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APPEAL STAFF REPORT SUBSTANTIAL ISSUE DETERMINATION

Appeal numberA-3-STC-08-003, Frederick Street Single Family Dwellings

ApplicantsPuffsky, LLC (Michelle Bensky and Christy Brandt)

AppellantsSeabright Neighbors Association; Frederick Street Irregulars; Patricia Matejcek

Local governmentCity of Santa Cruz

Local decisionApproved with conditions by the Santa Cruz City Council on December 11, 2007 (City Permit No. 06-078).

Project location170 Frederick Street, adjacent to Frederick Street Park and the Santa Cruz Harbor on the east side of the City of Santa Cruz in Santa Cruz County (APN 011-141-60).

Project descriptionNine lot subdivision and construction of nine single-family residences and three accessory dwelling units.

File documents.....City of Santa Cruz Local Permit File No. 06-078; Coastal Act; City of Santa Cruz certified Local Coastal Program.

Staff recommendation ...**No Substantial Issue**

A. Staff Recommendation

1. Summary of Staff Recommendation

On December 11, 2007, the Santa Cruz City Council approved a Coastal Development Permit (CDP) for a nine-lot subdivision residential project, nine single-family dwelling units and related utilities on a 53,039 square foot parcel located adjacent to Frederick Street Park and above the Santa Cruz Harbor in the City of Santa Cruz. The appeals of this decision contend that the City-approved project violates LCP requirements in a number of issue areas, including: 1) public access; 2) coastal views; 3) geological hazards; 4) drainage; 5) creek setbacks; 6) parks and recreation uses; 7) community character, and; 8) Planned Development (PD) requirements.

Although the appeals raise valid issues, these issues are not substantial. Thus, staff recommends that the Commission find that no substantial issue exists with respect to the grounds on which the appeals were



filed, and that the Commission decline to take jurisdiction over the coastal development permit for the project.

2. Staff Recommendation on Substantial Issue

Staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the City’s decision in this matter would be final (conversely, a finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action).

Motion. I move that the Commission determine that Appeal Number A-3-STC-08-003 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation of No Substantial Issue. Staff recommends a **yes** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-STC-08-003 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

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Exhibits

- Exhibit 1: Project Location Maps
- Exhibit 2: Photographs of Project Site and Surrounding Neighborhood
- Exhibit 3: Project Plans
- Exhibit 4: Visual Simulations of City-Approved Project
- Exhibit 5: City of Santa Cruz Adopted Staff Report, Findings and Conditions
- Exhibit 6: Appeal of the Seabright Neighbors Association
- Exhibit 7: Appeal of the Frederick Street Irregulars
- Exhibit 8: Appeal of Patricia Matejcek
- Exhibit 9: Cited Coastal Act, LCP Policies and Zoning Ordinance Sections
- Exhibit 10: Project’s Geotechnical Report
- Exhibit 11: Hydrology Report Submitted by the Appellants
- Exhibit 12: Letter from City Parks and Recreation Department Director
- Exhibit 13: Supplemental Appellant Materials

B. Findings and Declarations

The Commission finds and declares as follows:

1. Project Background and Local Government Action

On April 6, 2006 the applicants submitted an application to the City of Santa Cruz Planning Department for a Planned Unit Development, including coastal and design permits and a tentative subdivision map, to create ten lots for six single-family homes, each with an accessory dwelling unit, and four townhouse units on a 53,039 square foot parcel in the R-1-5 zoning district. On September 21, 2006 the City’s Planning Commission conducted a public hearing on the proposed project. This hearing was continued with direction to the applicants to redesign and scale down the project due to community and neighborhood concerns regarding the proposed project. On October 5, 2006, the Planning Commission reopened the public hearing and after considering revised plans from the applicants and additional public testimony, voted four to three to recommend that the City Council deny the application because the Planning Commission deemed the project’s density too high; its lot sizes too small; the number of accessory dwelling units too high; the reduction in size of a deeded easement unwarranted; and the proposed townhouses in the R-1-5 zoning district inappropriate. The Planning Commission’s decision was appealed to the City Council. The City Council scheduled a hearing for the project on December 12, 2006 but continued this hearing to January 23, 2007. However, on January 9, 2007, the applicants submitted a written request to continue the item indefinitely. On January 23, 2007 the City Council approved the request for a continuance to a date uncertain to allow for preparation of an Initial Environmental Study and to allow for continued work with the neighborhood regarding design issues



and the potential purchase of the property so it could be added to adjacent Frederick Street Park.

In response to Planning Commission and neighborhood concerns, the applicants modified the project plans and details to reduce the project to nine detached single-family residences and three accessory dwelling units. On December 11, 2007 the Santa Cruz City Council adopted a Mitigated Negative Declaration for the project, and approved a coastal development permit, a planned development permit, design permits, and a tentative subdivision map for the project, subject to conditions of approval. See Exhibit #5 for the City Council's adopted staff report, findings, and conditions.

Notice of the City's final action was received in the Commission's Central Coast office on December 21, 2007. Three valid appeals were received prior to the end of the Commission's 10-working-day appeal period on January 8, 2008 (see below).

2. Appeal Procedures

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

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

The only persons qualified to testify before the Commission on the substantial issue question are the



applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Summary of Appellants' Contentions

1. Appeal of Seabright Neighbors Association

The Seabright Neighbors Association contends that the City-approved project is inconsistent with the City's LCP in a number of issue areas, including with respect to: 1) coastal views; 2) geological hazards; 3) drainage; 4) public access; 5) neighborhood compatibility, and; 6) violation of planned development (PD) rules, including PD height variation requirements. Please see Exhibit #6 for the full text of the Seabright Neighbors Association appeal.

2. Appeal of Frederick Street Irregulars

The Frederick Street Irregulars contend that the City-approved project is inconsistent with LCP policies that protect public views and promote pedestrian and bicycle access within the City. The appellants also contend the project does not provide a public benefit as required by the LCP's PD (Planned Development) process. Also, the appellants contend that the approved project will prevent the much-needed addition of one acre to Frederick Street Park. Please see Exhibit #7 for the full text of the Frederick Street Irregulars' appeal.

3. Appeal of Patricia Matejcek

Patricia Matejcek contends that the City-approved project will cause a severe reduction in public access in the bluff area above the Santa Cruz Harbor due to the project's reduction of a publicly owned right-of-way. Ms. Matejcek also contends that the residential parking for the approved project will increase the amount of polluted runoff in the area, and that the approved project is inconsistent with the long-term goals and recommended setbacks of the LCP's Citywide Creeks and Wetlands Plan. Please see Exhibit #8 for the full text of Ms. Matejcek's appeal.

D. City-Approved Project Location and Description

The project site is located approximately 3/5 of a mile from the ocean, and directly north of the City's 5-acre Frederick Street Park. Residential uses are located to the west and to the north of the project site, and south of Frederick Street Park. The Santa Cruz Harbor is located directly east of the project site. The City-owned Arana Gulch open space property (about 67 acres) is located northeast of the project site. Please see Exhibit #1 for project location maps.

The site is currently development with two church buildings that are located on the portion of the site that is closest to Frederick Street. Paved parking surrounds these two church buildings. The site's



neighborhood consists of a mixture of residential buildings of various architectural styles and the dominant presence of the park itself. In general, newer residential projects located south of Frederick Street Park have a greater density than those located north of the park. The parcel is designated in the LCP as Low-Density Residential (1.1 – 10 units/acre) and zoned R-1-5 (single-family residential, 5,000 square foot minimum lot size). See Exhibit #2 for photographs of the project site.

The City-approved project includes subdivision of the parcel into nine lots and construction of nine detached single family dwellings (six three-bedroom homes and three two-bedroom homes) and three one-bedroom accessory dwelling units (ADUs) located above the garages. One of the ADUs will be dedicated as a low to very low income unit; a second ADU will be dedicated as an affordable unit at the moderate income level. Access to all of the proposed homes will be provided via a driveway extending along the northern site perimeter from Frederick Street. The project also includes typical residential utility connections and includes drainage facilities. An existing 12-foot-wide public easement along the southern site boundary with the park would be reduced to 7 feet in width¹ and a public path would be constructed in the easement. An existing public accessway from Harbor Drive to the park would be put into a public easement and through-access maintained. Please see Exhibit #3 for project plans.

E. Substantial Issue Determination

1. Public Access

a. Appellants' Contentions

The appellants contend that the City-approved project will impact pedestrian and bicycle public access from Frederick Street Park to the Santa Cruz Harbor, the adjacent Arana Gulch open space area, and other public access points (see Exhibits #6-8 for the appellants' contentions). Specifically, the appellants contend that the approved reduction in width of an existing 12-foot-wide easement, which is located on the site's southern property line, will mean that the reduced width of the easement will not be adequate to accommodate multiuse access safely. Additionally, the appellants contend that the full 12-foot-width of this easement should be maintained to provide an alternative land area to be used if the City-approved Arana Gulch paved path is not approved by the Commission in the future, or if the City cannot obtain the additional funding needed for its construction and an alternative path alignment is required. Also, the Frederick Street Irregulars submitted supplemental appeal materials (see Exhibit #13) providing anecdotal evidence contending that there has been long-term public use of the easement that could be termed a prescriptive right. The appellants cite a number of Coastal Act, LCP, and certified Santa Cruz Harbor Development Plan (also part of the LCP) policies that provide for public access in the City of Santa Cruz and in the Frederick Street and Santa Cruz Harbor areas in particular to

¹City planning staff's original recommendation was for a 4-foot-wide path and an adjoining 3-foot-wide bioswale in the easement area. The City Council required that the path be enlarged to a minimum of 7-feet in width. The revised site plan (see page 1 of Exhibit #3) includes a 7-foot-wide public path in the easement area. However, the drainage in this area will now be located underground.



support their contentions (see Exhibit #9 for these policies).² The public access policies cited by the appellants require maintenance and enhancement of pedestrian and bicycle access through the City in general, and require the provision of pedestrian and bicycle linkages to the Arana Gulch area via the Santa Cruz Harbor in particular.

b. Substantial Issue Analysis

As previously described, a 12-foot-wide easement exists along the southern property line, adjacent to Frederick Street Park. The original purpose of this easement was to provide ingress and egress through the church property to an adjoining landlocked parcel that did not have adequate access (see page 1 of Exhibit #2 for a photograph of the project site and the easement area; see Exhibit #7 pages 8-11 for a map of the easement and for the recorded easement document). This privately-created easement ascended to City ownership in June 1975 and a skateboarding area is now located on what was once the landlocked parcel. This easement has allowed for City park maintenance vehicles to access Frederick Street Park without going through the park proper. The easement is located over an existing driveway (blocked by a gate) and parking lot area on the site, and terminates in an unpaved area near the bluff edge adjacent to the Santa Cruz Harbor. Over time, some members of the public have used this easement as a shortcut through the church property to the park, although a paved public pathway into the park is located on park property about 25 feet south of this easement (see page 2 of Exhibit #2 for a photograph of this path). Once in the park, the public can descend stairs to the adjacent Harbor, which provides a connection to the Arana Gulch open space area roughly 1000 feet to the north.

Currently, the 12-foot-wide easement is not developed as a public pathway to the park but consists of a driveway, a parking area, and an unpaved area, as shown on page 1 of Exhibit #2. As previously described, the 12-foot-wide easement would be reduced to 7 feet in width. As shown on page 1 of Exhibit #3, the City-approved project also includes construction of a minimum 7-foot-wide paved public pathway along the property line in the reduced easement area. A new vehicular easement, for park maintenance vehicles, will be provided through the project's driveway and then along the Harbor Drive public easement (connecting from Harbor Drive through the site) to the park. The existing paved public pathway that is located on park property approximately 25 feet south of the projects site's property line that leads from Frederick Street into the park will not be affected or altered by the proposed project.

The appellants contend that reduction of the 12-foot-wide easement to 7 feet in width will negatively impact public access into and through the park. The existing easement, however, is located over a paved and gated driveway that provides access to the church. Although neighboring residents have been using this easement area as a shortcut into the park, the easement area is not currently developed for general public access and does not appear to be available for public use, i.e. the easement area appears to be private church property. Although 5 feet of width of the existing easement area will be used for private development (i.e., front yard fencing and landscaping) as part of the project, the remaining 7-foot-wide

² Specifically, in addition to Coastal Act Public Access and Recreation policies, the appellants cite the following LCP policies and zoning ordinance section regarding public access: Santa Cruz Harbor Development Policies 4.10 and 4.12; LCP Land Use Element Policies 2.2.7, 3.5, 3.5.2, 3.5.5, 5.6, 5.6.2; LCP Parks and Recreation Element Policies 1.7.1, 1.7.7, 4.2, 4.2.2, 4.2.3; LCP Community Design Element Policy 3.7; and Zoning Ordinance Section 24.10.2430(4). See Exhibit #9 for these policies and zoning ordinance section.



portion of this easement will be clearly developed for use as a public path into the park. In addition, a new vehicular easement for park maintenance will be provided through the site and the existing Harbor Drive public path to the park will remain. The new 7-foot-wide public path will be located about 25 feet from another paved path that leads into the park. Together, these public paths will provide for more-than-adequate access into the park.

Although there is a valid argument to be made that all of the easement should be kept and used to provide access to and through the park as a matter of public policy (i.e., keeping all of this land available for public uses), there is little doubt that the new pathway that would be constructed in the easement area, in tandem with the existing park pathway located 25 feet to the south, would provide ample access for a variety of users to and through the park. In addition, the new pathway would provide what is essentially a new accessway into the park inasmuch as the existing easement is unsigned, gated, and for all intents and purposes appears to be private property where the public is not welcome. In that sense, access to and through the park is actually enhanced by the project. Although it is certainly a matter of degree (7 feet of path as approved by the City versus up to 12 feet of path if developed for park access to the fullest extent), and aesthetics to a certain extent (i.e., a 12-foot-wide area provides more space within which to site and design a path that may be curvilinear and include plantings, lighting, design elements, etc., including plantings between the path and any front yard fencing to help soften the appearance of fencing and provide an effective transition), the project does provide some public access enhancement in this respect. A wider area tends to be better than a narrower area, and the appellants raise a valid issue, but it does not rise to the level of a substantial issue requiring Commission intervention. For these reasons, the reduction in width of the easement from 12 feet to 7 feet does not raise a substantial issue with respect to the project's consistency with the public access and recreation policies of the Coastal Act and the certified LCP.

The appellants also contend that the full 12-foot-width of the easement should be maintained to provide an alternative if the City-approved Arana Gulch paved path is not approved by the Commission in the future, or if the City cannot obtain the additional funding needed for its construction.³ The southern edge of the City-approved 7-foot-wide public access path is located directly on the property line between the applicant's parcel and the park (see page 1 of Exhibit #3 for the site plan). If, in the future, an alternative to the currently proposed Arana Gulch paved path is necessary, there is room on the immediately adjacent park property to allow expansion of the paved path onto park property to allow for development of a multiuse path (i.e., a portion of the paved multiuse path would be on the applicant's property, and a portion would be located on park property). In some ways, such an alignment would be preferred inasmuch as there would be a separate path for the Arana Gulch path alternative that could be separated from the existing path through the park. In any case, it is speculative at this time whether any part of Frederick Street Park or the 12-foot easement area would be needed in this respect. Perhaps more importantly, should the Arana Gulch path project shift to this area, there is ample space within

³ The City has prepared a Master Plan for Arana Gulch, which includes a multiuse bicycle/pedestrian path proposed to traverse the Arana Gulch open space area and provide a connection between Live Oak and the City. The Master Plan will require Commission approval. The proposed multiuse path has the potential to impact sensitive species and thus a number of alternative routes for the multiuse path have been proposed over the years, including use of Frederick Street Park to provide an east-west connection via the Santa Cruz Harbor road system.



which to account for through path connections that will not adversely impact park use with the 7-foot-wide easement and path as approved by the City.

Finally, the appellants have provided additional correspondence regarding long-term public use of the easement, which includes letters from long-time residents of the Frederick Street neighborhood describing their use of the easement area over the years (see Exhibit #13). These letters provide some anecdotal evidence of public use of the easement area over time. However, this correspondence does not somehow confer a prescriptive right of use to this easement area, including because only a court of law can establish the existence of a prescriptive easement right through implied dedication. More importantly, perhaps, it is undisputed that there exists a public right of access across the 12-foot area in question. Of this, there is little doubt. Even were there to be an implied dedication through a court of law (which there is not), this would not alter the fundamental public access analysis here. The City's approval recognizes this existing use, improving on it by providing a 7-foot-wide formalized path in this area.

In sum, the appellants raise valid concerns with respect to existing and potential future access path and park needs, but the project as approved adequately accounts for these needs and the issues do not rise to the level of substantial issue with respect to the project's conformance with the public access and recreation policies of the Coastal Act and the certified LCP.

2. Coastal Views

a. Appellants' Contentions

The Seabright Neighbors Association and the Frederick Street Irregulars contend that the City-approved project will impact a public view from Frederick Street Park toward the Santa Cruz Harbor, the Arana Gulch open space area, and the nearby Santa Cruz Mountains (see Exhibits #6 and #7 for the appellants' contentions). The appellants cite a number of LCP policies that protect public views in the City of Santa Cruz to support their contentions (see Exhibit #9 for these policies).⁴

b. Substantial Issue Analysis

From the northeastern portion of Frederick Street Park, there is a view inland toward the Santa Cruz Harbor, the Arana Gulch open space area, and the Santa Cruz Mountains. Some of this view is already blocked by existing trees that will be retained by the project (see page 3 of Exhibit #2 for a photograph of this view). Development of lots #8 and #9 of the City-approved project will block much of this view from a portion of the park (see page 1 of Exhibit #3 for the site plan). This is tempered somewhat because this view constitutes an inland peak-a-boo view currently and because development on Lot #9

⁴ Specifically, the appellants cite the following LCP policies/zoning ordinance sections regarding public views: Land Use Element Policies 1.6, 2.2.7, 3.3, 3.3.1, 3.3.2, 3.3.4, 3.5.1; Community Design Element Policies 1.4, 2.1, 2.1.3, 2.1.5, 2.2, 2.2.1, 2.2.2, 3.4; zoning ordinance sections 24.10.2420, 24.10.2430, 24.10.2400, and 24.08.430. See Exhibit #9 for these LCP policies and zoning ordinance sections.



includes low decking, as opposed to tall structures, on the eastern side of this view area (see pages 10-13 of Exhibit #3 for the Lot #9 site plan and elevations).

The LCP is structured whereby coastal views are protected in general. Past this general protection, the LCP then identifies, including by mapping, specific viewsheds that are of greater significance (e.g., West Cliff Drive) and provides an additional level of protection for these viewsheds. In this case, the view in question is not designated as one of these more significant views in the City's LCP. Although the City's findings are somewhat dismissive of this issue, the City did require some modifications to the proposed residence on Lot #9 in order to maximize retention of as much of this view as possible (see page 1 of Exhibit #5 for the required modifications). More importantly, although this view has some localized neighborhood importance, it does not constitute a particularly important or significant scenic view within the City of Santa Cruz in particular or within the State of California as a whole. This view helps provide an ambiance and connection from the park to these more inland areas, but it is not critical that it be retained in whole. The project as approved will still provide some of the same peek-a-boo views as before to the inland areas, and essentially all of the park view to the Harbor. So although the appellants raise a valid issue, it does not rise to the level of a substantial issue with respect to the project's conformance with the view protection policies of the certified LCP that would require Commission intervention in this case.

3. Geology and Drainage

a. Appellants' Contentions

The Seabright Neighbors Association contends that a geological report is required for the project by the LCP, that it was not prepared, and that the approved project may lead to failure of the slope on the eastern side of the project site. Appellant Patricia Matejcek contends that the City-approved project will increase runoff, and also will increase pollution due to residential parking on the project site (see Exhibits #6 and #8 for the appellants' contentions; see Exhibit #10 for the project's geotechnical investigation; see Exhibit #11 for a letter from the appellants' retained hydrologist/geo-morphologist). The Seabright Neighbors Association cites a number of LCP policies and Zoning Ordinance Sections regarding development in hazardous areas to support their contentions (see Exhibit #6 for these policies).⁵

b. Substantial Issue Analysis

The project site is located within a developed residential neighborhood. The site is relatively flat, except for the eastern edge of the site that contains a steep slope (30%+) down to the Santa Cruz Harbor. No development or landscaping is proposed for this slope. All residential structures are set back a minimum of 20 feet from the edge of the top of the slope, in accordance with Environmental Quality Policy 3.2.3 of the City's LCP, which generally requires a minimum 20-foot setback, which can be

⁵ Specifically, the appellants cite the following LCP policies/zoning ordinance sections regarding hazards: Safety Element Policies 1.2 and 1.2.2; zoning ordinance sections 24.14.030, 24.10.2430A(2)(b), and 24.10.2430(e). See Exhibit #9 for these LCP policies and zoning ordinance sections.



reduced to 10 feet (see page 4 of Exhibit #9 for this policy). The deck on Lot #9 and some parking are located approximately 10 feet from the top edge of the slope as allowed by this policy (see page 1 of Exhibit #3). The City-approved development includes installation of a 5-foot-deep, 3-foot-wide and 100-foot long rock-filled trench to be located ten feet from the top edge of the slope. The purpose of this trench is to allow stormwater runoff from the eastern portion of the site to percolate and dissipate into the subsurface area of the slope.

The Seabright Neighbors Association contends that a geologic report, as opposed to a geologic investigation, is required, in part because of the presence of a coastal bluff. This contention is based on the premise that a “report” would provide more appropriate information than an “investigation” and is necessary to make a decision here. The City’s LCP is somewhat unclear with respect to the difference between a “report” and an “investigation,” and the terms are not well differentiated. The Commission’s staff geologist further indicates such terms are often interchangeable. More importantly, the project was evaluated with respect to potential geologic hazards. The Commission’s staff geologist has evaluated this material and determined that the geologic investigation provided the type of information necessary to evaluate and respond to geologic hazards for this site. Thus, although a valid procedural question is raised with respect to whether a “report” or an “investigation” is required, this is not a substantial issue and it is really immaterial to this case because the information necessary to make a decision here is part of the record.

The appellants contend that the City-approved project may lead to failure of the slope on the eastern side of the project site. The geotechnical investigation prepared for the project did not find any evidence of slope instability in this area of the project site. This is additionally supported by the fact that the slope is heavily vegetated with trees and thick shrubs. Also, the Commission’s staff geologist reviewed the geotechnical investigation report and determined that allowing percolation of stormwater through the trench near the top of the slope is a reasonable way to handle runoff in this area because the water will percolate well into the sandy soils that make up the bluff, and it is unlikely that this subsurface water would perch on an impermeable slope surface and cause erosion problems. The Commission’s staff geologist also stated that the location of the trench will prevent stormwater from running down the surface of the slope, which is much more problematic in terms of erosion than subsurface percolation in sandy soils.

The geotechnical investigation found the proposed redevelopment of the project site to be feasible provided the recommendations in the report are closely followed during design and construction of the project. These recommendations include a minimum residential structure setback of 20 feet from the top of the slope. As noted above, all residential structures are set back a minimum of 20 feet from the edge of the top of the slope in accordance with the City’s LCP. The project does include some decking and parking at the 10-foot setback, but the geologic investigation and the LCP allow for this. The Commission’s staff geologist has evaluated the geotechnical information and the City-approved project site plan and concluded that the project has been sited and designed in such a way as to be geologically safe as required by the LCP. In addition, the City conditioned the project to include an engineered drainage plan that requires: 1) that post-project runoff does not exceed pre-project levels; 2) all downspouts be directed away from the slope to the City street or through bioswales or other best



management practices facilities for handling; 3) submission of an erosion control plan prior to grading, and; 4) implementation of the recommendations of the project's geotechnical report (see pages 21 to 28 of Exhibit #5 for the City's conditions on the project). To address polluted runoff, the City also conditioned the project to require installation of oil and grease traps and implementation of best management practices during construction to minimize polluted runoff.

In sum, the appellants raise valid issues with respect to geology and drainage, but the record indicates that the project has addressed and resolved relevant geologic stability and drainage questions as required by the LCP. Thus, and given all the above, the appellants' contentions do not raise a substantial issue with respect to the project's conformance with the safety and drainage policies of the certified LCP.

4. Creek Setback

a. Appellant's Contentions

Appellant Patricia Matejcek contends that the City-approved project violates five of the six stated long-term goals of the Citywide Creeks and Wetlands Plan (Plan) as well as the Plan's required setback from reach #1 of the Hagemann Gulch watercourse. See Exhibit #8 for Ms. Matejcek's contentions.

b. Substantial Issue Analysis

The Commission adopted the Citywide Creeks and Wetlands Management Plan (Plan) as part of the City's LCP in October 2007, with modifications (none of the modifications affected reach #1 of the Hagemann Gulch watercourse). On March 11, 2008, the Santa Cruz City Council adopted the Commission's suggested modifications. A second reading of this item by the City Council will take place during late March or early April 2008. The City will then submit its resolution of adoption to the Commission shortly after the second reading, for final certification review.

Though not yet part of the certified LCP, two of the primary purposes of the Plan are to identify and map the watercourses and known wetlands within city limits, and identify appropriate development setbacks based on an evaluation of habitat, stream, and land use characteristics of individual watercourses and wetlands. The six stated goals of the Plan are:

- Protect and enhance the existing natural resources of the watercourses and wetlands within the City;
- Recognize the presence of existing land uses that are consistent with current land use designations
- Protect and improve water quality in the City's watercourses and wetlands;
- Protect and restore existing vegetated watercourses as wildlife movement corridors;
- Evaluate existing and/or potential resource values of the watercourse and wetland habitats and



the type of land uses that exist and/or are expected under current zoning; and

- Provide incentives to landowners to improve the natural qualities of the City's watercourses and wetland areas.

Reach #1 of Hagemann Gulch is located northeast of the project site. Hagemann Gulch is an intermittent drainage that is a tributary to Arana Gulch Creek, and which empties into the upper Santa Cruz Harbor. The Plan requires a minimum development setback of 60 feet, measured from the centerline of this reach of creek, and applies a 25-foot "management area" at the edge of the setback area. The management area includes the riparian corridor, the development setback area, and an additional 25 feet outward from the edge of the development setback. New development is allowed in the area between the management area boundary and the development setback area, subject to review and approval of a watercourse development permit by the City. Any proposed development outside of the management area is not subject to watercourse regulations.

The northeastern corner of the project site is located within the identified management area for this creek. However, the small portion of the site located within the management area of the creek is part of the slope that descends into the Harbor. No development, landscaping, or disturbance is planned in this area. All development in the City-approved project is located well outside of the required 60-foot development setback area, consistent with the setback requirements of the Plan and there are not any management area standards that would be triggered or required with this project. As such, the City-approved project will not result in impacts to riparian or wetland areas, nor does the approved project conflict with any of the above-stated goals of the Plan. Therefore, even were the Plan to be currently fully certified, the appellant's contentions do not raise a substantial issue with respect to the project's conformance with the LCP's policies regarding protection of creeks and wetlands.

5. Parks and Recreation

a. Appellant's Contentions

The Frederick Street Irregulars contend that the City-approved project is inconsistent with the LCP regarding the maintenance of adequate parkland within the City. This appellant also contends that the parcel approved for development represents an opportunity to mitigate a stated deficit of parkland within the City by public purchase of the project site for inclusion into Frederick Street Park. Please see Exhibit #7 for the appellant's contentions. The appellant cites a number of LCP policies regarding parks and recreation uses and requirements to support these contentions (see Exhibit #9 for these policies).⁶

b. Substantial Issue Analysis

The LCP requires the maintenance of existing parkland and that the amount of land dedicated to neighborhood and community parks is adjusted upward with population growth. The project site is

⁶ Specifically, the appellant cites the following LCP policies regarding parks and recreation uses: Land Use Element Policies 3.5, 3.6, 5.6.5.6.2; Parks and Recreation Element Policies 1.2, 1.2.2, 1.7.7, and 1.8.1. Please see Exhibit #9 for these policies.



located directly adjacent to Frederick Street Park, a five-acre park that includes amenities such as fields, playground areas, volleyball courts, and picnic and barbecue areas. The size of the park will not be reduced nor will any of the park's amenities be eliminated due to development of the City-approved project. In fact, the project includes some improvements that represent park facility enhancements (new pathways along the easement area and connecting through the Harbor Drive accessway; new maintenance access through the site – see Public Access finding above). The appellant advocates purchase of the project site for expansion of Frederick Street Park. However, the Director of the City's Parks and Recreation Department (Department) has stated that the Department does not have funding available for the purchase, development, and maintenance of the site as a park addition (see Exhibit #12). Also, although interested members of the public and neighbors have made efforts to gain funding to purchase and maintain the project site as a park, these efforts have not been successful to date. Although an expansion of park recreational facilities onto the project site would be preferable to residential development from a parks' supply perspective, there are no LCP policies requiring same. While the Commission would support an alternative that expanded the park, this is not required for LCP conformance. For all the reasons stated above, the appellant's contentions do not raise a substantial issue with respect to the project's conformance with the LCP's parks and recreation policies.

6. Community Character

a. Appellant's Contentions

The Seabright Neighbors Association contends that the City-approved project is incompatible with the character of the surrounding area and that the project will have a detrimental impact on Frederick Street Park, which is designated as a City landmark. Please see Exhibit #6 for the appellant's contentions. The appellant cites a number of LCP policies regarding community character to support these contentions (see Exhibit #9 for these policies).⁷

b. Substantial Issue Analysis

The City's LCP requires that development be compatible with the character of the area, and that infill development be consistent with existing neighborhoods. The neighborhood surrounding the project site is characterized by a mix of single-family and multi-family residential development with a mix of one to three-story building heights, and a variety of unit sizes, densities, and architectural styles. Newer developments to the south and west of Frederick Street Park (which is directly adjacent to the project site) are taller and denser than those to the north. These include a number of larger, higher density condominium projects that have been constructed in the last 20 years. See pages 4-6 of Exhibit #2 for photographs of residential development in the immediate vicinity of the project site and the park.

The proposed development includes nine single-family residences, three of which will have an accessory dwelling unit located over the garage. Building heights will range from 26 to 28 feet,

⁷ Specifically, the appellant cites the following LCP policies and zoning ordinance sections regarding community character: Community Design Element Policies 1.1, 2.2.1, and 3.5; zoning ordinance sections 24.10.300, 24.10.2430, 24.08.440, and 24.08.450. Please see Exhibit #9 for these policies and zoning ordinance sections.



consistent with the heights of nearby residential development. The design of the homes will incorporate Craftsman style elements (as shown in the visual simulations of the project in Exhibit #4), similar to existing residences in the neighborhood. The 8.8 units/acre density of the development is consistent with the site's low-density residential land use designation (1.1 – 10 units/acre; per the City's zoning ordinance, accessory dwelling units are not counted toward density). The City-approved project represents appropriately designed residential infill development within an established single-family and multi-family residential neighborhood. The approved development is less dense than other existing residential development located south and west of Frederick Street Park and thus will not have a detrimental impact on this City landmark. It is true that the project will bring residential development closer to the park on its northern boundary, but such development is not inconsistent with the character of the area. Thus, although the appellant raises a valid issue, it does not rise to the level of a substantial issue requiring Commission intervention with respect to the project's conformance with the LCP's policies regarding community character.

7. Planned Development

a. Appellant's Contentions

The Seabright Neighbors Association contends that the City-approved project violates the LCP's Planned Development regulations (see Exhibit #6 for these contentions). Specifically, the appellant contends that the project does not provide adequate benefits to the public, as required by the certified Planned Development ordinance. The appellant also contends that the project will worsen traffic, cause parking impacts, and will "box in" Frederick Street Park. A number of the contentions raised by the appellant regarding the Planned Development component of the project (i.e. public access and recreational impacts; design, scale, and community character issues) have been addressed in previous sections of this staff report. The appellant cites a number of Zoning Ordinance Sections regarding Planned Development to support these contentions (see Exhibit #9 for these policies).⁸

b. Substantial Issue Analysis

The purpose of the Planned Development permit is to foster development plans for eligible lands that will serve public objectives more fully than development plans permitted under conventional zoning regulations. Planned development permits may only be issued where the subject parcel is large enough to make innovative and creative site planning possible. In this case, the project site is relatively large (1.22 acres, with 1.02 acres being developable), especially considering that most parcels in the neighboring area are in the 5,000 square foot range or have been subdivided into condominium uses. Thus, the parcel is large enough to qualify for a Planned Development permit.

The Planned Development permit allows for variations to district regulations regarding a number of items, including but not limited to lot area, building setbacks, and height. The City-approved project

⁸ Specifically, the appellant cites the following zoning ordinance sections regarding Planned Development: 24.08.710, 24.08.720, 24.10.300, and 24.10.351.2. Please see Exhibit #9 for these zoning ordinance sections.



includes a number of planned variations to underlying district regulations. Lots 1, 2, and 3 have variations regarding lot area, front yard encroachments, and lot width (see page 5 of Exhibit #5 for a more detailed analysis of these variations). Additionally, the height of the approved homes (26 to 28 feet) is taller than the maximum 22 feet allowed under the R-1-5 zoning district regulations; however, under the Planned Development permit, this is an acceptable height variance. The issuance of a Planned Development permit on this relatively large parcel will allow for appropriate residential infill development in this heavily urbanized area of the City. The project will benefit the public by construction of a formalized and dedicated 7-foot public pathway along the southern property line for access into Frederick Street Park, recognition and improvement of a public path from Harbor Drive through the site and to the park, and a new vehicular access easement on the northern portion of the site to provide for park maintenance vehicle access. In addition, the project provides two affordable housing units (one very-low to low-income unit and one moderate-income unit). Thus, the City-approved project provides public benefits as required by the Planned Development regulations. It is a matter of opinion as to whether it provides “enough” public benefits. In this case, the Commission believes that the City has identified sufficient benefits to meet the LCP’s requirements in this respect.

Regarding the appellant’s contentions pertaining to parking and traffic impacts, the City-approved project meets all required onsite residential parking standards. Although the project will result in some increased traffic in the area, the project will not change the Level of Service (LOS) at any of the intersections in the vicinity. Even so, the City conditioned its approval to require the applicant to pay a project traffic impact fee (see page 1 of Exhibit #5 for this requirement).

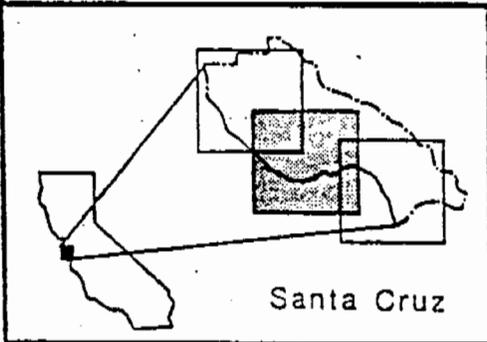
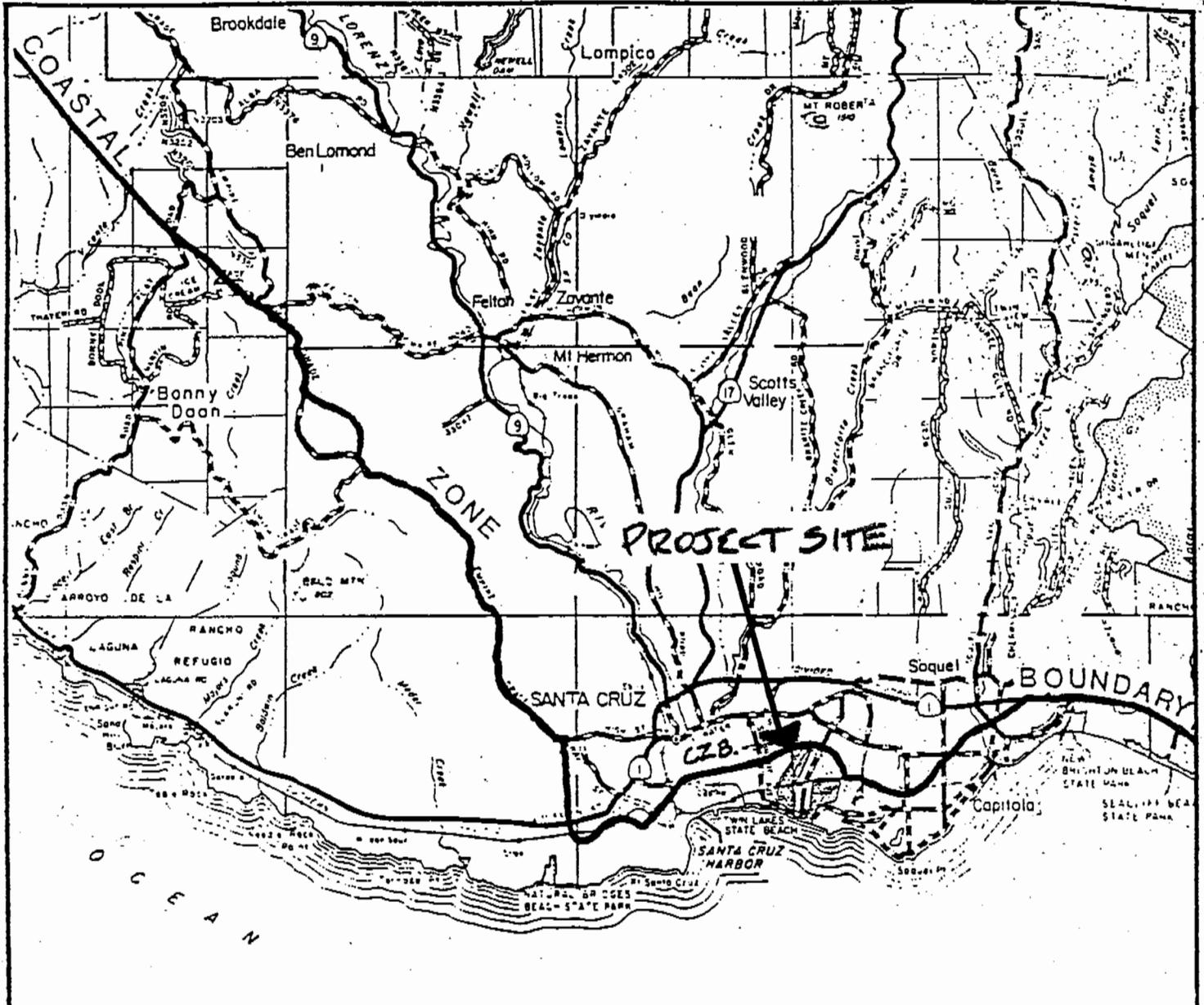
In terms of the contention that the project will “box in” Frederick Street Park, the City-approved project will be located along the northern edge of the park. However, the houses themselves are set back 15 feet from the park. In addition, the public access path and landscaping will be located in the area of the project site that is directly adjacent to the park, thus providing some additional separate and transition (see page 1 of Exhibit #3). In other words, the public access easement and landscaping will provide some buffer between the park and the residential uses on the project site. Also, the western edge of the park is open to Frederick Street and the eastern edge of the park is open to the slope that descends down to the Santa Cruz Harbor. Thus, even with the City-approved development, the eastern and western borders of the park will remain “open.” Moreover, the park is already confined to a certain degree by residential development on two sides, and the additional development will not significantly alter that. While there will certainly be more development along the park’s northern edge, it will not degrade the park inconsistent with the LCP.

In summary, the relatively large parcel size qualifies the project site for a Planned Development permit. Development of the site will provide appropriate infill residential development in this urbanized area of the City. Also, the City-approved project provides public access and affordable housing components that will provide benefits to the public, as required by the certified Planned Development ordinance. Additionally, the City-approved variances for the project regarding lot area, front yard encroachments, lot width, and height are allowable under the LCP’s Planned Development regulations. Furthermore, the City-approved project meets the LCP’s parking requirements, and additional traffic created by the project will not change the LOS at nearby intersections. Finally, development of the project will not



“box” in the Frederick Street Park to such a significant degree as to require a more narrow reading of the Planned Development regulations. Therefore, although the appellant raises valid issues regarding Planned Development conformance, this issue does not raise to the level of a substantial issue with respect to the project’s conformance with the Planned Development regulations of the certified LCP.





