

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
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Th12a



**Prepared January 19, 2012 (for February 9, 2012 Hearing)**

Click here to go to  
the ex parte communications form and  
additional correspondence submitted.

**To:** Coastal Commissioners and Interested Persons

**From:** Dan Carl, District Director  
Susan Craig, Supervising Coastal Planner

**Subject:** **Appeal A-3-STC-11-076** (Appeal by Gillian Greensite of City of Santa Cruz decision granting a coastal development permit (CDP) with conditions to the Santa Cruz Seaside Company to recognize the removal of five heritage eucalyptus trees on the blufftop fronting Cowell Beach at the Sea and Sand Inn, 201 West Cliff Drive in the City of Santa Cruz, Santa Cruz County. Filed: 11/8/2011. 49th Day: Waived.

#### Recommendation

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which appeal A-3-STC-11-076 was filed. Staff recommends a **YES** vote on the following motion and resolution:

**Motion and Resolution.** I move that the Commission determine and resolve that Appeal Number A-3-STC-11-076 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. By such action, the Coastal Commission declines to take jurisdiction over the CDP for this project, the City of Santa Cruz's action becomes final and effective, and any terms and conditions of the City's decision remain unchanged. The motion passes only by an affirmative vote of the majority of the Commissioners present.

#### Background

On July 13, 2010, the Applicant (Santa Cruz Seaside Company) applied to the City of Santa Cruz for a CDP to remove five eucalyptus<sup>1</sup> trees located about three feet from the edge of the coastal bluff (directly above Cowell Beach) and in the blufftop area fronting the Sea and Sand Inn, which is located at the downcoast end of West Cliff Drive in the City's main beach area. These trees ranged in height from about 40 feet to 50 feet with a diameter at breast height (dbh) ranging from about 36 to 78 inches, which qualified them as heritage trees under the City's Local Coastal Program (LCP).<sup>2</sup> CDP application

<sup>1</sup> This species of eucalyptus (*Eucalyptus globulus*) is categorized on the *California Invasive Plant Inventory* (<http://www.cal-ipc.org>) as a moderately invasive tree species, with ecological impacts greater in coastal areas compared to inland areas.

<sup>2</sup> Chapter 9.56 of the LCP's Implementation Plan (IP) is entitled "Preservation of Heritage Trees and Heritage Shrubs" (see pages 4-13 of Exhibit 3). Among other things, IP Section 9.56.040(a) defines a heritage tree as: "Any tree which has a trunk with a circumference of [at least] forty-four inches (approximately fourteen inches in diameter or more) measured at fifty-four inches above existing grade." The trees in question all exceeded the minimum dbh identified, and thus constitute heritage trees for the purposes of IP Chapter 9.56



materials in support of the proposed tree removal primarily cited safety concerns, indicating that the trees were located extremely close to the bluff edge, were subject to strong ocean winds, and that there was a danger of limbs breaking or of the entire trees falling onto the Sea and Sand Inn or onto heavily used Cowell Beach located directly below the blufftop. Also, the application indicated that the seaward/bluff face perimeter of the trees' roots were exposed, and there was concern that ongoing bluff retreat would compromise the trees' roots, increasing the potential for the trees to fall onto adjacent blufftop structures or onto the beach below. The application materials included a geotechnical report, a nesting survey, and an arborist report. City planning staff prepared an Initial Study under CEQA for the tree removal project in December 2010, with the intent of circulating the document for public comment in early January 2011 after the City's two-week holiday closure. However, on January 2, 2011, the City was informed of a landslide at the bluff at the project site. The landslide resulted in the loss of a portion of the bluff that was about 30 feet long, five to seven feet in width, and ten feet deep. City staff directed the Applicant to hire a geologist to evaluate the stability of the remaining bluff, the structures on the property, and the five eucalyptus trees at the blufftop edge. The geological report stated that it was likely the recent landslide made the adjacent bluff face less stable, and that events such as the subject landslide could occur on the site at any time. This geological report recommended removal of the trees as expeditiously as possible.

On January 24<sup>th</sup> and 25<sup>th</sup> 2011, the City (i.e., the City's Chief Building Official, its Director of Parks and Recreation, and its Fire Chief) ordered that the five trees be removed to abate a public safety hazard and approved an emergency CDP for this purpose. Removal of the trees was subsequently completed by February 4, 2011. This appeal is of the City's approval of the necessary follow-up CDP application to the emergency permit (pursuant to IP Section 24.04.187).<sup>3</sup>

See page 3 of Exhibit 3 for the project site location. See pages 23-25 of Exhibit 1 and pages 1 and 12-13 of Exhibit 2 for photos of the project site before and after tree removal. See Exhibit 1 for the Applicant's technical reports in support of the CDP application (i.e., geotechnical report (pages 20-26), geological report (pages 31-32), nest survey (pages 27-30), and arborist's report (pages 18-19)). See pages 33-35 of Exhibit 1 for the City's hazard abatement order and emergency CDP.

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(see Exhibit 3). Chapter 9.56 is not structured to prohibit the removal of identified heritage trees, rather it is structured to ensure such removal is subject to obtaining a permit per Chapter 9.56 (IP Section 9.56.060 requires a permit for removal of any heritage tree in the City).

<sup>3</sup> IP Section 24.04.187 (see page 1 of Exhibit 3) requires that the Applicant make an application for the necessary follow-up CDP within 30 days of the completion of the work done pursuant to the emergency CDP. In this case, since the Applicant had previously submitted an application to the City (on July 13, 2010) to remove the trees, this already active application was used as the necessary follow-up CDP application.



## Findings

On October 11, 2011, the City of Santa Cruz approved a CDP to recognize the emergency removal of five heritage eucalyptus trees on the blufftop at the Sea and Sand Inn.<sup>4</sup> Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because the approved development is located: 1) between the sea and the first public road paralleling the sea; 2) within 300 feet of the inland extent of the beach; and 3) within 300 feet of the top of the seaward face of the coastal bluff.

The Appellant contends that this approval is inconsistent with the City of Santa Cruz LCP with respect to protection of natural habitats and natural resources, visual protection, and erosion control. The Appellant also contends that issuance of an emergency permit to remove the five eucalyptus trees was not appropriate.

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.<sup>5</sup> Commission staff has analyzed the City's Final Local Action Notice for the development (Exhibit 1), the Appellant's contentions (Exhibit 2), and the relevant requirements of the LCP (Exhibit 3). The appeal raises no substantial issue with respect to the LCP as follows:

The Appellant contends that the City-approved project is inconsistent with IP Section 24.08.250(2) (see page 2 of Exhibit 3), which requires that the City make CDP findings that a project will "protect vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan" (see Appellant's appeal documents in Exhibit 2).

Although clearly the trees that were removed constituted "vegetation, natural habitats, and natural resources" as identified in IP Section 24.08.250(2), these trees did not constitute significant vegetative coastal resources. In particular, the trees removed were nonnative invasive eucalyptus trees located within an existing urbanized area and not located in or adjacent to an environmentally sensitive habitat area or any other habitat area of concern. The nesting survey (see page 27-30 of Exhibit 1) concluded that the trees do not provide suitable nesting or roosting habitat for special status species. The trees were

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<sup>4</sup> On April 6, 2011, the City's Zoning Administrator approved a CDP to recognize the removal of the trees that took place pursuant to the emergency CDP. This Zoning Administrator approval was appealed by Gillian Greensite (the Appellant in this appeal to the Coastal Commission) to the City's Planning Commission. On August 4, 2011 the Planning Commission reaffirmed the Zoning Administrator's decision, thus denying the appeal. The Planning Commission's decision was also appealed by Ms. Greensite, this time to the City Council. On October 11, 2011, the City Council reaffirmed the Planning Commission's decision and denied the appeal, thus taking a final City action on the required follow-up CDP.

<sup>5</sup> The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.



not located in a designated monarch butterfly habitat area.<sup>6</sup> Also, the tree removal was done outside of the typical nesting period for most birds<sup>7</sup> and thus did not likely impact any active nests. In short, the trees in question did not constitute a special resource in an LCP context. They were large trees, to be sure, but they were of a known nonnative invasive variety without other attributes that would define them as in need of significant or special treatment (i.e., they did not provide nesting for special status species, they were not located in or near an environmentally sensitive habitat area, etc.). In addition, the City's action indicates that the trees were removed to protect another natural resource area, namely the coastal bluff. Finally, the trees were removed consistent with the LCP, including with respect to the LCP's heritage tree ordinance, including its requirement to mitigate removal of heritage trees with the planting of new trees (see pages 12-13 of Exhibit 3). In this case, the City's arborist conducted a site visit and determined that there was no appropriate onsite location to plant replacement trees. The City required the Applicant to pay an in-lieu fee to the City's tree fund,<sup>8</sup> which provides for tree planting throughout the City. Thus, faced with differing natural resources (in this case eucalyptus trees and natural bluffs) and a public safety hazard, and with an LCP requiring natural resource protection but also allowing for heritage trees to be removed subject to replanting, the City's action adequately addressed the cited LCP natural resource protection requirements. For all of the above reasons, this appeal contention regarding the City's action does not rise to the level of a substantial LCP conformance issue.

The Appellant also contends that the eucalyptus trees were a visually prominent feature as seen from significant local viewpoints, including because their viewshed values had previously been enhanced through "careful crown reduction expedited by concerned residents;"<sup>9</sup> that the trees provided visual screening of buildings along West Cliff Drive, such as the Dream Inn and the Sea and Sand Inn, as seen from the bike path along West Cliff Drive and as seen from the beach and the Wharf; and that their removal did not adequately protect public views (again, see Appellant's contentions in Exhibit 2). The project site is located within the view as seen from the Santa Cruz Municipal Wharf, which extends out into the Monterey Bay offshore of the Sea and Sand Inn and is designated as a "viewpoint" by the LCP (see page 3 of Exhibit 3). Prominent views from the Wharf are of Monterey Bay (and across the Bay to Monterey on a clear day), the Santa Cruz Beach Boardwalk, Main Beach and Cowell Beach, as well as

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<sup>6</sup> There are some such areas in the City, including the significant monarch habitat at Natural Bridges State Park further upcoast, but not at or near this location.

<sup>7</sup> The typical nesting period in Santa Cruz generally runs from March 1<sup>st</sup> to September 1<sup>st</sup>, and the trees were completely removed by early February.

<sup>8</sup> The Applicant paid an in-lieu payment of \$750 to the City's tree fund. This payment was used by the City to purchase and plant six 24-inch-box Monterey cypress trees (*Cupressus macrocarpa*) along West Cliff Drive near the City's lighthouse (personal communication from Leslie Keedy, City Arborist, to Susan Craig, Coastal Commission Coastal Planner, January 19, 2012).

<sup>9</sup> In 2002, the City approved a CDP to allow substantial trimming of the crowns of the eucalyptus trees at the Sea and Sand Inn (City CDP 02-032). The Appellant appealed the City's approval to the Commission (appeal A-3-STC-02-089) and contended that the City-approved tree trimming would: (1) damage the trees and render them ugly and unsafe, and; (2) degrade the visual and aesthetic values of the surrounding area, including views between the sea and the first public roadway paralleling the sea. The Commission found that the tree trimming project raised no substantial issue with respect to the approved project's conformance with the certified City of Santa Cruz LCP and declined to take jurisdiction over the coastal development permit for the project. The tree trimming project was subsequently completed in the manner described and approved in City CDP 02-032.



the Dream Inn and neighboring Sea and Sand Inn, and West Cliff Drive extending to Lighthouse Point and the world famous Steamer Lane surfing area. The project site is also visible from a portion of West Cliff Drive (which is designated as a “scenic drive” by the LCP), and is visible from Cowell Beach.

From the Wharf, the eucalyptus trees were visible as part of the overall view extending upcoast along West Cliff Drive, anchored by the substantial Dream Inn structure<sup>10</sup> and the lower profile Sea and Sand Inn (i.e., one and two stories) nearest the foot of the wharf. Extending upcoast, this view is also characterized by existing residential and visitor-serving accommodation development along West Cliff Drive with varying degrees of tree and landscape cover. In this viewshed context, the tree removal means the Sea and Sand Inn buildings and the taller condominiums (that are located inland of the Inn across West Cliff Drive) are more visible from the Wharf than they were before the trees were removed. However, this view of the Sea and Sand Inn and the backdrop of the condominiums constitutes a fairly small portion of the view toward West Cliff Drive as seen from the Wharf. In addition, this view encompasses a significant amount of other structures and development, and changes to this view due to the tree removal must be understood relative to this context. Even though the Sea and Sand Inn and the adjacent condominiums are more visible than they were previously as seen from the Wharf, the tree removal has not significantly modified this view, and the City’s action has appropriately addressed LCP requirements relative to the Wharf view.

In terms of views from West Cliff Drive, the Dream Inn is now more visible from a portion of West Cliff Drive nearest the Inn than it was before the trees were removed (because they helped partially screen the upcoast side of the Dream Inn as seen from the path), but this West Cliff Drive vantage point where the trees provided such screening was fairly limited (i.e., where the blufftop edge intersected the view inland/downcoast toward the Dream Inn). The removal of the trees has eliminated such screening for that brief inland view, but it has not substantially altered the view from West Cliff overall, even in relation to the one vantage point because it is hard to hide the Dream Inn in the West Cliff Drive (or other beach area) view given its size and location. In addition, the prominent views from West Cliff Drive are oriented toward Monterey Bay, the Wharf, the Santa Cruz Beach Boardwalk, and the distant mountains, and less so inland and toward the Dream Inn, and the tree removal left these primary views unaffected.

In terms of views of the project site from Cowell Beach, which is located directly adjacent to the Dream Inn and Sea and Sand Inn below the bluff on which these inns are situated, these views are likewise primarily oriented toward Monterey Bay and the Wharf. The inland view from Cowell Beach takes in the 11-story Dream Inn and other development in addition to the Dream Inn, and the effect of removing the trees from this view has not significantly altered its value. The trees provided some screening, but their screening value was limited given the scale and scope of development in this view. Given all of the above reasons, the City’s action adequately addressed the LCP’s viewshed protection requirements, and this appeal contention does not rise to the level of a substantial LCP conformance issue.

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<sup>10</sup> This 119-foot 10-story structure towers over Cowell Beach and the beach area in general, and was constructed prior to the coastal permitting requirements of Proposition 20 (the Coastal Initiative) and the Coastal Act.



The Appellant further contends that removal of the trees is likely to accelerate erosion and bluff failure at the site (including indicating that saturation of the bluff will accelerate during the rainy season because the prior water uptake of the trees will no longer take place), and that the landslide that took place on January 2, 2011 was caused by the previous removal of two other eucalyptus trees formerly at the site. The Appellant also contends that “the City failed to consider current research well-documenting that trees on steep bluffs prevent slides;” that the geological reports prepared for the Sea and Sand’s remodel and second-story addition in 2006 showed that the rate of erosion was less than 10 inches per decade and thus losing 5 to 7 feet of bluff in the January 2, 2011 event was unusual and was likely caused in part by the previous removal of two eucalyptus trees; and that the Applicant’s geotechnical consultant mistakenly stated that “the bluff face perimeters of the [trees’] root balls are exposed” (see Exhibit 2).

The bluff face at the site is near vertical to overhanging. Geological investigations conducted at the site in 2001 and 2004 estimated an average annual rate of bluff retreat of about 0.1 feet per year.<sup>11</sup> In addition, the geologic report prepared in January 2011 (see pages 31-32 of Exhibit 1) for the tree removal project noted that although “erosion rates are often quoted in terms of inches per year or feet per year, actual sea cliff erosion includes sudden landslide events that can remove many feet of sea cliff. Events such as the recent landslide will continue to occur at the site, and may occur at any time.” The Commission is well aware that bluff retreat is more typically episodic, including as cited by the Applicant’s more recent geotechnical reports. That doesn’t mean that average annualized estimated rates of erosion are invalid, rather that bluff retreat and erosion is best understood in relation to many factors (including average erosion rates, but also known past episodes, slope stability calculations, bluff jointing patterns, hydrological inputs, sea level rise, etc.).

The January 2011 report, citing back to a previous December 9, 2002 report, recommended removing the eucalyptus trees due to the potential for landsliding and erosion to topple these trees (see pages 51-56 of Exhibit 1 for the 2002 report), indicating that a landslide could occur “at any time” and that “[a]t issue in this situation is not whether the eucalyptus trees will fall, but when.”

The June 2010 arborist report for the project estimated that the smallest of the trees weighed about 9 to 10 tons and the largest about 18 to 20 tons, and that conservatively the five trees together were putting about 100,000 pounds of weight on the bluff edge (see pages 18-19 of Exhibit 1). The 2010 geotechnical report (pages 20-26 of Exhibit 1) found that the five eucalyptus trees were situated within 3 feet of the edge of the unarmored blufftop and that the trees’ root balls were exposed,<sup>12</sup> which increased the

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<sup>11</sup> The geological and geotechnical reports from 2001 and 2004 were prepared for the then-proposed remodeling/addition projects at the Sea and Sand Inn, which were ultimately approved by the City in 2001 and 2006 and have since been constructed. See Exhibit 4 for relevant excerpts from these reports.

<sup>12</sup> The geotechnical consultant used the term “tree root balls.” The Appellant contends that the trees’ root balls were not exposed through the bluff. According to the City’s arborist, the term “root ball” in the tree industry typically refers to plants in containers. She also notes that the term “root ball” can be a general term for the mass of soil and roots at the base of a tree trunk, and that this terminology is generally used by laypersons referring to a tree’s root system, but for arborists the more appropriate term is “tree root system.” In any event, the City arborist states that some of the removed eucalyptus trees’ root systems were exposed on the bluff face (see photo on



potential for the trees to fall onto blufftop structures or down to the beach below, including if there were any additional bluff recession. This report found that the five trees were in danger of being destabilized by failure of the near vertical to overhanging bluff face due to ongoing coastal processes (including wind loading) affecting the trees and their compromised roots. Both of the recent geotechnical and geologic reports recommended removal of the trees, but both also recommended preserving the root balls of the trees to prolong the useful life of the blufftop. The City conditioned its approval to preserve the root balls in a living condition by permitting them to sprout and maintain secondary growth on the old root stock, with annual trimming to maintain their height at about 3 to 4 feet (see page 8 of Exhibit 1), consistent with the recommendations in the 2010 geotechnical report. The City also conditioned its approval to require that the Applicant submit an erosion control plan for the bluff area of the site, which the Applicant has done. For all of the above reasons, the City's action appropriately addressed LCP erosion and bluff retreat requirements, and this appeal contention does not rise to the level of a substantial LCP conformance issue.

Finally, the Appellant also contends that the emergency CDP issued by the City for removal of the trees was inappropriate and that the timeline for tree removal did not comply with CEQA (see Exhibit 2). With respect to CEQA, the timing requirements of CEQA are not the same as those of the LCP and are not valid appeal contentions under the Coastal Act and LCP. Thus, these CEQA contentions do not raise a substantial LCP conformance issue. With respect to emergency CDPs, IP Section 24.04.187 contains the standards for emergency CDPs (see page 1 of Exhibit 3), including that emergency development may be authorized under a temporary basis (subject to follow-up CDP processes) to abate emergencies if required to protect life and property from imminent danger. In this case, a landslide occurred on January 2, 2011. The City subsequently received an incident report of the landslide, and required the Applicant to hire a geologist to evaluate the stability of the bluff. The geologist's report (which recommended removal of the trees, as described above) was prepared and dated January 23, 2011. Based on the facts presented, the City directed the Applicant to remove the trees to abate a public safety hazard and approved an emergency CDP for this purpose on January 24-25, 2011. Removal of the trees was completed by February 4, 2011. The City appears to have appropriately developed supporting facts and exercised its emergency CDP discretion both appropriately and in a timely manner. Although the City's LCP does not contain an explicit timeline within which emergency actions must be completed, the emergency work was completed relatively quickly (i.e., within about a month of the initial landslide and less than two weeks after the City's hazard abatement order and emergency CDP). Thus, this appeal contention does not rise to the level of a substantial LCP conformance issue.

Overall, the City has provided factual and legal support for its decision (Exhibit 1). As summarized above, the extent and scope of the approved tree removal was limited, and the effect of such removal on

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page 26 of Exhibit 1). The City arborist notes that there were also exposed ivy and willow tree roots mixed in with the eucalyptus roots, but that because eucalyptus roots typically anchor out at about three times the width of the tree canopy, some of the exposed roots were definitely eucalyptus (personal communication from Leslie Keedy, City Arborist, to Susan Craig, Coastal Commission Coastal Planner, January 5, 2012).



significant coastal resources (essentially the public viewshed in terms of the appeal contentions) was negligible. The City's action should not result in any adverse precedent for future LCP interpretation, and the appeal does not raise issues of regional or statewide significance.

For the reasons stated above, the Commission finds that Appeal Number A-3-STC-11-076 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 LCP and/or the public access policies of the Coastal Act.

Exhibits:

Exhibit 1: City's Final Local Action Notice

Exhibit 2: Appeal Contentions

Exhibit 3: Applicable City of Santa Cruz LCP policies and standards

Exhibit 4: 2001 and 2004 Geological and Geotechnical Correspondence/Report Excerpts

Exhibit 5: Correspondence







California Coastal Commission,  
Central Coast Area

City of Planning and Community Development  
809 Center Street, Room 206  
Santa Cruz, CA 95060  
(831) 420-5100

## Notification of Final Local Action on Coastal Permits

**Date:** October 20, 2011

**To:** **Attn: Susan Craig, Planner**  
California Coastal Commission  
Central Coast District  
725 Front St., Ste 300  
Santa Cruz, CA 95060

**From:** City of Santa Cruz Planning Department

### FINAL LOCAL ACTION NOTICE

REFERENCE # 3-STC-11-229

APPEAL PERIOD 10/26-11/8/11

Please be advised of the following actions:

☐ **Zoning Administrator hearing of** \_\_\_\_\_  
(date)

☐ Local appeals **have not** been filed on the following case:

☐ Local appeals **have been** filed on the following case:

File No.: \_\_\_\_\_ Address: \_\_\_\_\_

☐ Adopted findings and conditions are attached. ☐ Were previously submitted.

☐ **Planning Commission hearing of** \_\_\_\_\_  
(date)

☐ Local appeals **have not** been filed on the following case:

☐ Local appeals **have been** filed on the following case numbers:

File No.: \_\_\_\_\_ Address: \_\_\_\_\_

☐ Adopted findings and conditions are attached. ☐ Were previously submitted.

☒ **City Council hearing of** October 11, 2011  
(date)

☐ Local appeals **have not** been filed on the following case:

☐ Local appeals **have been** filed on the following case numbers:

File No.: CP10-0117 Address: 201 West Cliff Drive

☐ Adopted findings and conditions are attached. ☐ Were previously submitted.

☐ This project is not appealable to the California Coastal Commission. Section 24.04186.

Action Agenda for coastal permits acted upon is attached.

**CCC Exhibit** 1  
**(page** 1 **of** 56 **pages)**



**Dept. of Planning & Community Development**  
CITY HALL - 809 CENTER STREET, ROOM 206  
SANTA CRUZ, CA 95060  
(831) 420-5110

## NOTICE OF ACTION

On October 11, 2011, the City Council acted upon the subject application as follows:

Project Address: 201 West Cliff Drive Case No: CP11-10-0117

Description of Project: Appeal of the Planning Commission's Approval of a Coastal Permit to Recognize the Removal of Five Heritage Trees OF-R Zone District. (Environmental

Determination: Satutory Exemption (15269 Emergency Projects) Santa Cruz Seaside Company,  
owner/iled: 7/8/2010)

Applicant: Santa Cruz Seaside Company  
400 Beach St.  
Santa Cruz, CA 95060

Rep: Merry L. Crowen  
400 Beach St.  
Santa Cruz, CA 95060

- ☐ GRANTED REQUEST FOR EXTENSION OF TIME to \_\_\_\_\_
- ☐ RECOMMENDED \_\_\_\_\_ to the City Council.
- ☐ REFERRED the application to the \_\_\_\_\_
- ☐ CONTINUED the hearing to \_\_\_\_\_
- ☒ DENIED the <sup>APPEAL</sup> proposal for the following reason(s): The City Council denied the appeal upholding the Zoning Administrator's and Planning Commission's approval of the Coastal Permit.
- ☐ ACCEPTED WITHDRAWAL OF APPLICATION AS REQUESTED BY APPLICANT.

