

CALIFORNIA COASTAL COMMISSION

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Staff: DS-SF
Staff Report: April 30, 2004
Hearing Date: May 13, 2004

STAFF RECOMMENDATIONS AND FINDINGS FOR

CEASE AND DESIST ORDER: CCC-04-CD-06
CONSENT CEASE AND DESIST ORDER: CCC-04-CD-07

RELATED VIOLATION FILE: V-3-03-043

RESPONDENTS: Patricia Roy CCC-04-CD-06
Reilley Beach, LLC CCC-04-CD-07

PROPERTY LOCATION: Bluff and rock shelf located on APN 028-212-13, seaward of 200 Geoffroy Drive (APN 028-212-06), in the Live Oak area of Santa Cruz County.

DESCRIPTION OF PROPERTY: An approximately 52-foot portion of a bluff and rock shelf outcropping directly above the ocean on the down coast side of Black's Point and up coast of Sunny Cove beach.

PROPERTY OWNER: Reilley Beach, LLC

VIOLATION DESCRIPTION: Unpermitted construction and maintenance of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf fronting the site, and related placement of material inland of the seawall.

SUBSTANTIVE FILE DOCUMENTS: Background Exhibits A-U

CEQA STATUS: Categorically exempt (CEQA Guidelines (CG) §§ 15061(b)(2) and (b)(3), 15307, 15308 and 15321)

I. SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission approve two Cease and Desist Orders (as described below) to address development performed in violation of both the Coastal Act and an Emergency Coastal Development Permit (hereinafter "Emergency CDP"). The development includes installation of a wood-lagging seawall and inland fill on a rock shelf located directly above the ocean, and was undertaken by Ms. Roy on the rock shelf seaward of her property at 200 Geoffroy Drive, in the Live Oak area of Santa Cruz County. (See location map, Exhibit U). The rock shelf area upon which the development sits is not owned by Ms. Roy, and the development undertaken on the site was done so without the consent of the property owner. Reilley Beach, LLC is the current owner of the property upon which Ms. Roy undertook the development. The development on the site is in violation of the terms of an Emergency CDP (issued to Ms. Roy), and was ostensibly performed to replace an existing seawall that was itself installed without the benefit of a Coastal Development Permit (hereinafter, "CDP") in violation of the Coastal Act.

The Roy Cease and Desist Order

The first Cease and Desist Order (CCC-04-CD-06) would be issued to Patricia Roy, owner of property directly inland of the Subject Property, and the person who constructed and is maintaining the development, which remains on the Subject Property, without the required CDP and in violation of the terms of the Emergency CDP. Cease and Desist Order (CCC-04-CD-06) would compel Ms. Roy to remove all of the unpermitted development and restore the site.

The Reilley Consent Cease and Desist Order

The second Cease and Desist Order (CCC-04-CD-07) would be issued to Reilley Beach, LLC and is necessary because the development is located on property not owned by Ms. Roy but actually owned by Reilley Beach, LLC. Consent Cease and Desist Order CCC-04-CD-07 would ensure access to the site on which the unpermitted development is located. Consent Cease and Desist Order CCC-04-CD-07 would compel Reilley Beach, LLC, owner of the Subject Property, to provide Ms. Roy access to the bluff and rock shelf portion of APN 028-212-13 seaward of her property at 200 Geoffroy Drive, to address unpermitted development on the site as required by Cease and Desist Order CCC-04-CD-06.

Background

On December 12, 2002, Ms. Roy appeared in the Santa Cruz office of the California Coastal Commission and requested that staff issue an emergency permit for the temporary after-the-fact authorization of a seawall, the construction of which had begun 8 days prior to her request. Ms. Roy asserted that the seawall's installation

began on December 4, 2002, and that drilling into the rock shelf for the foundation of a seawall had already begun. On December 12, 2002, Commission staff, acting on behalf of the Executive Director of the Coastal Commission, issued Emergency CDP 3-02-103-G for the temporary after-the-fact authorization of the construction of a seawall and inland fill, to replace a failed seawall on the same site.

The emergency permit process does not allow time to fully review and analyze the development and ensure its compliance with the Chapter 3 provisions of the Coastal Act¹. Therefore, Section 13142 of the Commission's Regulations allows the Executive Director to condition an emergency permit to establish a deadline for the submittal of a regular coastal development permit application to retain the development. This ensures that the development constructed under an emergency permit is not retained unless and until it can be evaluated in a regular application process and it can be found consistent with all Chapter 3 policies of the Coastal Act.

Pursuant to Section 13142 of the Commission's Regulations, the Emergency CDP contained multiple conditions, each of which Ms. Roy indicated that she understood and agreed to abide by, when she signed the Emergency Permit Acceptance Form dated and received in the Commission's Central Coast Office on December 26, 2002 (Exhibit Q). These conditions included a requirement that Ms. Roy would submit a complete regular CDP application by February 10, 2003 to retain the development, or remove all the temporarily authorized development by May 11, 2003, absent an approved regular CDP authorizing the same. Commission staff granted Ms. Roy two extensions of the filing deadline for a regular CDP application (ultimately extended to April 10, 2003), and two extensions of the final removal deadline (ultimately extended to August 1, 2003)². To date however, Ms. Roy has failed to either submit a regular CDP application, or remove the development as required by the conditions of Emergency CDP 3-02-103-G. Thus, the temporary development that exists at the site is in violation of the Emergency CDP.

During research conducted after issuance of the Emergency CDP, Commission staff discovered that the original seawall itself was unpermitted³, and was apparently constructed after 1972 and therefore required a CDP⁴. The seawall is not visible in a

¹ An emergency is defined as "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services" (CCR 13009). The emergency permit process thus, by definition, allows only limited presentation and evaluation of information; demanding instead "immediate action" to respond to the emergency.

² Commission Staff also delayed Commission hearing on the enforcement action from the March hearing, as indicated in the Notice of Intent (Exhibit O), until the May hearing, in order to allow time to attempt to resolve the matter.

³ No CDP has been issued for a seawall on the Subject Property by either Santa Cruz County, or the Coastal Commission.

⁴ Proposition 20 (the Coastal Initiative) was approved by California voters in 1972, and coastal permits were required by it beginning February 1, 1973.

1972 oblique aerial photo (Exhibit E), but it is visible in a 1987 aerial photo of the site (Exhibit P). Moreover, Ms. Roy's consulting geologist, Rogers E. Johnson and Associates, indicates in his 1996 geologic report for this site that the seawall was constructed in 1983 (Exhibit B).

Moreover, the available evidence indicates that a seawall at this location would not appear to be consistent with the Coastal Act. In particular, Section 30235 allows for shoreline protection structures "when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply." The development undertaken by Ms. Roy serves none of these purposes. The apparent effect of the seawall was to support the fill, placed on the inland side of the seawall, which acts as an extension of Ms. Roy's backyard. In fact, the Commission Coastal Engineer reviewed the geologic report prepared by Ms. Roy's consultant and concluded based on that report that "the Roy residence is not now threatened by erosion. Furthermore, the existing residence should be safe from erosion for many decades." (See Exhibit L, page 2).

Staff also discovered that in fact the work authorized by the Emergency CDP had not taken place on Ms. Roy's property. On the Emergency Permit application (Exhibit K) Ms. Roy represented herself as the owner of 200 Geoffroy, Santa Cruz and also listed 200 Geoffroy, Santa Cruz as the parcel upon which the work would take place. The seawall and inland fill, constructed by Ms. Roy are located on APN 028-212-13, owned by Reilley Beach, LLC, which is located seaward of Ms. Roy's parcel.

A geologic report written by Ms. Roy's consulting geologist, Rogers E. Johnson & Associates, dated December 2, 1996 (Exhibit B)(hereinafter, "Geologic Report") and submitted by Ms. Roy with a 1997 application to Santa Cruz County to remodel the residence at 200 Geoffroy Drive (County application number 96-0398) and reviewed by Commission's senior coastal engineer (after it was received by the Commission in 2004), concluded that the worst case bank erosion scenario for the site, without the benefit of the seawall, would be approximately 0.3 feet a year on average over the long term. This would place the bank within 15 feet of the existing residence in approximately 100 years. Recent Commission actions on applications to install shoreline armoring devices in the Santa Cruz County area have indicated that the "danger" must be expected to occur relatively soon (see recently approved applications No. 3-02-107 (Podesto) & No. 3-97-65 (Motroni & Bardwell)). Where the threat time period is much longer, such as the 100 year setback buffer apparently the case here, the Commission has not found these structures to be in danger (see recently denied application Nos. 3-02-60 (Medeiros), A-3-SCO-01-116 (Black), A-3-SCO-01-117 (Banman), and A-3-SCO-01-109 (Adams), where the Commission determined that the threat was more in the range of 65, 27, 33, and 15 to 20 years (respectively)). Ms. Roy's own Geologic Report clearly finds that the house will not be in danger in the near future, and in fact may not be in

danger even in the next 100 years. Thus the existing structure at this location is not "in danger," and a seawall is not necessary or consistent with the Coastal Act.

Ms. Roy's justification for the seawall is that its maintenance was required by a condition of Santa Cruz County CDP 96-0398 issued in 1997 that required her to abide by the recommendations of the Geologic Report. Among other things, the Geologic Report recommended, "the existing seawall be properly maintained (or replaced, as necessary) to preserve future development options, as well as the back yard."⁵ Clearly the Coastal Act does not permit placement of a seawall to protect future development options or a backyard, as these do not constitute existing structures for which armoring can be allowed pursuant to 30235 and the related certified LCP sections.

In addition, Section 30253 (2) of the Coastal Act specifies that all new development shall, "Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in anyway require the construction of protective devices that would substantially alter natural landforms along the bluff and coast." The section specifically provides that no new development shall take place that 'require the construction of protective devices that would substantially alter natural landforms along the bluff and coast.' Therefore, any claim by Ms. Roy that she was undertaking the maintenance of the seawall to protect 'future development options,' fails since under 30253 these development options would not be permitted, or found consistent with the Coastal Act if they required such protective devices.

In sum, the seawall, fill, and related development at this location, undertaken by Ms. Roy, both are inconsistent with the Coastal Act and in violation of the Emergency CDP. Substantial staff time and effort has been expended in reaching an administrative resolution to this problem, but these efforts have been unsuccessful. Therefore, staff recommends that the Commission approve Cease and Desist Order CCC-04-CD-06 and Consent Cease and Desist Order CCC-04-CD-07.

⁵ This justification is invalid for several interrelated reasons. First, conditions requiring ongoing monitoring and maintenance of armoring are fairly typical. However, such conditions generally, and the County's conditions in this 1997 case specifically, do not by themselves authorize any such future development. Rather, because such development involves a risk of substantial adverse impact, applicants for same are required to apply for and be granted necessary authorizations to proceed with such work (see CCR 13252). Second, the requirement for maintenance of a seawall presupposes that the original structure either pre-dates the coastal permit requirements of Proposition 20 and the Coastal Act, or that it was permitted by a valid CDP. As seen above, neither are the case here. In other words, even if required maintenance were authorized by previous condition (which it was not), that requirement cannot somehow authorize the placement of the seawall after-the-fact. Rather, the structure's initial placement itself must be authorized.

II. HEARING PROCEDURES

The procedures for a hearing on proposed Cease and Desist Orders are set forth in section 13185 of the Commission's Regulations. For a Cease and Desist Order hearing, the Chair shall announce the matter and request that all alleged violators or their representatives present at the hearing identify themselves for the record, indicate what matters are already part of the record, and announce the rules of the proceeding including time limits for presentations. The Chair shall also announce the right of any speaker to propose to the Commission, before the close of the hearing, any question(s) for any Commissioner, in his or her discretion, to ask of any person, other than the violator or its representative. The Commission staff shall then present the report and recommendation to the Commission, after which the alleged violator(s) or their representative(s) may present their position(s) with particular attention to those areas where an actual controversy exists. The Chair may then recognize other interested persons after which staff typically responds to the testimony and to any new evidence introduced.

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

III. STAFF RECOMMENDATION

Staff recommends that the Commission adopt the following two (2) motions:

Motion #1:

I move that the Commission issue Cease and Desist Order No. CCC-04-CD-06 to Patricia Roy pursuant to the staff recommendation.

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

Resolution to Issue Cease and Desist Order:

The Commission hereby issues Cease and Desist Order number CCC-04-CD-06, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and in violation of the terms and conditions of an emergency permit.

Motion #2:

I move that the Commission issue Consent Cease and Desist Order No. CCC-04-CD-07 to Reilley Beach, LLC pursuant to the staff recommendation.

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

Resolution to Issue Cease and Desist Order:

The Commission hereby issues Consent Cease and Desist Order number CCC-04-CD-07, as set forth below, and adopts the findings set forth below on grounds that development has occurred without a coastal development permit and in violation of the terms and conditions of an emergency permit.

**IV. RECOMMENDED FINDINGS FOR CEASE AND DESIST ORDER
CCC-04-CD-06 and CONSENT CEASE AND DESIST ORDER CCC-04-CD-07**

Staff recommends the Commission adopt the following findings of fact in support of its actions.

A. History of Commission Actions on Subject Property

On December 6, 2002, Commission staff received a report that drilling and construction activities were occurring on the rock shelf seaward of the Roy residence at 200 Geoffroy Drive. On December 6, 2002 Commission staff conducted a site visit to the rock shelf and directed the workers present, who were employed by Ms. Roy, to cease work unless and until a CDP had been issued for the work. Staff followed up this conversation (with the workers onsite) with numerous calls to the project supervisor to ensure that work on the site had stopped.

On December 12, 2002, Ms. Roy came to the Commission's Santa Cruz office where Commission staff confirmed with her that all work on the site had stopped. At that time, Ms. Roy requested an application for an Emergency CDP. Ms. Roy then submitted a request for an after-the-fact Emergency Permit to construct a wood-lagging

seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf at this site. At this time she informed Commission staff that work on the seawall had already started, but that the seawall itself was not yet complete. Ms. Roy agreed to have all construction stopped until she had obtained an Emergency CDP. On the Emergency CDP application, Patricia Roy indicated that she owned the property upon which the development took place. (See Exhibit K)

Based on Ms. Roy's representations regarding the site on December 12, 2002, Commission staff issued Emergency Permit No. 3-02-103-G to Patricia Roy, with 12 conditions of approval. (See Exhibit A). The relevant conditions of the permit state:

Condition 1: The enclosed emergency permit acceptance form must be signed by the owner(s) of the property where the emergency work authorized in this permit is located and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by December 27, 2002). This emergency permit is not valid unless and until the acceptance form has been received in the Central Coast District Office.

Condition 4: The measures authorized by this permit are only temporary. Within 60 Days of the permit (i.e., by February 10, 2003) the permittee shall submit a complete application for a regular coastal permit to have the emergency work be considered permanent. The emergency work shall be removed in its entirety within 150 days of the date of this permit (i.e., by May 11, 2003) unless before that time the California Coastal Commission has issued a regular permit for the development authorized by this emergency permit.

Condition 11: Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.

Condition 12: The issuance of this emergency permit does not constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit and shall not be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

At the time of issuance, staff also made it clear to Ms. Roy that the Emergency CDP was for temporary authorization only, and that unless a regular CDP was approved, the development would have to be removed. The Emergency CDP states as follows:

As noted in Condition 4 above, the emergency work carried out under this permit is at the applicant's risk and is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a coastal development permit (or

waiver thereof) must be obtained. A regular permit is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

B. History of the Violation

After the Emergency CDP had been issued, staff discovered that the failed seawall, to which Ms. Roy referred in her emergency permit request, was constructed without the benefit of a Coastal Development Permit. Exhibit E, a 1972 oblique aerial photo of the site clearly shows that the seawall was not in existence. According to Ms. Roy's 1996 Geologic Report, the original seawall was constructed in 1983. The report, conducted by Rogers E. Johnson & Associates, repeatedly makes reference to construction of the seawall in 1983 (see pages 22 & 28, Exhibit B). The site plans included in the Geologic Report also place the date of poured concrete in the area of the seawall as November 8, 1983. Air photos from 1987 confirm the existence of the seawall at that time (Exhibit P). Thus the seawall was constructed *after* a CDP was required for it, and *without* the benefit of a CDP from either the Santa Cruz County or the Coastal Commission in violation of the Coastal Act's permitting requirements.

On December 19, 2002, Commission staff sent Ms. Roy a follow up letter (Exhibit F) via certified mail, reaffirming that the development authorized by the Emergency CDP was *temporary* and that a regular CDP would be required to retain the development as a permanent structure. This letter reiterated the Emergency CDP's deadlines for submittal of a complete (i.e., filed) regular CDP application (by February 10, 2003), and for removal of the temporary development by May 11, 2003 absent an approved regular CDP authorizing it. On January 21, 2003, Commission staff sent an additional letter to Patricia Roy regarding a complaint that concrete and debris were left over from the emergency repair work on her seawall and reminding her of the February 10, 2003 deadline to submit a complete regular CDP application (Exhibit G).

On January 23, 2003, Patricia Roy informed Commission staff that she had spoken with Tim Reilley, Manager of Reilley Beach, LLC, on whose property the seawall was actually located, and that he had agreed to be her co-applicant on the CDP application. On February 7, 2003, three days before the follow-up CDP application was due, Ms. Roy requested and was granted a one-month extension of this deadline to allow her to coordinate with Mr. Reilley and to develop the necessary application materials (Exhibit H). On February 25, 2003, a second one-month extension of the CDP application deadline was requested and granted (extended to April 10, 2003) (Exhibit I), because one of Ms. Roy's consultants was unavailable to conduct the necessary site evaluation. The extension was also granted because Mr. Reilley was concerned that the construction

of the seawall would conflict with the original terms of his purchase agreement for the Subject Property, regarding prohibited structures on the rock shelf⁶.

No application was submitted by April 10, 2003, and the May 11, 2003 deadline for removal absent a regular CDP, was also not met. On June 4, 2003, Ms. Roy informed Staff that her attempts to gain Reilley's consent for pursuing the project had failed and that the project was no longer moving forward. On June 12, 2002, staff informed Ms. Roy that the unpermitted development needed to be removed and extended the deadline for removal until July 11, 2003 (an additional 60 days past the May 11, 2003 Emergency CDP removal deadline) to allow Ms. Roy time to address the underlying issues. On July 1, 2003, having been informed by this time by Ms. Roy's representatives that the underlying property ownership issues could not be resolved, Commission staff informed Ms. Roy and Reilley Beach, LLC by certified mail (Exhibit J) that removal of the seawall was necessary. In this letter, staff requested a removal plan and extended the removal deadline a second and final time from July 11, 2003 to August 1, 2003.

As previously stated, Ms. Roy has not complied with the conditions of the Emergency Permit. She has failed to submit a regular CDP application and has failed to remove the seawall and inland fill, as required by conditions of the Emergency Permit. Accordingly, the seawall and fill on the Subject Property constitutes unpermitted development that is being maintained on the property, constituting a knowing and intentional violation of both the Coastal Act and Emergency Permit.

Although Commission staff has spent a great deal of time on this matter, and has worked out an agreement with Reilley Beach, LLC (Consent Cease and Desist Order CCC-04-CD-07), staff has been unable to obtain voluntary compliance with the Coastal Act from Ms. Roy, necessitating that Cease and Desist Order CCC-04-CD-06 be issued by the Commission to resolve this ongoing violation of the Coastal Act.

Notice of Intent to Commence Cease and Desist Order Proceedings

As noted above, the efforts to compel Ms. Roy to submit a regular CDP application to retain the development temporarily authorized by an after-the-fact Emergency CDP, or to remove the development as required by the Emergency Permit, were unsuccessful. Therefore, on January 23, 2004, the Executive Director of the California Coastal Commission sent a *Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings* (hereinafter, 'NOI') to Patricia Roy and Reilley Beach, LLC (Exhibit O).

⁶ On May 24, 2000, Timothy & Diana Reilley signed a Restriction Agreement for APN 028-212-13, the property subject to these Cease and Desist Orders. The Restriction Agreement stated that, "no temporary or permanent building or structure, including but not limited to any house, cabin, cabana, hut, shed, or cottage shall be built or placed on the Property for the purpose of human habitation or that would permit human habitation of any kind." Whether or not this Restriction Agreement actually applied to this development is not relevant at all to this proceeding.

This NOI was sent pursuant to Section 13181, Title 14, Division 5.5 of the California Code of Regulations.

The NOI states:

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order and Restoration Order for development (as defined by section 30106 of the California Coastal Act below) that was undertaken without a permit required under Section 30600 of the Coastal Act (California Public Resources Code sections 30000, et seq). The unpermitted development consists of construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf. This development is located on the bluff and rock shelf area fronting 200 Geoffroy Drive, Santa Cruz, CA 95062-4935 (APN # 028-212-006) in the unincorporated Live Oak area of Santa Cruz County (hereinafter "the site"). According to Coastal Commission records, Patricia Roy obtained an emergency permit for the temporary approval of the unpermitted development on December 12, 2002. At that time Patricia Roy indicated that she owned the property where she proposed to place, on a temporary basis, the subject shoreline protective device. After further investigation by Coastal Commission staff, the unpermitted development was determined to be located on property owned by Reilley Beach, LLC. This letter is also being sent to Mr. Timothy Reilley individually, and as the representative of Reilley Beach, LLC (hereinafter "Timothy Reilley" "Tim Reilley" or "Reilley Beach, LLC").

*In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you each have the opportunity to respond to the Commission staff's allegations as set forth in this Notice of Intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's San Francisco office... no later than February 13, 2004.***

On February 17, 2004, Commission staff received a Statement of Defense from Joel E. Donahoe, Esq., counsel for Ms. Roy, in response to the NOI (Exhibit R). These defenses and Commission staff's response to those defenses are addressed in Section G of this Staff Report.

C. Description of Unpermitted Development

The development that is the subject to these Cease and Desist Orders include the unpermitted construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled 6-10 feet deep into the sandstone rock shelf and placement of fill on the inland side of the seawall. The unpermitted development is located on a bluff

and rock shelf directly above the ocean on APN 028-212-13, seaward of Ms. Roy's property at 200 Geoffroy Drive.

D. Basis for Issuance of Cease and Desist Order

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

- (a) If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the Commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material...*

The following paragraphs set forth the basis for the issuance of the Cease and Desist Order by providing substantial evidence that the development meets all of the required grounds listed in Section 30810 of the Coastal Act for the Commission to issue a Cease and Desist Order.

Development Has Occurred That Is Inconsistent with a Coastal Development Permit

Emergency Permit 3-02-103-G, issued to Ms. Roy on December 12, 2002, specifically required that the development temporarily authorized by that permit be removed by May 11, 2003, absent the approval of a regular CDP. Despite two extensions to the permit application deadline and two additional extensions of the removal deadline, to this date, Ms. Roy has neither submitted a regular CDP application nor removed the development. The continuing, unpermitted presence of the development on the site represents a clear violation of the terms of the Emergency CDP.

Development Has Occurred without a Coastal Development Permit

The unpermitted activity that is the subject of these Cease and Desist Orders clearly satisfies the definition of "development" contained in Section 30106 of the Coastal Act. This definition includes but is not limited to: the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; or change in the density or intensity of the use land. In this case, the unpermitted shoreline protective device, including all associated development (see

above description of all unpermitted development) is "development" as defined by Section 30106.

Pursuant to Section 30600(a) of the Coastal Act, "development" requires a coastal development permit. In this case, no coastal development permit has been issued for the construction of the unpermitted development. The subject unpermitted development is also not exempt from the Coastal Act's permitting requirements.

The unpermitted development on the subject property, which is located in the coastal zone, is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a Coastal Development Permit. According to County and Commission records, no Coastal Development Permit applications were filed seeking permanent authorization to maintain the above-described development on the subject property. Emergency CDP No. 3-02-103-G granted authorization for the temporary construction of the seawall, and specifically required removal of the seawall by May 11, 2003 absent a regular CDP. Because there is no regular CDP authorizing the seawall, it exists without the benefit of a CDP and is in violation of the California Coastal Act's permitting requirements.

Development is Inconsistent with Resource Policies of the Coastal Act

The Commission does not have to find that the unpermitted development is inconsistent with the Chapter 3 Policies of the Coastal Act to issue Cease and Desist Orders (Section 30810). This section is provided for background and informational purposes.

Although Ms. Roy has not submitted a CDP application, which would include an analysis of the site (including geologic and engineering reports), and staff was therefore not able to do a full and complete analysis regarding consistency with all the policies contained in Chapter 3 of the Coastal Act, a brief review of the subject development and Chapter 3 indicates that the unpermitted development, as constructed, is unlikely to be found consistent with a number of the Coastal Act sections, including but not limited to, Sections 30235, 30251, and 30253, discussed herein.

In addition, the unpermitted development and the development that is inconsistent with Emergency CDP 3-02-103-G also raises questions about consistency with Sections 30210 (maximum public access), 30211 (development not interfering with access), 30212 (public access requirements), 30213 (protection of lower cost visitor and recreational facilities), 30220 (protection of water-oriented recreational activities), 30221 (recreational uses), 30223 (upland areas supporting coastal recreational uses), 30235 (shoreline protective devices permitted to protect existing structures under certain circumstances), 30240 (protection of environmentally sensitive habitat and recreation areas and adjacent

areas), 30251 (protection of scenic and visual qualities), and 30253 (natural landform alteration) of the Coastal Act.