 California Coastal Commission

LOCATION MAP



County of Santa Cruz

CCC Exhibit ^{Sheet 2} **13**
 (page 1 of 2 pages)

FIGURE 1: VICINITY LOCATION

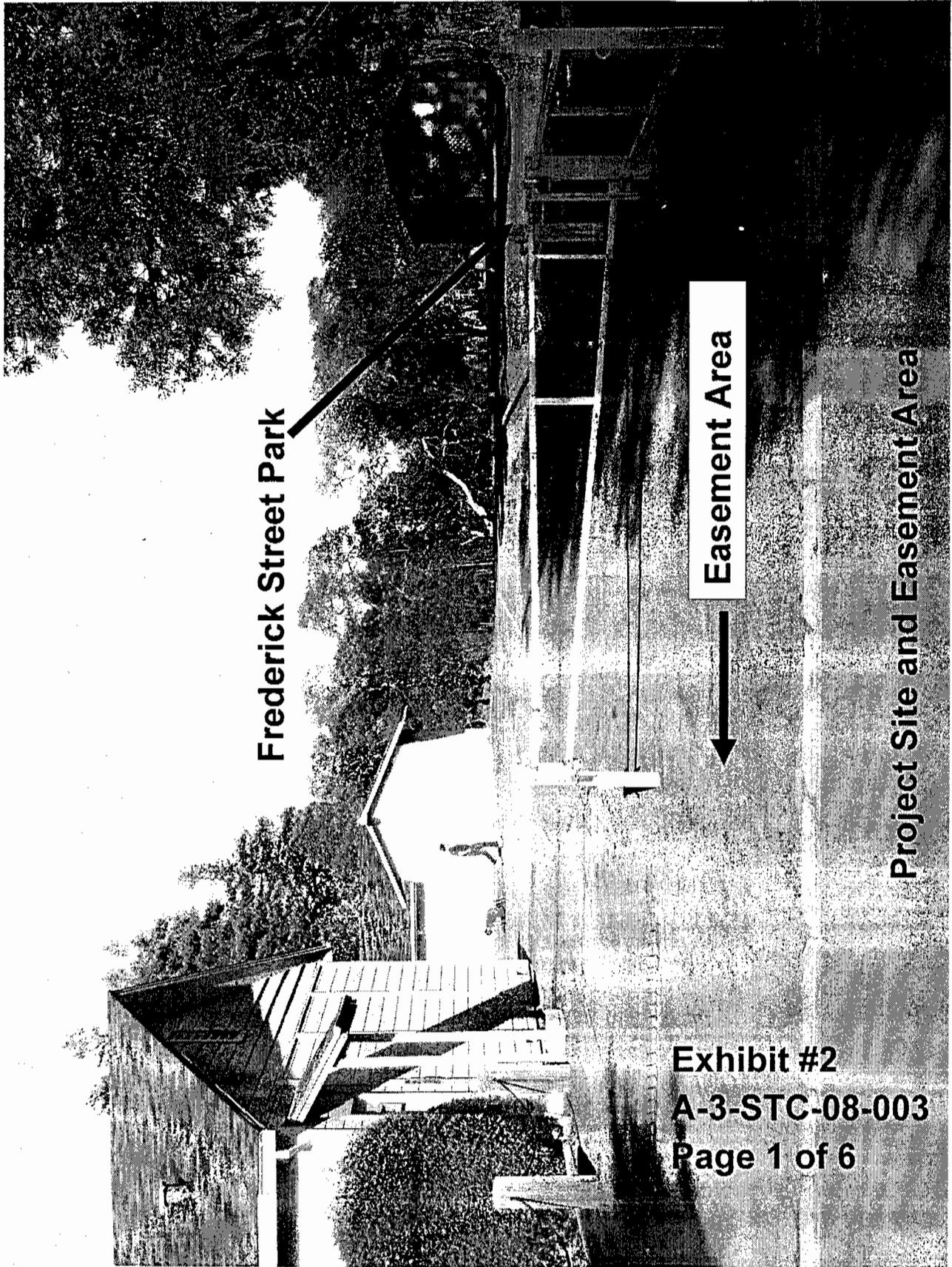
Site and Vicinity Map



Project: EMIA Harbor Homes, Brant, Brensky
Address: 170 Frederick Street
Project: 06-078
APN: 011-141-60

Prepared by Mary Alsip
GIS Coordinator 10/23/07

CCC Exhibit 1
(page 2 of 2 pages)



Frederick Street Park

Easement Area

Project Site and Easement Area

**Exhibit #2
A-3-STC-08-003
Page 1 of 6**



Existing Access into Frederick Street Park

Exhibit #2

A-3-STC-08-003

Page 2 of 6



**Inland View from Northeastern Portion of
Frederick Street Park**

**Exhibit 2
A-3-STC-08-003
Page 3 of 6**

**Existing Multi-Family
Residential Development
Located Southeast of Frederick
Street Park**

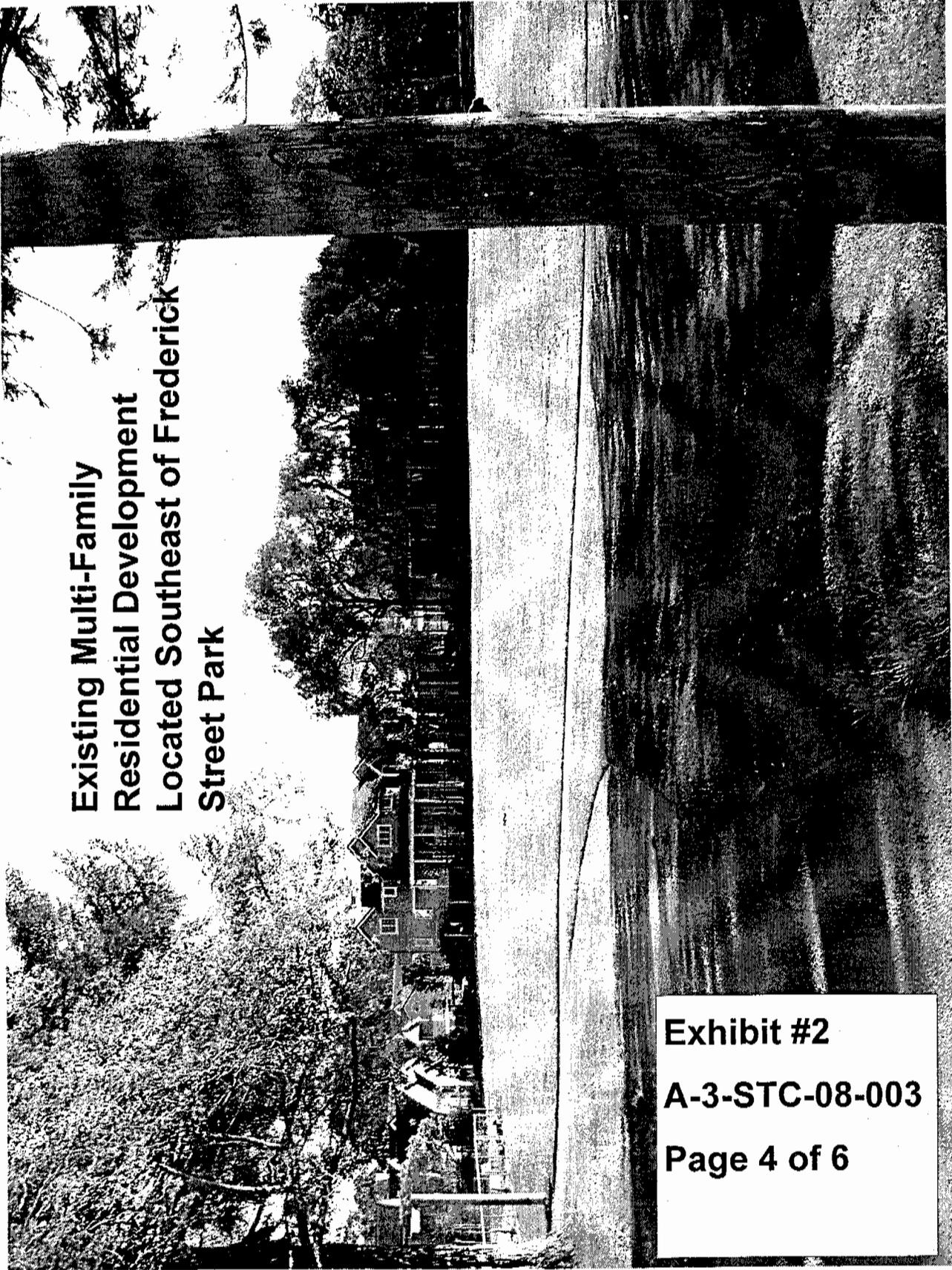
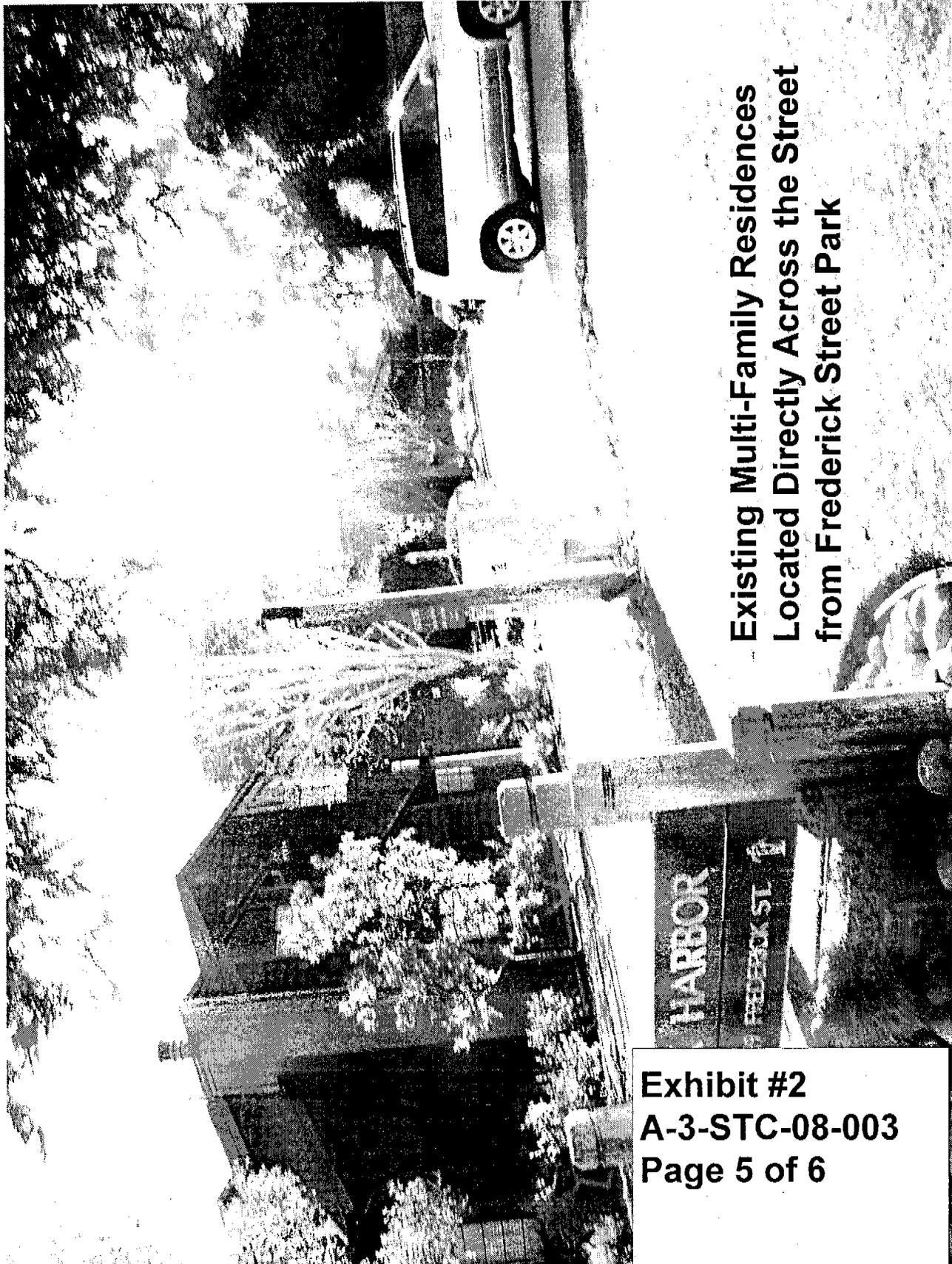


Exhibit #2

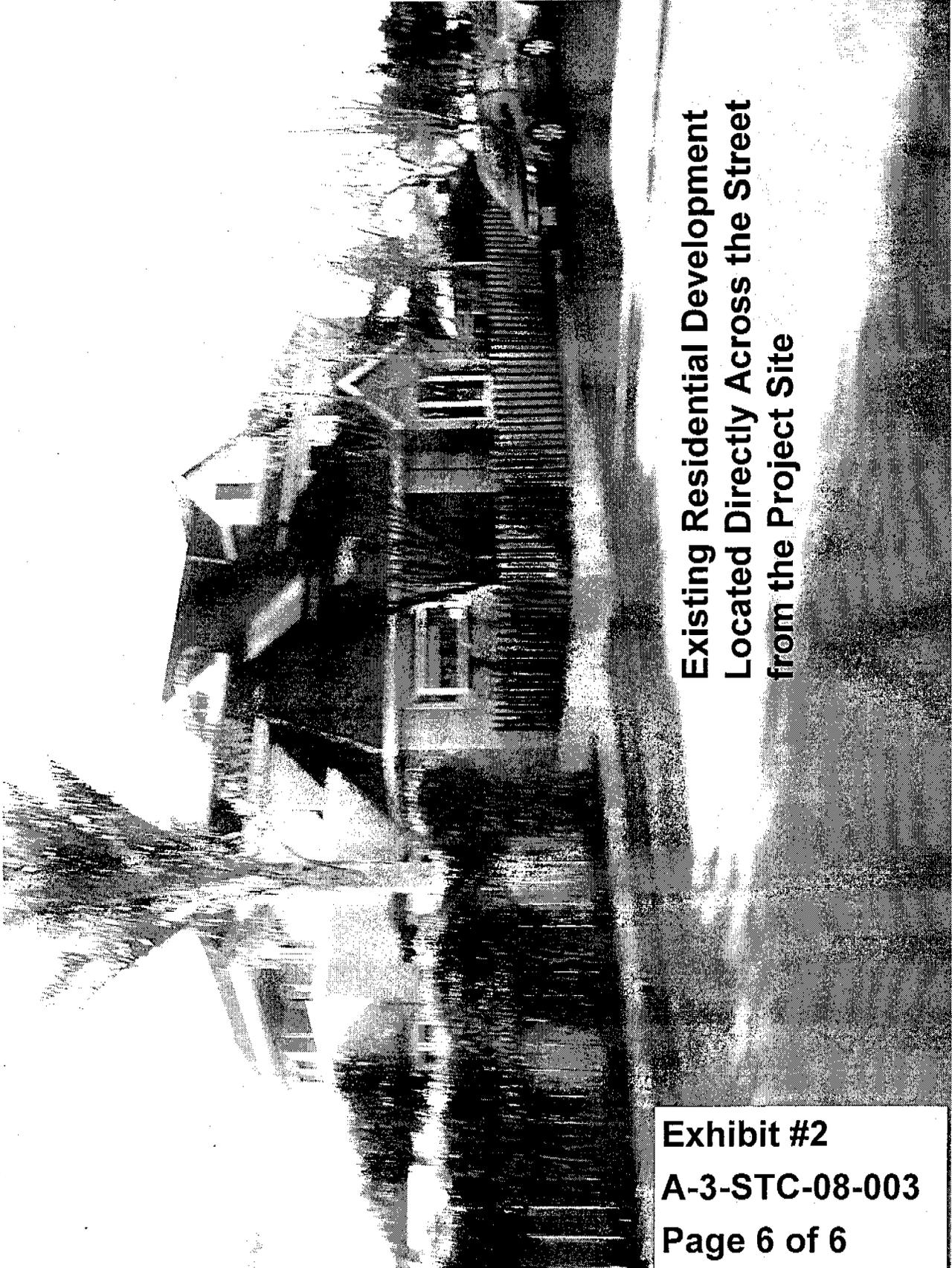
A-3-STC-08-003

Page 4 of 6



**Existing Multi-Family Residences
Located Directly Across the Street
from Frederick Street Park**

**Exhibit #2
A-3-STC-08-003
Page 5 of 6**



**Existing Residential Development
Located Directly Across the Street
from the Project Site**

**Exhibit #2
A-3-STC-08-003
Page 6 of 6**

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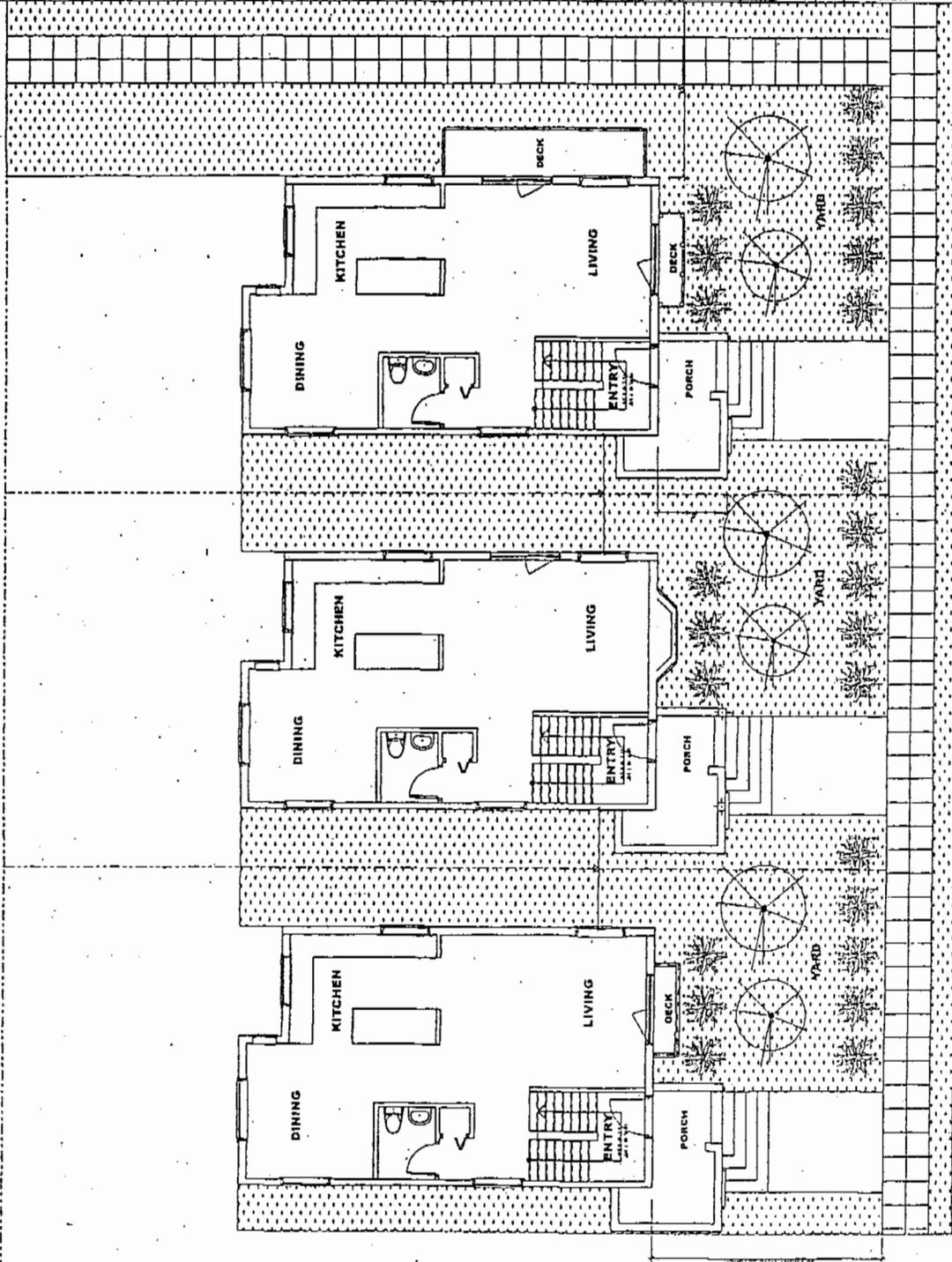
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(APN 011-141-60)

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DECEMBER 11, 2007
170 FREDERICK STREET
SANTA CRUZ, CA 95060

APR 21 11 48 AM '07

LOTS 1, 2, 3
PLANS

2



CCC Exhibit 3
(page 2 of 17 pages)

FIRST FLOOR
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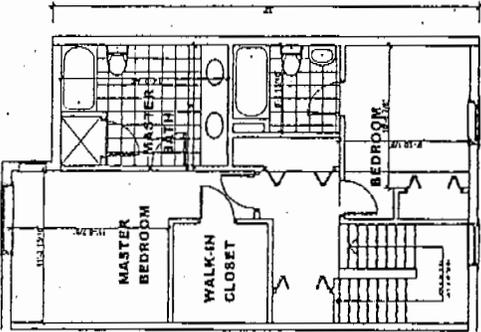
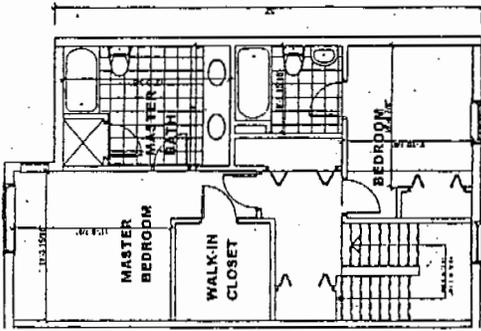
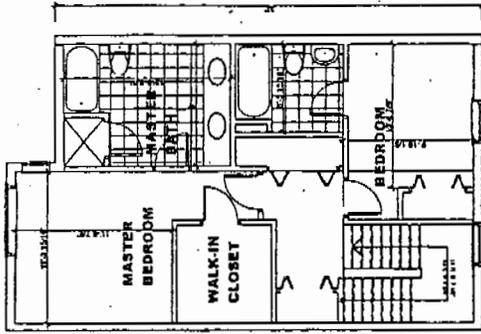
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DECEMBER 11, 2011

170 FREDERICK STREET

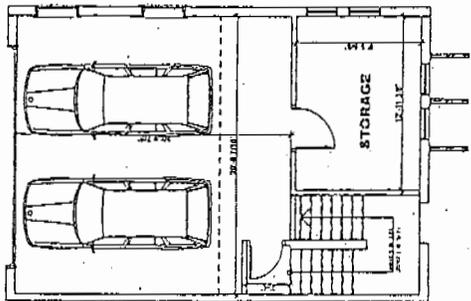
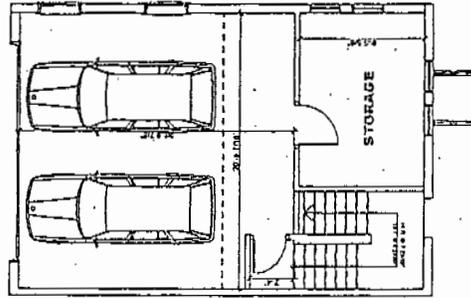
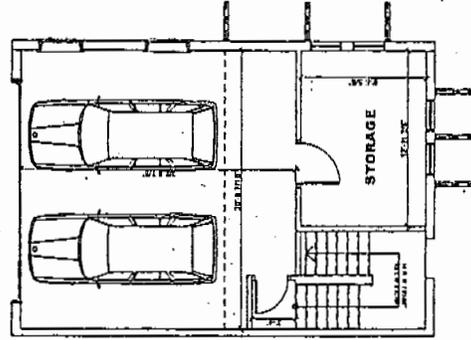
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LOTS 123
PLANS

3



1 SECOND FLOOR
2



1 GARAGE LEVEL
3

CCC Exhibit 3
(page 3 of 17 pages)

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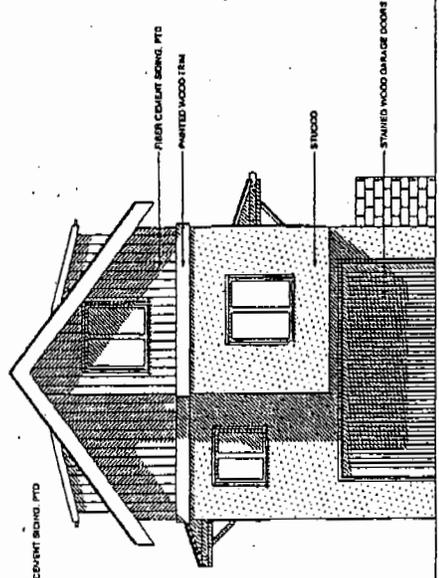
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170 FREDRICK STREET
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LOT 1,2,3
ELEVATIONS

4



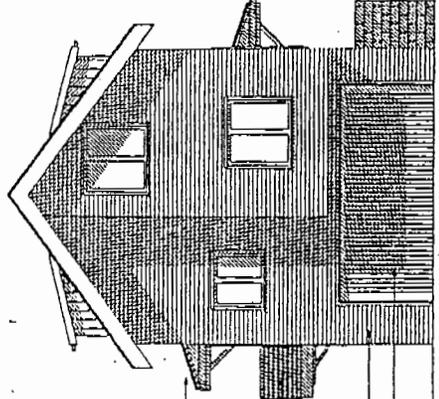
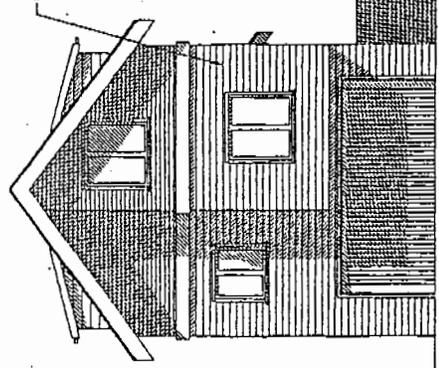
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FIRE CEMENT SIDING, PTD

PAINTED WOOD TRIM

STUCCO

STAINED WOOD GARAGE DOORS

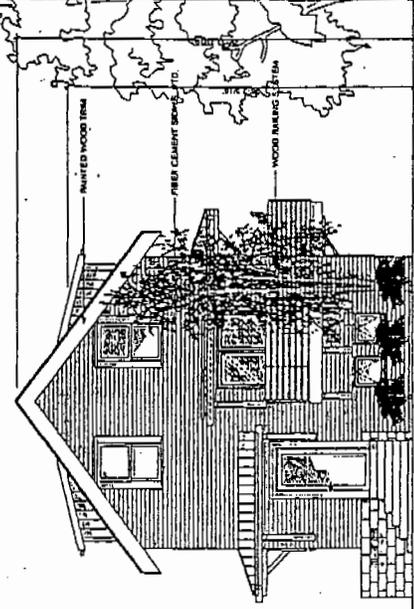


WOOD RAILING SYSTEM

FIRE CEMENT SIDING, PTD

STAINED WOOD GARAGE DOORS

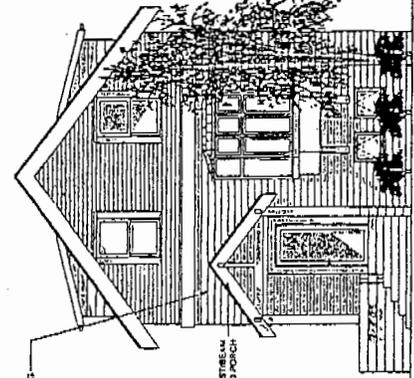
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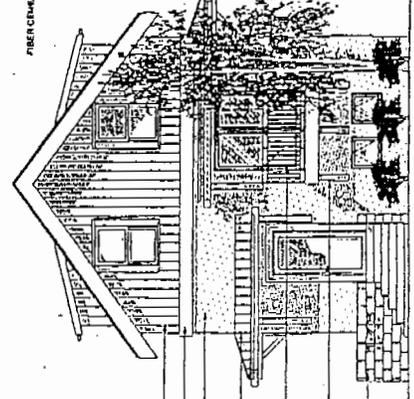
FIRE CEMENT SIDING, PTD

WOOD RAILING SYSTEM



FIRE CEMENT SIDING

POST-BEAM WOOD PORCH



FIRE CEMENT SIDING, PTD

PAINTED WOOD TRIM

STUCCO

POUCH OVERLAP

UNSTAINED WOOD SUPPORTS

SECURED JEROME SYSTEM

SUPPORTS

EXPANDED MASONRY PORCH

CCC Exhibit 3
(page 4 of 17 pages)

SCALE: 1/4" = 1'-0"

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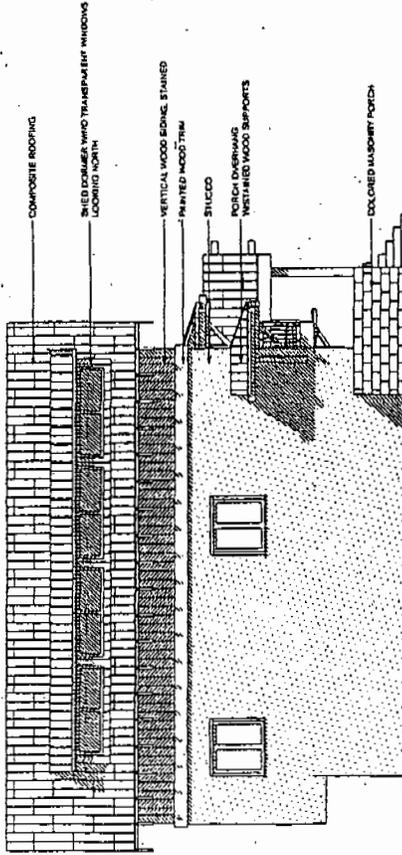
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170 FREDERICK STREET

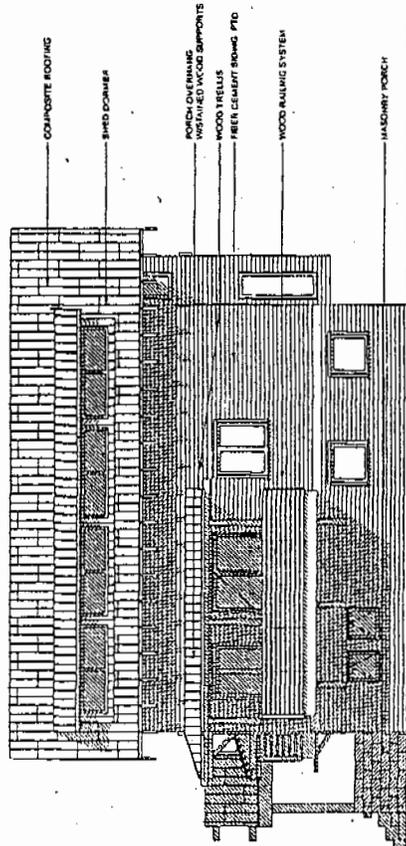
JAN 11, 2008
170 FREDERICK STREET

**LOTS 123
ELEVATIONS**

5



NORTH ELEVATION
SCALE 1/4" = 1'-0"



SOUTH ELEVATION
SCALE 1/4" = 1'-0"

CCC Exhibit 3
(page 5 of 17 pages)

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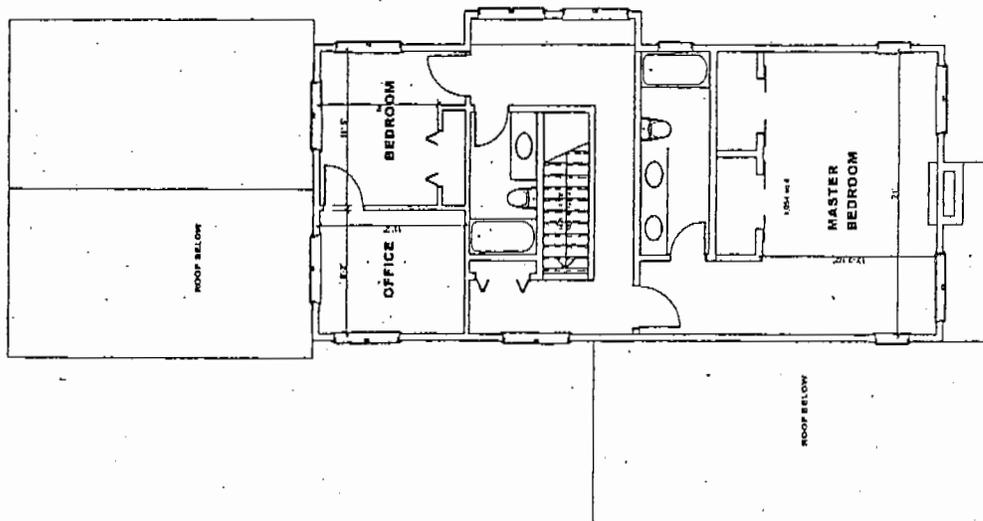
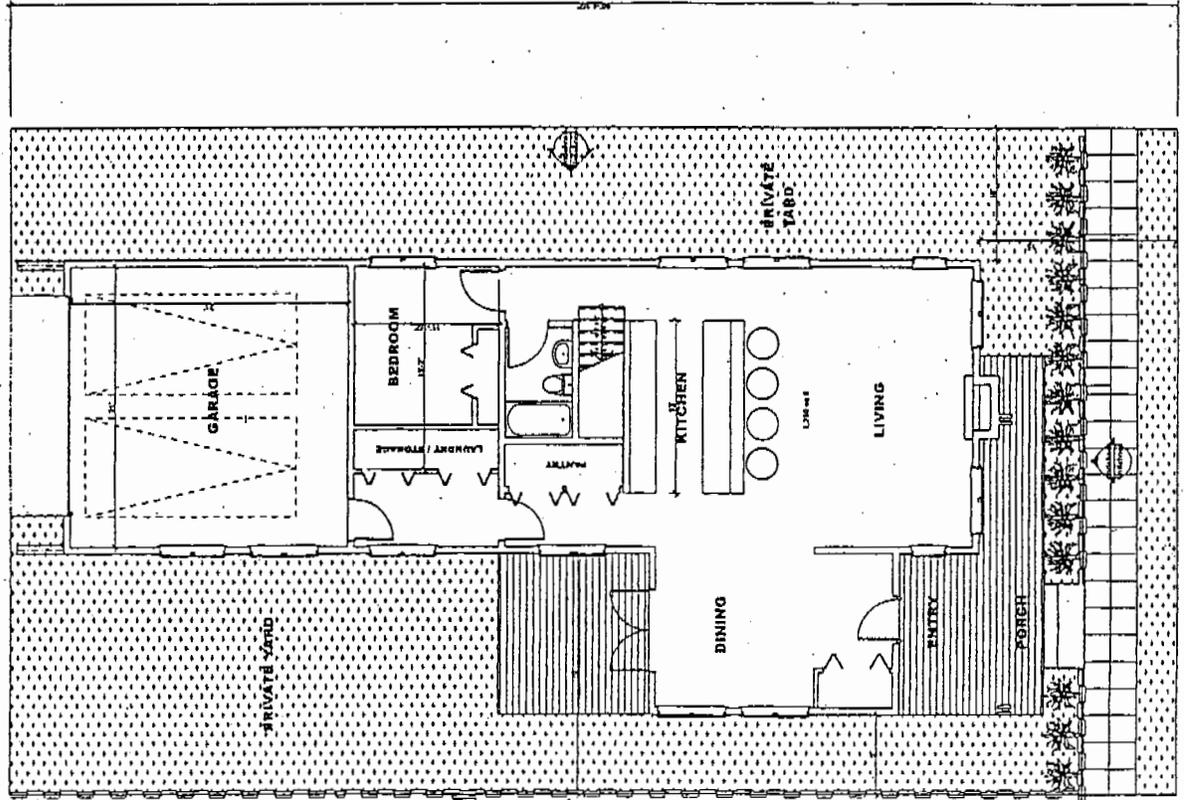
CITY COUNCIL MEETING
DECEMBER 11, 2007

170 FREDERICK STREET

APN 011-141-60
SANTA CRUZ, CA
95060

LOTS 467
PLANS

6



2nd FLOOR
SCALE 1/8" = 1'-0"

GROUND FLOOR
SCALE 1/8" = 1'-0"

CCC Exhibit 3
(page 6 of 17 pages)

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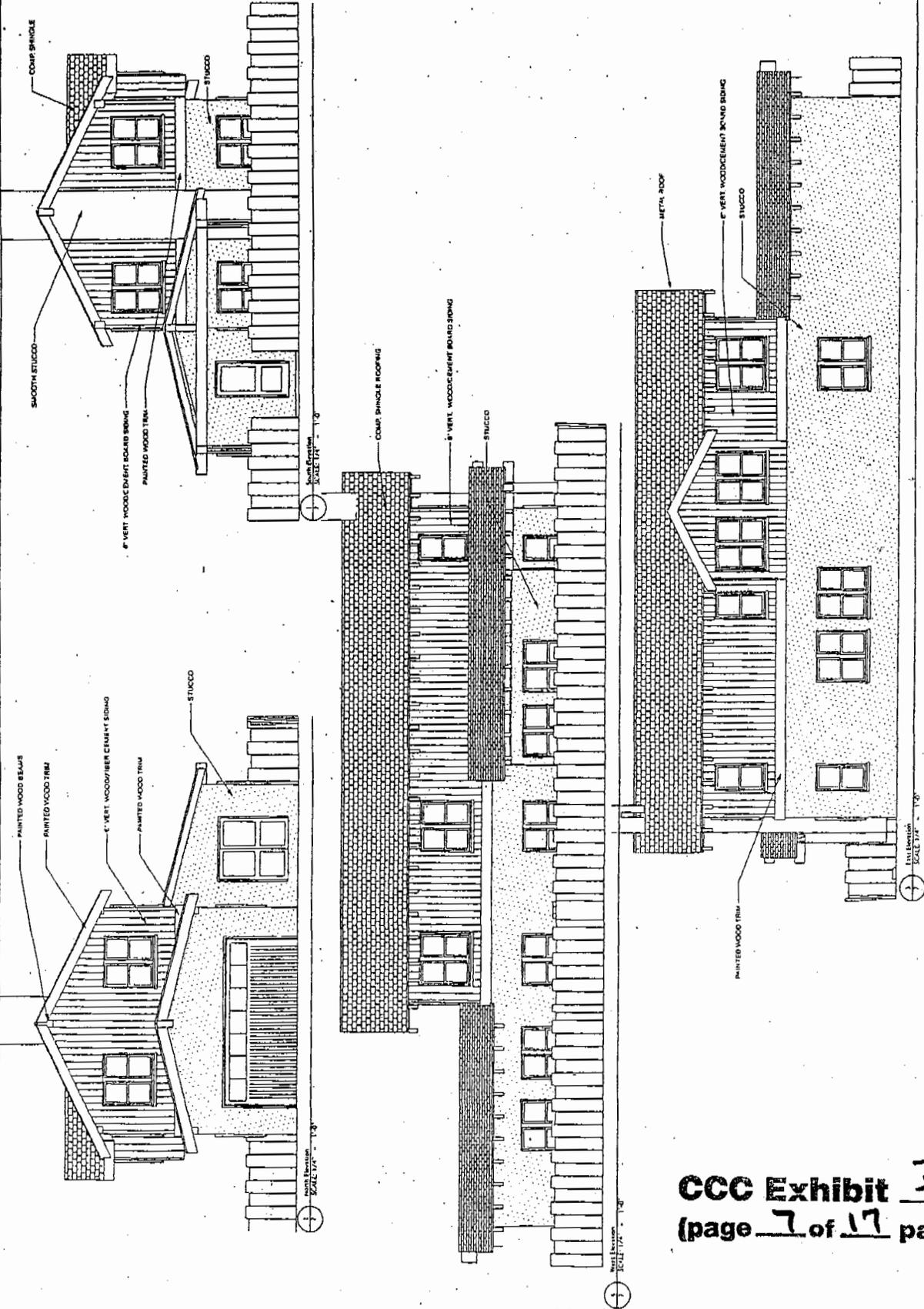
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LOTS 4&7
ELEVATIONS

7



CCC Exhibit 3
(page 7 of 17 pages)

