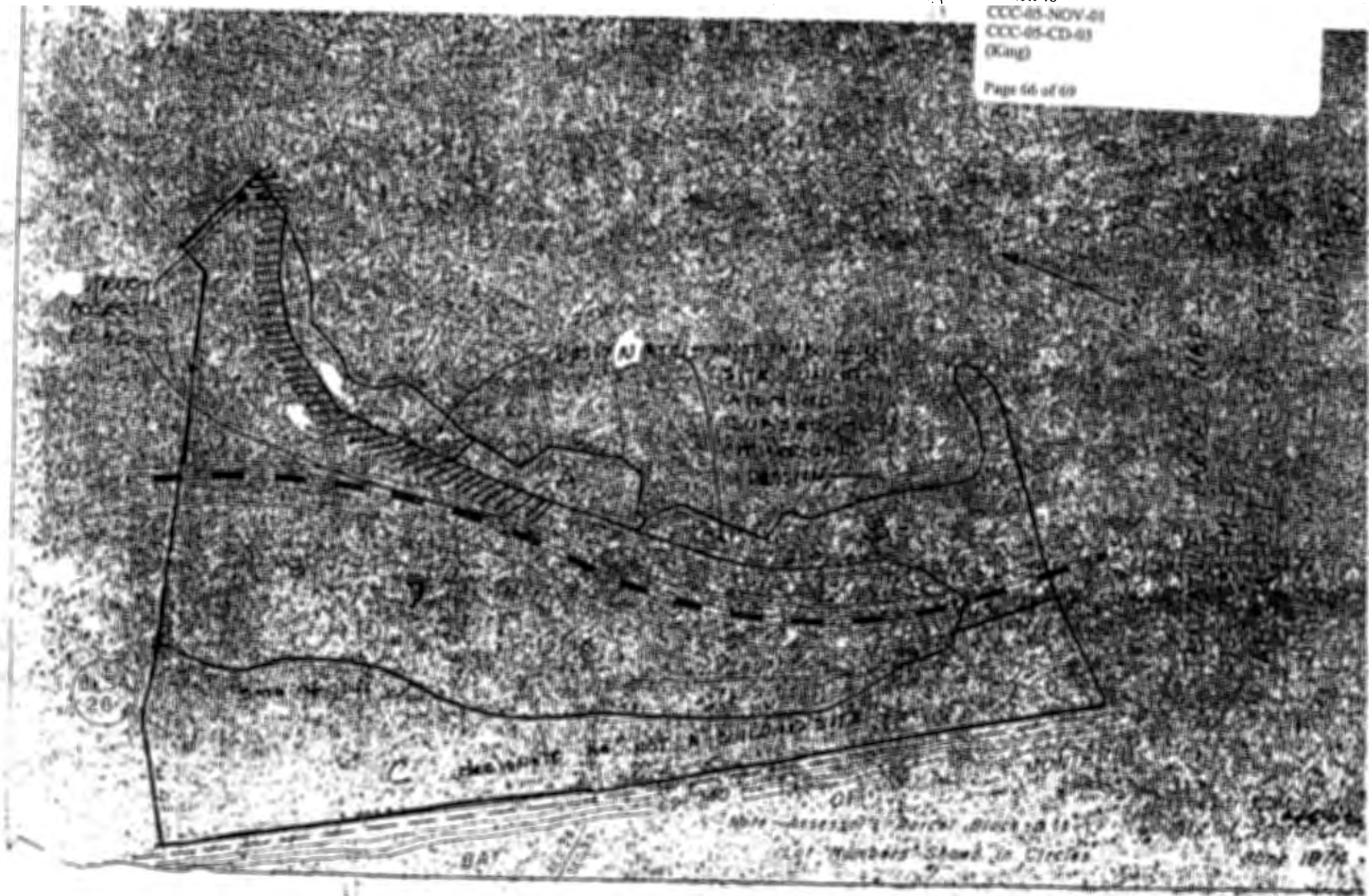
Assessor's Map No. 45-02
 County of Santa Cruz, Calif.
 June 1974

REVISED -
APRIL '76

(HPP)

EXHIBIT "C"

Page 66 of 69



- Sign and submit the attached form to combine Assessor's Parcels.
 Sign and submit attached agreement witnessed by a Notary Public.
 Submit legal evidence (grant deed) that the legal owner(s) of the whole parcel before division is (are) other than _____
 A grant deed shall be submitted to grant to the County a right-of-way as indicated on the attached Tentative Parcel Map.
 Submit proof of legal access from public road to this property (40-foot right-of-way if access was recorded after December 28, 1962).
 Submit and secure approval of engineered improvement plans to the Department of Public Works to reflect grading, base and paving of roads, curbs and gutters, sidewalks, storm drains, sanitary sewers, erosion control or other improvements required by the Subdivision Ordinance to the extent noted on the attached map. An agreement backed by financial securities, per Sections 13.08.510 and 512 of the Subdivision Ordinance, shall be executed to guarantee completion of this work.
☒ A grading permit shall be obtained from the Building Official prior to construction of driveway or access road. Submit evidence of compliance with submittal of Parcel Map.
☒ Construct an access road between the limits shown on the attached Tentative Parcel Map to the following standards, or better: Width of road base or paving shall be at least 16 feet. The minimum centerline radius should be at least 75 feet. Maximum grade shall not exceed 20%. A cul-de-sac shall be constructed to a radius of 32 feet. Asphalt berms are required where necessary to control drainage. Other drainage details shall conform to current engineering practice. All road construction materials shall conform to the State of California Standard Specifications.
☒ The road shall be constructed with an oil and screenings seal coat, medium type, on at least 5-inches of aggregate base, class 2. One and one-half inches of asphalt concrete pavement, type B, shall be provided in-lieu of a seal coat on portions of road where grade exceeds 15%.
 The road shall be constructed with one and one-half inches of asphalt concrete pavement, type B, on at least five inches of aggregate base, class 2.
 Repair existing access road. Fill and compact pot-holes with asphalt concrete pavement, type B.
 Road surface shall be over-laid with one and one-half inches of asphaltic concrete pavement, type B.
 Road surface shall be over-laid with an oil and screenings seal coat, medium type.
 Submit proof to satisfy the Health Department that the depth of usable ground water is greater than 100 feet below ground surface.
 Each well shall be developed to the requirements of the Health Department.
 Submit proof of adequate water supply to satisfy requirements of the Health Department.
 Submit certification by a Registered Sanitarian to ascertain suitability of soils for installation of individual septic tank system to satisfy requirements of the Health Department.
 A lot check is required on these parcels. Contact the Environmental Health Department to perform the lot check. A fee will be required.
☒ Submit proof of payment of fee in-lieu of park dedication. Receipt from the Planning Department will meet this requirement.
☒ Submit proof that there are no outstanding tax liabilities against the affected parcels. A certification from the Tax Collector's Office will satisfy this requirement.

☒ NOTE A-2 shown on tentative map -

This Tentative Parcel Map is approved on Dec 19, 1975 subject to the above conditions and the attached map, and expires 14 months from the date stamped hereon.

Sincerely yours,

KAY BOWEN
PLANNING DIRECTOR

BY

Henry C. Baker

Attachment: Tentative Parcel Map

cc: County Surveyor
Applicant

NOTE:

Santa Cruz County Code, Section 13.08.312 states: "A subdivider, or any person adversely affected by the decision of the Planning Director, for subdivisions for which a parcel map is required, may file an appeal with the Secretary of the Planning Commission within 15 days after the decision rendered by the Planning Director." If no appeal is submitted, this approval will become effective on JAN 16, 1976.

PIN-31

4/76

Page 67 of 69

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

COUNTY OF SANTA CRUZ

INTER-OFFICE CORRESPONDENCE

Date: July 26, 1977

Exhibit 48
CCC-05-NOV-01
CCC-05-CD-03
(King)

To : Planning Commission (August 3, 1977 meeting)

Page 68 of 69

From: Richard Pearson, Chief of Development Processing

Subject: King PUD - MLD (Trestle Beach)

Questions have arisen about the concurrent approval by the County of a Planned Unit Development and Minor Land Division on the same property.

CHRONOLOGY:

- 9-26-73 King applies for 73-13-PUD and Tract 672 (154 units).
(R. Pearson, staff person)
- 10-01-73 EIR required.
- 11-12-73 Staff recommends conceptual PUD process, as proposal has major problems with general plan, density and services. Environmental assessment to be done rather than full EIR.
- 12-04-73 King agrees to conceptual procedure.
- 1-16-74 Scheduled PC hearing on PUD. King requests continuance to respond to staff recommendation of denial, and proposed Aptos general plan.
- 2-20-74 King requests continuance until 90 days after County adoption of new Aptos general plan.
- 10-01-74 Aptos general plan adopted. King property designated Urban 2-6 units per acre (blufftop) and Recreation - Scenic (ravine and beach).
- 2-01-75 King submits revised PUD for 32 units.
- 2-24-75 EIR required.
- 4-01-75 EIR contract for PUD signed. (L. Anderson, consultant)
- 7-10-75 King adds 7 lots in ravine to PUD.
- 7-18-75 King changes his mind and applies separately for 75-753-MLD. to divide 1 acre building site in ravine, apparently because PUD is taking too long and may not be approved. King amends

EXHIBIT "E"

3

PUD to not show division of 7 ravine lots. (S. Lemieux, staff person initially; R. Pearson, staff person after Lemieux leaves in 10-75)

- 9-02-75 EIR required on MLD.
- 9-09-75 ERC accepts EIR on PUD.
- 9-26-75 EIR contract for MLD signed. (L. Anderson, consultant)
- 10-10-75 EIR for PUD public review period ends.
- 11-03-75 ERC accepts EIR on MLD. Copies sent to Planning Commissioners as part of public review.
- 11-19-75 Scheduled PC day meeting on PUD; continued to December 11 night meeting at applicant's request.
- 12-04-75 EIR for MLD public review period ends.
- 12-11-75 PC recommends approval of PUD to Board of Supervisors. No mention or discussion of pending MLD.
- 12-19-75 H. Baker, Acting Planning Director, approves MLD. Conditions prepared by R. Pearson require dedication to County of public use and access easement for all beach areas.
- 3-02-76 Board of Supervisors approves PUD. No mention or discussion of already-approved MLD.
- 3-09-76 Board passes ordinance requiring MLDs to be considered by Zoning Administrator at public meeting. (Effective 4-09-76)
- 4-30-76 H. Baker, Deputy Planning Director, amends MLD approved conditions to delete dedication requirement.

DISCUSSION OF MLD-PUD:

Both the environmental consultant and the staff person had the mistaken impression that the MLD was an alternative for Dr. King if the PUD were not approved. This was not Dr. King's intent, as he has since stated, and as was fairly clearly implied by his statements in the EIR on the MLD. In fact, Dr. King planned to divide off further homesites in the ravine area, and did not understand that the PUD applied to all of his remaining property, and not just the blufftop.

Today, the PUD is still pending, but the parcel map for the MLD has been recorded, and the lot has been sold to Dr. Finegan.

LAW OFFICE OF JONATHAN WITTWER

365 LAKE AVENUE
POST OFFICE BOX 1184
SANTA CRUZ, CA 95061
(408) 475-0724
FAX: (408) 475-0775
E-MAIL: jonwitt@scruzio.com

April 21, 1998

Planning Commission
County of Santa Cruz
County Governmental Center
701 Ocean Street
Santa Cruz, CA 95060

Re. **Appeal of Approval of Two-Story Single-Family Dwelling**
Application Number: 96-0801
Applicant: Thomas Rahe
Owner: David R. Gelbart
Assessor's Parcel Number: 045-022-25
Zoning Administrator Approval Date: January 2, 1998
Appeal Continued Hearing Date: April 22, 1998

Dear Commissioners:

This Office represents David R. Gelbart, owner of Assessor's Parcel Number 045-022-25 ("subject parcel"), who seeks the requisite permits to construct a two-story single-family dwelling on said property. For the Planning Commission Agenda of March 25, 1998, the Staff Report recommended denial of the appeal so as to uphold the Zoning Administrator's approval of such two-story single family dwelling.

On March 25, 1998, the Planning Commission continued the hearing of the appeal to April 22, 1998 based on the letter of the Coastal Commission staff dated March 25, 1998. The Coastal Commission staff's letter raised questions concerning whether the Coastal Commission had ever approved the above parcel as a separate legal parcel. As a result, the public hearing was not held on said appeal.

At about 3:30 p.m. today, April 21, 1998, I received the County's April 21, 1998 reply to the Coastal Commission staff's letter of March 25, 1998. After reading the

Exhibit 49
CCC-05-NOV-01
CCC-05-CD-03
(King)

County Planning Commission
Appeal re Application No. 96-080
Page 2
April 21, 1998

County's reply, I submit that the appeal of the Zoning Administrator's approval of the Gelbart application should be denied for at least the reasons set forth below.