1. Shoreline Protective Devices

Section 30235 States, in part:

Revetments, breakwaters, groins, harbor entrances, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

As previously described, the development undertaken by Ms. Roy appears to be inconsistent with Section 30235. The residence that Ms. Roy purports to protect with the unpermitted seawall is not currently in danger from erosion. Ms. Roy's own Geologic Report concludes that '[t]he rates of bluff retreat at this location are relatively low,' and 'the risk to the existing building foot print is thus low.' (See Exhibit B) Based on a review of the Geologic Report, the Commission's Coastal Engineer further concluded that, '[t] here is nothing in the provided material that indicates that this wall is necessary to protect existing development from erosion. If the wall is removed, the existing residence will not be placed at risk from erosion. In several decades, the existing residence may eventually be at risk from erosion, and if there is still development on this property it may be appropriate then for the property owner to consider some type of shore protection.' (emphasis added)(See Exhibit L) Therefore, it appears that a seawall is, at a minimum, premature at this time, and that any proposal for a shoreline-armoring device for this site now would be inconsistent with the Coastal Act.

2. Scenic and Visual Resources

Section 30251 of the Coastal Act states, in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of the surrounding areas, and, where feasible, to restore and enhance the visual quality in visually degraded areas...

In the discussion of the property location of the Santa Cruz County Permit #96-0398, issued for the remodeling of the existing residence on 200 Geoffroy Drive, the County described the site as, 'located within the County's designated "Scenic" corridor in that it is visible (minimally) from the local beach and coastal bluff area of Sunny Cove.' From

photos of the site it appears that the seawall is highly visible and incompatible with its surroundings (See photographs, Exhibits N, S). The design of the project, which required the drilling of eight holes, 18 inches in diameter, to a depth of 6-10 feet, clearly does not meet the requirement that development be designed to minimize alteration of natural landforms (See photograph, Exhibit T).

3. Minimizing Adverse Impacts

Section 30253 of the Coastal Act states, in part:

New development shall:

...

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along coastal bluffs.

Since the seawall is not needed to protect Ms. Roy's residence, it appears the effect it has is to expand the backyard through the installation of fill placed on the inland side of the seawall. The placement of a seawall itself to protect a newly expanded backyard area violates Section 30253's provision that any new development should not require the 'construction of protective devices that would substantially alter natural landforms along coastal bluffs.' It is inconsistent with section 30253 to construct a seawall to support and/or protect a new backyard area.

E. California Environmental Quality Act (CEQA)

The Commission finds that issuance of a cease and desist order to compel compliance with the Coastal Act and Emergency Permit No. 3-02-103-G is exempt from any applicable requirements of the California Environmental Quality Act (CEQA) of 1970 and will not have significant adverse effects on the environment, within the meaning of CEQA. The Cease and Desist Order is exempt from the requirement for the preparation of an Environmental Impact Report, based on Sections 15061 (b)(2) and (b)(3), 15307, 15308 and 15321 of the CEQA Guidelines.

F. Allegations

1. Patricia Roy is the owner of 200 Geoffroy Drive (APN 028-212-06), directly inland of the subject property where the unpermitted development is located.

2. Reilley Beach, LLC owns the bluff and rock shelf where the unpermitted development is located (APN 028-212-13). This property is located directly seaward of Ms. Roy's property.
3. A seawall and related development were originally installed without benefit of a coastal permit in the time since coastal permits were required (i.e., since February 1, 1973) in violation of the Coastal Act's permitting requirements.
4. Patricia Roy constructed the following development on the Subject Property: Installation of a wood-lagging seawall anchored by steel I-beams, set in concrete caissons drilled into the sandstone rock shelf, and placement of fill material inland of the seawall.
5. Patricia Roy received Emergency CDP 3-02-103-G, temporarily authorizing the development on the subject property. Section 13142 of the Commission's Regulations and Condition No. 4 of Emergency Permit 3-02-103-G required Ms. Roy to apply for a regular coastal development permit (if she intended to retain the temporary development undertaken by the Emergency CDP), or remove the development.
6. Condition No. 4 of Emergency CDP 3-02-103-G required Ms. Roy to remove all development temporarily authorized by the Emergency CDP, absent a regular CDP approving it by May 11, 2003. Ms. Roy received two extensions of the application filing deadline set forth in the Emergency CDP for a regular CDP and two extensions of the deadline for removal of the unpermitted development. To date, Ms. Roy has not submitted a CDP application nor has she removed the unpermitted development. Therefore she is in violation of the conditions of the Emergency CDP.
7. Patricia Roy and Reilley Beach, LLC are maintaining unpermitted development, as defined by Coastal Act Section 30106, at the Subject Property, consisting of a shoreline protective device, which includes the wood-lagging seawall, anchored by concrete caissons drilled 6-10 ft into the rock shelf, and placement of fill on the inland side of the seawall.
8. Neither Patricia Roy nor Reilley Beach, LLC has applied for nor been granted a CDP for the above-described development and consequently, no CDP has been issued. Therefore, the development is a violation of the Coastal Act.
9. The unpermitted development 1) is considered development as defined by Section 30106 of the Coastal Act, 2) is located in the Commission's

original jurisdiction, and 3) requires a CDP from the Commission. There are no exemptions in either the Coastal Act or the Commission's Regulations that would authorize the unpermitted development without a CDP.

10. The unpermitted development and the development that is inconsistent with Emergency CDP 3-02-103-G appears to also be inconsistent with the resource protection policies of Chapter 3 of the Coastal Act as discussed herein, including Sections 30210, 30211, 30212, 30213, 30220, 30221, 30223, 30235, 30240, 30251, and 30253.

G. Violators' Defenses and Commission's Response

In response to the Commission allegations set forth in the January 23, 2004 Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings, Ms. Roy submitted a Statement of Defense on February 13, 2004. Mr. Reilley has agreed to a Consent Order and has waived his legal defenses (as demonstrated in the signed Consent Order, Exhibit M). The following section presents Ms. Roy's defenses and the Commission's response to each defense.

Roy's Defense:

1. On December 12, 2002, Ms. Roy did not represent herself as the owner of the rock shelf upon which she was applying for an Emergency Permit to construct a seawall.

Commission Response:

On the emergency permit application form Ms. Roy represented herself as the owner of 200 Geoffroy Drive, Santa Cruz. Ms. Roy also listed 200 Geoffroy Drive as the location where the emergency work would take place. Condition 1 of Emergency CDP 3-02-103-G requires that an "emergency permit acceptance form must be signed by the owner(s) of the property where the emergency work authorized is located." Ms. Roy subsequently signed the emergency permit acceptance form, indicating that she understood and agreed to abide by this (and other) conditions, and indicating that she was the "property owner or authorized representative" (Exhibit Q). The effect of the application and the subsequent acceptance of the Emergency CDP in this manner was to represent herself as the owner of the property in question. In fact the work was performed on the rock shelf seaward of Ms. Roy's property, on a parcel currently owned by Reilley Beach, LLC.

By applying for an emergency permit Ms. Roy represented that an emergency existed at this location that threatened her residence. Pursuant to CCR Section 13009, an

emergency is defined as "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." Under such circumstances, there is no opportunity for Coastal Commission staff to perform a formal review of property ownership or other issues.

More importantly, the ownership of the underlying property has little bearing on the violation itself or resolution thereof. Ms. Roy, as the party to whom Emergency CDP 3-02-103-G was issued, and the party who undertook the development temporarily authorized by 3-02-103-G, is also bound by all terms and conditions of the Emergency CDP, including the requirement that all development be removed absent a regular CDP. Moreover, Section 30810 of the Coastal Act provides that cease and desist orders may be issued to any person who undertakes either unpermitted development or development inconsistent with a permit. Ms. Roy qualifies under both grounds for issuance of a cease and desist order.

Roy's Defense:

2. Patricia Roy did not tell Commission staff that the wall was present when she acquired the property, nor did she represent that she purchased the property in the late 1980s.

Commission Response:

The date of the seawall's original construction is not a contested issue in this matter. As noted above, evidence indicates that the wall was constructed after passage of the Coastal Act, and therefore required a CDP. Thus any seawall that existed on the property prior to approval of the Emergency CDP did not have the required regular CDP authorization, and therefore was constructed in violation of the Coastal Act. The date of purchase of Ms. Roy's property is also not relevant to this proceeding to address unpermitted development she undertook in 2002.

Roy's Defense:

3. No debris related to the construction of the seawall was left on the rock shelf after installation was complete.

Commission Response:

Cease and Desist Order CCC-04-CD-06 does not address debris related to the construction of the seawall. The order is intended to address the seawall and fill installed by Ms. Roy seaward of her property at 200 Geoffroy Drive, and any related development installed without a CDP that it was designed to replace. The subject

development currently exists without the benefit of regular CDP and in violation of the terms and conditions of an Emergency CDP.

Roy's Defense:

4. Ms. Roy was obligated to maintain the seawall based on the conditions of Permit 96-0398 issued by the County of Santa Cruz.

Commission Response:

The 1997 permit to which Ms. Roy refers was a County-issued permit for the remodeling of the current residence at 200 Geoffroy Drive. The construction and/or maintenance of the seawall are not addressed in the permit itself. Ms. Roy's assertion that she was obligated to maintain the seawall is based on Conditions II. (K) & IV. (B) of the permit.

The conditions state that:

II. (K) Comply with the recommendations (those pertinent to this project) in the Rogers Johnson & Associates Geologic Report dated December 2, 1996.

IV. (B) Comply with the recommendations in the Rogers Johnson & Associates Geologic Report dated December 2, 1996.

The Geologic Report referred to in the permit to remodel Ms. Roy's house also contained a recommendation that she maintain the seawall 'to preserve future development options, as well as the back yard.' Any such recommendation to maintain this seawall structure does not confer on it CDP authorization for placement of the wall in the first place, nor does it confer CDP authorization for any such maintenance.

First, conditions requiring ongoing monitoring and maintenance of armoring are fairly typical. However, such conditions generally, and the County's conditions in this 1997 case specifically, do not by themselves authorize any such future development. Rather, because such development involves a risk of substantial adverse impact, applicants for same are required to apply for and be granted necessary authorizations to proceed with such work (see CCR 13252). Second, the requirement for maintenance of a seawall presupposes that the original structure either pre-dates the coastal permit requirements of Proposition 20 and the Coastal Act, or that it was permitted by a valid CDP. As noted above, neither are the case here. In other words, even if required maintenance were authorized by a previous condition (which it was not), that requirement cannot recognize the placement of the seawall after-the-fact. Rather, the structure's initial placement itself must be authorized.

In addition, this report does not conclude that the seawall's maintenance was necessary for the protection of the house, which was the only subject of the County permit. The conditions clearly required only that Ms. Roy comply with the recommendations 'pertinent to this project.' Statements about possible future application are clearly not pertinent to that Permit.

Finally, the Coastal Act also does not provide for the maintenance or construction of seawalls to 'preserve future development options' or for preservation of a backyard area. Section 30235 specifically states that shoreline protective devices are permissible only when they are required for the protection of 'coastal-dependent uses, or to protect existing structures or public beaches.' The stated purpose for the seawall's maintenance as given in the Geologic Report is thus inconsistent with the Coastal Act, and cannot constitute legal authorization for development that is inconsistent with the Coastal Act.

Roy's Defense:

5. Ms. Roy is "powerless" to do anything about the seawall because it is not on her property.

Commission Response:

Ms. Roy's assertion that she is "powerless" to rectify the violation of the Coastal Act because the subject development is not located on her property does not in any way excuse Ms. Roy from her responsibility to resolve violations of the Coastal Act that are the result of her actions. Ms. Roy was aware of all the conditions of Emergency CDP 3-02-103-G and agreed to abide by them (Exhibits A & Q). Her failure to comply with those conditions represents a knowing and intentional violation of the Emergency CDP and the Coastal Act, and Section 30810 of the Coastal Act provides for issuance of a Cease and Desist Order to persons who perform unpermitted development or development in violation of permit conditions.

Moreover, in an attempt to resolve the situation and assist in facilitating the removal of the seawall, Commission staff is recommending the issuance of Consent Cease and Desist Order CCC-04-CD-07, instructing Reilley Beach, LLC, the owner of the parcel upon which the seawall was built, to allow Ms. Roy access to the site for the expressed purpose of removing the unpermitted development located there and restoring the site.

Roy's Defense:

6. 'The seawall is appropriate and sound in all respects, and its approval is ultimately being prevented only by an inexplicable lack of cooperation by the Reilley Beach, LLC.'

Commission Response:

As stated above, and communicated to Ms. Roy's representatives on numerous occasions, the seawall does not appear consistent with the Coastal Act. Even if Ms. Roy were to acquire the property from Reilley Beach, LLC, and submit a complete CDP application, a seawall project for the site is not likely be found consistent Chapter 3 of the Coastal Act, given the facts as described by Ms. Roy's Geologic Report, that the current rate of erosion on the site would not put the existing residence in danger for 100 years. (See discussion in Section D above). Furthermore, Ms. Roy created this situation because she apparently failed to obtain permission from the property owner prior to constructing the seawall that was authorized in the Emergency Permit.

Roy's Defense:

7. Ms. Roy states that she attempted to work out an agreement with Reilley Beach, LLC, but her failure to do so has prevented resolution of the violation.

Commission Response:

Commission staff granted Ms. Roy four deadline extensions to allow her to negotiate with Reilley Beach, LLC. By Ms. Roy's own account, negotiations broke down in May of 2003, and since that time she has had not further contact with Reilley Beach, LLC. Knowing that negotiations had broken down, Commission staff extended the final deadline for removal of the wall from May 11, 2003, as specified in the Emergency CDP, until August 1, 2003.

It should also be noted that Ms. Roy's failure to reach an agreement with Reilley Beach, LLC to pursue a CDP in no way excuses her from her obligations under the Emergency CDP, which specifically required her to remove the development absent approval of a regular CDP by May 11, 2003.

Roy's Defense:

8. Patricia Roy was not aware that Reilley Beach, LLC owned the rock shelf under the seawall until late December, after she had submitted her Emergency CDP application.

Commission Response:

The time at which Ms. Roy became aware of who was in fact the owner of the property upon which she constructed the development is neither a contested issue here nor relevant to the need for issuance of the Cease and Desist Order. However, Ms. Roy's

Statement of Defense indicates that she knew in 1997 that the seawall was not on her property (Exhibit R, pg. 3). Thus, Ms. Roy knew, but did not disclose, at the time of issuance of the Emergency CDP in 2002 that she was not the property owner of the parcel upon which the development would take place. There is also no dispute about the fact that Ms. Roy obtained the Emergency CDP, and built the seawall and placed the related fill materials.

Roy's Defense:

9. "The Coastal Commission's assertion that Patricia Roy has violated the Coastal Commission Act (sic) in fact arise (sic) from Patricia Roy's diligent efforts to abide by the Coastal Commissions requirements."

Commission Response:

As previously stated, Commission staff's assertion that Ms. Roy violated the Coastal Act arises from Ms. Roy's failure to comply with the terms and conditions of an Emergency CDP, and her maintenance of unpermitted development, without the benefit of a CDP. Ms. Roy has not, in fact, made a diligent effort to remove the seawall. It should also be noted that Ms. Roy did not apply for an Emergency CDP prior to beginning work on the site. Ms. Roy submitted an Emergency CDP application only after staff investigated a report of drilling on this site, and discovered that the development was unpermitted.

H. Actions in Accordance with Authority Granted to Commission and Staff

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

- (a) *If the Commission, after public hearing, determines that any person...has undertaken, or is threatening to undertake, any activity that 1) requires a permit from the Commission without first securing the permit or 2) is inconsistent with any permit previously issued by the Commission, the Commission may issue an order directing that person...to cease and desist.*
- (b) *The cease and desist order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with this division, including immediate removal of any development or material or the setting of a schedule within which steps shall be taken to obtain a permit pursuant to this division.*

The procedures for the issuance of Cease and Desist Orders are described in the Commission's regulations in Sections 13180 through 13188 of Title 14 of the California Code of Regulations. Accordingly, the purpose of Cease and Desist Order CCC-04-CD-06 is to order Patricia Roy to cease from conducting and maintaining unpermitted

development on the subject property, and to remove the unpermitted seawall, fill, and related development on the subject property. In addition, Consent Cease and Desist Order CCC-04-CD-07 will compel Reilley Beach, LLC to take steps to ensure compliance with the Coastal Act, by providing access to Ms. Roy to perform the work set forth in CCC-04-CD-06.

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

Cease and Desist Order CCC-04-CD-06, Patricia Roy

Consent Cease and Desist Order CCC-04-CD-07, Reilley Beach, LLC

Cease and Desist Order CCC-04-CD-06, Patricia Roy

I. Terms and Conditions

Pursuant to its authority under Public Resources Code Section 30810, the California Coastal Commission hereby orders and authorizes Patricia Roy, as the person performing the development on the property adjacent to 200 Geoffroy Drive, (described more fully in Section III below, and hereinafter referred to as "Subject Property"), her agents and employees and any persons acting in concert with the foregoing (hereinafter referred to as "Respondent") to:

- 1.1 Within 60 days of issuance of Cease and Desist Order, Roy shall submit for the review and approval of the Executive Director a plan to remove the unpermitted development from the bluff and rock shelf area on the Subject Property (hereinafter, "Removal Plan"). The Executive Director's approval shall indicate whether Removal Scenario One or Two (as described below in Section 1.2) shall be implemented. The Removal Plan shall include the removal of the wood-lagging seawall, the portion of the concrete caissons and steel I-beams (as specified in Section 1.2, below), and the fill placed on the inland side of the seawall. The Removal Plan shall include grading plans showing original and finished grades and a quantitative breakdown of grading amount (cut/fill), drawn to scale with contours that clearly illustrate the original topography of the subject property in its pre-violation condition.

The Removal Plan shall identify all equipment to be used during the removal process. Removal work shall be done with hand tools whenever possible. Mechanized equipment shall be used only in instances deemed necessary by a licensed civil engineer. At no time during the implementation of the Removal Plan shall any material, including but not limited to mechanized equipment, hand tools, debris, and fill be stored on the rock shelf. The Removal Plan shall include a schedule for all activities. All work shall take place during daylight hours, and lighting of the beach area is prohibited unless, due to extenuating circumstances, the Executive Director authorizes non-daylight work and/or beach area lighting. The Removal Plan shall clearly identify the disposal location for any excavated material, and/or any solid material to be removed from the subject property as a result of the Cease and Desist Order. If the disposal site is located within the Coastal Zone and is not an existing sanitary landfill, a CDP shall be required. The Removal Plan shall also include a discussion of the two removal possibilities outlined in Sec. 1.2 by the consulting engineer.

Upon approval of the Removal Plan, Roy shall implement the plan pursuant to the approved schedule, with all removal work to be completed as early as possible pursuant to recommendations by the consulting engineer but in any

event no later than 14 days after the approval of the Removal Plan. The Executive Director may extend this deadline pursuant to Section VIII herein.

- 1.2 The Removal Plan shall include a discussion of two possible removal scenarios for the below grade portion of the caissons, including the steel I-Beams embedded within the caissons (hereinafter "Caissons"), by the consulting engineer. Removal Scenario One shall discuss the complete removal of the Caissons at the time of the Removal Plan's implementation. If Removal Scenario One is deemed the less disruptive alternative by the Executive Director, the resurfacing of the affected area shall be undertaken per the terms of the Surfacing Plan (Section 1.3). Removal Scenario Two shall discuss removing the Caissons anchored into the rock shelf at a minimum depth of 12 inches below the natural topography of the rock shelf, or to the nearest depth below the natural topography, deemed feasible by the consulting engineer. If Removal Scenario Two is deemed the less disruptive alternative by the Executive Director, the portion of the Caissons remaining in the rock shelf (hereinafter, "Remaining Portion"), shall be left in place as necessary to minimize the potential for increased bluff and rock shelf instability, and resurfaced per the Surfacing Plan (Section 1.3). Whenever the Remaining Portion becomes exposed to a) the point of one foot of vertical exposure or b) the entire circumference of the caisson is exposed, Roy shall submit a plan for removal of the exposed remainder, unless retention has been authorized by a Coastal Development Permit. The Commission may seek removal of the remaining portions should further work be required.
- 1.3 Within 60 days of issuance of this Cease and Desist Order, Roy shall submit, for the review and approval of the Executive Director, a Caisson Resurfacing Plan (hereinafter, "Surfacing Plan") identifying the measures that will be taken, after the implementation of the approved removal plan, to minimize further resource damage, and approximate a natural undulating rock ledge, mimicking the natural rock ledges in the immediate vicinity in integral color, texture, and undulation. The Surfacing Plan shall include: site plans; identification of the measures to be taken to ensure that any such surfacing applied is retained in its approved state over the life of the structure; and an implementation schedule. All work pursuant to the Surfacing Plan shall be completed no later than 14 days after completion of the removal of the unpermitted development specified in 1.1.
- 1.4 Roy shall ensure that the condition and performance of the Surfacing Plan (specified in 1.3) on the bluff and rock shelf are regularly monitored by a licensed civil engineer with experience in coastal structures and processes. Such monitoring evaluation shall at a minimum address whether any significant weathering or damage has occurred, and identify any damage requiring repair to maintain the approved configuration as required by these conditions. All

monitoring reports shall include photographs of the site as seen from the rock shelf, with the date and time of the photographs and the location of each photographic viewpoint noted on a site plan. Each report shall contain recommendations, if any, for necessary maintenance, repair, changes or modifications to the resurfaced areas. At a minimum, Roy shall submit to the Executive Director for review and approval a monitoring report at yearly intervals by October 1st of each year (with the first monitoring report due October 1, 2005, and subsequent reports due October 1, 2006, October 1, 2007, and so on) for the first five years. After five years, reports will be submitted in five-year intervals for as long as the remaining portions exist at this location.

- 1.5 Within 60 days of issuance of this Cease and Desist Order, Roy shall submit for the review and approval of the Executive Director a Landscaping Plan for the bluff face to: a) perform grading to restore the natural rock shelf topography, and b) revegetate all portions of the subject property disturbed or graded during the removal of the unpermitted development with native vegetation, and restore the subject property to its pre-violation condition. The Landscaping Plan shall include an exhibit that delineates the Bluff Planting Area. The Bluff Planting Area shall include all portions of the subject property disturbed or graded during the removal of the unpermitted development. The Plan shall also include and conform to the following requirements:
 - A. The Landscaping Plan shall be prepared by a qualified licensed landscape architect or resource specialist and include a map showing the type, size, and location of all plant materials that will be planted in the Bluff Planting Area, all invasive and non-native plants to be removed from the Bluff Planting Area, the topography of the site, all other landscape features, and a schedule for installation of plants and removal of invasive and/or non-native plants. The Plan shall show all existing vegetation. The landscaping shall be planted using accepted planting procedures required by the professionally licensed landscape architect.
 - B. Identification of measures which shall be taken to prevent erosion and dispersion of sediments across the property via rain, surf, tide or wind. Such measures shall be provided at all times of the year, in conformance with section 1.7 of this Cease and Desist Order, until the establishment of the revegetation required in the Landscaping Plan.
 - C. To minimize the need for irrigation, the vegetation planted in the Bluff Planting Area shall consist only of native, non-invasive, drought-tolerant plants endemic to the Live Oak beach and bluff area. Deep-rooted plant species shall be selected.

- D. Roy shall not employ invasive plant species within the Bluff Planting Area, which could supplant native and drought tolerant plant species.
 - E. No permanent irrigation system shall be allowed in the Bluff Planting Area. Any existing in-ground irrigation systems shall be removed or permanently blocked. Temporary above ground irrigation to provide for the establishment of the plantings is allowed for a maximum of three years or until the landscaping has become established, whichever occurs first. If, after the three-year time limit, the landscaping has not established itself, the Executive Director may allow for the continued use of the temporary irrigation system until such time as the landscaping becomes established.
 - F. Plantings shall be maintained in good growing condition throughout the life of the project and whenever necessary shall be replaced with new plant materials to ensure continued compliance with the approved Landscaping Plan.
 - G. All planting in the approved Landscaping Plan shall be installed in accordance with the schedule and requirements of the approved Landscaping Plan and no later than 14 days after the implementation of the Removal Plan.
- 1.6 Within 60 days of issuance of the Cease and Desist Order, Roy shall submit, for the review and approval of the Executive Director, a Drainage Plan that clearly identifies all permanent measures to be taken to collect and direct site drainage. Such drainage may be used for landscape irrigation, including for the native planting revegetation (in section 1.5 above), provided such irrigation use does not contribute to bluff instability in any way. As recommended by the Drainage Plan, any drainage not used for on-site irrigation purposes shall be collected and directed to appropriate collection systems. Except as recommended by the Drainage Plan, drainage shall not be allowed to pond at the bluff top edge; sheet flow over the bluff seaward; or otherwise be directed seaward in a manner which contributes to bluff instability or bluff top erosion. The Drainage Plan shall include site plans and an implementation schedule. The drainage measures shall be installed and operational according to the approved Drainage Plan not later than 30 days after approval of the Drainage Plan.
- 1.7 Within 60 days of issuance of the Cease and Desist Order, Roy shall submit, for the review and approval of the Executive Director, an Interim Erosion Control Plan. The Interim Erosion Control Plan shall include measures to minimize erosion across the site, which may enter into coastal waters. The Interim Erosion Control Plan shall be prepared by a qualified restoration professional or resource

specialist. The Interim Erosion Control Plan shall be implemented prior to, and concurrently with the implementation of the Removal Plan and shall include the following:

- A. The following temporary erosion control measures shall be used: hay bales, silt fences, temporary drains, swales, sand bag barriers, and wind barriers. Erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and resources. In addition all stockpiled material shall be covered with geofabric covers or other appropriate cover and all graded areas shall be covered with geotextiles or mats.
 - B. Interim erosion control measures shall include, at a minimum, the following components:
 - 1) A narrative describing all temporary runoff and erosion control measures to be used and any permanent erosion control measures to be installed for permanent erosion control.
 - 2) A detailed site plan showing the location of all temporary erosion control measures.
 - 3) A schedule for installation and removal of temporary erosion control measures, in coordination with the long-term revegetation and monitoring plan.
- 1.8 Within 30 days of the completion of the Removal Plan, Roy shall submit to the Executive Director a report documenting the complete removal of the unpermitted development specified in section 1.1. The report shall include photographs that clearly show all portions of the bluff and rock shelf face on the subject property.
- 1.9 Within 30 days of the completion of the Surfacing Plan, Roy shall submit to the Executive Director a report documenting the project's completion. The report shall include photographs that clearly show all portions the resurfaced caissons and the surrounding rock-self.
- 1.10 Within 30 days of the completion of the Landscaping Plan, Roy shall submit to the Executive Director a report documenting the projects completion. The report shall include photographs that clearly show all the revegetated portions of the subject property.
- 1.11 Commission staff will conduct a site visit to determine whether the terms and conditions of the Cease and Desist Order were complied with.