Mike Ferry  
Signature/Title Mike Ferry, Deputy Zoning Administrator

Either denial or approval of a permit may be appealed. See reverse for information regarding appeals.

If you have any questions, please contact the Department of Planning and Community Development, Room 206, City Hall Annex, 809 Center Street, or call **(831) 420-5110** during normal business hours.

**CCC Exhibit** 1  
**(page 2 of 56 pages)**

In accordance with Chapter 24.04 of the Santa Cruz Municipal Code, any interested person may appeal a final action of a hearing body or staff. Appeal of a decision of the City Planning Director or the Zoning Administrator must be made to the Planning Commission through the Planning Department. Appeals of a decision of the City Planning Commission or Historic Preservation Commission must be made to the City Council through the City Clerk. All appeals must be made in writing and state the nature of the application and the basis upon which the decision is considered to be in error. Appeals must be accompanied by the required appeal fee. \*\*Appeals must be received no later than ten (10) calendar days following the action from which the appeal is being taken. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

An application may be withdrawn by the applicant prior to final action on the matter. Said withdrawal must be submitted by the applicant in writing. Withdrawal of an application shall terminate all further action on the application.

Whenever any permit is denied or withdrawn, no new application for the same or substantially the same project may be filed for a period of one year from the date of said denial or withdrawal. Where an application has been denied without prejudice, application for the same or substantially the same project may be filed within said period of one year.

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**RESOLUTION NO. NS-28,418**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ  
ACKNOWLEDGING THE ENVIRONMENTAL DETERMINATION AND DENYING THE  
APPEAL, UPHOLDING THE ZONING ADMINISTRATOR'S AND PLANNING  
COMMISSION'S APPROVAL OF THE COASTAL PERMIT BASED ON THE ATTACHED  
FINDINGS AND CONDITIONS OF APPROVAL**

**WHEREAS, on January 2, 2011, the City received an incident report of a landslide on the bluff at 201 West Cliff Drive. The landslide resulted in the sudden loss of a portion of the bluff approximately 30 feet long, five to seven feet in width and ten feet deep; and**

**WHEREAS, City staff directed the property owners to hire an independent, third-party geologist to evaluate the stability of the bluff, the structures on the property, and the five heritage trees; and**

**WHEREAS, on January 23, 2011, the City received a Geologic Hazard Assessment by a registered geologist that determined that the recent landslide had likely made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic assessment recommended removal of the trees as expeditiously as possible; and**

**WHEREAS, on January 25, 2011, an Order to Abate a Hazard was authorized by the Building Official, the Director of Parks and Recreation and the Fire Chief. The order directed the property owners to remove the trees as soon as possible; and**

**WHEREAS, by February 4, 2011, the removal of the trees had been completed by the property owners; and**

**WHEREAS, the removal of the trees qualifies as a Statutory Exemption, under Section 15269 (emergency) of the California Environmental Quality Act; and**

**WHEREAS, the Zoning Administrator conducted a public hearing on April 6, 2011 and, after receiving public testimony, approved the Coastal Permit to recognize the removal of the five heritage trees; and**

**WHEREAS, on April 14, 2011, Gillian Greensite submitted an appeal of the Zoning Administrator's decision to the Planning Commission stating the removal of the trees was in conflict with Coastal Policies protecting vegetation and natural habitats and that the approval failed to address previous geological reports claiming that the bluff was stable; and**

**WHEREAS on August 4, 2011, the Planning Commission conducted a public hearing and reaffirmed the Zoning Administrator's decision with a 4-1 vote, thus denying the appeal; and**

**WHEREAS, on August 15, 2011, Gillian Greensite submitted an appeal of the Planning Commission's decision; and**

RESOLUTION NO. NS-28,418

WHEREAS, the City Council conducted a public hearing on October 11, 2011 to consider the appeal and made the following findings:

**With respect to the Environmental Determination**

The removal of the trees was based on the potential immediate threat to public health and safety and as such, qualifies under Section 15269 as a Statutory Exemption (emergency) from the California Environmental Quality Act.

**With respect to the Coastal Permit Finding, Section 24.08.250**

1. **The project protects vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan.**

The applicant submitted geological and arborist reports that concluded the Eucalyptus trees were hazardous because of their weight on the edge of the coastal bluff and wind load potential of the canopy.

The applicant has submitted a Biotic Report with the application materials dated June 10, 2010 by Brian Mori. The report concluded that the removal of the eucalyptus trees will not impact nesting birds if the trees were removed outside of typical nesting season which is between September and March. The trees were removed during this period.

2. **The project is consistent with any applicable design plans and/or area plans incorporated into the Local Coastal Land Use Plan.**

Since there is no appropriate on site location to plant replacement trees, the applicant contributed the in-lieu fee as the mitigation for tree removal as required by the Heritage Tree Ordinance which is incorporated into the Local Coastal Plan.

3. **The project maintains public access to the coast along any coastline as set forth in the Local Coastal Land Use Plan.**

The project does not in any way interfere with existing public access.

**With respect to the Shoreline Protection Overlay District, Section 24.10.2430**

4. **The project protects trees and vegetation and sensitive wildlife habitat.**

The Arborist report by Quality Arbor Care, dated June 18, 2010 concluded that the Eucalyptus trees were hazardous because of their weight on the edge of the coastal bluff and because the wind load potential of the canopy could cause the trees to fall down to the beach or on to the motel. Geologist Jeffrey Nolan of Nolan Associates submitted a report dated January 23, 2011, addressing a 2011 January landslide. The report said that it is likely that the recent landslide has made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic report recommended removal of the trees as expeditiously as possible.

On January 25, 2011 an Order to Abate a Hazard was authorized by the Building Official, Director of Parks and Recreation and the Fire Chief, directing the property owners to remove the trees as soon as possible. It was determined that the potential for additional land sliding and toppling of the trees posed a serious threat to public safety and/or property. If the trees fell they could land on the beach below, or could fall into the adjacent Sea and Sand Inn buildings.

The applicant submitted a Biotic Report with the application materials dated June 10, 2010 by Brian Mori. The report concluded that the removal of the eucalyptus trees will not impact nesting birds if the trees were removed outside of typical nesting season which is between September and March. The trees were removed during this period.

- 5. The project provides maximum erosion protection, using accepted engineering practices and other methods and specifications set forth in this title.**

Drainage patterns will not change due to the tree removal and the applicant will be conditioned to provide erosion control measures where appropriate.

- 6. The project maintains public view corridors between the sea and the first public roadway parallel to the sea and maintains natural views of the coastline.**

The removal of the trees will maintain public views between the sea and the first public roadway parallel to the sea.

- 7. The project protects paleontological resources as prescribed in the Land Use Plan.**

The site is not located within a mapped paleontological sensitive area.

- 8. The project is consistent with the policies of the Local Coastal Program, the General Plan, and the California Coastal Act.**

The removal of the trees is consistent with the Heritage Tree Ordinance which is part of the City's Local Coastal Program.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Santa Cruz that it hereby acknowledges the environmental determination and denies the appeal, upholding the Zoning Administrator's and Planning Commission's approval of the Coastal Permit subject to the Findings listed above and the Conditions of Approval listed in Exhibit "A," attached hereto and made a part hereof.

RESOLUTION NO. NS-28,418

PASSED AND ADOPTED this 11<sup>th</sup> day of October, 2011, by the following vote:

AYES: Councilmembers Robinson, Beiers, Terrazas, Bryant, Vice Mayor Lane.

NOES: Councilmember Madrigal.

ABSENT: Mayor Coonerty.

DISQUALIFIED: None.

APPROVED: \_\_\_\_\_

  
Vice Mayor

ATTEST: \_\_\_\_\_

  
City Clerk Administrator

NS-28,418  
EXHIBIT "A"  
CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

**201 West Cliff Drive; Application No. CP10-0117**

**Coastal Permit to recognize the removal of five Heritage Trees.**

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 applicant shall preserve the root balls in living condition by permitting them to sprout and maintaining secondary growth on the old rootstock. Annual trimming of the secondary growth shall maintain the height from three to four feet above grade and shall be completed as routine landscape maintenance.
4. An erosion control plan shall be provided for review and approval with the installation to be completed by November 1, 2011.

**CCC Exhibit 1**  
**(page 8 of 56 pages)**



**Public Hearings**

16. (a) Staff will present its report before other evidence is heard by the Council;
- (b) The appellant, having the burden of proof, will be permitted to present evidence in support of the appeal;
- (c) Opponents will present their evidence;
- (d) Appellant will be permitted to rebut issues raised by opponents, but may not raise new issues in their rebuttal;
- (e) The Council will hear from other members of the public;
- (f) The hearing will be closed and the matter will be before the Council for deliberation and action.

201 West Cliff Drive CP10-011 APN 004-091-26 Appeal of the Planning Commission's Approval of a Coastal Permit to Recognize the Removal of Five Heritage Trees OF-R Zone District. (Environmental Determination: Statutory Exemption (15269 Emergency Projects) (Santa Cruz Seaside Company, owner/filed: 7/8/2010) This Project Requires a Coastal Permit Which is Appealable to the California Coastal Commission After all Possible Appeals are Exhausted through the City. (PL)

Vice Mayor Lane opened the public hearing at 4:46 p.m.

Associate Planner M. Ferry presented an oral report and responded to Council's questions.

**Recess -** The City Council recessed at 4:53 p.m. for Oral Communications, and resumed this item at 5:08 p.m.

The Appellant, Gillian Greensite, presented evidence in support of the appeal.

Merry Crowen, Sea and Sand Motel, spoke in opposition to the appeal.

**DRAFT**

**CCC Exhibit** 1  
**(page** 9 **of** 56 **pages)**

**Public Hearings (continued)**

16. 201 West Cliff Drive CP10-0117 APN 004-091-26 Appeal of the Planning Commission's Approval of a Coastal Permit to Recognize the Removal of Five Heritage Trees OF-R Zone District. (Environmental Determination: Statutory Exemption (15269 Emergency Projects) (Santa Cruz Seaside Company, owner/filed: 7/8/2010) This Project Requires a Coastal Permit Which is Appealable to the California Coastal Commission After all Possible Appeals are Exhausted through the City. (PL) (continued)

Vice Mayor Lane reconvened the public hearing at 5:21 p.m.

**SPEAKING FROM THE FLOOR IN SUPPORT AND/OR EXPRESSING CONCERNS:**

David Silva  
Rebecca Lee  
Reed Searle  
Ed Davidson  
Mike Tomasi  
John Bergwall  
John Golder

Vice Mayor Lane closed the public hearing at 5:39 p.m.

**Action**

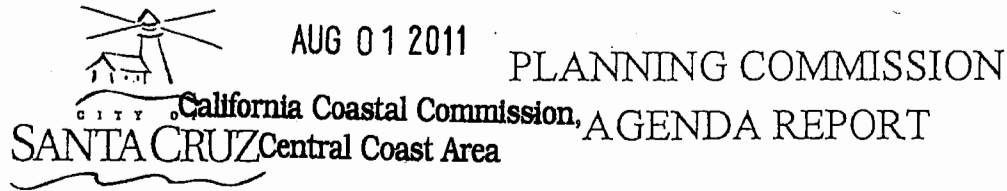
Councilmember Robinson moved, seconded by Councilmember Bryant, to adopt Resolution No. NS-28,418 acknowledging the environmental determination and denying the appeal, upholding the Zoning Administrator's and Planning Commission's approval of the Coastal Permit based upon the Findings and the Conditions included in the resolution. The motion PASSED by the following vote:

AYES:	Councilmembers Robinson, Terrazas, Bryant; Vice Mayor Lane.
NOES:	Councilmembers Beiers, Madrigal.
ABSENT:	Mayor Coonerty.
DISQUALIFIED:	None.

**DRAFT**

**CCC Exhibit** 1  
**(page 10 of 56 pages)**

# RECEIVED



DATE: July 28, 2011

AGENDA OF: August 4, 2011

ITEM NO.: 1 CP10-0117

201 West Cliff Drive

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**RECOMMENDATION:** That the Planning Commission acknowledge the environmental determination and deny the appeal, upholding the Zoning Administrator's approval of the Coastal Permit based upon the Findings listed below and the Conditions of Approval listed in Exhibit A.

---

## PROJECT DATA

Property Owner:	Seaside Company	APN: 004-091-26
Appellant:	Gillian Greensite	
Application Type:	Appeal of the Zoning Administrator's approval of a Coastal Permit to recognize the removal of five heritage trees in the RTB zone district.	
Zoning:	RTB (Tourist Residential- Motel Residential), within the Shoreline Protection Overlay (SPO) of the Coastal Zone (CZO)	
Project Consistency:	Consistent with Zoning regulations	
General Plan:	RVC (Regional Visitor Commercial) Beach Commercial Area, Beach south of Laurel Plan (BSOL)	
Project Consistency:	Consistent with the General Plan	
Land Use		
- existing:	Two story motel and five heritage eucalyptus trees	
- proposed:	Two story motel, removal of five heritage eucalyptus	
- in area:	Hotel, residential, 2.5-story condominiums across street	
Lot Area:	40,182 square feet	
Environmental Review:	Statutory Exemption (15269) Emergency Projects	
Planner:	Michael S. Ferry, AICP	

**CCC Exhibit 1**  
**(page 11 of 56 pages)**

## BACKGROUND

The Santa Cruz Seaside Company applied for a Coastal Permit to remove the five heritage eucalyptus trees on July 13, 2010. The application materials included a geotechnical report by Haro, Kasunich & Associates; a biotic report prepared by Brian Mori dated June 10, 2010 and an Arborist report by Quality Arbor Care, all recommending removal of the trees because of the danger of falling. Planning staff completed an Initial Study for the project on December 15, 2010; however, due to the holiday closure staff did not circulate that document for comments because no staff would be present to respond to questions during the closure. The Initial Study was being prepared for circulation in early January with the Coastal Permit tentatively scheduled for the February 16, 2011 Zoning Administrator agenda.

On January 2, 2011 the City received an incident report of a landslide at the bluff of 201 West Cliff Drive. The landslide resulted in the sudden loss of a portion of the bluff approximately 30 feet long, five to seven feet in width and ten feet deep. City staff directed the property owners to hire an independent, third party geologist to evaluate the stability of the bluff, the structures on the property, and the five heritage trees. Geologist Jeffrey Nolan of Nolan Associates submitted a report dated January 23, 2011, addressing the landslide. The report said that it is likely that the recent landslide has made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic report recommended removal of the trees as expeditiously as possible.

On January 25, 2011 an Order to Abate a Hazard was authorized by the Building Official, the Director of Parks and Recreation and the Fire Chief. The order directed the property owners to remove the trees as soon as possible. It was determined that the potential for additional land sliding and toppling of the trees posed a serious threat to public safety and/or property. If the trees fell they could land on the beach below, or could fall into the adjacent Sea and Sand Inn buildings.

Section 24.04.187 of the Municipal Code allows the Building Official to issue an emergency permit with the requirement that the applicant file for the required planning permits subsequent to the issuance of the emergency permit. Approval of a Coastal Development Permit is required pursuant to Section 24.08.230.2 of the Municipal Code because the trees that were removed were located within the Shoreline Protection Overlay zone.

The Zoning Administrator approved the Coastal Permit on April 6, 2011 to recognize the emergency removal of the five heritage trees. That approval was appealed by Gillian Greensite in a letter dated April 14, 2011 which is attached to this report. Her appeal (attached) states the removal of the trees is in conflict with Coastal Policies protecting vegetation and natural habitats and that the approval failed to address previous geological reports. **CEC Exhibit 1**  
**(page 12 of 56 pages)**

The Planning Commission heard this item on the May 19, 2011 hearing. Staff was unaware that the digital overhead projector had been removed several weeks prior to the hearing and had assured the appellant that one was available for her presentation. The appellant asked the

Planning Commission to continue the item so she could reformat her presentation without the need of an overhead. The Planning Commission unanimously moved to continue the item to allow the appellant to complete a presentation.

### ANALYSIS

The project is located on east side of West Cliff Drive just south of the intersection of Bay Street and West Cliff Drive. The Sea and Sand Inn development includes an office and 19 motel units located in one and two-story buildings. The site also includes 23 parking spaces for employees and guests adjacent to West Cliff Drive and ornamental landscaping throughout the site. West Cliff Drive and residential development is located to the west of the property while visitor-serving uses are found to the north and south of the parcel. The five eucalyptus trees removed were situated approximately three feet from the edge of the coastal bluff. Four of the trees were located in a row on the north portion of the site, while the fifth tree was further south adjacent to the parking area. The trees were approximately 36 to 78 inches in diameter at breast height and ranged from 40 to 50 feet tall.

The appellant is concerned with the removal of natural habitat, natural resources and sensitive wildlife habitat. The trees were non-native eucalyptus located within an existing developed area and not located within or adjacent to areas of endangered species or sensitive habitats as identified in the General Plan. The biotic report concluded that the trees do not provide suitable nesting or roosting habitat for special status species which include California brown pelican and pigeon guillemot species. Tree removal during the non-breeding season (generally September 1 to March 1<sup>st</sup>.) avoids mortality to nesting avian species (song birds) protected under the Migratory Bird Treaty Act.

The appellant also noted that previous geologic and geotechnical studies determined the bluff was stable enough to support past remodels or additions to the Sea and Sand Inn and that the removal of the trees could exacerbate bluff top erosion.

Geological investigations conducted for the project property in 2001 and 2006 indicated that the rate of bluff retreat is relatively low in the project area, approximately 0.1 feet per year. Those reports also determined that the bluff is subject to slope failure under seismic conditions. The 2001 Rogers Johnson geologic investigation noted that in the future, the eucalyptus trees would likely have a detrimental effect on the bluff due to wind loading, root wedging and possible dislodging of rock along the top of the bluff. That report recommended removal of the trees to prevent the future loss of bluff top material. Haro, Kasunich and Associates, Inc submitted two geotechnical reports (2001, 2004), both stating the trees were relatively stable due to the low slope erosion rates in the area; however, both reports noted that the trees could also topple at any time and that the topple hazard to beach goers would probably be the deciding factor on when to remove the trees.

**CCC Exhibit 1**  
(page 13 of 56 pages)

The chief mechanisms of bluff failure in the Santa Cruz area are either by surf action cutting a bluff-parallel notch at the base of the bluff or by selective erosion along planes of weakness. When the surf-cut notch eventually intercepts a bluff-parallel joint plane, a long segment of bluff

will fail. This erosion is episodic, and a given segment of bluff can remain essentially unchanged for several years and then a block will fail instantaneously.

Haro, Kasunich and Associates submitted a limited geotechnical investigation, dated July 8, 2010 concerning the eucalyptus trees. The report noted that the trees were located three feet from the bluff and that the root balls were exposed on the bluff side of all the trees. The report stated that the trees were in danger from being destabilized from either the failure of the near vertical to overhanging bluff due to ongoing coastal processes or wind loading of the compromised root balls. Geologist Jeffrey Nolan of Nolan Associates submitted a report dated January 23, 2011, addressing the landslide that occurred in January of this year. The report said that it is likely that the recent landslide has made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic report recommended removal of the trees as expeditiously as possible. On January 25, 2011 an Order to Abate a Hazard was authorized by the Building Official, the Director of Parks and Recreation and the Fire Chief because of the potential for additional land sliding and toppling of the trees posed a serious threat to public safety and property.

The City Arborist conducted a site visit and determined there is no appropriate on site location to plant replacement trees and required the applicant to pay the in-lieu fee as the mitigation for tree removal as required by the Heritage Tree Ordinance. Finally, the applicant was conditioned to preserve the root balls in living condition by permitting them to sprout and maintaining secondary growth on the old rootstock to increase the bluff stability and to provide an erosion control plan for review and approval with the installation to be completed by November 1, 2011. The November 1<sup>st</sup> deadline was imposed by the Zoning Administrator at the hearing after the appellant expressed concern that erosion impacts would result from the removal of the trees. November 1<sup>st</sup> is recognized under City Codes as the start of the rainy season.

### SUMMARY

The removal of five heritage trees from the coastal bluff was necessary to preserve the health and safety of the guests staying at the Sea and Sand Motel as well as the general public using the beach below. Contrary to the appellant's assertion, previously prepared geologic and geotechnical reports for the site discussed the inevitable loss of the trees in the future. Furthermore the site is not mapped as environmentally sensitive habitat in the General Plan/Local Coastal Plan. That conclusion was corroborated by a report prepared by a biologist in June of last year. Staff recommends that the Planning Commission deny the appeal upholding the Zoning Administrator's approval of the Coastal Permit based on the attached findings.

### FINDINGS

#### Coastal Permit, Section 24.08.250

**CCC Exhibit 1**  
**(page 14 of 56 pages)**

1. The project protects vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan.

The applicant submitted geological and arborist reports that concluded the Eucalyptus trees were hazardous because of their weight on the edge of the coastal bluff and wind load potential of the canopy.

The applicant has submitted a Biotic Report with the application materials dated June 10, 2010 by Brian Mori. The report concluded that the removal of the eucalyptus trees will not impact nesting birds if the trees were removed outside of typical nesting season which is between September and March. The trees were removed during this period.

2. **The project is consistent with any applicable design plans and/or area plans incorporated into the Local Coastal Land Use Plan.**

Since there is no appropriate on site location to plant replacement trees, the applicant contributed the in-lieu fee as the mitigation for tree removal as required by the Heritage Tree Ordinance which is incorporated into the Local Coastal Plan.

3. **The project maintains public access to the coast along any coastline as set forth in the Local Coastal Land Use Plan.**

The project does not in any way interfere with existing public access.

**Shoreline Protection Overlay District, Section 24.10.2430**

4. **The project protects trees and vegetation and sensitive wildlife habitat.**

The Arborist report by Quality Arbor Care, dated June 18, 2010 concluded that the Eucalyptus trees were hazardous because of their weight on the edge of the coastal bluff and because the wind load potential of the canopy could cause the trees to fall down to the beach or on to the motel. Geologist Jeffrey Nolan of Nolan Associates submitted a report dated January 23, 2011, addressing a 2011 January landslide. The report said that it is likely that the recent landslide has made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic report recommended removal of the trees as expeditiously as possible.

On January 25, 2011 an Order to Abate a Hazard was authorized by the Building Official, Director of Parks and Recreation and the Fire Chief, directing the property owners to remove the trees as soon as possible. It was determined that the potential for additional land sliding and toppling of the trees posed a serious threat to public safety and/or property. If the trees fell they could land on the beach below, or could fall into the adjacent Sea and Sand Inn buildings.

**CCC Exhibit** 1

**(page 15 of 56 pages)**

The applicant submitted a Biotic Report with the application materials dated June 10, 2010 by Brian Mori. The report concluded that the removal of the eucalyptus trees will not impact nesting birds if the trees were removed outside of typical nesting season which is between September and March. The trees were removed during this period.

5. The project provides maximum erosion protection, using accepted engineering practices and other methods and specifications set forth in this title.

Drainage patterns will not change due to the tree removal and the applicant will be conditioned to provide erosion control measures where appropriate.

6. The project maintains public view corridors between the sea and the first public roadway parallel to the sea and maintains natural views of the coastline.

The removal of the trees will maintain public views between the sea and the first public roadway parallel to the sea.

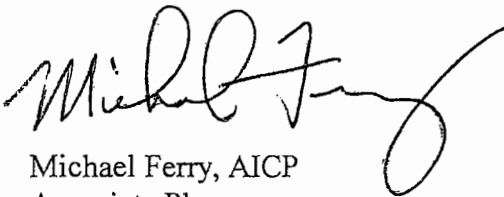
7. The project protects paleontological resources as prescribed in the Land Use Plan.