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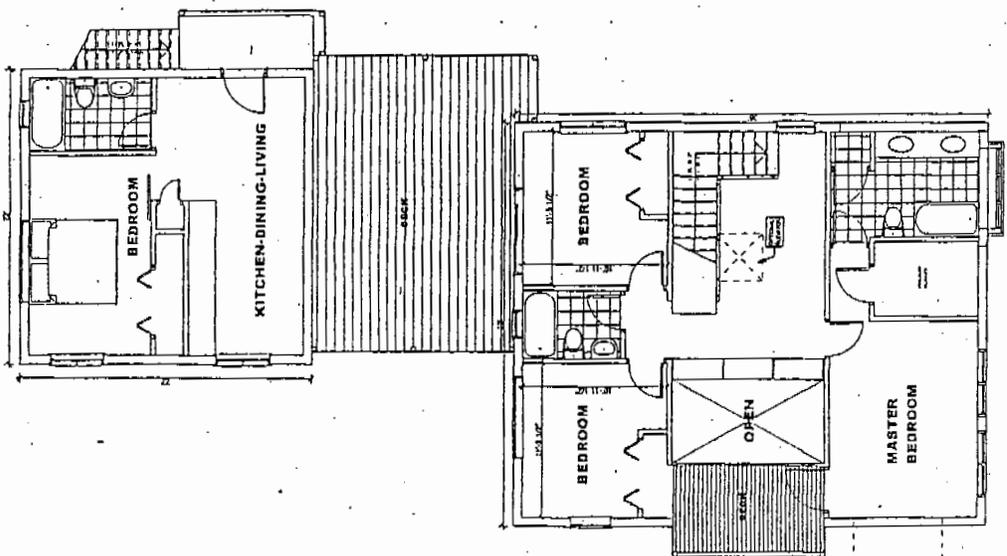
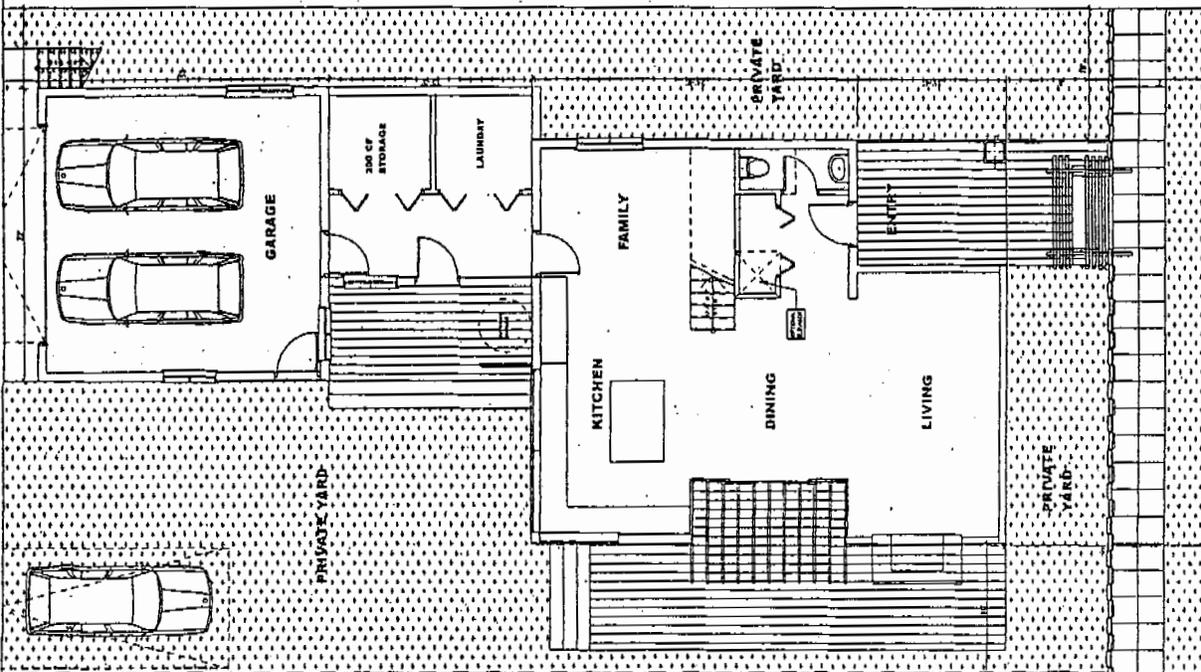
CITY COUNCIL HEARING
DECEMBER 11, 2002

170 FREDERICK STREET

APN 011-141-60
CITY OF SANTA CRUZ, CA
95060

LOTS 5,8 PLANS

8



2nd FLOOR PLAN
SCALE: 1/8" = 1'-0"

1st FLOOR PLAN
SCALE: 1/8" = 1'-0"

CCC Exhibit 3
(page 8 of 17 pages)

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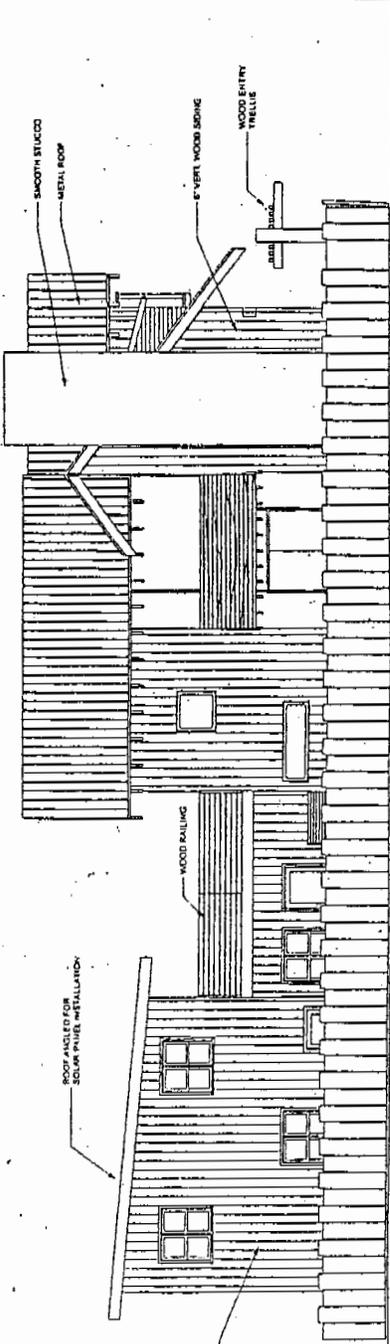
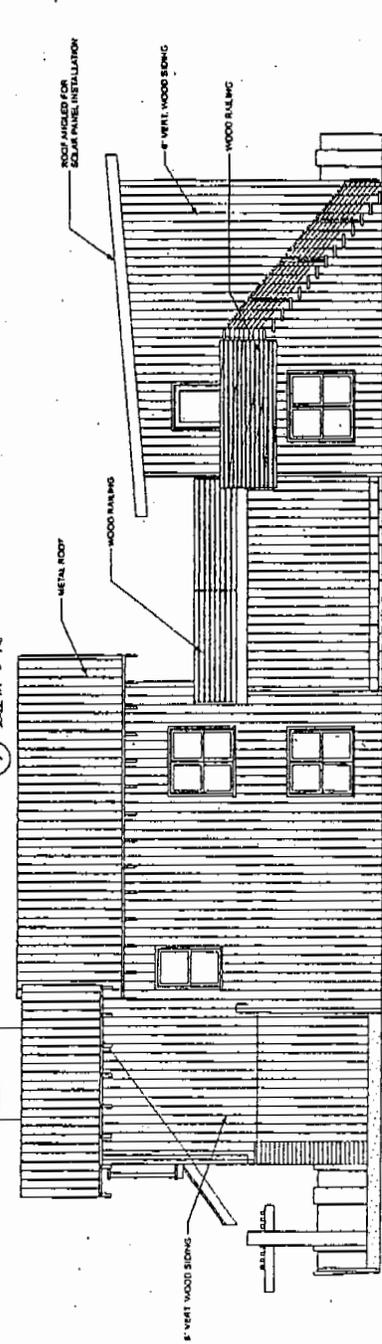
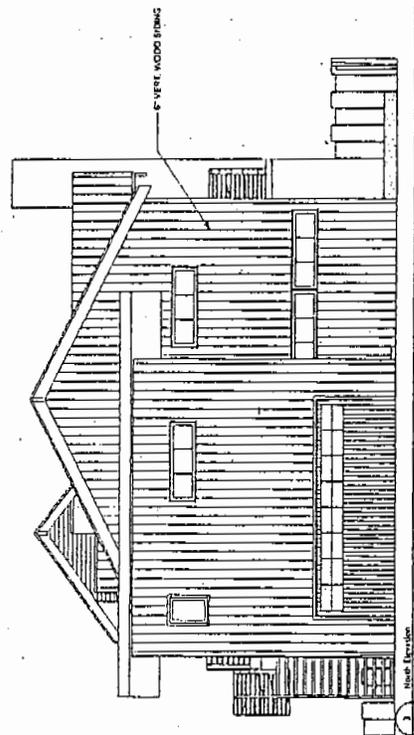
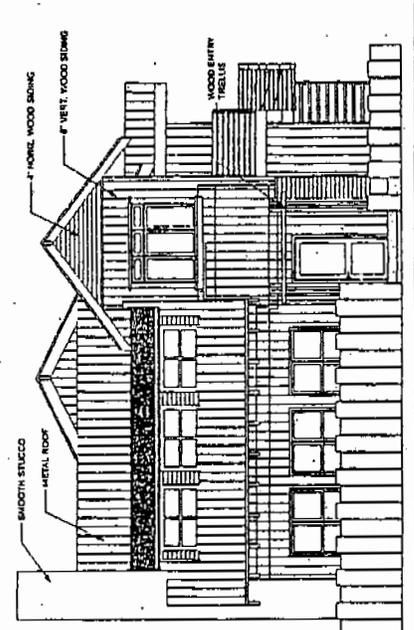
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(APN 011-141-60)

CITY COUNCIL HEARING
DECEMBER 13, 2007
178 FREDERICK STREET

APN 011-141-60
Lot 5B
E008

LOTS 5B
ELEVATIONS

9



South Elevation
SCALE: 1/4" = 1'-0"

West Elevation
SCALE: 1/4" = 1'-0"

East Elevation
SCALE: 1/4" = 1'-0"

North Elevation
SCALE: 1/4" = 1'-0"

CCC Exhibit 3
(page 9 of 17 pages)

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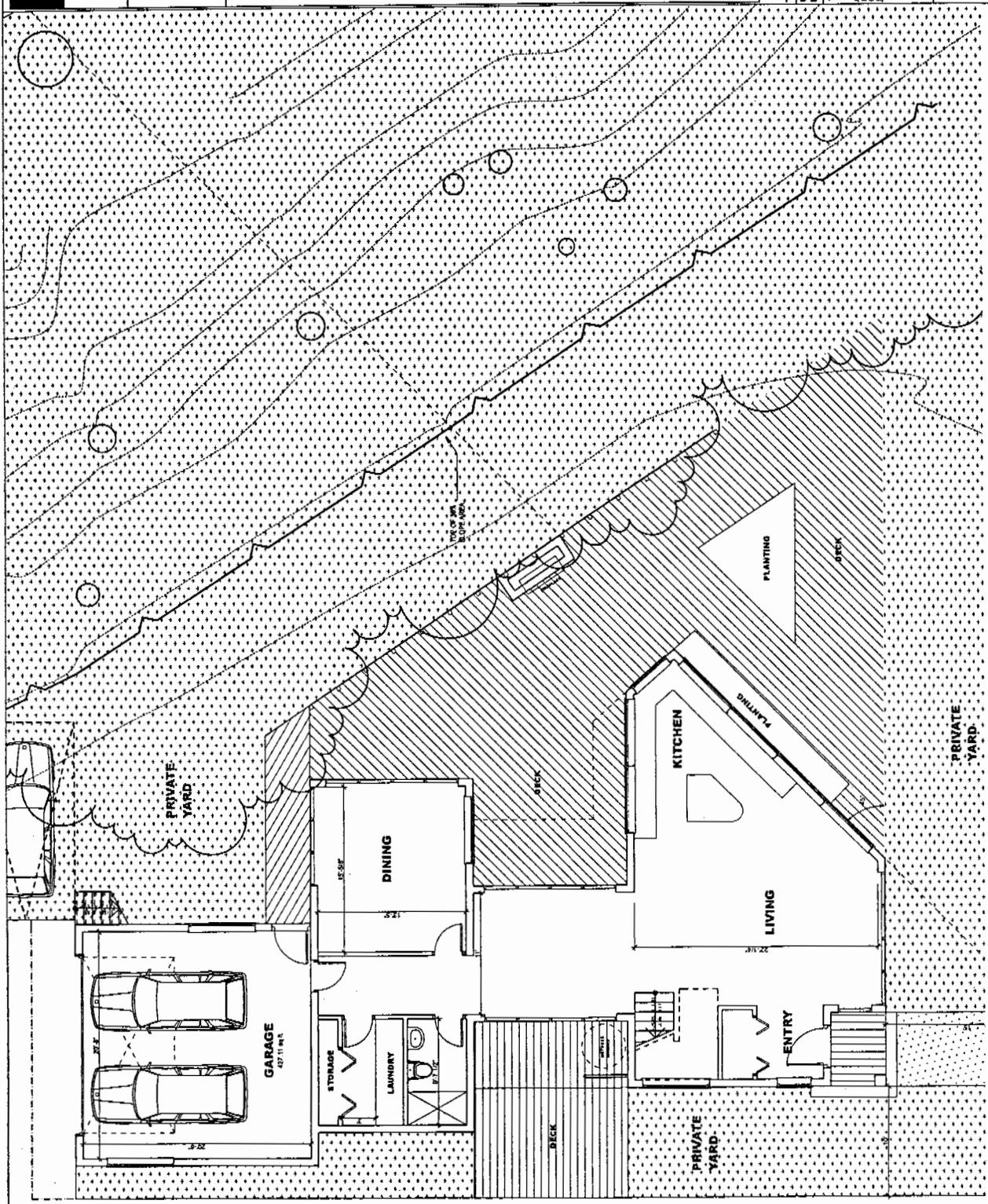
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DECEMBER 11, 2007

170 FREDERICK STREET

Scale: 1/4" = 1'-0"
Date: 11/14/07

FLOOR PLANS
LOT 9

10



1/4" = 1'-0"

GROUND FLOOR PLAN

CCC Exhibit 3
(page 10 of 17 pages)

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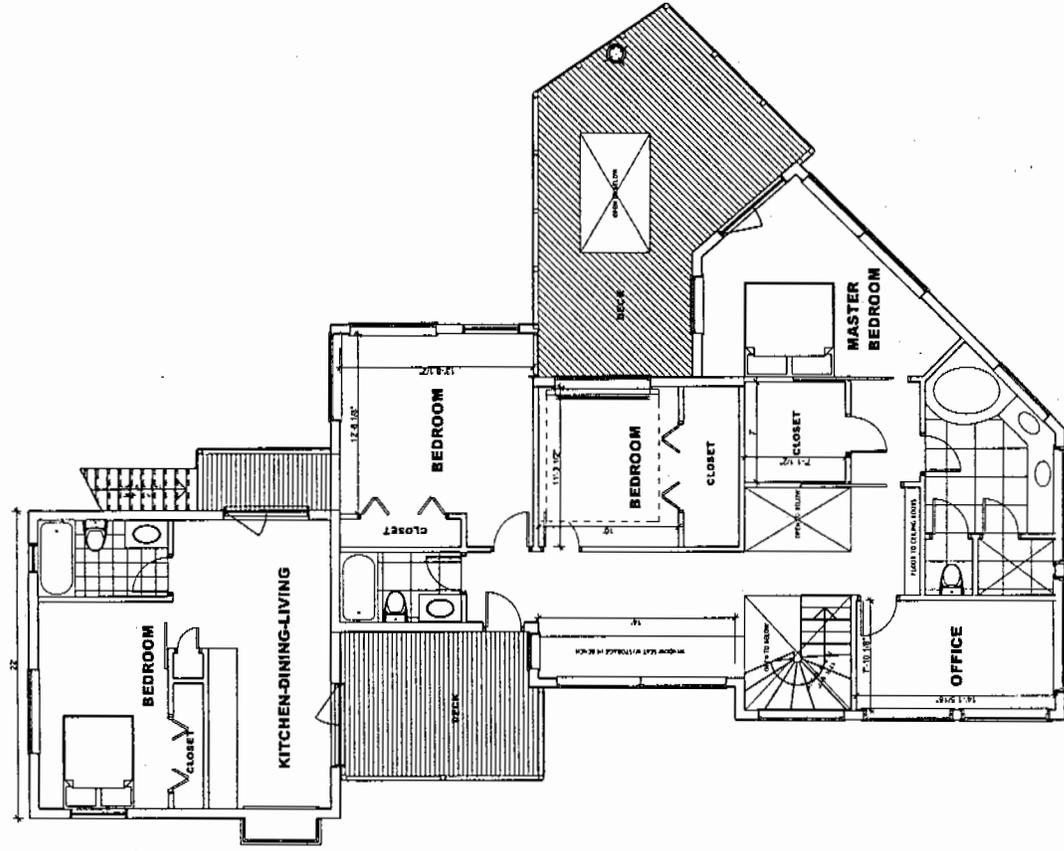
CITY COUNCIL HEARING
DECEMBER 11, 2007

170 FREDERICK STREET

APN 011-141-60
Santa Cruz
CA
95060

FLOOR PLANS
LOT 9

11



SECOND FLOOR PLAN

CCC Exhibit 3
(page 11 of 17 pages)

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133 GREEN STREET
SANTA CRUZ, CA 95066
408.298.1000
psd@psdgroup.com

EMIA HARBOR HOMES
170 FREDRICK STREET
SANTA CRUZ, CA 95060
(APN 011-141-60)

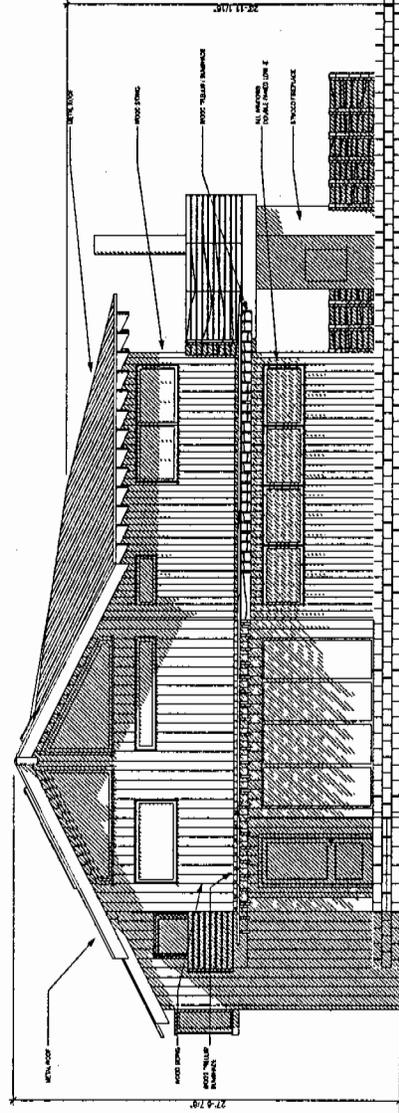
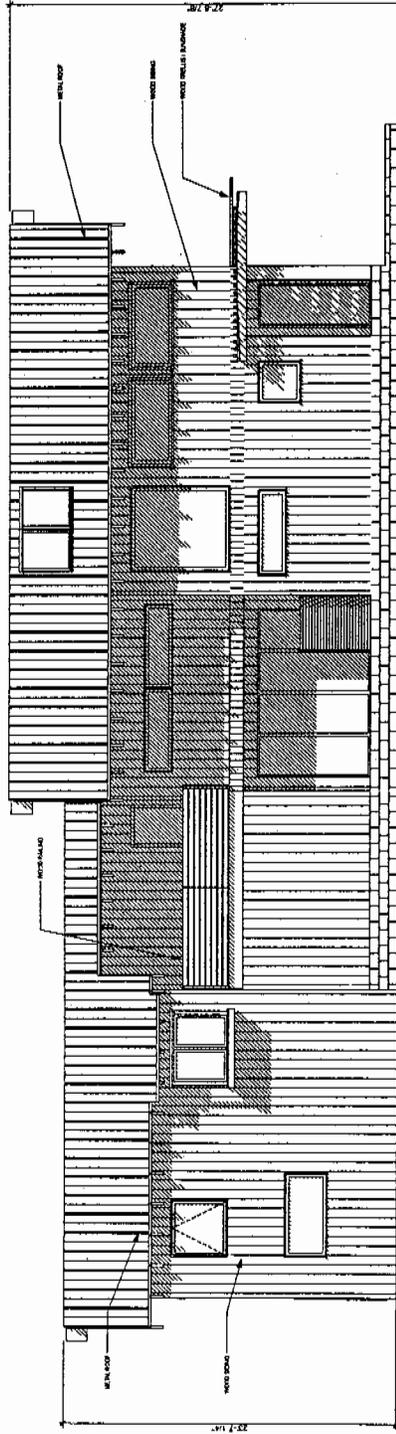
CITY COUNCIL HEARING
DECEMBER 11, 2007

170 FREDRICK STREET

APN 011-141-60
Sheet One
12/20/07

**ELEVATIONS
LOT 9**

12



CCC Exhibit 3
(page 12 of 17 pages)

Project Data

Owner & Subdivider

PATSON, LLC
 10000 BROADWAY, CANTON, CA 94501
 P.O. Box 87033
 Santa Clara, California 95057

Designer

PETER SELLMAN DESIGN
 301 GREEN STREET
 SANTA CRUZ, CA 95060
 PH: 408-456-4800

Existing Zoning

R-4-F

General Plan

MULTI-RESIDENTIAL LOW-DENSITY

Existing Use

IN BUILDINGS & PARKING LOT - VACANT

Proposed Use

MIXED IN LOT RESIDENTIAL SUBDIVISION

Sanitary Sewer

CITY OF SANTA CRUZ

Storm Drainage

CITY OF SANTA CRUZ

Water Service

CITY OF SANTA CRUZ

Gas & Electric

PACIFIC GAS & ELECTRIC

Total Area of Site

33,009 S.F. / 1.23 ACRES

Benchmark

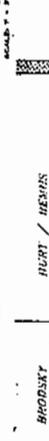
CITY OF SANTA CRUZ 641 PEG-ON
 SURVEY CORNER OF THE INTERSECTION OF WINDMILL
 STREET AND PROPOSED STREET
 DEEG 1983 CANTONITE ELEVATION: 4.8125

NOTE: SEE SHEET #TMS FOR PRELIMINARY SITE GRADING, DRAINAGE AND UTILITY INFORMATION

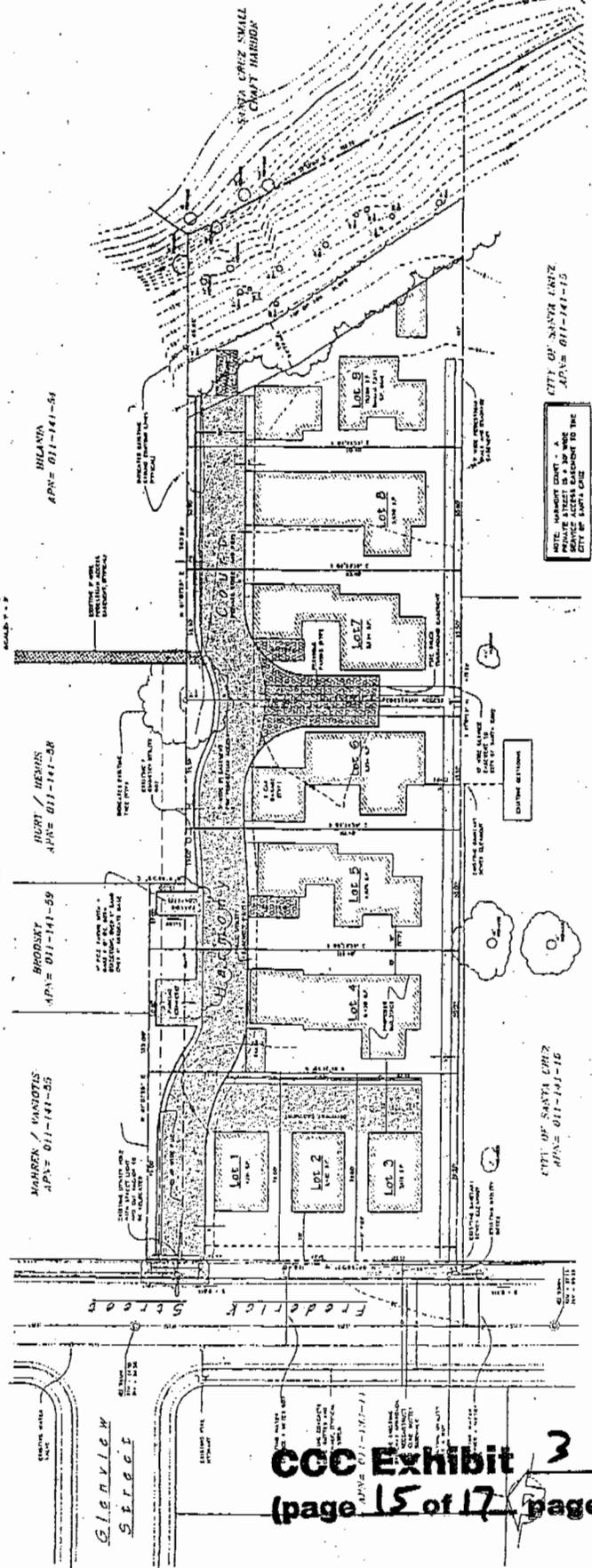


Vicinity Map

Harmony Court Cross-Section - (A Private Street)



Harmony Court Cross-Section - (A Private Street)



Tentative Map - Tract No. 1524

CITY OF SANTA CRUZ
 APNs 011-141-15

NOTE: HARMONY COURT - A PRIVATE ACCESS ROAD TO THE CITY OF SANTA CRUZ

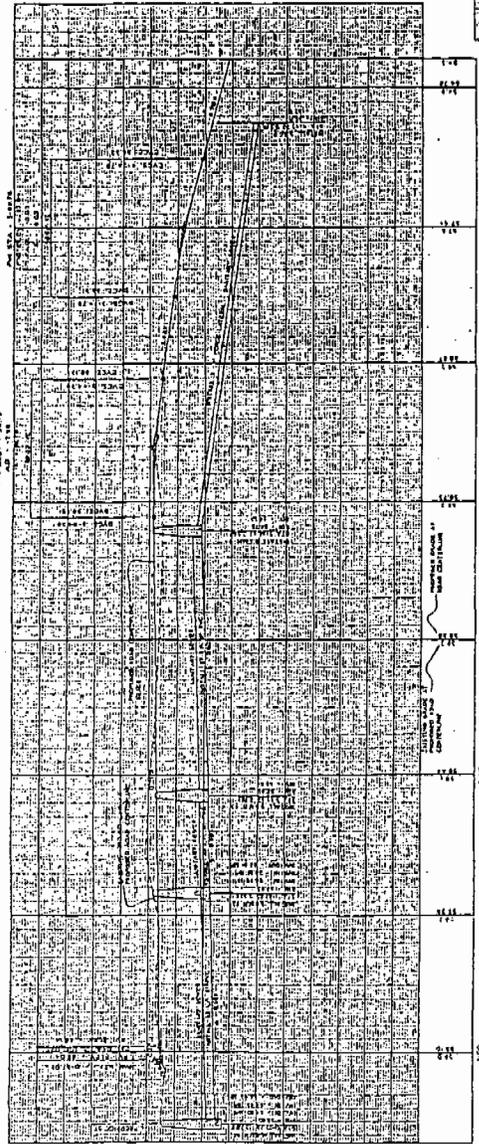
EMIA Harbor Homes
 170 Frederick Street, Santa Cruz, CA
 APR 01-11-80
 TRACT # 1524
 TM1
 3 SHEETS
 SHEET NO. 15

CCC Exhibit 3
 (page 15 of 17 pages)

Storm Drain Run-off Calculations

SITE AREA = 132 Acres
 RAINFALL INTENSITY = 10 Year Storm = 3.00 In/hr
 COEFFICIENT OF RUN-OFF = Pre-Development = 0.30
 PRE-DEVELOPMENT RUN-OFF
 Q10 = (0.30)(132)(3.00) = 118.8 CFS
 Q100 = (0.30)(132)(3.00) = 118.8 CFS
 POST-DEVELOPMENT RUN-OFF
 Q10 = (0.30)(132)(3.00) = 118.8 CFS
 Q100 = (0.30)(132)(3.00) = 118.8 CFS

Preliminary Earthwork Quantities
 TO GRAB VARIOUS INFORMATION
 SEE CIVIL ENGINEERING DRAWING
 381 BALANCE ON SITE
 ESTIMATE DOES NOT INCLUDE EXISTING UTILITIES, TRENCHES, OR OTHER FEATURES THAT MAY BE ENCOUNTERED AT THE SITE.
 MATERIAL TO BE IMPORTED OR EXPORTED FROM THE SITE IS TO BE DETERMINED BY THE CONTRACTOR.
 QUANTITIES ARE BASED ON THE ASSUMPTIONS LISTED ABOVE AND SHOULD BE USED AS A GENERAL GUIDE ONLY.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AGENCIES.



Profile - Harmony Court

Detail Thru Bio-Swale

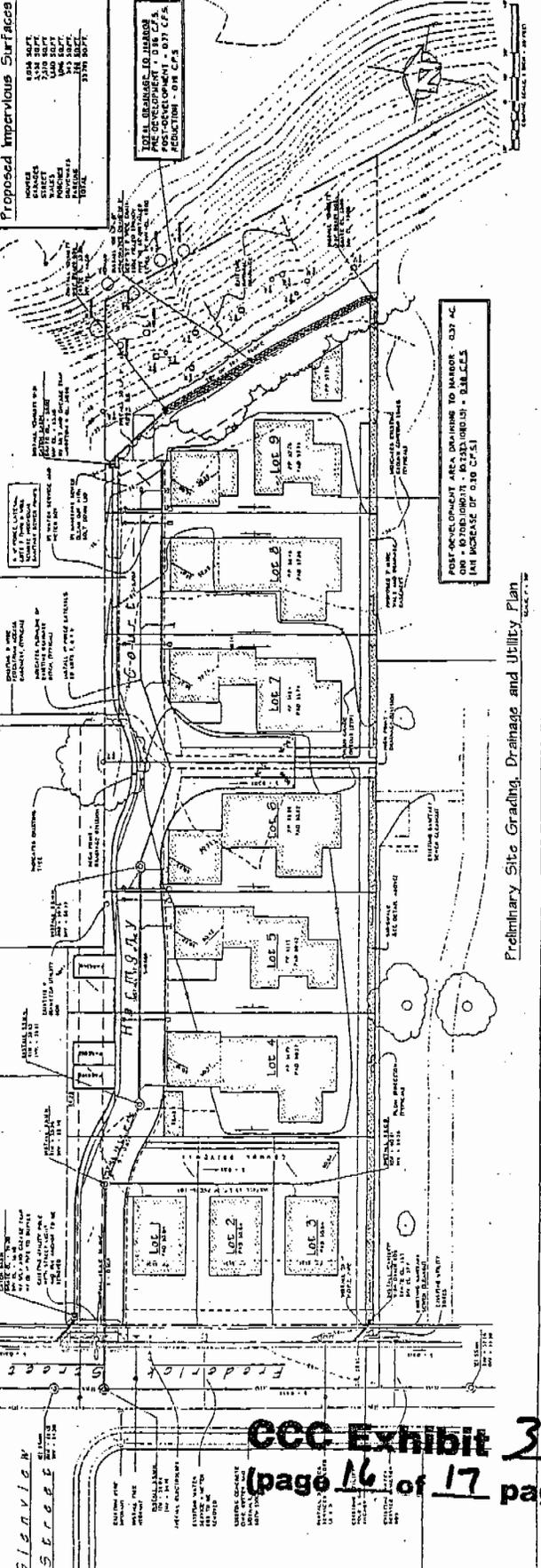
PROPOSED IMPERVIOUS SURFACES
 1. ASPHALT DRIVEWAYS
 2. ASPHALT PARKING AREAS
 3. ASPHALT ROADS
 4. ASPHALT SIDEWALKS
 5. ASPHALT PATIOS
 6. ASPHALT TERRACES
 7. ASPHALT BALCONIES
 8. ASPHALT DECKS
 9. ASPHALT STAIRS
 10. ASPHALT STAIRWAYS
 11. ASPHALT STAIRLANDINGS
 12. ASPHALT STAIRWELL DECKS
 13. ASPHALT STAIRWELL ENCLOSURES
 14. ASPHALT STAIRWELL BALCONIES
 15. ASPHALT STAIRWELL TERRACES
 16. ASPHALT STAIRWELL PATIOS
 17. ASPHALT STAIRWELL DECKS
 18. ASPHALT STAIRWELL BALCONIES
 19. ASPHALT STAIRWELL TERRACES
 20. ASPHALT STAIRWELL PATIOS

POST-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS
 PRE-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS

POST-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS
 PRE-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS

POST-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS
 PRE-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS

POST-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS
 PRE-DEVELOPMENT AREA DRAINAGE TO HARBOUR COURT AC
 Q10 = 118.8 CFS
 Q100 = 118.8 CFS



Preliminary Site Grading, Drainage and Utility Plan

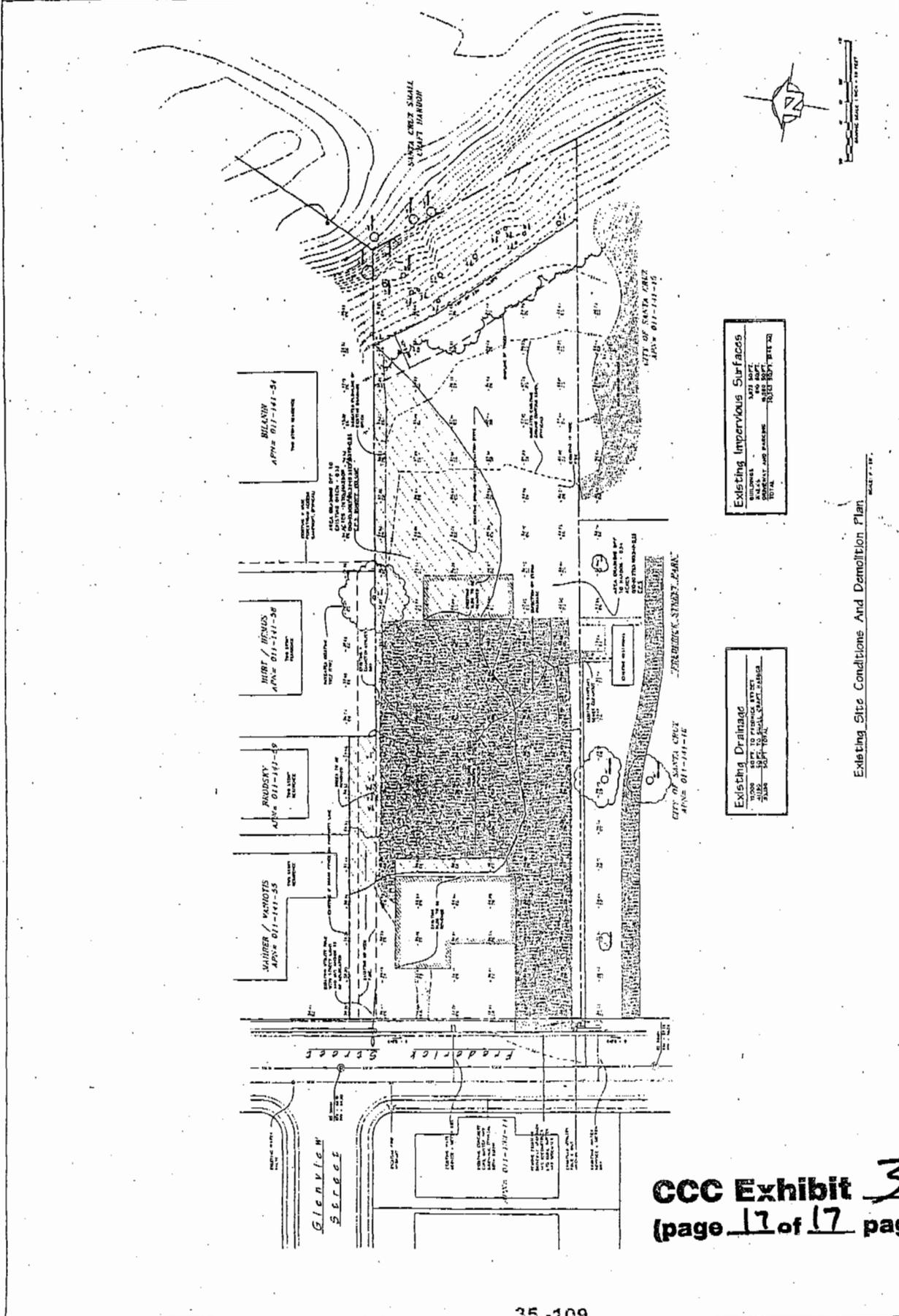


DATE: 01-11-10
 SHEET NO. 3 OF 3
 PROJECT: TRACT 1, 1524

EMIA Harbor Homes
 Existing Site Conditions And Demolition Plan
 170 Frederick Street, Santa Cruz, CA

EMIA Harbor Homes
 170 Frederick Street, Santa Cruz, CA
 ENGINEERS: LAND PLANNING & TRIBUTAL DESIGN
EMIA
ENGINEERS, INC.
 1100 VANDER SWEET, SUITE 1
 SANTA CRUZ, CA 95061
 TEL: (408) 426-1212
 FAX: (408) 426-1242

DATE: 01-11-10
 SHEET NO. 3 OF 3
 PROJECT: TRACT 1, 1524
 TMS
 SCALE: 1" = 20'



MELONY
 APNs 011-141-54
 THE OTHER BUILDING

HIRT / HENUS
 APNs 011-141-56
 TRACT

RAUDSKY
 APNs 011-141-49
 TRACT

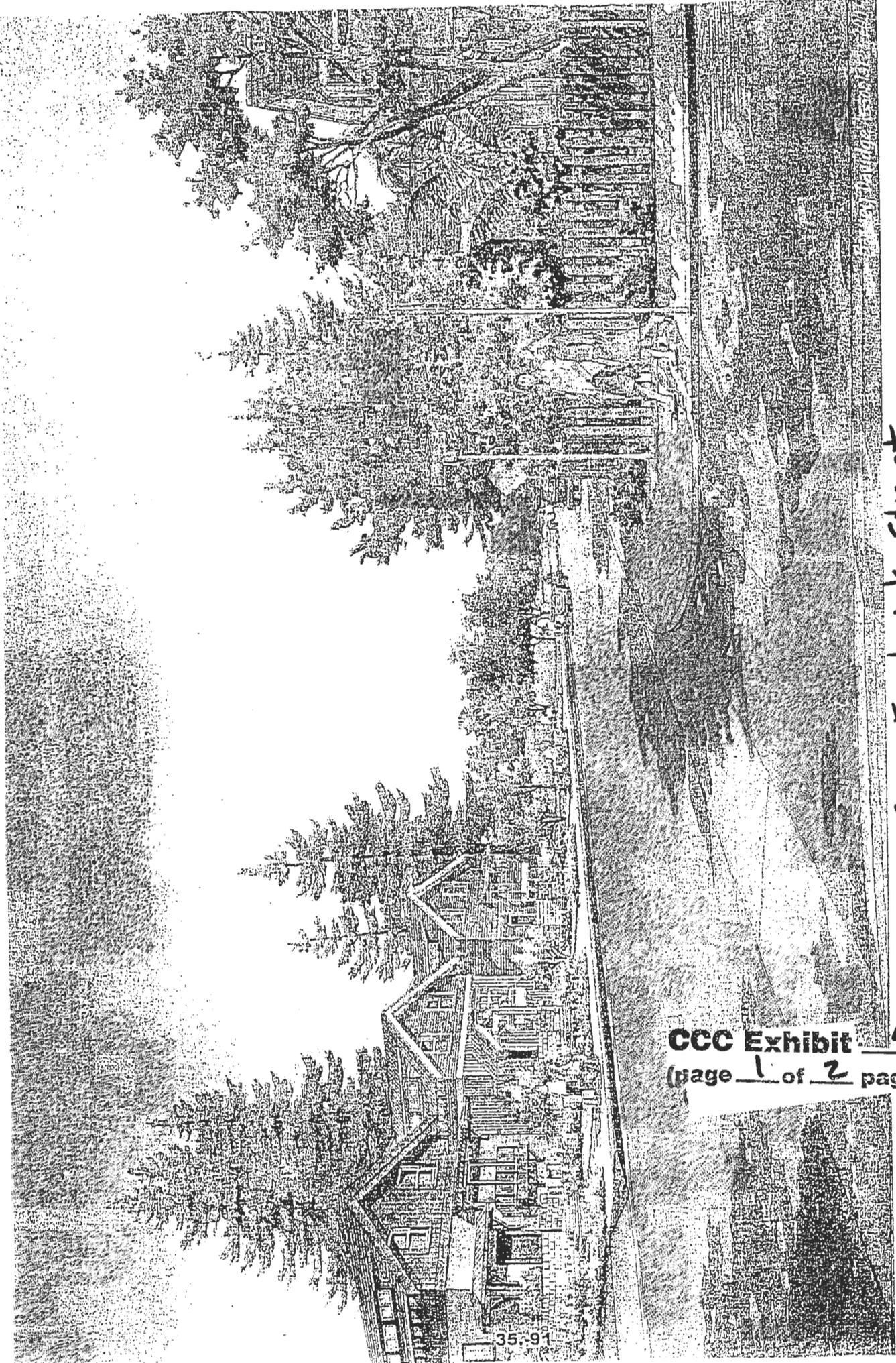
JAHNER / KACHOTIS
 APNs 011-141-55
 TRACT

Existing Impervious Surfaces
 TOTAL AREA: 1,100 SQ. FT.
 TOTAL PERIMETER: 1,200 FT.