- 1.12 Prior to undertaking any work or improvements pursuant to Sections 1.1-1.7, Roy shall obtain any permits and approvals as are required by agencies having jurisdiction over such work or improvements.
- 1.13 All plans, reports, photographs and any other materials required by this Cease and Desist Order should be sent to:

Dan Carl
California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508
(831) 427-4863
Facsimile (831) 427-4877

With a copy sent to:
California Coastal Commission
Headquarters Enforcement Program
45 Fremont Street,
San Francisco, California 94105
(415) 904-5220
Facsimile (415) 904-5235

II. Persons Subject to the Orders

Patricia Roy and any and all her employees, agents, contractors, and any successors and assigns and any persons acting in concert with any of the foregoing.

III. Identification of the Property

The property that is subject to this Cease and Desist Order is described as follows: The bluff and rock shelf area on APN 028-212-13, fronting the property owned by Roy at 200 Geoffroy Drive, Santa Cruz, CA 95062-4935 (APN # 028-212-06) in the unincorporated Live Oak area of Santa Cruz County.

IV. Description of Unpermitted Development

The development that is the subject of this Cease and Desist Order includes the unpermitted construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf located on the Subject Property, and related placement of material inland of the seawall.

V. Effective Date and Terms of the Orders

The effective date of this Cease and Desist Order is the date of issuance by the Commission. This Cease and Desist Order shall remain in effect permanently unless and until modified or rescinded by the Commission.

VI. Findings

The Commission is issuing this Cease and Desist Order on the basis of the findings adopted by the Commission on May 13, 2004, as set forth in the attached document entitled "Staff Recommendation and Findings for Cease and Desist Order No.CCC-04-CD-06 and Consent Cease and Desist Order No. CCC-04-CD-06."

VII. Compliance Obligation

Strict compliance with the orders by all parties subject thereto is required. The requirements of this order are binding personal obligations of Patricia Roy, regardless of whether she continues to own APN 28-212-06. Failure to comply strictly with any term or condition of the orders including any deadline contained in the orders will constitute a violation of this order and may result in the imposition of civil penalties of up to SIX THOUSAND DOLLARS (\$6,000) per day for each day in which such compliance failure persists, in addition to any other penalties authorized in Chapter 9 of the California Coastal Act or other applicable law.

VIII. Deadlines

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

IX. Appeal

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

X. Government Liability

The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondents or their agents in carrying out activities pursuant to this Order.

XI. Successors and Assigns

This Order shall run with the land, binding all successors in interest, future owners of the property, heirs and assigns of Respondents. Notice shall be provided to all successors, heirs and assigns of any remaining obligations under this Order.

XII. Governing Law

This Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California, which apply in all respects.

XIII. Limitation of Authority

Except as expressly provided herein, nothing in this Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Order.

Executed in _____ on _____, on behalf of
the California Coastal Commission.

Peter Douglas, Executive Director

By: _____

TAL COMM;

4159045235;

APR-28-04 1:55PM;

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REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

- 1 -

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

CONSENT AGREEMENT AND CEASE AND DESIST ORDER CCC-04-CD-07

Pursuant to its authority under PRC § 30810, the California Coastal Commission (hereinafter, "Commission") hereby orders Timothy J. Reilley and Diana L. Reilley, Managers of the Reilley Beach LLC, all their employees, agents, contractors, and any persons acting in concert with any of the foregoing (hereinafter, "Reilley") to allow Patricia Roy and all her employees, agents, and contractors (hereinafter, "Roy") access to the bluff and rock shelf area on APN 028-212-13, seaward of Ms. Roy's parcel APN 028-212-06 (hereinafter, "Subject Property") for the purposes described below. Accordingly, through the execution of this Consent Agreement and Cease and Desist Order (hereinafter "Consent Order"), Reilley agrees to comply with the following terms and conditions.

1.0 TERMS AND CONDITIONS

- 1.1 Reilley agrees to allow Roy access to the Subject Property, for the purpose of removing the unpermitted development consisting of, a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf fronting the site, and placement of fill material inland of the seawall, from the Subject Property, as per the provisions of Commission Cease and Desist Order No.CCC-04-CD-06.
- 1.2 Reilley acknowledges that because of the nature of the unpermitted development, and its effect on the rock shelf area, some below grade portion of the caissons may remain on the Subject Property after Roy removes the above grade portion of the seawall, to ensure ongoing stability of the Subject Property, pursuant to Section 1.2 of Commission Cease and Desist Order No.CCC-04-CD-06.
- 1.3 Reilley agrees to allow Roy and any successors in interest access to the Subject Property for the express purpose of performing any maintenance required by Section 1.2 of Commission Cease and Desist Order No.CCC-04-CD-06.

2.0 PERSONS SUBJECT TO THE CONSENT ORDER

- 2.1 Timothy J. Reilley and Diana L. Reilley, Managers of the Reilley Beach LLC and all their employees, agents, contractors, and any successors and assigns and any persons acting in concert with any of the foregoing.

3.0 IDENTIFICATION OF THE SUBJECT PROPERTY

- 3.1 The property that is subject to this Consent Order is APN 028-212-13, seaward of Roy's property at 200 Geoffroy Drive, Santa Cruz, CA (APN # 028-212-06) in the unincorporated Live Oak area of Santa Cruz County.

4.0 DESCRIPTION OF COASTAL ACT VIOLATION

- 4.1 The development that is the subject of this Consent Order was undertaken by Patricia Roy on the Subject Property and includes the unpermitted construction of a wood-lagging

REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

- 2 -

seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf and placement of fill on the inland side of the seawall.

5.0 COMMISSION JURISDICTION

- 5.1 The Commission has jurisdiction over resolution of this alleged Coastal Act violation pursuant to Public Resources Code Section 30810. The development was performed without a Coastal Development Permit ("CDP") as required by the Coastal Act Public Resource Code Division 20, Section 30600. Therefore, for the purposes of issuance and enforceability of this Consent Order, the Commission has jurisdiction to act as set forth in this Consent Order, and Reilley agrees not to contest the Commission's jurisdiction to issue or enforce this Consent Order.

6.0 WAIVER OF DEFENSES

- 6.1 In light of the intent of the parties to resolve these matters in settlement, Reilley has waived their right to contest the legal and factual basis and the terms and issuance of this Consent Order, including the allegations of Coastal Act violations contained in the Notice of Intent to Issue a Cease and Desist and Restoration Order dated January 23, 2004. Specifically, Reilley did not submit a Statement of Defense and has waived their right to present defenses or evidence at a public hearing to contest the issuance of the Consent Order. Reilley does not contest the Commission's jurisdiction to adopt, issue, and enforce this Consent Order.

7.0 EFFECTIVE DATE AND TERMS OF THE ORDER

- 7.1 The effective date of this order is the date the Consent Order is issued by the Commission. This Consent Order shall remain in effect permanently unless and until modified or rescinded by the Commission.

8.0 FINDINGS

- 8.1 This order is issued on the basis of the findings adopted by the Commission at the May 2004 hearing, as set forth in the attached document entitled "Findings for Commission Cease and Desist No. CCC-04-CD-06 and No. CCC-04-CD-07"

9.0 SETTLEMENT/COMPLIANCE OBLIGATION

- 9.1 Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in this Consent Order, unless the Executive Director grants an extension, will constitute a violation of this Consent Order and shall result in Reilley being liable for stipulated penalties in the amount of \$500 per day per violation. Reilley shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Order and for the underlying Coastal Act violations as described herein.

SENT BY: COASTAL COMM;

4159045235;

APR-26-04 1:58PM;

REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

- 3 -

10.0 SITE ACCESS

- 10.1 Reilley agrees to provide access to the Subject Property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under Consent Order CCC-04-CD-06. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the Subject Property on which the violations are located, and on adjacent areas of the property to view the areas where development is being performed for purposes including but not limited to inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting and reviewing the progress of Patricia Roy in carrying out the terms of Commission Cease and Desist Order CCC-04-CD-06.

11.0 GOVERNMENT LIABILITIES

- 11.1 The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Reilley in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Reilley or her agents in carrying out activities pursuant to this Consent Order. Reilley acknowledges and agrees (a) to assume the risks to the property that is the subject of this Consent Order and damage from such hazards in connection with carrying out activities pursuant to this Consent Order; and (b) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

12.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

- 12.1 Persons against whom the Commission issues a Cease and Desist Order have the right pursuant to Section 30803(b) of the Coastal Act to seek a stay of the order. However, pursuant to the agreement of the parties as set forth in this Consent Order, Reilley agrees to waive whatever right they may have to challenge the issuance and enforceability of this Consent Order in a court of law.

13.0 SUCCESSORS AND ASSIGNS

- 13.1 This Consent Order shall run with the land binding all successors in interest, future owners of the property, interest and facility, heirs and assigns. Reilley shall provide notice to all successors, heirs and assigns of any remaining obligations under this Consent Order.

14.0 MODIFICATIONS AND AMENDMENTS

- 14.1 This Consent Order may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

15.0 GOVERNMENTAL JURISDICTION

15.1 This Consent Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

16.0 LIMITATION OF AUTHORITY

16.1 Except as expressly provided herein, nothing in this Consent Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Consent Order.

16.2 Reilley has entered into this Consent Order and waived the right to contest the factual and legal basis for issuance of this Consent Order, and the enforcement thereof according to its terms. Reilley has agreed not to contest the Commission's jurisdiction to issue and enforce this Consent Order.

17.0 INTEGRATION

17.1 This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Order.

18.0 STIPULATION

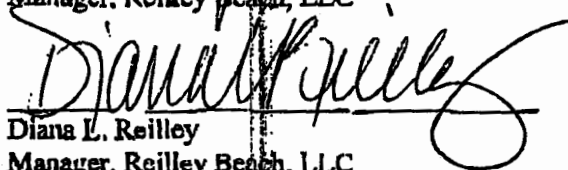
18.1 Reilley and their representatives attest that they have reviewed the terms of this Consent Order and understand that their consent is final and stipulate to its issuance by the Commission. The undersigned entities warrant that they have the authority to bind the parties they represent.

IT IS SO STIPULATED AND AGREED:

On behalf of Reilley:


Timothy J. Reilley
Manager, Reilley Beach, LLC

4/26/04
Date


Diana L. Reilley
Manager, Reilley Beach, LLC

4/26/04
Date

Executed in San Rafael on behalf of the California Coastal Commission:

Peter Douglas, Executive Director

Date

Exhibit List

- Exhibit A - Emergency Permit 3-02-103-G, Issued to Patricia Roy, dated December 12, 2002
- Exhibit B - Rogers E. Johnson 1996 Geologic Report regarding 200 Geoffroy Drive, Santa Cruz, dated December 2, 1996
- Exhibit C - Work Order from Pacific Point Drilling, dated December 3, 2002
- Exhibit D - County of Santa Cruz CDP 96-0398 for remodel of 200 Geoffroy Drive, dated March 7, 1997
- Exhibit E - 1972 aerial photo of the site
- Exhibit F - 12/19/02- Enforcement Letter from Mr. Sharif Traylor to Ms. Patricia Roy
- Exhibit G - 1/21/03 - Enforcement Letter from Mr. Sharif Traylor to Ms. Patricia Roy
- Exhibit H - 2/7/03 Email from Mr. Dan Carl of the CCC Permitting staff to Ms. Betty Cost
- Exhibit I - 2/25/03 Email from Mr. Dan Carl of the CCC Permitting staff to Ms. Betty Cost
- Exhibit J - 7/1/03 Enforcement Letter from Mr. Sharif Traylor to Ms. Patricia Roy and Reilley Beach, LLC
- Exhibit K - Application for Emergency Permit, dated December 12, 2002
- Exhibit L - Memorandum dated April 15, 2004 from Lesley Ewing, Commission staff Coastal Engineer
- Exhibit M - Reilley Beach, LLC Consent Cease and Desist Order, CCC-04-CD-07, signed by Timothy J. Reilley and Diana L. Reilley, Managers
- Exhibit N - Photo of Current Development
- Exhibit O - Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings, dated January 23, 2004, from Peter Douglas, Executive Director, to Patricia Roy and Timothy Reilley of Reilley Beach, LLC.
- Exhibit P - 1987 aerial photo of the site
- Exhibit Q - Emergency Permit Acceptance Form, Dated December 26, 2002, signed by Patricia J. Roy
- Exhibit R - Statement of Defense, letter from Joel E. Donahoe on behalf of Ms. Roy, dated February 13, 2004
- Exhibit S - Photo of Current Development
- Exhibit T - 6/12/02 Site Photo
- Exhibit U - Site Location Map

CALIFORNIA COASTAL COMMISSION

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



EMERGENCY PERMIT

Issue Date: **December 12, 2002**

Emergency Permit No. **3-02-103-G**

Patricia Roy
200 Geoffroy Drive
Santa Cruz, CA 95062

LOCATION OF EMERGENCY

On the bluffs fronting 200 Geoffroy Drive in the unincorporated Live Oak area of Santa Cruz County.

WORK PROPOSED

To recognize after-the-fact the construction of a wood lagging seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf to replace a previously existing failed seawall at the same location. The new seawall runs the length of the inland residential property, approximately 50 feet in length, with the 10 foot tall I-beams embedded approximately 5 feet into the sandstone leaving a roughly 5 foot tall wood lagging wall above grade. The seawall is backfilled with drain rock and soil, and is topped with vegetation.

This letter constitutes approval of the emergency work that you have requested as described above. I understand from the information that you submitted that an unexpected occurrence in the form of a failed seawall has occurred which represents "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." (Definition of "emergency" from § 13009 of the California Administrative Code of Regulations.) Therefore, the Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit; and
- (b) Public comment on the proposed emergency action has been reviewed if time allows.

The work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

Peter M. Douglas
Executive Director


By: Steve Monowitz
Permit Supervisor

Copies to: Joe Hanna, Santa Cruz County Planning Department
Deirdre Hall, Monterey Bay National Marine Sanctuary
Nanci Smith, California State Lands Commission

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit A
Page 1 of 3

Enclosure: Emergency Permit Acceptance Form

CONDITIONS OF APPROVAL

1. The enclosed emergency permit acceptance form must be signed by the owner(s) of the property where the emergency work authorized in this permit is located and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., by December 27, 2002). This emergency permit is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit (i.e., by January 11, 2003) unless extended for good cause by the Executive Director.
4. The measures authorized by this emergency permit are only temporary. Within 60 days of the date of this permit (i.e., by February 10, 2003), the permittee shall submit a complete application for a regular coastal development permit to have the emergency work be considered permanent. The emergency work shall be removed in its entirety within 150 days of the date of this permit (i.e., by May 11, 2003) unless before that time the California Coastal Commission has issued a regular permit for the development authorized by this emergency permit.
5. In exercising this permit, the permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., Santa Cruz County, California State Lands Commission, Monterey Bay National Marine Sanctuary). Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
7. Construction activities that result in discharge of materials, polluted runoff, or wastes to the adjacent marine environment are prohibited.
8. Equipment and materials shall not be stored on the rock shelf.
9. The construction work area, including but not limited to the rock shelf, shall be restored to its pre-development condition and all debris removed within 3 days of completion of the emergency work authorized.
10. All exposed slopes and soil surfaces inland of the seawall at the site shall be stabilized with erosion control native seed mix, jute netting, straw mulch, or other applicable best management practices (for example, those identified in the *California Storm Water Best Management Practice Handbooks* (March, 1993)).
11. Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.
12. The issuance of this emergency permit does not constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit and

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

As noted in Condition 4 above, the emergency work carried out under this permit is at the applicant's risk and is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a coastal development permit (or waiver thereof) must be obtained. A regular permit is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

If you have any questions about the provisions of this emergency permit, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

ROGERS E. JOHNSON & ASSOCIATES

CONSULTING ENGINEERING GEOLOGISTS

1729 SEABRIGHT AVENUE, SUITE D
SANTA CRUZ, CA 95062

BUS. (408) 425-1288
FAX. (408) 425-6539

**GEOLOGIC REPORT
ROY PROPERTY
200 GEOFFROY DRIVE
SANTA CRUZ, CALIFORNIA
SANTA CRUZ COUNTY APN 028-212-06**

**REJA Job No. C96046-68
2 December 1996**

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit B
Page 1 of 53

ROGERS E. JOHNSON & ASSOCIATES

CONSULTING ENGINEERING GEOLOGISTS

1729 SEABRIGHT AVENUE, SUITE D
SANTA CRUZ, CA 95062

BUS. (408) 425-1288
FAX. (408) 425-6539

2 December 1996

Ms. Patricia Roy
P.O. Box 5667
San Jose, CA 95150

Job No. C96046-68

Re: 200 Geoffroy Drive, Santa Cruz, California
Santa Cruz County APN 028-212-06

Dear Ms. Roy:

At your request we have completed a geologic investigation of the property referenced above. The homesite is located adjacent to a stepped coastal bluff about 30 feet high, which is eroded episodically by surf attack. The rates of bluff retreat at this location are relatively low, however, compared to many neighboring stretches of coastline in northern Monterey Bay. We attribute the low rates of erosion here to the presence of a wide, erosion-resistant bedrock platform elevated slightly above sea level, which acts as a natural revetment against surf attack. Nevertheless, during those occasional, violent storms arriving from the west or southwest, wave runup can still impact and erode the bank above and behind the shoreline platform. At present, the bank fronting the subject property is protected by a timber seawall 5½ feet high.

Based on our analysis of historical rates erosion at the site, we have presented two scenarios for the next 100 years (the design period now stipulated for coastal developments by the California Coastal Commission). If the existing seawall is adequately maintained and protected against "outflanking" at its ends, then future retreat of the upper bank would be virtually nil. On the other hand, if the existing seawall is poorly maintained or completely destroyed (and not replaced), then we would anticipate slightly more than 30 feet of additional bank retreat during the 100-year design period. This worst-case scenario would place the future top of the bank about 15 feet seaward of the existing building footprint on the subject property.

Job No. C96048-68
2 December 1996

As we understand, the implications of the worst-case scenario are as follows: At present, the existing building footprint is more than 25 feet from the top of the bank and thus meets one of the basic requirements for new construction/significant remodeling as stipulated by the California Coastal Commission. Without the erosion protection provided by the existing seawall, the buffer zone between the building footprint and the top of the bank would shrink to the 25-foot minimum in about 60 years, and additional remodeling would then be prohibited for the remainder of the 100-year design period (assuming Coastal Commission policy remains the same). Thus we strongly recommend that the existing seawall be properly maintained (or replaced, as necessary) to preserve future development options, not to mention the back yard.

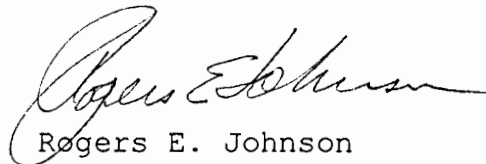
Finally, we recommend that you retain a geotechnical engineer to evaluate the foundation conditions of the site and provide design parameters for upgrading the existing foundation, if necessary. If you have any questions regarding our report, please contact us at your earliest convenience.

Sincerely,

ROGERS E. JOHNSON & ASSOCIATES



Alan O. Allwardt
R.G. No. 5520



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

AOA/REJ/ma

Copies: Client (1)
Thacher & Thompson, Attn: Bret Hancock (4)

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REPORT SUMMARY

Purpose

The subject property at 200 Geoffroy Drive, Santa Cruz, California (APN 028-212-06) is located adjacent to a stepped coastal bluff about 30 feet high. The owner wishes to construct a second-story addition to the existing single family dwelling. The new construction falls under the 100-year design criterion recently adopted by the California Coastal Commission.

Findings

The homesite is located on a terrace adjacent to a moderately steep bank about 13 feet high. Below the bank is a gently sloping, elevated shoreline platform 65 to 90 feet wide with a steep face on the seaward side. The upper bank is composed of erodible soil, terrace deposits, and weathered, somewhat friable sandy siltstone bedrock. The shoreline platform is composed of less weathered, indurated, sandy siltstone bedrock, which is much more resistant to surf erosion than the overlying materials.

The historical rates of bluff retreat at this location have been relatively low due to the presence of the erosion-resistant shoreline platform, which acts as a natural revetment against surf attack. Over the last 48 years the upper bank has retreated about 0.3 foot per year (on average) due to the runup of occasional storm waves. Since 1983 the toe of the bank fronting the subject property has been protected by a timber seawall 5½ feet high and the erosive retreat had essentially ceased. If the existing seawall is adequately maintained and protected against "outflanking" at its ends, then future retreat of the upper bank would be virtually nil over the 100-year design period. On the other hand, if the existing seawall is poorly maintained or completely destroyed (and not replaced), then we would anticipate slightly more than 30 feet of additional bank retreat in the next 100 years.

The retreat of the seaward edge of the shoreline platform has been less than 0.1 to 0.2 foot per year over the last 48 years. We did observe one sea cave along the face of the platform, located below a prominent blowhole, but the dimensions of this cave are small enough that it will not be a design factor in the next 100 years.

Levels of Risk

At the worst-case rate of retreat, the top of the upper bank would encroach within 15 feet of the existing building footprint by the end of the 100-year design period, assuming a 1:1 angle of repose for the terrace deposits. The risk to the existing building footprint is thus low. This risk assessment could be revised, however, in the event of unforeseen, dramatic oceanographic changes (such as might occur during global warming).

The risk from the slowly retreating shoreline platform is very low over the design period.

The subject property lies in a seismically active region with a moderate to high probability for strong seismic shaking in the next 100 years.

Recommendations

We recommend that the existing seawall be properly maintained (or replaced, as necessary) to preserve future development options, as well as the usable area in the back yard.

We recommend retaining a geotechnical engineer to evaluate the foundation conditions of the site and provide design parameters for upgrading the foundation, if necessary. Seismic shaking parameters for design purposes are included in this geologic report.

INTRODUCTION

This report presents the results of our investigation at 200 Geoffroy Drive, Santa Cruz, California (Santa Cruz County APN 028-212-06). This investigation was undertaken to evaluate the history of coastal bluff retreat near the site and provide an assessment of future bluff stability over the next 100 years (the new design criteria recently implemented by the California Coastal Commission). The owner wishes to construct a second-story addition to the existing single-family dwelling on the parcel.

The scope of work performed for this investigation included: 1) review of existing published and unpublished literature relevant to the site and vicinity; 2) analysis of stereo-aerial photographs spanning the period 1948 to 1989; 3) review of pertinent planning guidelines from the County of Santa Cruz; 4) compilation of a geologic site plan and cross-section; 5) geologic inspection of the coastal bluff; 6) compilation and analysis of the resulting data; and 7) preparation of this report and accompanying illustrations. We have worked closely in this project with Thacher and Thompson, the project architects.

REGIONAL GEOLOGIC SETTING

The subject property is located adjacent to a coastal bluff near Black Point, about halfway between the Santa Cruz yacht harbor and Soquel Point (Figure 1). This is one of many such coastal bluffs along the northern coast of Monterey Bay, characterized by gently dipping, late Tertiary sedimentary rocks that are generally overlain by nearly horizontal, Quaternary terrace deposits of

marine and eolian origin. The seismicity of the area is influenced primarily by the northwest-trending San Andreas fault situated northeast of the subject property, and the San Gregorio fault located offshore in Monterey Bay (Figure 2; see also Hall et al., 1974 and Greene, 1977). The seismicity of the site will be discussed in more detail below.

The coastline between the yacht harbor and Soquel Point generally trends west-northwest to south-southeast, which is conducive to the formation of fairly wide beaches. From Black Point to the subject property, however, a short stretch of the shoreline is oriented southwest to northeast, which is nearly parallel to the dominant direction of approach for refracted waves in the northern portion of Monterey Bay. As a result littoral drift is rapid, inhibiting formation of a protective beach (Griggs, 1990). These oceanographic factors and their implications for coastal development will be discussed in more detail below.