The site is not located within a mapped paleontological sensitive area.

8. The project is consistent with the policies of the Local Coastal Program, the General Plan, and the California Coastal Act.

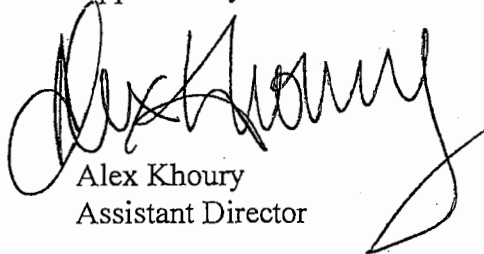
The removal of the trees is consistent with the Heritage Tree Ordinance which is part of the City's Local Coastal Program.

Submitted by:



Michael Ferry, AICP  
Associate Planner

Approved by:



Alex Khoury  
Assistant Director

Attachments:

Recommended Conditions of Approval

Arborist Report, dated June 18, 2010, prepared by Quality Arbor Care

Limited Geotechnical Investigation, dated July 8, 2010 by Haro Kasunich and Associates, Inc.

Biotic Assessment, dated June 10, 2010, prepared by Bryan Mori

Geologic Hazard Assessment, dated January 23, 2011 by Nolan Associates

Order to Abate Hazard, dated January 25, 2011 by Dannettee Shoemaker

Appeal letter dated April 14, 2011 by Gillian Greensite



EXHIBIT "A"  
CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

**201 West Cliff Drive; Application No. CP10-0117**

**Coastal Permit to recognize the removal of five Heritage Trees.**

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 applicant shall preserve the root balls in living condition by permitting them to sprout and maintaining secondary growth on the old rootstock. Annual trimming of the secondary growth shall maintain the height from three to four feet above grade and shall be completed as routine landscape maintenance.
4. An erosion control plan shall be provided for review and approval with the installation to be completed by November 1, 2011.

**CCC Exhibit 1**  
**(page 17 of 56 pages)**



Quality Arbor Care  
A TREE CARE COMPANY

P.O. Box 335  
Capitola, CA 95010  
Fax: 831.462.4973  
Tel: 831.423.6441

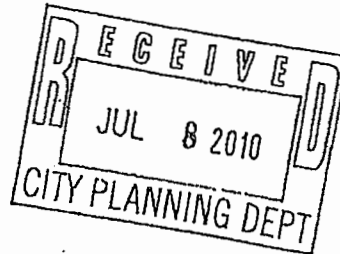
June 18, 2010

Santa Cruz Seaside Company

400 Beach St.

Santa Cruz, CA 95060

ATTN: Merry Crowen



Dear Ms. Crowen,

This letter is to serve as a time line of sorts in regards to the last nine years of care on the five Eucalyptus trees located on the bluff at the Sea and Sand Inn. I will also give an update as to the overall health of these trees.

In 2001 I was contacted to write an arborist report on these trees. There were originally seven Eucalyptus but 2 of them were in imminent danger of falling onto Cowells Beach which lies below the bluff. These 2 were immediately removed. 4 of the remaining 5 trees had been "Topped". This is a type of pruning where well over 25% of the canopy is removed. In these trees case the pruning cuts were made in the middle of limbs which caused the trees to "water sprout", where multiple branches grow from a single cut. This causes a dangerous situation, as these limbs are poorly attached and rip out of trees easily. Please note that this topping had happened many years previous to 2001 and topping was a type of pruning that was done regularly, pruning standards has evolved quite a bit.

In my arborist report of 2001 it was my recommendation to do what is called a "Canopy Restoration". This is where selective pruning cuts are made to improve the structure, form and appearance of trees that have be topped or damaged in some other way. I was recommending that 1 of the trees get pruned up to 40% while the remaining trees get pruned up to 25%. Then to go back every 2 to 3 years and continue the restoration pruning, while never pruning over 20%, until the trees form are back to a natural state.

In order to do the 40% pruning, a permit needed to be issued from the City of Santa Cruz. Even though this pruning was for the overall health and safety of these trees and

CCC Exhibit  
(page 18 of 52 pages)

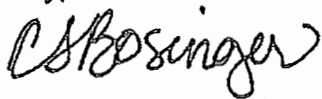
we had the support of City of Santa Cruz's Urban Forester, it was still protested. I personally attended 4 hours with the Planning Commission and another 4 hours with City Council in order to obtain this pruning permit.

The permit was finally issued and in November of 2003 Quality Arbor Care started the first pruning of the restoration. Quality Arbor Care has since gone back two more time to continue the restoration pruning. Many hours and thousands of dollars have been spent by the Seaside Company in order to regain these trees health and appearance.

As of date these trees no longer need restoration pruning as their structure is healthy. They only require normal maintenance pruning. These trees are very healthy and vigorous. As with any tree, particularly trees that get a high amount of wind, there is always the danger of limbs breaking out of the tree and falling onto the building of the Sea and Sand Inn or the walk way below these trees. However, it is my opinion that the real danger is the fact that these trees can fall down onto a heavily populated beach below the bluff. I would estimate that the smallest of these trees weigh approximately 9 to 10 tons and 18 to 20 tons for the larger ones; a very conservative weight would still put the total weight sitting on the edge of this bluff at well over 100,000 pounds.

If there are any other questions in regards to these trees or the last 9 years of evaluating these trees, please do not hesitate to call me.

Sincerely,



Christine-Sara Bosinger

Certified Arborist WE-4309

**CCC Exhibit** 1  
(page 19 of 56 pages)

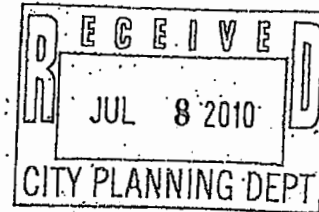
Project No. SC8429.1

8 June 2010

MS. MERRY CROWEN  
Santa Cruz Seaside Company  
400 Beach Street  
Santa Cruz, CA 95060

Subject: Limited Geotechnical Investigation

Reference: Blufftop Eucalyptus Trees  
Sea and Sand Inn  
201 West Cliff Drive  
APN 004-091-21  
Santa Cruz, California



Dear Ms Crowen:

This Limited Geotechnical Investigation is written to outline our observations and recommendations regarding blufftop stability adjacent the Sea and Sand Inn at 201 West Cliff Drive in Santa Cruz, California in relation to the five (5) mature eucalyptus trees situated along the blufftop.

Our previous work at the Sea and Sand Inn includes: the Limited Geotechnical Investigation for the Sea and Sand End Remodel dated 28 September 2000; the Addendum Geotechnical Investigation Report for Investigation for the Sea and Sand End Remodel dated 10 February 2006; and the Geotechnical Drainage Recommendations for Lawn Preservation Blufftop Stability dated 16 March 2007.

#### Site Setting

The Sea and Sand Inn is situated along the top of an approximately 50 feet high coastal bluff. The bluff face is near vertical to overhanging. The bluff toe is subject to episodic storm swell which scours the back beach allowing wave action to impact the base of the bluff.

As determined by our previous field explorations at the site, the bluff consists of about 15 feet of terrace deposits overlying jointed and fractured sandstone bedrock. The terrace deposits are easily eroded as well as subject to shallow slump sliding due to weathering and saturation. The sandstone at the project site bluff toe is classified as a weakly lithified or cemented, silty, fine grain sandstone. The project site sandstone is heavily fractured due to its proximity to the San Andreas Fault zone and stress-release fracturing. The weakly cemented sandstone is easily eroded and abraded by wave action. Wave impact and abrasion of the bluff toe forms wave cut notches and

**CCC Exhibit 1**  
**(page 20 of 56 pages)**

Ms. Merry Crowen  
Project No: SC8429.1  
201 West Cliff Drive  
8 June 2010  
Page 2

seacaves which migrate landward until vertical fractures or joint planes are intersected facilitating block failure within the sandstone bedrock. Cantilever block failure then undermines the overlying terrace deposits causing the bluff top to recede landward.

At present, there are five mature eucalyptus trees at the top of the bluff adjacent the Sea and Sand Inn. Four trees are located near the mid-point of the inn with the fifth tree adjacent the parking area at the upcoast end of the inn; see the four color plates attached to this letter report. These trees range from 2.5 to 5.0 feet in diameter as measured at chest level.

The five trees are situated at and within 3 feet of the current bluff top. The seaward or bluff face perimeters of the subject trees root balls are exposed. The bluff face below the trees is not armored or retained and as such will continue to recede. As the bluff recedes, more of the trees root balls will become compromised, increasing the potential for the trees to fall into adjacent blufftop structures or onto the beach.

#### Engineering Recommendations

From a geotechnical engineering perspective the five bluff top trees are in danger of being destabilized from either: failure of the near vertical to overhanging bluff face due to ongoing coastal processes; or wind loading of the compromised root balls.

Loss of any of the five trees will include the rotation and displacement of the 10 foot plus diameter root balls. The root ball failures will severely disturb the lawn, access walkway and parking areas landward of the trees.

Unless the blufftop is retained and the bluff toe is protected from wave action, recession of the bluff top and destabilization of the trees is inevitable.

To minimize the potential for blufftop and adjacent building damage from the destabilization of the trees, we recommend the five trees be cut to grade and removed from the site.

To prolong the useful life of the blufftop after the trees are cut, we recommend the tree stumps not be poisoned. Our intent is to allow the root ball to continue to live and add some degree of reinforcement to the bluff top soil, rather than remove them now and adversely impact the outboard edge of the bluff top. The tree shoots which will grow around the circumference of the stumps each year can be cut to grade as landscape maintenance. After a number of years the stumps may die and start to decay. If that occurs, their decay can be monitored, and when necessary the stumps can be carefully removed as needed.

Ms. Merry Crowen  
Project No. SC8429.1  
201 West Cliff Drive  
8 June 2010  
Page 3

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

Respectfully submitted,

Reviewed By:

HARO, KASUNICH & ASSOCIATES, INC.

John E. Kasunich  
G.E. 455

Rick L. Parks, G.E. 2603  
Senior Geotechnical and Coastal Engineer

RLP/dk

Attachments: Four Color Plates

Copies: 4 to Addressee



**CCC Exhibit 1**  
**(page 22 of 56 pages)**



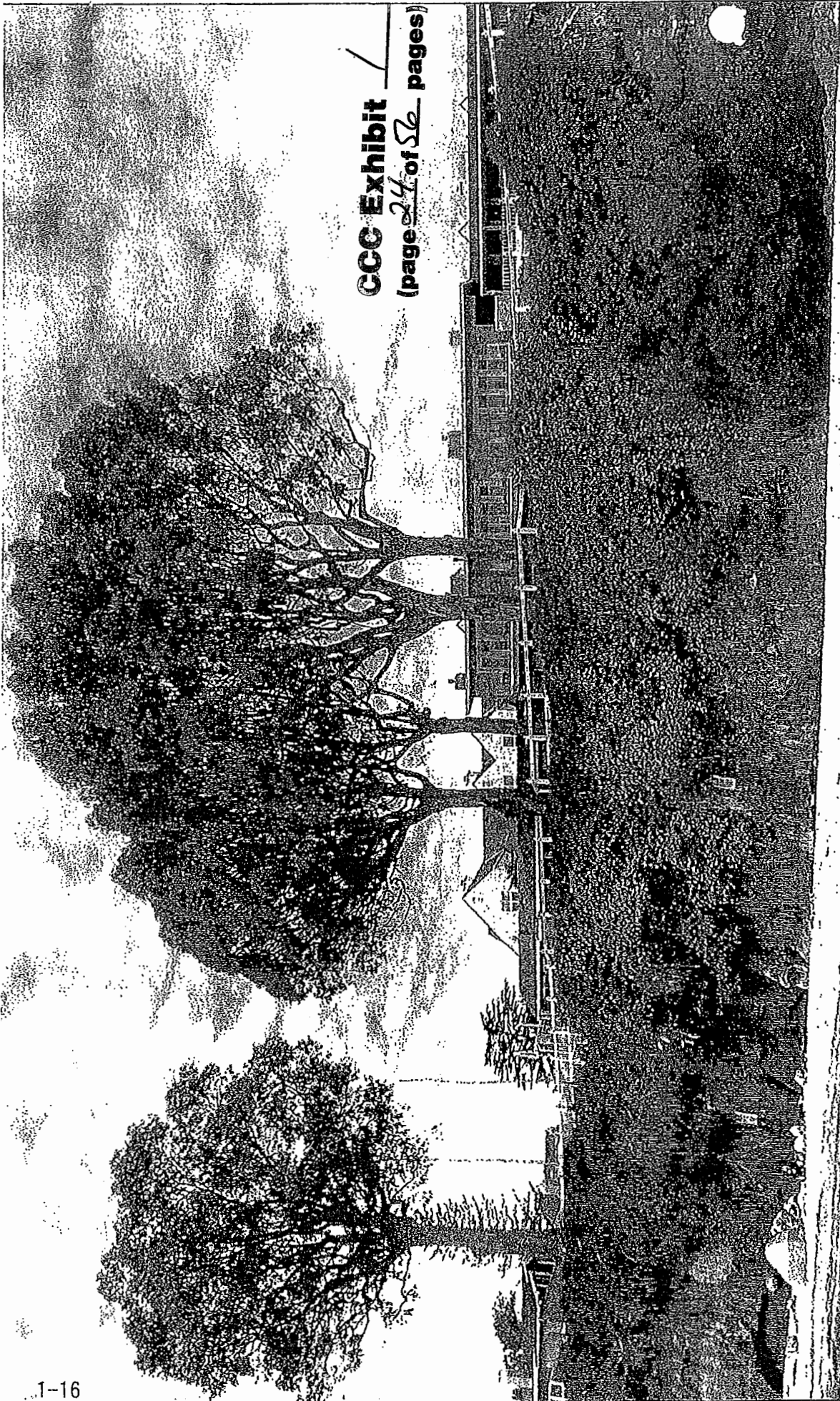
BLUFFTOP EUCALYPTUS TREES - SEA & SAND INN  
201 West Cliff Drive  
APN 004-091-21  
Santa Cruz, California

SCALE	no scale	DATE	June 2010	REVIEWER	JD	PROJECT NO.	SC8429.1
Photo taken on 4 June 2010				HARO, KASUNICH & ASSOCIATES, INC. GEOTECHNICAL AND COASTAL ENGINEERS 116 E LAKE AVENUE, WATSONVILLE, CA 95076 (831) 722-4175			

FIGURE NO: 1

CCC Exhibit /  
(page 23 of 52 pages)

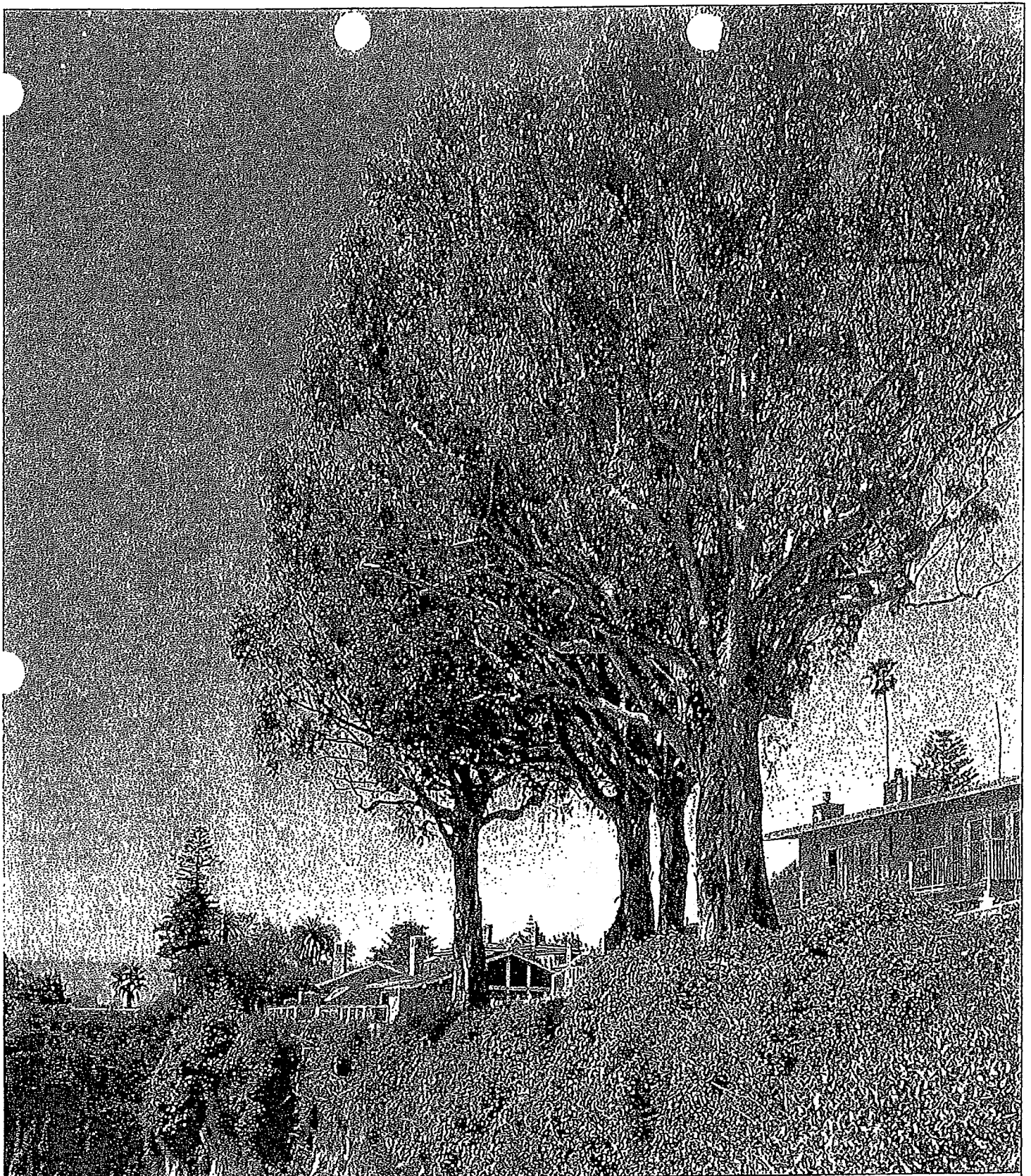




CCC Exhibit /  
(page 24 of 56 pages)

BLUFFTOP EUCALYPTUS TREES - SEA & SAND INN	
201 West Cliff Drive APN 004-091-21 Santa Cruz, California	
SCALE	no scale
DRAWN BY	JD
DATE	June 2010
REVISION	
DWG NO.	SC8428.1
Photo taken on 4 June 2010	
HARO, KASUNICH & ASSOCIATES, INC. GEOTECHNICAL AND COASTAL ENGINEERS 118 E. LAKE AVENUE, WATSONVILLE, CA 95078 (831) 722-4175	
FIGURE NO. 2	





**CCC Exhibit**  
(page 25 of 56 pages)

<b>BLUFFTOP EUCALYPTUS TREES - UP-COAST VIEW</b> 201 West Cliff Drive APN 004-091-21 Santa Cruz, California	
SCALE: no scale	<b>HARO, KASUNICH &amp; ASSOCIATES, INC.</b> GEOTECHNICAL AND COASTAL ENGINEERS 116 E. LAKE AVENUE, WATSONVILLE, CA 95076 (831) 722-4175
DRAWN BY: JD	
DATE: June 2010	
REVISED:	
JOB NO. SC8429.1	

**FIGURE NO. 3**



**CCC Exhibit** 1  
 (page 26 of 56 pages)

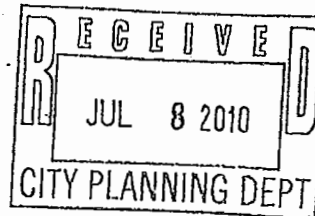
<b>UPCOAST EUCALYPTUS TREE - BLUFF FACE</b> 201 West Cliff Drive APN 004-091-21 Santa Cruz, California	
SCALE: no scale DRAWN BY: JD DATE: June 2010 REVISED: JOB NO. SC8429.1	Photo taken on 4 June 2010 <b>HARO, KASUNICH &amp; ASSOCIATES, INC.</b> GEOTECHNICAL AND COASTAL ENGINEERS 116 E. LAKE AVENUE, WATSONVILLE, CA 95076 (831) 722-4175
<b>FIGURE NO. 4</b>	

BRYAN M. MORI  
BIOLOGICAL CONSULTING SERVICES  
1016 Brewington Avenue, Watsonville, CA 95076.  
Tel/Fax: 831-728-1043. E-mail: moris4wildlife@earthlink.net

---

June 10, 2010

Merry L. Crowen  
Santa Cruz Seaside Company  
400 Beach Street  
Santa Cruz, CA 95060-5491



RE: Sea & Sand Inn - Nest Survey

Dear Merry:

This letter-report presents the results of the nest survey conducted at the Sea & Sand Inn, at your request. The purpose of the survey was to address the concerns of the City of Santa Cruz regarding the potential presence of nests of protected birds in the eucalyptus trees planned for removal and also to evaluate the potential impacts to California brown pelican (*Pelecanus occidentalis californicus*) and pigeon guillemots (*Cepphus columba*) which occur along the coast.

In summary, two possible American crow (*Corvus brachyrhynchos*) nests were observed in the eucalyptus trees proposed for removal. However, since tree removal is proposed for the period outside of the nesting season of most birds (March 1 - September 1), no impacts to active nests are expected. California brown pelicans and pigeon guillemots are not expected to be adversely impacted by the proposed removal of the trees. No further studies are recommended.

#### METHODS

A focused survey for nesting birds was conducted on the morning of 2 June 2010 from 09:00 - 10:30. The eucalyptus trees along the southern property boundary were observed from various stationary points. All birds seen and heard and nesting evidence observed (e.g., nest structures, egg shell fragments) were recorded in a field notebook. A 10 x 40 power pair of binoculars was used to aid in the search for nest structures, cavities and for species identification. All birds observed during the survey are listed on Attachment A.

#### RESULTS

Eleven bird species were observed using or in the vicinity of the eucalyptus trees; these

**CCC Exhibit** 1  
**(page 27 of 56 pages)**



included California gull (*Larus californicus*), Rock pigeon (*Columba livia*), osprey (*Pandion haliaetus*), Anna's hummingbird (*Calypte anna*), black phoebe (*Sayornis nigricans*), American crow, cliff swallow (*Petrochelidon pyrrhonota*), European starling (*Sturnus vulgaris*), California towhee (*Pipilo crissalis*), Brewer's blackbird (*Euphagus cyanocephalus*), house finch (*Carpodacus mexicanus*) and house sparrow (*Passer domesticus*). Two platform-type nests presumed be that of American crows were observed in one of the eucalyptus trees; however, while crows were observed in the general area, no nesting behavior by the birds was observed (e.g., carrying nesting material, carrying food, attendance at nest sites). The nests may have been inactive and from previous years, or this year's nests, with the young having already fledged. No evidence of nesting by other birds was observed in the immediate vicinity of the eucalyptus trees.

#### California Brown Pelican and Pigeon Guillemot

The California brown pelican is a state and federal endangered species. Brown pelicans nest off the coast in southern California and southward into Baja California. Non-breeding brown pelicans migrate into the Monterey Bay area and can be found year-round in the project vicinity foraging offshore and roosting on beaches with light recreational use. Cowell Beach, which lies below the Sea & Sand Inn, does not offer optimal roosting habitat, due to regular beach maintenance activities and recreational use; no brown pelicans were observed on the beach during this study. Given these factors, the proposed removal of the eucalyptus trees is not expected to adversely impact brown pelicans.


Pigeon guillemots are not listed as rare or endangered or considered state species of special concern. Nevertheless, their nest sites are protected, as with all native nesting birds, under the Migratory Bird Treaty Act. Pigeon guillemots are year-round residents of the Monterey Bay. Guillemots forage offshore and nest in crevices and burrows on the faces of cliffs, such as at Lighthouse Point, as well as under the Santa Cruz Wharf. The cliff face below the Sea & Sand Inn does not provide suitable nesting habitat due to the dense cover of vegetation on the cliff face. The proposed removal of the eucalyptus trees is not expected to adversely impact this species.