1. **The Appellant lacks standing to appeal and it is too late for any other party to appeal.** County Code Section 18.10.330 governs "APPEALS TO PLANNING COMMISSION --FROM LEVEL V (Zoning Administrator)." Subsection (a) governs who may appeal and limits appellants to those "whose interests are adversely affected by any act or determination of the Zoning Administrator." The appellant in this matter is one Mr. Ken Corday. It is the Gelbarts' understanding that Mr. Corday does not own any adjacent property and is not a property owner or resident of the Los Barrancos Subdivision. Nor does it appear that Mr. Corday owns any property which overlooks or views the Gelbart property or which is affected in any way by the Gelbart property or its development with a single-family dwelling. There is no apparent evidence that Mr. Corday qualifies as a person "whose interests are adversely affected" by the Zoning Administrator's approval of the single-family dwelling on the Gelbart property. As a result, Mr. Corday lacks standing to appeal and the appeal should be denied. The ten calendar day period to appeal the Zoning Administrator's January 2, 1998 decision has expired and it is too late for any other party to appeal.

2. **Because the creation of the Gelbart parcel occurred prior to 1983 (i.e. before the County had coastal permit authority), the Planning Commission should base its ruling on the appeal only on whether the Gelbart parcel was lawfully created under land use regulations enforced by the County at the time of the creation of the parcel and leave the Coastal Act issues to the Coastal Commission to enforce.** The County's letter of April 21, 1998 referenced above requests the Coastal Commission staff to investigate whether the Coastal Act was violated at the time of the creation of what is now the Gelbart parcel (apparently by virtue of the of the County's approval of the recordation of a Final Map showing both the Sewer Treatment Plant parcel as a separate legal parcel and the resultant remainder parcel now owned by the Gelbarts as a separate legal parcel). The County's letter further requests the Coastal Commission staff to initiate any appropriate enforcement actions if it determines that the Coastal Act was violated. This makes it clear that it is not the County's role to enforce against any violations of the Coastal Act which may or may not have occurred on the Coastal Commission's watch. Rather, the County, through its Planning Commission, should confirm what its County Counsel has concluded, namely that the Gelbart parcel was lawfully created as to the land use regulations enforced by the County at the time a Final Map was duly approved and recorded by the County. To delay in ruling on the appeal pending an investigation by Coastal Commission staff of indeterminate scope and

Exhibit 49
CCC-05-NOV-01
CCC-05-CD-03
(King)

County Planning Commission
Appeal re Application No. 96-080
Page 3
April 21, 1998

duration would be unfair and prejudicial to an application for a single-family dwelling which was filed more than seventeen months ago. The concerns of the Coastal Commission staff and any interested neighbors may be addressed through the investigation and enforcement by the Coastal Commission of any past violations of the Coastal Act.

Thank you for your consideration of this matter.

Sincerely,


Jonathan Wittwer

cc: County Counsel
Robert Logan, Esq.
Client
Thomas Rahe

Exhibit 49
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200



VIA CERTIFIED MAIL
(RECEIPTS P 563 521 047, 048, 049, & 050)

April 27, 1998

Dr. David Gelbart
c/o Jonathan Wittwer
365 Lake Avenue
Santa Cruz, California 95062

Dr. and Mrs. John King
1595 Soquel Drive Suite 400
Santa Cruz, California 95062

Trestle Beach Homeowners Association
c/o Remi Company
555 Soquel Avenue, Suite 360
Santa Cruz, California 95062

Shiu-Wen Huang and Shaw-Hwa Huang
1628 Randolph Parkway
Los Altos Hills, California 94024

Property Location: **End of Camino El Mar, Las Barrancos area of La Selva Beach, South Santa Cruz County**

Subject Activity: **Creation of six parcels without coastal permits**

Violation File: **V-3-89-007**

Dear Dr. Gelbart, Dr. King, Shiu-Wen Huang, Shaw-Hwa Huang, and Association Members,

Staff of the California Coastal Commission has become aware that the creation of six separate parcels noted below, which are located in the coastal zone, occurred without first being authorized by a coastal development permit. Section 30600(a) of the California Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone

must obtain a coastal development permit. Development is broadly defined by Section 30106 of the Coastal Act:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; **change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits,** except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511)...(emphasis added)*

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

As emphasized in the bold print, creating new parcels constitutes "development" and therefore requires a coastal development permit. Please be advised that any development activity performed without a coastal development permit constitutes a violation of the California Coastal Act's permitting requirements.

A little background. Our staff had become aware of Dr. Gelbart's application (#96-0801) for a Santa Cruz County coastal permit for a single-family house on AP# 045-022-25 at the intersection of Paso Cielo and Camino Al Mar in La Selva Beach. In conjunction with the recent Planning Commission hearing we have received documents from the appellant's attorney and from County Counsel discussing the legality of the subject lot. In reviewing this information, we questioned to the Planning Commission whether this lot was legally created pursuant to the California Coastal Act. In response the Planning Commission continued the hearing and requested further investigation on our part.

Our investigation to date has revealed the following. The County Counsel's analysis was based only on the Subdivision Map Act, not on the Coastal Act, which was also in effect at the time that the lots were recorded. Furthermore, his analysis was based on final maps submitted to be recorded at the County, maps which differed from those submitted in two coastal permit applications to the Coastal Commission. County Counsel's conclusions were based on the later condominium subdivision. We since ordered the earlier permit file from our archives in Sacramento and discovered its relevancy.

Exhibit 50
CCC-05-NOV-01
CCC-05-CD-03
(King)

This first application, P-2034, was for creation of a one acre parcel from an 8 acre parcel which was part of a 30 acre holding of the applicant, Dr. King. The legally created parcel is AP# 045-022-34 now owned by the Finegens (see enclosed parcel map; this parcel is labeled "OK"). All the remaining acreage was to be recombined into one parcel, "a single 29 acre parcel (parcel B)." Thus, after this Commission's August 1976 action, there should have only been two parcels: the one acre parcel now owned by Finegan and the combined 29 acre parcel. Subsequent recording on October 1, 1976 of an additional parcel B (comprised of AP# 045-022-30, part of AP# 045-022-27, and AP# 045-321-24) is a violation of the conditions of that permit. Subsequent recording of an additional recreational parcel C (AP# 045-022-26 and # 045-022-29) is not a violation because it became part of a State Beach, which is a public recreational use allowed under Section 30106. Land divisions undertaken by a public agency for a public recreational use are exempt from the usual coastal permit requirements.

The second application, P-79-117 was for 32 (eventually reduced to 21) condominium units on the larger King parcel (noted to be 29 acres), (implying) one resultant remaining common parcel (now AP# 045-321-26 Trestle Beach Homeowners). The project description and Commission findings did not mention creation of any other parcels. Subsequent recording on November 9, 1979 of separate (and a different) Parcel B (AP# 045-022-24; Trestle Beach Homeowners Association), Parcel C (AP# 045-321-24; Homeowners Association) and (a different) Parcel D (AP# 045-321-23; Huang) was done without benefit of a coastal permit. At that time what became AP# 045-022-25 (Gelbart) and AP# 045-022-27 (King) were still identified on the final map as portions of remainder parcel D (which at that time was relabeled "parcel A."). No coastal permit was subsequently issued to allow these to become separate legal parcels.

To resolve this matter, parcels AP#s 045-321-23 (Huang); 045-321-24 (Trestle Beach Homeowners Association); 045-022-24; (Homeowners Association); 045-022-25 (Gelbart); 045-022-27 (King); and 045-022-30 (King) should be merged back into the Trestle Beach Homeowners Association common AP# 045-321-26. This should be done at the County Planning Department and Recorder's Office by filing an affidavit to combine parcels. Since this filing will rectify a violation of the Coastal Act and render the resulting parcelization consistent with Coastal Commission permits, no new coastal permit is required from the County (Code Section 13.20.066). In order to show good faith effort, we need to see proof of an affidavit application to the County within 45 days of the date on this letter. If we do not receive this evidence, **you may be served a cease and desist order or sued in court.**

Coastal Act Section 30809 states that if the Executive Director determines that any person has undertaken, or is threatening to undertake, any activity that may be inconsistent with any permit previously issued by the Commission, the Executive Director may issue an order directing that person to cease and desist. Coastal Act Section 30810 states that the Coastal Commission may also issue a ceases and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the

Exhibit 50
CCC-05-NOV-01
CCC-05-CD-03
(King)

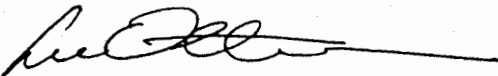
Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed \$30,000. Coastal Act Section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

This letter is based upon our staff review of the aforementioned files. If you have any other information which would constitute evidence that the parcel(s) in question was (were) in fact created pursuant to a valid coastal permit, please let us know as soon as possible. All correspondence and communication regarding this matter should be directed to Mr. Dan Carl in the Central Coast Office Enforcement Division at the address and phone number above; please refer to your file number (V-3-89-007) when communicating with this office. If we do not receive evidence of the application for an affidavit to combine parcels or evidence of valid coastal permits for these parcels within 45 days (i.e., by **June 11, 1998**), we will refer this case to our Statewide Enforcement Unit in San Francisco for further legal action.

Thank you for your anticipated cooperation.

Sincerely,



Lee Otter
District Chief Planner
Central Coast District Office

enclosures

cc: Diane Landry, Legal Counsel, Coastal Commission Central Coast District Office
Nancy Cave, Manager, California Coastal Commission Enforcement Program
Rahn Garcia, Assistant County Counsel
Dr. David Gelbart

Exhibit 50
CCC-05-NOV-01
CCC-05-CD-03
(King)

$n=2$

45-02

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Page 5 of 6

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
ENFORCEMENT DIVISION
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



VIA CERTIFIED MAIL (RECEIPTS P 563 521 059, 060, 061, & 062)

September 10, 1998

Dr. David Gelbart
c/o Jonathan Wittwer, Esq.
365 Lake Avenue
Santa Cruz, CA 95062

Dr. and Mrs. John King
Lewis Hanchett, Jr.
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Shiu-Wen Huang and Shaw-Hwa Huang
1628 Randolph Parkway
Los Altos Hills, CA 94024

Trestle Beach Homeowners' Association
c/o Jeffrey A. Barnett, Esq.
1740 Technology Drive, Suite 250
San Jose, CA 95110

Property Location: **End of Camino Al Mar, Las Barrancos area of La Selva Beach, South Santa Cruz County.**

Subject Activity: **Creation of six parcels without coastal permits.**

Violation File: **V-3-98-007 (Please note that previous correspondence on this matter contained a typographical error wherein the violation file number was identified as V-3-89-007; the correct file number is V-3-98-007. Please make the necessary correction for your records.)**

Dear Dr. Gelbart (c/o Mr. Wittwer), Dr. & Mrs. King, Mr. Hanchett, Shiu-Wen Huang, Shaw-Hwa Huang, and Trestle Beach Homeowners' Association (c/o Mr. Barnett),

The purpose of this letter is to re-establish the deadline for action on your parts towards resolution of the above-referenced violation involving the creation of lots without coastal permits in the La Selva Beach area of Santa Cruz County. When this office first informed you of this matter by certified letter dated April 27, 1998, you were given a June 11, 1998 deadline to respond. Based on the good faith effort put forth by the Kings, and the response we received from Jeffrey Barnett (the Trestle Beach Homeowners' Association attorney), this office

Exhibit 51
CCC-05-NOV-01
CCC-05-CD-03
(King)

extended the deadline for an administrative resolution of this matter until August 21, 1998; all parties were informed of this extension by certified letter dated July 2, 1998.

Since our July 2, 1998 letter, we have again met with the Kings to discuss resolution of this matter and have been encouraged by the progress that has been made. We have also spoken with Jonathan Wittwer, attorney for Dr. Gelbart, who indicated that Dr. Gelbart was in the process of rescinding his interest in his property. However, we have not yet heard from the Huangs and we are disappointed that the Huangs have thus far not contacted this office to discuss this case. Under typical violation circumstances, this lack of response would have already caused us to refer the entire matter to our Legal Division in San Francisco for appropriate legal action. However, given that ultimate resolution of this matter will need to involve all parties in some way, we believe at this time that it would be counterproductive to refer the case to our San Francisco office.

That being said, we should remind all parties that Coastal Act Section 30809 states that if the Executive Director determines that any person has undertaken, or is threatening to undertake, any activity that may require a coastal permit without securing a permit, or that may be inconsistent with any permit previously issued by the Commission, the Executive Director may issue a temporary order directing that person to cease and desist. Coastal Act Section 30810 states that the Coastal Commission may also issue a permanent cease and desist order after a public hearing has taken place. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists.

Furthermore, we should also remind all parties that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed \$30,000. Coastal Act Section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists.