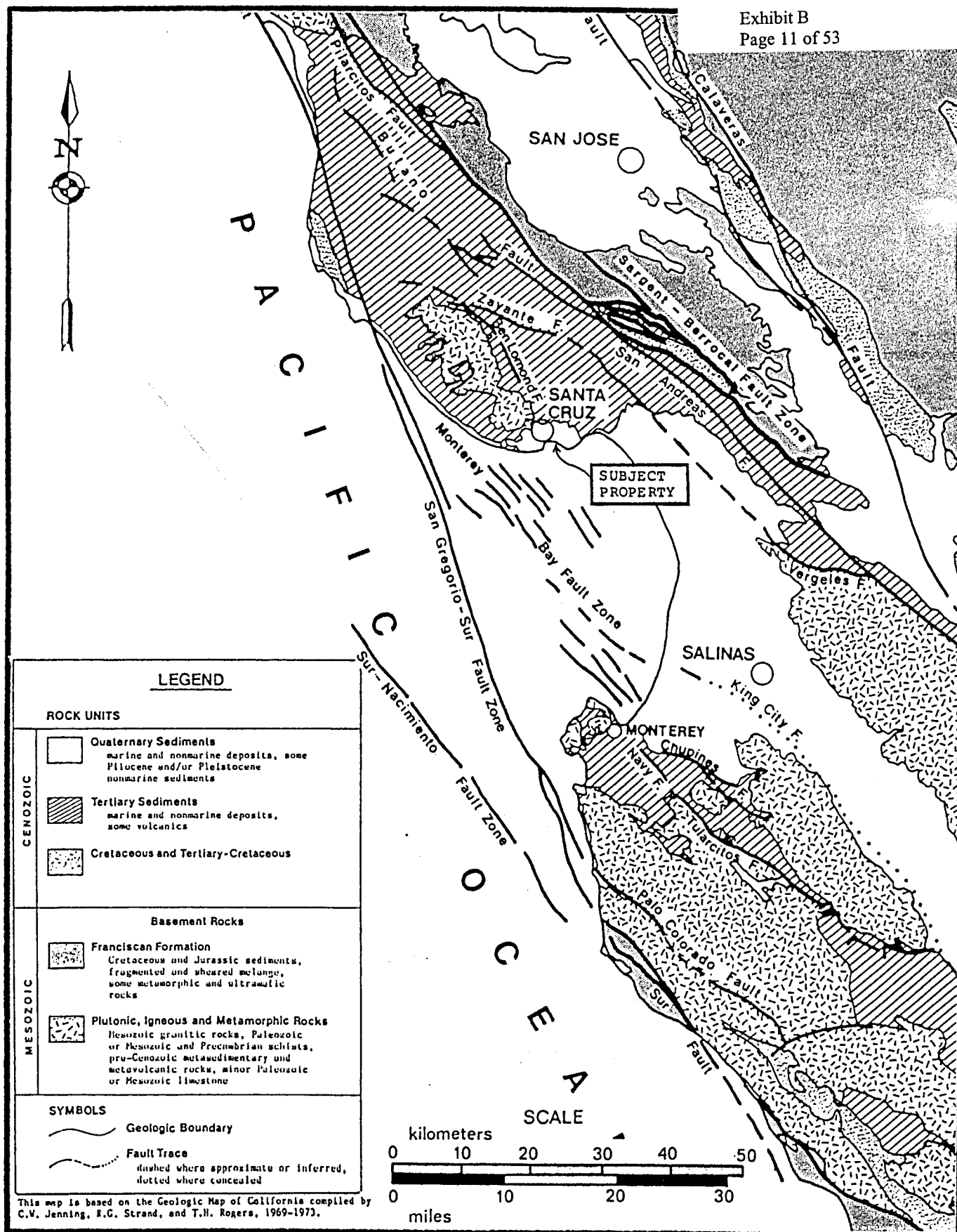
SHORELINE HAZARDS IN MONTEREY BAY

Overview

Most of the northern end of Monterey Bay is flanked by a prominent coastal bluff 20 to 120 feet high, which is a clear indication of active surf erosion (in a geological time frame). From Santa Cruz to Capitola, where the beach is generally narrow and discontinuous, the documented rate of cliff retreat due to surf attack has averaged over one foot per year in some areas (Griggs and Johnson, 1979). Of course, this cliff retreat is not a steady process as the quoted rate might seem to imply, but rather occurs episodically

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit B
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every few seasons in response to large storms and/or when surf-cut notches at the base of the bluffs intercept prominent bedrock joints or other zones of structural weakness.

From New Brighton State Beach to La Selva Beach, the coastal bluff was formed in the same manner, but this fact has been less obvious to the layman because of the relatively wide and continuous beach at the foot of the bluff. Both public and private developments have taken place on the beach in this area simply because the hazard from surf attack lacks a certain degree of immediacy. Naturally the construction of permanent structures in this inherently impermanent setting has met with mixed success, depending on the engineering precautions that were taken in each case. The relevant oceanographic factors are discussed in more detail below.

Storm History of Monterey Bay, 1910-1983

Review of the storm history of Monterey Bay leads us to several immediate conclusions:

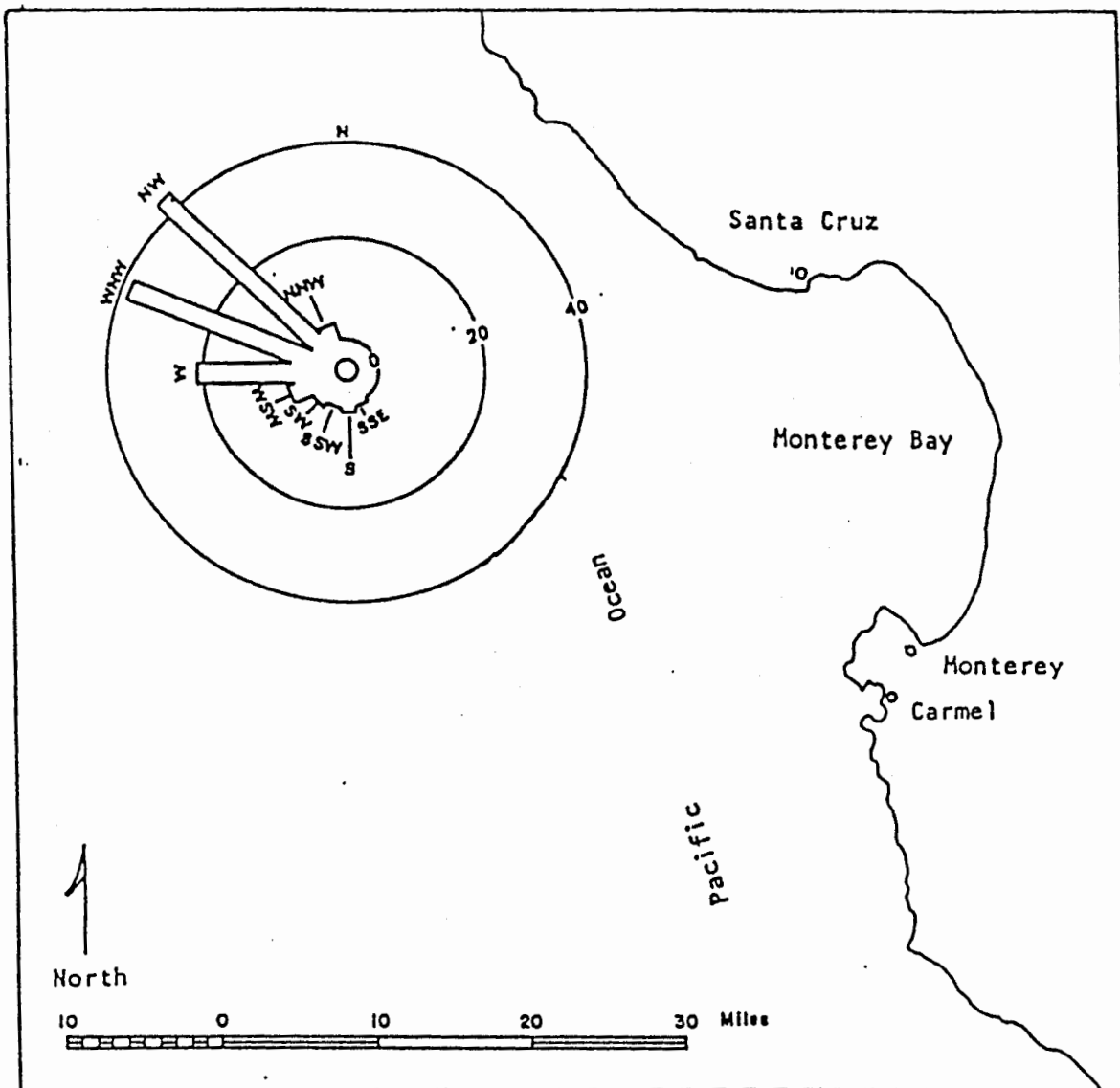
- 1) The number of large storms affecting Monterey Bay is relatively large.
- 2) The storms which produced the greatest damage in the interior of the Bay often came from the west or southwest.
- 3) Structures directly exposed to wave action, or designed to protect ocean front properties from such action, have been regularly damaged or destroyed.

For the period of most detailed record, 1910-1960, there have been at least 45 storms of some significance (i.e., either high seas, strong winds, and/or damage to at least some portion of the Monterey Bay region). Thus, considering the 50 years of detailed records, this amounts to a major storm every 1.1 years on the average. Analysis of the record (Appendix) reveals that no major storms were recorded for some intervals as long as seven years (1916-1923), but in other cases, five significant storms occurred within a single year (1931). If we consider the entire period, 1910-1983, we have a major storm every 1.5 years on the average.

This historical record indicates that the northern one-half of Monterey Bay (Moss Landing to Santa Cruz) is most susceptible to damage from storms arriving from the west or southwest (Griggs and Johnson, 1983; Johnson and Associates, 1987). Waves from the northwest, which predominate along the central coast (Figure 3), undergo refraction or bending, which results in a significant energy loss prior to striking beaches along the interior of the Bay (Figure 4). Thus, although waves from the WNW and NW dominate along the coastline, their effect on the interior of the Bay appears to have been relatively small. In contrast, the storm waves approaching from the W, WSW and SW pass primarily over the deep water on their way to the shoreline within the Bay and lose little energy. These storms have produced the greatest recorded damage at the north end of the Bay.

Of the 45 major storms in the study period, 1910-1960, 20 have been listed as coming from the southwest or west; only 12 are described as arriving from the north or northwest (the remainder list no direction of approach). Of the 13 storms which have produced significant damage along the Bay's interior, only one is described

FIGURE 3



OFFSHORE WAVE DIRECTION & FREQUENCY

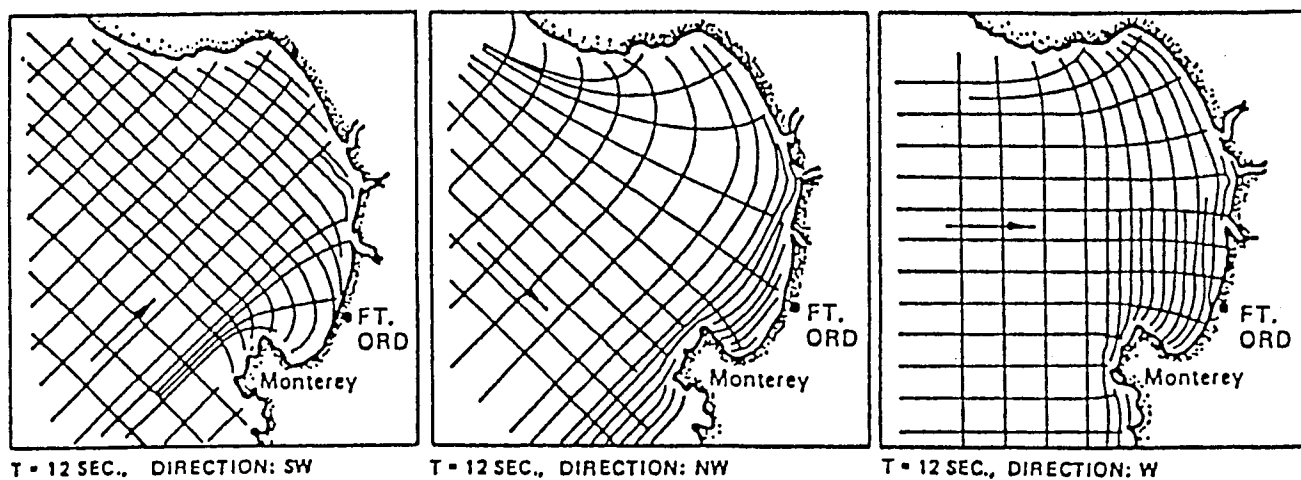
0 10 20 30 40 50
SCALE IN % OF OCCURENCE

SOURCE: NATIONAL MARINE CONSULTANTS, 1960

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Rogers Johnson & Associates

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Wave refraction in Monterey Bay, California
(from Wiegel 1964)

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

as coming from the northwest; 11 arrived from the southwest, and for two of these, the direction was not listed. Thus, at least 85 percent of the storms which have caused damage approached from the south or southwest. Looking at the frequency of arrival of these storms, 13 have occurred in 69 years. In other words, damaging storms will strike the area every 5.3 years on the average. This does not mean that storms will actually occur every 5.3 years, of course.

The record of historical storm damage illuminates some other processes of relevance to the subject property. The past damage to the Monterey Bay coastal area was often caused by the coupling or simultaneous occurrence of high tide and huge waves.

Deep-Water Wave Conditions

Wave data has been compiled from three different sources of numerous deep-water stations and also visual observations off Central California.

- 1) Ships' sea and swell reports summarized by the National Climatic Center and published by the U.S. Naval Weather Service Command as "Summary of Synoptic Meteorological Observation (SSMO)--North American Coastal Marine Areas--Pacific Coast".
- 2) "Wave Statistics for Seven Deep Water Stations along the California Coast", published by National Marine Consultants (1960).

- 3) "Deep-Water Wave Statistics for the California Coast", published by Meteorology International Incorporated (1977), based on hindcasts by the U.S. Fleet Numerical Weather Central.

As mentioned in the previous discussion of storms, the great majority of waves arrive from the northwest, but these must undergo significant energy loss through diffraction. Thus, waves from the southwest are normally of greater concern. Using hindcasting data from a station offshore from San Francisco (Nat. Mar. Cons., 1960), we can expect waves in excess of nine feet in height, on the average, 23 days of each year, and waves in excess of 15 feet three days each year. The storm record discussed earlier indicates storm waves ranging in height from 20 to 25 feet, arriving from the southwest, were recorded in 1939, 1940 and 1941. This data indicates that waves in excess of 10 to 15 feet are common in an average year, and waves in excess of 20 feet occur as well, although less frequently.

The potential impact of such storm waves on any given site can be quantified by wave runup analysis, as discussed in the next section.

Wave Runup Analysis

Coastal flood hazards can be quantified to some degree by using wave runup analysis. This procedure is site specific, taking into account past storm frequencies, wave characteristics, bathymetry, and beach profile, as well as antecedent astronomical and meteorological conditions. Wave runup analysis can be explained in a

qualitative way by reference to the generalized sketch in Figure 5. The first step is to establish the expected "stillwater" elevation, representing the static water surface upon which the waves will be superimposed. Note that the stillwater elevation is higher than mean sea level for a number of reasons. The normal tidal range must be taken into account, obviously, because shoreline damage will be most severe during high tide. However, there are additional, less intuitive factors that tend to raise the stillwater elevation.

Abnormally low barometric pressure and persistent onshore winds during storms, for instance, will both push up the water surface to some degree.

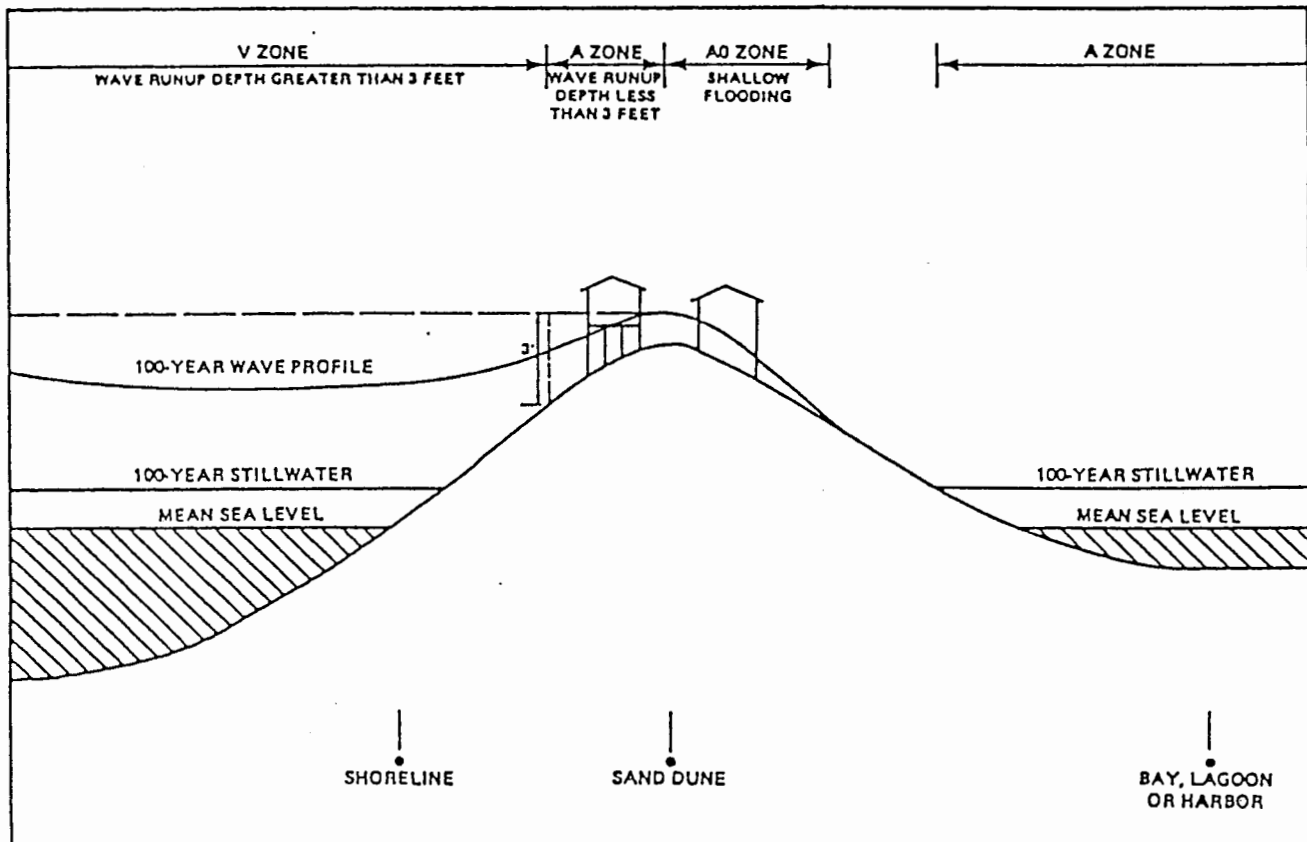
Stillwater elevations are expressed in probabilistic terms, much like storm frequencies. For design purposes, the Federal Emergency Management Agency (FEMA) and other governmental agencies have typically adopted the "100-year" conditions as a basis for their runup analyses.

With the stillwater elevation established, the next step is to superimpose the effects of storm waves on the shoreline, using computer models. These models typically use historical data for deep-water wave conditions and direction of approach combined with field data for bathymetry and beach profiles. Again, the results are expressed in probabilistic terms with the 100-year event as the benchmark. Between the city limits of Santa Cruz and Capitola, FEMA (1986) has not calculated 100-year wave runup elevations for any specific sites. As discussed later, however, the morphology of the coastal bluff near the subject property and its history of retreat allow us to conclude that wave runup occasionally reaches an elevation of about 20 to 21 feet (judging from the notch at the base of the bank below several houses in the row). For the purposes

FIGURE 5

SCHEMATIC CROSS SECTION
ILLUSTRATING WAVE RUNUP TERMS

From FEMA, 1986



TYPICAL TRANSECT SCHEMATIC

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

of our investigation, a full quantitative runup analysis for this site seems unnecessary in view of our conclusions and recommendations.

With the slow but general rise of sea level, the hazard from wave runup is unlikely to lessen in the foreseeable future (Environmental Protection Agency, 1983; Hoffman, 1984).

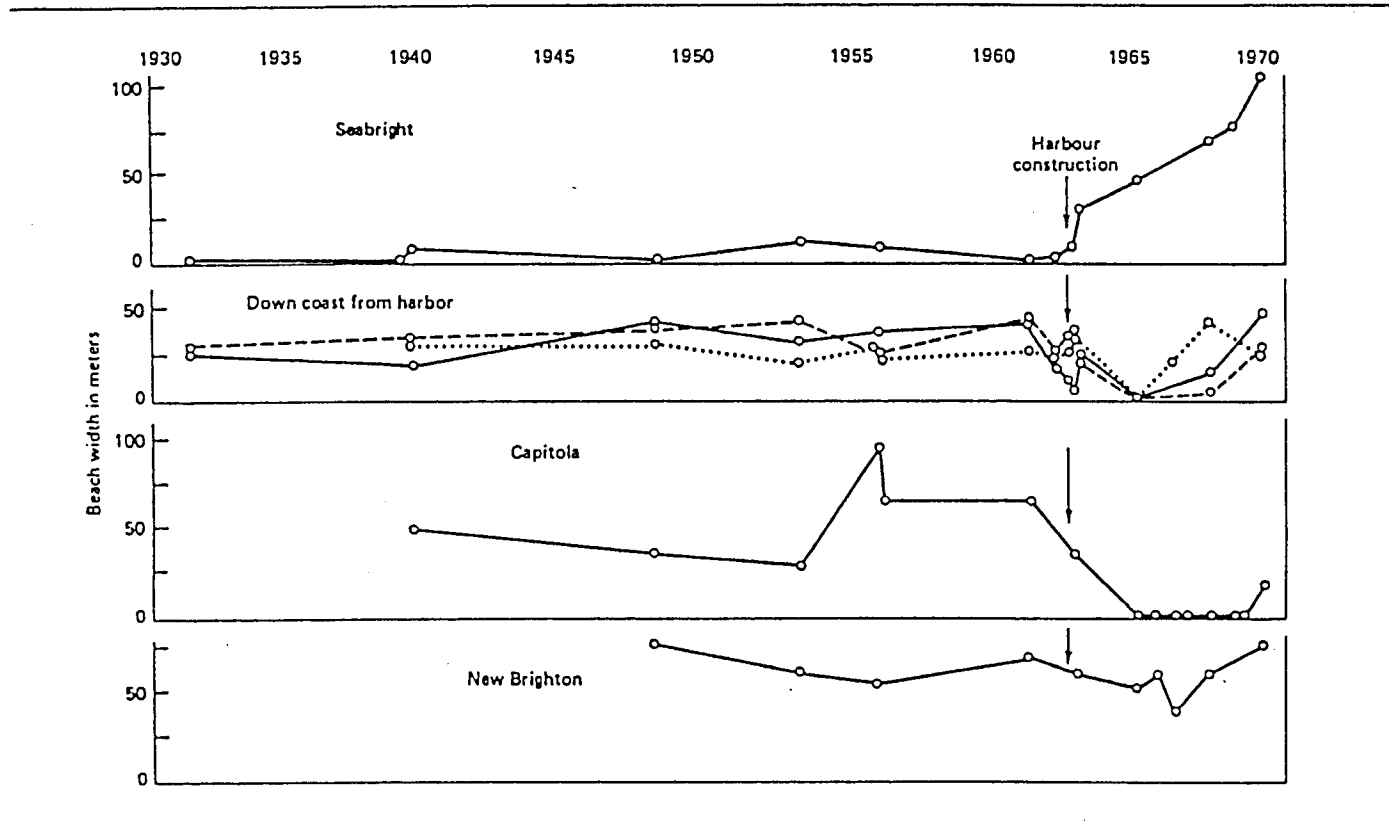
Human Intervention and Coastal Processes

Figure 1 shows that Black Point separates two fairly wide pocket beaches formed along the coast between the Santa Cruz yacht harbor and Soquel Point. Previous studies have shown that almost all of the annual sand supply for these beaches (and a similar one at Capitola) can be attributed to littoral drift moving southwest to northeast (see Griggs and Johnson, 1976, and references therein). Thus, any human intervention disrupting the normal littoral flow of sand would have a serious impact on these beaches. The construction of the Santa Cruz Yacht Harbor in 1962-1964 represented just such an event, as documented by Griggs and Johnson (1976). Their aerial photographic studies showed that the beach at Capitola, for example, averaged about 180 feet in width for the period 1932 to 1961, prior to construction of the Yacht Harbor. When the west jetty for the harbor was completed in late 1962, the annual littoral flow of sand totalling about 300,000 cubic yards was effectively cut off, causing the upcoast beaches to expand and the downcoast beaches to shrink (Figure 6). By 1965 the beach at Capitola had been reduced in width by almost 90 per cent, to an average of only 20 feet. This beach remained depleted until 1970,

FIGURE 6

BEACH WIDTHS BEFORE AND AFTER CONSTRUCTION
OF THE SANTA CRUZ YACHT HARBOR

Griggs and Johnson, 1976



Chronologic changes in the widths of beaches upcoast and downcoast from the Santa Cruz harbor before and after harbor construction.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

when the city built a groin nearly 250 feet long at the downcoast end of the beach to help trap the diminished littoral supply and also brought in 2,000 truckloads of quarry sand as a supplement.