Existing Drainage
 TOTAL AREA: 1,100 SQ. FT.
 TOTAL PERIMETER: 1,200 FT.

Existing Site Conditions And Demolition Plan
 SCALE: 1" = 20'

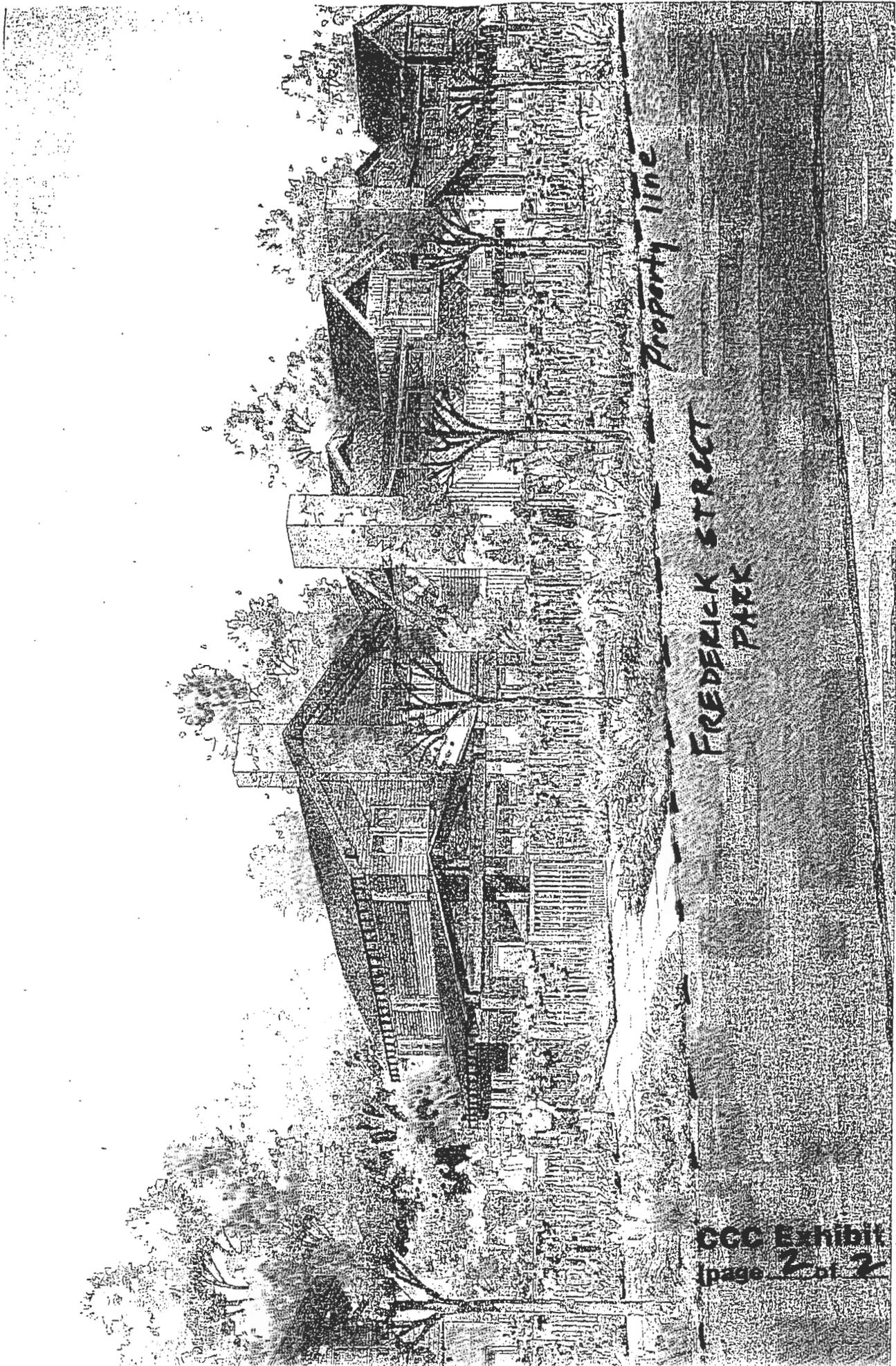
CCC Exhibit 3
 (page 17 of 17 pages)



View From Frederick Street

CCC Exhibit 4
(page 1 of 2 pages)

35-91



FREDERICK STREET
PARK

PROPERTY LINE

As Approved, path will occupy landscaped area to property line.

Don

FILE COPY

Public Hearing

35. 170 Frederick Street - 06-078 - APN: 011-141-60 Planned Development, Coastal and Design Permits and Tentative Subdivision Map for a Nine-Unit Residential Project Involving Nine Detached Ownership Units with Three Accessory Dwelling Units, all within the R-1-5/SPO Zone District. Six of the Lots are Planned with Three-Bedroom Homes, while the Other Three Lots are Planned with Two-Bedroom Homes. Three of the Lots also Include One-Bedroom Accessory Dwelling Units (ADUs) that are Located above the Garage. All Units have Attached Garages, except for the Proposed Lot 9, which has a Detached Garage. Access will be Provided via a Driveway off of Frederick Street. (Environmental Determination: Negative Declaration) (PUFFSKY, LLC, owner/filed: 4/12/06). (PL)

Resolution No. NS-27,669 was adopted approving the Negative Declaration, Planned Development, Design, and Coastal Permits, and Tentative Subdivision Map based on the Findings included in the resolution and the Conditions of Approval, with the following changes and conditions:

- change the 4' path to 7' path, and if there is a way to make the swale properties work underground, make the path 8', but in any case a 7' path minimum;
- accept the dedication of one of the ADUs as a low to very low income unit;
- require that one of the other ADUs also be listed as an affordable unit as a rental at the moderate income level;
- add \$15,000 to the project for traffic impact fees;
- lower lot #9 unit below the 3,000 square feet threshold;
- that the study in the master bedroom in unit 9 would be moved 45 degrees tangent to the corner of the living room to the satisfaction of staff in order to maximize the view; and
- to change "common" association to "homeowner" association in Condition number 50.

36. Light Brown Apple Moth Community & Environmental Advisory Task Force. (CM)

Motion carried to not take any action at this time; to direct the City Attorney to ask for a scoping hearing in Santa Cruz regarding concerns and the agency's utilized for review if the State is conducting an EIR on the spraying; and to continue to focus on the City's lawsuit.

Adjournment – At 12:50 p.m., City Council adjourned from the December 11, 2007 Regular City Council Meeting to 11:30 a.m. on December 17, 2007 for a Special City Council Closed Session. The next regularly scheduled meeting will be on January 22, 2008 for a closed litigation session at 1:30 p.m. followed by open sessions at the approximate hour of 3 p.m. and 7 p.m. in Council Chambers.

Note: The Council Chambers were closed ten minutes after the meeting was adjourned.



CITY COUNCIL
AGENDA REPORT

DATE: 11/29/2007

AGENDA OF: 12/11/2007

DEPARTMENT: Planning

SUBJECT: 170 Frederick Street 06-078 APN: 011-141-60
Planned Development, Coastal and Design Permits and Tentative
Subdivision Map for a nine-unit residential project involving nine detached
ownership units with three accessory dwelling units, all within the R-1-
5/SPO zone district. Six of the lots are planned with three-bedroom homes,
while the other three lots are planned with two-bedroom homes. Three of
the lots also include one-bedroom accessory dwelling units (ADUs) that
are located above the garage. All units have attached garages, except for
the proposed Lot 9, which has a detached garage. Access will be provided
via a driveway off of Frederick Street. (Environmental Determination:
Negative Declaration) (PUFFSKY, LLC, owner/filed: 4/12/06)

RECOMMENDATION: Resolution approving the Negative Declaration, Planned Development,
Design, and Coastal Permits, and Tentative Subdivision Map based on the Findings included in
the resolution and the Conditions of Approval.

The Planning Commission recommended denial of the project. A resolution for denial of the
project is attached if the Council chooses this option.

BACKGROUND: Project Area. The project site is located on the eastern side of Frederick
Street, just south of its intersection with Glenview Street and just north of Frederick Street Park.
Two church buildings are now located on a portion of the site closest to the street. Residential
land uses surround the site on the north and west, and the park and harbor are located on the
south and east, respectively. The neighborhood consists of a mixture of one and two story
buildings of various architectural styles and densities. Newer projects to the south are denser
than those to the north. Project plans include photographs of buildings in the area. General Plan
designations and zoning in the area call for low density development (1.1-10 units/acre) north of
the park and low-medium density development (10.1-20 units/acre) south and west of the park.

2006 PLANNING COMMISSION HEARINGS AND RECOMMENDATION

On September 21 and October 5, 2006, the Planning Commission conducted public hearings on
the proposed project. On September 21, 2006, nearly 30 people spoke during public testimony
including the applicants and their representative. After closing the public hearing, the Planning

COC Exhibit 5
(page 2 of 28 pages)

Commission moved and seconded to continue the public hearing. They asked the applicants to look at a variety of items to redesign the project. This list included:

- Impact of the project on the intersection of Frederick and Glenview Streets
- Saving heritage trees
- Providing an edge to the park with landscaping, fencing and walkways
- On-site drainage solutions
- Reviewing the provided guest parking and proposed parallel parking
- Removing the gated pedestrian access from Harbor Street
- Re-explore the townhome concept
- Review the number of Accessory Dwelling Units (ADUs) and lot size proposed

The applicants reviewed the comments of the Planning Commission and revised their original plan to address these issues. The revised project included nine houses, three accessory dwelling units, and gable-roofed Craftsman Bungalow style homes. Staff recommended approval of the revised project. On October 5, 2006, after a long second hearing and much discussion, it was moved and seconded, that the Planning Commission recommend that the City Council deny the application based upon the following:

- Problems with the density of the project and the size of the lots
- The number of proposed ADUs
- The deeded easement issue and public access
- Proposed townhomes in the R-1-5 zoning district

The motion was approved by a vote of 4/3, Commissioners Kasparowitz, Schultz, Daly and Quartararo voting in favor of the motion, and Commissioners Gaffney, Louie and Foster voting against.

2006/2007 PROJECT CONTINUATION BY CITY COUNCIL MEETING

The project was scheduled before the City Council on December 12, 2006. Prior to this meeting, the applicants requested a continuance to January 23, 2007, which the City Council granted. On January 9, 2007, the applicants submitted a written request to continue the item indefinitely. At the January 9, 2007 Council meeting, the Council considered the request and indicated their support for continuance to a date uncertain. The City Council actually granted the continuance on January 23rd. The continuance allowed preparation of an Initial Study and Negative Declaration and for continued work with the neighborhood regarding design issues and potential purchase of the property for use as a park. The Council stated that the project would be considered by them without returning to the Planning Commission, and the future public hearing date would be fully noticed, according to standard public hearing noticing requirements. The applicants' letter indicates what has transpired during the past year.

REVISED PROJECT PLANS

In response to Planning Commission and neighborhood concerns, the applicants modified the project plans and details, as described below. The original plans had 10 houses (six detached homes and four attached homes) and six accessory dwelling units with modern designs. The plan modifications reduce the project to nine detached houses and three access

CCC Exhibit 5
(page 3 of 28 pages)

with more traditional sloped-roof, Craftsman style designs. The revised plans have the following major changes to the original plan:

1. Reduced number of lots from 10 to 9; lots range from 2,422-13,209 sq. ft. in size.
2. Reduced the number of accessory dwelling units (ADUs) from six to three (427 sq. ft. each). These units are located on lots 5, 8, and 9.
3. Replaced four attached townhouses with three detached homes facing Frederick Street; these homes are 1,352 sq.ft. in size with 544 sq. ft. garages.
4. Revised all home designs from modern (flat roof) design to traditional (sloped roof) design with metal, asphalt shingle, and recycled content (slate/wood shingle appearance) roofs, 2.5 story units facing Frederick Street and two-story units facing the park. Revised design details to include stucco and wood siding. Home sizes have been reduced, with two homes at 2,095 sq. ft.; three at 2,360 sq. ft. and one at 2,797 sq. ft. Each also has a 427 sq. ft. garage.
5. Added a seven foot public easement along the south edge of the property, adjacent to the park, which includes a three foot planted bioswale and four foot paved walkway.
6. Added a City access easement through the project for parks maintenance vehicles.
7. Designated Lot No. 1 as a low income unit with intention to work with Habitat for Humanity to construct this home.
8. Proposed planting trees on the project site just north of the park and increased the northern landscape buffer to three feet.
9. Revised the grading and drainage plan to eliminate the pipe connecting to the Harbor property pond and significantly reduce post-development drainage towards the harbor.
10. Provided three guest parking spaces, one in excess of the two required.

Project Statistical Data.

Unit Number

and Sizes: 3 two-bedroom units – 1,352 sq. ft. living area, 544 sq. ft. garage
 2 three-bedroom units – 2,095 sq. ft. living area, 427 sq. ft. garage
 3 three-bedroom units - 2,360 sq. ft. living area, 427 sq. ft. garage
 1 three-bedroom units - 2,797 sq. ft. living area, 427 sq. ft. garage
 3 one-bedroom
 accessory units - 427 square foot area

Density: 8.8 units/developable acre (9 units/1.02 acres); accessory dwelling units are not counted toward density per 24.16.100 of City Code

Parking:

Use	Parking Ratio	Requirement/Provided
3 front detached units	2 spaces/unit plus	6 spaces/ 6 spaces
6 rear detached units	2 spaces/unit plus	12 spaces/12 spaces
3 accessory units	1 space/unit 1 guest space/4 units	3 spaces/ 3 spaces 2 spaces/ 3 spaces
Total		23 spaces/24 spaces
	1 space/unit covered	9/18 spaces

CCC Exhibit 5
 (page 4 of 28 pages)

DISCUSSION: General Plan and Zoning Consistency. The revised plans decreased the project density to 8.8 units/acre which is consistent with the L (Low Residential, 1.1-10 units/acre) General Plan designation. The revised plans are also consistent with the R-1-5/CZ/SPO (Single-Family Residence-/Coastal Zone/Shoreline Protection Overlay) zoning of the site as follows: Nine units (44,297 square feet developable land/5,000 square foot lots = 8.86 = 9 units). Accessory dwelling units are not counted in density calculations. The number of ADUs has been decreased from six to three. All ADUs are located on lots in excess of 5,000 square feet. The Planning Commission and neighbors had concerns with the density and the number of ADUs. This reduction of one unit and three ADUs is in direct response to those concerns.

Planned Development Permit. The Zoning Code allows variations from normal zoning requirements for project on sites greater than 20,000 square feet if certain findings can be made. The proposed project includes the following variations from R-1-5 zoning requirements:

Item	Zoning Requirement	PD Variation Requested
▪ Front Yard Encroachments (Porch, Deck, Bay Window) Lots 1, 2, 3)	30% house width	90% house width
▪ Lot Area (1, 2, 3)	5,000 square feet	2,422-3,176- 4,161
▪ Lot Width (Lots 1, 2, 3)	50 feet	31-32-42 feet

The variation to the 30 percent limit for front setback encroachments along Frederick Street is appropriate as it provides porch areas closer to the street which may encourage neighborly conversations between homes and with pedestrians on the sidewalk. Only one of the porch extension areas is fully covered with a roof. The small decks and bay windows provide building articulation of these three homes.

The lot area and width variations for Lots 1, 2 and 3 are justified in that they allow the overall density (8.8 units/acre) of development to be consistent with the General Plan. All the other six lots (Lots 4-9) exceed the 5,000 square foot minimum lot size and 50 foot lot width. With the original project the driveway was a separate lot so nine out of the ten lots needed a PD variation. The driveway lot has been eliminated so Lots 4 -9 exceed 5,000 square feet (ranging from 5,954 to 13,209 square feet). The driveway is now an easement over the majority of the lots. This addressed one of the Planning Commission concerns with the substandard lot sizes. The three smaller lots result from the concern with the townhouse variety of unit and the number of lots. Reducing one unit, then detaching the remaining front homes can only be accomplished on smaller, narrower lots.

Design Permit. The project site plan provides one access driveway to all the units which benefits Frederick Street by removing and hiding all project parking from the street. Guest parking and a trash enclosure are provided just beyond the garage area for the front three homes. All heritage oak trees will be retained on the project site. A fire truck turn-around and pedestrian access easement connecting the park and Harbor Drive are provided. The revised project plans include a three foot landscaped area north of the access driveway. One space in excess of all the required parking is provided on the site.

The revised home designs are more traditional and "Craftsman Bungalow" in character than the original modern designs which were of concern to many neighbors. The front three homes have a similar floor plan with stucco and wood siding materials, porches and decks/bay windows to provide variety.

There are two different house plans proposed for Lots 4 – 9. They include front porches, exposed rafters and beams, stucco and wood siding and double hung and casement windows. All homes would be accessed from a pedestrian path along the southern property line with the front doors facing the park. The path is separated from the park by a small fence and a three foot landscape strip/bio-swale. The houses are setback 15 feet from the park. Both house plans will be two stories high, a reduction from the previous three story house plans. The height of the two house plans is 24 and 26 feet to the roof midpoint (27 and 28.5 feet to the roof peak). Both house plans have yard areas to the side and rear of the house. The applicants have added additional trim and other exterior details to the house designs and three roof materials to provide more variety and avoid a repetitive look which was an earlier design concern. Three of the lots (5, 8, and 9) will have ADUs on them. These are proposed as shed roof structures over the garages. The applicants have indicated that the shed roof design would lessen the mass of the ADUs and allow for installation of solar collectors in the future. Staff does not agree with this rationale and has included a condition requiring the roofs over the garage/ADU to be sloped and gable style to be consistent with the house roofs. Lot 9 includes a stucco-siding boxy element on the east with a roof deck. Staff has included a condition that this element be redesigned with a two-story sloped gable roof without a roof deck and that the bathroom in the lower floor study be eliminated.

With the proposed conditions, it is staff's opinion that the new design approach creates an attractive low density development which many people in the neighborhood would find more compatible with the surrounding mixed R-1-5/RL zoned neighborhood. The project also incorporates a variety of housing types needed in the City (ADUs, smaller single family homes, larger single family homes). Its design is compatible with the one to two and a half story, mixed architectural styles of the adjacent neighborhood. The applicants have revised the grading and drainage plan to significantly reduce post-development drainage towards the harbor and eliminate the need for a pipe connecting to the Harbor property pond. A project condition requires the incorporation of best management practices for project drainage facilities.

Coastal Permit. The project is located within the coastal zone. However, there are no significant coastal issues with the project as it is consistent with the LCP residential designation for the site.

Tentative Subdivision Map. The project creates a nine lot tentative tract map. The six interior lots will have lot areas greater than 5,000 square feet. The three lots facing Frederick Street will be less than 5,000 square feet and less than 50 feet wide. These smaller, narrower lots are part of the associated Planned Development Permit. A common easement for the private driveway/guest parking/trash enclosure area is provided for the nine lots. A pedestrian easement in the center of the project will be created to continue to connect the park with a similar existing easement connecting to Harbor Drive. The existing access easement will be converted into a new access easement for City parks maintenance vehicles through the project driveway and fire turn-around area and a new seven foot wide pedestrian easement will be created along the southerly property line (more on this discussed below).

Inclusionary Housing Requirements. Nine new housing units are now proposed as part of the project. One unit is required as an inclusionary unit. The applicant has proposed

CCC Exhibit 5
(page 6 **of** 28 **pages)**

One home be restricted as the inclusionary unit, with the intention of working with Habitat for Humanity to build this home.

Park Easement and Park Expansion Issues. Numerous members of the public have advocated purchase of the property for expansion of the park. In the attached letter, the Director of Parks and Recreation has stated the Parks and Recreation Department does not have funding for purchase, development and maintenance of the site as a park addition, and that the Department is currently focusing on sustainability of existing facilities, services and programs. Efforts by interested public members and neighbors to gain funding to purchase and maintain the land for a park expansion have not been successful.

Another concern expressed by the public is the loss of an existing 10-foot wide public utilities and incidental purposes easement that currently exists along the southern edge of the project site from Frederick Street to the nearly the harbor bluff. This easement is mainly used by Parks vehicles to occasionally access the bathrooms. At the Planning Commission public hearings it was also stated that the public has "utilized" this easement as well to access the park. Since the driveway is almost always blocked this means the public would "cut" through the church property as a short cut to the park. The Parks and Recreation Department has stated they would be willing to modify the easement if parks maintenance vehicles can access the park through the project driveway and Fire Department turn-around area. To address the "loss" of pedestrian access from Frederick Street the applicants propose to make the four foot walkway and landscaping adjacent to the park to become a seven-foot wide public use easement for pedestrian access to the park. It should be noted that the pathway on the park property is only 25 feet from this proposed easement.

ENVIRONMENTAL REVIEW

An Initial Environmental Study and Negative Declaration has been prepared and noticed for the project. Various background reports were prepared as part of this assessment. A Geotechnical Investigation for the project site concludes that site is suitable for development with appropriate soils preparation and structural designs. The sloping portion of the site adjacent to the harbor will be preserved the project and all development is set back 20 feet from the edge of the slope except for one open parking space. An arborist report assessed how the project might impact heritage trees on the site and determined development specifications to assure that these trees are not damaged by development. All heritage trees are preserved on the site.

A biotic study for the site determined that the project would not cause any significant impacts. No evidence of special status wildlife species or bird or raptor nesting was found on site. Project conditions have been added, as recommended by the Initial Study, for an acoustic bat survey and a pre-construction survey for special-status nesting avian species. The Initial Study also reviews the project's potential impacts to Hagemann Gulch which lies downhill to the northeast. It concludes that the project would not cause any impacts because of its distance away from the gulch and the fact that no development is proposed on the sloped area. A traffic study determined that the project would generate 106 daily trips with nine trips in the a.m. peak hour and 11 trips in the p.m. peak hour. This number of trips would not affect the levels of service at the Frederick/Broadway or Frederick/Soquel intersections which are operating at Level of Service (LOS) B, well above the allowed LOS D. The project will be required to pay traffic impact fees at the time building permits are issued for the project.

CCC Exhibit 5
(page 7 of 28 pages)

SUMMARY

The proposed project has generated considerable public interest. After two public hearings, the Planning Commission recommended denial of the original project. The City Council continued the project in December 2006 and January 2007 to allow time for preparation of an environmental study and for the neighborhood to explore purchase options. An Initial Environmental Study/Negative Declaration has determined that the project will not cause any significant impacts. Options for purchase of the property for open space/community use have not proven successful during the past 12 months. The applicants have modified the project to address public and Planning Commission concerns. Staff finds that, with the Planned Development Permit, the revised project is consistent with the General Plan and R-1-5 zoning for the project site. Staff is therefore recommending that the City Council adopt a resolution adopting the Negative Declaration and approving the Planned Development, Design, and Coastal Permits, and Tentative Subdivision Map based on the Findings included in the resolution and the Conditions of Approval listed in Exhibit "A". A resolution denying the project has also been prepared if the Council chooses that option.

FISCAL IMPACT: The project will result in increased property taxes from the nine lot subdivision and an increased need for City services. The project would generate plan check and building permit fees to the City of Santa Cruz.

Prepared by:
Don Lauritson
Senior Planner

Submitted by:
Greg Larson
Director of Planning and
Community Development

Approved by:
Richard C. Wilson
City Manager

ATTACHMENTS:

Resolution Approving Project with Findings, and Negative Declaration and Conditions of Approval

Resolution Denying Project with Findings

Minutes of Planning Commission Meetings, dated September 21 and October 5, 2006

Initial Environmental Study (background reports available upon request)

Letter from Applicants

Letter from Parks Director, dated November 7, 2006

Correspondence received by Planning Commission and City Council prior to July 1, 2007 is available in the City Clerk's Department Office; correspondence received after that date is attached.

Color and Materials Board

Plans, Elevations and Subdivision Map (Small Format-Large Plans in Planning and City Clerk's Offices)

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This is to certify that this document is a true and correct copy of Resolution No. NS- 27,669 passed and adopted by the City Council on the 11th day of December, 2007
Rosemary Gahley
Deputy City Clerk

COPY

RESOLUTION NO. NS-27,669

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ ADOPTING THE NEGATIVE DECLARATION AND APPROVING PLANNED DEVELOPMENT, COASTAL AND DESIGN PERMITS AND TENTATIVE SUBDIVISION MAP FOR A NINE LOT SUBDIVISION INVOLVING NINE SINGLE- FAMILY HOMES AND THREE ACCESSORY DWELLING UNITS, AT 170 FREDERICK STREET WITHIN THE R-1-5/CZ/SPO ZONE DISTRICT. (APPLICATION NO. 06-078)

WHEREAS, on April 6, 2006 Michelle Bensky and Christy Brandt, PUFFSKY L.L.C., applicants for the project on property located at 170 Frederick Street (APN 011-141-60) submitted an application for Planned Development, Coastal and Design Permits and Tentative Subdivision Map to create ten lots for six family homes with six accessory dwelling units and four townhouse units on a 53,039 square foot parcel in the R-1-5 zone district, and

WHEREAS, the project site and its development is governed by the standards and guidelines contained in Municipal Code Title 23 and 24, the Subdivision and Zoning Ordinances, and the City of Santa Cruz General Plan; and

WHEREAS, the Planning Commission conducted a public hearing on September 21, 2006 on the proposed project and continued the public hearing and asked the applicants to look the following items to redesign the project: the impact of the project on the intersection of Frederick and Glenview Streets; saving heritage trees; providing an edge to the park with landscaping, fencing and walkways; on-site drainage solutions; reviewing the provided guest parking and proposed parallel parking; removing the gated pedestrian access from Harbor Street; re-exploring the townhome concept; and, reviewing the number of Accessory Dwelling Units and lot sizes proposed; and

WHEREAS, the Planning Commission reopened the public hearing on October 5, 2006, and after considering revised plans from the applicants and additional public testimony, voted four to three to recommend that the City Council deny the application based upon problems with the density of the project and the lot sizes; the number of proposed accessory dwelling units; the deeded easement issue and public access; and the proposed townhomes in the R-1-5 zoning district; and

WHEREAS, the City Council continued the project from the December 12, 2006 meeting to the January 23, 2007 meeting; and

WHEREAS, on January 9, 2007, the applicant submitted a written request to continue the item indefinitely; and

WHEREAS, on January 23, 2007, the City Council approved the request for continuance to a date uncertain to allow preparation of an Initial Environmental Study and to allow for continued work with the neighborhood regarding design issues and potential purchase of the property for use as a park; and

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WHEREAS, the City Council stated that the project would be considered by them without returning to the Planning Commission, and the future public hearing date would be fully noticed, according to standard public hearing noticing requirements; and

WHEREAS, in accordance with the California Environmental Quality Act, an Initial Study was prepared for the project which concluded that a Negative Declaration should be adopted for the project; and

WHEREAS, the City Council conducted a public hearing on December 11, 2007; and

WHEREAS, the City Council now makes the following findings:

FINDINGS

With respect to the Negative Declaration

The City Council has considered the Initial Study and Negative Declaration together with comments received during the public review process and finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment, and that the Negative Declaration reflects the City's independent judgment and analysis.

With respect to the Planned Development Permit, Section 24.08.770

1. **Is consistent with the General Plan, the Local Coastal Land Use Plan, and adopted area plans.**

At 8.8 units/acre density, the revised project is consistent with the L (1.1-10 units/acre) General Plan/Local Coastal Plan designation for the project site. The 30 percent slope area leading down to the harbor will be retained and protected as part of the project. All heritage trees will be retained on the site. A public pedestrian access connection between the park and Harbor Drive will be provided through the project. A public pedestrian path will be developed on the southern boundary of the project adjacent to the park. There are no adopted area plans for the project area. The project is consistent with the following General Plan Policies

No. 2.1.2: "Maximize land intensity or densities in areas unconstrained by resources or hazards and having adequate service capabilities."

No. 2.5: "Emphasize the use of planned development regulations to allow for innovative and creative site planning."

No. 2.6.4: "Maximize housing potential on remaining unconstrained residential land..."

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2. **Is consistent with the purpose of this chapter and other applicable sections of this title.**

The site plan and project design demonstrate creative planning and subdivision techniques which serve public objectives more fully than a standard suburban style cul-de-sac development. The private access road devotes a lesser amount of the site to paved surfaces. Most of the new homes face the park area and should result in "eyes on the park" so that unsavory activities are less likely to occur.

3. **Includes planned variations to underlying district regulations which serve public purposes to an equivalent or higher degree than would underlying district regulations.**

The project includes the following variations from R-1-5 zoning requirements:

<u>Item</u>	<u>Zoning Requirement</u>	<u>PD Variation Requested</u>
Front Yard Encroachments (Porch, Deck, Bay Window)		
Lots 1, 2, 3)	30% house width	90% house width
Lot Area (1, 2, 3)	5,000 square feet	2,422-3,176- 4,161
Lot Width (Lots 1, 2, 3)	50 feet	31-32-42 feet

The variation to the 30 percent limit for front setback encroachments along Frederick Street is appropriate as it provides porch areas closer to the street which may encourage neighborly conversations between homes and with pedestrians on the sidewalk. Only one of the porch extension areas is fully covered with a roof. The small decks and bay windows provide building articulation of these three homes.

The lot area and width variations for Lots 1, 2 and 3 are justified in that they allow the overall density (8.8 units/acre) of development to be consistent with the General Plan. All the other six lots (Lots 4-9) exceed the 5,000 square foot minimum lot size and 50 foot lot width. With the original project the driveway was a separate lot so nine out of the ten lots needed a PD variation. The driveway lot has been eliminated so Lots 4 -9 exceed 5,000 square feet (ranging from 5,954 to 13,209 square feet). This addressed one of the Planning Commission concerns with the substandard lot sizes. The three smaller lots result from the concern with the townhouse variety of unit and the number of lots. Reducing one unit, then detaching the remaining front homes can only be accomplished on smaller, narrower lots.

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4. Can be coordinated with existing and proposed development of surrounding areas.

The project is well coordinated with existing development in the area. The new buildings have a 25-30 foot setback from the northerly property line which provides separation and buffer from and solar access to houses to the north. The new homes face the park and will provide more "eyes on the park" which should lessen unsavory activities there. The project creatively mixes detached homes and accessory dwelling unit housing types on a parcel which is adjacent to the park, single-family homes and multiple-family development.

5. Overall, the amenity level of the development and the amount of open space shall be greater than what would have been permitted by the underlying district regulations.

Project amenities include expansive patio areas on the six detached homes to the rear with 10 foot side yards and 15 foot yards facing the park, and additional open space areas between the garages and the rear entrances to the homes. The R-1-5 zone district does not have a specific open space requirement for each house. A standard 5,000 square foot lot typically has about 2,500 square feet of open space. The project provides 29,642 square feet of open space – 20,900 square feet around the homes and 8,742 square feet on the slope area above the harbor which will be protected by a conservation easement. The project also retains all heritage trees on the site. The project also provides a public walkway adjacent to the City park.

With respect to the Coastal Permit, Section 24.08.250

6. The development is consistent with the General Plan, the Local Coastal Land Use Plan and the Local Coastal Implementation Program and will:

With approval of the Planned Development Permit for the project, the project is consistent with the L (Low Residential 1.1-10 units/acre) General Plan/Local Coastal Plan designation and R-1-5 zoning on the project site.

7. Maintain views between the sea and the first public roadway parallel to the sea;

Not applicable due to location of project.

8. Protect vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan;

The project retains all heritage trees on the site. The project will not affect wetlands or sensitive habitat or interfere with wildlife movement. The wooded slope area leading down to the harbor will be retained and maintained as a natural area.

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9. **Be consistent with any applicable design plans and/or area plans incorporated into the Local Coastal Land Use Plan;**

There is no design or area plan for this area. The revised project, with sloped roofs, is consistent with the General Plan/Local Coastal Plan design policies. Its design is compatible with the mixed one-two story, mixed architectural style of the adjacent development and neighborhood. Each condominium development just south of the project has its own unique architectural style. All of these developments have been popular with the public.

10. **Maintain public access to the coast along any coastline as set forth in the Local Coastal Land Use Plan;**

Not applicable due to project location.

11. **Be consistent with the Local Coastal Land Use Plan goal of providing visitor-serving needs as appropriate;**

Not applicable as the site is zoned for residential uses.

12. **Be consistent with the Local Coastal Land Use Plan goal of encouraging coastal development uses as appropriate.**

Not applicable as the site is zoned for residential uses.

With respect to the Design Permit, Section 24.08.430

13. **The site plan shall be consistent with physical development policies of the General Plan, any required or optional element of the General Plan, any area plan or specific plan or other city policy for physical development. If located in the Coastal Zone, a site plan shall also be consistent with policies of the Local Coastal Program.**

At 8.8 units/acre density, the project is consistent with the L (1:1-10 units/acre) General Plan/Local Coastal Plan designation for the project site. The 30 percent slope area leading down to the harbor will be retained and protected as part of the project. All heritage trees will be retained on the site. A public pedestrian access connection between the park and Harbor Drive will be provided through the project. There are no adopted area plans for the project area. The project is consistent with the following General Plan Policies:

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No. 2.1.2: "Maximize land intensity or densities in areas unconstrained by resources or hazards and having adequate service capabilities."

No. 2.5: "Emphasize the use of planned development regulations to allow for innovative and creative site planning."

No. 2.6.4: "Maximize housing potential on remaining unconstrained residential land..."

14. **The exterior design and appearance of buildings and structures and the design of the site plan shall be compatible with design and appearance of other existing buildings and structures in neighborhoods which have established architectural character worthy of preservation.**

The exterior building design creates a sensitive infill project served by a common driveway. Its sloped roof, Craftsman style design is compatible with the one-three story, mixed architectural styles of the adjacent development and neighborhood. Three different roofing materials are utilized to provide variety. With the sloped roofs and Craftsman details, it is compatible with the mixed single-family home styles and multiple-family condominium developments in the area. Existing homes north of the project site include numerous different architectural styles. Each condominium development just south of the project has its own unique architectural style. All of these developments have been popular with the public. Because this is a relatively new area of the City, there is no area plan or General Plan policy which requires the development of specific architectural styles in this area. Permit conditions have been added requiring the roofs over the garage/ADU to be sloped and gable style to be consistent with the house roofs; and requiring the stucco-sided boxy element on the east of Lot 9 with a roof deck to be redesigned with a two-story sloped gable roof without a roof deck and that the bathroom in the lower floor study be eliminated.

15. **Design of the site plan shall respect design principles in terms of maintaining a balance of scale, form and proportion, using design components which are harmonious, materials and colors which blend with elements of the site plan and surrounding areas. Location of structures should take into account maintenance of view; rooftop mechanical equipment shall be incorporated into roof design or screened from adjacent properties. Utility installations such as trash enclosures, storage units, traffic-control devices, transformer vaults and electrical meters shall be accessible and screened.**

The project design maintains a good balance of scale, form and proportion through the use of multiple wall materials (horizontal and vertical wood-type siding and stucco siding), horizontal trellis elements, double-hung style windows, varied deck railing styles, and wall offsets. The project landscape plan is detailed and utilizes a good mix of trees, shrubs and groundcover

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16. Where a site plan abuts, or is in close proximity to, uses other than that proposed, the plan shall take into account its effect on other land uses. Where a nonresidential use abuts or is in close proximity to a residential use, the effect of the site plan should maintain the residential quality of adjacent or nearby areas.

Not applicable.

17. The orientation and location of buildings, structures, open spaces and other features of the site plan shall be such as to maintain natural resources including significant trees and shrubs to the extent feasible, maintain a compatible relationship to and preserve solar access of adjacent properties, and minimize alteration of natural land forms, building profiles, location, and orientation must relate to natural land forms.

All heritage trees on the property will be retained. A generous and coordinated landscape plan will result in a "built-in" appearance after a few years. Building setbacks from the northerly property line will protect solar access of adjacent properties.

18. The site plan shall be situated and designed to protect views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan shall restore and enhance visual quality of visually degraded areas.

Not applicable.

19. The site plan shall minimize the effect of traffic conditions on abutting streets through careful layout of the site with respect to location, dimensions of vehicular and pedestrian entrances, exit drives and walkways; through the adequate provision of off-street parking and loading facilities; through an adequate circulation pattern within the boundaries of the development; and through the surfacing and lighting of off-street parking facilities.

The site plan will provide one coordinated driveway access for the entire development. A centrally located turn-around areas will allow easy turn-around for residents and visitors. Required parking is provided in garages, open parking spaces and a guest parking bay. Three guest parking spaces are provided. The project will pay traffic fees for area and city-wide improvements.

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20. **The site plan shall encourage alternatives to travel by automobile where appropriate, through the provision of facilities for pedestrians and bicyclists, including covered parking for bicycles and motorcycles where appropriate. Public transit stops and facilities shall be accommodated as appropriate, and other incentive provisions considered which encourage non-auto travel.**

The project provides an east-west and north-south pedestrian easement at the southern and mid sections of the development. Bicycle parking will be provided in garages or rear yards. Bus routes and some commercial services are within walking distance. Walking and bicycling to and from the harbor and beach is very popular in the lower Frederick Street area.

21. **The site shall provide open space and landscaping which complement buildings and structures. Open space should be useful to residents, employees, or other visitors to the site. Landscaping shall be used to separate and/or screen service and storage areas, separate and/or screen parking areas from other areas, break up expanses of paved area, and define open space for usability and privacy.**

Homes on lots 1, 2 and 3 have 20 foot deep front yard areas and the southernmost house has balcony area on the south side of the building. Open space surrounds the homes on the rear lots in the subdivision. There is a landscape strip along the northerly project boundary. Open space is provided in balcony and ground-floor deck and open space areas. Open space and landscaping is well planned to complement the project buildings.

22. **The site plan shall reasonably protect against external and internal noise, vibration and other factors which may tend to make the environment less desirable. The site plan should respect the need for privacy of adjacent residents.**

The project is located in a relatively quiet area and there is little concern from traffic noise. Privacy of adjacent residents was considered during development and review of the project.

23. **Signs shall complement the site plan and avoid dominating the site and/or existing buildings on the site or overwhelming the buildings or structures to which they are attached. Multiple signs on a given site should be of a consistent theme.**

Not applicable.

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24. **Building and structures shall be so designed and oriented to make use of natural elements such as solar radiation, wind, and landscaping for heating, cooling and ventilation.**

The site plan is oriented to take advantage of southern exposure to open space. The homes have been designed to have the opportunity to incorporate roof mounted photovoltaic systems for both domestic hot water and electricity. Operable windows will be utilized. Building Code requirements will be implemented with regard to energy conservation.

25. **The site plan shall incorporate water-conservation features where possible, including in the design of types of landscaping and in the design of water-using fixtures. In addition, water restricting shower heads and faucets shall be used, as well as water-saving toilets utilizing less than three gallons per flush.**

Building Code and Water Conservation Code requirements will be implemented with regard to water conservation.

26. **In all projects in Industrial (I) Zones, building design shall include measures for reusing heat generated by machinery, computers and artificial lighting.**

Not applicable.

27. **In all projects in Industrial (I) Zones, all buildings and structures shall be so designed and oriented to make use of natural lighting wherever possible.**

Not applicable.

28. **Heating systems for hot tubs and swimming pools shall be solar when possible but in all cases energy efficient.**

Not applicable.