This is a complicated case and we are sympathetic to the need to work through possible resolution scenarios. However, please note that the matter will not be resolved by inactivity. The facts of the case have not changed since our original letter to you dated April 27, 1998. There are essentially two scenarios (possibly with multiple permutations) that would resolve this matter: (1) combine the 6 parcels into the one common assessor's parcel number that is currently recognized by coastal permit (i.e., parcel number 045-321-26, Trestle Beach Homeowners' Association Common Parcel); or (2) receive coastal permits to authorize the lots created without benefit of a coastal permit.

Based upon the good-faith effort that has been put forth thus far by the Kings and the Homeowners' Association, and based on our desire to pursue an administrative resolution to

this case, we are extending the deadline for response until October 2, 1998. However, please be advised that if each of you do not provide evidence to this office by October 2, 1998 which shows you are actively pursuing one of the two scenarios above, we will be forced to refer the case to our Statewide Enforcement Unit in San Francisco for further legal action. At that time, you may be served a cease and desist order or sued in court.

If you have any questions or would like to discuss this matter further, please contact Diane Landry at (831) 427-4863.

Thank you for your anticipated cooperation.

Sincerely,



Lee Otter
District Chief Planner
Central Coast District Office

cc: Alvin James, Director, Santa Cruz County Planning Department
Rahn Garcia, Assistant County Counsel, Santa Cruz County Counsel's Office
Diane Landry, Legal Counsel, California Coastal Commission Central Coast District Office
Nancy Cave, Manager, California Coastal Commission Enforcement Program

Exhibit 51
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
ENFORCEMENT DIVISION
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



VIA CERTIFIED MAIL (RECEIPTS P 320 675 327, 328, 329, & 330)

October 20, 1998

Dr. David Gelbart
c/o Jonathan Wittwer, Esq.
365 Lake Avenue
Santa Cruz, CA 95062

Dr. and Mrs. John King
Lewis Hanchett, Jr.
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Shiu-Wen Huang and Shaw-Hwa Huang
1628 Randolph Parkway
Los Altos Hills, CA 94024

Trestle Beach Homeowners' Association
c/o Jeffrey A. Barnett, Esq.
1740 Technology Drive, Suite 250
San Jose, CA 95110

Property Location: **End of Camino Al Mar, Las Barrancos area of La Selva Beach, South Santa Cruz County.**

Subject Activity: **Creation of six parcels without coastal permits.**

Violation File: **V-3-98-007 (Please note that previous correspondence on this matter contained a typographical error wherein the violation file number was identified as V-3-89-007; the correct file number is V-3-98-007. Please make the necessary correction for your records.)**

Dear Dr. Gelbart (c/o Mr. Wittwer), Dr. & Mrs. King, Mr. Hanchett, Shiu-Wen Huang, Shaw-Hwa Huang, and Trestle Beach Homeowners' Association (c/o Mr. Barnett),

The purpose of this letter is to notify you that the above-referenced violation involving the creation of lots without coastal permits in the La Selva Beach area of Santa Cruz County remains outstanding. The facts of the case have not changed since our original letter to you dated April 27, 1998. Moreover, the methods at your disposal for resolving the matter likewise remain unchanged since our original letter. Because of this, we were surprised when we recently received a letter from Katy King representing Dr. King dated September 30, 1998 wherein she states that "[she is] not certain how to respond" to our previous letter (see attached). As each of you were informed in certified letters from this office to each involved party dated April 27, 1998 and September 10, 1998, there appear to be two options available for you

V-3-98-007NOVA4.DOC

Exhibit 52
CCC-05-NOV-01
CCC-05-CD-03
(King)

to resolve this matter: (1) combine the 6 parcels created without benefit of a coastal development permit into the one common assessor's parcel number that is currently recognized by coastal permit (i.e., parcel number 045-321-26, Trestle Beach Homeowners' Association Common Parcel); or (2) receive coastal permits to authorize the lots created without benefit of a coastal permit. Ms. King has also been informed of these two options by Commission staff during the course of two separate meetings in the Commission's Santa Cruz office. We cannot make it any clearer.

In further response to Ms. King's letter, the County and the Coastal Commission are not "giving conflicting advice." Quite to the contrary, Commission and County staff have taken great pains to work closely together on identifying ways for you to resolve your unpermitted lot creation problem. This has included regular County-Commission staff phone contact since your problem was first identified as well as a recent field meeting with Coastal Commission staff and staff from the County's Planning Department and County Counsel's office on September 17, 1998. This regular contact has ensured that, at least for those of you who have availed yourselves of the opportunity, you have consistently received the same advice from this office as you have from the County. This is the same advice as has been proffered in our previous certified letters to each of you. Specifically, as described above, this advice consists of the fact that the parcels must be recombined or recognized by coastal permit. We cannot make it any clearer.

As you have been informed by our previous letters, we have been, and continue to be, available to assist you in pursuing the above-described resolution options. We also continue to be open to discussing options within these resolution parameters. However, to date, we have received only a somewhat tepid collective response to such overtures. In sum, as follows:

- (1) **Dr. Gelbart's** attorney has indicated that Dr. Gelbart is rescinding his involved property interest. However, to date, this office has yet to receive any confirmation of this revocation. As a result, Dr. Gelbart remains a party to this action. Dr. Gelbart has not otherwise indicated to this office any other of his intentions vis-à-vis resolution of this matter.
- (2) **The Kings** have continued to search for avenues of resolution. This has included two meetings with Coastal Commission staff and, according to Ms. King's attached letter, additional meetings with County Planning Department staff and Supervisor Walt Symons. The Kings have not thus far pursued any coastal permit application(s) to authorize any unpermitted lot(s).
- (3) **Trestle Beach Homeowners' Association** has indicated that they are willing to recombine or otherwise legalize their three involved lots. Although this office has been encouraged by this posture, thus far the Association has not formally recombined the lots.
- (4) **The Huangs** have not yet contacted this office. In fact, despite the best efforts of Commission staff to track down phone numbers and so contact the Huangs or their representatives, multiple calls have gone unanswered and messages have gone unreturned.

We have been ready and willing to help sort out this matter and come up with a viable solution that all parties can accept. We have allowed ample time for you to decide on your desired course of resolution. In fact, you were first informed of this matter by certified letter nearly 6 months ago. Given the serious legal problem on your hands, we have been surprised by this somewhat lukewarm response that we have received from you all to date. Even so, we still believe that an administrative resolution would be preferable to a legal one.

Towards this end, the deadline for you to pursue an administrative resolution of this matter has been extended twice – most recently until October 2, 1998. We did not hear from any of you prior to that date. On October 5, 1998, we received a letter from Katy King, and on October 13, 1998 we received a letter from the Homeowners' Association attorney requesting that legal action again be deferred. Other than these two letters, this office has not heard from any of you since the October 2, 1998 deadline. Please note that this level of response will not resolve this matter.

Notwithstanding the lack of success from our previous deadline extensions, because of the number of parties involved, we are willing to extend the deadline for your response one last time to allow you to collectively pursue your desired resolution. Therefore, in order to allow you all this one last chance before we initiate further legal action to ultimately resolve the matter, we are extending the date for response on your part until November 6, 1998. Please note that if we do not receive concrete evidence in writing by that date showing that progress is being made by all parties (e.g., filing an affidavit to combine parcels and/or evidence that coastal permit applications for either re-combination or legalization of the parcels have been filed with the County), the next contact that you will receive will be from our Statewide Enforcement Unit in San Francisco. At that time, you may be either made the subject of a proceeding leading to the issuance by the Commission of a cease and desist order or sued in court. We hope that this will not be necessary and that we can develop a mutually agreeable strategy for resolving the matter between now and November 6th.

If you have any questions or would like to discuss this matter further, please contact Diane Landry at (831) 427-4863.

Thank you for your anticipated cooperation.

Sincerely,

Diane Landry
for Lee Otter
District Chief Planner
Central Coast District Office

Attachment: Letter from Katy King to Lee Otter dated September 30, 1998

cc: Alvin James, Director, Santa Cruz County Planning Department
Rahn Garcia, Assistant County Counsel, Santa Cruz County Counsel's Office
Diane Landry, Legal Counsel, California Coastal Commission Central Coast District Office
Nancy Cave, Manager, California Coastal Commission Enforcement Program

Exhibit 52
CCC-05-NOV-01
CCC-05-CD-03
(King)

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OCT 05 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Lee Otter
California Coastal Commission
725 Front St.
Santa Cruz, Ca. 95060

Sept. 30th, 1998

Re: Trestle Beach Subdivision.

Dear Mr. Otter,

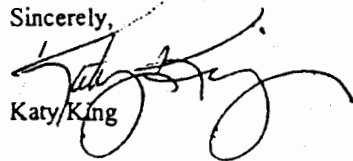
My father and I met with the Martin Jacobsen at the County Planning department this morning, both my Father and I were quite surprised to find that he had not heard from you nor had he seen the letter from the Coastal Commission dated Sept. 10th. His conclusion was that the only solution he can see is to join all of the parcels together and then apply for a new subdivision. He also advised us that there is no way to split the property under today's regulations. His advice was to give it back to the attorneys and let them "make what-ever deal they are going to make" and then they "will take it to the Board for approval."

Your letter of September 10th states that we have until Oct. 2nd to respond. I am not certain how to respond. It seems that we are given deadlines and threats of penalty if we do not take action. I am not certain how we can resolve this matter when it seems that the Coastal Commission and the County are giving conflicting advice. It seems that the Coastal Commission is looking for an administrative resolution while the advice the County gave today was to take it up with the attorneys. The County also made it perfectly clear they were not at all concerned with any financial impact this may have.

My Father and I also met with Supervisor Walt Symons after the Meeting with the Planning Director. He has asked for some time to meet with the Planning Department and see if there is a resolution that can be found. I am hoping that Mr. Symons finds a more sympathetic ear than my father and I did. In the mean time I will keep you advised as to any progress.

Please be advised that although you have not heard from the Huangs, in an effort to save everybody some time and energy I have been in contact with Mr. Huang. It seemed to me that as long as we were looking for an administrative resolution there seemed to be no reason for Mr. Huang to involve his, or his Title companies' attorney. I do not want this to reflect poorly on the Huangs and any misconceived perception for their lack of concern for this situation.

Sincerely,



Katy/King

c.c.:

Alivin James, Director, Santa Cruz County Planning Department
Shiu-Wen Huang and Shaw-Hwa Huang

Walt Symons

Exhibit 52
CCC-05-NOV-01
CCC-05-CD-03
(King)

EXHIBIT A

DAWSON, PASSAFUIME & BOWDEN

DALE H. DAWSON
PHILLIP A. PASSAFUIME
GERALD D. BOWDEN

A LAW CORPORATION
4665 Scotts Valley Drive
Scotts Valley, California 95066-4291

(831) 438-1221
FAX (831) 438-2812

KATHLEEN MORGAN-MARTINEZ

June 22, 1999

Richard Emigh
413 Capitola Avenue
Capitola, CA 95910

Re: Trestle Beach / Coastal Commission / Lot legality

Dear Mr. Emigh:

This letter is in response to your inquiry whether the 1979-80 Trestle Beach subdivision maps created lawful lots. The answer is that these lots are lawful.

This issue arises in the context of a land use dispute among neighboring landowners over the legality of the lots created in 1979 by a subdivision of the Trestle Beach project. The County sides with the lot owners in concluding that the lots were lawfully created. The California Coastal Commission sides with the neighbors in concluding that the lots were not lawfully created. The Coastal Commission staff has insisted that the lot owners either obtain a coastal permit for the lots or forfeit their interest in the lots by merging them into the Trestle Beach common area lot. The County, which now has coastal permit issuing authority, will not issue a conforming permit because the current configuration is inconsistent with the County's General Plan. The Commission has threatened to bring an enforcement action against the current lot owners if they refuse the merger.

The underlying issue is whether the parcels created by the County subdivision in 1979 are legal. Stated precisely, the issue is whether a subdivision in the Coastal Zone is lawful if: 1) it was approved by the County prior to 1983 when the Coastal Commission ceded coastal permit authority to the County through certification of the County's Local Coastal Program (LCP), and thus the Coastal Commission had authority over approval of subdivisions, 2) the subdivision map approved by the County was not submitted to the Coastal Commission for concurrence, 3) the Final Subdivision Map was recorded; and 4) the Map Act's statute of limitations expired without challenge to the subdivision?

The facts pertaining to this issue are as follows:

1. March 2, 1976, County Board of Supervisors approved 73-13-PUD, a 20 unit Planned Unit Development.
2. April 1976, County approved MLD 75-753, a four lot subdivision.

3. October 1, 1976, Parcel Map recorded in Book 22, Page 73, creating four lots: A-D. Parcel A was a new building site in the middle of the project and landward of the railroad, B was the south-eastern portion of the project adjacent to La Selva Beach and the trestle, C was the beach, and D was an unbuildable 17.8 acre remainder parcel between the beach and the railroad.

4. December 12, 1978, the Board of Supervisors approved #78-1276-PUD and #78-1275-S increasing the number of units from 20 to 32.