#### Recommendations

The proposed tree removal is scheduled for the period outside of the nesting season of most birds (i.e., March 1- September 1). In addition, significant roosting habitat for brown pelicans is lacking below the Sea & Sand Inn and the cliff face below the Sea & Sand Inn does not provide nesting habitat for guillemots. Therefore, the project is not expected to directly impact active nests or otherwise adversely impact protected birds. No further studies or protection measures are suggested.

If you have any questions regarding this letter-report, please contact me anytime.

Sincerely,



Bryan Mori  
Consulting Biologist

Attachment: Bird Species List

**CCC Exhibit 1**  
**(page 29 of 56 pages)**

Attachment A. Bird Species observed on or adjacent to the Sea & Sand Inn 2 June 2010.

Key: y - Year-round resident; m - Spring/fall migrant; n - Probable nester on or near the project site; w - Winter resident; a - Aerial transient.

CLASS: AVES

ORDER: CHARADRIIFORMES

Family: Laridae

California Gull (*Larus californicus*)

y, a

ORDER: FALCONIFORMES

Family: Accipitridae

Osprey (*Pandion haliaetus*)

y, a

ORDER: COLUMBIFORMES

Family: Columbidae

Rock Pigeon (*Columba livia*)

y, n

ORDER: APODIFORMES

Family: Trochilidae

Anna=s Hummingbird (*Calypte annae*)

y, n

ORDER: PASSERIFORMES

Family: Hirundinidae

Cliff Swallow (*Petrochelidon pyrrhonota*)

m, a

Family: Corvidae

American Crow (*Corvus brachyrhynchos*)

y, n

Family: Sturnidae

European Starling (*Sturnus vulgaris*)

y, n

Family: Emberizidae

California Towhee (*Pipilo crissalis*)

y, n

Family: Icteridae

Brewer's Blackbird (*Euphagus cyanocephalus*)

y, n

Family: Fringillidae

House Finch (*Carpodacus mexicanus*)

y, n

Family: Passeridae

House Sparrow (*Passer domesticus*)

y, n



- Engineering Geology
- Hydrogeology
- GIS Services

## NOLAN ASSOCIATES

January 23, 2011

Mr. Mike Ferry  
City of Santa Cruz  
Planning Department  
809 Center Street Room 206  
Santa Cruz, California 95060

RE: Report  
Recent Landslide Activity  
Sea and Sand Inn  
201 West Cliff Drive  
Santa Cruz, California

Dear Mr. Ferry:

At the request of Merry Crowen, Santa Cruz Seaside Company, we have visited the above referenced subject site to observe the effects of a recent landslide in the sea cliff at the rear of the Sea and Sand Inn. We have previously investigated this site to evaluate the stability of six eucalyptus trees growing at the edge of the sea cliff. The results of that evaluation are summarized in our report to the Santa Cruz Seaside Company, dated December 9, 2002. A copy of that report is attached. This letter is intended to update our December 9, 2002 report.

### Recent Landsliding

We were asked to visit the subject site to view a moderate-sized landslide that had occurred in the sea cliff behind the Sea and Sand Inn. This landslide occurred in the area of trees #5 and #6, as shown on Figure 1 of our December 9, 2002 report (attached). The landslide covered an area about 30 feet wide and resulted in loss of an estimated 5 to 7 feet of land at the top of the cliff. The failure involved approximately the uppermost 10 feet of the cliff. The landslide does not threaten the Sea and Sand Inn.

### Impacts on Eucalyptus Trees

The two large eucalyptus trees in the immediate area of the landslide had been previously removed (trees #5 and #6, Figure 1). At least a portion of the root mass from one of these trees appeared to be mixed with the landslide debris where it fell onto the beach. The remaining eucalyptus trees are located 20 feet or more from the landslide and were not affected by the landslide.

### Discussion

Although the recent landsliding did not directly impact the remaining eucalyptus trees at the site, the landslide's occurrence highlights the potential instability of the sea cliff. Furthermore, it is likely that the recent landslide has made sections of the cliff adjacent to the landslide less stable.

**CCC Exhibit 1**  
**(page 31 of 56 pages)**

Sea and Sand Inn  
January 12, 2011  
Page 2

The recent landslide is part of the normal sea cliff erosion process. Although long-term sea cliff erosion rates are often quoted in terms of inches per year or feet per year, actual sea cliff erosion includes sudden landslide events that can remove many feet of sea cliff. Events such as the recent landslide will continue to occur at the site, and may occur at any time. Our December 9, 2002 report recommended removing the eucalyptus trees, due to the potential for landsliding and erosion to topple these trees. To quote from our earlier report:

*"At issue in this situation is not whether the eucalyptus trees will fall, but when.... It is our opinion that all of the eucalyptus trees on the Sea and Sand Inn property should be removed. Even the trees located several feet from the cliff edge have the potential to fall at any time."*

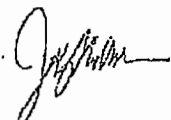
The toppling of these very large trees is a public safety issue. The trees may fall onto the beach, impacting the strip of beach below the cliff, or they may fall in the opposite direction, onto the Sea and Sand Inn.

#### Recommendations

1. We would like to take this opportunity to reiterate our earlier recommendation to remove these trees from the cliff top. Because the events that could lead to toppling of the trees may occur at any time, we recommend that the trees be removed as expeditiously as possible.
2. Trees can act in two ways to affect the stability of the cliff. On the one hand, the root balls of the trees tend to reinforce the soils along the cliff top, protecting it from erosion and small landslides. At the same time, the trees add great weight to the cliff, which tends to increase the likelihood of landsliding. In addition, the large crowns of the eucalyptus trees at the site generate a significant wind load during storms, which can topple large trees even in areas where the root ball is not truncated by a sea cliff. To provide the greatest protection of the sea cliff in the future, we recommend removing the trees, but preserving the root ball in living condition by permitting it to sprout and maintaining a secondary growth on the old rootstock.

Please don't hesitate to contact me if you have any questions regarding this matter.

Sincerely,  
Nolan Associates



By Jeffrey M. Nolan  
Principal Geologist

**CCC Exhibit** 1  
**(page 32 of 56 pages)**

Attachments: Report by Nolan, Zinn, and Associates, dated December 9, 2002

*Nolan, Zinn and Associates*





PARKS AND RECREATION  
323 Church Street, Santa Cruz, California 95060

January 25, 2011

Santa Cruz Seaside Company  
Attn: Merry Crowen  
400 Beach St  
Santa Cruz CA 95060

### ORDER TO ABATE HAZARD

Bluff failure, Imminent Tree Hazard & Public Safety Concern  
Location: Sea and Sand Inn  
201 West Cliff Drive, Santa Cruz

Dear Ms. Crowen:

Pursuant to Municipal Code Section 9.56.020 (e) you are hereby ordered to remove five (5) eucalyptus trees (excluding the stumps) located behind the Sea and Sand Inn. A copy of the approved Tree Removal permit is attached for your records. This directive is based on the report you presented from Nolan, Zinn and Associates dated January 23, 2011. It is staffs opinion that the five (5) eucalyptus trees located on your property at 201 West Cliff Drive are creating an imminent hazard. The trees present the immediate threat of falling on the Sea and Sand Inn or on the public beach below.

Please contact Leslie Keedy, City Arborist, once you schedule the work. Leslie can be reached by telephone at (831) 420-5246, Monday through Thursday, 7:00 a.m. to 4:30 p.m. If the abatement requires access to the beach, please contact Jill Bates for an encroachment permit. Jill can be reached by telephone at (831) 420-5266, Monday through Thursday, 9:00 a.m. to 6:00 p.m.

All required permits and necessary insurance are the responsibility of the Santa Cruz Seaside Company.

If you have questions or need additional information, please call me at 420-5270.

Sincerely,

*Dannettee Shoemaker*  
Dannettee Shoemaker

Director of Parks and Recreation

**CCC Exhibit** 1  
**(page 23 of 56 pages)**



NOTICE OF ACTION  
EMERGENCY HERITAGE TREE/SHRUB  
ALTERATION/REMOVAL PERMIT

Date: January 24, 2011  
Applicant: Seaside Company DBA Sea & Sand Inn c/o Mary Crowen  
Application #: 6864  
Location Address: 201 West Cliff Drive, Santa Cruz CA 95060  
Address: (mailing) 400 Beach Street, Santa Cruz CA 95060

The City concurs that five (5) Eucalyptus trees are deemed an emergency per attached letter prepared by Jeffery M. Nolan, Principal Geologist at Nolan and Associates dated January 23, 2011. The tree(s) are now or soon will be a hazard. This permit is being issued under the understanding that the trees be removed as soon as possible. In the event of inclement weather or high winds, prior to tree removal, the buildings shall be vacated per order of the Building Official and the Fire Chief. The City of Santa Cruz authorizes removing the trees as soon as possible under the following Municipal Code provisions.

**9.56.080 EMERGENCIES.**

In the event of an emergency whereby immediate action is required because of disease or because of danger to life or property, a heritage tree or heritage shrub may be pruned, altered or removed by order of the director, or by order of a responsible member of the police, fire or public works department. If not the director, the person ordering the pruning, alteration or removal shall file a comprehensive report immediately thereafter with the director. The director shall prepare the report if he or she orders the pruning, alteration or removal. The director shall forward copies of the report to the commission and council for their information.

**18.45.050 EMERGENCY WORK.**

Emergency work necessary to preserve life or property under imminent threat of excessive erosion, slope failure or flooding, performed under this section, may occur as required, provided the person rendering such service reports all pertinent facts to the building official as soon as possible and no later than fifteen days after commencement of the work. Persons performing such emergency work shall thereafter obtain a permit pursuant to Section 18.45.030. Any such work as may be deemed reasonably necessary to correct any erosion or conditions with a potential to cause erosion as a result of such emergency work shall be performed as expeditiously as possible. An imminent threat shall not be construed to include ongoing erosion problems and is intended to refer to a sudden and unexpected alteration to slope stability or ponding due to natural occurrences such as heavy rain, earthquake, or other unusual circumstances.

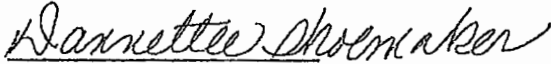
CCC Exhibit 1  
(page 34 of 56 pages)

24.04.187 EMERGENCY PERMITS.

Where a building permit is required as an emergency measure to protect life and property from imminent danger or to restore, repair or maintain public works, utilities or services during and immediately following a natural disaster or serious accident, any permit authorized by this title which is needed to accompany such building permits may be issued, provided that within three days of the disaster or discovery of danger the planning director is notified and a preliminary application is filed containing the nature of the disaster and the type and location of work to be performed, and that within thirty days a completed application for the necessary planning permits is filed.

Please also note that a Coastal Permit is still required for the tree removal after issuance of an emergency permit. The current Coastal Permit application will be processed in a timely manner to meet that requirement, and any conditions required by the Local Coastal Plan for this action will be applied to the subsequent permit.

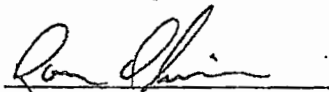
AUTHORITY:



Dannettee Shoemaker  
Director of Parks & Recreation Department



John Ancic  
Chief Building Official

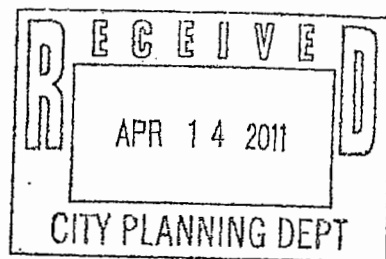


Ron Oliver  
Fire Chief

CITY OF SANTA CRUZ  
PARKS AND RECREATION DEPARTMENT, 323 CHURCH STREET, (831) 420-5270  
MONDAY THROUGH THURSDAY, 8:00 A.M TO 5 P.M. (EXCEPT HOLIDAYS)

Subject: APPEAL OF Z-A APPROVAL OF  
COASTAL PERMIT TO RECOGNIZE REMOVAL  
OF 5 HERITAGE TREES AT 201  
WEST CLIFF DRIVE. ITEM # CP10-0117  
DATE OF HEARING 4/6/11.

FROM: Gillian Greensite  
130 Liberty St, S.C 95060  
831 427-2174  
gumtree@pacbell.net



DATE: APRIL 14, 2011

REASON FOR APPEAL: The granting of the Coastal Permit is inconsistent with and violates Section 1 of the Local Coastal Land Use Plan (Coastal Permit Section 24-08-250) namely, "The Project protects vegetation, natural habitat & natural resources consistent with the LC.LUP."

The granting of the Coastal Permit violates the Shoreline Protection Overlay District, Section 24-10-2430, number 4, namely, "the Project protects trees & vegetation & sensitive wildlife habitat."

and, number 5, namely, "the Project provides maximum erosion protection..."

**CCC Exhibit 1**  
**(page 36 of 56 pages)**

The granting of the Coastal Permit fails to address:

- a) the history of differing geological conclusions,
- b) that the bluff was deemed stable when the applicant sought approval for expansion of the Sea & Sand Inn,
- c) the section of bluff failure was directly beneath the site of removal of 2 prior trees (2003)
- d) future erosion & bluff failure is exacerbated by the 5 tree removal.

Gillian Greensite 1-29

## APPEAL OF APPROVAL OF A COASTAL PERMIT TO RECOGNIZE THE REMOVAL OF FIVE HERITAGE TREES AT 201 WESTCLIFF DRIVE.

APPELLANT: Gillian Greensite

DATE APPEAL FILED: April 14, 2011

### REASONS FOR APPEAL:

The granting of the Coastal Permit is inconsistent with, and violates Section 1 of the Local Coastal Land Use Plan (Coastal Permit Section 24.08.250) namely, "The Project ( i.e. removal of 5 heritage trees) protects vegetation, natural habitats and natural resources consistent with the L.C.L.U.P."

The granting of the Coastal Permit violates the Shoreline Protection Overlay District, Section 24.10.2430, number 4, namely, " the Project (i.e. removal of the trees) protects trees and vegetation and sensitive wildlife habitat" and number 5, namely " the Project ( i.e. removal of the trees) provides maximum erosion protection."

### MAIN POINTS

- Granting the Coastal Permit after the fact appears on the surface to be a formality since the trees were removed under an Emergency Permit. However, I believe the evidence presented here and at the public hearing will demonstrate that the emergency permit was inappropriately issued. A review of the various geotechnical reports supports this claim.
- The section of the bluff that failed was directly beneath the site of removal of two of the seven trees in 2003. Yet there is no reference to this fact in the Project Analysis, no reference in the Emergency Permit and mentioned only in passing but not in their conclusions in the Nolan & Associates brief report on which the city based its decision to grant the Emergency Permit. The removal of the rest of the trees may well cause more erosion and bluff failure in the future, but this distinct probability was not evaluated.
- Prior to any perceived "emergency" the city in its Initial Study of December 15, 2010 indicated its support of the Seaside Company's application for a Coastal Permit to remove the trees. There was apparently no interest on behalf of the city to save any of the trees. The fact that the bluff was deemed stable by various geologists hired by the Seaside Company when it sought approval for an expansion of the Sea and Sand in 2006, but unstable when it sought to remove the trees in 2010, was not assessed nor discussed by the city in its findings. The city's claim in the 2010 Initial Study, that the removal of the trees would "not adversely impact a designated view" is incorrect given that we can now see clear evidence to the contrary.

**CCC Exhibit** 1  
**(page 32 of 52 pages)**

## REVIEW OF GEOLOGISTS REPORTS REGARDING BLUFF STABILITY

Haro, Kusinich & Associates (geotechnical engineers) and Rogers & Johnson & Associates, (engineering geologists) were hired by the Seaside Co. in 2006 to assess the stability of the bluff in the context of an application for remodel and expansion of the Sea & Sand Inn. The following quotes are from their reports.

- "Our study concludes that bluff retreat has occurred and will continue to occur at a very slow rate." "The rate of bluff retreat is very low, averaging 0.1 feet per year or less."
- "Undermining of the bluff occurs very slowly at this site because of a protective beach usually fronting the bluff and because of relatively low wave energy conditions."
- "In summary, our recent additional analysis of the rate of bluff top retreat fronting the proposed development indicates that there has been no discernable retreat of the bluff top from the 1970's to the present and the average rate of retreat from 1905 through the present is slightly less than 0.1 feet per year."
- "Based on an analysis of photographs from 1928 to the present, there is no indication that the Eucalyptus trees have had a detrimental effect on the stability of the bluff top. This is likely due to the relatively slow rate of bluff retreat at the site." Rogers & Johnson do acknowledge that the trees will eventually topple due to bluff retreat. It should be noted that the Sea & Sand will also eventually topple due to bluff retreat.
- Geologist Gary Griggs, who represented the neighbors opposed to the Inn expansion and who questioned some of the findings of the above geologists, wrote, "the main area of concern for cliff stability is between the single up-coast eucalyptus tree and the most westerly of the group of eucalyptus trees." In other words, the section of the bluff outside of the tree zone.
- All geologists agree that bluff retreat, even if slow, can occur all at once. But with a retreat rate of 0.1 feet per year, that still constitutes a failure of one foot in a ten year period. Since the remaining trees were up to three feet from the bluff edge their "toppling" at any moment would appear to be a gross exaggeration.

## DISCUSSION

- Given the weight of expert opinion regarding bluff retreat rate and bluff stability, and clear evidence in the field, it is logical to conclude that the portion of bluff that failed was a direct result of the removal of the two trees in 2003. At the very least, this should have been discussed and evaluated. It was not even mentioned by Nolan & Assoc. nor by the city.

- Nolan & Associates give no supporting evidence to their claim that, "it is likely that the recent landslide has made sections of the cliff adjacent to the landslide less stable." They merely state it as fact and add that, "the landslide's occurrence highlights the potential instability of the sea cliff," a conclusion not supported by all previous geologists. They ignore the most likely cause of bluff section failure, that is, removal of previous trees. It should be noted that an "emergency permit" cannot be granted for "ongoing erosion problems."
- It is likely that the rest of the bluff was not at all in "imminent danger" of collapsing but on the contrary, was stabilized by the remaining trees. If this is accurate, then removal of the remaining trees was a serious mistake and will lead to ongoing serious erosion problems.
- The fact that the city had already given approval for the trees' removal even prior to the section of bluff failure is an indication that there was little motivation on the city's part to save these trees. The conclusions in the Initial Study bear examining since they now can be evaluated.
- In the Initial Study, the city claimed that "the proposed trees' removal will not adversely impact a designated scenic view" and "the trees are not a prominent landmark or feature in the landscape" and "removal of the trees would not substantially degrade the visual quality of the area." The before and after views in the accompanying pictures speak for themselves and clearly contradict the claims in the Initial Study.

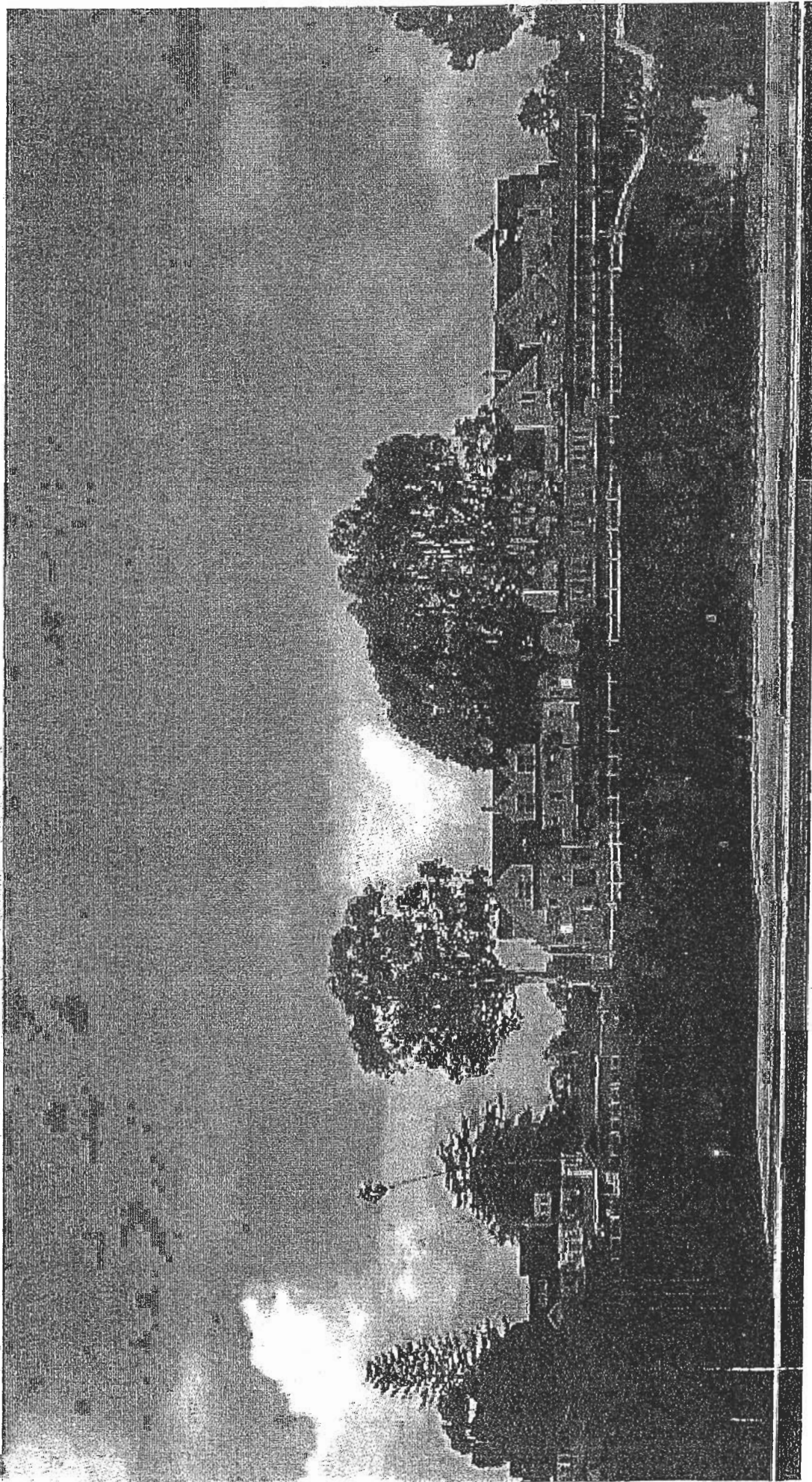
## CONCLUSIONS

- By not acknowledging the distinct probability that the section of bluff failure was caused by the removal of two trees in 2003 and that the remaining bluff which did not fail was most likely stabilized by the remaining trees, the city erred in granting an emergency permit for the trees' removal.
- By uncritically accepting the Seaside Company's geologist report that failed to explore the connection between bluff failure and prior tree removal, the city erred in granting an emergency permit. Even the geologist hedges his bets by saying, "the trees are now or soon will be a hazard." The definition of emergency states it has to be a "clear and imminent" danger, not that it "soon will be a hazard."
- By failing to evaluate past geologists' reports which highlighted the stability of the bluff, the city erred in prematurely concluding that an emergency permit was warranted.

- By supporting the removal of the trees even before the bluff failure, the city signaled its lack of support for trying to save these trees which were a significant and well-loved landmark.
- Considering the above, it is not appropriate to grant a Coastal Permit.
- Rather, the public record should show that an emergency permit was inappropriately granted. That there was no imminent danger to life or property. That a more careful and complete review of the facts could have saved these trees and prevented the most likely scenario for the future, that is, rapid erosion of the remaining bluff because of the removal of the trees.