29. **Enhance the West Cliff Drive streetscape with appropriate building mass, modulation, articulation, coloring and landscaping that is compatible with and would not diminish the visual prominence of the public open space.**

Not applicable.

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With respect to the Tentative Subdivision Map, Section 23.16.050

30. **The proposed tentative map is consistent with the applicable general and specific plans.**

At 8.8 units/acre density, the project is consistent with the L (1.1-10 units/acre) General Plan/Local Coastal Plan designation for the project site. The 30 percent slope area leading down to the harbor will be retained and protected as part of the project. All heritage trees will be retained on the site. A public pedestrian access connection between the park and Harbor Drive will be provided through the project. A public walkway easement will be created adjacent to the park. There are no adopted area plans for the project area.

31. **The design or improvements of the proposed subdivision are consistent with applicable general and specific plans.**

The design and improvements of the proposed nine lot subdivision are consistent with the policies of the General Plan and the Local Coastal Program. There is no specific plan for the area. A private driveway will provide access to the new lots. Sidewalk, street and other public utilities needed for the project will be developed in accord with standard City requirements. A Planned Development Permit is also being approved for three variations to zoning standards.

32. **The site is physically suitable for the type of development proposed.**

The flat site is suitable for the nine-lot development. The wooded slope adjacent to the harbor will remain in its current condition and be included in the new Lot 9. A condition of approval requires compliance with a geotechnical report and soils tests on the site.

33. **The site is physically suitable for the proposed density of development.**

The site access will involve one driveway/fire lane with a turn-around in the middle. The site plan demonstrates that the site can accommodate the number of units, the required parking and open space. A soils report for the site indicates that there are no significant geologic/soils issues involved with development.

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- 34. **The design of the subdivision or proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.**

As conditioned, the design and improvements of the subdivision will not cause substantial environmental damage, or substantially injure fish, wildlife, or their habitats, or cause serious public health problems. The subject parcel does not contain any bodies of water. The 30 percent slope area leading down to the harbor will be retained and protected as part of the project. All heritage trees will be retained on the site. A Negative Declaration has been prepared for the project.

- 35. **The design of the subdivision and the type of improvements are not likely to cause serious public health problems.**

No public health problems are anticipated as a result of the development. Project conditions address geology, soils and traffic concerns.

- 36. **The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through, or the use of, property within the subdivision.**

The design of the subdivision will not conflict with any easements. A 12 foot wide public utility easement along the southern edge of the site will be modified to a seven foot easement and improved as a public walkway and bio-swale. In addition, a vehicular easement for City parks maintenance vehicles will be created through the project driveway, fire turn around and east west pedestrian easement area. A new 10 foot wide pedestrian/parks maintenance vehicle access easement will be provided between the park and an existing five foot wide pedestrian easement will be maintained goes from Harbor Drive to the park.

- 37. **The discharge of waste from the proposed subdivision into an existing community sewer system will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board.**

The City Public Works Department has indicated there are no concerns regarding the treatment of sewage from the townhouse development.

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NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz, that it hereby adopts the Negative Declaration attached hereto and made part hereof as Exhibit "B" and approve the Planned Development, Coastal and Design Permits and Tentative Subdivision Map subject to the Findings listed above and the Conditions of Approval listed in Exhibit "A", attached hereto and made a part hereof.

PASSED AND ADOPTED this 11h day of December, 2007, by the following vote:

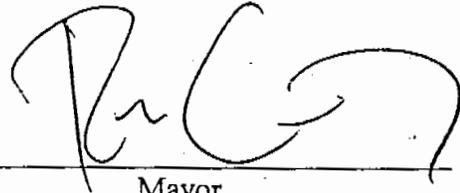
AYES: Councilmembers Robinson, Reilly, Rotkin, Madrigal, Vice Mayor Mathews; Mayor Coonerty.

NOES: Councilmember Porter.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: _____



Mayor

ATTEST: _____



City Clerk

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RESOLUTION NO. NS-27,669

Exhibit "A"

CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

170 Frederick Street; Application 06-078

Planned Development, Coastal and Design Permits and Tentative Subdivision Map for a nine-unit residential project involving nine detached ownership units with three accessory dwelling units, all within the R-1-5/SPO zone district.

1. If one or more of the following conditions is not met with respect to all its terms, then this approval may be revoked.
2. All plans for future construction which are not covered by this review shall be submitted to the City Planning and Community Development Department for review and approval.
3. The Tentative Subdivision Map is shall be exercised, by filing a Final Map, within two (2) years of the date of final approval. A one year extension of this expiration date may be approved as provided in Section 23.16.060.2 of the City Subdivision ordinance. All other permits shall be exercised within three (3) years of the date of final approval or it shall become null and void. No extension of the latter permits will be allowed.
4. The applicant shall be responsible for the completeness and accuracy of all forms and supporting material submitted in connection with any application. Any errors or discrepancies found therein may result in the revocation of any approval or permits issued in connection therewith.
5. All final working drawings shall be submitted to the Zoning Administrator for review and approval in conjunction with building permit application.
6. Except for modifications required by permit conditions below, the development of the site shall be in substantial accordance with the approved plans, prepared by Peter Spellman Design and Ifland Engineers, and on file in the Department of Planning and Community Development of the City of Santa Cruz. All aspects of construction must be completed prior to occupancy. Major modifications to plans or exceptions to completion may be granted only by the City authority which approved the project.
7. All requirements of the Building, Fire, Public Works and Water Departments shall be completed prior to occupancy and continuously maintained thereafter.
8. Fire Department requirements include, but are not limited to, fire lane signage, fire sprinklers, tree height and width clearances, and addressing of the project.
9. Public Works Department requirements include, but are not limited to, design of refuse facilities which meet Public Works standards, payment of Citywide traffic fees, construction of a street light on Frederick Street, sidewalk and street improvements, payment of \$15,000 for traffic calming in the immediate area and modification of the project storm drain system to include best management practices where possible and store and meter the runoff to an undeveloped rate.

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10. Building Division requirements include, but are not limited to, obtaining appropriate air quality permits before demolition of structures, and compliance with building code requirements regarding handicapped accessibility, SB 1025 Fair Housing multi-level access requirements, and AB 1400 universal design requirements.
11. Adequate provisions shall be made to supply water to each of the premises covered by this application. The design of water facilities shall be to standards of the Water Department, and plans therefore must be submitted to the Water Department Director for review and approval prior to the issuance of a building permit.
12. Final landscape and irrigation plans shall be submitted at the time of the building permit application and will be reviewed by both the Planning Department and Water Department. The landscape and irrigation plans shall comply with all requirements of the City's landscape water conservation ordinance prior to issuance of the building permit. This may include separate irrigation meters for high water needs plants.
13. Turf grass shall be limited to no more than 25 percent of the total landscape area. Turf varieties shall be water-conserving species, such as tall and hard fescues. Turf shall not be placed in areas less than eight feet wide, or on slopes greater than 10 percent.
14. All landscaping within 20 feet of Frederick Street and within 15 feet of the park shall be installed prior to final utility release or issuance of occupancy permits.
15. Subsequent to occupancy of the premises, all landscaping within 20 feet of Frederick Street, within 15 feet of the park, and within five feet of the access driveway shall be permanently maintained. Such maintenance shall be secured through an 18-month bond prior to occupancy.
16. All trees shall be a minimum 15-gallon size. Not less than 30 percent of the proposed trees shall be 24-inch box size or larger.
17. Bike parking shall be provided in accordance with Section 24.12.250-252 of the City's Zoning Ordinance.
18. All utilities and transformer boxes shall be placed underground or adequately screened from view unless otherwise specified.
19. An engineered drainage plan shall be submitted in conjunction with application for building permits. This plan shall document project runoff increases, to verify downstream storm drain capacities, and to account for and/or accommodate offsite drainage that currently flows through the site. If project runoff exceeds available capacity, provide onsite stormwater drainage detention facilities in accordance with Public Works Department requirements to insure that post-project runoff does not exceed undeveloped levels, and/or upgrade storm drains as may be required to accommodate project runoff. Installation of oil/grease traps and implementation of "Best Management Practices" shall

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be required during construction in accordance with the City's Stormwater and Urban Runoff Pollution Control Ordinance.

20. During all grading and subsurface excavations (including utility-line trenching), construction will be halted within 50 meters (150 feet) of the find if significant archaeological resources are discovered. For the purpose of this use permit, significant archaeological resources shall include the remains of previous Indian living areas or human burials. In the instance of Indian living areas, these objects shall be recorded and mapped prior to further excavation on that portion of the site. In the event human burials are discovered during excavation, work shall be halted and the County Coroner, the Northwest Indian Cemetery Protective Association (NICPA), and other appropriate authorities shall be notified. Mitigation measures developed by the applicant and authorized archaeologists shall be subject to the approval of the Planning Department. Any information developed as a result of this archaeological survey shall be forwarded to the County Archaeological Society, the County Historical Museum, and the Santa Cruz Collection, University of California Library.
21. Prior to issuance of a grading permit, a plan for erosion control shall be submitted for review and approval.
22. All downspouts shall be directed to the City street or through bio-swales or other BMP facilities for the handling of such runoff.
23. Grading shall be done during periods of dry weather and protective measures shall be incorporated during grading to prevent siltation from any grading project halted due to rain.
24. No earth-moving activities shall occur between October 15 and April 1 unless an erosion control plan and grading plan is approved by the Building Division in accordance with the City grading ordinance.
25. Handicap access shall be provided in accordance with Uniform Building Code.
26. All new mechanical equipment and appurtenances, including gas and water meters, electrical boxes, roof vents, air conditioners, antennas, etc. visible from the public way and from adjacent properties, shall be screened with material compatible with the materials of the building and shall be subject to the approval of the Zoning Administrator.
27. Final building colors shall be approved by the Zoning Administrator prior to application for building permits and reconfirmed by the Zoning Administrator in the field with color samples on the new buildings.
28. The applicant or successor in interest shall comply with the inclusionary housing requirements, as outlined in Sections 24.26.010 of the Zoning Ordinance. One inclusionary unit shall be provided on site – a two-bedroom home on Lot 1 shall be affordable to a “low income” household. A Participation Agreement establishing compliance with inclusionary housing requirements shall be **COO Exhibit** to 5

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recordation of the final subdivision map and recorded prior to either sale of the first subdivision lot or final occupancy of the first unit, whichever occurs first. The applicant may work with Habitat for Humanity to build this home. If federal funds are used to create this unit, the applicant shall arrange for and fund the preparation of all necessary NEPA (federal) environmental documents. Construction of the affordable unit is ultimately the responsibility of the applicant or successor in interest. The applicant or successor in interest shall also provide two accessory dwelling units as inclusionary rental units. Occupancy of one of the accessory dwelling units shall be restricted to tenants at very-low (50% of area median income) or low (60% of area median income) income, and rents shall be affordable for those respective income levels. The occupancy of the other accessory dwelling unit shall be restricted at moderate (120% of area median income) income and rent shall be affordable at the moderate income level. Any owner of a parcel in the project containing an accessory dwelling unit shall occupy either the main dwelling or the accessory dwelling unit as the owner's principal place of residence, and shall rent the unit not occupied by the owner to eligible very-low or low income tenants at an appropriately affordable rent. A Participation Agreement establishing compliance with this Condition of Approval and the affordable housing requirements shall be entered into prior to recordation of the final subdivision map or issuance of a building permit. None of the inclusionary units shall be eligible for fee waivers.

29. Prior to the issuance of a building permit, the applicant shall pay park dedication fees based on the final building permit plans.
30. Prior to approval of a final map or issuance of a building permit for the project, the plans shall be revised to address the following issues, to the satisfaction of the Zoning Administrator:
 - A pedestrian easement, connecting the park with the existing pedestrian easement to Harbor Drive, shall be shown on the final map in favor of the City.
 - The existing twelve foot public utility easement along the southern edge of the property shall be modified to be a minimum seven foot easement for a paved walkway and shall be shown on the final map in favor of the City. The applicant shall consider whether the pathway easement can be enlarged to eight feet in width.
 - A vehicular easement, for parks maintenance vehicles, through the project driveway, fire turn-around and east-west pedestrian easement shall be shown on the final map in favor of the City.
 - Any necessary recorded documents for the above easements shall be created by the applicant for review by the City and recorded.
 - Improvements in the above easements shall be installed and maintained in good condition by the project homeowners association.
 - The design details of the trash collection facility shall be provided to the Planning and Public Works Departments for review and approval.
 - A conservation easement shall be recorded on the 30+ percent slope area on the eastern end of the project site. This easement shall require that this area be maintained in its natural state.
 - Details of green building features of the project shall be submitted for review and approval.

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EXHIBIT A

- Applicant shall work with Planning Staff to add Craftsman style details to the house designs which will result in more variety between the houses.
 - Garage roofs shall be redesigned to have pitched roofs like the houses.
 - The two story stucco-sided boxy element of the study and master bedroom on the east side of Lot 9 shall be relocated outside a 45 degree angle tangent with the southeast corner of the house living room to improve the view. The area shall be redesigned with a sloped gable roof and wood siding similar to the rest of the house without a roof deck.
 - The house and ADU on Lot 9 shall be reduced in size to be no greater than 3,000 square feet.
 - Additional parking shall be provided over the entire site as illustrated at the public hearing.
31. Construction activities shall be limited to the hours of 8:00 AM to 6:00 PM, Monday through Friday, except where the Chief Building Official allow for unusual circumstances.
32. Prior to issuance of a building permit for the project, the applicant shall provide proof of compliance with all recommendations of a geotechnical investigation for the project.
33. The project shall pay traffic impact fees prior to issuance of building permits for the project.
34. The final map of the subdivision shall be submitted showing compliance with all the provisions of Title 23 of the Santa Cruz Municipal Code, or with approved exceptions thereto.
35. Appropriate utility easements shall be provided to meet the requirements of the utility companies and of the Director of Public Works.
36. Water mains shall be installed as necessary to serve the subdivision, and water services shall be installed to the property line for each individual unit included within the tract, prior to completion of the project or occupancy of any unit.
37. Gas mains shall be installed in the street and utility easements to serve all lots within the subdivision; and gas service shall be installed to all lots, prior to completion of the project or occupancy of any unit.
38. Sanitary sewers, including manholes and other appurtenances, shall be constructed in the subdivision, and laterals extending to the property line of each lot shall be installed so as to provide service to all lots within the subdivision.
39. All sewer laterals shall be in accordance with the Standard Detail (3471-A-1) and shall be capped at the property line in a manner approved by the Director of Public Works.
40. Storm drainage facilities shall be installed in accordance with the specifications of the Director of Public Works.

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RESOLUTION NO. NS-27,669
EXHIBIT A

41. All necessary easements shall be acquired prior to City Council acceptance of the final subdivision map.
42. The specified private driveway and landscape strip to its east shall be designated as a public utility easement.
43. Each unit/lot shall have separate utility service.
44. Electroliers shall be installed in the subdivision or along its Frederick Street frontage as required by, and in accordance with, the specifications of the Director of Public Works.
45. Standard fire hydrants shall be installed in accordance with the specifications of the City Fire Department and the Director of Public Works.
46. Permanent monuments shall be furnished and installed by the subdivider as required by the Director of Public Works.
47. All plans and profiles of improvements shall be approved by the Director of Public Works prior to the filing of the final map, and the construction of said improvements shall be in accordance with the City specifications and shall be inspected by the Director of Public Works or his authorized agent.
48. The reproducible mylars of the plans and profiles for said improvements shall be furnished to the Public Works Department and shall become the property of the City of Santa Cruz at the time of approval.
49. Approval of the final plans and the conditions necessary for said approval are not necessarily limited to the approved tentative map conditions listed herein.
50. Prior to the approval of the final map, Covenant, Conditions and Restrictions (CC&Rs) or a similar type agreement, containing the provisions set forth in Section 23.50.020 of the Subdivision Ordinance, shall be filed with the City Planning Director. This agreement or CC&Rs shall include language requiring that garages be used for parking, noting that additions to buildings are not allowed, and noting that driveway and other improvements in the two pedestrian easements and drainage systems will be maintained in good condition by the homeowners association.
51. Approval of final plans and any conditions necessary for implementation of same in no way modify the original conditions of approval.
52. No permits shall be issued and work shall not commence until approval of the final map.
53. Installation and testing of the sewer lines, water systems, and fire hydrants must also be conducted to satisfy the requirements of the Public Works Department, the Water Department, and the Fire Department, prior to the issuance of the building permit.

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RESOLUTION NO. NS-27,669

EXHIBIT A

54. Prior to the issuance of an occupancy permit, following approval of the final map, all underground utilities, curbs, gutters, final road grading, and on-site grading shall be completed and approved by the Public Works Department.
55. All grading within the boundaries of the subdivision shall be done under the direction and supervision of a soils engineer. Upon completion of all grading, a final soils report shall be submitted to the Public Works Department by the soils engineer, certifying compliance with the City's grading ordinance. The report shall include locations and elevations of field density tests, summaries of field and laboratory tests, and any other substantiating data developed by the soils engineer.
56. Requirements for the approval of grading:
- All grading shall be done in accordance with the latest City of Santa Cruz Municipal Code, Chapter 24.27.
 - All work shall be in accordance with recommendations specified in the geotechnical investigation report prepared.
 - All clearing, site preparation or earthwork shall be performed under inspection by the Soils Engineer and to the satisfaction of the Soils Engineer.
 - Dust caused by the grading operations shall be controlled by proper watering.
 - A grading permit from the Chief Building Official will be required prior to commencement of work.
 - A pre-grading conference at the site is required prior to the start of grading with the following people present: owner, contractor, engineer, soils engineer, and City Inspector, or their representatives.
 - The engineer will inspect the site after grading has been completed, and inform the City of Santa Cruz whether grading was done in conformance with the grading plans.
 - Plans set forth in the schedule, location, and type of planting shall be submitted to the Planning Department for approval upon completion.
 - Work shall be done in accordance with approval plans on file in the Building Department.
 - Grading shall be done during periods of dry weather, and protective measures shall be incorporated during grading to prevent siltation from any grading project halted due to rain. No earth-moving activities shall occur between October 15 and April 1 unless approved by the Chief Building Official.
57. Public driveways shall be constructed to standards approved by the Department of Public Works. All drives and parking areas shall have vertical face concrete curbing unless otherwise approved by the Department of Public Works.
58. Additions to project buildings shall not be allowed in the future.
59. Require implementation of "Best Management" construction practices, as recommended by the MBUAPCD, which include the following measures:
- Water all exposed graded areas daily and throughout the day during periods of high winds;
 - Prohibit grading during periods of high winds;

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RESOLUTION NO. NS-27,669

EXHIBIT A

- Cover stockpiles of debris, soil and other materials which can become windblown;
 - Require all trucks hauling dirt, sand or loose materials to be covered.
 - Require street sweeping if visible soil material is carried out from the construction site.
 - Initiate revegetation and erosion control immediately upon completion of grading and prior to onset of the rainy season;
 - Plant vegetative ground cover in disturbed areas as soon as possible.
60. Conduct an acoustic bat survey of the vacant onsite structures and tree stands prior to building demolition or any tree pruning. If roosting bats are found, implement avoidance or exclusion measures, in consultation with the California Department of Fish and Game, prior to demolition or pruning.
61. Require that a pre-construction survey for special-status nesting avian species (and other species protected under the Migratory Bird Act) be conducted at least 30 days prior to the beginning of construction activities that occur during the nesting/breeding season (typically February through July) to assure that the project site and area is not actively being used. If active nesting is not occurring, project construction activities may begin. If nesting raptors or other protected species are found, construction may need to be delayed until late-August or after the wildlife biologist has determined the nest is no longer in use or unless a suitable construction buffer zone can be identified by the biologist.
62. Require all lighting on the eastern portion of the site be directed away from the eastern slope and existing trees; lighting shall be hooded and directed downward and away from the eastern slope.
63. Implement all measures outlined in the James P. Allen & Associates arborist report (June 28, 2006) to protect existing retained heritage trees in order to minimize damage to protected trees and their root zones during construction.
64. Require preparation and implementation of an erosion control plan that includes, but is not limited to, the following measures: installation of erosion control netting along the edge of the eastern slope to prevent inadvertent transport of sediments or construction materials downslope; limiting ground disturbance and vegetation removal during construction; conducting major grading work prior to the rainy season; and protecting disturbed areas during the rainy season to prevent inadvertent transport of sediments into adjacent drainage systems during construction.
65. Require the drainage trench to be situated a minimum of 10 feet from the top edge of slopes steeper than 30 percent.
66. Implement recommendations of the project geotechnical report dated July 2007 by Haro, Kasunich & Associates, Inc.

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Seabright Neighbors Association, a California Non-Profit Corporation

Mailing Address: c/o 112 Baymount Street

City: Santa Cruz

Zip Code: CA

Phone: 05062

RECEIVED

JAN 08 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Santa Cruz, City Council

2. Brief description of development being appealed:

Nine-unit (plus three accessory dwelling units) Planned Development subdivision in R-1-5/SPO zone district

3. Development's location (street address, assessor's parcel no., cross street, etc.):

170 Frederick Street, Santa Cruz, CA; APN: 011-041-60

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- 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:

A-3-STC-08-003

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(page 1 of 19 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 12/11/2007

7. Local government's file number (if any): 06-078

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:

PUFFSKY, LLC
P.O. Box 67027
Scotts Valley, CA 95067

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) See Attachment A.

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Seabright Neighbors Association
By: *[Signature]* Authorized Officer
Signature of Appellant(s) or Authorized Agent

Date: 1/8/2007

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Andrew E. Creely or Skip Spitzer
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Seabright Neighbors Association
By: *[Signature]* Authorized Officer
Signature of Appellant(s)

Date: 1/8/2008

**ATTACHMENT B - CONTINUATION OF SECTION VI -
REASONS SUPPORTING THIS APPEAL**

This is a continuation of the Appeal of Seabright Neighbors Association ("Seabright Neighbors") from the approval of a Coastal Permit on the project located at 170 Frederick Street, Santa Cruz, by the Santa Cruz City Council. Seabright Neighbors is a California non-profit public benefit corporation. Seabright Neighbors represents approximately 130 citizens of the City of Santa Cruz concerned about the approved development of 170 Frederick Street (the development is referred to in this Appeal as the "Project"; 170 Frederick Street is referred to as the "Property").

The Property is one of the few undeveloped or under-developed parcels overlooking the Santa Cruz Small Craft Harbor (the "Harbor"). The Property is zoned R-1-5/SPO/CZ. The site stretches from Frederick Street on the west side, to the Harbor on the east. The back one-third of the site, which includes a coastal bluff overlooking the Harbor, has never been developed. The front two-thirds of the site contain two relatively small, one-story buildings, which have been used as a church for more than fifty years. Immediately adjacent to the site is Frederick Street Park (the "Park"). The Park is a five acre park (comprised of three separate parcels), which, like the Project site, stretches from Frederick Street on the west side to the Harbor on the east. The Park has been designated as a "City-identified landmark" under the City's LCP (Santa Cruz City General Plan Section 3.5). The Park is a significant neighborhood, regional, and coastal resource. The Park draws users from throughout Santa Cruz County, and it, along with the Project site, is the primary coastal access point for a large section of the City's Seabright neighborhood. As detailed below, Seabright Neighbors believes the project as currently configured will significantly and detrimentally impact the Park and the coastal access.

Accepting the City staff's assertion that "there are no significant coastal issues with the project," the City Council approved the issuance of a Coastal Permit for the Project.

Seabright Neighbors respectfully disagrees with the City's conclusions. As detailed below, Seabright Neighbors believes that the Project raises a number of significant coastal issues, and that the City's issuance of a Coastal Permit for the project is inconsistent with the City's LCP. The issue areas are:

1. Disruption of coastal views;
2. Inadequate evaluation of geologic hazards and drainage issues;
3. Interference with public's right of coastal access;
4. Incompatibility with character of surrounding area;

5. Violation of planned development rules; and
6. Failure to comply with PD height variation requirements.

1. **DISRUPTION OF COASTAL VIEWS.**

- a. Public Resources Code Section 30251 forms one of the cornerstones of the Coastal Act, giving special protection to the "scenic and visual qualities of coastal areas." The City's General Plan contains numerous provisions carrying out the mandate of Section 30251. An integral part of the implementation of this mandate is that the City conduct a review of the effects of the Project on coastal views. The Project is located immediately adjacent to the Harbor and is across a narrow canyon from Arana Gulch, which is City-owned open space within the Coastal Zone. The Project is bordered on its entire south side by Frederick Street Park, and from the Park views are afforded across the eastern end of the Project site to coastal resources. Yet in approving the Project, the City conducted only a superficial review of this issue. The City thus failed to carry out its State mandate and failed to follow its own LCP rules protecting coastal views.
- b. Numerous City LCP policies and regulations are designed to protect the views to and along the Coast, including the following:
 - i. "Minimize, when practical, obstruction of important views and viewsheds by new development." (LU 1.6.¹)
 - ii. "Require development adjacent to natural areas and agricultural/grazing lands to be compatible with adjacent lands in terms of land use, visual transition and siting." (LU 3.3.)
 - iii. "Utilize planned development and other techniques that allow clustering to provide for open space, protect resources and views, and allow for siting that is sensitive to adjacent uses." (LU 3.3.1.)
 - iv. "Protect visual access to nearby natural areas as part of environmental review." (LU 3.3.4.)
 - v. "[R]equire new development or remodeling to be sited so as to avoid a 'wall' of buildings." (LU 3.5.1.)

¹ The following citation formats are used for references to the LCP provisions within the City's General Plan: LU = Land Use Element; CD = Community Design; S = Safety Element. All references are to section numbers.

- vi. "Where development abuts open space land uses, utilize careful site planning to emphasize the natural edges provided by topography and vegetation and maintain visual and physical access to open space areas." (CD 1.4.)
- vii. "Preserve natural features providing visual definition to an area within the City." (CD 2.1.)
- viii. "Protect...the shoreline and views to and along the ocean, recognizing their value as natural and recreational resources." (CD 2.1.3.)
- ix. "Protect and enhance unique natural areas including...Arana Gulch."(CD 2.1.5.)
- x. "Preserve important public views and viewsheds by ensuring that the scale, bulk and setback of new development does not impede or disrupt them." (CD 2.2.)
- xi. "Development siting, scale, landscaping and other design guidelines to protect visually sensitive areas and ensure that development is compatible with the character of the area. Areas to be protected include: open-space land uses, foothills, bluffs, scenic coastal areas." (CD 2.2.1.)

c. First and foremost, Seabright Neighbors believes that these LCP provisions require that the City conduct a viewshed study to thoroughly evaluate the effect that the Project will have on Coastal views. No viewshed study was conducted by the City or the developers of the Project. The only consideration of the view issue was contained in the City's Environmental Checklist Form/Initial Study (the "Initial Study") for the Project, beginning at page 17.

The City examined only solely (1) the views of the Project site from Arana Gulch and (2) the views of the Coast from Frederick Street.

As to the views from Arana Gulch, the City argues that since "the City's General Plan does not designate scenic views from Arana Gulch that would include the project site," no adverse effect on views exists. As to the views of the Coast from Frederick Street, the City concludes simply that no adverse affect on views exists because "[v]iews into the Harbor from Frederick Street are generally blocked by existing trees along the eastern edge of the project site and Frederick Street Park."

This analysis is woefully insufficient. First, a view does not need to be a "mapped view" in order to be significant. Second, and more importantly, the

Initial Study fails entirely to consider the scenic coastal views from Frederick Street Park, a City landmark. The construction of the Project will substantially degrade coastal and other scenic views from Frederick Street Park. The northeastern section of the Park currently has significant and relatively unobstructed views of Arana Gulch (including its coastal bluffs), the Santa Cruz Mountains, Loma Prieta, and the north end of the Harbor. While there are trees on the eastern edge of the Project site (on the coastal bluff), they do not block the view – they frame and enhance it. All of these views will be blocked by the development of housing at the eastern edge of the Property—particularly by the placement of Lots 8 and 9, the latter lot calling for the construction of a two-story, 3,000 square foot home only 20 feet back from the bluff.

It is important to emphasize that Frederick Street Park is effectively a neighborhood and regional gateway to the Coast. The Park attracts visitors from around Santa Cruz County because of its open setting, expansive views, and easy access to the Harbor, Arana Gulch, and Seabright Beach. The current design of the Project will effectively “box in” the Park—making any coastal views visible only from the easternmost edge of the Park. The developers’ plans call for seven of the homes to front the Park—six directly facing the park, and one with its side to the park. Together, the seven homes (ranging from two to two and one-half stories) will effectively form a continuous wall on the north side of the Park. All of the homes are pushed up close to the Park (15-foot setback from the Park, with the Park essentially substituting as a front yards for the homes). Seabright Neighbors believes that this will have a severely negative impact on the visual character of the Park. Use of the northern side of the Park will be discouraged. It is significant to note that 1,598 area residents and Park users signed Seabright Neighbors’ 2007 petition saying that: “Development of the site will significantly affect our treasured park environment, especially by boxing it in and blocking scenic views of Arana Gulch.”

Seabright Neighbors is especially concerned by the negative precedent that may be set by the City’s superficial analysis of the view issue. Under the City’s approach, no significant analysis and no viewshed study need be conducted, and only “mapped” views will have any chance of being protected.

It is also important to note that the Project site is located in the City’s Shoreline Protection Overlay (“SPO”) district. (MC 24.10.2400 et seq.²) A primary purpose of the SPO district is “to preserve and protect the coastal

² References to the Santa Cruz City Municipal Code are abbreviated as “MC” followed by the section number.

and environmental resources in the city of Santa Cruz." (MC 24.10.2400.)

Under MC 24.10.2420, "[p]rior to issuing a coastal permit in the Shoreline Protection Overlay District, the hearing body must find that the coastal development or other activity is consistent with the purposes of this part [i.e., the SPO district rules], the General Plan and the Local Coastal Land Use Plan." MC 24.10.2430 sets forth the specific, detailed findings that the City must make before approving a development in the SPO district. Subsection 4 of the SPO district criteria (MC 24.10.2400) requires the City make a specific finding as part of its review process that the Project will "Maintain public view corridors between the sea and the first public roadway parallel to the sea and maintain natural views of the coastline." The City did make a finding (No. 18) under MC 24.08.430. That finding states:

"The site plan shall be situated and designed to protect views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan shall restore and enhance visual quality of visually degraded areas. Not applicable."

This may in part explain the City's failure to conduct an adequate review of the view issue—that is, the City apparently concluded that there are no coastal views of or across the Project site, and therefore they need not consider the issue further.

- d. Accordingly, Seabright Neighbors believes that a significant question exists concerning the Project's effect on coastal views. At a minimum, an appropriate viewshed study must be conducted. Ultimately, the scope of the Project must be reduced. Lot 9 and possibly Lot 8 need to be eliminated or pushed back substantially from the bluff to protect coastal views and viewsheds.

2. INADEQUATE EVALUATION OF GEOLOGIC HAZARDS/DRAINAGE ISSUES.

- a. Section 30253 of the Coastal Act requires that with respect to new development, the City "Minimize risks to life and property in areas of high geologic ... hazard" and that it "Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area." The City's LCP contains specific provisions implementing this mandate, and requires a developer to conduct certain geologic evaluations of particular sites. As shown below, the City failed to require the necessary evaluations, and consequently also failed to make findings required under the LCP.
- b. The City's General Plan contains that following policies as part of the LCP:

- i. "Mitigate hazards posed by cliff retreat." (S 1.2.)
- ii. "Require site specific geologic investigation for all development within 100 feet of existing coastal bluffs." (S 1.2.2.)

MC 24.14.030 contains provisions carrying out these general policies. That section states:

"The following regulations are enacted to minimize the risks associated with project development in areas characterized by combustible vegetation and steep and/or unstable slopes. Such areas include canyons, arroyos, slopes over thirty percent.... A further purpose is to avoid excessive height, bulk and mass normally associated with building on slopes."

Subsection i. of MC 24.14.030 further states:

"For all development within one hundred feet of a coastal bluff, a site-specific geologic investigation prepared by a qualified professional consistent with the California Division of Mines and Geology guidelines shall be prepared."

- c. The SPO district rules further require the City to make the following specific findings for bluff or cliff development:
 - (1) "The development will not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding geologically hazardous areas." (MC 24.10.2430.2.b.)
 - (2) "The development within one hundred feet of any cliff or bluff line shall follow the recommendations of an approved geologic report by a registered geologist." (MC 24.10.2430.e.)
- d. The Project, which is within the SPO district, is clearly located within one hundred feet of the coastal bluff on the eastern edge of the Property. The proposed structure on Lot 9 is set back only 20 feet from the edge of the bluff. Accordingly, the City's SPO district rules clearly require an evaluation of the site's geologic stability and clearly require the preparation of "an approved geologic report by a registered geologist." While the developer prepared and submitted to the City a "geotechnical investigation" conducted

by a registered engineer³, addressing primarily drainage issues, it did not prepare or submit the required geologic report. Apparently, this omission resulted from the City and the developers' erroneous conclusion that the bluff on the east side of the Property is not a "coastal bluff" requiring analysis under the SPO district rules.

It should also be noted that Seabright Neighbors submitted expert evidence at the City Council's December 11, 2007, hearing which calls into question the adequacy of the entire geotechnical investigation/drainage analysis conducted by the Project's developers. See letter dated December 5, 2007, from Nicole G. Beck, PhD, to City of Santa Cruz, Department of Planning and Community Development. According to Dr. Beck,

"The Geotechnical Investigation [conducted by Haro, Kasunich and Associates dated July 2000: Frederick St. Santa Cruz] simply dismisses that the proposed drainage plan for 170 Frederick Street to the north ditch will not result in additional bank instability. This conclusion is not substantiated. The north/eastern border of the property is a 65-70° slope and winter saturation of this area could undoubtedly cause mass hillslope failure as seen in other overdeveloped beach/river terraces prevalent throughout the City of Santa Cruz. The potential of hillslope erosion at 170 Frederick Street due to altered stormwater routing and an increase in impervious coverage is certainly significant and should require CEQA, proper and professional mitigation measures and a full Environmental Impact Report."

- e. The lack of the required geologic report and the required finding is a clear inconsistency with the City's LCP. This is not an insignificant omission. A failure of the eastern coastal bluff could significantly affect not only the development but also the adjacent Harbor and Frederick Street Park.

3. INTERFERENCE WITH PUBLIC'S RIGHT OF COASTAL ACCESS.

- a. There is a roughly 12' wide deeded public easement on the Property running along the southern border with Frederick Street Park. This public access resource has been a major transit route to and from the Park, Harbor, and beach areas for more than 50 years. It safely accommodates cyclists, dog-walkers, skateboarders, and pedestrians simultaneously. The Project reduces this public access resource to 7' or 8' in width. Yet it is not clear if that width is adequate to accommodate multi-use access safely. If this area

³ See Haro, Kasunich and Associates, Inc., December 1, 2006, "Geotechnical Plan Review" and July 2000 "Geotechnical Investigation for Proposed 6 Lot Subdivision."

is to be used as a fallback site for the still-unapproved and not fully funded Arana Gulch cycle path, all 12' may be needed.

- b. The following Coastal Act and LCP sections are relevant on this issue:
- i. "In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (Coastal Act Section 30210.)
 - ii. "Protect coastal recreation areas, maintain all existing coastal access points open to the public, and enhance public access, open space quality, and recreational enjoyment in a manner that is consistent with the California Coastal Act." (LU 3.5.)
 - iii. "Develop and implement plans to maximize public access and enjoyment of recreations areas along the coastline." (LU 3.5.5.)
 - iv. Development should "Protect and enhance free public access to or along the beach." (MC 24.10.2430.)
 - v. "Bicycle access will be maintained around the Harbor.... Bicycle access through the Upper Harbor provides a link between Seventh Avenue on the east side of the Harbor and the Frederick Street and Seabright Neighborhoods on the west side." (Santa Cruz Harbor Development Plan, Item 4, page 4.)
 - vi. "Maintain bicycle circulation along Harbor roadways in support of alternative transportation systems and allow bicycle links to adjacent bike routes along City and County streets." (Santa Cruz Harbor Development Plan, Section 4.10.)
- c. The Coastal Act clearly considers preservation of coastal access in the coastal zone to be a significant aspect of coastal preservation. References in the City's LCP echo this concern.

Area residents and the public at large consider this easement to be an important public resource. Seabright Neighbors conducted a 2007 survey of 104 neighborhood households. Given the statement, "We don't want development to diminish access along the public right-of-way bordering the park," 86.5% agreed completely and 11.5% agreed somewhat.

While there is a paved path through the park connecting the Harbor stairs

and Frederick Street, that access point is only roughly 4' wide. It also channels cycle traffic directly in front of the restroom facilities and through a playground area, creating a hazardous environment. This likely accounts for the widespread use of the deeded easement for Harbor and coastal transit and highlights the need for its due consideration. Even if the Gulch path is constructed, there is still need for access to the Park stairway as many people transit through the Park area to the lower Harbor and coast.

If the Gulch cycle path is not constructed, it will be important to provide an alternative location. According to the Broadway-Brommer Bicycle/Pedestrian Path Connection Environmental Impact Report (November 1999), the objectives of the Gulch path include implementing City of Santa Cruz General Plan policies calling for a comprehensive and safe bikeway system linking existing and proposed routes in the City and County. They also include implementing County of Santa Cruz General Plan policies to design regional bicycle routes to connect residential areas with major activity centers. Yet there are few viable alternative locations for such a path. One, perhaps the only viable alternative, utilizes the existing 12' easement in question. The Gulch path may not be approved by the Coastal Commission or secure the additional funding needed for its construction. It would be contrary to preservation of coastal access to undermine a public resource which serves an important potential public access use of this magnitude.

The City failed to address the question of LCP access provisions and Coastal Act access policies. Given its existing and potential use, the deeded easement is a coastal resource of considerable importance. Giving away part of a popular public easement is an unusual step for the City and likely will affect future interpretation of the LCP.

4. **INCOMPATIBILITY WITH CHARACTER OF SURROUNDING AREA.**

- a. The Project, while arguably consistent with multi-family development in the nearby R-L zoning district, is fundamentally different in scale, density and style than the existing pattern of the R-1-5 district of which it is a part. Furthermore, the development is separated from the R-L district by Frederick Street Park, a City landmark. City Landmarks often serve to separate neighborhoods and changes in architectural style. The Project is incompatible with the character of the surrounding area, undermining both the neighborhood and the Park.
- b. The following LCP sections are applicable to this issue:
 - i. "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 the surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas." (Emphasis added.) (Coastal Act Section 30251.)

- ii. "Infill and intensify land uses *consistent with existing neighborhood or commercial district patterns.*" (Emphasis added.) (CD 1.1.)
 - iii. "Develop siting, scale, landscaping and other design guidelines to protect visually sensitive areas and ensure that development is compatible with the character of the area." (CD 2.2.1.)
 - iv. The purpose of the R-1 zoning is "To stabilize and protect the residential characteristics of the district." (MC 24.10.300.)
 - v. The SPO district rules require that development "be compatible with the established physical scale of the area." (MC 24.10.2430.)
 - vi. The design permit rules regarding substandard lots say: "New structures shall be sited in ways which avoid causing substantial change in the pattern of existing building projections along streets." (MC 24.08.440.)
 - vii. "Large home" rules are designed to "Protect existing neighborhood character." (MC 24.08.440.)
 - viii. "[R]equire new development or remodeling to be sited so as to avoid a 'wall' of buildings." (LU 3.5.1.)
 - ix. "New or renovated development shall add to, not detract from City-identified landmarks." (CD 3.5.)
- c. The Coastal Act clearly considers preservation of area character in the coastal zone to be a significant aspect of coastal preservation. Widespread references in the City's LCP echo this concern as a core community value. The goals and policies of the Santa Cruz General Plan 2005-2020—adopted by the City Council in 2007—reinforce and strengthen the City's commitment to preservation of neighborhood character.

Character in the district is easy to identify. It is overwhelmingly 1-story houses, all of which are of a singular design (i.e., there is no tract-style housing). (See document B1 in "Presentation to the Santa Cruz City Council" by Seabright Neighbors Association, dated December 11, 2007—this document is a height study showing a portion of the R-1-5 neighborhood immediately to the north and west of the Project.)