5. July 30, 1979, Coastal Commission granted permit P-79-117, reducing the number of units to 20, and requiring other changes in the project, including an increase of the agricultural buffer on the north from 50 to 200 feet. These changes could only be accomplished by changing the map recorded on October 1, 1976. The Coastal Commission's first condition of approval was that "the applicant submit for Commission review and approval, revised site plans reflecting the provisions of this condition." (Executive Director's Recommendation 7/30/79, page 7).

6. Following the Coastal Commission approval in July, 1979, the applicant prepared and submitted to the County a Final Map designed to carry out the conditions required by the Commission. This map created Tract No. 781, and was recorded on November 9, 1979 in Volume 68, Page 19. An amended version of this map making minor changes to the townhouses was recorded on December 9, 1980, Volume 70, page 4. This recording conclusively established the validity of the land division. Gov't Code §66468.

Public Resources Code (PRC) §30602 granted the Executive Director of the Coastal Commission authority to appeal to the Commission any local decision made prior to certification of the County's LCP. When the County approved the final map, PRC §30602 gave the Coastal Commission's Executive Director authority to appeal that approval to the Commission. The County's decision was not appealed. PRC §30334 grants the Coastal Commission the power to bring suit to enforce the Coastal Act. The Commission did not sue the County or the landowner to challenge the subdivision map. The statute of limitations for challenges to the subdivision expired 90 days after December 9, 1980, when the last map was recorded. Gov't Code §66499.37. The Commission did not sue the County or the landowner to challenge the subdivision map. In my opinion these multiple failures ended the Commission's power to challenge the final map. Even if the 90 day Map Act statute did not apply, surely Code of Civil Procedure §338(a), §342, or some similar statute would bar this 20 year old claim.

Nine years ago I defended Dr. King in a zoning/coastal permit case brought against him by the County over the King's use of one of the Trestle Beach lots to display a railway caboose.¹ When the case reached the Court of Appeal in 1993, the Attorney General weighed in on behalf of the Coastal Commission. At no time in that litigation did the state contend that the lots were not lawfully created. The State could

¹ *County of Santa Cruz v. John J. King*, Santa Cruz Superior Court No. CV 115978, 6th Dist. No. H010759

not have participated in that litigation without knowing that these lots existed and were separately owned. Yet it chose not to raise the subdivision validity issue until now. The Coastal Commission has thus had actual notice of this subdivision since at least the time it participated in that litigation. That is an excellent example of why we have statutes of limitation and why they bar late claims of this sort.

The Coastal Commission apparently argues that it is not bound by the 90 day statute of limitations in the Map Act because the Coastal Act requires Coastal approval of subdivisions. I agree that the Coastal Act requires Coastal approval of subdivisions, but I disagree that failure to obtain that approval necessarily vitiates the subdivision. The Map Act, not the Coastal Act, is the basic statute governing the division of land. Strong public policies argue that final maps be accorded the dignity and reliability they require to sustain the reliance placed in them by purchasers, lenders, developers and public agencies. There are now 24 separate owners, not counting the state of California. These owners are the 20 townhouse owners of the Trestle Beach parcels. These are the Trestle Beach Homeowners Association, and three other individual lot owners (King, Finegan and Huang). These owners all rely on the recorded map for their claim of title. Nearly all of these lot owners have lenders who have also relied on the recorded map for their security interests. It is now very late to consider merging these lots.

Furthermore, when the map was recorded, first in 1979, and then again in 1980, all interested parties, including the Coastal Commission were placed on notice of its contents. The recording statutes erect presumptions of knowledge based on the notice afforded by recorded documents. The Coastal Commission also had actual notice of the subdivision through correspondence between the Commission staff and the County. I strongly doubt that a court would unwind this subdivision in light of: 1) the notice given to the Coastal Commission that the County had approved and recorded a final map, 2) the policies on which the recording statutes rest and 3) the Coastal Commission's failure to either appeal the map approval or initiate suit to attack its validity, and 4) the severe consequences of lot merger on the 24 lot owners and their lenders. Since the County has refused to issue the validating permit, the court would be given the Hobson's choice of either forcing a new tenancy in common among all owners, and determining their fractional shares, or declaring a forfeiture of title to the allegedly unpermitted lots. I can find no precedent for such a result. On the contrary, I find numerous doctrines and statutory provisions leading to the opposite result. This analysis leads me to conclude that any judicial challenge would be resolved by invoking the Map Act, and not the Coastal Act.

The Map Act contains a procedure for determining the validity of questionable lots. Gov't Code §66499.35 provides for the issuance of a certificate of compliance as a means of resolving these lot legality issues. Gov't Code §66499.35(d) provides in part that:

A recorded final map...shall constitute a certificate of compliance with respect to the parcels of real property described therein.

LAW OFFICES OF
DAWSON, PASSAFIUME & BOWDEN

That statement means that a recorded final map showing the lot in question certifies that the lot was validly created. That is not the only statement in the Map Act showing the conclusive effect of a recorded final map.

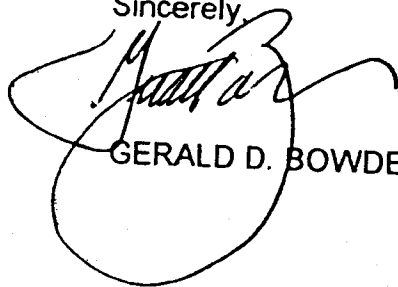
Gov't Code §66468 reads as follows:

The filing for record of a final...map by the county recorder shall automatically and finally determine the validity of such map and when recorded shall impart constructive notice thereof.

Section 66468 is a very powerful statement regarding the effect of the recorded map. No such provision appears in the Coastal Act.

In conclusion, the Coastal Commission is incorrect that failure to obtain Coastal approval of the Trestle Beach is fatally defective. If there was a defect in the subdivision process, it was the Coastal Commission's failure to challenge the County's approval within the 90 day statute of limitations period. That failure stripped the Commission of power to ever challenge the recorded map.

Sincerely,



GERALD D. BOWDEN

**MONTEREY BAY PROPERTIES**

620 CAPITOLA AVENUE • CAPITOLA, CA 95010

(831) 476-9661**(831) 476-1300 FAX****FAX**To: Debbie CartagenaFrom: Katy KingFax: (415) 788-2039Date: 3-5-03Re: _____ Number of pages: 3

Exhibit 54
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 3

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



RECEIVED
AUG 09 1999

August 5, 1999

Mr. Jeffery A. Barnett
1740 Technology Dr., Suite 250
San Jose, CA 95110

JEFFREY A. BARNETT
A PROFESSIONAL CORPORATION

Re: Violation No. V-3-98-007

Dear Mr. Barnett:

Since receiving your May 12, 1999 letter Coastal Commission Enforcement Staff has conducted further research into the above referenced violation. Information has surfaced in the past few months that may help to bring us closer to resolution on this matter.

First, as you have noted in both the above referenced letter and again in your July 1, 1999 letter, it is your contention that the Trestle Beach subdivision created a legal parcel under the Subdivision Map Act (SMA). After reviewing the matter further our files indicate that the Santa Cruz County Zone Administration's position (affirmed by the Santa Cruz County Counsel) is that the lot in question complies with the SMA. However, the County Counsel also determined that the parcels were not created through the authorization from coastal permits, thus they are not California Coastal Act (CCA) legal. Both CCA authorization and SMA compliance is necessary for the lots to be legal. Notwithstanding SMA requirements, Santa Cruz County records do not indicate that there was ever a coastal permit issued for the lots. Therefore the lots are not legal parcels according to Santa Cruz County. Furthermore, Santa Cruz County is actively involved in this case, and the County and California Coastal Commission (CCC) are in agreement on the case specifics. Although the County has deferred lead enforcement to the CCC because the case involves pre-LCP (Local Coastal Program) development, the County will be responsible for processing any CDP.

Section 30600(a) of the Coastal Act states that "in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit." Development defined broadly by Section 30106 of the Coastal Act "includes but is not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits..." The Coastal Commission had jurisdiction over all development approvals in this location until 1983, subsequently the County after certification of its Local Coastal Program assumed coastal permit authority. Thus, the creation of the subdivision constitutes development activity performed without a coastal development permit and is a violation of the California Coastal Act.

Furthermore, in *Ojavan II* the California Supreme Court found that the "California Subdivision Map Act did not overrule the California Coastal Act; if anything the reverse was true." Thus, the obvious expiration of the 90 day statute of limitations for challenge of the SMA does not preclude the Commission from objecting to a Coastal Act permitting violation at any time.

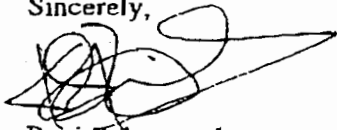
Exhibit 54
CCC-05-NOV-01
CCC-05-CD-03
(King)

Finally, in response to the issue raised regarding County of Santa Cruz v. King, it is our determination that this litigation is not relevant to the proceedings at hand. First, the violation had nothing to do with parcel validity; it was a permit violation. Mr. King conducted development, installation of two railroad cabooses and some railroad track on the site without a Coastal Development Permit in violation of the California Coastal Act. Secondly, when the state intervened in the case, at the request of the County, the Kings argued that intervention would stall the process. This led the Attorney General to specifically assure the Court that "intervention will not enlarge the basic issues," (Excerpt from Attorney General's Memorandum of Points and Authorities). Further the "Commission agree[ed] to enter the case *as it finds it* and [would] not seek to produce additional evidence," (*Emphasis added*, excerpt from Declaration of Michael Crow Department of the Attorney General). Thus, the Commission's involvement in the case does not positively conclude that they had knowledge of the circumstances surrounding the subdivision for the past six years.

In conclusion, the Commission is willing to negotiate a settlement of this violation to resolve this matter. As we discussed in a series of certified letters last year, dated April 27, Sept. 10, and Oct. 20, 1998, one settlement option involves merging the road parcel (045-022-24) and sewage plant parcel (045-321-24) into the Trestle Beach Homeowners' Assoc. Common Parcel (045-321-26) that is the site of the 21 condominium units. Understandably, you are concerned about the interest of the Trestle Beach Homeowners Association members', thus we are willing to discuss other ways to recombine or otherwise legalize your two involved lots.

Thank you for your anticipated cooperation. We look forward to receiving written confirmation of the resolution of this matter as to your client, Trestle Beach Homeowners Association. Please do not hesitate to contact me with any comments or questions.

Sincerely,



Ravi Subramanian
Statewide Enforcement

CC: Nancy Cave, Supervisor, Statewide Enforcement
Rahn Garcia, Counsel, Santa Cruz County Council Office

Exhibit 54
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-7219
VOICE AND TDD (415) 904-5200



June 18, 2001

John J. and Julia Darst King
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Subject: Coastal Act Violation No. V-3-98-007 (King et al); Santa Cruz County
Application No. 01-0167; APN 045-022-25

Dear Dr. and Mrs. King:

California Coastal Commission staff recently learned of your application for residential development on Assessor Parcel Number (APN) 045-022-25 (Santa Cruz County Application No. 01-0167). We discovered this proposal when we received a request from the County for our comments on the application. You have applied to the County for a Coastal Development Permit (CDP), a Variance, a Riparian Exception, and a preliminary grading review for this parcel. Your application includes an unconditional certificate of compliance for APN 045-022-25. The County issued this Certificate of Compliance under the Subdivision Map Act.

As we have previously informed you in several letters dated April 27, 1998, September 10, 1998 and October 20, 1998, the creation of APN 045-022-25 as a separate legal lot occurred in violation of the California Coastal Act. The issuance of a Certificate of Compliance does not change this because it does not constitute approval of a division of land under the Coastal Act. Although it is not entirely clear, it appears that APN 045-022-25 was created as a separate lot when an amended map for Trestle Beach (Tract No. 781) was apparently recorded in 1980. The recordation of the map for Trestle Beach (Tract No. 781) was inconsistent with Coastal Development Permit No. P-79-117, which approved a condominium project on the property, but did not approve subdivision of the property into six separate parcels. The final recorded map, however, purported to create 6 new parcels that were not authorized in CDP No. P-79-117. As we have previously informed you, section 30600(a) of the Coastal Act states that any person wishing to perform or undertake any development in the coastal zone must obtain a CDP. Development is broadly defined by section 30106 of the Coastal Act:

Development means, on land, ...change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code) and any other division of land, including lot splits...

The creation of APN 045-022-25 as a separate lot constitutes "development" as defined above, and therefore requires a CDP. Any development activity performed without a CDP or inconsistent with a CDP constitutes a violation of the California Coastal Act's

Exhibit 55
CCC-05-NOV-01
CCC-05-CD-03
(King)

John J. and Julia Darst King
Coastal Act Violation No. V-3-98-007 (King et al)
June 18, 2001

permitting requirements. The parcel must be recognized by CDP under the Coastal Act prior to any residential development being contemplated here. Accordingly, your application for residential development cannot be approved unless a CDP authorizing creation of the parcel has been obtained.