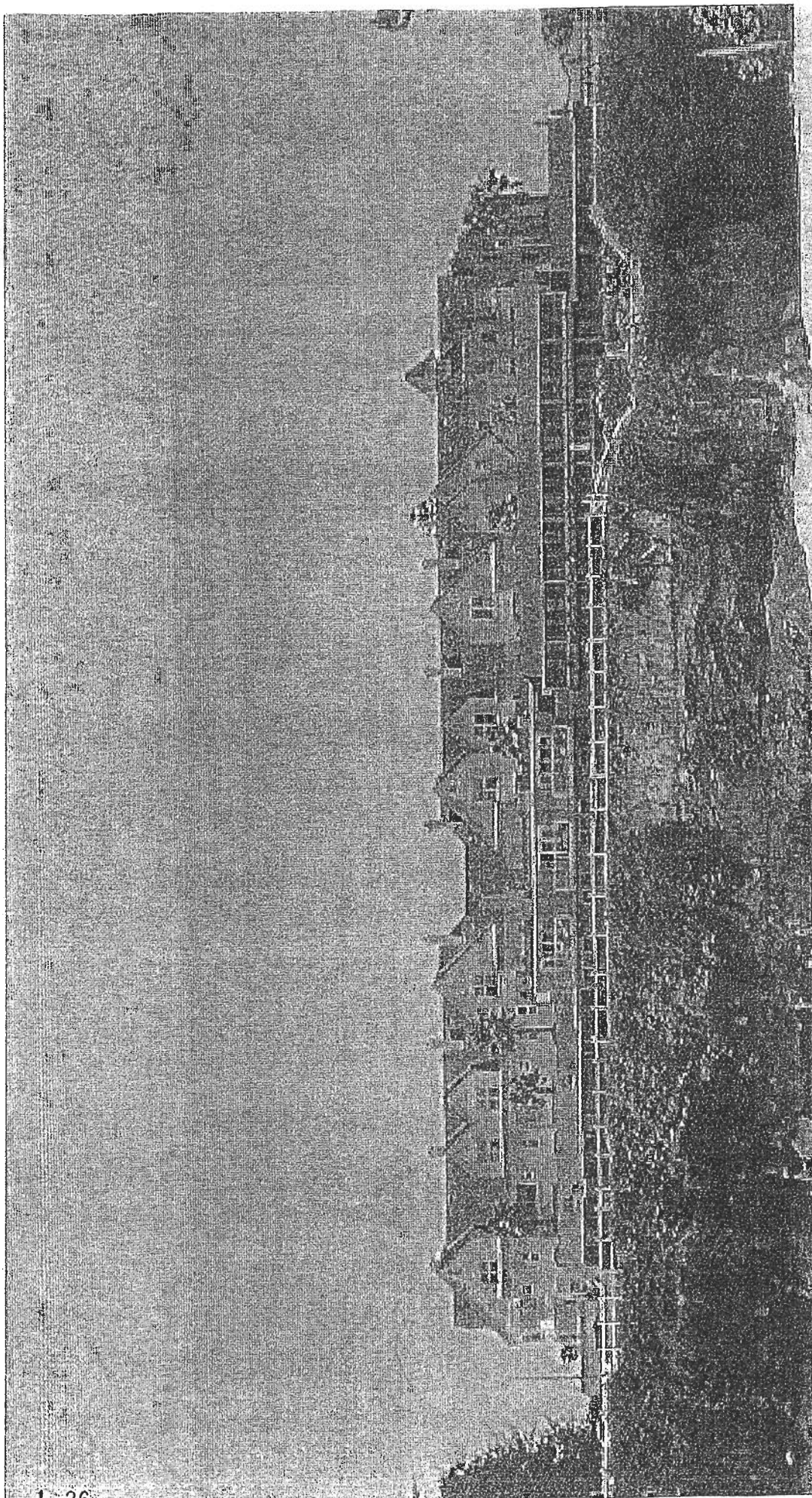
Thank you for considering this Appeal.





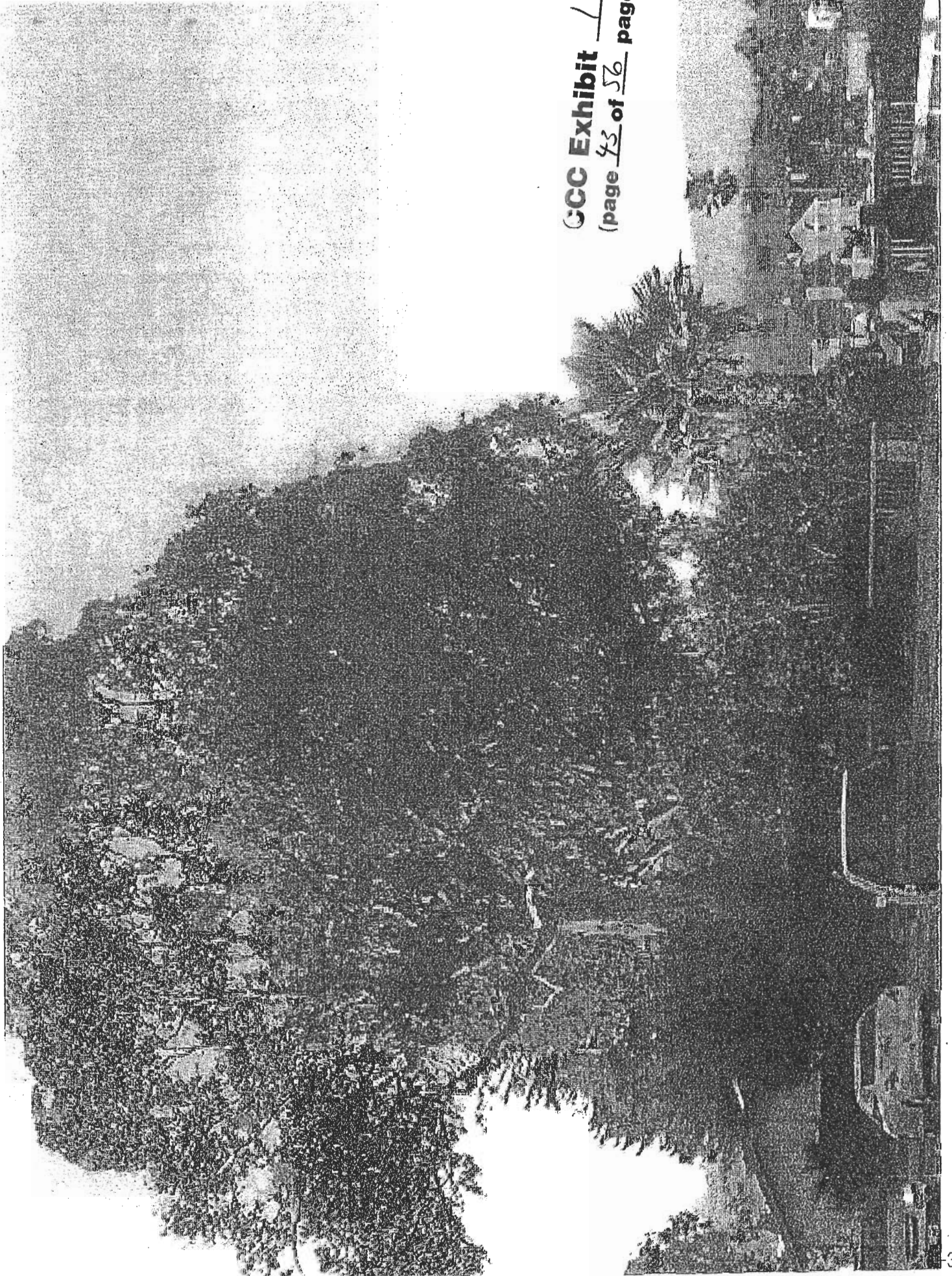
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(page 41 of 52 pages)





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(Page 22 of 22 pages)









CCC Exhibit 1  
(page 44 of 56 pages)



## ZONING ADMINISTRATOR AGENDA REPORT

DATE: March 31, 2011

AGENDA OF: April 6, 2011

**FILE COPY**

ITEM NO: CP10-0117

201 West Cliff Drive

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**RECOMMENDATION:** That the Zoning Administrator acknowledge the environmental determination and approve the Coastal Permit to recognize the removal of five Heritage Trees based on the findings listed below and the conditions of approval listed in Exhibit "A".

---

### PROJECT DATA:

Property Owner: Santa Cruz Seaside Company APN: 004-091-26

Application Type: Coastal Permit to recognize the removal of five Heritage Trees

Zoning: RTB (Tourist Residential- Motel Residential), within the Shoreline Protection Overlay (SPO) of the Coastal Zone (CZO)

Project Consistency: Consistent with Zoning regulations

General Plan: RVC (Regional Visitor Commercial) Beach Commercial Area, Beach south of Laurel Plan (BSOL)

Project Consistency: Consistent with the General Plan

Land Use - existing: Two story motel and five heritage eucalyptus trees  
- proposed: Two story motel, removal of five heritage eucalyptus  
- in area: Hotel, residential, 2.5-story condominiums across street

Lot Area: 40,182 square feet

Environmental Review: Statutory Exemption (15269) Emergency Projects

Planner: Michael S. Ferry, AICP

**CCC Exhibit 1**  
**(page 45 of 56 pages)**

### PROJECT DESCRIPTION

This application is for a Coastal Permit to recognize the removal of five Heritage Eucalyptus Trees. The City Building Official, the Fire Chief and the Director of Parks and Recreation ordered the property owner to remove the trees due to a bluff failure and imminent public safety concerns. Section 24.04.187 of the Municipal Code allows the Building Official to issue an emergency permit with the requirement that the applicant file for the required planning permits subsequent to the issuance of the emergency permit. Approval of a Coastal Development Permit

## AGENDA REPORT

ZA Meeting of April 6, 2011

SUBJECT: 201 West Cliff Drive — Application No. CP10-0117

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is required pursuant to Section 24.08.230.2 of the Municipal Code because the trees that were removed were located within the Shoreline Protection Overlay zone.

### ANALYSIS

The project is located on east side of West Cliff Drive just south of the intersection of Bay Street and West Cliff Drive. The Sea and Sand Inn development includes an office and 19 motel units located in one and two-story buildings. The site also includes 23 parking spaces for employees and guests adjacent to West Cliff Drive and ornamental landscaping throughout the site. West Cliff Drive and residential development is located to the west of the property while visitor-serving uses are found to the north and south of the parcel. The five eucalyptus trees removed were situated approximately three feet from the edge of the coastal bluff. Four of the trees were located in a row on the north portion of the site, while the fifth tree was further south adjacent to the parking area. The trees were approximately 36 to 78 inches in diameter at breast height and ranged from 40 to 50 feet tall.

The Santa Cruz Seaside Company applied for a Coastal Permit to remove the five heritage eucalyptus trees on July 13, 2010. The application materials included a geotechnical report by Haro, Kasunich & Associates and an Arborist report by Quality Arbor Care both recommending removal of the trees. Planning staff completed an Initial Study for the project on December 15, 2010; however, due to the Christmas closure staff did not circulate that document for comments because no staff would be present to respond to questions during the closure. The Initial Study was being prepared for circulation in early January with the Coastal Permit tentatively scheduled for the February 16, 2011 Zoning Administrator agenda.

On January 2, 2011 the City received an incident report of a landslide at the bluff of 201 West Cliff Drive. The landslide resulted in the sudden loss of a portion of the bluff approximately 30 feet long, five to seven feet in width and ten feet deep. City staff directed the property owners to hire a geologist to evaluate the stability of the bluff, the structures on the property, and the five heritage trees. Geologist Jeffrey Nolan of Nolan Associates submitted a report dated January 23, 2011, addressing the landslide. The report said that it is likely that the recent landslide has made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic report recommended removal of the trees as expeditiously as possible.

On January 25, 2011 an Order to Abate a Hazard was authorized by the Building Official, the Director of Parks and Recreation and the Fire Chief. The order directed the property owners to remove the trees as soon as possible. It was determined that the potential for additional land sliding and toppling of the trees posed a serious threat to public safety and/or property. If the trees fell they could land on the beach below, or could fall into the adjacent Sea and Sand Inn buildings.

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**(page 46 of 56 pages)**

The City Urban Forester and Planning staff determined that there is no appropriate space to plant replacement trees on site and required the applicant to pay the in-lieu fees for tree replacement.

## AGENDA REPORT

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Those fees will be used by the Parks Department to mitigate the loss of heritage trees by planting replacement trees in city parks or for use in specific parks projects such as National Arbor Day.

### SUMMARY

The removal of five heritage trees from the coastal bluff was necessary to preserve the health and safety of the guests staying at the Sea and Sand Motel as well as the general public using the beach below. Staff recommends approval of the Coastal Permit based on the attached findings and conditions of approval.

### FINDINGS

#### Coastal Permit, Section 24.08.250

1. The project protects vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan.

The applicant submitted geological and arborist reports that concluded the Eucalyptus trees were hazardous because of their weight on the edge of the coastal bluff and wind load potential of the canopy.

The applicant has submitted a Biotic Report with the application materials dated June 10, 2010 by Brian Mori. The report concluded that the removal of the eucalyptus trees will not impact nesting birds if the trees were removed outside of typical nesting season which is between September and March. The trees were removed during this period.

2. The project is consistent with any applicable design plans and/or area plans incorporated into the Local Coastal Land Use Plan.

Since there is no appropriate on site location to plant replacement trees, the applicant contributed the in-lieu fee as the mitigation for tree removal as required by the Heritage Tree Ordinance which is incorporated into the Local Coastal Plan.

3. The project maintains public access to the coast along any coastline as set forth in the Local Coastal Land Use Plan.

The project does not in any way interfere with existing public access.

Findings 1, 5 and 6 are not applicable.

#### Shoreline Protection Overlay District, Section 24.10.2430

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4. The project protects trees and vegetation and sensitive wildlife habitat.

AGENDA REPORT

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The Arborist report by Quality Arbor Care, dated June 18, 2010 concluded that the Eucalyptus trees were hazardous because of their weight on the edge of the coastal bluff and because the wind load potential of the canopy could cause the trees to fall down to the beach or on to the motel. Geologist Jeffrey Nolan of Nolan Associates submitted a report dated January 23, 2011, addressing the January landslide. The report said that it is likely that the recent landslide has made sections of the adjacent cliff face less stable and that events such as the recent landslide will continue to occur at the site and at any time. The geologic report recommended removal of the trees as expeditiously as possible.

On January 25, 2011 an Order to Abate a Hazard was authorized by the Building Official, Director of Parks and Recreation and the Fire Chief, directing the property owners to remove the trees as soon as possible. It was determined that the potential for additional land sliding and toppling of the trees posed a serious threat to public safety and/or property. If the trees fell they could land on the beach below, or could fall into the adjacent Sea and Sand Inn buildings.

The applicant submitted a Biotic Report with the application materials dated June 10, 2010 by Brian Mori. The report concluded that the removal of the eucalyptus trees will not impact nesting birds if the trees were removed outside of typical nesting season which is between September and March. The trees were during this period.

5. The project provides maximum erosion protection, using accepted engineering practices and other methods and specifications set forth in this title.

Drainage patterns will not change due to the tree removal and the applicant will be conditioned to provide erosion control measures where appropriate.

6. The project maintains public view corridors between the sea and the first public roadway parallel to the sea and maintains natural views of the coastline.

The removal of the trees will maintain public views between the sea and the first public roadway parallel to the sea.

7. The project protects paleontological resources as prescribed in the Land Use Plan.

The site is not located within a mapped paleontological sensitive area.

8. The project is consistent with the policies of the Local Coastal Program, the General Plan, and the California Coastal Act.

The removal of the trees is consistent with the Heritage Tree Ordinance which is part of the City's Local Coastal Program.

Findings 2, 6, 7, 8, 9 do not apply.

**CCC Exhibit 1**  
**(page 48 of 56 pages)**



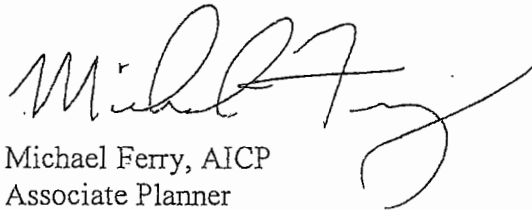
AGENDA REPORT

ZA Meeting of April 6, 2011

SUBJECT: 201 West Cliff Drive — Application No. CP10-0117

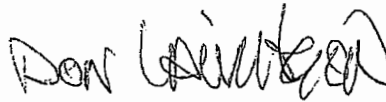
Page 5

Submitted by:



Michael Ferry, AICP  
Associate Planner

Approved by:



Don Lauritson  
Senior Planner

Attachments:

Recommended Conditions of Approval

Arborist Report, dated June 18, 2010, prepared by Quality Arbor Care

Biotic Assessment, dated June 10, 2010, prepared by Bryan Mori

Geologic Hazard Assessment, dated January 23, 2011 by Nolan Associates

Order To Abate Hazard, dated January 25, 2011 by Dannettee Shoemaker

**CCC Exhibit 1**  
**(page 49 of 56 pages)**

EXHIBIT "A"  
CONDITIONS OF APPROVAL FOR THE PROJECT ON PROPERTY AT

201 West Cliff Drive; Application No. CP10-0117

Coastal Permit to recognize the removal of five Heritage Trees.

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 applicant shall preserve the root balls in living condition by permitting them to sprout and maintaining secondary growth on the old rootstock.
4. An erosion control plan shall be provided for review and approval with the installation to proceed as soon as possible.

**CCC Exhibit 1**  
**(page 50 of 56 pages)**



• Engineering Geology  
• Coastal Geology  
• Hydrogeology

## Nolan, Zinn, and Associates

December 9, 2002

Mr. Carl Henn  
Santa Cruz Seaside Company  
400 Beach Street  
Santa Cruz, California 95060

RE: Bluff-Top Eucalyptus Trees  
Sea and Sand Inn  
201 West Cliff Drive  
Santa Cruz, California

Dear Mr. Henn:

At your request, we have visited the subject site to provide an opinion regarding the stability of six eucalyptus trees at the above referenced site. The trees in question are mature eucalyptus trees ranging from about two- to five-feet in diameter. They are situated at the crest of an approximately 45-foot high, near-vertical sea cliff. Our site evaluation included two visits to the subject site and review of a geologic report prepared for an earlier project at the Sea and Sand Inn (Johnson, 2001).

### Discussion

The location of the six eucalyptus trees with respect to the cliff top is depicted on Figure 1. The four southernmost trees (Trees #1, 2, 3, & 4; Figure 1) are situated about 4 to 6 feet from the edge of the cliff. The two northernmost trees (Trees #5 & 6; Figure 1) are located at the crest of the cliff and a portion of the bole of each tree appears to project out slightly over the break in slope at the top of the cliff. Both of these trees show a pronounced lean towards the beach.

Figure 2 is a photo montage of the sea cliff below the Sea and Sand Inn. The trees are visible at the top of the cliff. The sea cliff is undergoing active erosion and retreat. At the time of our site visit, the sand beach had been largely stripped by the season's first storm and storm waves were directly impacting the base of the sea cliff at high tide. Debris from a recent landslide was visible on the beach (Figures 2 and 3).

**CCC Exhibit** 1  
**(page** 51 **of** 56 **pages)**

The effect of trees on cliff stability can vary. The trees add weight to the slope and tree roots can invade fractures in the bedrock, wedging it apart. Both these factors will tend to destabilize the cliff. At the same time, tree roots can help soils resist erosion and keep soil masses from sliding. Tree #5 is situated on a small outward projection of the cliff top that is probably being held up by the tree's root mass. However, tree root strength is effective only up to a point-- the weight of even of moderate size mass of soil and rock is huge and can easily overpower the strength of a tree's rootball.

The geologic report for the project (Johnson, 2001) provided an evaluation of the rate at which the sea cliff near to the Sea and Sand Inn is being eroded. There have been a number of sea cliff erosion rate studies done in Santa Cruz County. These studies are generally based on inspection of historic aerial photographs that show the location of the cliff top relative to known landmarks at different points in time. The erosion rates that have been calculated from these studies are termed historic, average retreat rates and they range from a few inches to feet per year. In practical terms, however, the effect of sea cliff retreat is obvious, as portions of the seacliff in Santa Cruz, including roads and buildings, have visibly disappeared over time. Anyone who has lived in Santa Cruz for more than a few years has probably witnessed the results of portions of the sea cliff falling off into the ocean.

The Johnson (2001) report gives a measured historic, average retreat rate for the Sea and Sand Inn site of 0.1 foot per year, or about 10 feet per 100 years. It can be misleading, however, to quote an erosion rate in fractions of a foot per year, because the sea cliffs generally don't lose a little bit of land year by year; they lose big pieces every so often.

Trees #5 and #6 are four to five feet in diameter and are perched directly on the edge of the sea cliff. In terms of average retreat rates, this position indicates that in 40 to 50 years the cliff will have been completely removed under the trees, although the trees will undoubtedly fall prior to that time. In practice, the cliff loss required to cause the trees to topple will probably occur in one event as a "topple" or landslide of the cliff. The landslide can occur due to saturation by heavy rains, earthquake shaking, or simply as a random landslide event without any visible external trigger. Such a landslide can occur at any time.

### Conclusions

At issue in this situation is not whether the eucalyptus trees will fall, but when. Average retreat rates suggest that trees #5 and 6 cannot last any longer than 20 to 30 years, but, in fact, the trees could fall at any time. In our opinion, it is possible that the trees will fall onto the Sea and Sand Inn. However, it is far more likely that the trees will fall onto the beach. Given the height and breadth of these trees, the toppling of one or both of these large trees would pose an extreme hazard of serious injury or death to anyone using the beach below the Inn. The pronounced seaward lean of the two trees may indicate that the trees are already in a state of progressive failure.

**CCC Exhibit 1**  
**(page 52 of 56 pages)**

*Nolan, Zinn and Associates*

Sea and Sand Inn  
December 9, 2002  
Page 3

It would be irresponsible, in our estimation, to attempt to preserve these trees for the few years they have remaining, under even the most optimistic scenario, at the hazard of persons using the public beach at the base of the sea cliff.

#### Recommendations

It is our opinion that all of the eucalyptus trees on the Sea and Sand Inn property should be removed. Even the trees located several feet from the cliff edge have the potential to fall at any time. However, trees #5 and 6 are in very precarious positions and should be removed without delay.

Please don't hesitate to contact me if you have any questions regarding this matter.

Sincerely,  
Nolan, Zinn, and Associates, Inc.