Character is often a subjective matter. However, it is clear that the great majority of area residents believe that atypical scale or style violates the district's character. Seabright Neighbors conducted a 2007 survey of 104 neighborhood households. Given the statement, "Housing on the parcel should NOT have scale or style that violates its R-1-5 zoning—the zoning is designed to protect the area's character," 89.4% agreed completely and 6.7% agreed somewhat. Given the statement, "We don't want tract-style housing—it's out-of-character with our R-1-5 single family neighborhood," 83.7% agreed completely and 8.7% agreed somewhat.

Seabright Neighbors submitted 1,598 signatures to the City on its above-cited 2007 petition. An accounting of signatories who live within the area (local streets immediately in the vicinity of the Project) shows that 505 or 32% are area residents.

In contrast, the developers submitted three petitions to the City: The first has only 10 signers. While all are area residents, some have since changed their position. The second has only 13 signers. Only three of them are area residents. The third has 335 signers. Only seven of them are area residents; 163 signers (49%) live in cities other than Santa Cruz. (See Attachment C.)

The City repeatedly referred to the Project's consistency with multifamily and tract housing "in the area," while ignoring the fact that the similar development is in the RL district to the south, separated by the Park.

- d. Inconsistency with the character of the surrounding area is a significant issue. There is little factual basis for the City's claims of consistency. The scope of the Project significantly exceeds the existing development within the district. Justifying out-of-character development by reference to an entirely different district constitutes a significant precedent with respect to coastal land use.

5. **VIOLATION OF PLANNED DEVELOPMENT RULES.**

- a. Planned Developments (PDs) are designed to promote innovation and public benefit, not for bypassing the purpose of zoning districts (which in the R-1-5 is "To stabilize and protect the residential characteristics of the district"). Central to this is the directive that PDs provide adequate public benefit, at least as much as those enjoyed by the developer. The Project offers benefits to the developers far in excess of those to the public.
- b. The LCP's PD section requires that the City "Ensure that the advantages to landowners afforded by the planned development process will be balanced by public benefits." (MC 24.08.710.)

c. Use of a PD provided the basis for out-of-character style and scale, as well as the house on Lot 9, which (more than any other house) disrupts the viewshed. The City is required to provide an analysis of benefits, yet did so in only a cursory manner. A serious assessment of relative benefits indicates that the PD is in violation of MC 24.08.710, which requires adequate public benefit. (See letter from five former Santa Cruz City mayors presented to the City Council at the December 11, 2007, hearing.)

i. The benefits to the public from the PD include:

- (1) One house and two ADUs designated as inclusionary.
- (2) Two heritage trees saved.
- (3) Some "green design" elements.
- (4) Estimates from a well-respected local Realtor of the market price for the housing units confirm that the majority of the units are best described as luxury housing. Lots 1-3 are estimated to sell for \$750K to \$800K; middle lots (w/o ADUs), \$1.0 million to \$1.2 million; middle lots (w/ADUs), \$1.3 million to \$1.4 million; and Lot 9, \$1.6 million.

ii. Advantages to the developers from the PD include:

- (1) Significantly more houses than the R-1-5 district would allow. An analysis by Westfall Engineers (see document B8 in "Presentation to the Santa Cruz City Council" by Seabright Neighbors Association, dated December 11, 2007) indicates that due to "many site limitations...Without a planned development or variances, the maximum density would be limited to three to four single family parcels." The City has claimed that six would be possible. Instead the owners have nine approved.
- (2) Zoning variations for encroachments, lot area, and lot width.
- (3) Tract style housing (which is not consistent with R-1-5).
- (4) Easement reduction.
- (5) Substandard lot height variation (a variation not even requested in the application—see discussion below).

iii. Furthermore, there are significant public costs of the PD which must be considered in an assessment of relative benefit, including:

- (1) Violation of neighborhood character.
- (2) Worsening traffic (see Seabright Neighbors' "Comments in Response to Notice of Intent to Issue a Negative Declaration" dated December 3, 2007).
- (3) Greater parking impacts (while the project complies with parking requirements, it is widely understood that these requirements do not reflect actual parking needs).
- (4) Obstructing views.
- (5) "Boxing in" the Park.
- (6) Undermining the coastal access.
- (7) Loss of fallback for the Gulch cycle path.

Assessing public benefit should be in part based on expressions of public sentiment. The extraordinary degree of public opposition to the Project further indicates that the PD is not a balanced one. Such opposition is evidenced by Seabright Neighbors' petition of 1,598 area residents and Park users, its survey of 104 neighborhood households, residents' letters, and standing-room-only turnouts opposing the Project at public hearings of the City Planning Commission and City Council.

6. **FAILURE TO COMPLY WITH PD HEIGHT VARIATION REQUIREMENTS.**

- a. A portion of the Project includes the creation of three substandard lots, side-by-side, facing Frederick Street (Lots 1, 2, and 3). These substandard lots are created as part of the PD. The PD process allows variations from the strict requirements of the underlying R-1-5 zoning for various aspects of the development. However, the PD rules state:

"All aspects of the proposed development which represent a departure from strict application of district regulations shall be explained in the application and reasons given why the proposed development plan affords greater public benefits than would be achieved through application of conventional zoning regulations."
(MC 24.08.720.)

The developers specifically requested and were granted variations for front yard encroachments, lot area, and lot width. As to lot width, the developer requested the creation of lots that are 31, 32, and 42 feet wide – whereas 50 foot width is otherwise required by the R-1-5 zoning.

Although variations for building height are allowed by the PD rules (MC 24.08.720.10), no such variation was requested—and, of course, no explanation or reason was given why any height variation would “afford greater public benefits” than would be achieved through application of the underlying R-1-5 requirements.

The buildings on Lots 1, 2, and 3 will be two and one-half stories. They will each have a height of approximately 28 feet. The height for two of the three lots—the lots that are 31 and 32 feet wide—in fact exceeds what is allowed by the underlying R-1-5 zoning. The R-1-5 zoning limits the height of buildings on substandard lots less than 35 feet wide to a maximum of twenty-two feet. MC 24.10.351.2 states: “The maximum height of structures on lots of thirty-five feet or less in width shall be twenty-two feet.”

Both the PD rules and the R-1-5 zoning rules are part of the City’s LCP. (MC 24.08.700; MC 23.10.300.) Section 30251 of the Coastal Act mandates that development in coastal areas be “visually compatible with the character of surrounding area.” Portions of the City’s LCP implementing this mandate include the following:

- (1) “[R]equire new development or remodeling to be sited so as to avoid a ‘wall’ of buildings.” (LU 3.5.1.)
- (2) “Develop siting, scale, landscaping and other design guidelines to protect visually sensitive areas and ensure that development is compatible with the character of the area.” (CD 2.2.1.)
- (3) “[E]nhance public access, open space quality and recreational enjoyment in a manner that is consistent with the California Coastal Act. (LU 3.5.)

The effect of three tall homes on substandard lots is to exacerbate the Project’s incompatibility with the surrounding area, as discussed above. Furthermore, the Project therefore creates a “wall” of housing, detracting from open space quality and recreational enjoyment in the Park area.

The very purpose of the substandard lots height restriction is to prevent the creation of such walls of buildings—at least not without specific

justifications being cited by the developer and specific findings being made by the City. Again, no explanation or justification for the variation was given, and the City failed entirely even to identify the height of the buildings as requiring a variation. This issue was specifically called to the attention of City staff and the Council at the December 11, 2007, hearing, yet no action was taken to address it.

Seabright Neighbors believes this is a significant issue that should be addressed by the Coastal Commission. The City has simply ignored its own LCP rules for building height on substandard lots, thereby signaling to future developers that once PD status is granted the need to justify additional variations from underlying zoning rules may simply be ignored.

CONCLUSION

Seabright Neighbors believes there are numerous substantial issues regarding the Project's consistency with the City's LCP and the public access provisions of the Coastal Act. These include disruption of coastal views, inadequate evaluation of geologic hazards and drainage issues, interference with public's right of coastal access, incompatibility with character of surrounding area, violation of planned development rules, and failure to comply with PD height variation requirements. Seabright Neighbors looks forward to providing any additional information requested to Coastal Commission staff toward the protection of the public interest under the Coastal Act.

Continuation of Appeal from Coastal Permit Decision of Local Government
Project: 170 Frederick Street, Santa Cruz, CA

ATTACHMENT C

**Analysis of Signatures on Petitions in favor of proposed development at 170
Frederick St.**

Petition 1 (n=10)

Address of signer	Frequency	Percent
Seabright neighborhood	10	100%

Petition 2 (n=13)

Address of signer	Frequency	Percent
Seabright neighborhood	3	23%
Santa Cruz	6	46%
Other city or state	4	31%
Total	13	100%

Petition 3 (n=335)

Address of signer	Frequency	Percent
Seabright neighborhood	7	2%
Santa Cruz	149	44%
Other California city	163	49%
Other states	10	3%
Void or Illegible	6	2%
Total	335	100%

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Frederick St. Irregulars - Sally di girolamo, Carole DePalma + Shelley Hatch
Mailing Address: 324 Harbor Dr.
City: Santa Cruz Zip Code: 95062 Phone: (426) 426-5054
or (475) 475-1592
or (426) 426-9078

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Santa Cruz

2. Brief description of development being appealed:
Planned Development (PD) overlay on R-1-5 zoning with 9 units + 3 ADU's

3. Development's location (street address, assessor's parcel no., cross street, etc.):
170 Frederick

RECEIVED

JAN 08 2008

CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- 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: A-3-STC-08-003
DATE FILED: January 8, 2008
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: December 11, 2007

7. Local government's file number (if any): 06-078

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:~~

~~_____~~
~~_____~~
Michelle Bensky + Christy Brandt
EMIA HARBOR HOMES c/o Catherine A. Philipovich - 152 Walnut
S.C. 95060

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)

Please see Seabright Neighbors Appeal for shared list of names

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Shelley Hatch Sally DiBella
Carole DePalma

Signature of Appellant(s) or Authorized Agent

Date:

January 8 2008

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:

**APPEAL OF 170 FREDERICK STR.
BY FREDERICK STREET IRREGULARS**

We are appealing the project at 170 Frederick Street because it will have substantial adverse effects on significant coastal resources.

The resources are the Frederick Street Park, the public view sheds from the park, the coastal access to the harbor from the park, using the 12 foot publicly owned easement, which has been used for over 50 years by pedestrians and by bicycles.

Furthermore, the PD zoning requires that a public purpose be served. In fact, public benefit is taken from the people and given to the developers by reducing the 12 foot easement to 7 feet. This would impact bicycle use.

Furthermore, it would block views by building on lots 8 and 9.

Also, this development would prevent the much needed addition of one acre to the park.

PUBLIC ACCESS ISSUES

This project is inconsistent with the LCP and public access in the following ways:

It reduces public access for pedestrians and bicycles

The City of Santa Cruz owns a 12 foot deeded easement which would be reduced to 7 feet. This coastal access has been used for over 50 years to get to Woods Lagoon, now the harbor, and the beaches. This reduction would impede access for bicycles and pedestrians.

The PD Zoning says a variation to the underlying zone must provide a public benefit to an equivalent or higher degree. This, in fact, would be a taking away an existing and much used benefit to the public and giving it away to the developer.

This project is also inconsistent with these policies of the LCP:

Harbor Plan Inconsistencies

1. See page 115 of Harbor Development Plan Bicycle Access
2. 4.10
3. 4.12 Co-operate with City efforts to build a future bike path from the Frederick St; Park.....

Land Use Element Inconsistencies

2.2.7 Provide for pedestrian and bicycling linkages to other segments of the Arana Gulch corridor via the harbor and other public access points (the important east-west and north-south links)

3.5

3.5.5

3.5.2

3.5.3

5.6

5.6.1

5.6.2

These references support the fact that 7 feet is not adequate and the 12 foot easement should be retained for bikes and pedestrians.

CCC Exhibit 7
(page 5 **of** 14 **pages)**

PUBLIC ACCESS ISSUES

Parks and Recreation Element Inconsistencies

1.7.7

1.7.1

4.2

4.2.2

4.2.3 Obtain trail easement through private donations and by public purchase where required for critical links.

LCP

Page 428 Access points

Community Design Inconsistencies

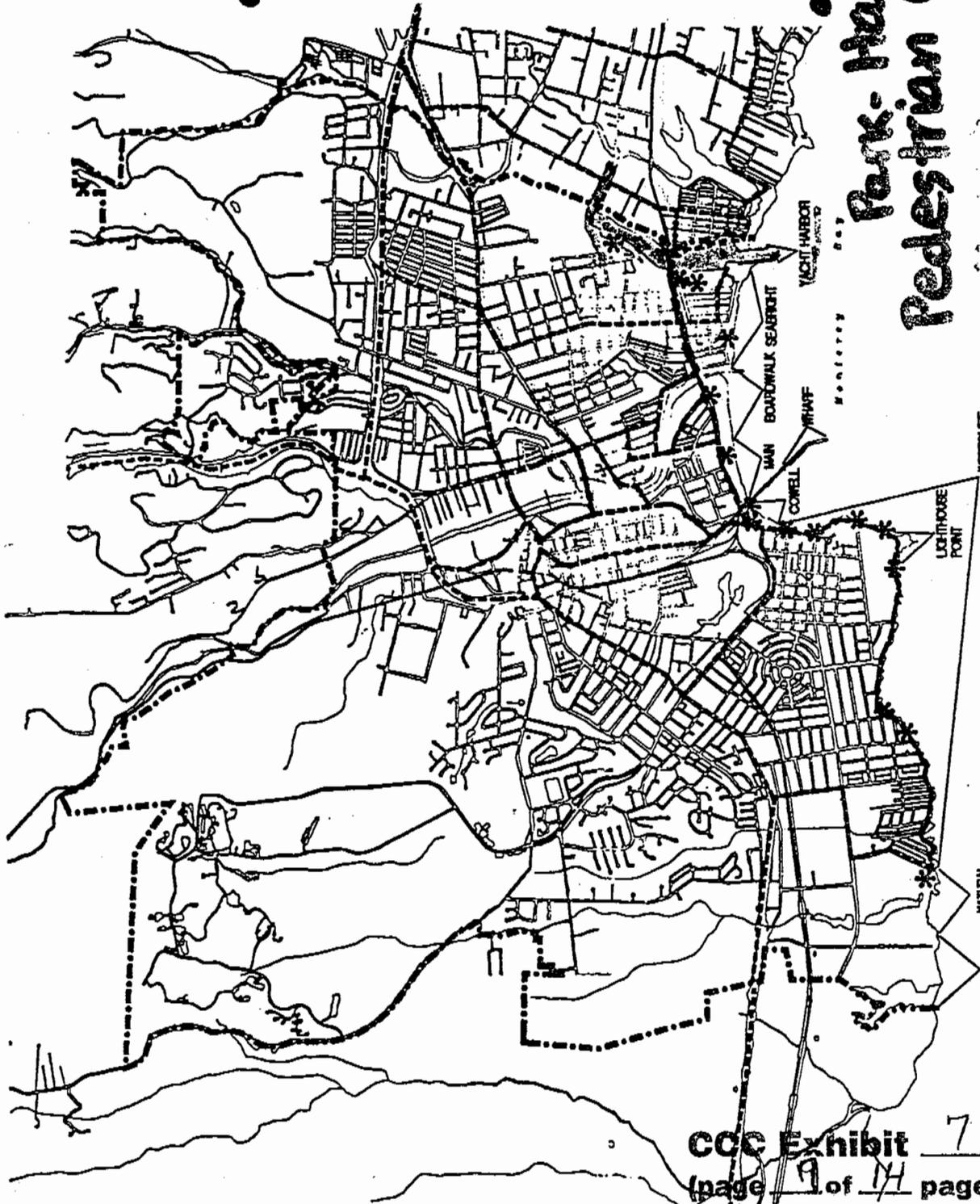
3.7

The above references all support the need for trail, pedestrian, and bicycle linkages. This development will reduce public access to linkages, therefore, does not conform to the LCP.

CCC Exhibit 7
(page 0 of 14 pages)

MAP C-15: VISITOR/COASTAL ACCESS ROUTES

The City of Santa Cruz, California



• Soquel Ave

• HARBOUR

• Frederick St.

• Park Harbour Bike

• Pedestrian Connection



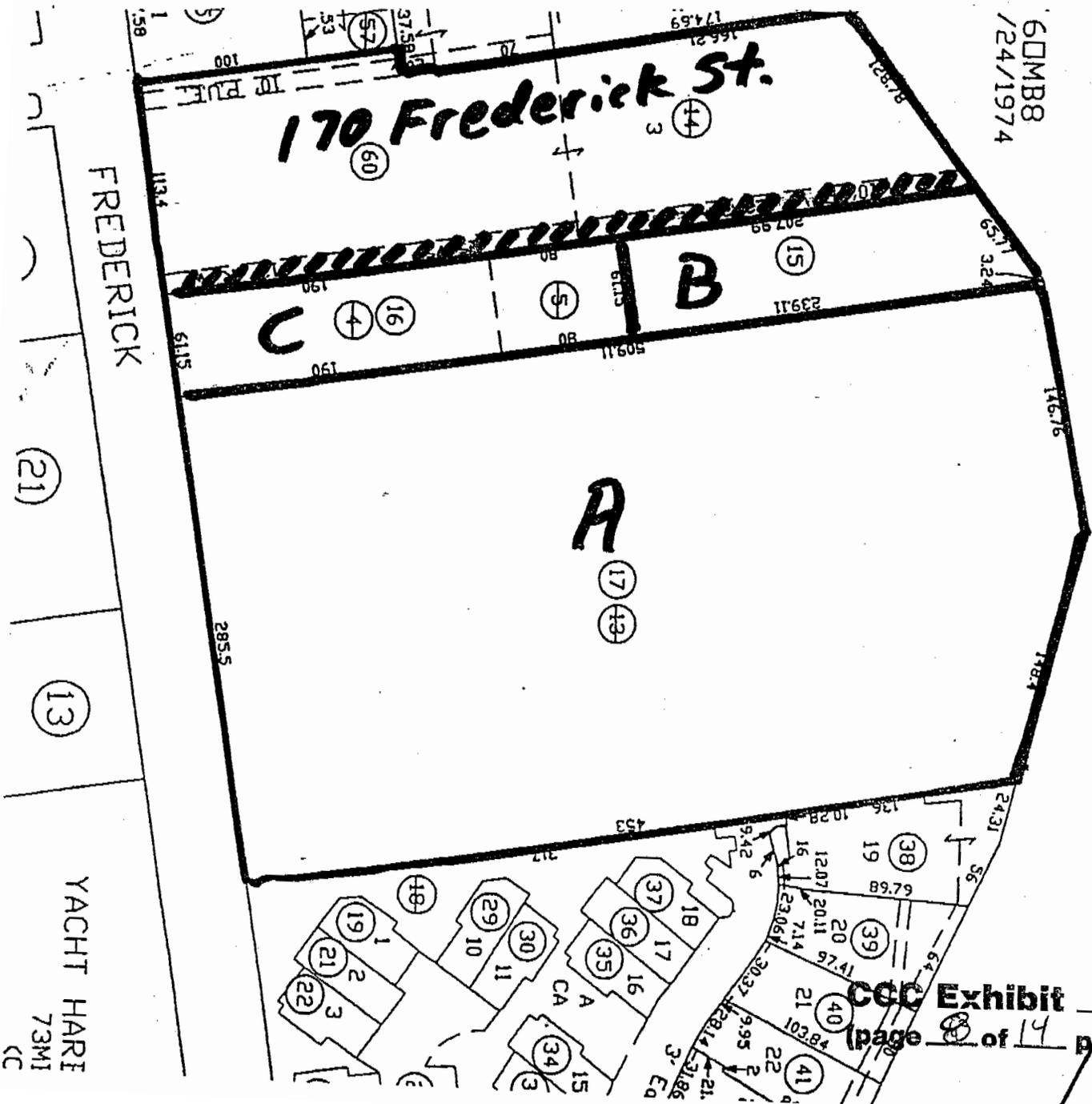
FILE: LATER/RYAN/PPS/17
REVISED 10-30-02/27/1

NESTLUF

The City presently owns a deeded, 12-foot wide easement over the southern edge of the Property, along its border with Frederick Street Park (this easement is referred to as the "12-Foot Deeded Easement"). This easement runs almost the full length of the Property, beginning at Frederick Street and extending 395 feet east toward the back of the property and the Santa Cruz Small Craft Harbor (the "Harbor"). The back of the easement is located at approximately the bluff overlooking the Harbor.

Attached to this letter as Exhibit A is a copy of a map showing both the Property and Frederick Street Park. Frederick Street Park is comprised of three separate parcels, which are designated on the map as Parcels A, B, and C. The approximate location of the 12-Foot Deeded Easement is shown with hash marks on the map.

SUB. OF LANDS OF JOSEPH FRANCIS
7MB17 1/19/1892.



60MB8
/24/1974

CCC Exhibit
page 1 of 4 pages

12' Deeded Easement

BOOK 2630 PAGE 731

26605

William Pondersten
256 Swanton Blvd.
S.C. 95060

AGREEMENT

William Pondersten
600 paid

RECORDED AT REQUEST OF
JUN 21 11 15 AM '78
OFFICE OF THE CLERK
SANTA CRUZ COUNTY
RECORDS & DEEDS
RICHARD S. HEAL
RECORDER
026505
BOOK 2630 PAGE 731

This agreement is made July 21, 1978
between SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES,
a non-profit corporation, 1838 Joss Avenue, Santa Cruz,
California, (hereinafter referred to as Party Jehovah's
Witnesses) and WALTER B. KING and LOIS E. KING, of 2556
North Rodeo Gulch Road, Soquel, California, (hereinafter
collectively referred to as Party King.)

1. RECITALS.

- a. Party Jehovah's Witnesses is the owner of certain real property located in the City and County of Santa Cruz and described as Assessor's Parcel Number 11-141-14.
- b. Party King is the owner of adjoining real property described as Assessor's Parcel Number which is without adequate access.
- c. The parties to this agreement desire to enlarge an existing easement of right of way to provide ingress and egress to and from the parcel referred to in sub-paragraph 1b. above, and to declare the duties and obligations of each with respect to said right of way.

The parties agree as follows:

2. EASEMENT.

- a. Party Jehovah's Witnesses shall convey to Party King by Quitclaim Deed an easement of right of way to provide ingress and egress to and from the property of Party King over a strip of land 12.0 feet in width measured at right angles to its side lines, the south line of which is described as follows:

ROBERT H. DARROW
ATTORNEY AT LAW
1211 PACIFIC AVENUE, SUITE 6
CORNER PACIFIC AND LINCOLN
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE 423-1800

300 of 2630 PAGE 732

Beginning at the southwesterly corner of the tract of land as described in the deed from Les H. Short, et ux, to Santa Cruz Congregation of Jehovah's Witnesses, dated March 5, 1958, recorded March 20, 1958 in Volume 1176 of Official Records of the County of Santa Cruz at Page 316, said corner being on the centerline of Frederick Street as shown on the Record of Survey Map entitled "Part of the East boundary of the City of Santa Cruz", filed for record January 3, 1955 in Book 32 of Maps at Page 43, and running thence along the southerly line of the above mentioned tract of land:

1. North 80° 15' East, 395.00 feet.

Portion AP 11-141-14

Portion of Arb. 12 Lot E Joseph Francis Sub. (S.C. 44)

b. This easement shall be appurtenant to the property described in sub-paragraph 1b. above and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors or assigns.

~~c. Party King shall take reasonable precautions to insure that there is no encroachment upon or other unauthorized use of the property belonging to Party Jehovah's Witnesses.~~

3. MAINTENANCE AND REPAIRS. Party King, for themselves, their heirs, successors and assigns, covenants and agrees with Party Jehovah's Witnesses, its heirs, successors and assigns, that Party King, from time to time and whenever necessary, at their own cost and expense, will repair and maintain, in a proper, substantial and workman-like manner, the right of way above-described in sub-paragraph 2a.

4. HOLD HARMLESS. Party King will hold Party Jehovah's Witnesses exempt and harmless for and on account of any damage or injury to any person or property arising in any way from the use of the right of way by Party King, their heirs, successors and assigns or anyone acting with express or implied consent of the aforesaid, or arising from the

BJD:2630 PAGE 733

failure of Party King, their heirs, successors and assigns, to keep the premises in good condition and repair as herein provided.

5. ENFORCEMENT. If any action is commenced based upon a failure of either party to comply with the terms and provisions of this agreement, the party or parties against whom the action or actions are brought shall pay the reasonable attorney's fees of the party so enforcing this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in Santa Cruz, California, the day and year first above written.

SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES, a non-profit corporation,

by Jerald R. Russell

by Wallace J. Ebert

Walter B. King
WALTER B. KING

Lois E. King by Walter B. King
LOIS E. KING
she acting in fact

PARKS AND RECREATION ISSUES

The project is next to a much used and loved neighborhood park. This park has taken on the characteristics of a community and regional park because of its proximity to the harbor and neighborhoods north, south, east, and west of the harbor. Thus it is part of an important regional hub. There is a 6.8 acre deficit of park land in the lower Eastside neighborhood, according to the General Plan. This is an opportunity to mitigate this deficit by public purchase of this one acre site.

The project is inconsistent with the LCP in the following ways:

Land Use Element inconsistencies

3.5

3.6 Maintain existing parkland and ensure that adequate parkland is provided in conjunction with development

5.6

5.6.1 Reserve, not take away. Where is the public benefit?

5.6.2

Parks and Recreation Element Inconsistencies

1.2

1.2.2 Monitor population growth within the city and adjust neighborhood and community park needs accordingly.

1.7.7

1.8.1

CCC Exhibit 7
(page 12 of 14 pages)

VISUAL AND PUBLIC VIEW ISSUES

The importance of the public view of the harbor, Arana Gulch, and Loma Prieta is a valuable visual resource that must be preserved.

The siting of the house on lots 8 and 9 will remove the public view from park users. This project is inconsistent with LCP in the following ways:

Land Use Element Inconsistencies

1.6

2.2.7 Provide for public viewing points of the floodplain and riparian corridor

3.3 This development is not compatible with the park

3.3.1 Utilize Planned Development and other techniques that allow clustering to protect the resources and views and allow for siting that is sensitive to adjacent uses

(this means move the development away from the view shed on lots 8 and 9)

3.3.2

3.5.1

Community Design Element Inconsistencies

2.1.3

2.2 Lots 8 and 9 block views

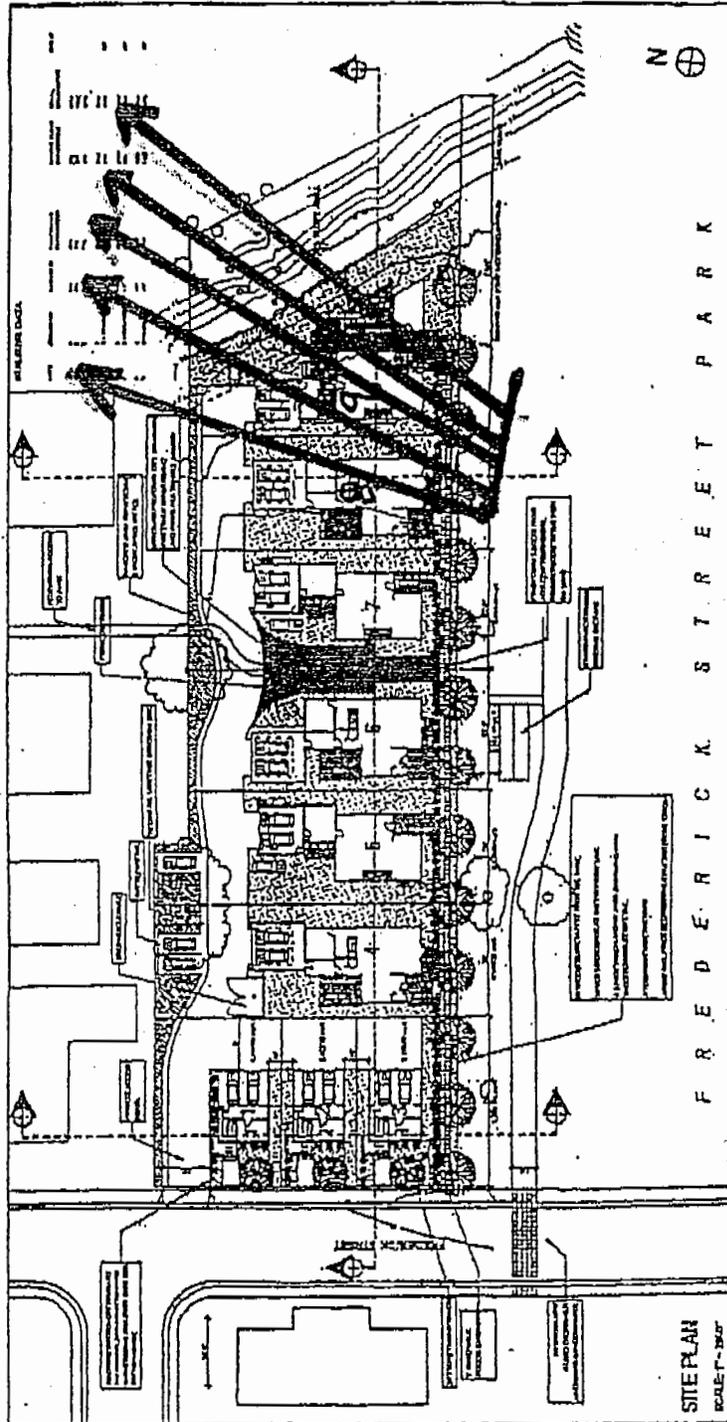
2.2.1

2.2.2

3.4 The shoreline.....

CCC Exhibit 7
(page 13 of 14 pages)

FIGURE 2: PROPOSED SITE PLAN



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: PATRICIA MATEJCEK
Mailing Address: PO Box 2067
City: SANTA CRUZ Zip Code: 95063 Phone: 831.768.8187

SECTION II. Decision Being Appealed

- 1. Name of local/port government: SANTA CRUZ CITY COUNCIL
- 2. Brief description of development being appealed:
Nine (9) SFR units + 3 ADUs on substandard lots in R-1-5 district
- 3. Development's location (street address, assessor's parcel no., cross street, etc.):
170 Frederick St, Santa Cruz, CA 95062
APN: 011-041-60

- 4. Description of decision being appealed (check one.):
 Approval; no special conditions
 Approval with special conditions:
 Denial

RECEIVED
JAN 08 2008
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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: A-3-STC-08-003

DATE FILED: January 8, 2008

DISTRICT: Central Coast

CCC Exhibit 8
(page 1 of 4 pages)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision:

11 Dec 2007

7. Local government's file number (if any):

06-078

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:

Puffsky, LLC
PO Box 67027
Scotts Valley, CA 95067

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) Frederick Street Irregulars
324 Harbor Drive - Santa Cruz CA 95062
- (2) Seabright Neighbors Assn.
112 Baymount St. - Santa Cruz CA 95062
- (3)
- (4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE 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.
- 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.)
- This 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.

1. Severe reduction in public access on western bluff above upper Santa Cruz Harbor due to proposed project's reduction of currently publicly-owned right-of-way.
2. Increased runoff and increased pollution from residential parking for proposed project.
3. Violates Purpose and Intent of the Santa Cruz City-Wide Creeks and Wetlands Management Plan, a document required and approved by the Coastal Commission. Violates 3 of the 6 stated Long-term Goals as well as the Recommended Setbacks.
4. Map Q06

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Patricia Matejcek

Signature of Appellant(s) or Authorized Agent

Date: 8 January 2008

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: _____

**APPLICABLE AND CITED COASTAL ACT AND CITY OF SANTA CRUZ
LOCAL COASTAL PROGRAM POLICIES AND ZONING ORDINANCE
SECTIONS**

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

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

Coastal Act Section 30212a: *(a) 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.*

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

Coastal Act Section 30214: *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

- (1) Topographic and geologic site characteristics.*
- (2) The capacity of the site to sustain use and at what level of intensity.*
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Coastal Act Section 30222: *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Coastal Act Section 30223: *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

LCP Land Use Element Policy 1.6: *Minimize, when practical, obstruction of important views and viewsheds by new development. In the Coastal Zone, development shall be sited and designed to and along the ocean and in scenic coastal areas to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and to restore visual quality in visually degraded areas.*

LCP Land Use Element Policy 2.2.7 (in relevant part): *...Provide for pedestrian and bicycling linkages to other segments of the Arana Gulch corridor via the harbor and other public access points...Provide for public viewing points of the floodplain and riparian corridor...*

LCP Land Use Element Policy 3.3: *Require development adjacent to natural areas and agricultural/grazing lands to be compatible with adjacent lands in terms of land use, visual transition and siting.*

LCP Land Use Element Policy 3.3.1: *Utilize planned development and other techniques that allow clustering to provide for open space, protect resources and views, and allow for siting that is sensitive to adjacent uses.*

LCPLand Use Element Policy 3.3.2: *Where important natural areas would be impacted, require management plans as a condition of development and develop and implement an ordinance requiring the dedication of or granting of an easement to natural areas appropriate for passive recreation or open space uses.*

LCP Land Use Element Policy 3.3.4: *Protect visual access to nearby natural areas as part of environmental review.*

LCP Land Use Element Policy 3.5: *Protect coastal recreation areas, maintain all existing coastal access points open to the public, and enhance public access, open space quality and recreational enjoyment in a manner that is consistent with the California Coastal Act.*

LCP Land Use Element Policy 3.5.1: Protect coastal bluffs and beaches from intrusion by non-recreational structures and incompatible uses and along the shoreline, require new development or remodeling to be sited so as to avoid a "wall" of buildings.

LCP Land Use Element Policy 3.5.2: Ensure that development does not interfere with the public's right to access the ocean (where acquired through use or other legislative authorization).

LCP Land Use Element Policy 3.5.5: Develop and implement plans to maximize public access and enjoyment of recreation areas along the coastline.

LCP Land Use Element Policy 3.6: Maintain existing park lands and ensure that adequate park land is provided in conjunction with development.

LCP Land Use Element Policy 5.6: Require land use development to integrate into the larger circulation system by interconnecting its system of roads, pedestrian and bike paths with existing facilities and also design access to nearby areas in a manner that minimizes the necessity for automobile travel and potential automobile and pedestrian/bike conflicts.

LCP Land Use Element Policy 5.6.2: Provide public access from and through new development to adjacent or nearby schools, parks, natural areas and coastal recreation areas.

LCP Parks and Recreation Element Policy 1.2: Establish a standard of 2.0 acres/1000 population for neighborhood and 2.5 acres/1000 for community parks and, where feasible, locate neighborhood parks within a 3/8-mile of the population being served and community parks within 1 1/2 miles.

LCP Parks and Recreation Element Policy 1.2.2: Monitor population growth within the City and adjust neighborhood and community parks accordingly.

LCP Parks and Recreation Element Policy 1.7: Develop plans to repair, maintain and maximize public access and enjoyment of recreational areas along the coastline consistent with sound resource conservation principles, safety, and rights of private property owners.

LCP Parks and Recreation Element Policy 1.7.1: Maintain and enhance vehicular, transit, bicycling, and pedestrian access to coastal recreation areas and points.

LCP Parks and Recreation Element Policy 1.7.6 (in relevant part): develop and implement an integrated design, land use, recreation, cliff stabilization, and landscaping plan for West Cliff and east Cliff Drives to enhance public access, safety, and recreational enjoyment in these areas.

LCP Parks and Recreation Element Policy 1.7.7 (in relevant part): Maintain the existing trail from Frederick Street Park along the bluff to Heritage Landing and through Heritage Landing to the Harbor...

LCP Parks and Recreation Element Policy 1.8.1: Require park land dedications of suitable recreational land at a ratio of 4.5 acres/1000 population generated by a development project and require that the design of park facilities serve the recreational facility needs of the anticipated population.

LCP Parks and Recreation Element Policy 4.2: Develop a system of recreational trails providing access to and connections between the City's various parks, recreation facilities, and natural, coastal, and urban areas.

LCP Parks and Recreation Element Policy 4.2.2 (in relevant part): Determine appropriate uses, location and design of trail systems and recreational corridors to minimize the impact on areas through which they travel.

LCP Parks and Recreation Element Policy 4.2.3 (in relevant part): Develop strategies to acquire necessary land for the development of trails... Obtain trail easements through private donations and by public purchase where required for critical links.

LCP Environmental Quality Element Policy 3.2.3: Generally require at least a 20-foot setback from slopes over 30%, unless the criteria in EQ 3.2.2 are met; in no case shall the setback be less than 10 feet from the top edge of the slope.

LCP Environmental Quality Element Policy 4.1.3: Require coastal protective structures, signs, and public facilities to be sensitive to the natural setting and minimize the alteration of the natural shoreline.

LCP Community Design Element Policy 1.1: Infill and intensify land uses consistent with existing neighborhood or commercial district patterns.

LCP Community Design Element Policy 1.4: Where development abuts open space land uses, utilize careful site planning to emphasize the natural edges provided by topography and vegetation and maintain visual and physical access to open space areas.

LCP Community Design Element Policy 2.1: Preserve natural features providing visual definition to an area within the City.

LCP Community Design Element Policy 2.1.3: Protect the Monterey Bay National Marine Sanctuary and the shoreline and views to and along the ocean, recognizing their value as natural and recreational resources.

LCP Community Design Element Policy 2.1.5 (in relevant part): Protect and enhance unique natural areas including... Arana Gulch.

LCP Community Design Element Policy 2.2: Preserve important public views and viewsheds by ensuring that the scale, bulk, and setback of new development does not impede or disrupt them.

LCP Community Design Element Policy 2.2.1 (in relevant part): Develop siting, scale, landscaping, and other design guidelines to protect visually sensitive areas and ensure that development is compatible with the character of the area. Areas to be protected include... bluffs, scenic coastal areas...

LCP Community Design Element Policy 2.2.2: Identify important vistas and view corridors of community wide value to be preserved and require development to provide visual and physical breaks to allow access to these areas.

LCP Community Design Element Policy 3.4 (in relevant part): Develop and maintain physical and visual linkages between key areas in the City... the shoreline – adjacent land uses.

LCP Community Design Element Policy 3.5: New or renovated development shall add to, not detract, from City-identified landmarks.

LCP Community Design Element Policy 3.7: Require development to incorporate features to promote pedestrian use including new linkages to the pedestrian system.

LCP Economic Development Element Policy 5.6.4: Improve visual appearance of visitor routes and entrances to the City.

LCP Safety Element Policy 1.2: Mitigate hazards posed by cliff retreat.

Santa Cruz Harbor Development Plan Policy 4.10: Maintain bicycle circulation along Harbor roadways in support of alternative transportation systems and allow bicycle links to adjacent bike routes along City and County streets. Provide appropriate signage to eliminate potential conflicts between motorists and bicyclists, wherever possible.

Santa Cruz Harbor Development Plan Policy 4.12: Cooperate with City efforts to develop a future bicycle path from Frederick Street Park and pedestrian-bicycle paths from the Broadway/Brommer right-of-way and Arana Gulch, if sited and designed so as to not interfere or create conflicts with other harbor users.

Santa Cruz Harbor Development Plan Planned Harbor Improvements – Access and Circulation: Bicycle Access; Bicycle access will be maintained around the Harbor via the existing roadway and path around the Harbor. Bicycle access through the Upper Harbor provides a link between Seventh Avenue on the east side of the Harbor and the Frederick Street and Seabright Neighborhoods on the west side... (this citation is not a policy).