In addition to the issue of parcel legality, Commission staff notes that the proposal for residential development on APN 045-022-25 raises concerns about impacts to the riparian resources present there. The Commission will further address this when it provides comments on the application to the County. Please note that APN 045-022-25 is located within the Commission's appeal jurisdiction under the certified Local Coastal Program for Santa Cruz County. Any CDP approval by the County for APN 045-022-25 is subject to appeal to the Coastal Commission.

In addition, as you have been repeatedly informed, APN 045-022-25 is but one of the parcels that are unpermitted under the Coastal Act and the subject of Violation Number V-3-98-007. Although the Commission only approved a condominium project on the property in question in CDP No. P-79-117, six parcels were subsequently created out of the property without benefit of a CDP (i.e., APNs 045-022-24 and 045-321-24 (Trestle Beach); 045-022-25, 045-022-27, and 045-022-30 (King); and 045-321-23 (Huang) lack the required CDP approval). According to our records, you owned the property that is the subject of the pending application at the time that the unpermitted subdivision occurred.

We have repeatedly informed you, through letters, phone calls, and meetings since 1998, and as we again reiterate here, of two options available to resolve this matter:

- (1) Combine the 6 parcels created without benefit of a coastal development permit into one legal lot as approved by the coastal permit (i.e., parcel number 045-321-26, Trestle Beach Homeowners' Association Common Parcel); or
- (2) seek a coastal development permit to authorize the lots created without benefit of a coastal permit.

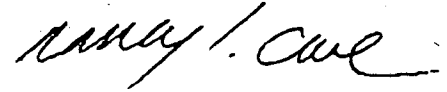
However, you have not pursued either of these options, nor have you pursued any other method of resolving this matter. Your failure to address this matter will cause the Commission to consider formal legal action for resolving this violation. Please note that Sections 30803 and 30805 of the Coastal Act authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed \$30,000. Section 30820(b) states that, in addition to any other penalties, any person who "intentionally and knowingly" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 nor more than \$15,000 for each day in which the violation persists. Section 30810 states that the Commission may also issue a cease and desist order which may be subject to terms and conditions that are necessary to ensure compliance with the Coastal Act.

Exhibit 55
CCC-05-NOV-01
CCC-05-CD-03
(King)

John J. and Julia Darst King
Coastal Act Violation No. V-3-98-007 (King et al)
June 18, 2001

If you have any questions or would like to discuss this matter further, please contact me at the above-referenced address.

Sincerely,



Nancy L. Cave
Northern California
Enforcement
Supervisor

Cc:

Richard Emigh (Representative for Dr. and Mrs. King) (APNs 045-022-25, 045-022-27, and 045-022-30)
Trestle Beach Homeowners' Association c/o Jeffrey A. Barnett, Esq. (APNs 045-022-24 and 045-321-24)
Shiu-Wen Huang and Shaw-Hwa Huang (APN 045-321-23)
Alvin James, Director, Santa Cruz County Planning Department
Cathleen Carr, Project Planner for Application 01-0167, Santa Cruz County Planning Department
Rahn Garcia, Assistant County Counsel, Santa Cruz County Counsel's Office
Charles Lester, District Manager, California Coastal Commission Central Coast District Office

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



July 19, 2001
[SENT BY REGULAR &
CERTIFIED MAIL]

John J. & Julia Darst King
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Subject: Coastal Act Violation No. V-3-98-007 (King et al); APNs 045-321-26;
045-022-24; 045-321-24; 045-022-25; 045-022-27; 045-022-30 and
045-321-23

Dear Dr. and Mrs. King:

I write concerning outstanding Coastal Act Violation No. V-3-98-007, consisting of unpermitted land divisions, which created the above-referenced parcels. I last contacted you by letter on June 18, 2001, regarding your pending Santa Cruz County Application No. 01-0167, for a coastal development permit (CDP) for a residence on one of the parcels, APN No. 045-022-25. You have not responded to my 18 June 2001 letter as of today's date. I include another copy of that letter with this correspondence for your convenience.

As I indicated in that letter, and as we have previously informed you in letters dated April 27, 1998, September 10, 1998, and October 20, 1998, the creation of APNs 045-022-24, 045-321-24, 045-022-25, 045-022-27, 045-022-30 and 045-321-23 as separate legal lots has occurred in violation of the California Coastal Act. These lots were created through subdivisions that were not authorized under the Coastal Act. The recordation of the final map for Trestle Beach (Tract No. 781) was inconsistent with Coastal Development Permit (CDP) No. P-79-117, which approved a condominium project on the property¹. The final recorded map for the condominium project, however, purported to create four new parcels with two "remainder" parcels that were not authorized in CDP No. P-79-117. Another subdivision of one of the two "remainder" parcels occurred and created two parcels, APN 045-022-27 and 045-022-30 without a CDP. According to our records, you owned the property involved in these unpermitted subdivisions at the time that they occurred. After recording of the final map for Tract 781, the condominiums were built and the separate parcels that were identified on the final map for Tract 781 were transferred to other owners. Thus, at least seven unauthorized parcels were created by these subdivisions and they are now owned as follows: APNs 045-022-25, 045-022-27,

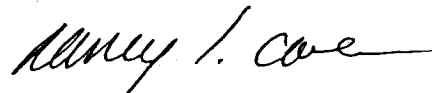
¹ An additional lot to the six already identified, APN 045-321-26 was also created by this recordation of the Tract Map without authorization under the Coastal Act. APN 045-321-26 as it is currently configured was not approved by CDP No. P-79-117.

Exhibit 56
CCC-05-NOV-01
CCC-05-CD-03
(King)

Section 30810 states that the Commission may also issue a cease and desist order which may be subject to terms and conditions that are necessary to ensure compliance with the Coastal Act.

We intend to initiate formal action as identified above to resolve this violation case. To avoid this action, please respond to this letter by **August 2, 2001**, indicating appropriate measures you are willing to take to resolve this matter. If you have any questions please contact me at 415-904-5290.

Sincerely,



Nancy L. Cave
Northern California Enforcement
Supervisor

cc: Richard Emigh
Trestle Beach Homeowners' Association c/o Jeffrey A. Barnett, Esq.
Shiu-Wen Huang and Shaw-Hwa Huang
Dave Laughlin, Santa Cruz County Planning Department
Cathleen Carr, Santa Cruz County Planning Department
Rahn Garcia, Assistant County Counsel, Santa Cruz County Counsel's
Office
Charles Lester, District Manager, Central Coast Commission Office

Exhibit 56
CCC-05-NOV-01
CCC-05-CD-03
(King)

Phone 831-4791452
Fax 831-4791476

July 31, 2001

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105
Your File V-3-89-007

Dear Nancy L Cave

On February 10, 1999, I wrote a letter to Mr Lee Otter at the Santa Cruz Coastal Commission office in an effort to resolve the above referenced dispute. (See Exhibit C). I explained that the Kings wanted to appeal the matter to the next level of Coastal Commission Review. I asked for guidance regarding appeal procedures. My 2/10/99 letter was written to formally respond to Mr. Otters letter of April 27, 1998, and was written on behalf of Dr. and Mrs King. Dr and Mrs King believe their lot was legally created in the Trestle Beach Subdivision.

I believe the Final Map of the Trestle Beach Subdivision is valid for the following reasons:

I. The final map was filed in 1978 with signatures of acceptance by the Applicants and County of Santa Cruz.

II. The Coastal Permit files state that the filing of the Final Map is activation of the Coastal Permit for the Trestle Beach Condominium Development, which was built.

III. The Map Act states that the Final Map is valid and any legal challenge must be brought within 90 days of the date the Final Map is approved. Your letter, or proposed action to say the lots created at the time of the filing, were not in compliance with the conditions of approval and tentative map was not made within the required 90 day period. According to the Map Act, this fact makes the lots shown on the final map legal.

IV. The County certified the final map and determined that the final map was substantially the same as the tentative map. The County also determined that the conditions which were placed on the tentative map and permit approvals were complied with. One of the General Conditions of the Tentative Map of Tract No 899 (Trestle Beach Subdivision) A.3 states "Acceptance of the final map by the Board of Supervisors shall constitute implementation."

V. The County Counsel has given a written opinion that ,APN 045-022-25, IS A LEGAL LOT. (ref letter of March 13, 1998). In fact, it appears that a Coastal Permit, issued by the County for the construction of a Home on this particular lot may be valid because the appeal of the County approval was not commenced within the time limits.

Exhibit 57
CCC-05-NOV-01
CCC-05-CD-03
(King)

VI. The County and Coastal Commission have reviewed applications for development on other lots (ref, APN 045-022-30, Permit No 90-0025A). Throughout this process and resulting actions this lot was considered to be legal. (The Coastal Development Permit, as you may recall, was Denied). The legal origin of the Kinglot is identical to the other developed lots.

VII. The Subdivision records from Mid Coast Engineers indicate that the Coastal Commission was actively involved in the review of the improvement plans as part of the final map preparation. (ref Coastal Commission staff letter V-80-21, dated July 7, 1980).

For the above reasons I believe the lots are legal, and any development is subject to a site specific Coastal Development Permit, which was done in the case of the Application 96-80801 for APN 045-022-25.

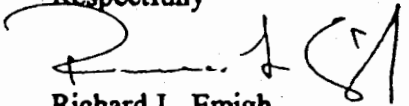
In addition the Kings have received an "UNCONDITIONAL CERTIFICATE OF COMPLIANCE" for the subject lot. That certificate establishes that the lot is legal. See Exhibit B) The Kings applied for Coastal Development Permit, Application 00-0221. The project is identical to the one previously approved by the County of Santa Cruz. The previous approval of Application #96-0801 was given a "notice of abandonment" dated February 1, 1999, because the owner, Dr. Gelbart or his representative Thomas Rahe, did not provide "the additional information and materials" requested for staff to process the application. I find no reference to the additional material requested, and find it strange that the "January 4" letter in the Counties file is referred to as the "1/04/99" letter and the letter is dated 1/4/98 with the notation at the bottom that if the information requested on 1/31/99 is not received by 1/31/99 the application will be abandoned. The dates do not match between letters and I cannot determine when the January 4 letter was written was it 1998 or 1999? The Kings were not able to contest the proposed abandonment action because they were unaware of the action until after it was concluded.

Because the "UNCONDITIONAL CERTIFICATE OF COMPLIANCE" HAS DETERMINED THE LOT IS LEGAL. The County has accepted the current Coastal Development Application #00-0221.

It is my understanding you received a copy of the "UNCONDITIONAL CERTIFICATE OF COMPLIANCE", in case that is not true, I am enclosing a copy of the recorded certificate. (See Exhibit B). I am also including a copy of a legal opinion written by Gerald d. Bowden, dated June 22, 1999, (See Exhibit A) with the opinion that the lots are lawful.

In summary I believe the lot is legal, I also believe it can not be developed until a Coastal Development is approved. It appears I may need to have you correspond with Mr. Bowden on behalf of the Kings if you continue to claim the lot is not legal.

Respectfully


Richard L. Emigh

Copies to Dr. and Mrs. John King, 1595 Soquel Drive Suite 400, Santa Cruz, California 95062
Gerald D Bowden, 4665 Scotts Valley Drive, Scotts Valley, CA 95066-4291
enclosures: Exhibits A, B, & C.

Exhibit 57
CCC-05-NOV-01
CCC-05-CD-03
(King)

DAWSON, PASSAFUIME & BOWDEN

DALE H. DAWSON
PHILLIP A. PASSAFUIME
GERALD D. BOWDEN

A LAW CORPORATION
4665 Scotts Valley Drive
Scotts Valley, California 95066-4291

(831) 438-1221
FAX (831) 438-2812

KATHLEEN MORGAN-MARTINEZ

June 22, 1999

Richard Emigh
413 Capitola Avenue
Capitola, CA 95910

Re: Trestle Beach / Coastal Commission / Lot legality

Dear Mr. Emigh:

This letter is in response to your inquiry whether the 1979-80 Trestle Beach subdivision maps created lawful lots. The answer is that these lots are lawful.

This issue arises in the context of a land use dispute among neighboring landowners over the legality of the lots created in 1979 by a subdivision of the Trestle Beach project. The County sides with the lot owners in concluding that the lots were lawfully created. The California Coastal Commission sides with the neighbors in concluding that the lots were not lawfully created. The Coastal Commission staff has insisted that the lot owners either obtain a coastal permit for the lots or forfeit their interest in the lots by merging them into the Trestle Beach common area lot. The County, which now has coastal permit issuing authority, will not issue a conforming permit because the current configuration is inconsistent with the County's General Plan. The Commission has threatened to bring an enforcement action against the current lot owners if they refuse the merger.