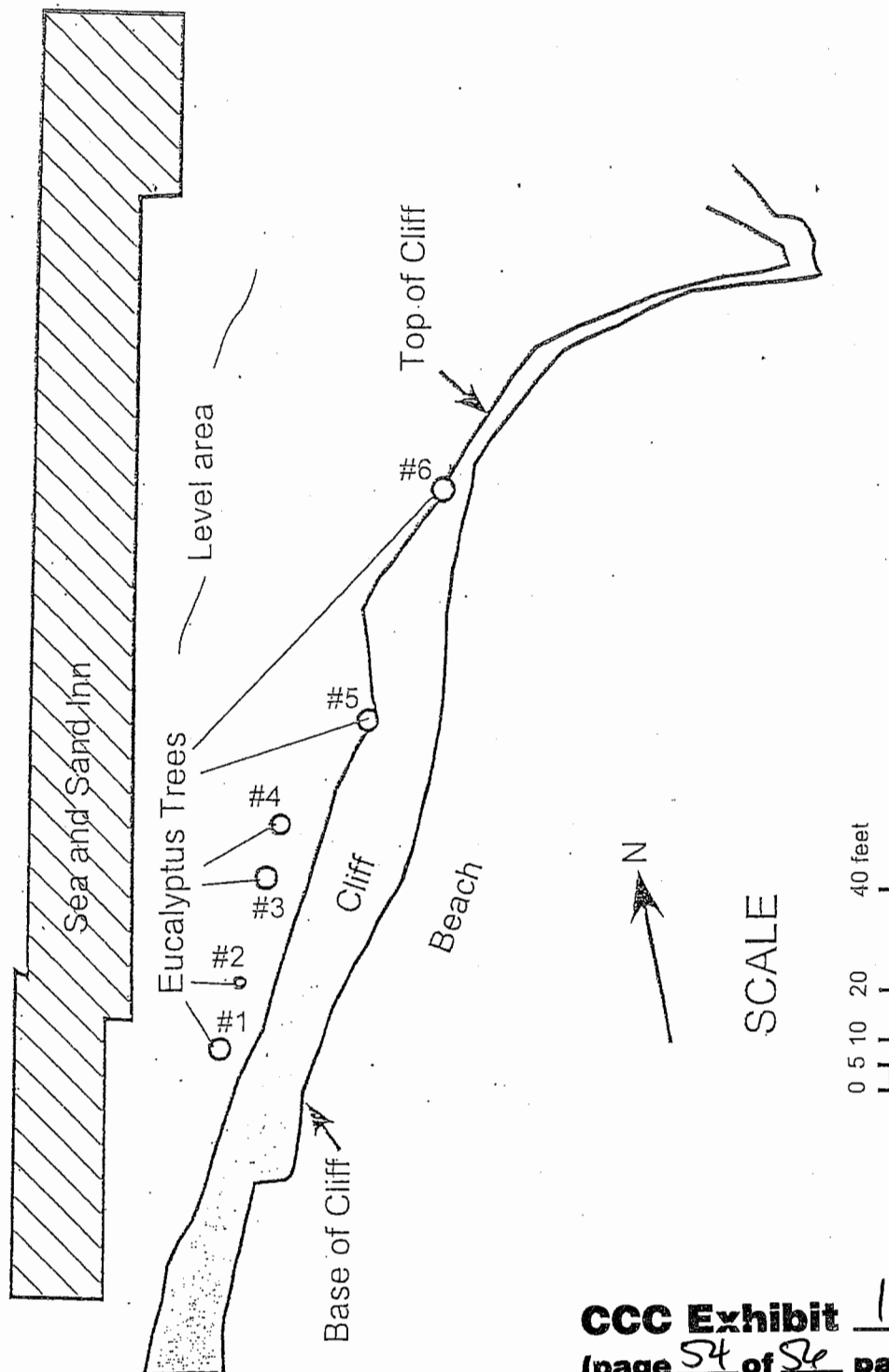
By Jeffrey M. Nolan  
Principal Geologist

Attachments: Figures 1, 2, & 3

#### References

Johnson, R.E., and Associates, 2001, Geologic Investigation, Sea and Sand Inn, 201 West Cliff Drive, Santa Cruz, California, Santa Cruz County, APN 004-091-21. Report by Rogers E. Johnson and Associates, Santa Cruz, California. Report dated 7/13/2001.

**CCC Exhibit 1**  
**(page 53 of 56 pages)**

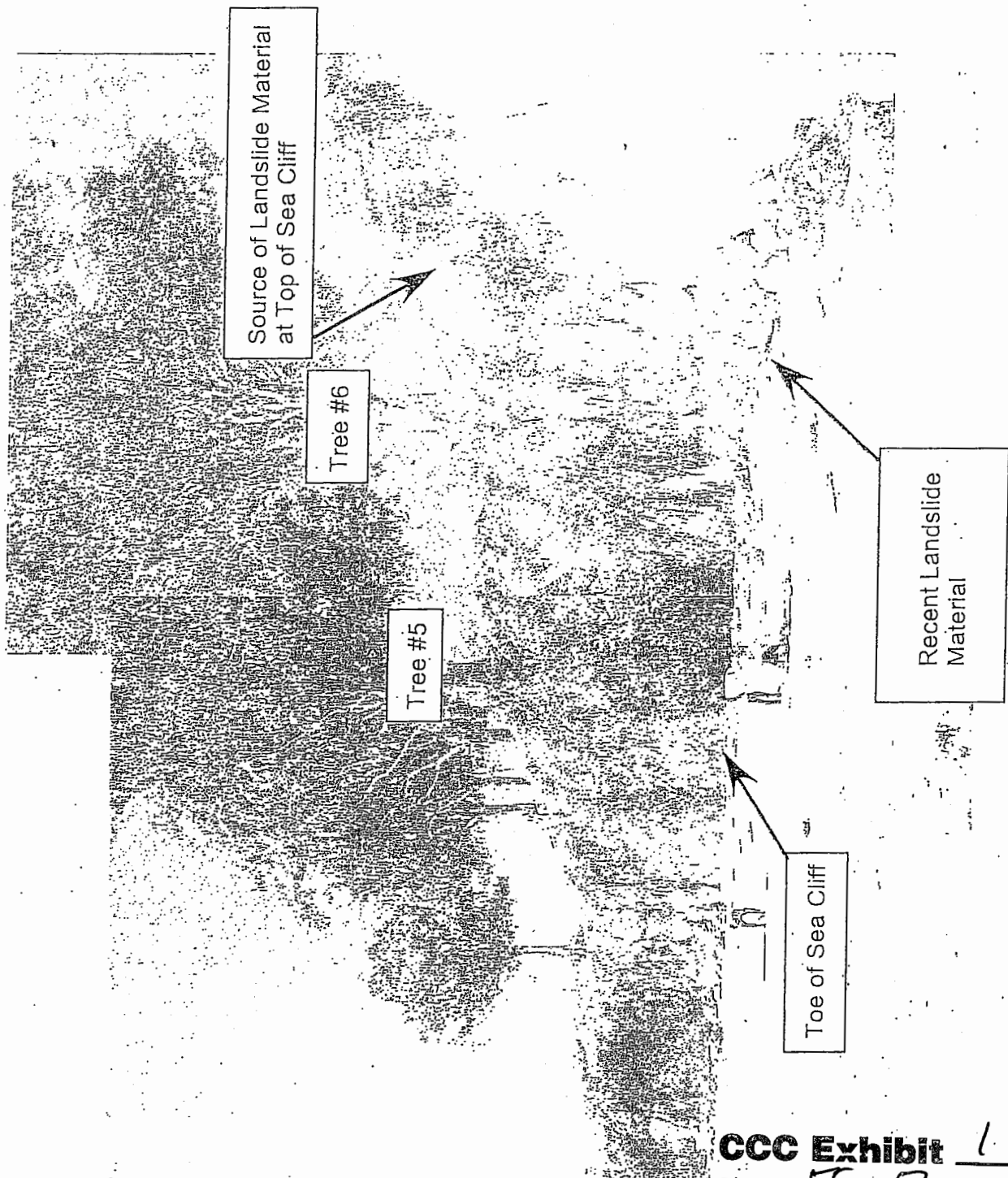


**CCC Exhibit** 1  
 (page 54 of 56 pages)

Nolan, Zinn and Associates  
 1509 Seabright Ave. Suite A2  
 Santa Cruz, CA 95062

SITE MAP  
 Sea and Sand Inn  
 Santa Cruz, California

FIGURE #  
**1**  
 JOB #  
 02063-SC



**CCC Exhibit** 1  
(page 55 of 56 pages)

Nolan, Zinn and Associates  
1509 Seabright Ave. Suite A2  
Santa Cruz, CA 95062

PHOTO MONTAGE OF  
SEA CLIFF  
Sea and Sand Inn  
Santa Cruz, California

FIGURE #  
**2**  
JOB #  
02063-SC



Closeup of Landslide Debris,  
See Figure 2 for Location

**CCC Exhibit** 1  
(page 56 of 56 pages)

Nolan, Zinn and Associates  
1509 Seabright Ave. Suite A2  
Santa Cruz, CA 95062

PHOTO OF RECENT  
LANDSLIDE DEBRIS  
Sea and Sand Inn  
Santa Cruz, California

FIGURE #  
**3**  
JOB #  
02063-SC



## Appeal No. A-3-STC-11-076

### APPEAL OF A COASTAL PERMIT FROM THE CITY OF SANTA CRUZ TO THE SEASIDE CO. TO RECOGNIZE THE REMOVAL OF FIVE HERITAGE TREES AT 201 WEST CLIFF DRIVE.

APPELLANT: Gillian Greensite

RECEIVED

JAN 17 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA



**CCC Exhibit 2**  
(page 1 of 14 pages)

*The top picture is the bluff at Cowell Beach, Santa Cruz with the five heritage trees. The bottom picture is the bluff with the trees removed. Although the pictures are not exactly to scale, it is possible to confirm that the slide involved only the area without trees by counting the same ten white fence posts in both pictures.*

# **Appeal No. A-3-STC-11-076**

## **APPEAL OF A COASTAL PERMIT FROM THE CITY OF SANTA CRUZ TO THE SEASIDE CO. TO RECOGNIZE THE REMOVAL OF FIVE HERITAGE TREES AT 201 WEST CLIFF DRIVE.**

**APPELLANT: Gillian Greensite**

**SYNOPSIS:** There were originally seven mature trees on the bluff at 201 West Cliff Drive. They appear as a grove in historical photographs of the site prior to the building of the Sea and Sand Inn. Besides being a source of visual pleasure for locals and visitors, they screened the bulk of the backdrop of tall apartment buildings in views from the sea and from the Municipal Wharf. They screened the mass of the Dream Inn Hotel from the bike path's western approach and they provided distinctive beauty from Cowell Beach, from the wharf and from West Cliff Drive. Despite being near the bluff edge, the trees weathered all storms without loss of limb, including the severe storm of 1981-82 and the '89 earthquake. They had an attractive gnarled branch structure from decades of withstanding the elements. The trees shimmered in the morning light and glowed in the evening light. They were protected under the city's Heritage Tree Ordinance.

In 2003, the Seaside Company was granted a permit by the city to remove two of the oldest trees which were closest to the bluff edge. **(On Jan. 2nd, 2011, seven years later, at the exact same site where the two trees were previously removed, the bluff top failed and seven feet of marine terrace soil and old dead tree root material fell onto the beach.)**

In 2006, the Seaside Company applied for a permit to increase the height of a section of the Sea and Sand Inn and to expand its footprint. **All the geologists hired by the applicant attested to the stability of the bluff and its very slow rate of erosion (0.1 feet per year).** The trees were not viewed as particularly a problem. They did say eventually the trees would fall (as will the Inn) but gave time periods of up to 45 years given the slow erosion rate. The city approved the permit for remodel. The Seaside Company made no attempt to protect the trees during site excavations and the city had to intervene (at my urging) to prevent damage to the trees.

In 2010, prior to the bluff failure, the Seaside Company applied to the city of Santa Cruz to remove the remaining five trees. The company's application included a brief report from their geologist, John Kasunich, who, when he was hired to support the 2006 Inn remodel saw no problem with the trees. Now, Kasunich recommended the trees' removal with the statement that, "the bluff face perimeters of the root balls are exposed." This statement is demonstrably inaccurate, then and now. The only vegetation visible from the beach below the bluff and visible from the top of the bluff is the tangled vines of willows, ivy and poison oak. Given that no root balls are visibly exposed, save for the dead root ball from the tree removed in 2003, the geologist should have included the requisite detailed analysis of the exact procedures he used to come to this

conclusion. His report contains no such entry and the comment is simply asserted without any supporting field evidence.

In response to the Seaside Company's request to remove the five trees, the city prepared an **Initial Study** which was not circulated nor publicly reviewed due to the winter break and then to the ensuing bluff slide. Had the Initial Study been available for public review there would have been significant public opposition to the city's approval for the trees' removal. In 2003, forty signatures were collected in one hour from walkers along West Cliff Drive on a petition protesting a proposed severe pruning job for the trees. Only one person who said he hated eucalyptus refused to sign.

**The city's Initial Study** for the trees' removal found either **no impact** or **less than significant impact** on: scenic vistas; scenic resources; existing visual character of the site and its surroundings; stability of the site, its geology or soils; night time visual glare. In the Initial Study, the trees are described as non-native eucalyptus with no mention of their status as heritage trees, protected trees or the significance of the trees to locals and visitors alike. I and other residents had been involved in protecting these trees for the past decade after it became apparent that the Seaside Company intended to cut them down. I was following the progress of the Initial Study and conversed with the city arborist who stated that she could not make the findings to support the trees' removal. Her professional opinion on findings was not included in the Initial Study. Nor was it sought during the evaluation period after the bluff failure. In all the city staff reports, only the applicant's arborist and his geologist are quoted. The applicant's arborist does not acknowledge that the trees had undergone extensive crown reduction and restoration, reducing their wind load and contributing to their health and stability.

Since the trees are now gone it is possible to evaluate the conclusions of the city's Initial Study. **The visual impact of the trees' removal is dramatic. The visual character of this section of coast has been significantly altered for the worst.** Now, the tall white apartment complex forms a continuous building mass with the Dream Inn Hotel and they dominate the vistas from the ocean and from the wharf. From Bay St. and West Cliff Drive, the outline of the Sea and Sand Inn is no longer softened and framed by trees. At night, from the wharf, the combined lights of the Dream Inn Hotel, Sea and Sand Inn and the apartment complex create an urban skyline. **It is an understatement to conclude that the city erred in its Findings.**

**On January 2nd, 2011,** before the Initial Study could be circulated for review, the city received an incident report that a section of bluff top marine terrace had fallen onto the beach below. **The slide was directly beneath the site where the two oldest trees had been removed in 2003.** According to city staff, the slide was not noticed at the Sea and Sand Inn but was reported to the city by a wharf worker. The city notified the Seaside Company and requested a review by one of the company's geologists. The geologist, Jeffrey Nolan of Nolan & Associates is described in the city staff reports as, "an independent geologist." This is misleading. Not only was he hired by the applicant but he had also done earlier work on behalf of the applicant's tree removal efforts. As one of the consulting geologists for the applicant in 2002, he was the most vehement that the trees should be removed. The other geologist at that time, Rogers Johnson, stated in the record that he did not see the same urgency concerning the trees as did Jeffrey Nolan. The city approved the choice of Mr. Nolan.

Geologist Nolan's two-page report (with a different date on each page) contradicts other geologists regarding the very slow rate of bluff erosion of 0.1 foot per year. He regards the seven feet width of soil loss in one day at this site as, "part of the normal sea cliff erosion process." He makes no correlation between bluff failure and earlier tree removal; his report contains no soil sampling/ moisture data despite the fact that the area of bluff failure was saturated from drainage. His report does not reflect the current research on trees and steep slope stability.

**To justify the trees' removal he cites in his 2-page report an entry from his report of 2002 in which he wrote, "the trees have the potential to fall at any time."**

**Nine years later, none of the trees had fallen nor shown any indication of instability.** Jeffrey Nolan's statements regarding tree weight and wind loading were not evaluated by the city arborist. Nor did Mr. Nolan acknowledge the prior crown reduction of the five trees.

**The only unstable area is the area with no trees, a result of the Seaside Company's removal of the first two trees in 2003.** Tree roots act like rebar within marine terrace deposits, binding and holding the soil. Once the roots decay and their stabilizing influence is lost, the soil is rendered unstable. The time lapse from removing the trees in 2003 until the bluff failure in 2010 is within the time frame estimated by arborists for root balls to die and decay.

The city did not seek the opinion of an independent geologist to evaluate Jeffrey Nolan's assertions. While cost is always of concern, the city hired a consulting geologist for the proposed bike trail through the Pogonip city reserve during the same time period..

**Based on one Seaside Company-hired geologist's two page report, the city granted an emergency permit for the trees' removal almost a month after the slide occurred.**

**Under an emergency permit there is no public review and no chance to give input. All the trees were cut down, with work starting on February 1<sup>st</sup> 2011.**

**I believe the city of Santa Cruz failed to protect a natural coastal resource of the state of California as mandated by the Coastal Act.**

#### **Evidence:**

- the city's failure to protect the trees in its Initial Study which cited there would be no significant impact to views etc. when it approved the Seaside Company's application to cut down the trees. This was before the bluff slide.
- the city's failure to consider the wealth of research on trees' ability to stabilize steep slopes.

- the city's failure to consider the correlation between the Jan. 2nd bluff slide and prior tree removal.
- the city's failure to evaluate the claim by geologist Kasunich that the root balls of the trees are exposed when no visual evidence exists for this claim.
- the city's failure to obtain an assessment from the city arborist of the trees' wind loading potential to evaluate the claims asserted by the applicant's geologist and arborist.
- the city's failure to scrutinize the contradictions amongst the applicant's geologists regarding slope stability (stable for a remodel, unstable for preserving trees).
- the city's failure to properly assess the project as a non-emergency.
- an emergency permit requires a finding of "clear and imminent danger" requiring "immediate action." It was a month between initial slope failure and tree removal. Other options could have been considered, including closing that area of the beach while the above issues were discussed with more comprehensive, independent expertise sought. (Beach closure of the same area was done when the applicant filled the sea cave with concrete in 2001 and when a small section of willows separated from the bluff face in 2003).

When geologist Nolan said that the Jan. 2<sup>nd</sup>. slide had most likely made the adjacent cliff less stable it is important to note that he was referring to the rest of this section of treeless bluff which did have a second fall in early March 2011, bringing down the second rotted root ball from 2003.

**THIS APPEAL IS TO REQUEST THAT THE CALIFORNIA COASTAL COMMISSION IN REVIEWING THE FACTS DETERMINE**

- that removal of the trees did not "protect trees and vegetation" (Section 24-10-2430 #4 of the Shoreline Protection Overlay District) nor "provide maximum erosion protection" (Section 24-10-2430 #5 of the Shoreline Protection Overlay District) but in fact did the opposite.
- that the project violated Section 1 of the Local Coastal Land Use Plan (Coastal Permit Section 24-08-250) namely, "the project protects vegetation, natural habitats and natural resources consistent with the L.C.L.U.P.)"
- that therefore the granting of a Coastal Permit for this project is not appropriate.

**THIS APPEAL IS ALSO TO REQUEST THAT THE CCC:**

- **supply the city of Santa Cruz with clarification on the correct criteria for designating a project as an "emergency."**
- **direct the city to discuss with the applicant the likelihood of further bluff erosion outside the current slide area as soil moisture is no longer sufficiently dispersed through transpiration/ evaporation and the five tree roots begin to decay, and to develop a plan of action to respond to this eventuality.**
- **amend the city's Conditions of Approval to require that the stumps of the five trees be allowed to sprout to maturity without annual cutting back, in order to keep the roots in living condition for as long as possible.**

**Thank you for considering this appeal.**

**The following pages include:**

- **quotes in full from the applicant's geologists that contrast with the city's selected generalizations about bluff stability and the trees.**
- **a sample of expert opinion on trees and slope stability.**
- **photographs to illustrate the loss of coastal vistas with the trees' removal and a view of the bluff to show the absence of visible tree root balls.**



## STAFF REPORT ENTRIES VS. QUOTES FROM GEOLOGISTS

Planning staff use general statements and selected parts of quotes to build a case, rather than site-specific assessments and full quotes. This selective editing erroneously conveys a picture of dangerous trees and an unstable bluff. Consider the following examples:

Planning Staff Agenda Report	Rogers E. Johnson, Consulting Engineering Geologist: July 13, 2001
<i>"The chief mechanisms of bluff failure in the Santa Cruz area are either by surf action cutting a bluff-parallel notch at the base of the cliff or by selective erosion along planes of weakness. When the surf-cut notch eventually intercepts a bluff-parallel joint plane, a long segment of bluff can remain essentially unchanged for several years and then a block will fail instantaneously."</i>	<p>"Field mapping revealed no fresh scars on the face of the bluff from either block failure in the Purisima Formation or slumps in the marine terrace deposits." "The fact that there are no fresh scars and the joint block has not been removed indicates that surf erosion at the toe of the bluff occurs relatively infrequently."</p> <p>"As a result (of the wide beach at Cowell's and low wave energy at the site) the current 1928 to the present) rate of bluff retreat at the site is low."</p>
<i>"The sea cliff is subject to slope failure under seismic conditions."</i>	<p>The lack of topographic evidence suggesting large, deep-seated land-sliding indicates this failure mechanism (seismic action) has not contributed to recent cliff retreat. This is not a guarantee but only a reasonable estimate of how the cliff will behave in the future (i.e. the expected 100-year design life of the development.)"</p> <p>"All the evidence we have collected indicates that at this particular site, the process (of bluff retreat) is very slow, which is reflected in the average rate of bluff retreat of about 0.1 feet per year."</p> <p>Note: 0.1 feet per year equals 10 inches a decade, which equals 100 inches or 8.3 feet per century.</p>

**Planning staff Agenda Report**

**Rogers E. Johnson, Consulting Engineering  
Geologist: July 13, 2001**

*"The 2001 Rogers Johnson geologic investigation noted that in the future, the eucalyptus trees would likely have a detrimental effect on the bluff due to wind loading, root wedging and possible dislodging of rock along the top of the bluff. That report recommended removal of the trees to prevent future loss of bluff top material."*

"Eucalyptus trees have occupied the bluff top here continuously since before 1928, the date of the earliest photographs. Based on analysis of photographs from 1928 till the present there is no indication that the eucalyptus trees have had a detrimental effect on the stability of the bluff top. This is likely due to the relatively slow rate of bluff retreat at the site. At some time in the future, when the edge of the bluff is closer to the trees, they will likely have a detrimental effect. Wind moving the trees back and forth will loosen and possibly dislodge joint-bounded blocks of rock in the face of the bluff; root wedging will have a similar effect. Alternatively the root masses will temporarily act to hold the blocks of rock and soil together. Eventually however, bluff retreat will undermine the trees, causing them to topple along with the soil and rock debris in their root masses." Mr. Johnson recommends that if the loss of material along the bluff top is not desired, presumably at some future time, then the trees should be removed.

"The attached oblique aerial photos taken in April 1979 and September 2002 (a period which covers the last El Nino interval and the 1989 Loma Prieta earthquake) show no discernable change at the top of the bluff at the site. The location of the bluff top in



relation to the eucalyptus trees that front the property appears to be in precisely the same position in both photos."

"In summary, our recent additional analysis of the rate of bluff-top retreat fronting the proposed development indicates that there has been no discernable retreat of the bluff top from the 1970's to the present and the average rate of retreat from 1905 through the present is slightly less than 0.1 feet per year."

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## ADDITIONAL STATEMENTS FROM CONSULTING GEOLOGISTS

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**Gary Griggs: Consulting Engineering Geologist: Feb. 16, 2004:**

"The main area of concern for cliff stability is between the single up coast eucalyptus tree and the most westerly of the group of eucalyptus trees."

*Note: this is the area without trees on the bluff.*

**Haro, Kasunich & Associates: Feb. 3, 2004:**

"Our geological investigation concluded that the average rate of bluff retreat fronting the site was quite slow, about 0.1 feet per year."

"There are 3 large eucalyptus trees located near the top of the bluff that front Building 30. At some future time, these trees will become undermined by bluff retreat at the site and will either topple or will have to be removed. Based on our average rate of bluff retreat at the site, this will probably occur within the next 40-50 years but could occur sooner."

.....  
*All of the above geological reports were conducted for the remodel and expansion of the Sea and Sand Inn in 2006.*

## A SAMPLE OF EXPERT OPINION ON TREES AND SLOPE STABILITY

### **1. Department of Ecology: State of Washington**

#### *Stability of the Slope.*

"An analysis of slope condition by a geologist or geotechnical engineer is strongly advised and in many counties is required. Vegetative clues should be used in conjunction with the geotechnical data and an assessment of the role of the vegetation on the site should be made."

"In situations where soil and hydrological conditions promote well-rooted, healthy, mature trees, the trees should be left insofar as is possible. As mentioned, **the practice of removing a majority of trees on a slope can greatly increase the probability of a slope failure in the future as the trees roots decompose and their soil-binding capacity declines.**"

"Some geologists or geotechnical engineers routinely recommend the removal of trees because of concerns that: **1) large trees exposed to wind can transmit that force to the slope, thereby causing slope failure;** 2) soil moisture is reduced by evapotranspiration of trees, thereby creating cracks in impermeable layers and promoting water infiltration to lower soil layers; and **3) the weight of trees on the slope may cause landslides.** These concerns have been addressed in recent research and the overwhelming conclusion is that **in the vast majority of cases, vegetation (especially well-rooted, mature trees) helps to stabilize a slope.**"

Source: <http://www.ecy.wa.gov/programs/sea/pubs/93-31/chap3.html>

### **2. Slope Stability and *Arbutus menziesii*:**

"Research conducted along the slide-susceptible bluff in Magnolia Park, Seattle, Washington strongly suggests that trees above the crest of the slope contribute significantly to the geotectonic stability of the slope below. "

Source: "A Summary of Research in Magnolia Park, Seattle, Washington" by Kathy Parker and Clement W. Hamilton

### **3. Do Trees Destabilize Bluffs and Steep Slopes?**

"Trees and other vegetation *stabilize* coastal bluffs and steep slopes. This is supported by overwhelming evidence from studies and models, with vegetation contributing a high degree of lasting stability."