The beaches immediately downcoast from the harbor fared better, recovering somewhat after a few years as the buildup of sand on the upcoast side peaked and littoral drift began bypassing the jetties (Figure 6). However, some of the sand bypassing the jetties is now diverted into the deeper water of the bay and never actually reaches the downcoast beaches. In the winter months, furthermore, the harbor mouth traps up to 30 per cent of the entire annual littoral flow of sand (Griggs and Johnson, 1976). Although this sand is dredged periodically and reintroduced into the littoral drift system, the downcoast beaches are temporarily deprived of this sand in the winter months when they need it the most to help protect the bluffs from surf erosion. *

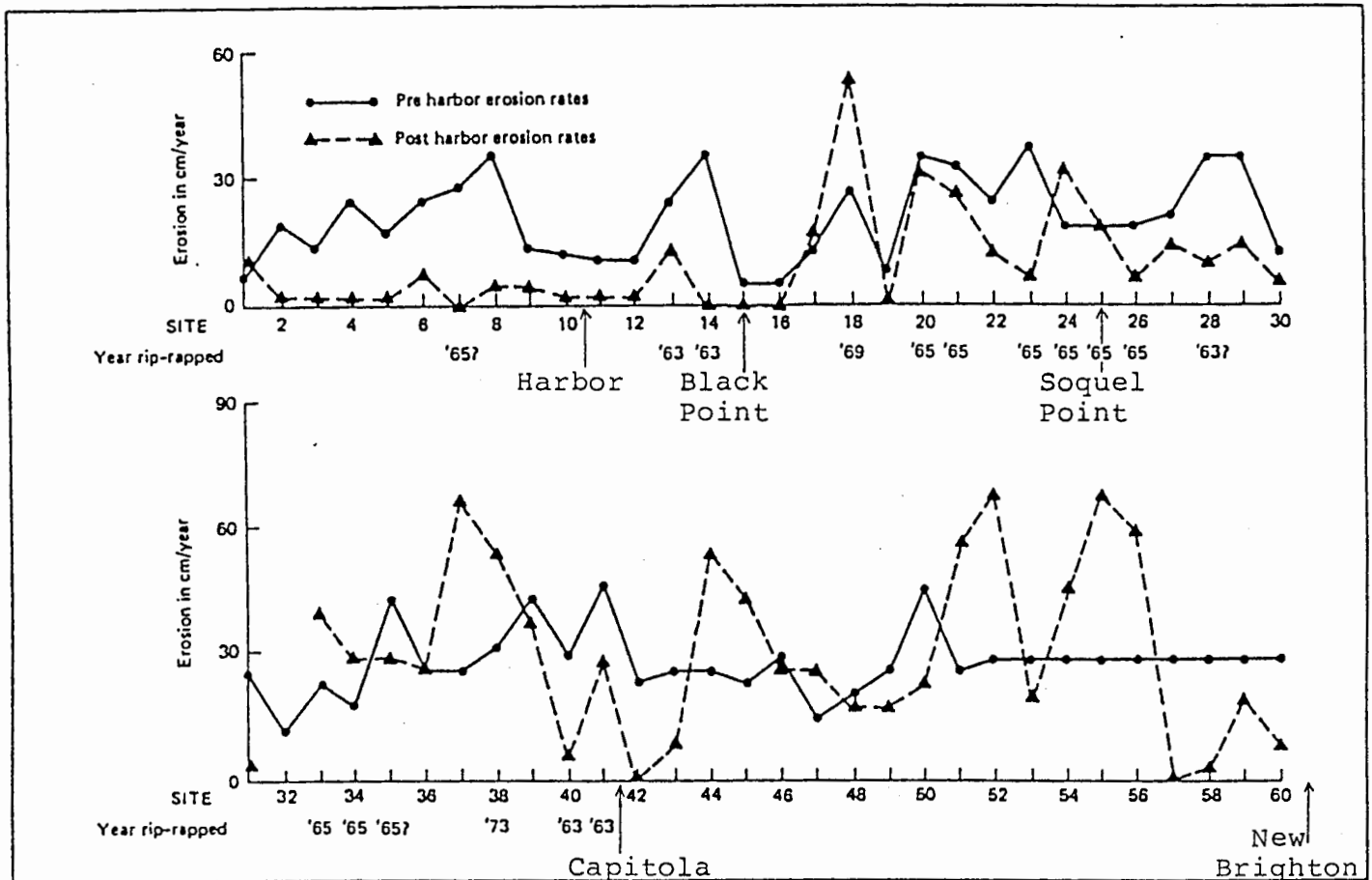
Historical Bluff Retreat: San Lorenzo Point to New Brighton Beach

Griggs and Johnson (1979) have conducted a detailed historical study of coastal bluff erosion from San Lorenzo Point to New Brighton Beach, using maps and aerial photographs covering the period 1853 to 1973. Figure 7 shows average pre- and post-harbor erosion rates for all 60 of their stations, while Figure 8 is a detailed breakdown of the data for the stations near the harbor and Black Point.

For the study area as a whole, average erosion rates of about 1 foot per year (30 cm per year) were fairly typical prior to harbor construction. After the harbor was completed, erosion rates

SEACLIFF EROSION BEFORE AND AFTER CONSTRUCTION OF THE SANTA CRUZ YACHT HARBOR

Griggs and Johnson, 1976



Comparison of average rates of cliff erosion before and after harbor construction at individual sites between San Lorenzo Point and New Brighton Beach.

generally decreased on the upcoast side and increased on the downcoast side due to changes in the widths of the protective beaches. Note, however, that Stations 15 and 16, in the vicinity of Black Point and the subject property, have had some of the lowest blufftop erosion rates in the entire subject area (6 to 9 cm per year) despite the complete absence of a beach. This apparent paradox is explained by the presence of an indurated bedrock platform (Purissima Formation) along the shoreline, which is elevated several feet above sea level and serves as a natural revetment against surf attack (Figure 8). The effectiveness of this platform in protecting the shoreline is compromised only where sea caves are present (usually bounded by joint planes in the bedrock). Prominent sea caves have in fact formed on both sides of Black Point proper and, if not for human intervention to protect the homes in the immediate vicinity, would eventually lead to the creation of a new sea stack ("Black Stack"). One goal of our current investigation, therefore, was to determine if the shoreline platform directly in front of the subject property is undermined to any extent by sea caves or overhanging ledges (see below).

Because the Griggs and Johnson (1979) study ended over 20 years ago, we have conducted our own historical survey of erosion rates using aerial photographs covering the period 1948 to 1989. The results of this new erosion study are presented on Plate 1 and discussed below.

AERIAL PHOTOGRAPHIC AND FIELD INVESTIGATION

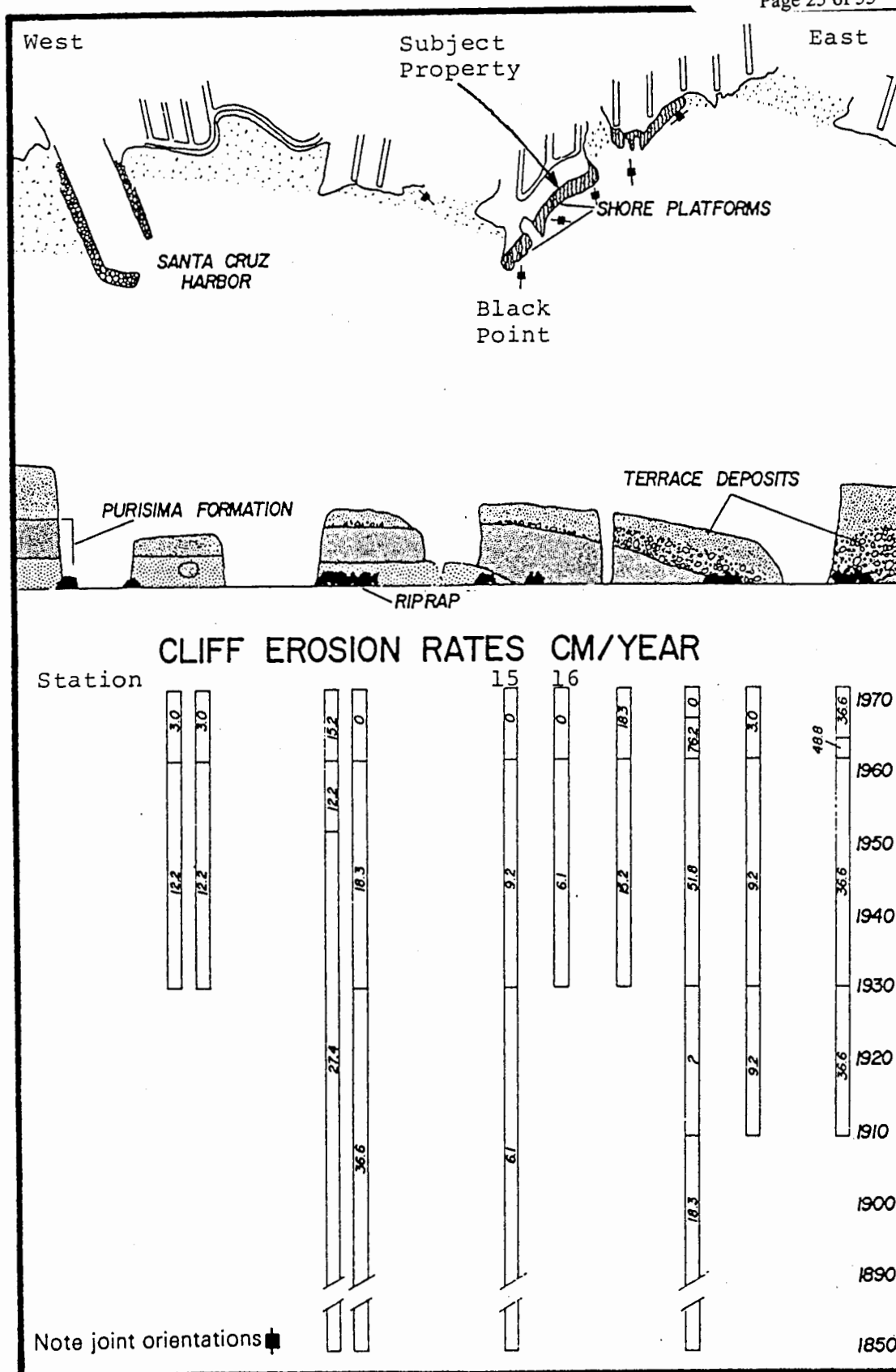
We conducted a geologic investigation of the subject property in October and November 1996 to construct a geologic site plan and

GEOLOGY AND CLIFF EROSION RATE
BLACK POINT & VICINITY
SANTA CRUZ COUNTY, CALIFORNIA

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Griggs and Johnson, 1979

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accompanying cross section (Plates 1 and 2). Our base map for this investigation was a large-scale topographic map by Ifland Engineers (June 1996).

As shown on the site plan and cross section, the subject property occupies a nearly level terrace at an elevation of about 32 to 33 feet. On the seaward side this terrace surface is bounded by a moderately steep bank about 13 feet high, which is largely vegetated by grasses and ice plant and protected by a timber seawall 5½ feet high. At the foot of the bank is the bedrock shoreline platform, which is 65 to 90 feet wide and slopes gently seaward from an elevation of about 18 feet at the landward edge to about 9 feet at the seaward edge. The surface of the platform is irregular on the small scale and also has a prominent blowhole as shown on Plate 1.

Cross Section A-A' shows the geologic structure through the subject property (Plate 2). Three geologic units are present at the site, as determined during this investigation and two previous investigations for nearby parcels (Johnson & Associates, 1995a,b):

- 1) Soil, composed of medium to dark brown sandy loam, immediately underlies the flat terrace surface. This mature soil profile is probably about 5 feet thick but is partially stripped by grading on the bank (aerial photographs suggest that this grading accompanied the initial development of the site in 1948).

- 2) Terrace deposits (Pleistocene), composed of reddish brown, pebble/cobble conglomerate with a friable sandy matrix, are present in the upper half of the bank (concealed on the subject property but exposed on nearby parcels). The terrace deposits are probably

7 to 9 feet thick (including the soil overprint), with an irregular, erosional contact at the base. This contact perches water during the rainy season, causing seepage from the face of the bank.

3) The bedrock beneath the terrace deposits is Purisima Formation (Pliocene), composed of gray to buff, orange-weathering, heavily bioturbated sandy siltstone. The upper 4 feet of bedrock, which is exposed in the bank on adjacent properties (but concealed by the timber seawall on the subject property), is weathered and somewhat friable. On the neighboring parcel the uppermost, weathered bedrock exhibits a wave-cut notch at an elevation of 20 to 21 feet. In contrast, the bedrock exposed throughout the shoreline platform is less weathered, moderately to well lithified and only slightly friable. The pock-marked surface of the platform reflects differential erosion of the burrows within the bedrock (the larger "potholes" on the platform are artificial). Despite these local irregularities the platform appears crudely stepped, with each step representing a stripped bedding surface inclined about 5 degrees seaward (Plate 2). This inclination is similar to the dip of the Purisima strata exposed nearby at Johans Beach.

At the seaward margin the bedrock platform generally drops off steeply and flattens out again slightly below sea level. Below the blowhole, however, there is a narrow sea cave formed by erosion along bedrock joints (Plate 1). Establishing the dimensions of this cave presented significant logistical difficulties. We were able to estimate the width of the cave at its mouth by inspection from the platform edge on a calm day (Plate 1). We also measured the roof and floor elevations by extending a stadia rod down the blowhole at low tide (Plate 2). We had hoped to establish the

depth of the cave by wading into its mouth during a minus low tide, but on three separate occasions we encountered conditions that were too hazardous to make an attempt.

Since we were unable to measure the depth of the cave directly, we have estimated it by other means. In the past decade our firm has investigated two analogous sea caves in the Sunny Cove area, which is a short distance downcoast from the subject property (see Johnson and Associates, 1984; 1996). At Sunny Cove we were able to enter the caves and obtain fairly accurate measurements of their dimensions. These caves are considerably broader, taller, and (presumably) deeper than the cave near the subject property. Thus, by "scaling down" the widths of the Sunny Cove caves to match the width of the cave near the subject property, we have obtained a rough estimate of the scaled-down depth as well (assuming a reasonable degree of proportionality). As shown on Plates 1 and 2, we estimate that the sea cave near the subject property extends roughly 25 feet landward of the blowhole, following one of the prominent joint patterns mapped along this stretch of coastline. This would place the back of the cave about 50 feet from the seaward property line and 100 feet from the footprint of the existing house. Note, however, that the cave is actually retreating in the direction of the neighboring property on the downcoast side, due to the controlling influence of the bedrock joints (Plate 1).

The morphology of the coastline near the subject property has clearly resulted from differential erosion, with the upper bank retreating faster on average than the seaward edge of the platform. This process should be self-limiting, however, because as the platform grows wider storm waves will reach the upper bank less

frequently. In the next section we will attempt to quantify bluff erosion at the site, with the goal of making valid projections for the future.

History of Bluff Erosion Adjacent to Subject Property

We have determined the history of bluff erosion below the proposed homesite by examining three sets of large-scale, stereo aerial photographs spanning the period 1948 to 1989, along with the base map depicting site conditions in 1996. This study revealed the episodic nature of bluff retreat in both space and time, as summarized below. Coastal erosion at this site has two components, which are loosely coupled as suggested in the preceding section: 1) retreat of the upper bank, and 2) retreat of the seaward edge of the platform. For convenience these two components have been treated separately.

Retreat of the Upper Bank: Plate 1 shows the position of the bank in 1948, 1965, and 1996. Our frame of reference was the toe of the bank, where it meets the shoreline platform, because this was well defined on the aerial photographs and the top of the bank was graded in 1948. On the 1965 photos, for instance, the toe of the bank was measured relative to a cyclone fence on the platform. The fence has since been dismantled or destroyed by surf, but the footings for the fence posts are still visible as shown on Plate 1. This fence was not present in 1948 so we used other reference points such as the original footprint of the house (ignoring subsequent additions) and the blowhole near the edge of the platform (which has remained virtually unchanged in the last 48 years).

From 1948 to 1965 the toe of the bank retreated 6 to 7 feet in 17.6 years, or 0.3 to 0.4 foot per year (rounded off). From 1965 to 1983 (when the timber seawall was installed), the toe of the bank retreated only 2 to 4 feet in 17.9 years, or 0.1 to 0.2 foot per year (rounded off). The apparent decrease in erosion rates has two possible explanations: 1) it may be an artifact of the sampling intervals, given the episodic nature of the erosion process, or 2) it may be a real trend controlled by the increasing width of the shoreline platform with time, as suggested earlier. Our data base is insufficient to permit a choice between these two possibilities. For planning purposes, therefore, we have taken the conservative approach and adopted the average rate of retreat for the period 1948 to 1996 (measured at the upcoast margin of subject property, where the seawall ends): 14 to 16 feet in 48 years, or 0.3 foot per year (rounded off). Projecting this rate of retreat into the future requires the assumption that the existing timber seawall will be poorly maintained or completely destroyed (and not replaced). In this worst-case scenario we would anticipate slightly more than 30 feet of additional bank retreat during the 100-year design period stipulated by the California Coastal Commission (Plates 1 and 2). Note on the cross section that we have assumed the future bank will approach a 1:1 slope, which is typical for the angle of repose in terrace deposits. The current bank was graded in 1948 and is gentler than 2:1.

On the other hand, if the existing seawall is adequately maintained and protected against outflanking at its ends, then future retreat of the upper bank would be virtually nil over the design period.

In our opinion, these projections are conservative provided that 1) the seaward edge of the platform does not retreat catastrophically

due to the collapse of any extensive sea caves or overhanging ledges, and 2) there are not any dramatic oceanographic changes in the area during the design period, such as might occur during severe global warming. We discuss the implications of the sea cave below the blowhole in the next section of this report. As for the second point, the controversial issue of global warming is clearly beyond the scope of our investigation.

Retreat of the Platform: The shoreline platform has eroded very slowly since 1948, the beginning of our study period. On the 1948 photos the blowhole on the edge of the platform was already present and has changed only slightly in size and shape ever since. We have also accurately mapped the edge of the platform on the 1965 photos (1:3,600) and 1989 photos (1:7,200) and plotted these positions on Plate 1 for comparison with the 1996 position as defined by the project surveyors (locally modified by our firm). Along half of its length the shoreline platform has retreated imperceptibly in the last 31 years. In our previous studies of nearby parcels we established a long-term average rate of retreat for the platform edge of 0.1 to 0.2 foot per year (Johnson and Associates, 1995a, b).

The other half of the platform edge occupies areas of former joint-bounded sea caves or overhangs, the collapse of which has resulted in high rates of retreat over the short term, generally in the range of 8 to 9 feet (Plate 1). None of the areas that collapsed between 1965 and 1989 are currently overhanging, so new collapses are not imminent.

This brings us to the one area of potential concern, the existing sea cave below the blowhole. As stated earlier, we estimate that the back of this cave lies about 50 feet from the seaward property line and 100 feet from the footprint on the existing house. Given the distances involved, this sea cave will not create a hazard for the subject property in the next 100 years because the rate of bedrock retreat in the area is too low (typically 0.1 to 0.2 foot per year). We would draw the same conclusion even if our current estimates of cave depth and retreat rate should prove to be wrong by a factor of two (which is very unlikely).

Discussion of Bluff Retreat: The data presented above confirm that the upper bank has retreated more rapidly on average than the platform edge over the last 48 years. For the next 100 years, therefore, we anticipate that this trend will continue and the shoreline platform will become wider. As the shoreline platform becomes wider, storm waves will reach the base of the bank less frequently and the average rate of bank retreat should decrease with time. A catastrophic retreat of the platform edge would "reset" the system, leading to accelerated erosion of the upper bank, but we have discounted this possibility because there are presently no overhanging ledges or sea caves of sufficient dimension along the seaward margin of the platform.

With all of these considerations in mind, we have adopted the average rate of bank retreat for 1948 to 1996 (0.3 foot per year) as our worst-case design parameter for the next 100 years. This estimate is, in our opinion, inherently conservative because it does not allow for the probable decrease in retreat rate as the

platform grows wider. Plates 1 and 2 show the projected position of the upper bank in 100 years based on this estimate.

SEISMICITY

The subject property is located approximately 11 miles southwest of the San Andreas fault; the main trace of the San Gregorio fault lies approximately 12 miles to the southwest (Figure 2). These faults are possible sources of damaging earthquakes but the San Andreas is considered to be the most active fault within the region (Figure 9). The 1989 Loma Prieta earthquake probably relieved some stress along the segment of the San Andreas fault closest to the subject property, the southern Santa Cruz Mountains segment. However, the assumed 100-year economic lifetime for the development is sufficiently long to allow stress on this segment to build up again and trigger a repeat of the Loma Prieta event. Therefore, using estimates from The Working Group on California Earthquake Probabilities (1990), the "design earthquake" for the subject property is a magnitude 7.0 earthquake centered on the southern Santa Cruz Mountains segment of the San Andreas fault. A magnitude 7.0 earthquake on the San Francisco Peninsula segment of the San Andreas (Working Group, 1990) or a magnitude 7.7 earthquake on the San Gregorio (Wesnousky, 1986) could also produce strong shaking at the subject property.

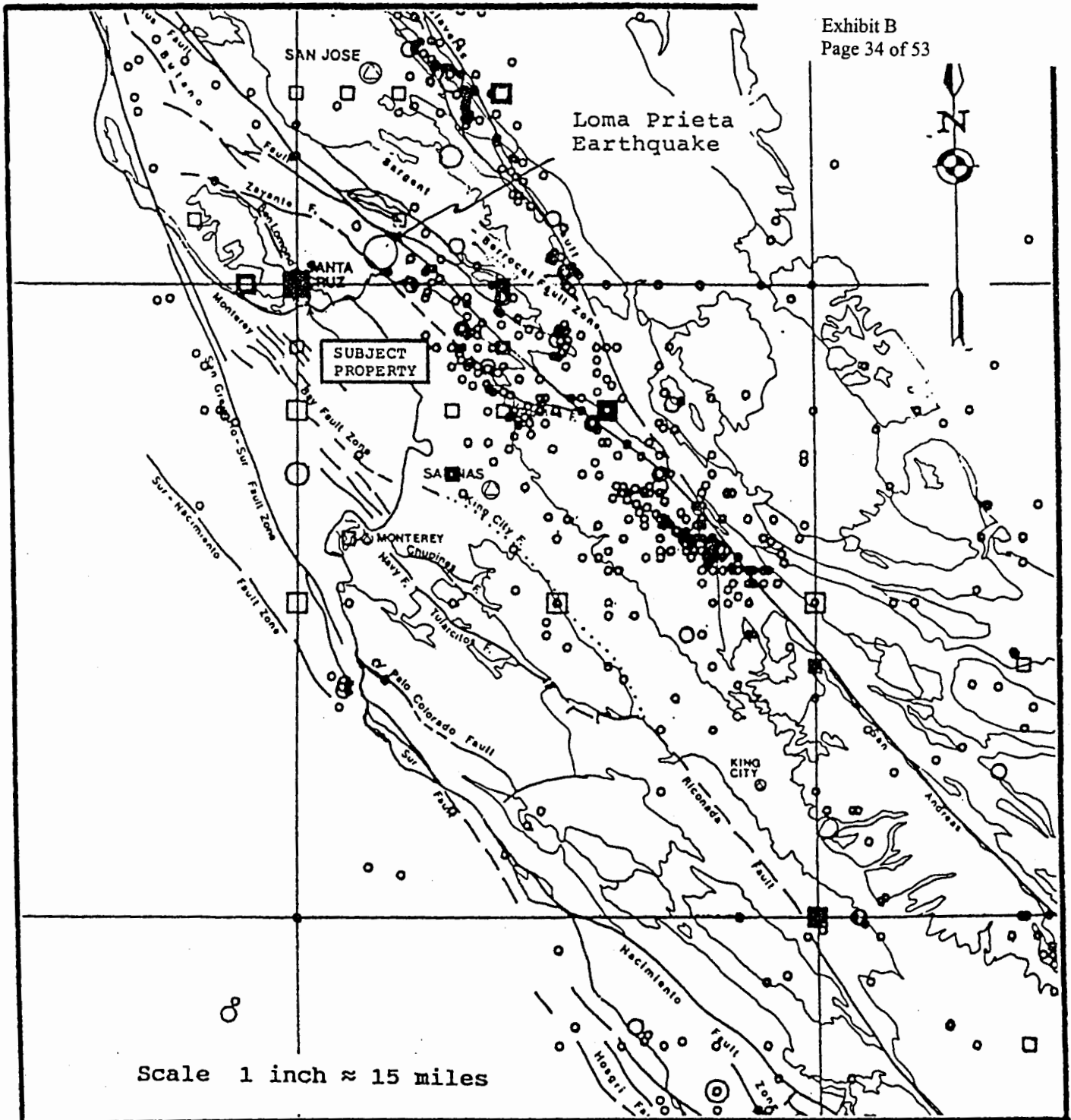
Ground shaking from a magnitude 7.0 earthquake 11 miles from the site would have a Modified Mercalli Intensity of approximately VII to VIII+ (Table 1), with a mean peak horizontal ground acceleration (MPHGA) of about 0.35 gravity (Seed and Idriss, 1982) and repeatable high ground accelerations (RHGA) of about 0.25 gravity,

FIGURE 9

REGIONAL EARTHQUAKE EPICENTERS

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Intensities

- III-V ☐
VI-VIII ☐
IX-XII ☐

EARTHQUAKE EPICENTERS PLOTTED
BY NATIONAL GEOPHYSICAL DATA
CENTER/NOAA, BOULDER, COLORADO

Magnitudes

- 3.5-4.9 ☐
5.0-6.0 ☐
6.1-7.0 ☐
>7.0 ☐

TABLE 1

MODIFIED MERCALLI INTENSITY SCALE

General Comparison Between Earthquake Magnitude
and the Earthquake Effects Due to Ground Shaking

EARTHQUAKE CATEGORY	RICHTER MAGNITUDE	MODIFIED MERCALLI INTENSITY SCALE* (After Housner, 1970)	DAMAGE TO STRUCTURE
Minor	2.0	I - Detected only by sensitive instruments.	No damage
		II - Felt by few persons at rest, especially on upper floors; delicate suspended objects may swing.	
	3.0	III - Felt noticeably indoors, but not always recognized as an earthquake; standing cars rock slightly, vibration like passing truck.	
		IV - Felt indoors by many, outdoors by a few; at night some awoken; dishes, windows, doors disturbed; cars rock noticeably.	Architectural damage
	4.0	V - Felt by most people; some breakage of dishes, windows and plaster; disturbance of tall objects.	
		VI - Felt by all; many are frightened and run outdoors; falling plaster and chimneys; damage small.	
Moderate 5.3	5.0	VII - Everybody runs outdoors; damage to buildings varies depending on quality of construction; noticed by drivers of cars.	
		VIII - Panel walls thrown out of frames; fall of walls, monuments, chimneys; sand and mud ejected; drivers of cars disturbed.	Structural damage
Major 6.9	6.0	IX - Buildings shifted off foundations, cracked, thrown out of plumb; ground cracked, underground pipes broken; serious damage to reservoirs and embankments.	
	7.0	X - Most masonry and frame structures destroyed; ground cracked; rail bent slightly; landslides.	
Great 7.7		XI - Few structures remain standing; bridges destroyed; fissures in ground; pipes broken; landslides; rails bent.	Near total destruction
	8.0	XII - Damage total; waves seen on ground surface; lines of sight and level distorted; objects thrown into the air; large rock masses displaced.	