The underlying issue is whether the parcels created by the County subdivision in 1979 are legal. Stated precisely, the issue is whether a subdivision in the Coastal Zone is lawful if: 1) it was approved by the County prior to 1983 when the Coastal Commission ceded coastal permit authority to the County through certification of the County's Local Coastal Program (LCP), and thus the Coastal Commission had authority over approval of subdivisions, 2) the subdivision map approved by the County was not submitted to the Coastal Commission for concurrence, 3) the Final Subdivision Map was recorded; and 4) the Map Act's statute of limitations expired without challenge to the subdivision?

The facts pertaining to this issue are as follows:

1. March 2, 1976, County Board of Supervisors approved 73-13-PUD, a 20 unit Planned Unit Development.
2. April 1976, County approved MLD 75-753, a four lot subdivision.

3. October 1, 1976, Parcel Map recorded in Book 22, Page 73, creating four lots: A-D. Parcel A was a new building site in the middle of the project and landward of the railroad, B was the south-eastern portion of the project adjacent to La Selva Beach and the trestle, C was the beach, and D was an unbuildable 17.8 acre remainder parcel between the beach and the railroad.

4. December 12, 1978, the Board of Supervisors approved #78-1276-PUD and #78-1275-S increasing the number of units from 20 to 32.

5. July 30, 1979, Coastal Commission granted permit P-79-117, reducing the number of units to 20, and requiring other changes in the project, including an increase of the agricultural buffer on the north from 50 to 200 feet. These changes could only be accomplished by changing the map recorded on October 1, 1976. The Coastal Commission's first condition of approval was that "the applicant submit for Commission review and approval, revised site plans reflecting the provisions of this condition." (Executive Director's Recommendation 7/30/79, page 7).

6. Following the Coastal Commission approval in July, 1979, the applicant prepared and submitted to the County a Final Map designed to carry out the conditions required by the Commission. This map created Tract No. 781, and was recorded on November 9, 1979 in Volume 68, Page 19. An amended version of this map making minor changes to the townhouses was recorded on December 9, 1980, Volume 70, page 4. This recording conclusively established the validity of the land division. Gov't Code §66468.

Public Resources Code (PRC) §30602 granted the Executive Director of the Coastal Commission authority to appeal to the Commission any local decision made prior to certification of the County's LCP. When the County approved the final map, PRC §30602 gave the Coastal Commission's Executive Director authority to appeal that approval to the Commission. The County's decision was not appealed. PRC §30334 grants the Coastal Commission the power to bring suit to enforce the Coastal Act. The Commission did not sue the County or the landowner to challenge the subdivision map. The statute of limitations for challenges to the subdivision expired 90 days after December 9, 1980, when the last map was recorded. Gov't Code §66499.37. The Commission did not sue the County or the landowner to challenge the subdivision map. In my opinion these multiple failures ended the Commission's power to challenge the final map. Even if the 90 day Map Act statute did not apply, surely Code of Civil Procedure §338(a), §342, or some similar statute would bar this 20 year old claim.

Nine years ago I defended Dr. King in a zoning/coastal permit case brought against him by the County over the King's use of one of the Trestle Beach lots to display a railway caboose.¹ When the case reached the Court of Appeal in 1993, the Attorney General weighed in on behalf of the Coastal Commission. At no time in that litigation did the state contend that the lots were not lawfully created. The State could

¹ *County of Santa Cruz v. John J. King*, Santa Cruz Superior Court No. CV 115978, 6th Dist. No. H010759

not have participated in that litigation without knowing that these lots existed and were separately owned. Yet it chose not to raise the subdivision validity issue until now. The Coastal Commission has thus had actual notice of this subdivision since at least the time it participated in that litigation. That is an excellent example of why we have statutes of limitation and why they bar late claims of this sort.

The Coastal Commission apparently argues that it is not bound by the 90 day statute of limitations in the Map Act because the Coastal Act requires Coastal approval of subdivisions. I agree that the Coastal Act requires Coastal approval of subdivisions, but I disagree that failure to obtain that approval necessarily vitiates the subdivision. The Map Act, not the Coastal Act, is the basic statute governing the division of land. Strong public policies argue that final maps be accorded the dignity and reliability they require to sustain the reliance placed in them by purchasers, lenders, developers and public agencies. There are now 24 separate owners, not counting the state of California. These owners are the 20 townhouse owners of the Trestle Beach parcels. These are the Trestle Beach Homeowners Association, and three other individual lot owners (King, Finegan and Huang). These owners all rely on the recorded map for their claim of title. Nearly all of these lot owners have lenders who have also relied on the recorded map for their security interests. It is now very late to consider merging these lots.

★ Furthermore, when the map was recorded, first in 1979, and then again in 1980, all interested parties, including the Coastal Commission were placed on notice of its contents. The recording statutes erect presumptions of knowledge based on the notice afforded by recorded documents. The Coastal Commission also had actual notice of the subdivision through correspondence between the Commission staff and the County. I strongly doubt that a court would unwind this subdivision in light of: 1) the notice given to the Coastal Commission that the County had approved and recorded a final map, 2) the policies on which the recording statutes rest and 3) the Coastal Commission's failure to either appeal the map approval or initiate suit to attack its validity, and 4) the severe consequences of lot merger on the 24 lot owners and their lenders. Since the County has refused to issue the validating permit, the court would be given the Hobson's choice of either forcing a new tenancy in common among all owners, and determining their fractional shares, or declaring a forfeiture of title to the allegedly unpermitted lots. I can find no precedent for such a result. On the contrary, I find numerous doctrines and statutory provisions leading to the opposite result. This analysis leads me to conclude that any judicial challenge would be resolved by invoking the Map Act, and not the Coastal Act.

The Map Act contains a procedure for determining the validity of questionable lots. Gov't Code §66499.35 provides for the issuance of a certificate of compliance as a means of resolving these lot legality issues. Gov't Code §66499.35(d) provides in part that:

A recorded final map...shall constitute a certificate of compliance with respect to the parcels of real property described therein.

That statement means that a recorded final map showing the lot in question certifies that the lot was validly created. That is not the only statement in the Map Act showing the conclusive effect of a recorded final map.

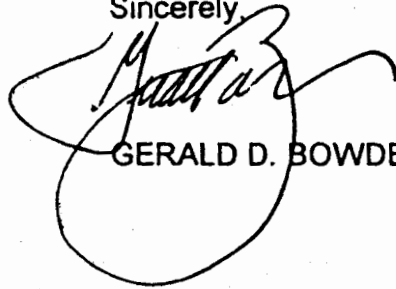
Gov't Code §66468 reads as follows:

The filing for record of a final...map by the county recorder shall automatically and finally determine the validity of such map and when recorded shall impart constructive notice thereof.

Section 66468 is a very powerful statement regarding the effect of the recorded map. No such provision appears in the Coastal Act.

In conclusion, the Coastal Commission is incorrect that failure to obtain Coastal approval of the Trestle Beach is fatally defective. If there was a defect in the subdivision process, it was the Coastal Commission's failure to challenge the County's approval within the 90 day statute of limitations period. That failure stripped the Commission of power to ever challenge the recorded map.

Sincerely,



GERALD D. BOWDEN



A PROFESSIONAL CORPORATION

CASSIDY
SHIMKO
DAWSON

DLK
Sender's e-mail address
DLK@ccsdlaw.com

July 30, 2004

VIA FACSIMILE AND HAND DELIVERY

Ms. Nancy L. Cave
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

Exhibit 58
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 4

Re: John and Julia King - Alleged Coastal Act Violation No. V-3-
98-007, Assessor's Parcel Nos. 045-022-25, 045-022-27 and
045-022-30

Dear Ms. Cave:

Thank you for your letter to Dr. and Mrs. King dated June 18, 2004. In your letter, you stated the Coastal Commission's position that the Kings' subdivision of the above-referenced parcels ("Parcels") violated the Coastal Act, and offered to consider a resolution by which the Kings would recombine the Parcels into a single legal parcel and the Coastal Commission would close its violation files with respect to that parcel. This letter sets forth the Kings' initial response to your June 18 letter. Please be advised, however, that this letter (i) in no way constitutes the Kings' consent to any merger of the Parcels or any other demand of the Coastal Commission, and (ii) does not waive any of the Kings' rights, claims, or defenses, at law or in equity, concerning the Coastal Commission's allegations with respect to the Parcels.

As we have discussed over the telephone, in our meetings at your office on August 29, 2002 and May 2, 2003, and during our September 9, 2003 site visit, it is the Kings' position that the Parcels - as well as all of the other parcels within the same subdivision area (the "Trestle Beach Property") - were legally created and are not in violation of the Coastal Act. I have analyzed extensively the Parcel Map and the Final Map that were recorded in 1976 and 1979, respectively, in connection with the Trestle Beach Property, as well as reports and documentation of the Coastal Commission's actions (and inactions) during and after that time. The Coastal Commission clearly reviewed the Parcel Map that was filed for the minor land division in 1976 because, if nothing else, it had to rely on that Parcel Map in order to evaluate the Final Map application that was submitted for the planned unit development in January 1979. While it is unclear whether the Coastal Commission reviewed the ultimate version of the Final Map before it was recorded in November 1979, that version was not materially different from the application submitted to the Coastal Commission in January 1979. In addition, Coastal

Commission staff remained active in connection with the development for a substantial amount of time after the Final Map was recorded, and certainly would have been aware of the parcel configuration; the staff asserted no issue or objection at any time. Since it is clear that the Parcels meet both Subdivision Map Act and Coastal Act requirements, we will not at this time address your argument that the Parcels are illegal because they allegedly do not meet both Subdivision Map Act and Coastal Act requirements.

Even if this were not the case, the Coastal Commission's failure to act on any alleged violation until 1998 – eighteen years after the first of the contested subdivisions occurred – would estop any Coastal Commission action against the Kings regarding this matter. In the meantime, parcels within the Trestle Beach Property have been transferred to third parties in reliance on these subdivision actions, without objection from the Coastal Commission. Therefore, all of the Parcels still should have vested rights to development,¹ subject to the issuance of a Coastal Development Permit ("CDP") by Santa Cruz County ("County").

Despite their position that the Parcels are all legal, the Kings have shown extreme good faith in their negotiations with the Coastal Commission by proposing to develop only two of the three Parcels. We had hoped that, after meeting with you and other Coastal Commission staff at the site on September 8, 2003, you would concur with this view. Instead, after waiting over nine months for a response, and after being assured that Coastal Commission staff was debating the technical pros and cons of various siting options, we received your letter, which proposes that the Kings merge the Parcels but gives no indication as to whether even one location within the Parcels would ever be developable. Instead, your letter recites old arguments and states that the decision on siting options "would require a thorough review of a specific project being proposed, and submittal of all the required reports that accompany a CDP application to Santa Cruz County." This is unacceptable for a number of reasons.

First, you have not conclusively shown us that the Coastal Commission was not cognizant of the applicable subdivision maps that were filed in the 1970s. A review of the pertinent subdivision maps and the correspondence to and from the Coastal Commission at that time shows it to be far more likely that the Coastal Commission was aware of the proposed parcel configurations that were ultimately recorded. Therefore, we believe that the Coastal Commission would be equitably estopped from asserting its contention now. At any rate, any applicable statute of limitations to contest the validity of a subdivision map has long since expired.

¹ In fact, Parcel No. 045-022-25 (commonly referred to as the "Gelbart Parcel") was actually issued a CDP by Santa Cruz County, though the CDP was denied when it was appealed to the Coastal Commission.

Ms. Nancy L. Cave
California Coastal Commission
July 30, 2004
Page 3 of 4

Second, you have not explained how the merger of the Parcels alone will "cure" any alleged flaw in the subdivision processes that affected the entire Trestle Beach Property in the 1970s. This is particularly problematic for us given the fact that the Coastal Commission shows no signs of enforcing any violation proceeding against the owners of the Trestle Beach condominiums, who must be guilty of the same Coastal Act violation that you believe the Kings violated. In addition, the merger of the Parcels would eliminate the possibility of building separate dwellings on each Parcel, and thus would constitute a taking of all viable economic uses of two of the three Parcels. This selective enforcement of rules and regulations, as well as the taking of development rights allocable among the Parcels, would violate the Kings' equal protection and due process rights.

Third, you have not provided us with any guarantee that the Coastal Commission will ultimately approve any development at all on the Parcels. You essentially have suggested that the Kings should do exactly what the Coastal Commission wants them to do, and then take their chances in the CDP process. This is extremely unfair and one-sided, as the Coastal Commission would then achieve its goals without any obligation to assist the Kings in developing of the Parcels. There is no way that the Kings could agree to this type of proposal, especially given the number of years that they have been prevented from developing the Parcels, without receiving some type of assurance that they will be able to develop their land.