"The movement of large trees by wind is also suggested, at least by some, to cause loosening of soils and increased infiltration, also leading to slides. Although often cited as a cause of slides and a reason for removing large trees, it is unclear how significant wind stress actually is. In some cases, removal of vegetation can in itself reduce slope stability by decreasing root strength or modifying hydrologic conditions, suggesting that decisions to remove vegetation need to be carefully considered and are likely to be highly situation-dependent."

*Source: Steve Minta, 2005*

### **4. Implications of the USGS analysis of slope stability at Sulphur Creek**

"That the slopes persist despite their calculated instability is due largely to the presence of tree roots, which add cohesion. Recalculation of the stability regimes assuming the presence of trees indicates that the area susceptible to failure during 10-year storms is significantly reduced."

*Source: National Marine Fisheries Service. Dr. Leslie M. Reid, USDA Forest Service Pacific Southwest Research Station*

**5. There are also numerous articles by noted geomorphologist David Montgomery et al. which provide ample evidence for the role of trees in stabilizing steep slopes.**



Figure 1 (above). Original seven trees in 2001. The two right-hand trees were removed in 2003.



Figure 2 (above). The five remaining trees in 2010 before the slide.

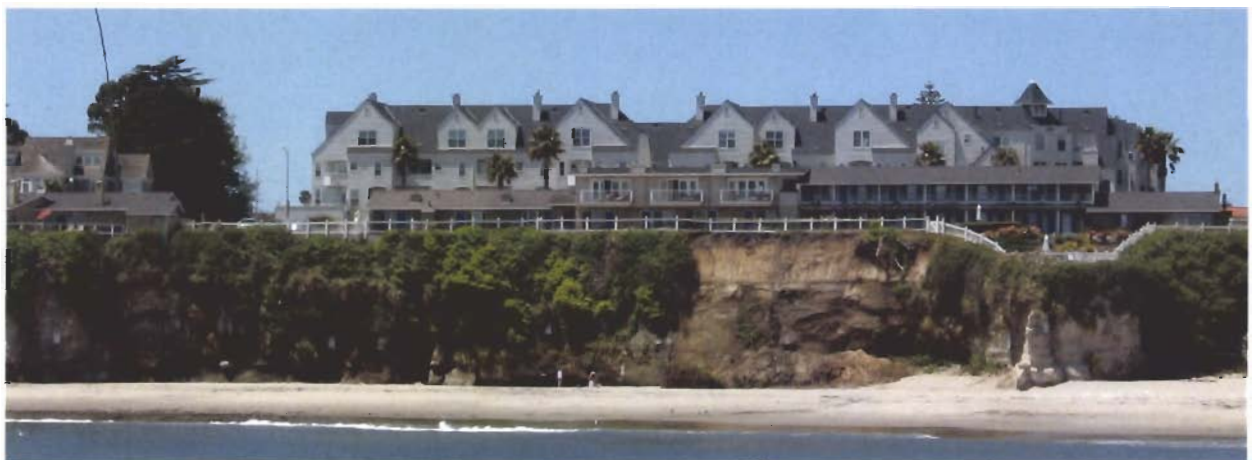


Figure 3 (above). The cliff after both the slide on January 2, 2011 and subsequent "emergency" tree removal on February 1, 2011. Note that the slide area is exactly where the first two trees were removed in 2003. There are 10 white fence posts to the east of the last tree in Fig. 2 (where the first two trees were previously located) and there are 10 white fence posts marking the full extent of the slide in Fig. 3.





Figure 4 (above). West Cliff Dr. in 2002 prior to tree removal. Note the trees conceal the Dream Inn and improve the "scenic vista" of the area.



Figure 5 (above). West Cliff Dr. in 2011 after tree removal. Note the overall decrease in "scenic vista."





**Figure 6 (above).** *The slide area and adjacent bluff face after tree removal. Geologist Kasunich claimed in 2010 that all five tree root balls were exposed on the bluff and therefore were in danger of falling. The tangle of vines and poison oak pictured are not tree root balls.*



**Figure 7 (above).** *By contrast, this picture shows what an exposed root actually looks like from a bluff in Santa Barbara, California.*

Source: [http://www.geol.ucsb.edu/faculty/sylvester/UCSB\\_Beaches/TALUS/Pine\\_Tree.html](http://www.geol.ucsb.edu/faculty/sylvester/UCSB_Beaches/TALUS/Pine_Tree.html)

## **APPLICABLE AND CITED LCP POLICIES AND STANDARDS**

**Environmental Quality Element LUP Policy 4.4.** Preserve the character and quality of brush, mixed evergreen forest, Monterey pine, redwood forest and eucalyptus habitats, as identified on Map EQ-8 by minimizing removal of trees and brush where they are an integral part of the community or habitat and requiring introduced landscaping to be compatible with the established tree and/or brush community.

**Environmental Quality Element LUP Policy 4.6.** Encourage the planting and restoration of native rather than non-native vegetation throughout the City and also in areas where plants or habitats are diseased or degraded.

**Community Design Element LUP 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.

**Community Design Element LUP 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.

**Safety Element LUP Policy 1.2.1.** For development adjacent to cliffs, require setbacks for buildings equal to 50 years of anticipated cliff retreat.

**Safety Element LUP Policy 1.2.2.** Require site specific geologic investigations for all development within 100 feet of existing coastal bluffs.

**Implementation Plan Section 24.04.187: EMERGENCY PERMITS.** Where a building permit is required as an emergency measure to protect life and property from imminent danger or to restore, repair or maintain public works, utilities or services during and immediately following a natural disaster or serious accident, any permit authorized by this title which is needed to accompany such building permits may be issued, provided that within three days of the disaster or discovery of danger the planning director is notified and a preliminary application is filed containing the nature of the disaster and the type and location of work to be performed, and that within thirty days a completed application for the necessary planning permits is filed.

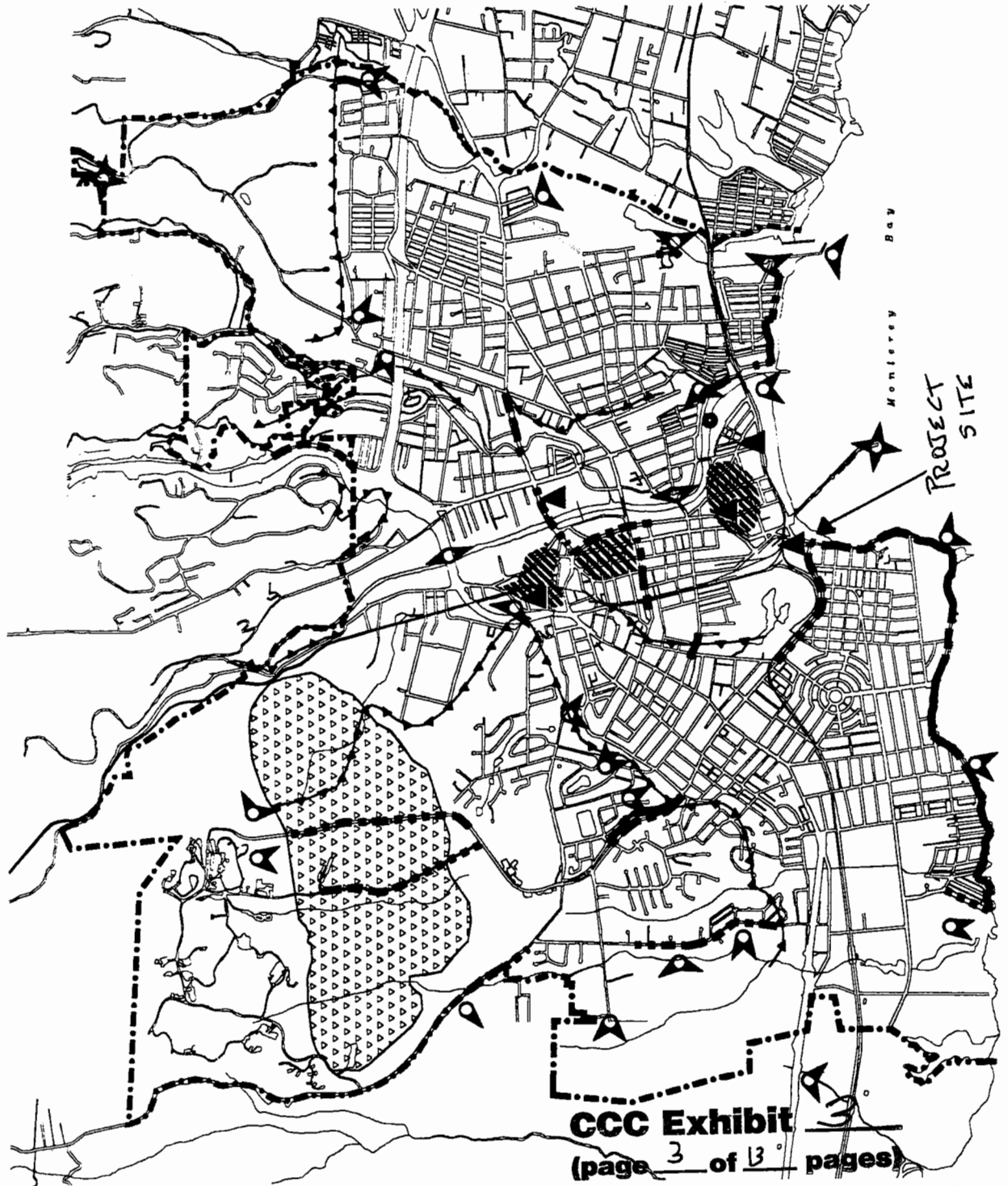
**Implementation Plan Section 24.08.230.2(C).** Coastal Exclusion Zone C is the Santa Cruz City Coastal Appeal Zone. The following categories of development are excluded from coastal development permits: 1. Signs. All signs are excluded except freestanding signs over eight feet in height and those signs governing shoreline access. 2. Bikeways. Construction of new bikeways (within existing rights-of-way), except if new construction reduces parking in the Beach Recreation or Seabright Beach Areas. 3. Exclusion of Temporary Events. Special events shall be evaluated for exclusion status by the city pursuant to Coastal Commission Guidelines for Exclusion of Temporary Events from Coastal Commission Permit Requirements (adopted May 12, 1994) in consultation with the Executive Director. The Executive Director shall retain exclusion review authority if it is determined that there are significant adverse impacts on coastal resources. 4. Temporary Structures Pursuant to Subsection (B)(7) of this Section.

**Implementation Plan Section 24.08.250: FINDINGS REQUIRED.** The hearing body must find that the development is consistent with the General Plan, the Local Coastal Land Use Plan and the Local Coastal Implementation Program and will: ... 2. Protect vegetation, natural habitats and natural resources consistent with the Local Coastal Land Use Plan...



# MAP CD-3: SCENIC VIEWS

The City of Santa Cruz, California



## LEGEND

SCENIC VALUES:



VIEWPOINTS AND PANORAMAS



VISUALLY DISTINCTIVE  
STRUCTURES



SCENIC DRIVES



URBAN SKYLINE



RIDGE SKYLINE



FOOTHILL SKYLINE

SOURCE: City of Santa Cruz  
Planning Department, 1992

0 1000 FEET

FILE: L:\TERRAIN\MAPS\GPN\CD\SCEN-EIR  
REVISED 21:58 10/27/1992

## **HERITAGE TREE ORDINANCE**

### **Heritage Tree Ordinance**

#### **Chapter 9.56\***

#### **Preservation of Heritage Trees and Heritage Shrubs**

\*Editor's Note: Prior ordinances codified herein include portions of Ords. 76-43 and 89-06.

#### **Sections:**

9.56.010 Definitions.

9.56.020 Director powers and duties.

9.56.030 Commission Powers and Duties

9.56.040 Heritage tree and heritage shrub designation.

9.56.050 Protection of heritage trees and heritage shrubs.

9.56.060 Permits Required for Work Significantly Affecting Heritage Trees and/or Heritage Shrubs

9.56.070 Right of Appeal

9.56.080 Emergencies

9.56.090 State Tree Care License Required

9.56.100 Mitigation requirements for approved and unapproved removals of heritage trees or heritage shrubs.

9.56.110 Penalty provision.

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#### **9.56.010 Definitions**

For the purpose of this chapter, the following words shall have the meaning ascribed to them in this section:

(a) "City" shall mean the city of Santa Cruz, acting by and through its authorized representatives.

(b) "Commission" shall mean the city of Santa Cruz parks and recreation commission.

(c) "Council" shall mean the city council of the city of Santa Cruz.

(d) "Damage" shall mean any action undertaken which alters the existing state of any heritage tree or heritage shrub in any way. This shall include, but is not limited to, the cutting, topping, girdling, or poisoning of any heritage tree or heritage shrub, any trenching or excavating near any heritage tree or shrub, or any action which may cause

death, destruction or injury to any heritage tree or heritage shrub, or which places any heritage tree or heritage shrub in a hazardous condition or in an irreversible state of decline.

(e) "Department" shall mean the city of Santa Cruz parks and recreation department.

(f) "Director" shall mean the director of parks and recreation of the city of Santa Cruz, or his/her designee.

(g) "Heritage shrub" shall mean any perennial woody plant or group of woody plants growing on public or private property, of relatively low height, distinguished from a tree by height and by having several stems, and meeting criteria set forth in Section 9.56.040 of this chapter.

(h) "Heritage tree" shall mean any perennial plant or grove of perennial plants growing on public or private property, having a self-supporting woody main stem or trunk usually characterized by the ability to grow to considerable height and size and the development of woody branches at some distance above the ground, and meeting criteria set forth in Section 9.56.040 of this chapter. "Heritage tree" shall not include trees planted for agricultural crops such as fruit or nut trees.

(i) "Owner" shall mean the owner of real property as shown on the most recent county assessor's roll.

(j) "Person" shall mean any individual, firm, business, partnership, association, public utility, corporation, legal entity, and/or agent, employee or representative thereof.

(k) "Private property" shall mean all property within the boundaries of the city of Santa Cruz, as shown on the most recent county assessor's roll to be owned by persons, firms or corporations other than the city of Santa Cruz or another public agency.

(l) "Prune" shall mean the cutting, trimming, detaching, separating or removing of any part of a heritage tree or heritage shrub.

(m) "Public property" shall include all property owned by any governmental agency, except those legally exempt from this chapter, within the boundaries of the city of Santa Cruz including those noncontiguous areas incorporated by the city of Santa Cruz.

(n) "Removal" shall mean the physical removal of any heritage tree or heritage shrub, or causing the death or destruction of any heritage tree or heritage shrub, through damaging, poisoning or other direct or indirect action.

(o) "Significant work" shall mean the pruning, root pruning, trimming, cutting off, removal or any action altering the physical structure or condition of any heritage tree or heritage shrub.

(p) "State tree care license" shall mean either a specialty license for performing tree maintenance on trees over fifteen feet tall, or a landscape contractor's license, both issued by the state of California.

(q) "Urban forest" shall mean a tree or group of trees, or shrub or group of shrubs, **CCC Exhibit 3**  
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including but not limited to street trees, growing on public or private property within the city limits of the city of Santa Cruz.

(r) "Utility" shall mean a public utility or private utility and includes any pipeline corporation, gas corporation, electrical corporation, telephone, telegraph or other communications corporation, water corporation, sewer system or heat corporation the services of which are performed for, or the commodity delivered to, the general public or any portion thereof.

(Ord. 94-01 § 2, 1994).

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### **9.56.020 Director Powers and Duties**

The director of parks and recreation shall be responsible for administering and enforcing this chapter. The director shall have the following powers and duties:

- (a) Grant or deny permit applications pursuant to Section 9.56.060, except in the coastal zone, where the zoning administrator shall determine the disposition of applications pursuant to Title 24, the Zoning Ordinance;
- (b) Provide technical information to assist owners in maintaining heritage trees and heritage shrubs on private property;
- (c) Abate public nuisances pursuant to Chapter 13.30 of the city of Santa Cruz Municipal Code;
- (d) Review all development and construction plans for the purpose of determining their negative impact on the urban forest;
- (e) Order the alteration or removal of hazardous trees and shrubs when they are found to pose a threat to other trees or shrubs or to the community in general, pursuant to the criteria and standards adopted by city council resolution;
- (f) Make recommendations to the parks and recreation commission pertaining to the management of the city's urban forest;
- (g) Determine mitigation requirements for approved and unapproved alterations, damage or removals of heritage trees or heritage shrubs pursuant to the mitigation requirements established by city council resolution.

(Ord. 95-30 § 1, 1995; Ord. 94-01 § 2, 1994).

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### **9.56.030 Commission Powers and Duties**

The Parks and Recreation Commission shall have the following powers and duties:

- (a) Make recommendations to the city council concerning policies, programs and

decisions relating to the city's urban forest;

(b) Grant or deny permit applications on appeal pursuant to Section 9.56.070 of this chapter.

(Ord. 94-01 § 2, 1994).

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### **9.56.040 Heritage Tree and Heritage Shrub Designation**

Any tree, grove of trees, shrub or group of shrubs, growing on public or private property within the city limits of the city of Santa Cruz which meet(s) the following criteria shall have the "heritage" designation:

(a) Any tree which has a trunk with a circumference of forty-four inches (approximately fourteen inches in diameter or more), measured at fifty-four inches above existing grade;

(b) Any tree, grove of trees, shrub or group of shrubs which have historical significance, including but not limited to those which were/are:

- (1) Planted as a commemorative;
- (2) Planted during a particularly significant historical era; or
- (3) Marking the spot of an historical event.

(c) Any tree, grove of trees, shrub or group of shrubs which have horticultural significance, including but not limited to those which are:

- (1) Unusually beautiful or distinctive;
- (2) Old (determined by comparing the age of the tree or shrub in question with other trees or shrubs of its species within the city);
- (3) Distinctive specimen in size or structure for its species (determined by comparing the tree or shrub to average trees and shrubs of its species within the city);
- (4) A rare or unusual species for the Santa Cruz area (to be determined by the number of similar trees of the same species within the city);
- (5) Providing a valuable habitat; or
- (6) Identified by the city council as having significant arboricultural value to the citizens of the city.

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(Ord. 94-01 § 2, 1994).

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#### **9.56.050 Protection of Heritage Trees and Heritage Shrubs**

No person shall allow to exist any condition, including but not limited to any one of the following conditions, which may be harmful to any heritage tree or heritage shrub:

- (a) Existence of any tree or shrub, heritage or otherwise, within the city limits that is irretrievably infested or infected with insects, scale or disease detrimental to the health of any heritage tree or heritage shrub;
- (b) Filling up the ground area around any heritage tree or heritage shrub so as to shut off air, light or water from its roots;
- (c) Piling building materials, parking equipment and/or pouring any substance which may be detrimental to the health of any heritage tree or heritage shrub;
- (d) Posting any sign, poster, notice or similar device on any heritage tree or heritage shrub;
- (e) Driving metal stakes into the heritage tree, heritage shrub, or their root area for any purpose other than supporting the heritage tree or heritage shrub;
- (f) Causing a fire to burn near any heritage tree or heritage shrub.

(Ord. 94-01 § 2, 1994).

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#### **9.56.060 Permits Required for Work Significantly Affecting Heritage Trees and/or Heritage Shrubs**

- (a) No person shall prune, trim, cut off, or perform any work, on a single occasion or cumulatively, over a three-year period, affecting twenty-five percent or more of the crown of any heritage tree or heritage shrub without first obtaining a permit pursuant to this section. No person shall root prune, relocate or remove any heritage tree or heritage shrub without first obtaining a permit pursuant to this section.
- (b) All persons, utilities and any department or agency located in the city of Santa Cruz shall submit a permit application, together with the appropriate fee as set forth by city council resolution, to the department prior to performing any work requiring a permit as set forth in subsection (a) of this section. The permit application shall include the number, species, size, and location of each subject heritage tree or heritage shrub, and shall clearly describe the scope of work being proposed and the reason for the requested action. Any supplemental reports which may be submitted by the applicant and staff are advisory only and shall not be deemed conclusive or binding on the director's findings.

- (c) An authorized representative of the department shall inspect the tree or shrub which is the subject of the application. Pursuant to that inspection, the authorized representative shall file with the director written findings.
- (d) If, upon said inspection, it is determined that the tree or shrub which is the subject of the permit application meets none of the criteria set forth in Section 9.56.040, no further action on the part of the director or the permit applicant is necessary.
- (e) If the tree or shrub which is the subject of the permit application meets any of the criteria set forth in Section 9.56.040 based upon a review of the permit application and the inspection report, then the director shall make findings of fact upon which he/she shall grant the permit, conditionally grant the permit specifying mitigation requirements, deny the permit or allow a portion of the proposed work outlined in the permit application to be done.
- (f) Where three or more heritage trees or three or more heritage shrubs are the subject of any proposed work to be performed, the director shall require that the applicant sign an agreement for preparation and submission of a consulting arborist report. As part of said agreement, the applicant shall be required to deposit with the department an amount of money equal to the estimated cost of preparing the report, as contained in said agreement.
- (g) The decision of the director shall be final unless appealed to the commission by the permit applicant or any other aggrieved person pursuant to Section 9.56.070.
- (h) The director shall issue any permit granted pursuant to this section, which permit shall be conspicuously posted near the subject(s) of the permit.
- (i) Unless appealed, the permit shall take effect ten calendar days after it is issued, except where the tenth day occurs on a Saturday, Sunday or holiday, in which case the effective date shall be extended to the next following business day.
- (j) All work performed on any designated heritage tree or heritage shrub pursuant to a permit as provided in this section shall be completed within forty-five days from the effective date of the permit, or within such longer period as the director may specify.
- (k) There shall be no fees or costs charged for permits which are limited in scope to the maintenance and repair work specified by Sections 13.30.060(b) and 15.20.210(c) of this code.

(Ord. 94-60 § 1, 1995; Ord. 94-01 § 2, 1994).

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### **9.56.070 Right of Appeal**

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- (a) Decision or Action of Director. Any person, public agency or utility aggrieved or affected by any decision or action taken pursuant to the authority of this chapter by the



director may appeal that decision or action to the commission according to the following rules and regulations:

- (1) A written notice of appeal, together with the appropriate fee as set forth by city council resolution, must be received by the secretary of the commission not later than ten calendar days following the date of the decision or action from which such appeal is being taken. If the final day for filing an appeal occurs on a weekend day or holiday, the final filing date shall be extended to the next following business day.
- (2) The appellant shall state the basis for the appeal and shall specifically cite which provision of this chapter is relied upon to support the appellant's contention that the director of parks and recreation acted in error. Any reports which may be submitted by the applicant, appellant or staff are advisory only and shall not be deemed conclusive or binding on the commission's findings. The appeal must be signed by the appellant or appellant's representative, and must set forth the mailing address to which the secretary of the commission may direct notice of a hearing.
- (3) Upon receipt of the appeal the secretary of the commission shall schedule the matter for a public hearing at the next regularly scheduled business meeting, but not sooner than ten business days after receipt. The commission shall complete its action within thirty days from the date the matter is first scheduled for public hearing, unless appellant and appellee mutually agree to extend said thirty-day period.
- (4) Notice of the public hearing shall be sent by first class mail to the permit applicant and appellant at least five calendar days prior to the meeting.
- (5) Notice of the public hearing shall be conspicuously posted by the director near the heritage tree(s) or heritage shrub(s) in question, at least ten calendar days prior to the meeting.
- (6) All notices shall include:

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- (A) The time, place and date of the public hearing;
  - (B) A brief description of the matter to be considered including a concise description of the heritage tree or heritage shrub in question, its location and scope of work being proposed;
  - (C) A brief description of the general procedure for submission of comments
  - (D) The date of the filing of the permit application and the name of the applicant.
- (7) The commission shall make findings of fact on which it bases its action. The

commission may conditionally grant the permit specifying mitigation's, deny the permit or allow a portion of the proposed work outlined in the permit application to be done.