*The intensity is a subject measure of the effect of the ground shaking,
and is not an engineering measure of the ground acceleration.

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CCC-04-CD-07 (Reilley Beach LLC)

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rounded to the nearest 0.05g (Ploessel and Slossen, 1974). The duration of ground shaking from this design event would be about 16 seconds (Dobry and others, 1978).

No active or potentially active faults have been mapped near the subject property. The bedrock faults exposed in the seacliff between Santa Cruz and Capitola do not disrupt the wave-cut platform below the terrace deposits. This surface is at least 85,000 years old (Weber, 1990).

Coseismic Slope Stability

Both the seismic setting and the site-specific geology influence the stability of the seacliffs in this area. As previously mentioned, the subject property will be subjected to strong ground shaking in the event of a large magnitude earthquake centered on the nearby San Andreas or San Gregorio faults.

Historic ground shaking of this intensity has triggered failures of the coastal bluffs in the Santa Cruz area. Review of the local newspaper coverage (Youd and Hoose, 1978), and the Carnegie Commission Report (Lawson et al., 1908) of the 1906 earthquake disclosed no documented accounts of large-scale seacliff failure in Santa Cruz County due to the earthquake, though there was much sloughing of "earth" from the bluffs near Capitola (Lawson et al., 1908, p. 272). This apparently involved portions of the poorly consolidated terrace deposits that were shaken loose during the earthquake.

Another seismically generated failure occurred on the steep coastal bluff along Opal Cliffs Drive on 24 April 1984 (Morgan Hill earthquake, Magnitude 5.8-6.2), resulting in about six feet of localized retreat. This amount of coseismic bluff retreat is similar to that which occurs during storm-generated bluff retreat. We are not aware of bluff retreat at the subject property as a result of the Morgan Hill earthquake.

The 1989 Loma Prieta earthquake generated numerous localized coastal bluff failures in Santa Cruz County, including soil sloughing, rockfalls, blufftop fissuring, and shallow translational landslides (Sydnor et al., 1990). At San Lorenzo Point, for instance, the 30-foot coastal bluff experienced block falls and rotational slumps during the earthquake. We are unaware of any coseismic failures on or near the subject property during the Loma Prieta earthquake. At Black Point, however, it is conceivable that the bedrock joint blocks undermined by sea caves have been further weakened by seismic shaking.

CONCLUSIONS

The subject property at 200 Geoffroy Drive, Santa Cruz, California (APN 028-212-06) is located adjacent to a stepped coastal bluff about 30 feet high. The owner wishes to construct a second-story addition to the existing single family dwelling. The new construction falls under the 100-year design criterion recently adopted by the California Coastal Commission.

The homesite is located on a terrace adjacent to a moderately steep bank about 13 feet high. Below the bank is a gently sloping,

elevated shoreline platform 65 to 90 feet wide with a steep face on the seaward side. The upper bank is composed of erodible soil, terrace deposits, and weathered, somewhat friable sandy siltstone bedrock. The shoreline platform is composed of less weathered, indurated, sandy siltstone bedrock, which is much more resistant to surf erosion than the overlying materials.

The historical rates of bluff retreat at this location have been relatively low due to the presence of the erosion-resistant shoreline platform, which acts as a natural revetment against surf attack. Over the last 48 years the upper bank has retreated about 0.3 foot per year (on average) due to the runup of occasional storm waves. Since 1983 the toe of the bank fronting the subject property has been protected by a timber seawall 5½ feet high and the erosive retreat had essentially ceased. If the existing seawall is adequately maintained and protected against "outflanking" at its ends, then future retreat of the upper bank would be virtually nil over the 100-year design period. On the other hand, if the existing seawall is poorly maintained or completely destroyed (and not replaced), then we would anticipate slightly more than 30 feet of additional bank retreat in the next 100 years.

The retreat of the seaward edge of the shoreline platform has been less than 0.1 to 0.2 foot per year over the last 48 years. We did observe one sea cave along the face of the platform, located below a prominent blowhole, but the dimensions of this cave are small enough that it will not be a design factor in the next 100 years.

At the worst-case rate of retreat, the top of the upper bank would encroach within 15 feet of the existing building footprint by the

end of the 100-year design period, assuming a 1:1 angle of repose for the terrace deposits. The risk to the existing building footprint is thus low. This risk assessment could be revised, however, in the event of unforeseen, dramatic oceanographic changes (such as might occur during global warming).

The risk from the slowly retreating shoreline platform is very low over the design period.

The subject property lies in a seismically active region with a moderate to high probability for strong seismic shaking in the next 100 years.

RECOMMENDATIONS

- 1) We recommend that the existing seawall be properly maintained (or replaced, as necessary) to preserve future development options, as well as the usable area in the back yard.
- 2) We recommend retaining a geotechnical engineer to evaluate the foundation conditions of the site and provide design parameters for upgrading the foundation, if necessary. Seismic shaking parameters for design purposes are included in this geologic report, as follows: MPHGA 0.35g; RHGA 0.25g; duration of strong shaking 16 seconds.
- 3) We recommend controlling drainage and runoff from roofs, decks, and patios and conveying it to Geoffroy Drive. In addition, excessive watering of the vegetation between the house and bank should be avoided.

- 4) Plan review by our firm will be necessary only if the proposed addition lies seaward of the current building footprint.
- 5) We recommend the homeowner implement the simple procedures outlined in Peace of Mind in Earthquake Country by Peter Yanev (1974) for improving the home's strength and safety in a large earthquake. This book contains a wealth of information regarding seismic design and precautions the homeowner can take to reduce the potential for injury, property damage, and loss of life.

Injury and loss of life during large earthquakes results mainly from falling objects, overturned furniture and appliances, and fires caused by severed utility lines. The majority of damage in the city of San Francisco in the 1906 earthquake resulted from the fires that burned out of control for weeks after the quake. Securing furniture and large appliances to the floor or structural components of the building will help to reduce this risk.

INVESTIGATION LIMITATIONS

- 1) The conclusions and recommendations noted in this report are based on probability and in no way imply that the homesite and adjacent bluff below will not possibly be subjected to ground failure, seismic shaking or coastal erosion by wave inundation and/or impact causing significant damage. The report does suggest that using the site for residential purposes in compliance with the recommendations contained herein is an

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2 December 1996

acceptable risk over the 100-year design period stipulated by the California Coastal Commission.

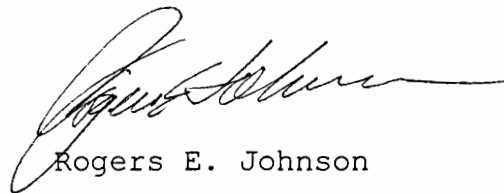
- 2) This report is issued with the understanding that it is the responsibility of the owner or his representative or agent to ensure that the recommendations contained in this report are brought to the attention of the project architect and engineer, are incorporated into the plans and specifications for the project, and that the necessary steps are taken to ensure that the contractor and subcontractors carry out such recommendations in the field.
- 3) If any unexpected variations in soil conditions or if any undesirable conditions are encountered during construction, Rogers E. Johnson and Associates should be notified so that supplemental recommendations can be given.

Sincerely,

ROGERS E. JOHNSON & ASSOCIATES



Alan O. Allwardt
R.G. No. 5520



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

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CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Job No. C96048-68
2 December 1996

APPENDIX

Storm History of Monterey Bay
and the Central Coast, 1910-1983

**STORM HISTORY OF MONTEREY BAY
AND THE CENTRAL COAST, 1910-1983**

(Compiled from U. S. Army Corps of Engineers, 1958; Bixby, 1962;
California Coastal Commission, 1978; Griggs and Johnson, 1983;
Santa Cruz Sentinel and Watsonville Register-Pajaronian)

Date	Damage - Description	Direction/ Type of Storm
21 March 1910	Heavy storm off coast, mountainous seas. No damage.	---
22 Nov. 1910	Bay was very rough and surf was running high. No ships able to enter or leave Monterey harbor. No damage.	---
23 Feb. 1911	Mountainous waves reported along the beach north of Monterey. No damage.	---
4-11 Oct. 1912	Strong northwest wind and heavy swell. Several wharves at Monterey damaged and boats beached. Heavy surf.	---
Dec. 1912	Watsonville Wharf damaged, waves dashed up to Casino building; heaviest seas in history of Monterey Bay.	---
29-30 Apr. 1915	Heavy surf and strong winds. Consider- able damage to structure and boats.	---
26 Nov. 1915	Large and powerful waves breaking over wharves at Monterey. No damage.	---
27 Jan. 1916	Southwest gale. Steamship pier at Moss Landing destroyed by tremendous swells.	"southwest gale"
29 Nov. to 1 Dec. 1923	Northeast gale swept 15 boats ashore at Monterey. Heavy seas outside harbor. Freighter beached at Santa Cruz.	"northeast gale"

Date	Damage - Description	Direction/ Type of Storm
11-15 Feb. 1926	Southerly gale winds and wave damage all along California coast. Pier damaged at Moss Landing. High tide and waves destroyed bath house at Santa Cruz, concession building lost practically all of underpinnings. Downtown Capitola flooded. Venetian Court apartments undercut. High waves washed completely over 2000' of new seawall at Seacliff, carrying debris back to cliff. Portions of seawall undercut and caved in. Beach road washed almost entirely away. Seawall at Swanton Beach partially destroyed. Seaside Company's bandstand collapsed. Breaker broke into and destroyed Ideal Fish Restaurant.	"southerly gale"
25 Oct. 1926	Heavy swells running into Bay. Giant combers rolled shoreward carrying bay waters almost up to high line of last February's storm. Swept up to Casino.	---
8-9 Dec. 1926	Heavy swells washed one boat ashore at Monterey. No significant damage.	---
14-16 Feb. 1927	At the time reported to be most violent storm in history of Pacific coast. During high tide, breakers rolled clear to the esplanade. Dashed against Casino. Concrete seawall at Seacliff Beach destroyed.	"heavy southwester"
4 Oct. 1927	Huge breakers reported along Central California coast. No damage reported.	---
30 Dec. 1928	Powerful surges in Monterey harbor causing damage to freighter attempting to moor.	---
3 Jan. 1931	Piling of Municipal Pier loosened. Boarding in front of Casino damaged.	heavy southwest swell

Date	Damage - Description	Direction/ Type of Storm
4 Feb. 1931	Damage at Santa Cruz Casino building. High breakers and ground swells, waves reached bottom of wharf, 14 to 20 feet above mean lower low water.	---
20 Feb. 1931	North winds of gale intensity. Several small boats wrecked.	north winds
20-21 Nov. 1931	Strong winds and heavy seas beached numerous small boats at Monterey. No damage to Santa Cruz wharf.	northwest gale
23-29 Dec. 1931	Violent storm. Entire coastal area affected. East Cliff Drive between Santa Maria del Mar and Soquel Point cut by wave action and sections lost. Large quantities of sand eroded from Twin Lakes Beach. At Seacliff concession building and bathing pavilion wrecked. Beach littered with debris brought down by storms. Giant breakers washed over pier at Capitola (20 feet above mean lower low water). Considerable damage to Casino.	winds first from southwest, then northwest
20-21 Dec. 1932	Very rough on bay and waves breaking over breakwater under construction at Monterey.	winds from northwest
19 Dec. 1935	Very heavy surf. Giant breakers demolished steps opposite Nichols Fishing Trip offices on wharf and damaged Stagnaro landing.	---
10-11 Dec. 1937	Coast Road closed at Waddell. Boats beached at Stillwater Cove.	southwest winds
9-10 Dec. 1939	High waves. Breakers and high tide combined to flood lower East Cliff Drive area. Deep water wave height hindcast at 20 feet. At Seacliff Beach, timber bulkhead destroyed and shoreward end of pier damaged.	southwest wind, waves

Date	Damage - Description	Direction/ Type of Storm
8 Jan. 1940	Casino at Capitola almost a complete wreck. Santa Cruz Casino damaged. East Cliff Drive between Santa Cruz and Capitola weakened. Piling broke loose from wharf. Flooding of a motor camp at Seabright. Debris and mud deposited up to entrance at Casa Del Rey Hotel. Boardwalk drenched.	---
26-28 Feb. 1940	Beaches eroded and littered with logs. Hindcasted waves of 25 feet in height.	southwest wind, waves and swell
26-27 Dec. 1940	Highway 1 closed after 800 feet of roadway washed away at Waddell from high seas. Timbers along boardwalk collapsed. Huge sections of East Cliff Drive at Schwann's Lagoon collapsed. Crux of local weather trouble was at Seacliff. Logs up to 10 feet were tossed onto road. 80-foot section of pier washed out. Houses damaged. 80 feet of Seacliff State Park lost. Two sections of Seacliff bulkhead ripped out. At Moss Landing, houses were under a foot of water.	---
8-13 Jan. 1941	At Seacliff Beach, about half of a timber bulkhead and 60 feet of shore end of pier destroyed. Beach eroded to bedrock.	waves and swell from southwest; crests level w/ deck of pier (+20 ft. above mean lower low water)
11-13 Feb. 1941	Large waves in bay. West Cliff Drive caves in. Residents in Seacliff Park cut off by slides.	---
26-28 Feb. 1941	Heavy winds, gigantic waves, breakers smashed Casino steps. West Cliff Drive closed due to cliff erosion from wave action. Hindcast wave height at 22 feet.	south- southwest and southwest wind waves and swell

Date	Damage - Description	Direction/ Type of Storm
24-25 Dec. 1942	North winds and high surf beached four purse seiners at Monterey.	north winds
22 Jan. 1943	High surf reported but no wave damage.	southwest winds
8-9 Dec. 1943	Very strong northeast winds wrecked 40 fishing boats, piers and pilings in Monterey harbor.	northeast wind
1-2 Feb. 1945	Southerly winds and heavy seas. No damage reported.	southerly winds
4 Mar. 1946	North winds up to 40 knots. Two large purse seiners washed ashore.	north winds
28 Jan. 1947	Northerly gale force winds; 43 foot fishing boat capsized and beached; 80 foot section of dike holding dredge spoil washed out in Monterey.	northerly gale
4 Apr. 1947	Strong northerly winds with high surf in bay.	northerly winds
23 Feb. 1948	Northwest winds up to 50 mph. Some boats beached in Monterey. Damage light.	northwest winds
2-3 Jan. 1949	High winds and seas. Several boats adrift and one lost in Monterey.	---
27-29 Oct. 1950	Northerly gale winds accompanied by gigantic waves pounded Monterey Peninsula. Considerable shoreline erosion. Most damage caused by huge waves which swept up across Aptos Beach Drive at Rio del Mar Beach. 15-foot combers carried fence posts smashing against residences. Beach club severely battered by waves at Rio del Mar Beach with sea water and sand flooding many of the 33 homes along the beach. At Seacliff State Park Beach, 2 large pontoons were torn from their moorings. Homes along beach between Seacliff and New Brighton were not damaged as seawall provided protection. At Santa Cruz, waves were 10 to 15 feet high.	northerly gale

Date	Damage - Description	Direction/ Type of Storm
2 Dec. 1951	Southerly winds up to 40 mph. High surf but no damage.	southerly winds
23 Feb. 1953	Northeast gale winds up to 60 mph drove 7 large fishing boats ashore in Monterey.	northeast winds
13 Nov. 1953	Southerly winds. Pleasure pier at Santa Cruz damaged; waves overtopped seawall at Capitola. Beaches eroded. 14 foot waves.	southerly winds
7 Oct. 1954	Foreshore of beaches from Santa Cruz to Rio del Mar lowered. 3 to 5 foot scarp.	heavy ground swells from southwest
9-10 Feb. 1960	Southerly winds up to 45 mph with gigantic waves. Rio del Mar, Capitola and Seacliff took brunt of waves. At Capitola waves smashed beach restaurants and amusement concessions. Rio del Mar: 25 luxury homes along Beach Road damaged by gigantic waves. Seacliff Beach State Park: camping sites destroyed, restroom nearly destroyed. At times during the storm, the concrete ship disappeared completely. One wave took out end of concession buildings on wharf. Large areas of hardtop parking areas washed away.	southerly and westerly winds
Winter 1969	Storm waves attacked the Pajaro Dunes area. Erosion of the dunes occurred in certain areas and about 12 lots experienced severe erosion with stairs being undercut. Some automobile bodies were brought in for protection and placed at the toe of the scarp cut by the waves.	---
11-15 Feb. 1976	High waves washed completely over new seawall at Seacliff, carrying debris back to cliff. Portions of seawall undercut and caved in.	southerly gale

Date	Damage - Description	Direction/ Type of Storm
8-9 Jan. 1978	Seawall at Seacliff overtopped and logs and debris scattered across parking and camping area. Extensive damage to seawall.	storm from southwest
Feb. 1980	\$1.1 million in damage at Seacliff. Storm destroyed entire lower beach portion of park, taking roads, parking lots for 324 cars and a 2672 foot seawall.	southwest
28-30 Jan. 1983	\$740,000 in damage at Seacliff. 2800 feet of new seawall damaged. 700 feet totally destroyed; 11 RV sites destroyed, restroom heavily damaged, logs and debris washed back to cliff.	waves from southwest

POINT PACIFIC DRILLING

707/763-5591 PHONE

707/778-0797 FAX

FACSIMILE TRANSMITTAL SHEET

TO:	Dan	FROM:	Dani Moczowski
COMPANY:	California Coastal Commision	DATE:	April 16, 2004
FAX NUMBER:	415-904-5400	TOTAL NO. OF PAGES INCLUDING COVER:	1

RE: 200 Geoffrey Dr. Santa Cruz

☐ URGENT ☒ FOR REVIEW ☐ PLEASE COMMENT ☒ PLEASE REPLY ☐ PLEASE RECYCLE

Dan,

Here is the information you requested. If you have any questions please contact us.

Thank you,
Dani Moczowski

RECEIVED
APR 16 2004
CALIFORNIA
COASTAL COMMISSION

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit C
Page 1 of 2

Point Pacific Drilling

Contractor's Lic. # 690380
 P.O. Box 2775 • Petaluma, CA 94953
 (707) 763-5591 • Fax (707) 778-0797

RENTAL AGREEMENTDate 12/3/02Job # Dod - 50

Phone () _____

Contractor CALIFORNIA CONTINENTAL

Phone () _____

Job Name _____ Supt. _____

Location 200 GEOPHYSICAL DRILLINGEQUIPMENT AND LABOR HOURLY ☒ DRILLING OR EXCAVATING AS DIRECTED AND SUPERVISED BY OTHERS

NOTE: DRILLED SHAFTS OR TRENCHES LEFT OPEN ARE RESPONSIBILITY OF GENERAL CONTRACTOR AND/OR OWNER!
 EQUIPMENT RENTAL AGREEMENT IS ON REVERSE SIDE!

WORK REQUESTED AS FOLLOWS: DRILLING WITH TWO PORTABLE DRILLING12 @ 13500 PER HOUR CORE DRILLING / STIMULATING13500 PER HOUR 200.00 MONTHLY CHARGE 16500 PER MONTHSPECIAL INSTRUCTIONS: 8 - 18" x 6 - 10'

	NAME OR DESCRIPTION	START TIME	STOP TIME	DOWN TIME	OPERATING	
					STRAIGHT TIME	OVER TIME
DATE	<u>12-03-02</u>					
RIG NO.	<u>PORT</u>	<u>12:30</u>	<u>5:00</u>		<u>4 1/2</u>	
Operator	<u>ART</u>	<u>12:30</u>	<u>5:00</u>		<u>4 1/2</u>	
Oiler	<u>JORGE</u>	<u>12:30</u>	<u>5:00</u>		<u>4 1/2</u>	
DATE	<u>12-04-02</u>					
RIG NO.	<u>PORT</u>	<u>7:00</u>	<u>4:00</u>		<u>8 1/2</u>	
Operator	<u>ART</u>	<u>7:00</u>	<u>4:00</u>		<u>8 1/2</u>	
Oiler	<u>JORGE</u>	<u>7:00</u>	<u>4:00</u>		<u>8 1/2</u>	
DATE	<u>12-6-02</u>					
RIG NO.	<u>PORT</u>	<u>7:00</u>	<u>3:30</u>		<u>8 1/2</u>	
Operator	<u>ART</u>	<u>7:00</u>	<u>3:30</u>		<u>8 1/2</u>	
Oiler	<u>JORGE</u>	<u>7:00</u>	<u>3:30</u>		<u>8 1/2</u>	
DATE						
RIG NO.						
Operator						
Oiler						

OTHER CHARGES FOR: _____

CCC-04-CD-06 (Roy)

CCC-04-CD-07 (Reilly Beach LLC)

Exhibit C

Page 2 of 2

I have read both sides of this rental agreement and agree with the terms and conditions.

X

Owner or contractor's authorized representative

I hereby acknowledge the satisfactory completion of the described work and agree to pay the charges that will accrue therefrom.

X

Owner or contractor's authorized representative

BY: _____

POINT PACIFIC DRILLING

RECEIVED

EXHIBIT A

AUG 29 2003



CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

COUNTY OF SANTA CRUZ

Planning Department

COASTAL ZONE PERMIT

Owner Patricia Roy
Address P.O. Box 5667
San Jose CA 95150

Permit Number 96-0398
Parcel Number(s) 028-212-06

PROJECT DESCRIPTION AND LOCATION

Proposal to remodel an existing nonconforming single family dwelling and construct a second story addition (874 square feet). Requires a Coastal Zone Permit and a Residential Development Permit to exceed the 800 square foot maximum size limitation for additions to a nonconforming structure. Property located on the south side of Geoffroy Drive (200 Geoffroy Drive), at the intersection of Sixteenth Avenue.
SUBJECT TO ATTACHED CONDITIONS.

Approval Date: 3/7/97
Exp. Date (if not exercised) 3/21/99
Denied by: _____

Effective Date: 3/21/97
Coastal Appeal Exp. Date: Call Coastal Comm.
Denial Date: _____

_____ This project requires a coastal zone permit which is not appealable to the California Coastal Commission. It may be appealed to the Planning Commission. The appeal must be filed within 10 working days of action by the decision body.

X _____ This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 working days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 10 working days of action by the decision body.

This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work. ✓

A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit. **THIS PERMIT IS NOT A BUILDING PERMIT.**

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

[Signature]
Signature of Owner/Agent
[Signature]
Staff Planner

3-7-97
Date
3/7/97

Distribution: Applicant - white, File - yellow, Clerical - pink, Coastal Commission -

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit D
Page 1 of 7

DEVELOPMENT PERMIT FINDINGS:

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE EXISTING STRUCTURE AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the proposed project will not be materially detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, or be materially injurious to properties or improvements in the vicinity in that the proposed project complies with all development regulations applicable to the site. The County has accepted a Geologic Report completed on December 19, 1996 for the project. Recommendations stated in the report will be incorporated into this Development/Coastal Permit conditions. Due to the location of the existing garage (11 feet from the front property line) the existing driveway approach appears to be located within the County right-of-way. The right-of-way at this point is about 60 to 80 feet wide and future road improvements by the County would not decrease the safety for vehicles backing out onto Goeffroy Drive from the garage.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

The proposed project is an allowed use within the "R-1-6" zone district and the location of the project complies with the applicable regulations of the "Residential Development Criteria" under County Code Section 13.10.323. Particularly, the subject property complies with the maximum 30 percent lot coverage and the addition meets the required setbacks, maximum 28 foot height and required parking standards. The project also complies with the intent of the "Site, Architectural and Design" ordinance. The project exceeds the 800 square foot addition allowed for existing nonconforming structures and the required findings listed in County Code "Nonconforming Structures" Section 13.10.265 (j) can be made and are included with this document.

3. THAT THE PROPOSED USE AND RETENTION OF THE EXISTING STRUCTURE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN, INCLUDING THE GOALS AND OBJECTIVES, AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The proposed project is consistent with the "Residential Urban Low" General Plan Land Use Plan designation and with the "Residential Neighborhoods Objective 8.4" of the General Plan in that the addition matches the architectural character of the existing house and maintains significant features (wood siding, pitched roof, low profile building mass and silhouette) of the surrounding neighborhood homes.

Applicant: Tl her & ompson Architects
Application No: 96-0398
APN: 28-212-06

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

The proposed use will not overload utilities or generate more than the acceptable level of traffic expected for the proposed project.

5. THAT THE PROPOSED PROJECT AND RETENTION OF THE EXISTING STRUCTURE WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed project will complement and harmonize with the existing residential use of the property and surrounding uses. The proposed dwelling will be compatible with the one and two story character of the area and maintain an acceptable building line along the coastal bluff which provides some public access beyond the property.

6. THAT THE PROPOSED PROJECT WILL NOT INCREASE THE NONCONFORMING DIMENSIONS OF THE STRUCTURE UNLESS A VARIANCE APPROVAL IS OBTAINED.

The proposed addition is located within the center of the existing building and will not increase the nonconformity of the building due to setback reduction.

Applicant: Th. ner & ompson Architects
Application No: 96-0398
APN: 28-212-06

COASTAL ZONE PERMIT FINDINGS

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE LUP DESIGNATION.

The proposed project is an allowed use within the "R-1-6" zone district and is consistent with the "Residential Urban Low" land use plan designation of the General Plan.

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

The project does not conflict with any existing or proposed easements or development restrictions including public access, utility, or open space easements. The project is within an established subdivision that provides a 10 foot wide pedestrian easement to the coastal bluff; this project will not interfere with this access.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 ET SEQ.