Despite the facts discussed above, it is clear that from a practical standpoint the Kings will never be able to obtain any CDPs for the Parcels without the Coastal Commission's ultimate approval. The Kings therefore reluctantly have decided to accede to your request that they merge the Parcels, pursuant to the following conditions:

The Kings propose to apply for a CDP to construct one new single-family dwelling plus one accessory dwelling unit (together, the "Proposed Development") on the Parcels. They have begun preliminary discussions with the County regarding this proposal, and the County has indicated that the Proposed Development will require, among other entitlements, a CDP, Design Review, geologic report review, soils report review, preliminary grading review and an archaeological site check. The Kings propose to undergo the required entitlement process for the Proposed Development while the Parcels still constitute three separate lots. They will then merge the Parcels immediately prior to undertaking the Proposed Development, and only after successfully obtaining all entitlements required to carry out the Proposed Development. This includes the successful resolution of any appeals to the Coastal Commission or other government agencies, and the expiration (without legal challenge) of any applicable statutes of limitation. If for any reason the Kings do not undertake the Proposed Development, then the Kings will not effect the merger of the Parcels. Prior to the merger, the Coastal Commission must (i) take any necessary steps to permanently close its violation action against the Kings with

Exhibit 58
CCC-05-NOV-01
CCC-05-CD-03
(King)

Ms. Nancy L. Cave
California Coastal Commission
July 30, 2004
Page 4 of 4

respect to the Parcels, and (ii) certify that upon the merger of the Parcels, the Proposed Development will be consistent with the Coastal Act.

This proposal represents the Kings' efforts to satisfy the Coastal Commission's wishes and concerns while simultaneously preserving their right to develop their property. This letter is the result of an attempt to compromise with the Coastal Commission, and no provision hereof shall be deemed or construed as an admission of liability by the Kings with regard to any fact or question of law, and any such liability is expressly denied.

I look forward to your response to this proposal. If the Coastal Commission is amenable to the terms above, I suggest that we discuss the appropriate method of memorializing the parties' agreement. Please note that this letter is intended to serve as a basis for arriving at a settlement with the Coastal Commission, and it is understood that neither the Kings nor the Coastal Commission will be bound or liable to the other by this letter until both of parties execute a definitive written settlement agreement.

Very truly yours,



Deborah L. Kartiganer

cc: John and Julia King
Stephen K. Cassidy
Richard Emigh

Exhibit 58
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
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BY REGULAR AND CERTIFIED MAIL (No. 7002 0460 0003 8398 6408)

June 18, 2004

John J. and Julia D. King
c/o Deborah Kortiganer, Esquire
Cassidy, Shimko and Dawson
20 California Street, Suite 500
San Francisco, CA 94111

Exhibit 59
CCC-05-NOV-01
CCC-05-CD-03
(King)

Page 1 of 3

RE: Coastal Act Violation No. V-3-98-007: APNS: 045-022-25, 045-022-27, and 045-022-30; unpermitted subdivision

Dear Dr. and Mrs. King and Ms. Kortiganer:

As you know, on September 8, 2003, Commission staff and staff from Santa Cruz County joined Ms. Kortiganer and Richard Emigh on a site visit to the above-referenced Santa Cruz County property. The purpose of the site visit was to ascertain whether or not any of the referenced parcels, subdivided without benefit of a Coastal Development Permit ("CDP"), contained a suitable building site. We could not determine that there is a suitable building site. Ultimately the decision would require thorough review of a specific project being proposed, and submittal of all the required reports that accompany a CDP application to Santa Cruz County.

Based upon our review, it appears that although some project might be consistent with the Coastal Act on some portion of the property remaining in the Kings' ownership, much of the property appears not to be appropriate for residential development consistent with the certified LCP, past CDP decisions for the referenced property, and the Coastal Act.

Coastal Commission Staff has previously notified the Kings' that above referenced parcels were created without a CDP, and thus constitute a violation of the Coastal Act. The parcels were created after the passage of the 1976 Coastal Act; which included in its definition of development:

'...change in the density or intensity of use of land, including but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code) and any other division of land, including lot splits.'

Since the Kings performed development as defined by the Act, they were obligated to obtain a CDP for the development pursuant to section 30600 of the Coastal Act. Thus, the Kings should have obtained a CDP from the Commission prior to finalizing any proposed subdivision of the

property into the referenced parcels. The Kings have responded that the parcels were legally subdivided pursuant to the Subdivision Map Act and subsequent changes to the Subdivision Map Act as it pertains to remainder parcels, and have maintained that no CDP was required for their division of the remainder parcel.

As Commission staff has noted in the past (as have various Santa Cruz County staff and the Santa Cruz County Counsel), although the parcels may comply with the Subdivision Map Act, they are not legally divided lots pursuant to the Coastal Act, because they were created without the benefit of a CDP where one is clearly required. For the parcels to be legal, they must meet both Subdivision Map Act, and Coastal Act requirements. Furthermore, in *Ojavan Investors v. California Coastal Commission* (1997) 54 CA4th 373, 388, 62 CR2nd 803, 812, the California Supreme Court found that the "California Subdivision Map act did not overrule the California Coastal Act; if anything the reverse was true."

As you are aware, there have been repeated attempts over many years to resolve this violation administratively¹, but to date, the Kings have yet to agree to any resolution. The ongoing nature of this violation and our inability to reach an agreement on a resolution has already required significant state resources.

In light of the fact that the Kings currently own only three of the above-referenced parcels, and in the interest of resolving this violation as swiftly as possible, we are willing to reconsider our earlier recommendation that the Kings and all other current property owners of the parcels apply to recombine all lots. Staff will now consider a resolution in which the Kings recombine the three lots currently under their control into one lot, (APNs: 045-022-25, 045-022-27 and 045-022-30) subject to any restrictions and conditions as specified in the last CDP action for subdivision of that land. After the recombination is approved and recorded, the Kings' violation file would be closed, and the Kings would be able to apply for an additional CDP to propose other development on the recombined parcel.

Please reply to this letter as soon as possible as to whether or not the Kings desire to settle this matter administratively and without further enforcement action. If the Kings are unwilling to resolve the present violation on their property, and fail to respond by July 31, 2004, the Commission may commence action to record a Notice of Violation against all parcels currently held by the Kings, pursuant to section 30812 of the Coastal Act. Upon their receipt of our Notice

¹ Staff letter to Dr. David Gelbart, Dr. & Mrs. King, Mr. & Mrs. Huang, Trestle Beach Home Owner's Association dated 4/27/1998

Staff letter to Dr. David Gelbart, Dr. & Mrs. King, Mr. & Mrs. Huang, Trestle Beach Home Owner's Association dated 4/21/1999

Staff letter to Mr. Jeffery Barnett dated 8/5/1999

Staff meeting with Richard Emigh & Dr. King on 10/6/1999

Staff letter to Richard Emigh dated 11/23/1999

County of Santa Cruz Planning Department letter to Richard Emigh dated 4/12/2000

County of Santa Cruz Office of the City counsel letter to Richard Emigh dated 6/12/2000

Staff letter to Dr. & Mrs. King dated 6/18/2001

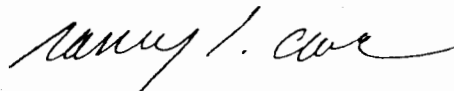
Staff letter to Dr. & Mrs. King dated 7/19/2001

Staff meeting with Richard Emigh, Deborah Kortiganer and Santa Cruz County Staff on 9/8/2003

of Intention to record a Notice of Violation, the Kings would have 20 days to inform the Executive Director of any objection to recording the Notice of Violation. If no objection is raised within 20 days, the Notice of Violation will be recorded with the County of Santa Cruz. If the Kings object within the 20-day period, they would be entitled to a public hearing in front of the Commission. The public hearing would determine whether or not a violation of the Coastal Act has occurred. If the Commission concurs that a violation has occurred, the Executive Director would record the Notice of Violation.

Although this has remained unresolved for many years, I remain hopeful that we can resolve this matter without taking further enforcement action against the Kings. If the Kings share our desire to resolve this matter administratively, we would be interested in negotiating a formal settlement of this matter that would allow the Kings to pursue a CDP for the recombination of the three parcels currently under their control. If this were done, the enforcement action against the Kings would be closed, and the Kings would then be free to pursue any future project for the recombined parcel by submitting the appropriate application for a CDP to the County. If you have any questions about the permitting process please contact Santa Cruz County. If you have any questions or concerns about the enforcement action, please contact me at 415-904-5290.

Sincerely,



NANCY L. CAVE
Northern California Supervisor
Enforcement Program

cc: Rahn Garcia, Santa Cruz County Counsel
Diane Landry, Office Manager, Central Coast Commission Office
Richard Emigh

Exhibit 59
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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November 22, 2004

Certified Mail No. 7002-3150-0004-3501-9471

Deborah Kortiganer, Esquire
Cassidy, Shimko and Dawson
20 California Street, Suite 500
San Francisco, CA 94111

SUBJECT: Coastal Act Violation No. V-3-98-007 (KING): APNs: 045-022-25, 045-022-27, and 045-022-30; unpermitted subdivision, your letter dated July 30, 2004

Dear Ms. Kortiganer:

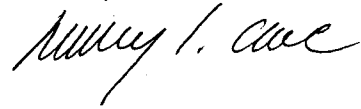
I write this letter to respond to your latest settlement proposal in a letter dated July 30, 2004. As you know, on June 18, 2004, I had written you to respond to a previous proposal wherein you requested Commission staff approval of possibly two building sites on the illegally subdivided parcels identified above. In my letter, I indicated that Commission staff could not determine a suitable building site until a more thorough review of a specific project occurred through your submittal of a specific project and all the required reports that accompany a CDP application to the County of Santa Cruz. I enclose a copy of that letter for your convenience.

Your 30 July 2004 letter indicates that your clients propose to construct one new single-family residence plus one accessory dwelling unit on the three illegally subdivided parcels. You indicate that you have begun preliminary discussions with County staff, and the Kings propose to pursue the proposed development while the parcels under their ownership remain as three parcels. You propose that the Kings will merge the three parcels into one parcel only after the Kings successfully obtain all "entitlements required to carry out the Proposed Development." If for any reason the Kings do not undertake the Proposed Development, the Kings will not merge the parcels. You propose that prior to merger, the Coastal Commission must close its pending violation case against the Kings with respect to the three parcels, and certify that upon the merger of the three parcels, the Proposed Development will be consistent with the Coastal Act.

Exhibit 60
CCC-05-NOV-01
CCC-05-CD-03
(King)

does not happen, the Commission may commence action to record a Notice of Violation against APNs 045-022-25, 045-022-27 and 045-022-30 pursuant to Section 30812 of the Coastal Act (Public Resources Code Section 30812).

Sincerely,



Nancy L. Cave
Northern California Supervisor
Enforcement Program

Cc: Rahn Garcia, Santa Cruz County Counsel
Cathy Graves, Principal Planner, Santa Cruz County
Diane Landry, Office Manager, Central Coast District
Dan Carl, Coastal Planner, Central Coast District

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BY REGULAR AND CERTIFIED MAIL
Certified Mail No. 7002 3150 0004 3497 1428

February 14, 2005

John J. and Julia D. King
1595 Soquel Drive, Suite 400
Santa Cruz, CA 95062

Subject: Notification of Intent to Record a Notice of Violation
of the Coastal Act and to Commence Cease and
Desist Order Proceedings

Violation No.: V-3-98-007

Location: APNs: 045-022-25, 045-022-27, and 045-022-30,
Santa Cruz County

Violation Description: Unpermitted subdivision

Dear Dr. and Mrs. King:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission") to record a Notice of Violation of the Coastal Act and to commence Cease and Desist Order proceedings for unpermitted development. The unpermitted development consists of an unpermitted land subdivision and the attempted creation of parcels; it constitutes development under the Coastal Act and is therefore subject to Coastal Act and Santa Cruz County LCP permit requirements. We have reviewed Commission and Santa Cruz County coastal permit records and have determined that the required Coastal Development Permit was not obtained for this cited development. This unpermitted development is located on property you own at Paseo Cielo, La Selva Beach, Santa Cruz County, APNs 045-022-25, 045-022-27, and 045-022-30 ("subject property"). These parcels have been illegally subdivided and created without the benefit of a Coastal Development Permit ("CDP"). Accordingly, the subdivision and the creation of the parcels violate the Coastal Act.

"Development" is defined in section 30106 of the Coastal Act as follows:

"Development" means on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any

Exhibit 61
CCC-05-NOV-01
CCC-05-CD-03
(King)

materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreation use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations...(emphasis added)

Pursuant to the California Coastal Act, Public Resources Code 31000 *et seq.*, and pursuant to Santa Cruz County LCP, the subdivision of a property may not proceed unless the County or the Commission on appeal finds that it is consistent with the resource protection policies of the LCP and the County approves a CDP that imposes any necessary terms and conditions to mitigate the impacts of the development.