LCP Safety Element Policy 1.2.2: *Require site-specific geological investigation for all development within 100 feet of existing coastal bluffs.*

24.10.2420. Hearing Body Review: *Prior to issuing a coastal permit in the Shoreline Protection Overlay District, the hearing body must find that the coastal development or other activity is consistent with the purposes of this part, the General Plan and the Local Coastal Land Use Plan. If the coastal development involves other permits, the appropriate hearing body shall consider all permits concurrently.*

24.10.2430. Review Criteria (in part): *Before approving a coastal permit in the Shoreline Protection Overlay District, the hearing body must find that the proposed development will: (4) Maintain public view corridors between the sea and the first public roadway parallel to the sea and maintain natural views of the coastline...*

24.08.430. Findings Required – General: (6). *The site plan shall be situated and designed to protect views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan shall restore and enhance visual quality of visually degraded areas.*

24.14.030. Slope Regulations: *1. Applicability and Purpose. The following regulations are enacted to minimize the risks associated with project development in areas characterized by combustible vegetation and steep and/or unstable slopes. Such areas include canyons, arroyos, slopes over thirty percent (see Maps EQ-6 and EQ-7 in the General Plan). Minor sculpted landforms, such as berms or swales, shall be exempt from the following regulations. A further purpose is to avoid excessive height, bulk and mass normally associated with building on slopes... i. For all development within one hundred feet of a coastal bluff, a site-specific geologic investigation prepared by a qualified professional consistent with the California Division of Mines and Geology guidelines shall be prepared.*

24.10.2430. Review Criteria: *Before approving a coastal permit in the Shoreline Protection Overlay District, the hearing body must find that the proposed development will: 2. Be consistent with the following criteria for bluff or cliff development: b. The development will not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding geologically hazardous areas... e. The development within one hundred feet of any cliff or bluff line shall follow the recommendations of an approved geologic report by a registered geologist. The area where such a report is required may be increased where the issue of slope stability requires a greater distance from any cliff or bluff line... 6. Protect and enhance free public access to or along the beach, and sign such access when necessary... 8. Be compatible with the established physical scale of the area;*

24.10.300. Purpose of R-1 SINGLE-FAMILY RESIDENCE DISTRICT: *To stabilize and protect the residential characteristics of the district, and to promote and encourage a suitable environment for family life and single persons; and intended for single-family detached dwellings and the services appurtenant thereto.*

24.08.440. Findings Required - Substandard Residential Lot Development: 4. New structures shall be sited in ways which avoid causing substantial change in the pattern of existing building projections along streets. Continuous long, parallel abutting walls on narrow side yards shall be avoided.

24.08.450. Guidelines for Large Homes in Single-Family Areas: 1. Purpose. The intent of the design permit findings for large-scale residential buildings is to protect existing neighborhood character and identity by development guidelines that promote a variable streetscape by requiring a variety of building massing and placements, and also by maintaining existing neighborhood patterns to limit obtrusive visual impacts on nearby properties. In addition to the standard requirements of the R-1 district, homes over four thousand square feet in R-1-10, over three thousand five hundred square feet in R-1-7 and three thousand square feet in R-1-5 shall prepare a survey of buildings within one hundred feet of the property on both sides of the street, which identifies front and side yard setbacks, building heights, driveway widths, garage locations, and architectural style.

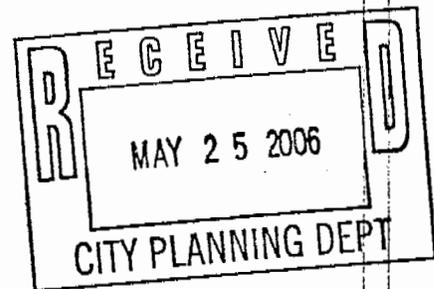
24.08.710. Intent of Planned Development Permit: The intent of this part is to insure that: ...4. The advantages to landowners afforded by the planned development process will be balanced by public benefits...

24.08.720. General Provisions: All aspects of the proposed development which represent a departure from strict application of district regulations shall be explained in the application and reasons given why the proposed development plan affords greater public benefits than would be achieved through application of conventional zoning regulations. 10. Height, not to exceed one story or twenty percent of height (in feet) over and above regulations established in district regulations for the district in which the project is proposed.

24.10.351. Substandard R-1 Lot Development Requirements and Regulations: 2. The maximum height of structures on lots of thirty-five feet or less in width shall be twenty-two feet.

**GEOTECHNICAL INVESTIGATION
for
PROPOSED 6 LOT SUBDIVISION
APN 011-141-60
170 Frederick Street
Santa Cruz, California**

**Prepared For
MICHAEL ZELVER
Santa Cruz, California**



**Prepared By
HARO, KASUNICH AND ASSOCIATES, INC.
Geotechnical & Coastal Engineers
Project No. SC7126
July 2000**

Project No. SC7126
17 July 2000

MR. MICHAEL ZELVER
261 Fourth Avenue
Santa Cruz, California 95062

Subject: Geotechnical Investigation

Reference: Proposed 6 Lot Subdivision
APN 011-141-60
170 Frederick Street
Santa Cruz, California

Dear Mr. Zelver:

In accordance with your authorization, we have performed a Geotechnical Investigation for the proposed 6 Lot Subdivision at 170 Frederick Street in Santa Cruz, California. The proposed project will involve the removal of the existing building and construction of an asphalt cul-de-sac and construction of single family dwellings on each of the lots.

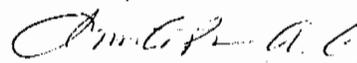
Based upon the results of our investigation, the proposed redevelopment is feasible from a geotechnical standpoint. Conventional spread footing foundations are recommended for the residential dwellings.

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

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

Very truly yours,

HARO, KASUNICH & ASSOCIATES, INC.



Christopher A. George
C.E. 50871

Jay Cook
Staff Geologist

CAG/dk

Copies: 4 to Addressee



CCC Exhibit 10
(page 2 **of** 33 **pages)**

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GEOTECHNICAL INVESTIGATION

Introduction

This report presents the results of our Geotechnical Investigation for a proposed 6 lot subdivision at 170 Frederick Street in Santa Cruz County, California (see Vicinity Map, Figure 1). A Preliminary Site Plan provided by Mr. Michael Zilver, dated May 2000, indicates the proposed site development. The plans were prepared by Ifland Engineers. As shown on the plans, the project will include 6 separate lots, each with a single family residence. Our Boring Site Plan, Figure 2, is based on a reduced copy of the Preliminary Site Plan.

Purpose and Scope

The purpose of our investigation was to explore and evaluate subsurface conditions at the site and provide geotechnical criteria for design and construction of the project. The specific scope of our services was as follows:

1. Review the data in our files pertinent to the site.
2. Explore the subsurface conditions at the site with three (3) exploratory borings to depths of 11.5 to 31.5 feet.
3. Test selected soil samples to determine their pertinent engineering properties.
4. Analyze the field and laboratory data to develop recommendations for site grading, building foundations, slabs-on-grade, drainage and general site improvements.

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

Site Conditions

The project site is a near level 1.23 acre parcel located at 170 Frederick Street in Santa Cruz, California. Present development on the west side of the parcel consists of two church buildings, a paved driveway off Frederick Street and parking lot and lawn area. The east side of the parcel is undeveloped. A moderately steep slope descends to Arana Creek on the east side of the property. The slope is vegetated with redwood trees and thick brush. The south side of the property borders Frederick Street Park and existing residences were observed on the adjacent north property. A wood fence lies on the north property line. A level area between the accessory structure and the east facing slope is vegetated with thick grass and several oak trees.

Project Description

The proposed project will include the construction of a single family dwelling on each of the 6 lots. The existing buildings and parking lot will be removed prior to construction of the subdivision. The existing driveway may be utilized as part of a new cul-de-sac to be constructed. Short driveways will be constructed for access to each home.

Field Exploration

Subsurface conditions were investigated on 4 May 2000. The approximate locations of the test borings are indicated on the Boring Site Plan, Figure 2. The borings were advanced with 6-inch diameter continuous flight-auger equipment mounted on a truck.

Representative soil samples were obtained from the exploratory borings at selected depths, or at major strata changes. These samples were recovered using the 3-inch O.D. Modified California Sampler (L) or the Standard Terzaghi Sampler (T).

The penetration resistance blow counts noted on the boring logs were obtained as the sampler was dynamically driven into the in situ soil. The process was performed by dropping a 140-pound hammer, a 30-inch free fall distance and driving the sampler 6 to 18 inches and recording the number of blows for each 6-inch penetration interval. The blows recorded on the boring logs represent the accumulated number of blows that were required to drive the last 12 inches.

The soil encountered in the borings was continuously logged in the field and described in accordance with the Unified Soil Classification System (ASTM D2486). The Logs of the Borings are included in Appendix A of this report. The boring logs denote subsurface conditions at the locations and time observed, and it is not warranted that they are representative of subsurface conditions at other locations or times.

Laboratory Testing

The laboratory testing program was directed toward determining pertinent engineering and index soil properties.

The natural moisture contents and dry densities were determined on selected samples and are recorded on the boring logs at the appropriate depths. Since water has a significant influence on soil, the natural moisture content provides a rough indicator of the soil's compressibility, strength, and potential expansion characteristics.

The strength parameters of the underlying earth materials were determined from field test values derived from Standard Penetration Testing (SPT) of the in-situ soil and unconfined compression tests performed in the laboratory.

An Atterberg Limits test was performed to determine the strength, consistency, and shrink-swell potential of the clay soil found at the site. The near surface clay soil in Boring 1 at the site was found to have a moderate to high expansion potential.

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

Subsurface Conditions

Based on our subsurface exploration, the general soil profile below the site consists of a layer of sandy silt from the surface to a depth of 18 inches underlain by stiff sandy clay to depths of 3 to 4 feet. In Boring 2 and 3, drilled in the parking lot, 1.5 to 2 inches of asphalt and 8 inches of baserock was underlain by sandy clay to depths of 3.5 to 4 feet. Below the clay layers, we encountered medium dense sand with varying amounts of silt and clay to a depth of about 9 feet. From 9 feet to the depths explored (11.5 to 31.5 feet), medium dense to dense, light brown sand with silt, was encountered. The sand became more dense with depth. Free groundwater was not encountered in any of our borings. It should be noted that groundwater levels may fluctuate due to variations in rainfall or other factors not evident during our investigation.

Seismicity

The following is a general discussion of seismicity in the project area. Detailed studies of seismicity and geologic hazards is beyond the scope of this report.

The referenced parcel lies about 17 km southwest of the San Andreas Fault. This is a major fault zone of active displacement, which extends from the Gulf of California to the vicinity of Point Arena, where the fault leaves the California coastline. Between these points, the fault is approximately 700 miles long. The fault zone is a break or series of

breaks along the earth's crust, where shearing movement has taken place. This fault movement is primarily horizontal.

Historically, the San Andreas Fault has been the site of large earthquakes, and consequently, large earthquakes can be expected in the future. The largest historic earthquake in northern California, which occurred on 18 April 1906 (M8.3+), and the 17 October 1989 Loma Prieta Earthquake (M7.1) are both considered to have been associated with the San Andreas Fault system. The Loma Prieta event was the second largest earthquake in northern California this century. Its epicenter was located along the southern Santa Cruz Mountains subsegment of San Andreas Fault system. Although no surface rupture was evident following the Loma Prieta earthquake, Hall et al. (1974) indicate that the San Andreas Fault has a high potential for surface rupture, with a recurrence interval of 50 to 1,000 years.

The Zayante Fault is located approximately 12 km northeast of the referenced parcel. Hall et al. (1974) consider the Zayante Fault capable of generating a M7.4 earthquake, but with a recurrence interval between 3,100 years (Wesnousky, 1987) and 6,000 years (Coppersmith, 1979).

During a major earthquake in the vicinity of the site, ground shaking would probably be severe. Experience gained from the 1989 Loma Prieta earthquake, confirmed earlier findings from the damage reports of the 1906 earthquake. The quality of construction was a primary factor in most earthquake damage. Where major structural damage occurred, the probable cause could generally be traced to inadequate foundation embedment into firm materials, a lack of interval shear bracing, and/or a lack of structural integrity between the wood-frame and the foundation. Where these three considerations were incorporated into the design and construction of well-built, wood-frame homes, earthquake induced structural damage was generally minimal even at sites subjected to severe ground shaking.

DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

The results of our investigation indicate the proposed development of the project site is feasible from a geotechnical standpoint provided the recommendations presented in this report are closely followed during design and construction of the project. Primary geotechnical considerations include the proximity to steep slopes, loose near surface soil, potentially severe ground shaking, and site drainage.

The proposed new residences will occupy a nearly level, open area with few trees. The near surface soil profile at the site consists of loose sandy silt and stiff clay underlain by loose to medium dense silty and clayey sands to depths of about 9 feet. The sandy clay has a moderate to high expansion potential. To reduce the potential for seasonal shrink-swell cycles to affect the foundations, we recommend conventional spread footings for the residences be deepened to 24 inches below grade. In addition, foundations should be pre-saturated 24 hours prior to pouring concrete.

The slope on the east side of the property is moderately steep. We did not observe any significant indications of slope instability on the slope. We recommend foundations and improvements be setback a minimum of 20 feet from the top of the slope. In addition,

concentrated surface runoff from improvements should not be allowed to flow on the slope and should be diverted to existing driveway facility.

We understand grading at the site will be limited to removing existing buildings and foundations, parking lot pavement, stripping the vegetation and construction of the cul-de-sac. However, if fill is placed on the lots, we recommend loose surficial soil in building envelopes be redensified prior to placement of additional fill. All structural fill should be compacted as engineered fill.

The project site will most likely experience strong seismic shaking in the design life of the residential structures. We recommend the buildings be designed and constructed in conformance with the most recent Uniform Building Code (UBC) seismic design standards.

Control of on-site surface drainage from improvements must be established and maintained during and after completion of the development. Site grading should provide sufficient slope away from foundations and improvements so that storm runoff is rapidly removed from the site.

Site Grading

1. The geotechnical engineer should be notified at least four (4) working days prior to any site clearing or grading so that the work in the field can be coordinated with the grading contractor, and arrangements for testing and observation can be made. The recommendations of this report are based on the assumption that the geotechnical engineer will perform the required testing and observation during grading and construction. It is the owner's responsibility to make the necessary arrangements for these required services.

2. Where referenced in this report, Percent Relative Compaction and Optimum Moisture Content shall be based on ASTM Test Designation D1557-91.

3. Areas to be graded should be cleared of obstructions including loose fill, trees not designated to remain, and debris or other unsuitable material. Existing depressions or voids created during site clearing should be backfilled with engineered fill.

4. Cleared areas should be stripped of organic-laden topsoil. Actual depth of stripping should be determined in the field by the geotechnical engineer. Strippings should be wasted off-site or stockpiled for use in landscaped areas if desired.

5. Where fill is placed in building envelopes, loose soil should be redensified prior to placement of fill. All structural fill should be compacted as engineered fill. The redensification zone should extend 5 feet beyond building envelopes. Areas to receive engineered fill should be scarified to a depth of 8 inches, moisture conditioned, and compacted to at least 90 percent relative compaction. Portions of the site may need to be moisture conditioned to achieve a suitable moisture content for compaction. These areas may then be brought to design grade with engineered fill.

6. Non-expansive, engineered fill should be placed in thin lifts not exceeding 8 inches in loose thickness, moisture conditioned, and compacted to at least 90 percent relative compaction. The upper 8 inches of pavement and slab subgrades should be compacted to at least 95 percent relative compaction. The aggregate base below pavement should likewise be compacted to at least 95 percent relative compaction.

7. Materials used for engineered fill should be free of organic material, contain no rocks or clods greater than 6 inches in diameter, with no more than 15 percent larger than 4 inches, have a Plasticity Index (PI) of 15 or less and liquid limit of 30 or less, and not have more than 25 percent passing the #200 sieve. The on-site silty sand soil is acceptable for use as engineered fill provided it is in conformance with the above requirements.

8. We estimate the shrinkage factor for the on-site loose soil will range from 15 to 20 percent when used as engineered fill.

9. Following grading, exposed surfaces should be planted as soon as possible with erosion-resistant vegetation.

10. After the earthwork operations have been completed and the geotechnical engineer has finished his observation of the work, no further earthwork operations shall be performed except with the approval of and under the observation of the geotechnical engineer.

Conventional Spread Footing Foundations

11. The proposed residential structures may be founded on conventional spread footings, structurally tied together provided the footings are a minimum of 24 inches in depth. In addition, the footing trenches should be saturated a minimum of 24 hours prior to pouring concrete. Also, the footing trenches should be kept moist during construction. Actual footing size and depth should be determined in accordance with anticipated use and applicable design standards. The footings should be reinforced as required by the structural designer based on the actual loads transmitted to the foundation.

12. Foundations designed in accordance with the above may be designed for an allowable soil bearing pressure of 1,250 psf for dead plus live loads. These values may be increased by one-third to include short-term seismic and wind loads. Total settlements are anticipated to be less than 1-inch. Differential settlements are anticipated to be less than ½-inch.

13. Lateral load resistance for structures supported on footings may be developed in friction between the foundation bottom and the supporting subgrade. A friction coefficient of 0.30 is considered applicable

14. Prior to concreting, foundation excavations should be cleaned of slough. The foundation trenches should be saturated 24 hours prior to concreting. The foundation excavations should be observed by the geotechnical engineer or his representative prior to scheduling steel or concreting. Our office requires at least 24 hours prior notice to requested field appointments.

15. Footings located adjacent to other footings, or utility trenches should have their bearing surfaces founded below an imaginary 1.5:1 (horizontal to vertical) plane projected upward from the bottom edge of the adjacent footings or utility trenches.

Slabs-on-Grade

16. Prior to construction of slabs, the subgrade surface should be proof-rolled to provide a smooth, firm, uniform surface for slab support. The near surface soil at the site is potentially expansive and seasonal shrinking and swelling of the clay soil should be anticipated. The concrete slabs should be structurally isolated from foundations. We recommend 30 lb felt be placed between the foundation and the slab. As an alternative to isolating the slab, potentially expansive materials can be removed within the slab perimeter and replaced with low to non-expansive, engineered fill. Slab reinforcing should be provided in accordance with the anticipated use and loading of the slab.

17. In areas where floor wetness would be undesirable, a blanket of 4 inches of free-draining gravel should be placed beneath the floor slab to act as a capillary break. Subdrains and outlets for potential subsurface seepage water should be provided below slab. To minimize vapor transmission, local practice is to install an impermeable membrane (minimum 10 mil thickness) over the gravel. The membrane is covered with 2 inches of sand, or rounded gravel to protect it during construction. The sand or gravel should be lightly moistened prior to concreting which aids in curing the concrete. In sensitive floor areas other measures may be required to increase the moisture retardation through the concrete slabs.

18. Exterior concrete slabs-on-grade should be founded on firm, well-compacted ground. Reinforcing should be provided in accordance with the anticipated use and loading of the slab. The reinforcement should not be tied to the building foundations. Exterior and interior slabs can be expected to suffer some cracking and movement. However, thickened exterior edges, a well-prepared subgrade including pre-moistening prior to pouring concrete, adequately spaced expansion joints, and good workmanship should minimize cracking and movement.

Seismic Design Criteria

The 1997 Uniform Building Code provides updated guidelines for seismic design of structures. Based on the guidelines, the site is underlain by soil type S_D . We provide the following near source factors (N_A and N_V) from Tables 16-S and 16-T, and seismic coefficients (C_A and C_V) from Tables 16-Q and 16-R selecting the San Andreas Fault and Zayante/Vergeles Fault as seismic source faults A and B, respectively.

FAULT	DISTANCE	TYPE	N_A	N_V	C_A	C_V
San Andreas*	17 km	A	1.0	1.0	0.40	0.56
Zayante/Vergeles	12 km	B	1.0	1.0	0.40	0.56

*critical seismic source

Trench Backfill and Bedding

19. Underground utility trenches should be backfilled with properly compacted import granular fill. Trench backfill should be placed in lifts not exceeding 6 inches in uncompacted thickness and should be compacted by mechanical means only to a minimum of 90 percent relative compaction. The upper 2.5 feet of backfill beneath pavements should be compacted to a minimum of 95 percent relative compaction.

20. Bedding material should be placed below the planned invert elevation to the depth required, but not less than four inches thick, to provide a stable uniform bearing surface. The bedding material should extend upwards at least 6 inches above the top of the pipe(s) to provide side support and protection to the pipes during subsequent backfilling and compaction operations. Pipe bedding material should be graded such that 100 percent passes the 3/4-inch sieve and less than ten percent passes the #200 sieve.

Flexible Pavements

21. Pavement design was beyond the scope of our work. However, to have the pavement sections perform to their greatest efficiency, it is important that the following items be considered:

- A. Moisture condition the subgrade and compact to a minimum relative compaction of 95 percent, at about 2 percent over optimum moisture content.
- B. Provide sufficient gradient to prevent ponding of water.

- C. Use only quality materials of the type and thickness (minimum) specified. Baserock should meet Caltrans Standard Specifications for Class II Aggregate Base, and be angular in shape.
- D. Compact the baserock to a relative dry density of 95 percent.
- E. Place the asphaltic concrete during periods of fair weather when the free air temperature is within prescribed limits per Caltrans specifications.
- F. Follow Caltrans Standard Specifications for materials and construction procedures.
- G. Provide a routine maintenance program.

Site Drainage

22. Control of runoff is essential to the performance of the project. Roof, driveway and cul-de-sac surface runoff must be collected and returned to the existing drainage along Frederick Street.

23. Accumulated runoff must not be allowed to flow over graded slopes. Berms or lined V-ditches may be necessary at the top of the east facing slope on Lots 5 and 6 to divert water toward suitable collection facilities.

24. Surface drainage should include provisions for positive slope gradients so that surface runoff is not permitted to pond adjacent to foundations and pavements. A minimum slope gradient of 2 percent should be provided near foundations, slabs, or pavements. Concentrated runoff from improvements should not be allowed to flow on the east facing slope.

25. Rain gutters should be placed around roof eaves. Discharge from the rain gutters should be conveyed away from the downspouts via buried closed plastic pipe towards suitable collection facilities which convey runoff to existing storm sewers.

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

Plan Review, Construction Observation, and Testing

27. Haro, Kasunich and Associates must be provided the opportunity for a general review of the final project plans prior to construction to evaluate if our geotechnical recommendations have been properly interpreted and implemented. Haro, Kasunich and Associates should also provide earthwork observation and testing services during the construction phase of the project. Observation and testing of earthwork allows us the opportunity to confirm anticipated soil conditions and evaluate the contractors conformance

Project No. SC7126
17 July 2000

with project plans and specifications and our geotechnical recommendations. If we are not accorded the opportunity of making the recommended plan review or do not provide earthwork observation and testing services during construction, we assume no responsibility for misinterpretation of our recommendations.

LIMITATIONS AND UNIFORMITY OF CONDITIONS

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

APPENDIX A

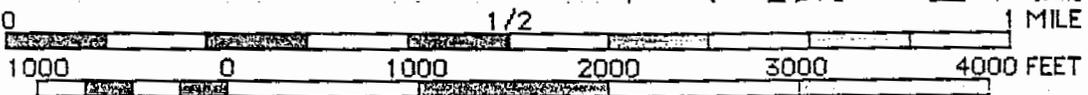
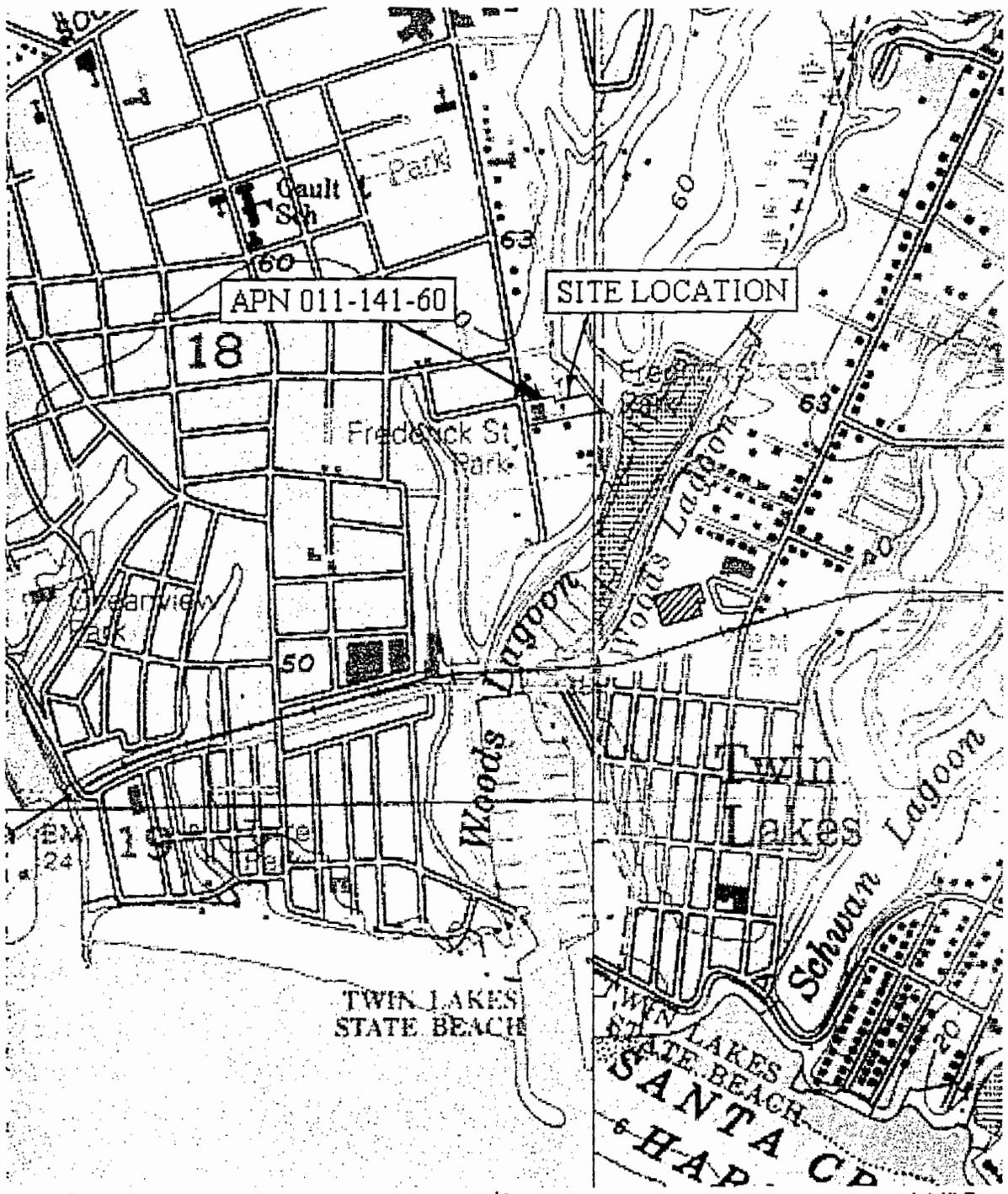
Site Vicinity Map

Boring Site Plan

Soil Classification Chart

Logs of Test Boring

Plasticity Chart



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PROJECT No:	SC7126
DATE:	5-26-00
SCALE:	1"=1000'
DRAWN BY:	BS

SITE VICINITY MAP
170 FREDERICK STREET
APN 011-141-60
SANTA CRUZ COUNTY, CA

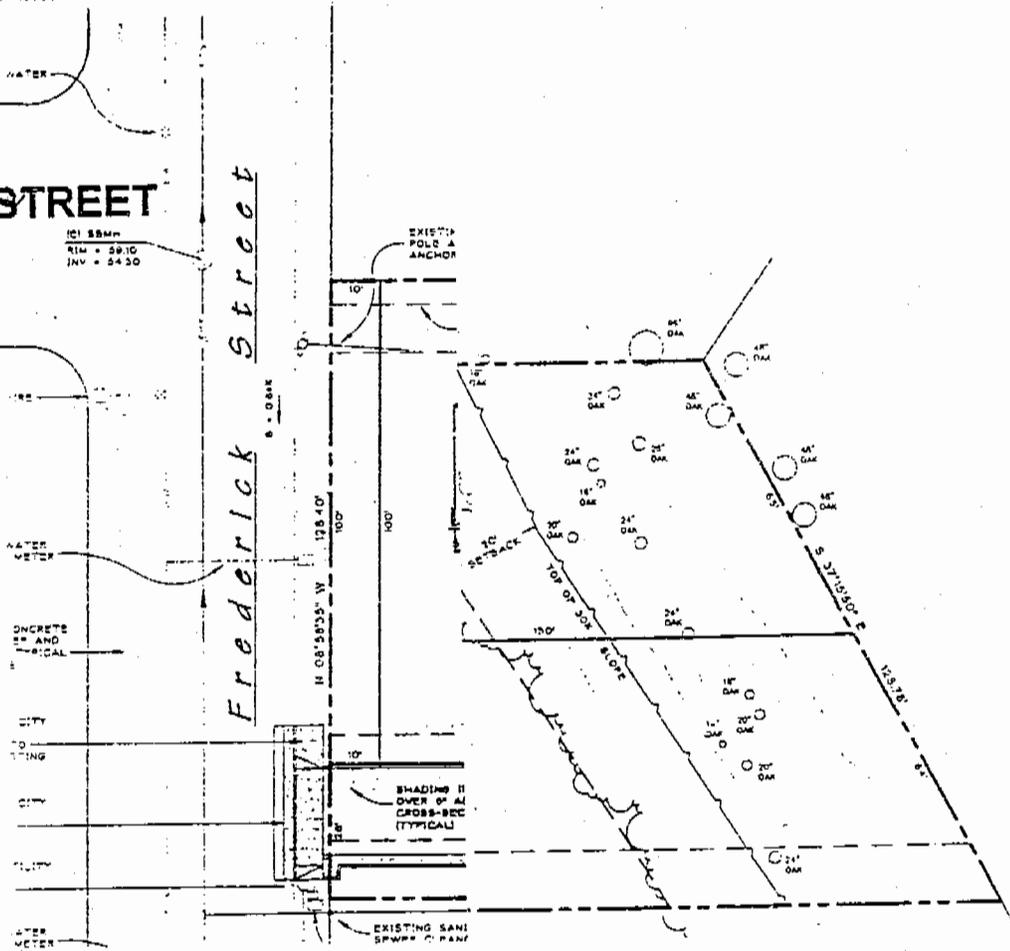
CCC Exhibit RE NO. 10
 (page 25 of 33 pages)

GLENVIEW STREET

CI 85MM
RIM + 2810
INV + 2430

Frederick Street

EXISTING
POLE &
ANCHOR



CCC Exhibit 10
(page 26 of 33 pages)

BORING SITE PLAN
170 FREDERICK STREET
APN 011-141-60
SANTA CRUZ COUNTY, CA

FIGURE No. 2

MAJOR DIVISIONS		GROUP SYMBOLS	TYPICAL NAMES	
COARSE-GRAINED SOILS More than 50% retained on No 200 sieve*	GRAVELS 50% or more of coarse fraction retained on No 4 sieve	CLEAN GRAVELS	GW 	Well-graded gravels and gravel-sand mixtures, little or no fines
			GP 	Poorly graded gravels and gravel-sand mixtures, little or no fines
		GRAVELS WITH FINES	GM 	Silty gravels, gravel-sand-silt mixtures.
			GC 	Clayey gravels, gravel-sand-clay mixtures.
	SANDS More than 50% of coarse fraction passes No 4 sieve	CLEAN SANDS	SW 	Well-graded sands and gravelly sands, little or no fines.
			SP 	Poorly graded sands and gravelly sands, little or no fines.
		SANDS WITH FINES	SM 	Silty sands, sand-silt mixtures.
			SC 	Clayey sands, sand-clay mixtures.
	FINE-GRAINED SOILS 50% or more passes No 200 sieve*	SILTS AND CLAYS Liquid limit 50% or less	ML 	Inorganic silts, very fine sands, rock flour, silty or clayey fine sands.
			CL 	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays
OL 			Organic silts and organic silty clays of low plasticity.	
SILTS AND CLAYS Liquid limit greater than 50%		MH 	Inorganic silts, micaceous or diatomaceous fine sands or silts, elastic silts	
		CH 	Inorganic clays of high plasticity, fat clays	
		OH 	Organic clays of medium to high plasticity.	
HIGHLY ORGANIC SOILS	PT 	Peat, muck and other highly organic soils.		

SOIL CLASSIFICATION CHART
ASTM DESIGNATION D2487-69

CCC Exhibit 10
(page 27 of 33 pages)

* Based on the material passing the 3-in. (76-mm) sieve.

BORE LOG REPORT

PROJECT NO. SC7126

for

**Haro,
Kasunich & Associates**

CCC Exhibit 10
(page 28 of 33 pages)

C:\Program Files\GSS\BoreLog\Sc7126.blf

 **GEOTECHNICAL SOFTWARE SERVICES**
SANTA CRUZ, CA *Bore Log File*

LEGEND

-  Visible water level description
-  Footnoted water level description
-  Visible soil data
-  Footnoted soil data
-  Visible sample data
-  Footnoted sample data



LOGGED BY CAG

DATE DRILLED May 04, 2000

BORING DIAMETER 6"

BORING NO. 1.

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - 1. s. t. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1	1 - 1		Yellow brown Sandy SILT, damp, loose	ML					
2	L		Mottled orange brown Sandy CLAY, moist, very stiff	CL	18		104 100	10.7 22.4	Atterberg Limits LL = 48.8% PI = 27
3	1 - 2		Orange brown Clayey SAND, moist, medium dense	SC	21			16.3	
4	T		Grades to Silty SAND with binder						
5	1 - 3		Orange SAND with Silt binder, moist, medium dense	SM	32		103	18.1	
6	L		Gravels						
7									
8									
9									
10	1 - 4		Light yellow brown Silty SAND	SM	12			10.5	
11	T								
12	1 - 5		Light brown Silty SAND, moist, medium dense		16			12.9	
13	T								
14									
15	1 - 6		Very light brown fine SAND with Silt binder, moist, medium dense	SM	26			15.7	
16	T								
17									
18									
19									
20	1 - 7		Light brown fine SAND, moist, medium dense	SM	24			18.6	
21	T								
22									
23									
24									

CCC Exhibit 10
(page 29 of 33 pages)

BY: Haro, Kasunich & Associates

FIGURE NO. LOG OF TEST BORING



LOGGED BY CAG

DATE DRILLED May 04, 2000

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. t. Penetrometer	Dry Density p. c. f.	Moisture % dry wt.	MISC. LAB RESULTS
26			No change in drilling resistance from 20' to 30'	SM					
27									
28									
29									
30	1 - 8		Mottled orange brown SAND, very moist, dense	SM	51			33.1	
31	T								
32			BORING TERMINATED AT 31.5 ft.						
33									
34									
35									
36									
37									
38									
39									
40									
41									
42									
43									
44									
45									
46									
47									
48									
49									

CCC Exhibit 10
(page 30 of 33 pages)

LOGGED BY CAG DATE DRILLED May 04, 2000 BORING DIAMETER 6" BORING NO. 2

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. t. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS
1			▷ 1-1/2" Asphalt concrete, 8" aggregate base						
2	2-1		▷ Mottled orange brown Sandy CLAY, very moist, stiff	CL	11		93	26.0	Unconfined qu = 1.52 ksf
3	L				17		19.7		
4	2-2								
5	T								
6	2-3		▷ Orange brown Silty SAND/Clayey Sand with gravels, moist, medium dense	SM/SC	23		108	16.8	
7	L								
8									
9			▷ Light brown SAND, moist, medium dense						
10	2-4		▷ Gravels	SM	23			16.0	
11	T								
12									
13									
14									
15	2-5		▷ Light brown SAND, moist, medium dense	SM	24			20.1	
16	T								
17			BORING TERMINATED AT 16.5 ft.						
18									
19									
20									
21									
22									
23									
24									

CCC Exhibit 10
(page 31 of 33 pages)



LOGGED BY CAG

DATE DRILLED May 04, 2000

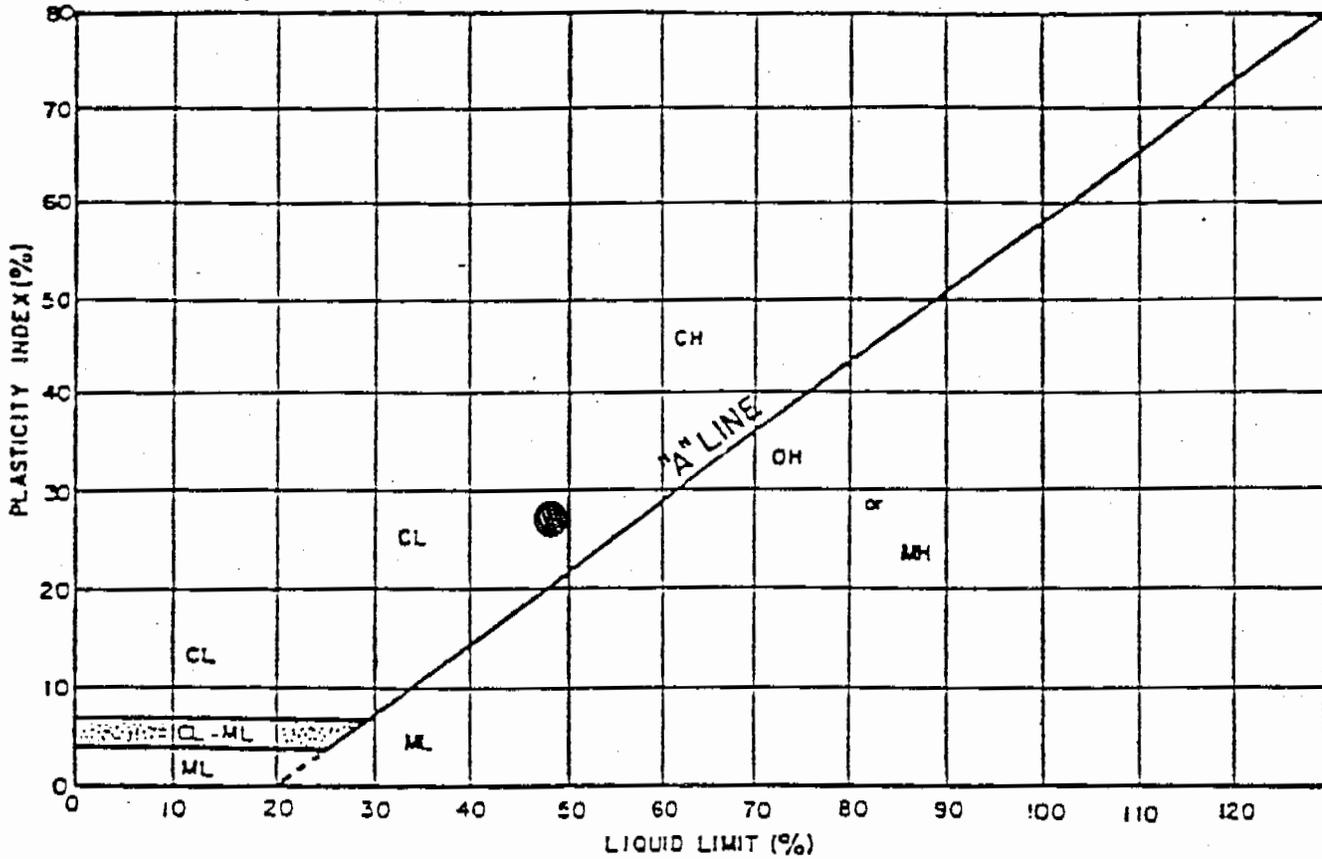
BORING DIAMETER 6"

BORING NO. 3

Depth, ft.	Sample No. and type	Symbol	SOIL DESCRIPTION	Unified Soil Classification	Blows/foot 350 ft - lbs.	Qu - t. s. t. Penetrometer	Dry Density p.c.f.	Moisture % dry wt.	MISC. LAB RESULTS	
			> 2" Asphalt concrete, 8" aggregate base							
1	3-1		> Brown Sandy CLAY, very moist, stiff	CL	16		101	22.4	Unconfined qu = 2.15 ksf	
2	L									
3	3-2		Grades medium dense, less Clay, less moisture, increase in Sand		35			19.3		
4	T									
5	3-3		> Mottled light brown Clayey SAND/Silty SAND with Clay binder, moist, medium dense	SM/SC	50		104	19.5		
6	L									
7										
8										
9										
10	3-4		> Brown Silty SAND with gravels, moist, medium dense	SM	24			12.0		
11	T									
12			BORING TERMINATED AT 11.5 ft.							
13										
14										
15										
16										
17										
18										
19										
20										
21										
22										
23										
24										

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PLASTICITY CHART



PLASTICITY DATA

KEY SYMBOL	HOLE NUMBER	DEPTH (feet)	NATURAL WATER CONTENT W (%)	PLASTIC LIMIT (%)	LIQUID LIMIT (%)	PLASTICITY INDEX (%)	LIQUIDITY INDEX $\frac{W - PL}{LL - PL}$	UNIFIED SOIL CLASSIFICATION SYMBOL
●	1-1-1	2		22.2	48.8	26.6		CL

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500 Seabright Ave, Suite 202 Santa Cruz, CA 95062

www.swansonh2o.com

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MAR 13 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

February 27, 2008

Seabright Neighbors Association

c/o Andrew Creeley

112 Baymount Street

Santa Cruz, CA 95062

RE: Review of hydrology for proposed drainage system at 170 Frederick Street Planned Development Subdivision

Dear Andrew,

As requested, I have reviewed the available information regarding the proposed drainage system for the planned development at 170 Frederick Street, which is located next to Frederick Street Park and just west of the upper Santa Cruz Yacht Harbor and Arana Gulch. My review addresses the potential impacts and feasibility of the proposed stormwater drainage system for single family residences and ADUs on 9 lots. I have reviewed the proposed projects plans, geotechnical reports dated December 1, 2006 (letter) and July 2000 (geotechnical investigation) prepared by Haro Kasunich and Associates, Inc., the Santa Cruz City Council Resolution, which approved the project dated December 2007, and a Negative Declaration (ND) statement prepared by the City of Santa Cruz Planning Department.