(8) The commission shall direct the director to issue any permit granted by the commission pursuant to this section, which permit shall be conspicuously posted near the subject(s) of the permit, and maintained at the reference desk of the central branch of the Santa Cruz City/County Library.

(9) The decision of the commission shall be final unless appealed to the city council by the permit applicant or any other aggrieved person.

(10) Unless appealed, the permit shall take effect ten calendar days after it is issued, except if the tenth day occurs on a weekend day or holiday, in which case the effective date shall be extended to the next following business day.

(11) All work performed on any designated heritage shrub pursuant to a permit as provided in this section shall be completed within forty-five days from the effective date of the permit, or within such longer period as the commission may specify.

(b) Decision or Action of Commission. Any person, public agency or utility aggrieved or affected by any decision or action taken pursuant to the authority of this chapter by the commission may appeal that decision or action to the city council. All such appeals shall be made pursuant to Chapter 1.16 of the Santa Cruz Municipal Code.

(1) Members of the city council shall be exempt from the appeal fee specified in Chapter 1.16 when acting in their official capacity.

(2) The city council shall determine all questions raised on appeal pursuant to Chapter 1.16, and the decision of the city council shall be final.

(3) Permit applications denied by the city council on appeal shall not be considered for reapplication for a period of one year from the date of the city council's decision, unless:

(A) There is a significant decline in the health of the subject heritage tree or heritage shrub as certified by a licensed arborist; and

(B) Said decline in health has not been caused by the applicant or any person associated with the applicant.

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(Ord. 94-01 § 2, 1994).

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### **9.56.080 Emergencies**

In the event of an emergency whereby immediate action is required because of disease or because of danger to life or property, a heritage tree or heritage shrub may be pruned, altered or removed by order of the director, or by order of a responsible member of the police, fire or public works department. If not the director, the person ordering the pruning, alteration or removal shall file a comprehensive report immediately thereafter with the director. The director shall prepare the report if he or she orders the pruning, alteration or removal. The director shall forward copies of the report to the commission and council for their information.

(Ord. 94-01 § 2, 1994).

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### **9.56.090 State Tree Care License Required**

(a) Except as set forth in subsection (b) of this section, no person shall perform any pruning, maintenance, care or removal of any heritage tree or heritage shrub for hire within the city limits of the city of Santa Cruz without a valid state tree care license issued by the state of California.

(b) Any person who is the owner of property in the city of Santa Cruz where a heritage tree or shrub needing pruning, maintenance, care or removal is located shall be exempted from the requirements of this section requiring a state tree care license if said owner of property intends to personally perform, and subsequently does personally perform, himself or herself said needed pruning, maintenance, care or removal of said heritage tree or shrub. Said owner shall comply with all other provisions of this chapter.

(Ord. 94-01 § 2, 1994).

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### **9.56.100 Mitigation Requirements for Approved and Unapproved Removals of Heritage Trees or Heritage Shrubs**

(a) Any person who has obtained an approved conditional tree removal permit shall be required to mitigate said removal pursuant to the approved heritage tree and heritage shrub removal mitigation requirement chart adopted by city council resolution. Prior to commencing any work on a heritage tree(s) or heritage shrub(s) pursuant to an approved conditional tree removal permit, the applicant shall deposit with the city in

cash or bond all funds required pursuant to the approved heritage tree and heritage shrub removal mitigation requirement chart.

(b) Any person who alters, damages, destroys or removes any heritage tree or heritage shrub on public or private property without an approved permit issued pursuant to this chapter shall be liable to the city for the cost of replacement of said heritage tree or shrub pursuant to the unapproved heritage tree and heritage shrub alteration, damage or removal mitigation requirement chart adopted by city council resolution. In addition, all violations are subject to the penalties prescribed by Section 9.56.110 of this chapter. (Ord. 94-01 § 2, 1994).

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### **9.56.110 Penalty Provision**

Any person who personally, or through an agent, employee or representative, violates any provision of this chapter shall be guilty of a separate offense for each and every act constituting a violation of this chapter. The city attorney shall have the discretion to prosecute any violation of this chapter as either a misdemeanor or an infraction punishable by a fine of not less than five hundred dollars for a first offense and in doubling increments for each successive offense. Each person is guilty of a separate offense for each and every day during any portion of which such violation is committed, continued or permitted by such person and shall be punished accordingly. In addition, the damage, destruction or removal of any heritage tree or heritage shrub without a permit issued pursuant to this chapter shall render the owner and/or person performing the work liable for the damages set forth in Section 9.56.100(b) of this chapter. The remedies and penalties provided for herein shall be in addition to any other remedies and penalties provided by law, including the remedies and penalties provided for in Chapter 1.08 of the Municipal Code.

(Ord. 94-01 § 2, 1994).

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July 13, 2001

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Santa Cruz, California 95060

Job No. C01006-54

Re: Geologic Investigation of Sea and Sand Inn  
201 West Cliff Drive, Santa Cruz, California  
Santa Cruz County APN 004-091-21

Dear Mr. Henn:

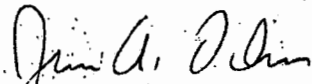
At your request, we have completed a geologic investigation of the above-referenced property. The purpose of our investigation was to determine if a remodel of the existing Sea and Sand Inn would be subject to "ordinary" risks from geologic hazards over the next 100 years, the design period stipulated by the California Coastal Commission. The potential geologic hazards at the subject site are surf erosion, slope instability, and seismic shaking. Please consult Appendix C for an explanation of the risks typically associated with seismic and non-seismic geologic hazards.

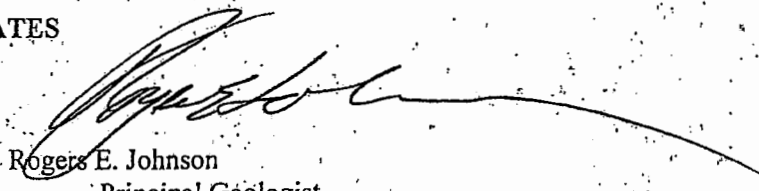
We estimate that bluff retreat at the subject property will average about 0.1 foot per year during the next 100 years, resulting in approximately 10 feet of cumulative retreat during the design period. Due to possible future variations in the retreat rate, we recommend that the foundation be designed to accommodate an additional 10 feet of potential retreat over the 100-year period. ]\*

In our opinion, the proposed remodel is geologically feasible and will be subject to "ordinary" risks, as defined in Appendix C, provided our recommendations and those of the project geotechnical engineer are followed. If a lower level of risk is desired, then the identified geologic hazards will require additional mitigation. If you have any questions or comments, please contact us at your convenience.

Sincerely,

ROGERS E. JOHNSON & ASSOCIATES

  
James A. Olson  
Project Geologist  
R.G. 7244

  
Rogers E. Johnson  
Principal Geologist  
C.E.G. No. 1016

JAO/REJ/AOA/jao/cjr

copies: Addressee (4)  
Haro, Kasunich and Associates, Inc., attn: Joseph Haro

CCC Exhibit 4  
(page 1 of 2 pages)

## GEOTECHNICAL INVESTIGATION

### Purpose

The purpose of this report is to summarize the results of our geotechnical stability evaluation for the coastal bluff fronting the Sea and Sand Inn, and to present our recommendations for foundation support for the proposed new remodel project for Building 300. The proposed project is to renovate and add a second story to Building 300 utilizing the existing building footprint. This study is specifically to address the site of the proposed project and does not include that portion of the property south of Building 300.

Rogers E. Johnson and Associates (2001) performed an evaluation of coastal bluff retreat adjacent to the existing Sea and Sand Inn. The purpose of their geologic investigation was to evaluate the process and retreat rate of bluff top recession over a 100-year period. The Rogers Johnson and Associates investigation concluded that the average rate of bluff retreat fronting the site was quite slow, about 0.1 feet per year. Because of uncertainties regarding sea level rise and short term transient conditions (earthquake slumping, extraordinary storm event, etc) they recommended an additional 10 feet of setback from the top of the bluff for a total of 20 feet of setback. Plate 1 of the RJA report provides a summary of their coastal bluff retreat evaluation and shows building envelope setback boundaries. ★

The 20-foot geologic setback boundary lies oceanward of the building units (structure) under study. For the current project (Building 300), the existing structure is askew to the

**Susan Craig**

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**From:** Rebecca Supplee [supplee831@gmail.com]  
**Sent:** Monday, January 16, 2012 5:13 PM  
**To:** Susan Craig  
**Cc:** Gillian Greensite  
**Subject:** Commission Appeal No. A-3-STC-11-076

Dear Commissioners:

This letter is for inclusion to the staff packet for Appeal # A-3-STC-11-760. I am writing in support of the appeal regarding granting of a Coastal Permit for the removal of five heritage trees on West Cliff Drive, in the City of Santa Cruz.

These majestic trees enhanced the view for the tens of thousands of people that visited the wharf, Cowell's Beach or walked on West Cliff. I wish I had the opportunity to appeal their removal before they were cut down, but because of the the misuse use of the emergency permit, the removal took place with out careful consideration, and a full range of scientific and public input.

That is precisely why I ask you to support this appeal. Is is important that the emergency permit process be used for true emergencies. The trees were taken down in the middle of winter, a time when few people used that part of the beach that would have been impacted if there was a further slide. No one was in danger because of those trees.

It could have been argued that the trees stabilized the cliff, more than compromised the cliff. It seemed that the use of "emergency" allowed a prominent business a way to remove tress that that they wanted to remove prior to this "emergency".

Thanks you for your attention to the matter.

Sincerely,

Rebecca Supplee

135 Lennox St.

Santa Cruz, CA 95060

**CCC Exhibit 5**  
**(page 1 of 3 pages)**



# RECEIVED

JAN 17 2012

California Coastal Commission  
January 17th, 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Commissioners:

I am writing in support of the appeal before you ( **Commission Appeal No. A-3-STC-11-076**) regarding the granting of a Coastal Permit for the the removal of five heritage trees at 201 West Cliff Drive in Santa Cruz. As a city council member I voted in favor of the appeal at the council level. Although the trees have been cut down, I feel it important to for you recognize that the situation prompting their removal was most likely not an emergency. It would have been more prudent to cordon off the section of beach area below the cliff( as was done on a number of prior occasions )to more carefully consider the particulars of the actual site of the bluff slide and more carefully evaluate the trees' contribution to slope stability.

As a long-time resident of the west-side of Santa Cruz, I can attest to the scenic value these trees contributed to the beauty of the coastline, particularly as seen from the Santa Cruz Municipal wharf, from the ocean, from Cowell beach and from West Cliff Drive. They were a distinctive landmark with a long history. Their absence has left us with a far less attractive section of coastline.

I hope you will support this appeal. It will send a strong message that absence a real emergency demanding immediate action, our few heritage trees on our coastline need a far higher standard of protection than was afforded these beautiful trees which are sorely missed.

Thanks for your consideration.

Respectfully,



Katherine Beiers  
Council member, City of Santa Cruz

**CCC Exhibit** 5  
(page 2 of 3 pages)

**RECEIVED**

JAN 17 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

H Reed Searle

114 Swift St

Santa Cruz, C. 9506

831-425-8721 phone and fax

17 January 2012

[hrsearle@sbcglobal.net](mailto:hrsearle@sbcglobal.net)

Re: A-3-STC-11-076

Hearing date Feb 8-10

California Coastal Commission

725 Front St

Santa Cruz, Ca 95060

Re: Appeal of Gillian Greensite

Dear Commissioners,

I write to support Appeal #A-3-STC-11-076 regarding the granting of an emergency permit to remove heritage trees on the property of the Sand and Sea Motel in Santa Cruz.

From the various reports it is quite clear that whatever the situation was, an emergency was not present. Further, it appears likely that the removal of the trees in 2003 exacerbated a potential landslide or slippage problem.

There is no reason the normal procedure for processing a request to remove the trees could not have been followed. One can only assume that the permit was granted in order to expedite the application. The process properly of processing the application may take more time but it does allow full consideration and public input—which are the purposes of the procedure.

If the Commission agrees with the appeal, then the question relates to what remedy is appropriate. Possibly the imposition of a substantial fine, if that is permitted by Commission rules, or imposition of a requirement both to strengthen the cliff edge and plant trees of substantially equal quality.

Sincerely,



H Reed Searle

**CCC Exhibit** 5  
(page 3 of 3 pages)

Th 12a

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JAN 23 2012

**FORM FOR DISCLOSURE  
OF EX PARTE  
COMMUNICATIONS**CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Name or description of project, LCP, etc.: Appeal No. A-3-STC-11-076 (City of Santa Cruz)

Date and time of receipt of communication: 1/23/12 9:15 am

Location of communication: CalFire Offices, Felton, CA

Type of communication: In-person Meeting

Person(s) initiating communication: Gillian Greensite

Person(s) receiving communication: Mark Stone

Detailed substantive description of content of communication:  
(Attach a copy of the complete text of any written material received.)

Ms. Greensite is the appellant on this emergency permit. She noted that the trees have already been removed, but remains concerned that their removal has negatively impacted the views that people have of this coastal stretch. The trees mitigated the views of development. She also stressed that the removal of trees in the past weakened the coastal bluff resulting in a significant landslide. She feels that the geology has not been adequately studied and that the removal of these trees will result in more slides along this bluff. She is asking that the Commission find substantial issue so that a complete review of the impacts of the tree removal can be accomplished and she asks that the Commission communicate with the city that this was not an appropriate use of an emergency permit as there was no actual emergency taking place.

Date: 1/23/12Signature of Commissioner: 

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred within seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used; such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

Th12a

**CALIFORNIA COASTAL COMMISSION**  
**January 31st, 2012**

**Subject: February 9, 2012 Hearing. Appeal A-3-STC-11-076** of the Santa Cruz decision granting a coastal development permit (CDP) with conditions to the Santa Cruz Seaside Company to recognize the removal of five heritage trees on the bluff at the Sea and Sand Inn at 201 West Cliff Drive in the City of Santa Cruz.

Dear Coastal Commissioners:

***Please note that this cover letter and accompanying document have been hand-delivered to Central Coast Commission staff, Susan Craig, prior to your receiving them.***

I appreciate that you have many items to consider and am grateful for your attention to this appeal.

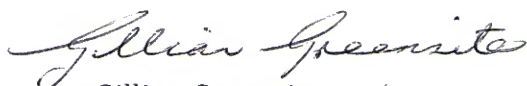
With respect to staff's conclusion that this appeal raises no substantial issues, I respectfully disagree and offer the following additional information for your better appraisal of substantial issues of concern.

The issues that need more evaluation are:

- the acceleration of future erosion and greater instability of the bluff due to the trees' removal,
- the adequacy of the city's conditions of approval with respect to future erosion and slope stability,
- the impact on public view shed.

Thank you for your consideration of this additional information and the chance to clarify issues of concern. I hope you will also review my document in the staff report, Exhibit 2, which contains much supportive evidence for this appeal.

Sincerely,



Gillian Greensite  
Appellant

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JAN 31 2012

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

*Issues to be evaluated as substantial:*

**1. FUTURE ACCELERATED BLUFF EROSION CAUSED BY THE TREES' REMOVAL**

- This coastal bluff has an erosion rate confirmed as 0.1 foot per year. As we know, erosion increments can happen all at once, as one event. This bluff failure removed 7 feet of linear surface or nearly one century's worth of marine terrace deposits in one day. This should have raised questions of possible cause beyond "ongoing normal erosion processes," since the bluff failure was confined to the spot where two trees had been removed in 2003.
- If you accept current research from geomorphologists (*Exhibit 2, pages 10 and 11 of the staff report*) that well-rooted mature trees stabilize steep slopes and their removal "greatly increases the probability of a slope failure in the future as the tree roots decompose and their soil-binding capacity declines," then the cause of such an unprecedented bluff-top failure should have been linked to the prior removal of the two mature trees in 2003.
- The total slide (which occurred in two stages) was confined *exactly* to the area of prior tree removal. *This is visually demonstrated in Exhibit 2, page 12.*
- The city's rationale for removing the remaining five trees was based largely on the statement from the applicant's geologist that, "the trees' root balls were exposed." The Coastal Commission staff report notes this as "compromised roots." I maintain in my appeal that this statement is inaccurate. *Exhibit 2 page 14.*
- To evaluate the staff report's statements on root ball exposure and compromised roots, I accompanied the city arborist to the site on Wednesday January 25<sup>th</sup> 2012. She gave me permission to summarize as follows: *with the aid of more powerful binoculars, the city arborist was able to confirm that no root balls nor root systems of the five trees were visible along the bluff. At one spot, on the western edge of the bluff, we saw one lone root, possibly two, which looked like eucalyptus but without a hands-on inspection it was not possible to state that with certainty. Other than that possibility, there were no visible roots from any of the five trees the whole length of the bluff.* (*Exhibit 1 page 26 is misleading. This poor reproduction shows pampas grass, willows and ivy*)
- Therefore one of the major reasons for removing the trees was based on an unfounded, incorrect observation by the applicant's geologist. Further inconsistencies and problems with the applicants' geologists' reports are contained in *Exhibit 2, pages 7, 8 and 9.* Statements such as "wind-loading" and "weight on the bluff edge" were never evaluated nor are consistent with modern research on trees and slope stability. *Exhibit 2, pages 10 and 11.*
- The staff report states on p. 4 that, "the City's action indicates that the trees were removed to protect another natural resource area, namely the coastal



bluff." This does not stand scrutiny. The five trees were causing no bluff problems. Please read the full comments from geologists in *Exhibit 2, pages 7, 8 and 9*. On the contrary, based on sound scientific research, the removal of the trees will cause accelerated bluff failure.

- Given the history of prior tree removal at this site, one can expect up to a century's worth of bluff failure within the next 3-10 years, directly in front of the Sea and Sand Inn and directly above Cowell Beach.
- **The issue for the Commission is whether or not this is a substantial issue and whether or not the city's Conditions of Approval are adequate to respond to this inevitable, possibly extreme bluff failure.**

## 2. CONDITIONS OF APPROVAL

### a) sprouts on old root stock

- As reviewed in your staff report page 7, the Conditions of Approval include "preserving the root balls in living condition by permitting them to sprout and maintain secondary growth on the old root stock, with annual trimming to maintain their height at about 3 to 4 feet." (This suggests a belated recognition that trees stabilize steep bluffs.)
- Root balls minus trees have no future in living condition. Allowing a few sprouts is a temporary measure at best. Even the applicant's geologist draws this conclusion as he cautions on removing the root balls once they die.
- There is no oversight of this Condition of Approval. As of writing, exactly one year after the trees' removal, some of the five stumps' sprouts have already been pruned far short of the required height and one has been stripped of leaves.

### b) erosion control plan for the bluff area of the site

- The erosion control plan referenced in your staff report, p. 7 and completed as a Condition of Approval refers only to the 2011 slide area. The future erosion of the rest of the now treeless bluff is not covered in the Conditions of Approval. It has not been analyzed. **This oversight has to be addressed by the Commission. If the bluff is now far more unstable, what options are available to address this situation? This level of deliberation can only be done at a de novo hearing.**

## 3. THE IMPACT ON PUBLIC VIEW SHED

The Commission staff report's assessment is that the removal of the five trees had a negligible impact on the public view shed given the full context of the area, including other developments and the 11-story Dream Inn Hotel. We strongly disagree with

this assessment. Many people mention how they still deliberately face the other way when eating out on the wharf in order to avoid the now ugly view. If you sail on the bay, surf, swim or paddleboard, the multi-storey white condominiums that were previously screened by the trees dominate from many vantage points. While I doubt that much can be done to remedy this loss, it should not be trivialized. The following pictures give some idea of before and after views. I hope you will also look at the pictures from *Exhibit 2 page 1* which are another view of the impact on public view shed.

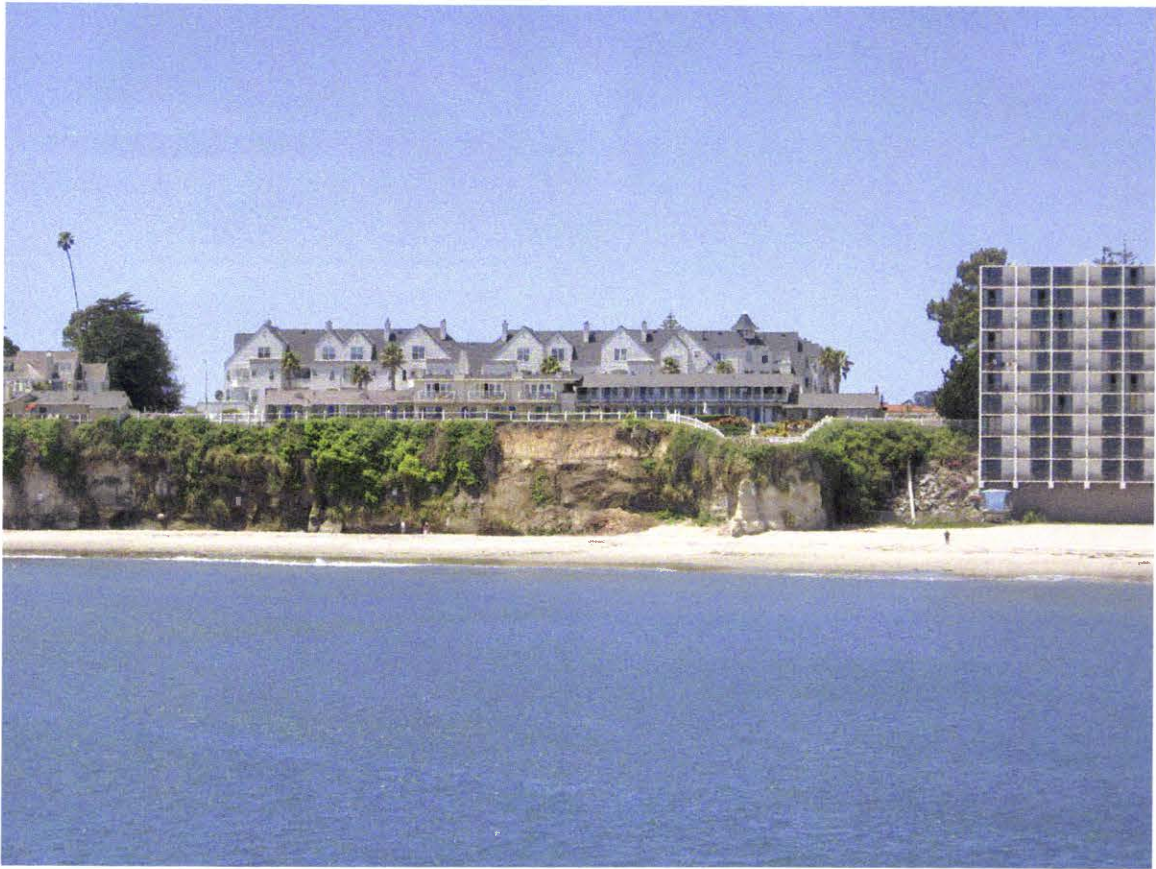


**Picture 1:** *View of part of the Dream Inn Hotel, Sea and Sand Inn and multi-story condominiums from the Santa Cruz Wharf before the 5 trees were cut down.*

**Picture 2:** *on the next page shows the same view after the trees were cut down.*

**Picture 3:** *on the next page shows the view from the mouth of the San Lorenzo river at the eastern edge of Main Beach. The trees effectively screened this view now dominated by large buildings. A similar impact can be seen from Twin Lakes State Beach outside of the city limits of Santa Cruz.*





**Picture Above:** *After the trees were cut down. Same view from the wharf.*

**Picture Below:** *View from San Lorenzo river mouth, looking across the Santa Cruz wharf.*