The proposed project is consistent with all applicable regulations under County Code Section 13.20.130 for development within the coastal zone. The proposed dwelling addition will be located on a flat parcel (within the developable area) and will be visually compatible with the surrounding neighborhood in that the neighborhood is comprised of a mix of one and two story dwellings with pitched roofs and wood exterior siding. The addition will be located in the center of the existing building footprint thereby maintaining a low profile building mass and silhouette.

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY SECTION 4, 5, 7.2 AND 7.3, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The proposed project is subject to the public access requirements in that the location of the property is between the first public road and the sea. However, public access is not designated for this property and the property is not designated for public recreation or visitor serving facility requirements. Public access is via the public streets adjacent to the property.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Applicant: T. J. Her & Thompson Architects
Application No: 96-0398
APN: 28-212-06

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The proposed project conforms to the "Residential Urban Low" land use plan designation of the Local Coastal Program and is consistent with the development standards applicable to parcels within the Coastal Zone. The proposed further development of the property will be within the perimeter of the existing structure and not impact the public use of the coastal bluff adjacent to and beyond the project.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

CONDITIONS OF APPROVAL

Coastal/Residential Development Permit No. 96-0398

Applicant and Property Owner: Thacher & Thompson/Roy
Assessor's Parcel No. 28-212-06
Property location and address: 200 Geoffroy Drive
Live Oak planning area

EXHIBITS:

- A. Architectural Plans prepared by Thacher & Thompson dated May 15, 1996.
(plans on file in the Planning Department)
-

- I. This permit authorizes remodel to an existing nonconforming single family dwelling and construction of a second story addition (874 square feet). Prior to exercising any rights granted by this Approval, the owner shall sign, date and return one copy of the Approval to indicate acceptance and agreement with the conditions thereof.

- II. The applicant shall obtain a Building Permit. Prior to issuance of a Building Permit, the following shall be complied with:

- A. Building plans shall conform to plans marked "Exhibit A" on file in the Planning Department.
- B. Building plans shall comply with all requirements of the Central Fire Protection District dated July 16, 1996 on file in the Planning Department or available from Central Fire Protection District.
- C. Building plans shall show all existing and proposed plumbing fixtures on floor plans of building application.
- D. Pay the Santa Cruz County Park Dedication fee in effect at the time of Building Permit issuance. On 3/7/1997, this fee would total \$930.00.
- E. Pay the Santa Cruz County Child Care fee in effect at the time of Building Permit issuance. On 3/7/1997, the fee would total \$109.00.
- F. Pay the Santa Cruz County Transportation Improvement fee in effect at the time of Building Permit issuance. On 3/7/97 this fee would total \$667.00.

8.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit D
Page 6 of 7

EXHIBIT

Applicant: Turner & Thompson Architects
Application No: 96-0398
APN: 28-212-06

G. Pay the Santa Cruz County Roadside Improvement fee in effect at the time of Building Permit issuance. On 3/7/97, this fee would total \$667.00.

H. Obtain an Encroachment Permit from the Department of Public Works, as necessary, for any work performed in the public right-of-way. All work shall be consistent with the Department of Public Works Design Criteria.

I. Submit proof of payment of the school impact fee to the appropriate school district.

→ J. Record the Declaration of Acknowledge for Geologic Hazard at the County Recorders office. The form can be obtained from the Planning Department.

→ (K). Comply with the recommendations (those pertinent to this project) in the Rogers Johnson & Associates Geologic Report dated December 2, 1996

III. All construction shall be performed in accordance with the approved plans. Prior to final building inspection and building occupancy, the applicant/owner meet the following conditions:

A. All improvements shown on the approved Building Permit shall be completed.

IV. Operational Conditions.

A. All landscaping shall be permanently maintained.

→ B. Comply with the recommendations in the Rogers Johnson & Associates Geologic Report dated December 2, 1997

C. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)



CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit E
Page 1 of 1

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
ENFORCEMENT DIVISION
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4883



SENT VIA REGULAR AND CERTIFIED MAIL (7000 1530 0003 5913 9828)

December 19, 2002

Ms. Patricia Roy
P.O. Box 5667
San Jose, CA 95150-5667

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit F
Page 1 of 3

Property Location: 200 Geoffroy Drive, (APN 028-212-006), in the Santa Maria Cliffs region of the unincorporated Live Oak area of Santa Cruz County

Violation File No.: V-3-02-043

Subject Activity: Construction of a shoreline protective device on the Rock Shelf without a Coastal Development Permit

Dear Ms. Roy,

California Coastal Commission (Commission) staff has confirmed construction of a shoreline protective device in the rock shelf fronting your property located at 200 Geoffroy Drive in the Live Oak portion of Santa Cruz County. The construction of a shoreline protective device is considered development, as defined by the Coastal Act and the Santa Cruz County Local Coastal Program. The construction is located in the coastal zone and is subject to Commission coastal development permit (CDP) requirements.

Section 30600(a) of the California Coastal Act states that in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a coastal development permit. Development is broadly defined by Section 30106 of the Coastal Act:

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

V-3-02-043 (Geoffroy Dr. Seawall)

harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this section, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

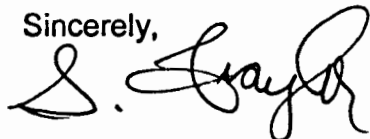
The above-described activity, the placement of a shoreline protective device, constitutes "development" and therefore requires a CDP. Please be advised that any development activity performed without a CDP constitutes a violation of the California Coastal Act's permitting requirements. We have searched our records and cannot find a CDP or CDP waiver/exemption issued for the construction of the shoreline protection structure. We have also checked with the County and they do not have any record of you receiving a coastal permit from the County for development of a shoreline protective device.

On December 12, 2002, the Commission's Central Coast office issued you Emergency Permit No. 3-02-103-G, authorizing after-the-fact development of a wood lagging seawall anchored by steel "I"-beams set in concrete caissons, to replace a previously existing and failed seawall at the same location. Therefore you can proceed with development authorized by Emergency Permit No. 3-02-103-G. Please note, however, that the emergency authorization does not suffice for the above-described required CDP in this case. Development done under emergency authorization is considered temporary; permanent development must be authorized by a regular CDP.

Please note that Emergency Permit No. 3-02-103-G contains 12 conditions of approval. Condition No. 3 requires you to complete the authorized development by **January 11, 2003**, unless extended for good cause by the Commission's Executive Director. In addition, condition No. 4 acknowledges that the measures authorized by Emergency Permit No. 3-02-103-G are only temporary, and requires you to submit a complete application for a regular CDP to have the emergency work be considered permanent by **February 10, 2003**. If you do not choose to file a permit application to have the emergency work considered permanent, you are required to remove the emergency permitted work in its entirety by **May 11, 2003**.

To avoid formal enforcement action, you should comply with all the conditions of approval attached to Emergency Permit No. 3-02-103-G. If you have any questions concerning this letter or our violation investigation, please call me at 831-427-4863.

Sincerely,



Sharif Traylor
Enforcement Analyst/Officer
Central Coast District Office

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

V-3-02-043

Geoffroy Dr. Seawall

December 18, 2002

Page 3

cc: Nancy Cave, Northern Supervisor, Coastal Commission Enforcement Program.
Steve Monowitz, Permit Supervisor, Central Coast District Office.
Dan Carl, Coastal Planner, Central Coast District Office.
Joe Hanna, Santa Cruz County Planning Department.
Dave Laughlin, Code Enforcement Supervisor, Santa Cruz County Planning
Department.

CCC-04-CD-06 (Roy)

CCC-04-CD-07 (Reilley Beach LLC)

Exhibit F

Page 3 of 3

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
ENFORCEMENT DIVISION
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



SENT VIA REGULAR AND CERTIFIED MAIL (7000 1530 0003 5913 9835)

January 21, 2003

Ms. Patricia Roy
P.O. Box 5667
San Jose, CA 95150-5667

Property Location: 200 Geoffroy Drive, (APN 028-212-006), in the Santa Maria Cliffs region of the unincorporated Live Oak area of Santa Cruz County

Emergency Permit No.: 3-02-103-G

Subject Activity: Concrete and rebar from the emergency repair work to a shoreline protective device on the rock shelf fronting your property

Dear Ms. Roy,

This letter is a follow-up to a phone message that I left for you informing you that California Coastal Commission (Commission) staff had received a complaint that concrete and debris had been left over from emergency repair work to a shoreline protective device in the rock shelf fronting your property located at 200 Geoffroy Drive in the Live Oak portion of Santa Cruz County. My message and this letter ask that you immediately remove the concrete and debris. I also would like to remind you that the complete regular coastal development permit (CDP) application to have the emergency work considered permanent is due by **February 10, 2003**.

If you have any questions concerning this letter, please call me at 831-427-4863.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Traylor".

Sharif Traylor
Enforcement Analyst/Officer
Central Coast District Office

cc: Dan Carl, Coastal Planner, Central Coast District Office.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit G
Page 1 of 1

V-3-02-043 (Geoffroy Dr. Seawall)

Sharif Traylor

From: Dan Carl
Sent: Friday, February 07, 2003 9:59 AM
To: Betty Cost (E-mail)
Cc: Sharif Traylor
Subject: Roy emergency permit deadline (3-02-103-G)

Hi Betty,

I received your faxed letter dated February 7, 2003 in which you request an extension of time for the emergency permit deadline requiring submittal of a complete application by February 10, 2003. You have requested a one month extension to this deadline. We understand that you have just recently received permission from the property owner, and your geotechnical engineer is in the process of developing preliminary plans.

Please consider this note as evidence that the emergency permit deadline for submittal of a complete follow-up application has been extended to March 10, 2003, as you have requested. Please note that all other emergency permit terms, conditions, and deadlines remain unchanged.

Please contact me if you have any questions.

Dan

Dan Carl
Coastal Planner

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

Main Phone: (831) 427-4863
Main Fax: (831) 427-4877

Web: www.coastal.ca.gov <<http://www.coastal.ca.gov>>

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit H
Page 1 of 1

Dan Carl

From: Dan Carl
Sent: Tuesday, February 25, 2003 1:34 PM
To: 'Betty Cost'
Cc: Sharif Traylor
Subject: RE: PAT ROY, BLACK POINT

Hi Betty,

I received your email below in which you request another one month extension of time for the emergency permit deadline requiring submittal of a complete application by March 10, 2003 (i.e., as previously extended from February 10, 2003).

Please consider this note as evidence that the emergency permit deadline for submittal of a complete follow-up application has been extended to April 10, 2003, as you have requested. Please note that all other emergency permit terms, conditions, and deadlines remain unchanged.

As to your other questions, I am not sure to what the owners are referring, and I am not aware of any such documentation recently required in this regard. Thus, I can't answer your question as to potential conflict. I'd suggest you get copies of any pertinent document(s) and submit them as part of the application. It is possible that the owners will need to be asked to be co-applicants. In any case, we are going to need to see any and all legal restrictions, and the areas to which they apply, that affect the area in which development is being proposed. I suppose that it is possible that the shelf is deed restricted against development.

As to a potential lot line adjustment, we'd need to know more about the relevant issues before commenting (including a better understanding of the underlying property ownership (including that of State lands), property lines, property restrictions, location and coastal permit status of any structures on it, etc.).

Please contact me if you have any questions.

Dan

-----Original Message-----

From: Betty Cost [mailto:betty@rbeale.com]
Sent: Monday, February 24, 2003 3:15 PM
To: Carl, Dan
Subject: PAT ROY, BLACK POINT

Well, Rick Parks has finished his part and gotten it to George Reynolds, who now has called me to tell me he has Jury Duty and can't work on it for a couple of weeks! So, here I am again, asking for ANOTHER month's time extension from you. April 10th instead of March 10th, please?

Also, regarding the permission from the owners of the rock shelf: the new owners (the Reilleys) say when they bought it they had to sign something with the Coastal Commission that says no structures can ever be built on the rock shelf. So, they want to know if this conflicts with their giving permission to all those property owners whose walls are on the shelf to keep, repair, or replace the walls. Does it conflict? Also, they are thinking of just allowing lot line adjustments along the rock shelf for each of the owners along it to have the part of the shelf adjoining their properties. What do you think of that idea too? Sorry this is getting so complicated, but isn't everything these days????!! Also, if we go the lot line adjustment route, I would have to apply for that to the County, so I wouldn't have permission to apply at the CCC until after that, but I could do so concurrently if you would accept the application based on the current lot line adjustment in lieu of permission!

BC

CCC-04-CD-06 (Roy)
 CCC-04-CD-07 (Reilley Beach LLC)

Exhibit I
 Page 1 of 1

2/25/2003

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
ENFORCEMENT DIVISION
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863



SENT VIA REGULAR AND CERTIFIED MAIL (7000 1530 0003 5913 9927 and 7000 1530 0003 5913 9958)

July 1, 2003

Ms. Patricia Roy
P.O. Box 5667
San Jose, CA 95150-5667

Reilley Beach, LLC
171 Pine Avenue
Los Gatos, CA 95032-5545

Property Location: Bluff and rock shelf area fronting 200 Geoffroy Drive, (APN 028-212-006), between Blacks Point and Sunny Cove (APN 028-212-013) in the unincorporated Live Oak area of Santa Cruz County.

Emergency Permit No.: 3-02-103-G

Violation File: V-3-02-043

Dear Ms. Roy and Reilley Beach, LLC,

On December 12, 2002, Ms. Roy was issued emergency coastal development permit No. 3-02-103-G allowing the construction of a wood lagging seawall anchored by steel I beams set in concrete caissons drilled into a sandstone rock shelf. This emergency permit was issued "after-the-fact" because seawall construction had preceded application for, and issuance of, a coastal permit (emergency or otherwise). Although not made clear in Ms. Roy's emergency permit application, from our discussions with Ms. Roy's representative, Betty Cost, we now understand that the constructed wall is located on property not owned by Ms. Roy but actually owned by Reilly Beach, LLC. Therefore, this letter and the requirements of it are being directed to both the underlying landowner as well as the party responsible for the seawall construction. Emergency coastal development permits allow for only temporary development to respond to sudden unexpected occurrences demanding immediate action. Such temporary development is required to be removed within 150 days if it is not recognized by a regular coastal development permit (CDP) in that time frame. In this case, emergency permit No. 3-02-103-G requires the temporary seawall to be removed by May 11, 2003 absent a regular CDP. Because there is no CDP recognizing the temporary seawall, it

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

exists without benefit of a CDP and is a violation of the Coastal Act's permitting requirements.

Based on discussion and correspondence with Ms. Cost and Rick Parks working on Ms. Roy's behalf, it has been our understanding that Ms. Roy has been developing materials to be used for a CDP application. It was during this process that we were informed by Ms. Cost that the wall was located on property not owned by Ms. Roy. Most recently, on June 4, 2003, Ms. Cost indicated that the owners of the rock shelf had indicated that they would not consent to such development on their property. At that time, Ms. Cost was advised to have her client pursue an alternative project that removed development located on property not owned by Ms. Roy. On June 12, 2003, Ms. Cost was informed that we would allow Ms. Roy an additional 2 months from the required emergency permit removal date, May 11, 2003 (until July 11, 2003) to resolve underlying property ownership issues; if they weren't resolved by that time, we would require removal of the seawall. On June 16, 2003, we were informed by Ms. Cost that Ms. Roy would not be able to resolve the property issues..

Therefore, consistent with the terms of emergency coastal development permit No. 3-02-103-G, the seawall and any associated development allowed pursuant to the emergency permit must be removed in its entirety. If the seawall is not removed, the Reilly Beach, LLC and Ms. Roy may face formal enforcement actions as necessary to achieve compliance with Coastal Act permit requirements. Please submit a plan for removal of the seawall and any associated development, and restoration of the bluff and rock shelf area impacted by it, no later than August 1, 2003. Such plan should provide detailed information on removal and restoration actions to be taken, including, but not limited to: all construction methodologies, including all best management practices be taken to ensure that debris does not make its way into the Monterey Bay; methods to be used to ensure public access is not impacted; measures to assess success of the removal and restoration; and a clear timetable for removal, restoration, and follow-up monitoring. The goal of the plan should be to remove the temporary development and to restore the shelf and bluff in a manner most protective of coastal resources and public access.

We hope to be able to resolve this matter administratively, and are available for consultation as you develop the required removal and restoration plan. Please note, however, that failure to submit the plan by **August 1, 2003** will force Commission enforcement staff to consider taking formal legal action, including but not limited to, issuing an Executive Director or Commission cease and desist order and/or a restoration order, recording a Notice of Violation against your properties and/or initiating litigation for imposition of appropriate monetary fines pursuant to Chapter 9 of the Coastal Act.

I have included a copy of emergency coastal development permit No. 3-02-103-G for your reference. If you have any questions concerning this letter, please call me at 831-427-4863. Thank you for your anticipated cooperation.

CCC-04-CD-06 (Roy)

CCC-04-CD-07 (Reilly Beach LLC)

Exhibit J

Page 2 of 3

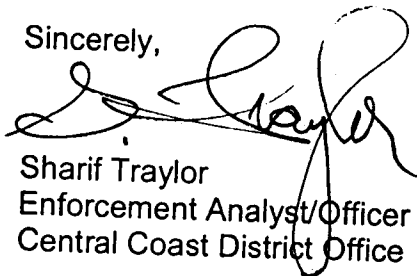
V-3-02-043

Roy Emergency Seawall Removal

July 1, 2003

Page 3

Sincerely,



Sharif Traylor

Enforcement Analyst/Officer
Central Coast District Office

Enclosure

cc: Dan Carl, Coastal Planner, Central Coast District Office
Dave Laughlin, Santa Cruz County, Code Enforcement Supervisor
Nancy Cave, Northern California Supervisor, Enforcement Program
Betty Cost, Representative for Ms. Patricia Roy

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit J
Page 3 of 3

STATE OF CALIFORNIA—THE RESOURCES AGENCY

Gray Davis, Governor

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-5200

RECEIVED



DEC 12 2002

APPLICATION FOR EMERGENCY PERMIT

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

PLEASE NOTE: The following information and attachments must be submitted in writing in order to receive an Emergency Permit pursuant to Public Resources Code Section 30624(a). If the emergency situation is such that a verbal authorization is given by the District Director to commence emergency work, the application for emergency permit must still be submitted by the property owner within 3 days of the disaster or discovery of the danger. 14 Cal. Admin. Code Section 13139.

1. 12-12-02 1:45 pm Request: in ☒ person by ☐ telephone by ☐ mail
Date/Time
2. Patricia J. Roy, Reilly Beach Name(s) of Property Owner(s)
Address: 200 Geoffrey, Santa Cruz Address:
Phone Number: Day - 408-266-6666 Phone Number:
3. Location of Emergency Work: 200 Geoffrey, Santa Cruz
4. Evidence of applicant's interest in property on which emergency work is to be performed
5. Assessor's Parcel Number: 028-212-06
6. Contractor, or person(s) who will do emergency work/address/phone number (if different from representative) Calif Contractors Co - Jess Gonzalez
973 White Ave, Santa Cruz
7. Nature and cause of emergency (brief description): Cell 623-6666
failed sea wall
8. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action: failure of existing Retaining wall
9. Method and preventive work requested (e.g., rip-rap, bulkhead, etc.):
Bulkhead
10. Timing of emergency work (estimate as to when work will be performed — generally a period of 24 to 72 hours after the emergency occurrence):
72 hours

F1: 4/88 5737A

(See Over)

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit K
Page 1 of 2

ATTACHMENTS - Please provide the following:

1. If time permits, evidence of approval by local planning department.
2. Site plan showing proposed and existing development on the subject parcel.
3. Vicinity map (road map) with location of project site marked. For rural areas, please also provide a parcel map.
4. \$200. (Except for Single Family Residences)

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)


CALIFORNIA COASTAL COMMISSION

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



April 15, 2004

TO: Dan Segan, Enforcement

FROM: Lesley Ewing, Coastal Engineer 

SUBJECT: Roy Upper Bluff Wall (V-3-02-043)

I went through the enforcement file and found a 2 December 1996 report by Rogers E. Johnson & Associates, "Geologic Report Roy Property 200 Geoffroy Drive". This report, the attached plates and figures, and my general knowledge of coastal processes in this area form the basis for my comments.

As noted in the Johnson Report, the Roy property is a complex coastal bluff. The upper bluff material is about a 5-foot layer of topsoil. Below that is about a 7 to 9 foot thick layer of terrace deposits and below that is bedrock consisting of Purisima Formation siltstone. For the discussion of bluff erosion, the geologic report differentiates between the shore platform that is the Purisima bedrock layer and the "bank" that is the terrace deposits and the soil layer. This is a useful differentiation since the two units exhibit different retreat rates over the time periods that are of concern for coastal development.

The shore platform is a very erosion resistant formation that provides natural protection for anything that is further landward. The platform has exhibited a little if any erosion from 1948 to present. The long-term average rate of retreat is estimated to be between 0.1 and 0.2 feet per year. Erosion of the platform tends to be joint controlled, with erosion occurring as sea caves or overhangs collapse. In this situation, there can be no change in the platform location for several decades, and then there can be a "sudden" collapse that moves the platform 8 or 9 feet landward. In 1996 when Rogers Johnson made a site visit and prepared the Geologic Report, no overhanging areas were noted on the bluff, and they concluded that "new collapses are not imminent".

The 1996 Report also noted a deep sea cave and blow hole seaward of the Roy property, within the Purisima material. Eventually this will collapse. The Johnson Report concludes that "this sea cave will not create a hazard for the subject property in the next 100 years" and this conclusion seems valid given the site conditions, as described.

The "seawall" is located at the seaward edge of the terrace deposits, and is preventing erosion of the "bank". The seawall is not providing any protection to the platform and it may more appropriately be considered an upper bluff retaining wall. Regardless of the name, its function is to prevent the landward retreat of the terrace deposits and soil layer that overlay the shore platform. The toe of the bank is far inland from the seaward edge of the shore platform, indicating that these two units are responding to different erosive factors, and may have very different short-term erosion rates. The Johnson Report notes that the toe of the bank experienced

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

6 to 7 feet of retreat from 1948 to 1965, and only 2 to 4 feet of retreat from 1965 to 1996 (over the same time period, the platform did not experience any retreat.). To the extent that the bank erosion is influenced by wave action and erosion of the shore platform, then bank erosion should slow as the distance between the bank toe and the platform toe increases. The change in retreat from the 1948 – 1965 period to the 1965 –1996 period may indicate that the influence of waves and the shore platform retreat are lessening as the bank moves further inland. It is possible that the bank retreat will continue to lessen until there is a major collapse of the platform. This would suggest that the bank area is not in imminent danger of rapid erosion since the platform is not in imminent danger of collapse.

Erosion of the bank is also affected by subaerial factors such as runoff, wind, burrowing animals, etc. These factors are independent of the factors affecting the shore platform, and they may cause the bank to continue the overall landward retreat. This suggests that the bank would continue to retreat at a rate between 0.1 and 0.4 feet per year. The Johnson Report assumed a worst-case bank retreat of 0.3 feet per year. With that retreat, the Roy Residence, without the protection of the existing seawall, would start to lose its 25 feet setback buffer in about 60 years and erosion would be within 15 feet of the existing residence in about 100 years. These small retreat rates are reasonable for the subaerial erosion situation that is being considered. In addition, this type of erosion is regularly a gradual type of retreat. It is highly unlikely that there would be a massive retreat of the bank of 5 or 10 feet at a time, independent of a collapse of the underlying Purisima bedrock.

The overall conclusion from the Johnson Report is that the Roy Residence is not now threatened by erosion. Furthermore, the existing residence should be safe from erosion for many decades. The Johnson Report recommended that the existing seawall be maintained to “preserve future development options, not to mention the back yard”. The report did not find that the existing wall was needed now to protect the existing development from an erosion threat that could occur the next few years. There is nothing in the provided material that indicates that this wall is necessary to protect existing development from erosion. If the wall is removed, the existing residence will not be placed at risk from erosion. In several decades, the existing residence may eventually be at risk from erosion, and if there is still development on this property, it may be appropriate then for the property owner to consider some type of shore protection.

The Johnson Report does make some recommendations that the property owner should consider, regardless of the seawall. These recommendations cover drainage, runoff from roofs and excessive watering. These actions can be undertaken independently of any work that is considered for the seawall.

From a verbal description, it is my understanding that the existing seawall consists of reinforced concrete caissons, embedded approximately 5-feet into bedrock, with timber lagging between the caissons. The Geologic Cross Section also indicates that there is some backfill landward of the wall. The Johnson Report also notes that there are already two sets of fence posts/postholes seaward of the seawall. It also notes that there are several “potholes” on the platform that are artificial. If the Commission determines that the existing seawall should be removed, there are two removal options. Normally, when there has been excavation into bedrock, the Commission tries to find a restoration option that minimizes further disturbance of the bedrock. This often is

accomplished by having the removal occur in several steps – the incremental removal option. Initially the exposed caissons and lagging would be removed, with as much of the buried caisson removed as possible without causing further degradation of the bank or platform. In this situation, the lower, embedded part of the caisson would be left in place until it becomes exposed. The exposed portions of the caisson would be removed incrementally, perhaps one or two feet at a time. Due to the low rate of retreat in this area, such an incremental removal option would likely occur over a number of years. Eventually the entire caisson would be removed and there would no longer be any indication that a seawall had been installed to protect the bank.

A second option would be to have the entire wall removed at once – the complete, one-time removal option. Since the existing platform has potholes and fence posts, there is evidence that the area has already been disturbed. There may be little difference in the immediate disturbance between incremental removal and complete removal of the caissons. Complete, one-time removal would obviate the need for follow-up actions to remove the embedded portions of the caissons. The complete, one-time removal option may be reasonable in light of the already disturbed condition of the platform.