My main concern is the feasibility of the proposed project and the lack of detailed information and analyses regarding the proposed drainage system. With limited information, it is difficult to discern how or whether the drainage plan will function and what the actual environmental

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#3

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impacts will be. The ND makes broad claims of no significant impact based upon incomplete information, though there appears to be potentially significant conflicts between the actual site hydrology conditions and the performance of the proposed stormwater "retention trench". Key site issues are not addressed and could have serious repercussions on slope stability on the steep bluff along the eastern side of the property and the management of stormwater onsite and in the neighborhood.

I believe the planning process would be better served if the project had a full Environmental Impact Report (EIR) that evaluates the design rationale, site conditions, impacts and policy implications. As is, the proposed development has pieces of information that do not provide a complete picture, and as a result, there are unanswered questions regarding what could be significant problems with the project's proposed stormwater drainage system. Although, it is possible that the proposed drainage system could function properly, the information is not complete enough to know, thus great uncertainties remain.

The Conditions of Approval (#19) provide that the applicant prepare an engineered drainage plan in conjunction with application for building permits. Only in this condition is mention made of how potential design problems or impacts on and off site might be addressed. Handled this way, the City acknowledges potential problems and impacts such as excessive site runoff, but delays full disclosure until well after approval. As I understand it, one cannot mitigate impacts by proposing to design something later since the mitigation itself may create new impacts. As it stands, the information provided does not even allow for understanding how the system is supposed to work, let along what the impacts are. It does not seem possible to make a decision or finding on the project when so much is unknown.

The environmental review problems were further exacerbated by the City Council in December 2007 when the project was significantly changed "on the fly" by council members. Parts of the proposed "bioswale" along the south side of the property will now to be covered with a paved trail to increase the width of a public path – this substantially changes the project description as a "bioswale" can't be covered (it is supposed to be planted) and seemingly would invalidate the hydrologic analysis provided and possibly change the negative

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declaration. Yet the project was approved with this change. The project should be required to prepare a full EIR so that the public and outside experts have the information needed to conduct a review. The level of effort in the environmental review provides only a narrow view without demonstrating how and why.

The proposed drainage system is shown in project plan sheet TM-2 and only parts are briefly described in the geotechnical report, and in the ND.

The drainage system splits the stormwater from the western and eastern halves of the property. The western site is split between a curb on the north side of the proposed access driveway, which discharges to the curb on Frederick Street and the southern side of the western half is collected in a bioswale proposed to flow westward and discharge at the eastern curb (this bioswale is to be covered as a result of the on-the-fly decision by the City Council on December 11th 2007 approval).

The eastern half of the property and a portion of Frederick Street Park will drain towards a proposed subsurface stormwater "retention trench" that would be constructed along the top edge of the steep bluff along the eastern edge of the property. The quantitative analysis of pre- and post-development runoff as shown in Sheet TM-2 is confusing and inadequate: only changes in peak flows are provided, whereas the actual volume of runoff is of greater consequence with this design.

The critical, unaddressed issues are:

- 1) The onsite and offsite effects of increased and redirected runoff;
- 2) The performance of the proposed subsurface stormwater retention trench and bioswale system in light of storm period shallow, perched groundwater; and
- 3) The potential instability of the eastern bluff with redirected and uncontrolled runoff that will inevitably spill out of the proposed retention trench system.

The western part of the property would drain to the curb and existing stormdrain system on the Frederick Street. The effect of this on the existing storm drain system is stated to be "insignificant" in the ND, but the quantitative effects of the increase in runoff along the curb of Frederick Street is not provided in any of the documents and whether down gradient curbs and culverts are adequately sized to receive the new volume runoff without causing flooding.

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The plan sheet TM-2 shows an increase in peak discharge of 0.29 cfs in a 10-year storm, yet no discussion of effects of this increase is provided or how it was determined whether it might have an impact. The information provided is not adequate to make a determination. It is not adequate to simply state that the changes are not significant; the statement must be backed up with relevant information. As stated above, it is not acceptable that the impacts and the proposed design will be figured out later, as provided by conditions of approval – that is not full disclosure of the project or its impacts.

The calculations provided on Sheet TM-2 seem to claim that the site runoff will decrease from existing conditions on the eastern part of the development because bioswales and the retention trench will absorb and percolate surface stormwater. However, nowhere in the documents is there acknowledgment of the shallow groundwater that occurs during storm events at the site and within the neighborhood, which may limit the effectiveness of the bioswale and trenches. Many homes nearby, and I suspect the church building on the site, have sump pumps that activate often during storm events. Springflow can be observed emitting from the bluff about 5-6 feet from the top edge during and after storm events. Thus, the site appears to have very shallow groundwater during rainstorms and poor subsurface drainage, a condition that would render bioswales saturated and ineffective. The geotechnical report states that the retention trench will penetrate a shallow clay layer, but the real impenetrable layer is sandstone bedrock (Purisima Formation) that is probably 8-10 below the ground surface. Springflow can be observed seeping and during storms flowing from the bluff to the east along the bedrock/soil contact.

A major concern is the proposed drainage system serving the eastern half of the property that directs all runoff to a "retention trench". The proposed rock filled trench is to be 3 foot wide, 5 foot deep and 100 foot long and would be constructed along the top edge of the eastern bluff where all runoff from the eastern part of the site would be directed and retained. The problems this design presents are numerous and the documentation is sparse to address these issues let alone make claims of reducing runoff. The outstanding or inadequately addressed design issues include:

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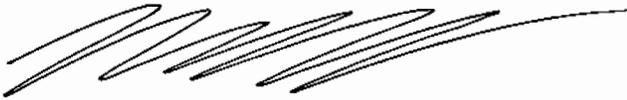
- 1) The retention trench is apparently designed to "retain" or fully contain a 10-year, 3.00-inch design rainstorm. It appears that the designers are assuming reductions in offsite runoff rates with an initially dry trench at the onset of 3.00 inches of rainfall. Isolated rainfall events are rarely the actual case as periods of intense 1 hour rainfall occur within multiple days of rainfall. As a consequence of real storm conditions, the porous trench would actually attract local shallow groundwater and would likely be partially if not fully saturated with shallow groundwater prior to the onset of the design storm thus rendering the trench partially if not fully ineffective for retaining runoff.
- 2) Shallow groundwater flowing in from the surrounding areas, not just direct rainfall and runoff from the local drainage area, will likely fill the trench with water in small rainstorms and render it ineffective to retain runoff;
- 3) The design capacity of the proposed trench is not stated in the information provided and there is very little discussion or information to describe what happens when the trench is saturated and spills uncontrolled runoff over the steep bluff to the east. The ND states that runoff would be "dispersed", however this rarely is the case as water usually finds low points and concentrates. It is fundamentally important to know how much runoff and where it may go to successfully design such a system and to know what effects it may have on a steep, 30-foot high bluff.
- 4) Once saturated, uncontrolled runoff would spill out of the trench and over the steep bluff to the east, which is over 30 feet high and composed of erodible material; this could lead to erosion and slope failure.
- 5) Saturation could spread outward from the trench to residences, which could saturate the upper bluff and cause mass failure; nuisance flooding and possible moisture problems under and around the proposed homes also appear possible;
- 6) After the trench saturates, runoff filtering/water quality treatment would be insignificant.
- 7) The release of uncontrolled discharge over the eastern bluff at the property could potentially affect the designated riparian buffer zone along Haggeman Gulch at the northeast property corner. This should have concerned City staff as part of the discharge area is within the Riparian Management Zone, however the ND doesn't even acknowledge that redirected and uncontrolled runoff will flow down the steep bluff. The original plan (2006) called for a storm drain to be constructed down the bluff. Digging a ditch down the bluff to bury a culvert could cause damage to trees and destabilize soils and would require an encroachment permit under the City of Santa Cruz Creek Ordinance. The culvert outlet

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would also have to daylight onto adjacent property. The culvert idea was apparently shelved in favor of the "retention trench" and while technically that could remove the project from needing a special permit, it seems that releasing uncontrolled discharge could have potentially greater consequences. All of this is unaddressed in the ND for the project.

Please feel free to contact me if you have any questions.

Sincerely,



Mitchell Swanson

President

Swanson Hydrology + Geomorphology

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(page 6 of 9 pages)

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MITCHELL SWANSON, M.S. PRESIDENT - HYDROLOGIST/GEOMORPHOLOGIST

Education

MASTERS DEGREE IN EARTH SCIENCES. University of California at Santa Cruz 1983

BACHELOR OF ARTS IN EARTH SCIENCES University of California at Santa Cruz 1981

Statement of Qualifications

Mitchell Swanson, President of Swanson Hydrology + Geomorphology, has over twenty-five years of experience in hydrology, hydraulic studies, geologic hazards, and geomorphology related to restoration and resource management in rivers, streams, coastal estuaries, watersheds and wetlands. This experience includes the development, management and completion of comprehensive technical and planning studies for a full range of private and public sector clients. Mr. Swanson specializes in the development of technically and environmentally sound management and restoration plans for rivers, estuaries and watersheds and has extensive involvement in projects located throughout California and Western Nevada. These studies often involve the coordination of many disciplines by including biological sciences, hydraulic engineering, land use planning, economics, landscape architecture and environmental planning. In the present era of conflict between environmental regulation and society's need for flood control and utilization of water resources, Mr. Swanson has become a recognized expert in conflict resolution between governmental agencies, and public and private interests.

Mr. Swanson's technical expertise includes historical geomorphic and hydrologic studies for geologic hazards assessments (landslides, seismic, erosion, sedimentation, sediment transport and flooding) and in determining the causes and effects of human modification on hydrologic and geomorphic systems. He has extensive field experience in hydrologic and sediment transport measurement, geomorphic mapping and surveying in rivers, watersheds and estuaries. Mr. Swanson has applied hydraulic and hydrologic analyses using computer simulation programs to a variety of hydrologic systems.

Mr. Swanson has extensive expert witness experience having appeared before the U.S. Federal Circuit Court, California State Water Resources Control Board, California Superior Court, and the U.S. Congress. He has testified as an expert with regards to hydrology, geomorphology, flood control, reservoir operations, hydraulics, geomorphology, and environmental impacts.

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(page 7 of 9 pages)

SWANSON HYDROLOGY + GEOMORPHOLOGY

Previous Experience

1985-1988 SENIOR ASSOCIATE: Philip Williams & Associates

Responsibilities included: designing and conducting technical studies in hydrology, geomorphology, hydraulics and environmental planning; project management; marketing management. Projects included: design of environmental restoration of streams and coastal wetlands integrated with flood control and erosion control; management plans for wildlife habitat; technical analyses for preparation of expert testimony, development of field techniques for mapping and monitoring.

1984-1985 PRINCIPAL: Williams, Kondolf and Swanson Hydrology

Responsibilities included: Proposal preparation for technical and environmental studies; development of field research programs in sediment transport and hydrology; project management and marketing. Projects included: A plan for the study of sediment transport on the Tuolumne River, California for the proposed Clavey-Wards Ferry Project (1984); a plan for Preparation of a Master assessment for Gravel Extraction on the upper Russian River near Ukiah, California (1984-1985).

1984 WATERSHED ANALYST II: County of Santa Cruz, California

Responsibilities included: preparation of timber harvest plan reviews in Santa Cruz County, planning and supervision of log jam removal crew, assessment of stream erosion problems.

1984 GEOLOGIC TECHNICIAN: U.S. Geological Survey, Menlo Park, California.

Responsibilities included: preparation and lab processes of samples for Potassium Argon dating, compilation of maps, aerial photographs and literature for geologic mapping project in North Cascades National Park in Washington State; petrographic studies; statistical analyses of K-Ar.

1983 GEOLOGIST: U.S. Department of Agriculture Soil Conservation Service, Aptos, California.

Responsibilities included: Mapping and describing geology, landslides, hydrology, fluvial geomorphology of the Soquel Creek Watershed in Santa Cruz County California; analyses and description of watershed conditions that lead to flooding along Soquel Creek; data analysis, report preparation; preparation and delivery of presentations at public meetings; development of a watershed management plan.

CCC Exhibit 11
(page 8 **of** 9 **pages)**

SWANSON HYDROLOGY + GEOMORPHOLOGY

Publications

JOURNAL PAPERS

KONDOLF, G. M., AND M. L. SWANSON

Channel Adjustments to Reservoir Construction and Gravel Extraction along Stony Creek, California, Environmental Geology and Water Science, 1993 21:259-269.

SWANSON, M. L., G. M. KONDOLF, AND P. J. BOISON

An example of rapid gully initiation and extension by subsurface erosion, coastal San Mateo County, California. Geomorphology, 2 (1989) 393-403.

PUBLISHED PAPERS AND ABSTRACTS IN SYMPOSIA PROCEEDINGS

SWANSON, M. L. - 1983

Soil piping and gully erosion along the San Mateo County Coast in central California. Proceedings from the second field conference of the American Geomorphological Research Field Group, Chaco Canyon, New Mexico, October 7-10, 1983.

SWANSON, M. L. - 1985

Subsurface erosion and gully development along coastal San Mateo County, California. EOS 67:955-956 (abs)

SWANSON, M. L. - 1988

Riparian restoration and flood control planning on the Lower San Lorenzo River in Santa Cruz, California, in Proceedings of the California Riparian Systems Conference, Davis California, September 22 - 24, 1988.

WILLIAMS, P. B. AND SWANSON, M. L. - 1988

A new approach to flood protection design and riparian management. In Proceedings of The California Riparian Systems Conference, Davis, California, September 22 - 24, 1988

CCC Exhibit 11
(page 9 of 9 pages)



Attachment 2

P A R K S & R E C R E A T I O N D E P A R T M E N T

323 Church Street, Santa Cruz, California 95060
831-420-5270 • Fax 831-420-5271 • www.santacruzparksandrec.com

November 7, 2006

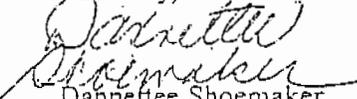
John Swift
Hamilton Swift
1509 Seabright Avenue
Santa Cruz Ca 95060

Dear John,

As a follow up to our discussion regarding the proposed project at 170 Frederick, I am sending this note to summarize our conversation. Parks and Recreation Department Staff prefer a design that maintains the pedestrian easement on the south side of the property (between the park and the housing). The Department requests that City maintenance vehicles be provided an easement on North side of the project.

If the property was available for purchase, the Parks and Recreation Department does not currently have funding available to purchase, develop and maintain it. The Department is currently focusing on sustainability of existing facilities, services and programs.

Sincerely,


Dannettee Shoemaker
Director

CCC Exhibit 12
(page 1 of 1 pages)

To: The Coastal Commission
Re: Development at 170 Frederick Street

A-3-STC-08-003

We are submitting statements to support the position that the right of way at 170 Frederick Street was used for ingress and egress by the public for 21 years before it became a deeded right of way in 1968.

The developer's attorney states, "It would have been impossible to have 5 years of continuous expanded use of such easement by 1972." The included testimonials are proof that it was used by the public since 1947, especially for recreational uses.

Today this right of way is used to provide safe access for people who are going to the state beaches and not necessarily using the park. It is heavily utilized by groups of bicyclists, walkers and groups of students with various destinations. Because the harbor is adjacent to the park this right of way is used by boaters and non boaters who enjoy the harbor. Our harbor and park are used by people from all over the world.

The city's giving 5 feet away would be a taking of a long used public resource and giving it for private use. PD's require public benefits. This in actuality is a taking away of a major public benefit.

The 7-foot path the city approved raises safety concerns. It is not adequate to accommodate safely the large groups of bicycle riders, walkers and children who utilize this valuable recreational area

This photo shows Frederick Street Park in its early days, clearly showing the paved park paths aligned to meet the historic right of way, providing the only ingress and egress to the park. You can see that the circular path serves as a continuation of the right of way to the rear of the park and then down to the harbor.

The enclosed deeds show the right of way was a road and a utilities easement. The developers claim it was only a utilities easement. The road easement was clearly designed by the city as the only entrance to the park, and this is why they paved it and joined it to the new path.

It was not until thirteen years later that the city provided an alternative entrance. It has been an addition that does not eliminate the need for the original wider and safer right of way. The new path narrows as it goes by the restrooms and drinking fountain area. People coming and going to the restrooms are in danger of being hit by bicyclists.

RECEIVED

MAR 19 2008

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit 13
(page 1 **of** 19 **pages)**

Shelley Hahn, Sally di Girolamo, Carole de Palma

February 15, 2008

An edited transcription of an interview with Jean Colby of 933 Windham Street
conducted on Friday February 1, 2008

Jean has agreed to have this transcription put into the form of a personal letter to the Coastal Commission or to be used in another form if that is more appropriate. She is also willing to be interviewed by Commission staff.

Dear Coastal Commission staff member,

My name is Jean Colby and I live at 933 Windham Street. My house is about a block from Frederick Street Park. I've lived in this house since 1947. I remember the property that is now located at 170 Frederick Street just next to the park from that time. I had good friends who lived on that property. My friend Ida's house was there and then there was a little Englishman, whose name I don't remember. His house was near where the restrooms are now and Ida's place was further back on the far side of the playground. I was in her house quite of few times.

I used a path that ran from Frederick Street that we used to walk through. I can't remember exactly how wide the path was but it was good for bicyclists and people to walk. I can see it in my mind. I used it regularly and that was the way a lot of people who lived here went. I would say it was a public pathway and you could get to the lagoon just by sliding down the hill. I have been able to get to go down that way years ago.

The people who lived on the property knew that everyone was using the path and they didn't mind. They never restricted anyone from using the path. My children, both my boys and my daughter used to play up there all the time and they would use it as a shortcut to the water. All the children did that, nobody stopped them and they would go down to the lagoon that way and also to go to the beach and the boardwalk.

There were a lot of people who were unhappy about the park being built. My friend Irene Hooten was very angry. She was against it but when they had the dedication and the mayor came and they put that plaque in it was a wonderful day. Afterward we all had lots of good times there with the family. It's such a shame to do what they're going to do there now. I think it's terrible. It will never be the same. It's like something that's precious that's being destroyed, in my mind. Those were happy days.

Sincerely,

Jean Colby

CCC Exhibit 13
(page 2 **of** 19 **pages)**

My name is Betty Hooten. I lived at 125 Frederick Street Santa Cruz from 1948 until 1975. I now live on Crystal Lane in Santa Cruz.

I first remember using the beaten dirt road in 1955 that went to the lagoon. This was three years before the church was even built. It was already well used because it was so convenient, and it was a short cut to the lagoon, beaches and boardwalk. It was the obvious way to get places. After the church was built in 1958, we still used the dirt road

If the lagoon did not smell too bad, my mother and I would bottle hunt for old bottles. My mother sold hundreds of them to an antique store. My brother and two sisters still remember using the dirt road. Dredging for the lower harbor really changed things. I remember how awful it was seeing all the turtle carcasses left behind as the water left the lagoon.

I left California from 1967 to 1969 to do work with my church. When I came back, Ida Connell's house was gone. I noticed that the old path had become a throughway. It was the only path of choice.

When the new park was opened, our old road now became the entrance to the park and the city paved it. This path has been in continuous use over 53 years as an access to recreational areas.

Coastal Commission

My name is Tom Hewitt, and I lived at 230 Darwin Street in Santa Cruz. I now live at 254 San Juan Avenue in Santa Cruz.

When anyone mentions Frederick Street in any context, my mind goes back to the days spent bottle hunting in Woods Lagoon, swinging on the scary rope swing, rafting and playing in our tree house. All of this occurred during the 1960's.

The lagoon was at the end of a dirt road next to the Jehovah's Witnesses Church. This was the route that was taken for many years by lots of people. Years later, after the park went in, we used this very same road to get into the park; it was the only entrance to the park.

3510 Rori Ann Place
Soquel, CA

To Coastal Commission Staff:

My name is Diana "Pinky" Gilmore, and I lived at 350 Harbor Drive from 1965 to 1974. I now live at 3510 Rori Ann Place, Soquel, CA

All of us in the neighborhood got to Woods Lagoon by using the dirt right of way next to the Jehovah witness's church at 170 Frederick Street. I remember it as a beautiful area. We walked through the area to get to the lagoon, beaches and, in later years, to the new yacht harbor. I remember the tree house at the end of the dirt road we always used when we went to the lagoon to go south to the beach or north to see the cows in the fields of Arana Gulch. The same right of way is still used today for access and recreation just as we used it for access and recreation in the 60's and 70's.

We've celebrated my daughters' birthdays at Frederick St Park, even though I now live in Soquel. I treasure my wonderful memories of this valuable recreational area. Please keep this long used right of way open for continued public use.

CCC Exhibit 13
(page 5 of 19 pages)

My name is Howard Allen. I moved to North Branciforte in 1954. I now live at 118 Frederick Street, Santa Cruz 95062.

I am very familiar with the road by 170 Frederick Street. I used it often with my friend, Roy Hooten. We had fun down in the lagoon chasing frogs and walking down the trails. I remember the berries and large birds and ducks. It was wonderful down there.

Leave the right of way alone!

March 8, 2008

To The Coastal Commission:

My name is Tracy Gill, and my grandparents have lived at 343 Frederick St. since 1962. My parents, brothers and I visited often from Aptos. I have vivid memories of our walks to the lagoon and, later, to the harbor. I sat on the bluff and enjoyed the views of mountains, trees, water, and wild life. I still enjoy these views.

I now live with my 95 year old grandmother in the family home on Frederick St. I go with her to the park in her three wheeled, battery operated cart, and I am very worried about the narrowing of the right of way from 12 to 7 feet in width. She has tried to use the path in the park, and it is too narrow for her to negotiate in her cart, so she always uses the right of way instead.

Continuous access to the park should be for all!

Sincerely,

Tracy Gill

CCC Exhibit 13
(page 7 **of** 19 **pages)**

Fr: Sally Di Girolamo & Andrew Di Girolamo
To: The Coastal Commission
Re: 170 Frederick Street

We are Andrew Di Girolamo and Sally Di Giolamo. We moved to 324 Harbor Drive in June 1961 with our family. We still live here.

We are familiar with the right of way by 170 Frederick Street, which we have used since we moved in. We enjoyed nature and would sit and watch the birds. There were more birds 47 years ago.

We can still remember hearing the water rush out to the ocean after a big rain. Then we would go down the right of way and look at the whole lagoon which was one big mud hole. The sand bar at the end by the ocean would be gone.

We went down that right of way to call our kids and enjoy the view. It was a big wide panorama with Loma Prieta Mountain at the top and smaller foothills cascading down. It is a very special memory. And, also, the lagoon is a special memory. Now we have the harbor, a beautiful view.

We have birthday parties and family reunions with our children and grandchildren and great grandchildren at this lovely park. There are many other families enjoying the park.

When the park was built, the dirt right of way was paved by the city. It was the only entrance to the park.

The people of Santa Cruz need this right of way. Do not give it away!

CCC Exhibit 13
(page 8 **of** 19 **pages)**

March 12, 2008

Fr: Philip Di Girolamo
To: The Coastal Commission
Re: 170 Frederick Street

My name is Philip Di Girolamo. I moved to 324 Harbor Drive in June 1961 with my family. My folks still live at 324 Harbor Drive. I now live at 6054 Monteverde Drive, San Jose, CA.

I am very familiar with the right of way by 170 Frederick Street. I used it all the time when I was a kid to go to the beach and the wet land. I spent many hours down in the lagoon. There were snakes and turtles and lots of birds of all kinds, including ducks and herons and owls.

We built rafts, caught frogs and my brother built a tree house out of wood from Mr. Knott's house when it was torn down. There was a rope swing that swung over the lagoon. We played in Mr. Knott's house until it was torn down. Who ever tore it down stacked all the old boards up and never came back. What a gold mine it was for all the kids.

I was in the navy when the park was built. My mother wrote to me often about the park. When I came home, we entered the same way we always did. It was the only path into the park.

Although I live in San Jose, I come to Santa Cruz often with my family, including my six grandchildren. We use the park and enjoy its playground, picnic facilities and beauty.

I think the right of way should be left alone!

CCC Exhibit 13
(page 9 **of** 19 **pages)**

March 12, 2008

Fr: Andrew Di Girolamo
To: The Coastal Commission
Re: 170 Frederick Street

My name is Andrew Di Girolamo. I moved to 324 Harbor Drive in June 1961 with my family. My folks still live at 324 Harbor Drive. I now live at 5569 San Juan Way, Pleasanton, CA.

I am very familiar with the right of way by 170 Frederick Street. I used it all the time when I was a kid to go to the beach and the lagoon. I spent many happy hours down in the lagoon. There were snakes and turtles and lots of birds of all kinds, including ducks and herons and owls. It was heaven down there.

We built rafts, caught frogs and I built a tree house out of wood from Mr. Knott's house when it was torn down. We played in Mr. Knott's house until it was torn down. Who ever tore it down stacked all the old boards up and never came back. What a gold mine it was for all the kids.

I was in the navy when the park was built. My mother wrote to me often about the park. When I came home, we entered the park same way we always had, using the old right of way. It was the only path into the park at that time and for many years after.

Although I live in Pleasanton, I come to Santa Cruz often with my family. We use the park and enjoy the playground, picnic facilities and its beauty.

I think the right of way should be left open as it's been for my entire life.

CCC Exhibit 13
(page 10 **of** 19 **pages)**

March 12, 2008

Fr: Daniel Di Girolamo
To: The Coastal Commission
Re: 170 Frederick Street

My name is Daniel F. DiGirolamo. I moved to 324 Harbor Drive in June 1961 with my family. My folks still live at 324 Harbor Drive. I now live at 112 Hammond Street, Santa Cruz, CA with my family.

I am very familiar with the right of way by 170 Frederick Street. I used it all the time when I was a kid to go to the beach and the wet land. I spent many hours down in the lagoon. It was heaven down there. We built rafts, caught frogs, and my brother built a tree house out of wood from Mr. Knott's house when it was torn down. We played in Mr. Knott's house until it was torn down. Who ever torn it down stacked all the old boards up and never came back. What a gold mine it was for all the kids. We built rafts the tree house.

Before the park was built there was a meeting at the church. The park architect who was hired by the city invited all the neighbors to come and tell them what they wanted. I was at that meeting I wanted a skate board park. Someone else wanted a sand volleyball court.

The park is great for all the people from all over Santa Cruz. I take my nine year old daughter there. She likes the playground. Both of us enjoy the view.

I think we need our right of way left alone!

March 12, 2008

Fr: Mark Di Girolamo
To: The Coastal Commission
Re: 170 Frederick Street

My name is Mark Di Girolamo. I moved to 324 Harbor Drive in June 1961 with my family. My folks still live at 324 Harbor Drive. I now live at 23 Pima Street, Watsonville, CA.

I am very familiar with the right of way by 170 Frederick Street. I used it all the time when I was a kid to go to the beach and the lagoon. I spent many hours down in the lagoon. There were snakes and turtles and lots of birds of all kinds, including ducks and herons and owls. It was heaven down there.

We built rafts, caught frogs and I helped my brother build a tree house out of wood from Mr. Knott's house when it was torn down. We played in Mr. Knott's house until it was torn down. Who ever tore it down stacked all the old boards up and never came back. What a gold mine it was for all the kids.

I was a student at Cal Poly San Luis Obispo while the park was being built.

Although I live in Watsonville, I come to Santa Cruz often with my family. We use the park and enjoy the playground, picnic facilities and its beauty.

I think the right of way should be left open!

March 12, 2008

Fr: Heidi Sitton
To: The Coastal Commission
Re: 170 Frederick Street

My name is Heidi Sitton. I was born in October 1961 four months after my parents moved to 324 Harbor Drive in June 1961 with my family. My folks still live at 324 Harbor Drive. I now live at 765 Ranchitos Del Sol, Aptos, CA.

I am very familiar with the right of way by 170 Frederick Street. I used it all the time when I was a kid to go to the beach and the lagoon. I used to pick blackberries and acorns and play with my friends and my brothers and sometimes went up on the meadow where the cows were. I remember the lizards and the dragonflies.

I was a student at Harbor High when the park was built.

Although I live in Aptos, I come to Santa Cruz often with my family. We use the park and enjoy the playground, picnic facilities and its beauty.

I think the right of way should be left open!

CCC Exhibit 13
(page 13 **of** 19 **pages)**

I am Sally Di Girolamo, and I spoke to Robert Darrow on March 13, 2008 in reference to his legally drawing up the right of way document and Quitclaim Deed on July 26, 1973. Mr. Darrow remembered that the church gave two additional feet to the existing ten foot right of way to Mr. and Mrs. King, who owned the adjoining parcel. Mr. Darrow could not understand why the city is giving up this right of way.

Documents are enclosed.

CCC Exhibit 13
(page 14 **of** 19 **pages)**

BOOK 2630 PAGE 731

26605

William Ponderstein
256 Swanton Blvd.
S.C. 95060

AGREEMENT

William Ponderstein
6/29/78

RECORDED AT REQUEST OF
JUN 21 11 15 AM '78
OFFICIAL RECORDS
SANTA CRUZ COUNTY
RICHARD S. NEAL
RECORDER
026605
BOOK 2630 PAGE 731

This agreement is made July 1978
between SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES,
a non-profit corporation, 1838 Jose Avenue, Santa Cruz,
California, (hereinafter referred to as Party Jehovah's
Witnesses) and WALTER B. KING and LOIS E. KING, of 2556
North Rodeo Gulch Road, Soquel, California, (hereinafter
collectively referred to as Party King.)

1. RECITALS.

- a. Party Jehovah's Witnesses is the owner of certain real property located in the City and County of Santa Cruz and described as Assessor's Parcel Number 11-141-14.
- b. Party King is the owner of adjoining real property described as Assessor's Parcel Number which is without adequate access.
- c. The parties to this agreement desire to enlarge an existing easement of right of way to provide ingress and egress to and from the parcel referred to in sub-paragraph 1b. above, and to declare the duties and obligations of each with respect to said right of way.

The parties agree as follows:

2. EASEMENT.

- a. Party Jehovah's Witnesses shall convey to Party King by Quitclaim Deed an easement of right of way to provide ingress and egress to and from the property of Party King over a strip of land 12.0 feet in width measured at right angles to its side lines, the south line of which is described as follows:

ROBERT H. DARROW
ATTORNEY AT LAW
124 PACIFIC AVENUE, SUITE 6
CORNER PACIFIC AND LINCOLN
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE 422-2840

OFFICIAL RECORDS

Book

2630

PAGE

733

BJO 2630 PAGE 733

failure of Party King, their heirs, successors and assigns, to keep the premises in good condition and repair as herein provided.

5. ENFORCEMENT. If any action is commenced based upon a failure of either party to comply with the terms and provisions of this agreement, the party or parties against whom the action or actions are brought shall pay the reasonable attorney's fees of the party so enforcing this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in Santa Cruz, California, the day and year first above written.

SANTA CRUZ CONGREGATION OF
JEHOVAH'S WITNESSES, a non-
profit corporation,

by *Jerald R. Russell*

by *Wallace J. Ebert*

Walter B. King
WALTER B. KING

Lois E. King
LOIS E. KING
Her atty in fact

RECORDING REQUESTED BY
TITLE INSURANCE AND TRUST COMPANY

BOOK 2340 PAGE 167

33201

AND WHEN RECORDED MAIL TO

RECORDED AT REQUEST OF
AUG 20 4 46 PM '73
GUARANTEE LAND TITLE COMPANY
400
ORDER

033201
BOOK 2340 PAGE 167

Name
Street Address
City & State
SANTA CRUZ CONGREGATION OF
JEHOVAH'S WITNESSES
c/o MRS. WALLACE EBERT
211 Forest Avenue
Santa Cruz, California 95060

Name
Street Address
City & State
MAIL TAX STATEMENTS TO
Same as above.

SPACE ABOVE THIS LINE FOR RECORDER'S USE
DOCUMENTARY TRANSFER TAX \$ Nil
4.4 COMPUTED ON FULL VALUE OF PROPERTY CONVEYED.
COMPLETED ON ALL LIENS & ENCUMBRANCES
REQUIRING HEREON AT TIME OF SALE
GUARANTEE LAND TITLE COMPANY
Debra Hunt
Signature of decedent or agent determining tax - firm name.

Quitclaim Deed

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

WALTER B. KING and LOIS E. KING, his wife,

hereby REMISE(S), RELEASE(S) AND FOREVER QUITCLAIM(S) to

SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES, a non-profit corporation,

the following described real property in the City of Santa Cruz county of Santa Cruz state of California:

Being a right of way for road and utility purposes over a strip of land 10.0 feet in width measured at right angles to its side lines, the South line of which is described as follows:

Beginning on the middle line of Frederick Street at the Northwest corner of land conveyed to Harold W. Knott, et ux., dated December 16, 1922, and recorded in Volume 318 of Deeds, page 314, Santa Cruz County Records, and from which the Northwest corner of Lot H as shown on the map entitled, "Map of Subdivision of the lands of Joseph Francis in East Santa Cruz, California", filed for record, January 19, 1892 in Volume 7 of Maps at page 17, bears South 9° 45' East 61.15 feet distant; thence along the South boundary of the lands conveyed to Warren E. George, et ux., by Deed recorded December 27, 1944 in Volume 489 at page 341 of Official Records, North 80° 15' East 395.0 feet to the East line of Lot E as shown on said map.

PTN 11-141-14

Dated June 22, 1973

Walter B. King
Walter B. King

STATE OF CALIFORNIA }
COUNTY OF Santa Cruz } SS.
On July 3, 1973 before me, the undersigned, a Notary Public in and for said State, personally appeared Walter B. King

Lois E. King
Lois E. King
Notary Public

known to me 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.



Signature Thomas P. Kisting
Thomas P. Kisting
Name (Typed or Printed)

If executed by a Corporation the Corporation Form of Acknowledgment must be used.

(This area for official notarial seal)

Title Order No. _____ Escrow or Loan No. _____

MAIL TAX STATEMENTS AS DIRECTED ABOVE

ECC Exhibit 13
(page 17 of 19 pages)

RECORDING REQUESTED BY

TITLE INSURANCE AND TRUST COMPANY

AND WHEN RECORDED MAIL TO

Name MR. WALTER B. KING
Street Address 2556 N. Rodeo Gulch Road
City & State Soquel, California 95073

BOOK 2340 PAGE 169

RECORDED AT REQUEST OF
GUARANTEE LAND TITLE COMPANY

AUG 20 4 46 PM '73

33202
BOOK 2340 PAGE 169
033202

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO

Name
Street Address Same as above.
City & State

DOCUMENTARY TRANSFER TAX \$ All
~~XX~~ COMPUTED ON FULL VALUE OF PROPERTY CONVEYED,
INCLUDING INTEREST, MORTGAGE & ENCUMBRANCES
RELEVANT TO THE DATE OF SALE.
GUARANTEE LAND TITLE COMPANY
Signature of Notary Public Alvin Stunt
Signature of Applicant Walter B. King

TO 402 CA (12-69)

Quitclaim Deed

D.T.T. \$

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES, a non-profit corporation,

hereby REMISE(S), RELEASE(S) AND FOREVER QUITCLAIM(S) to

WALTER B. KING and LOIS E. KING, his wife, as Joint Tenants,

the following described real property in the City of Santa Cruz county of Santa Cruz state of California:

Being a right of way for road and utility purposes over a strip of land 12.00 feet in width and being described by its southerly line as follows:

Beginning at the southwesterly corner of the tract of land as described in the deed from Les H. Short, et ux, to Santa Cruz Congregation of Jehovah's Witnesses, dated March 5, 1958, recorded March 20, 1958 in Volume 1176 of Official Records of the County of Santa Cruz at Page 516, said corner being on the centerline of Frederick Street as shown on the Record of Survey Map entitled "Part of the East boundary of the City of Santa Cruz", filed for record January 3, 1955 in Book 32 of Maps at Page 43, and running thence along the southerly line of the above mentioned tract of land:

- 1. North 80° 15' East, 395.00 feet.

Portion AP 11-141-14

Portion of Arb. 12 Lot E Joseph Francis Sub. (S.C. 44)

Dated June 22, 1973

SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES, a non-profit corporation

By: Donald B. [Signature]

By: Wallace J. [Signature]

STATE OF CALIFORNIA }
COUNTY OF _____ } ss.

On _____ before me, the undersigned, a Notary Public in and for said State, personally appeared

_____ known to me to be the person whose name _____ subscribed to the within instrument and acknowledged that _____ executed the same. WITNESS my hand and official seal.

Signature _____

Name (Typed or Printed)
If executed by a Corporation the Corporation Form of Acknowledgment must be used.

(This area for official notarial seal)

Title Order No. _____ Escrow or Loan No. _____

CCC Exhibit 13
(page 18 of 19 pages)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

RECORDING REQUESTED BY

ATCHISON & HAILE

AND WHEN RECORDED MAIL TO

ATCHISON & HAILE
Attorneys at Law
P. O. Box 1180
310 Locust Street
Santa Cruz, California 95060

BOOK 1869 PAGE 694

MAR 13 10 54 AM '68

TITLE INSURANCE & TRUST CO.

INDEXED AT REC'D EST OF

6467
BOOK 1869 PAGE 694

06467

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Mail Tax statement to

NO TAXABLE CONSIDERATION
AFFIX I.R.S. § _____ IN THIS SPACE

Same as above

Corporation Quitclaim Deed

TO 403 C

THIS FORM FURNISHED BY TITLE INSURANCE AND TRUST COMPANY TI 96043

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES, a non-profit corporation

a corporation organized under the laws of the state of

hereby REMISES, RELEASES AND QUITCLAIMS to

WALTER B. KING and LOIS E. KING, his wife,

that property in City of Santa Cruz, County, State of California, described as:
County of Santa Cruz

BEING a right of way for road and utility purposes over a strip of land 10.0 feet in width measured at right angles to its side lines, the South line of which is described as follows:

BEGINNING on the middle line of Frederick Street at the Northwest corner of land conveyed to Harold W. Knott, et ux., dated December 16, 1922, and recorded in Volume 318 of Deeds, page 314, Santa Cruz County Records, and from which the Northwest corner of Lot H as shown on the map entitled, "Map of Subdivision of the lands of Joseph Francis in East Santa Cruz, California," filed for record January 19, 1892, in Volume 7 of Maps at page 17, bears South 9° 45' East 61.15 feet distant; thence along the South boundary of the lands conveyed to Warren E. George, et ux., by Deed recorded December 27, 1944 in Volume 489 at page 341 of Official Records, North 80° 15' East 395.0 feet to the East line of Lot E as shown on said Map.

In Witness Whereof, said corporation has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its _____ President and _____ Secretary thereunto duly authorized.

Dated: February 29, 1968.

STATE OF CALIFORNIA }
COUNTY OF Santa Cruz } ss.

On February 29, 1968 before me, the undersigned, a Notary Public in and for said County and State, personally appeared HENRY A. WARE

known to me to be the _____ President, and EARL F. SEELEY

Secretary of the corporation that executed the within instrument, known to me to be the person who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

SANTA CRUZ CONGREGATION OF JEHOVAH'S WITNESSES, a non-profit corporation.

By: Henry A. Ware President

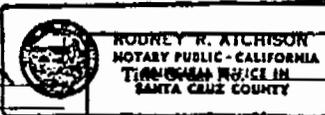
By: Earl F. Seeley Secretary

WITNESS my hand and official seal

(Seal)

Signature

Rodney R. Atchison
Name (Typed or Printed)



RODNEY R. ATCHISON
NOTARY PUBLIC - CALIFORNIA
TITHE SQUARE BUILDING
SANTA CRUZ COUNTY

EXPIRES ON _____

Notary Public in and for said County and State
My Commission expires: 2/5/69

CCC Exhibit 13
(page 19 of 19 pages)

Mail Tax statement as directed above