In 1979, the Coastal Commission issued CDP No. P-79-117 to Dr. John J. King for development on property that included the three subject parcels. CDP No. P-79-117 authorized a 21-unit condominium development, but did not authorize a subdivision creating the three subject parcels. The CDP only authorized creation of one parcel consisting of the condominiums ("the Trestle Beach parcel"), and another parcel consisting of the rest of the property. After the CDP was issued, you recorded a final map (Tract No. 781) that purported to create the Trestle Beach parcel and several additional parcels. The creation of these additional parcels was not authorized in CDP No. P-79-117, or any subsequently issued CDP. Following recordation of Tract No. 781, you requested and obtained from the County, recognition of the subject property as three separate lots identified as APNs 045-022-25, 045-022-27 and 045-022-30. The recognition and creation of these three separate lots was not authorized in CDP No. P-79-117, or in any subsequently issued CDP. You have responded that the three subject parcels were legally subdivided pursuant to the Subdivision Map Act and subsequent changes to the Subdivision Map Act as it pertains to remainder parcels, and have maintained that no CDP is required for the division of the remainder parcel. As we have noted in the past (as have various Santa Cruz County staff and the Santa Cruz County Counsel), although the parcels may comply with the Subdivision Map Act, they are not legally divided lots pursuant to the County LCP or the Coastal Act, because they were created without the benefit of a CDP where one is clearly required. For the parcels to be legal, they must meet both Subdivision Map Act and Coastal Act requirements. Furthermore, in *Ojavan Investors v. California Coastal Commission* (1997) 54 CA4th 373, 388, 62 CR2nd 803, 812, the California Supreme Court found that the "California Subdivision Map Act did not overrule the California Coastal Act; if anything the reverse is true."

As you are aware, there have been repeated attempts over the past seven years to resolve this violation administratively¹. In a letter dated June 18, 2004 and in a subsequent letter

¹ Staff letter to Dr. David Gelbart, Dr. & Mrs. King, Mr. & Mrs. Huang, Trestle Beach Home Owners' Association dated 4/27/98

dated November 22, 2004, Nancy Cave of my staff gave you another opportunity to attempt to resolve this violation by submitting a complete CDP application to Santa Cruz County to merge the illegally subdivided lots that you own into one parcel. By letter dated December 22, 2004, Ms. Kortiganer requested a one-month postponement so that the Kings could meet with Santa Cruz County in order to submit a CDP application to the County. That one-month postponement was granted allowing you until January 22, 2005 to submit a complete CDP application to Santa Cruz County.

We understand that your representative met with County staff on January 26, 2005 and presented a CDP application that was clearly inadequate. The County determined that the CDP application that was presented was so incomplete that the County could not accept it for consideration. For example, the CDP application did not include numerous technical reports that had been previously noted as being required, in previous correspondence regarding this matter. (A letter from your attorney to Commission staff dated July 30, 2004, mentioned that the County informed you that, among other things, a geologic report review, soils report review, preliminary grading review, and archeological site check were necessary.) Accordingly, you have not submitted a complete CDP application seeking to resolve this matter.

In letters to you dated June 18, 2004 and November 22, 2004, we indicated that if you did not submit such an application to the County within the timeframe allowed, that the Commission might commence action to record a Notice of Violation against the three subject parcels that you currently own, pursuant to section 30812 of the Coastal Act.

Notice of Violation

The Commission's authority to record a Notice of Violation is set forth in section 30812 of the Coastal Act which states the following:

Whenever the executive director of the commission has determined, based on substantial evidence, that real property has been developed in violation of this division, the executive director may cause a notification of intention to record a notice of violation to be mailed by regular and certified mail to the owner of the real property at issue, describing the real

Staff letter to Dr. David Gelbart, Dr. & Mrs. King, Mr. & Mrs. Huang, Trestle Beach Home Owners' Association dated 4/21/99

Staff letter to Mr. Jeffrey Barnett dated 8/5/99

Staff meeting with Richard Emigh & Dr. King on 10/6/99

Staff letter to Richard Emigh dated 11/23/99

County of Santa Cruz Planning Department letter to Richard Emigh dated 4/12/00

County of Santa Cruz Office of County Counsel letter to Richard Emigh dated 6/12/00

Staff letter to Dr. & Mrs. King dated 6/18/01

Staff letter to Dr. & Mrs. King dated 7/19/01

Staff meeting with Richard Emigh, Deborah Kortiganer & Santa Cruz County staff on 9/8/03

Staff letter to Dr. & Mrs. King and Deborah Kortiganer dated 6/18/04

Staff letter to Deborah Kortiganer dated 11/22/04

Letter from Deborah Kortiganer to Nancy Cave dated 12/22/04

Exhibit 61
CCC-05-NOV-01
CCC-05-CD-03
(King)

property, identifying the nature of the violation, naming the owners thereof, and stating that if the owner objects to the filing of a notice of violation, an opportunity will be given to the owner to present evidence on the issue of whether a violation has occurred.

We are issuing this Notice of Intent to record a Notice of Violation because, as discussed above, unpermitted development has occurred at the subject property, in violation of the Coastal Act. If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether or not a violation has occurred, you must respond in writing, within 20 days of the postmarked mailing of the notification. If, within 20 days of mailing of the notification, you fail to inform the Executive Director of the Commission of an objection to recording a Notice of Violation, the Executive Director will record the Notice of Violation in the Santa Cruz County Recorder's Office as provided for under section 30812 of the Coastal Act. If you do submit a timely objection to the proposed filing of the Notice of Violation, a public hearing will be held at the next regularly scheduled Commission meeting for which adequate public notice can be provided, at which you may present evidence to the Commission why the Notice of Violation should not be recorded. If, after the Commission has completed its hearing and you have been given the opportunity to present evidence, the Commission finds that, based on substantial evidence, a violation has occurred, the Executive Director will record the Notice of Violation in the office of the Santa Cruz County Recorder. If the Commission finds that no violation has occurred, the Executive Director will mail a clearance letter to you.

If you object to the recordation of a Notice of Violation in this matter and wish to present evidence on the issue of whether or not a violation has occurred, you must respond in writing, to the attention of Nancy Cave, no later than March 6, 2005.

Cease and Desist Order

The Commission's authority to issue Cease and Desist Orders is set forth in Section 30810(a) of the Coastal Act, which states the following:

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the Commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist. The order may also be issued to enforce any requirements of a certified local coastal program or port master plan, or any requirements of this division which are subject to the jurisdiction of the certified program or plan, under any of the following circumstances:

- (1) *The local government or port governing body requests the commission to assist with, or assume primary responsibility for, issuing a cease and desist order.*

Santa Cruz County has requested that the Commission assume primary responsibility for enforcing Coastal Act permit requirements for unpermitted lot creation on the subject property. I am issuing this Notice of Intent to commence Cease and Desist Order

Exhibit 61
CCC-05-NOV-01
CCC-05-CD-03
(King)
Page 4 of 6

proceedings because unpermitted development has occurred at the subject property. Commission staff previously notified you in letters dated April 27, 1998, April 21, 1999, June 18, 2001, July 19, 2001, June 18, 2004 and November 22, 2004 that you were in violation of the Coastal Act regarding the unpermitted subdivision, and gave you the opportunity to attempt to resolve this violation by submitting a complete CDP application to Santa Cruz County to merge the illegally subdivided lots that you own into one parcel. Despite these prior notice letters and our latest offer of resolution, you have failed to submit a complete CDP application with the County to merge the three lots still under your ownership. The Cease and Desist Order would order you to desist from further sale or transfer of the three lots identified as APNs: 045-022-25, 045-022-27 and 045-022-30, and would order to you merge the three lots into one lot.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you have the opportunity to respond to the Commission staff's allegations regarding the Notice of Intent to commence Cease and Desist Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's San Francisco office, directed to the attention of Nancy Cave, no later than March 6, 2005.**

The Commission staff is scheduling the hearing for the proposed Cease and Desist Order (and for the proposed recordation of a Notice of Violation in this matter, if you additionally request in writing a hearing on this issue) during the Commission meeting that is scheduled for April 12-15, 2005 in Santa Barbara. If you have any questions regarding this letter or the enforcement case, please call Nancy Cave at (415) 904-5290 or send correspondence to her attention at the address listed on the letterhead.

Sincerely,



PETER DOUGLAS
Executive Director

cc: Deborah Kortiganer, Esq.
Nancy Cave, Northern California Supervisor, Enforcement, Coastal Commission
Lisa Haage, Chief of Enforcement, Coastal Commission
Sandy Goldberg, Staff Counsel
Diane Landry, Central Coast Area Office Manager
Rahn Garcia, Santa Cruz County Counsel
Cathy Graves, Principal Planner, Santa Cruz County

Exhibit 61
CCC-05-NOV-01
CCC-05-CD-03
(King)

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400

STATEMENT OF DEFENSE FORM

DEPENDING ON THE OUTCOME OF FURTHER DISCUSSIONS THAT OCCUR WITH THE COMMISSION ENFORCEMENT STAFF AFTER YOU HAVE COMPLETED AND RETURNED THIS FORM, (FURTHER) ADMINISTRATIVE OR LEGAL ENFORCEMENT PROCEEDINGS MAY NEVERTHELESS BE INITIATED AGAINST YOU. IF THAT OCCURS, ANY STATEMENTS THAT YOU MAKE ON THIS FORM WILL BECOME PART OF THE ENFORCEMENT RECORD AND MAY BE USED AGAINST YOU.

YOU MAY WISH TO CONSULT WITH OR RETAIN AN ATTORNEY BEFORE COMPLETING THIS FORM OR OTHERWISE CONTACT THE COMMISSION ENFORCEMENT STAFF.

This form is accompanied by either a cease and desist order issued by the Executive Director or a notice of intent to initiate cease and desist order proceedings before the Coastal Commission. This document indicates that you are or may be responsible for, or in some way involved in, either a violation of the Coastal Act or a permit issued by the Commission. This form asks you to provide details about the (possible) violation, the responsible parties, the time and place the violation (may have) occurred, and other pertinent information about the (possible) violation.

This form also provides you the opportunity to respond to the (alleged) facts contained in the document, to raise any affirmative defenses that you believe apply, and to inform the staff of all facts that you believe may exonerate you of any legal responsibility for the (possible) violation or may mitigate your responsibility. You must also enclose with the completed statement of defense form copies of all written documents, such as letters, photographs, maps, drawings, etc. and written declarations under penalty of perjury that you want the commission to consider as part of this enforcement hearing.

You must complete the form (please use additional pages if necessary) and return it no later than March 6, 2005 to the Commission's enforcement staff at the following address:

Nancy Cave
Northern California Supervisor, Enforcement Program
California Coastal Commission
45 Fremont Street - Suite 2000
San Francisco, CA 94105-2219

If you have any questions, please contact Nancy Cave, at (415) 904-5290.

Exhibit 61
CCC-05-NOV-01
CCC-05-CD-03
(King)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



BY REGULAR AND CERTIFIED MAIL
Certified Mail No. 7002 3150 0004 3497 1435

February 18, 2005

John J. and Julia D. King
160 Los Reyes Road
La Selva Beach, CA 95076

Subject: Notification of Intent to Record a Notice of Violation
of the Coastal Act and to Commence Cease and
Desist Order Proceedings

Violation No.: V-3-98-007

Location: APNs: 045-022-25, 045-022-27, and 045-022-30

Violation Description: Unpermitted subdivision

Dear Dr. and Mrs. King:

On February 14, 2005, Peter Douglas, Executive Director of the Coastal Commission, sent you formal notice of his intent to proceed to record a Notice of Violation of the Coastal Act and to commence Cease and Desist Order proceedings for unpermitted development. I have enclosed a copy of that letter for your convenience.

Today our office received a returned copy of the letter as being undeliverable to the address to which it had been sent. I called your attorney, Deborah Kortiganer, to confirm that she had received the letter and to obtain your correct mailing address. Ms. Kortiganer confirmed that she had received the letter and also had left a message for your agent, Richard Emigh. She also gave me your current mailing address.

In light of our needing to resend our letter to you, I would like to revise the time deadlines for response that we previously gave you in our earlier letter. You will now have until **March 10, 2005**, to submit an objection to the recordation of a Notice of Violation and request a hearing before the Commission pursuant to section 30812 of the Coastal Act. Similarly, your completed Statement of Defense Form is also due no later than **March 10, 2005**, pursuant to section 30810 of the Act.

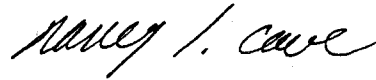
Exhibit 62
CCC-05-NOV-01
CCC-05-CD-03
(King)

John J. and Julia D. King
February 18, 2005

Page -2-

Please find enclosed, our earlier letter and a revised Statement of Defense Form with the new deadline date.

Sincerely,



Nancy L. Cave
Northern California Supervisor
Enforcement Program

Enclosure

cc: Deborah Kortiganer, Esq.
Lisa Haage, Chief of Enforcement, Coastal Commission
Sandy Goldberg, Staff Counsel
Diane Landry, Central Coast Area Office Manager
Rahn Garcia, Santa Cruz County Counsel
Cathy Graves, Principal Planner, Santa Cruz County

Exhibit 62
CCC-05-NOV-01
CCC-05-CD-03
(King)