A final factor that could influence the decision between incremental and complete one-time removal is which option can be accomplished in the field. I have not seen the site; there may be obstacles to complete removal that are not apparent from reading the report or from looking at the plans. A site visit could reduce this uncertainty, but it would not eliminate it. If the complete, one-time removal option seems preferable, it may be prudent to provide the incremental removal as an alternative if there are technical reasons that one-time removal is not possible.

TAL COMM;

4159045235;

APR-26-04 1:55PM;

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REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

- 1 -

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

CONSENT AGREEMENT AND CEASE AND DESIST ORDER CCC-04-CD-07

Pursuant to its authority under PRC § 30810, the California Coastal Commission (hereinafter, "Commission") hereby orders Timothy J. Reilley and Diana L. Reilley, Managers of the Reilley Beach LLC, all their employees, agents, contractors, and any persons acting in concert with any of the foregoing (hereinafter, "Reilley") to allow Patricia Roy and all her employees, agents, and contractors (hereinafter, "Roy") access to the bluff and rock shelf area on APN 028-212-13, seaward of Ms. Roy's parcel APN 028-212-06 (hereinafter, "Subject Property") for the purposes described below. Accordingly, through the execution of this Consent Agreement and Cease and Desist Order (hereinafter "Consent Order"), Reilley agrees to comply with the following terms and conditions.

1.0 TERMS AND CONDITIONS

- 1.1 Reilley agrees to allow Roy access to the Subject Property, for the purpose of removing the unpermitted development consisting of, a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf fronting the site, and placement of fill material inland of the seawall, from the Subject Property, as per the provisions of Commission Cease and Desist Order No. CCC-04-CD-06.
- 1.2 Reilley acknowledges that because of the nature of the unpermitted development, and its effect on the rock shelf area, some below grade portion of the caissons may remain on the Subject Property after Roy removes the above grade portion of the seawall, to ensure ongoing stability of the Subject Property, pursuant to Section 1.2 of Commission Cease and Desist Order No. CCC-04-CD-06.
- 1.3 Reilley agrees to allow Roy and any successors in interest access to the Subject Property for the express purpose of performing any maintenance required by Section 1.2 of Commission Cease and Desist Order No. CCC-04-CD-06.

2.0 PERSONS SUBJECT TO THE CONSENT ORDER

- 2.1 Timothy J. Reilley and Diana L. Reilley, Managers of the Reilley Beach LLC and all their employees, agents, contractors, and any successors and assigns and any persons acting in concert with any of the foregoing.

3.0 IDENTIFICATION OF THE SUBJECT PROPERTY

- 3.1 The property that is subject to this Consent Order is APN 028-212-13, seaward of Roy's property at 200 Geoffroy Drive, Santa Cruz, CA (APN # 028-212-06) in the unincorporated Live Oak area of Santa Cruz County.

4.0 DESCRIPTION OF COASTAL ACT VIOLATION

- 4.1 The development that is the subject of this Consent Order was undertaken by Patricia Roy on the Subject Property and includes the unpermitted construction of a wood-lagging

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

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seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf and placement of fill on the inland side of the seawall.

5.0 COMMISSION JURISDICTION

5.1 The Commission has jurisdiction over resolution of this alleged Coastal Act violation pursuant to Public Resources Code Section 30810. The development was performed without a Coastal Development Permit ("CDP") as required by the Coastal Act Public Resource Code Division 20, Section 30600. Therefore, for the purposes of issuance and enforceability of this Consent Order, the Commission has jurisdiction to act as set forth in this Consent Order, and Reilley agrees not to contest the Commission's jurisdiction to issue or enforce this Consent Order.

6.0 WAIVER OF DEFENSES

6.1 In light of the intent of the parties to resolve these matters in settlement, Reilley has waived their right to contest the legal and factual basis and the terms and issuance of this Consent Order, including the allegations of Coastal Act violations contained in the Notice of Intent to Issue a Cease and Desist and Restoration Order dated January 23, 2004. Specifically, Reilley did not submit a Statement of Defense and has waived their right to present defenses or evidence at a public hearing to contest the issuance of the Consent Order. Reilley does not contest the Commission's jurisdiction to adopt, issue, and enforce this Consent Order.

7.0 EFFECTIVE DATE AND TERMS OF THE ORDER

7.1 The effective date of this order is the date the Consent Order is issued by the Commission. This Consent Order shall remain in effect permanently unless and until modified or rescinded by the Commission.

8.0 FINDINGS

8.1 This order is issued on the basis of the findings adopted by the Commission at the May 2004 hearing, as set forth in the attached document entitled "Findings for Commission Cease and Desist No. CCC-04-CD-06 and No. CCC-04-CD-07"

9.0 SETTLEMENT/COMPLIANCE OBLIGATION

9.1 Strict compliance with this Consent Order by all parties subject thereto is required. Failure to comply with any term or condition of this Consent Order, including any deadline contained in this Consent Order, unless the Executive Director grants an extension, will constitute a violation of this Consent Order and shall result in Reilley being liable for stipulated penalties in the amount of \$500 per day per violation. Reilley shall pay stipulated penalties within 15 days of receipt of written demand by the Commission for such penalties. Nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to Public Resources Code Sections 30821.6, 30822 and 30820 as a result of the lack of compliance with the Consent Order and for the underlying Coastal Act violations as described herein.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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Page 2 of 4

REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

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10.0 SITE ACCESS

- 10.1 Reilley agrees to provide access to the Subject Property at all reasonable times to Commission staff and any agency having jurisdiction over the work being performed under Consent Order CCC-04-CD-06. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Commission staff may enter and move freely about the portions of the Subject Property on which the violations are located, and on adjacent areas of the property to view the areas where development is being performed for purposes including but not limited to inspecting records, operating logs, and contracts relating to the site and overseeing, inspecting and reviewing the progress of Patricia Roy in carrying out the terms of Commission Cease and Desist Order CCC-04-CD-06.

11.0 GOVERNMENT LIABILITIES

- 11.1 The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Reilley in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Reilley or her agents in carrying out activities pursuant to this Consent Order. Reilley acknowledges and agrees (a) to assume the risks to the property that is the subject of this Consent Order and damage from such hazards in connection with carrying out activities pursuant to this Consent Order; and (b) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents and employees for injury or damage from such hazards.

12.0 WAIVER OF RIGHT TO APPEAL AND SEEK STAY

- 12.1 Persons against whom the Commission issues a Cease and Desist Order have the right pursuant to Section 30803(b) of the Coastal Act to seek a stay of the order. However, pursuant to the agreement of the parties as set forth in this Consent Order, Reilley agrees to waive whatever right they may have to challenge the issuance and enforceability of this Consent Order in a court of law.

13.0 SUCCESSORS AND ASSIGNS

- 13.1 This Consent Order shall run with the land binding all successors in interest, future owners of the property, interest and facility, heirs and assigns. Reilley shall provide notice to all successors, heirs and assigns of any remaining obligations under this Consent Order.

14.0 MODIFICATIONS AND AMENDMENTS

- 14.1 This Consent Order may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) of the Commission's administrative regulations.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit M
Page 3 of 4

REILLEY BEACH LLC CONSENT ORDER CCC-04-CD-07

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15.0 GOVERNMENTAL JURISDICTION

15.1 This Consent Order shall be interpreted, construed, governed and enforced under and pursuant to the laws of the State of California.

16.0 LIMITATION OF AUTHORITY

16.1 Except as expressly provided herein, nothing in this Consent Order shall limit or restrict the exercise of the Commission's enforcement authority pursuant to Chapter 9 of the Coastal Act, including the authority to require and enforce compliance with this Consent Order.

16.2 Reilley has entered into this Consent Order and waived the right to contest the factual and legal basis for issuance of this Consent Order, and the enforcement thereof according to its terms. Reilley has agreed not to contest the Commission's jurisdiction to issue and enforce this Consent Order.

17.0 INTEGRATION

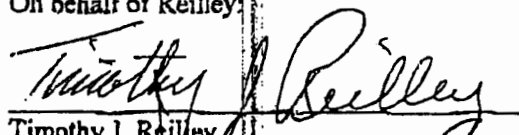
17.1 This Consent Order constitutes the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in this Consent Order.

18.0 STIPULATION

18.1 Reilley and their representatives attest that they have reviewed the terms of this Consent Order and understand that their consent is final and stipulate to its issuance by the Commission. The undersigned entities warrant that they have the authority to bind the parties they represent.

IT IS SO STIPULATED AND AGREED:

On behalf of Reilley:


Timothy J. Reilley
Manager, Reilley Beach, LLC

4/26/04
Date


Diana L. Reilley
Manager, Reilley Beach, LLC

4/26/04
Date

Executed in San Rafael on behalf of the California Coastal Commission:

Peter Douglas, Executive Director

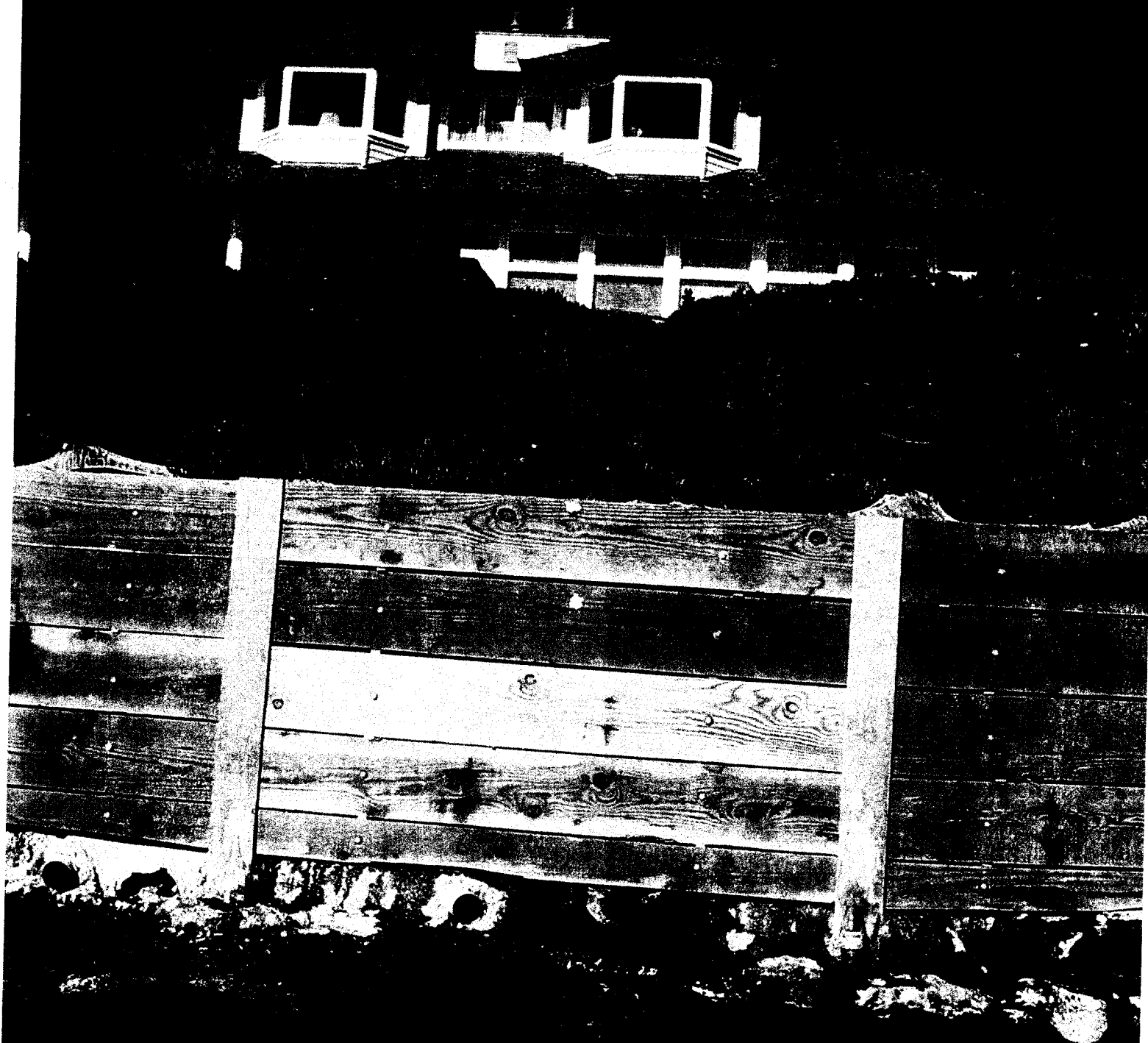
Date

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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CALIFORNIA COASTAL COMMISSION

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

ARNOLD SCHWARZENEGGER, GOVERNOR

D. Duke



VIA CERTIFIED and REGULAR MAIL No.7003-1010-0005-0457-5240

January 23, 2004

Patricia Roy
P.O. Box 5667
San Jose, CA 95150-5667

200 Geoffroy Dr.
Santa Cruz, CA 95062-4935

Timothy J. Reiley
Reilley Beach, LLC
17100 Pine Ave
Los Gatos, CA 95032-5545

Subject: **Notice of Intent to Commence Cease and Desist Order and
Restoration Order Proceedings**

Violation No.: V-3-02-043

Location: Bluff and Rock shelf area fronting 200 Geoffroy Drive, Santa
Cruz, CA 95062-4935 (APN # 028-212-006) in the unincorporated
Live Oak area of Santa Cruz County.

Violation Description: Unpermitted construction of a wood-lagging seawall anchored by
steel I-beams set in concrete caissons drilled into a sandstone rock
shelf.

Dear Patricia Roy and Timothy Reilley,

The purpose of this letter is to notify you of my intent, as the Executive Director of the California Coastal Commission ("Commission"), to commence proceedings for issuance of a Cease and Desist Order and Restoration Order for development (as defined by section 30106 of the California Coastal Act below) that was undertaken without a permit required under Section 30600 of the Coastal Act (California Public Resources Code sections 30000, et seq). The unpermitted development consists of construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf. This development is located on the bluff and rock shelf area fronting 200 Geoffroy Drive, Santa Cruz, CA 95062-4935 (APN # 028-212-006) in the unincorporated Live Oak area of Santa Cruz County (hereinafter "the site"). According to Coastal Commission records, Patricia Roy obtained an emergency permit for the temporary approval of the unpermitted development on December 12, 2002. At that time Patricia Roy indicated that she owned the property where she proposed to place, on a temporary basis, the subject shoreline protective device. After further investigation by Coastal Commission staff,

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

the unpermitted development was determined to be located on property owned by Reilley Beach, LLC. This letter is also being sent to Mr. Timothy Reilley individually, and as the representative of Reilley Beach, LLC (hereinafter "Timothy Reilley" "Tim Reilley" or "Reilley Beach, LLC").

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

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

Commission staff has determined that Patricia Roy and Reilley Beach LLC, have undertaken, allowed, and/or maintained development (as defined above) without a Coastal Development Permit (CDP), which is in violation of Section 30600 of the California Coastal Act. This development consists of, but is not limited to, the following: the construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf.

History of the Violation Investigation

On December 6, 2002, Commission staff received calls concerning unpermitted development occurring on the rock shelf at the site. Commission staff visited the site and asked the workers present to cease work unless and until a CDP had been granted. Later that day, the supervisor agreed to stop work. Commission staff confirmed this work stoppage with the property owner, Patricia Roy on December 12, 2002. Later that day, on December 12, 2002, Patricia Roy obtained an application for an Emergency Coastal Development Permit (hereinafter "Emergency CDP"). On that date she informed Commission staff that she wanted approval for construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf at this site. She informed Commission staff that, while construction had not been completed by December 12, 2002, the concrete for the support beams had already been poured Patricia Roy agreed to have all construction stopped on the seawall until she had obtained an Emergency CDP.

In conversations with Patricia Roy on December 12, 2002, she explained to Commission staff that the existing seawall requiring repair and/or replacement was present when her husband purchased the property in the late 1980's¹.

The Commission issued an Emergency CDP (Emergency Permit No. 3-02-103-G) to Patricia Roy on December 12, 2002. This permit required the completion of the emergency work in 30 days (by January 11, 2003) and the submittal of a regular Coastal Development Permit (CDP) application in 60 days (by February 10, 2003). Furthermore, the Emergency CDP required that if this regular CDP application was not approved, the removal of any work permitted by the Emergency CDP would be required to be removed in 150 days (by May 11, 2003).

Commission staff informed Patricia Roy of these requirements in a letter sent via certified mail on December 19, 2002. On January 21, 2003, Commission staff sent a letter to Patricia Roy regarding a complaint that concrete and debris were left over from the emergency repair work she had done on her seawall and reminding her of the February 10, 2003 deadline for her follow-up CDP application.

On January 23, 2003, Patricia Roy informed Commission staff that she had spoken with Tim Reilley, the Trustee of Reilley Beach, LLC, on whose property the seawall was actually located. In the Emergency CDP application, Patricia Roy represented that she owned the property where the seawall was located. Therefore, the Emergency CDP was issued to Patricia Roy based on what now appears to be incorrect information. Patricia Roy informed Commission staff that Tim Reilley agreed to be her co-applicant on the CDP application. On February 7, 2003, three days before the follow-up CDP application was due, a one-month extension was granted to allow Patricia Roy to coordinate with Tim Reilley, on the owner of the site on which the seawall had been constructed.

On February 25, 2003, a second one-month extension was requested because one of Patricia Roy's consultants was called for jury duty. The CDP application was now due on April 10, 2003. The extension was also requested because Tim Reilley was concerned that the construction of the seawall conflicted with the original terms of an agreement signed during the purchase of the property that prohibited structures on the rock shelf.

Subsequent to that, yet another two-month extension for the regular CDP application submittal was given until June 12, 2003, to ensure that underlying property ownership issues could be resolved. If the issues were not resolved by that time, Commission staff indicated they would seek removal of the seawall.

On July 1, 2003, Commission staff sent a letter via certified mail to Patricia Roy and Reilley Beach, LLC informing them that the Commission had not received a follow-up CDP application by the extended deadline, and therefore under the clear requirements of the Emergency CDP itself, removal of the seawall was required by August 1, 2003.

¹ After thorough investigation, Commission staff has found no record of a Coastal Development Permit granted by either Santa Cruz County or the California Coastal Commission any seawalls fronting this property.

On August 11, 2003 Diana Reilley, who indicated that she is also a trustee of Reilley Beach, LLC, informed Commission staff that Patricia Roy had been informed several times that she could not build on Reilley Beach property, prior to construction of the wall in December 2002. On August 13, 2003 Commission staff received a copy of the Reilley's contract for the purchase of the subject property, which they signed at the time they bought their property, which prohibited the building of any structure for human habitation or that would permit human habitation of any kind.

In a conversation with Tim Reilly on September 8, 2003, Mr. Reilley informed staff that he did not want to sell his property or any part thereof to Patricia Roy (as per her suggestion in a letter to Mr. Reilley on April 10, 2003). Tim Reilley has continually stated to Commission staff that he does not want the wall on his property, as he feels it compromises the "integrity" of the rock shelf, and violates a clear prohibition stated in the contract he signed at the time of purchase.

The unpermitted development on the subject property, which is located in the coastal zone, was performed without a Coastal Development Permit and is a violation of the Coastal Act. Section 30600(a) of the Coastal Act requires that, in addition to obtaining any other permit required by law, any person wishing to perform or undertake any development in the coastal zone must obtain a Coastal Development Permit. According to County and Commission records, no Coastal Development Permit applications were filed seeking permanent authorization to maintain the above-described development on the subject property. Emergency CDP No. 3-02-103-G granted temporary authorization of the seawall, and specifically requires removal of the seawall by May 11, 2003 absent a regular CDP. Because there is no regular CDP authorizing the seawall, it exists without the benefit of a CDP and is in violation of the California Coastal Act's permitting requirements.

Cease and Desist Order

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

If the commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the commission without securing the permit or (2) is inconsistent with any permit previously issued by the commission, the commission may issue an order directing that person or governmental agency to cease and desist.

The Executive Director of the Commission is issuing this notice of intent to commence Cease and Desist Order proceedings because unpermitted development has occurred at the subject property. This unpermitted development consists of construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf. The Cease and Desist Order would order you to remove the seawall and refrain from conducting any further unpermitted development on your property.

Based on Section 30810(b) of the Coastal Act, the Cease and Desist Order may be subject to such terms and conditions as the Commission may determine are necessary to ensure compliance with the Coastal Act, specifically, this may include immediate removal of any development or

material. Staff will recommend that the Cease and Desist Order include terms requiring complete removal of all unpermitted development on the subject property, with a schedule for removing the unpermitted development, and site investigations to ensure complete removal in a timely manner.

Restoration Order

Section 30811 of the Coastal Act authorizes the Commission to order restoration of a site in the following terms:

In addition to any other authority to order restoration, the commission...may, after a public hearing, order restoration of a site if it finds that the development has occurred without a coastal development permit from the commission... the development is inconsistent with this division, and the development is causing continuing resource damage.

Commission staff has determined that the specified activity meets the criteria of Section 30811 of the Coastal Act, based on the following:

- 1) Unpermitted development, consisting of construction of a wood-lagging seawall anchored by steel I-beams set in concrete caissons drilled into a sandstone rock shelf, was performed at the site.
- 2) This development is inconsistent with the resource protection policies of the Coastal Act, including Section 30235 (construction altering natural shoreline), Section 30251 (scenic and visual qualities) and Section 30253 (minimization of adverse impacts).

Construction of a seawall shall be permitted only when required to serve coastal dependent uses or to protect **existing structures** or public beaches form erosion, and where such protection is **necessary for public safety** or to **protect existing development** (section 30235). The unpermitted seawall fronting Patricia Roy's property is approximately 55 feet from her existing house, and 45 feet from her back yard deck. According to the geologic report filed in conjunction with County Permit No. 96-0398 for a remodeling project in 1997 the estimated "worst case" erosion of the rock shelf is 30 feet per 100 years. Therefore, the seawall is not necessary for either public safety, or to protect existing structures (section 30235).

Furthermore, the seawall exists in stark contrast to the natural rock shelf in which it sits. The white color of the wall is not visually compatible with the character of the surrounding area (section 30251). There is no evidence of minimization to the alteration of the natural landforms in the area (section 30251).

Finally, the seawall constructed may contribute significantly to further erosion of the rock shelf and the properties of adjoining landowners (section 30253). The geological stability

of the rock shelf itself may be in jeopardy due to the construction of the seawall² (section 30253).

For the reasons stated above, I have decided to commence a Cease and Desist and Restoration Order proceeding before the Commission in order to restore the subject property to the condition it was in before the unpermitted development occurred. Restoration will require complete removal of all above-ground unpermitted development on the subject property and restorative capping of the I-beam sections located below ground within the rock shelf owned by Reilley Beach, LLC.

The procedures for the issuance of Cease and Desist and Restoration Orders are described in Sections 13190 through 13197 of the Commission's regulations. Section 13196(e) of the Commission's regulations states the following:

Any term or condition that the commission may impose which requires removal of any development or material shall be for the purpose of restoring the property affected by the violation to the condition it was in before the violation occurred.

Accordingly, any Cease and Desist and Restoration Order that the Commission may issue will have as its purpose the restoration of the subject property to the conditions that existed prior to the occurrence of the unpermitted development described above.

Additional Actions

In addition to the procedures for proposing and issuing enforcement orders that are discussed in this letter, Section 30812 of the Coastal Act allows the Executive Director, after providing notice and opportunity for a hearing, to record a Notice of Violation of the Coastal Act against the property. The Commission staff will send the legal owners of the property a subsequent notice if it intends to proceed with recordation of a Notice of Violation in this matter.

Please be advised that Coastal Act Sections 30803 and 30805 authorize the Coastal Commission to initiate litigation to seek injunctive relief and an award of civil penalties in response to any violation of the Coastal Act. Coastal Act Section 30820(a) provides that any person who violates any provision of the Coastal Act may be subject to a penalty not to exceed \$30,000. Further, Section 30820(b) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of up to \$15,000 for each day in which the violation persists. Additional penalties of up to \$6,000 per day can be imposed if a cease and desist or restoration order is violated. Section 30822 further provides that exemplary damages may also be imposed for knowing and intentional violations of the Coastal Act or of any orders issued pursuant to the Coastal Act. The Commission may initiate litigation to seek penalties and/or exemplary damages for past violations of the Coastal Act even if the unpermitted development has been removed pursuant to a Cease and Desist or Restoration Order.

² The seawall consists of 10 foot tall I-beams embedded into approximately 5 feet of sandstone ("rock shelf"). The removal of the below-ground portion of the I-beams would subject the natural area to extreme stress and further resource damage.

Voluntary Compliance Options

The Cease and Desist and Restoration Orders described above that the Commission may issue constitute one option for the resolution of this matter. However, the Commission also has the discretion to issue a Consent Order containing terms agreed to by the parties involved. Both types of resolution would require you to: 1) refrain from conducting any further unpermitted development on the site, 2) completely remove the existing unpermitted development, and 3) completely restore the site to its pre-violation condition.

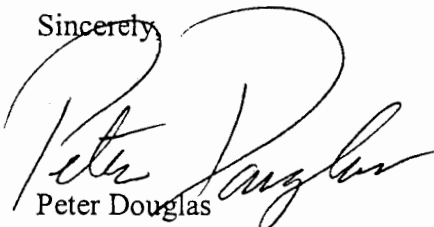
The Consent Order is similar to a settlement agreement and would provide the parties involved with an opportunity to have input into the process and the timing of the removal of the unpermitted development and restoration of the site. In addition, a Consent Order may include an agreement to pay a negotiated penalty to resolve the violation fully. If the Commission files litigation, the penalties sought generally are much larger than negotiated in a Consent Order context.

We would welcome your response to this settlement option. I am hopeful that we can eventually reach a reasonable resolution.

In accordance with Sections 13181(a) and 13191(a) of the Commission's regulations, you each have the opportunity to respond to the Commission staff's allegations as set forth in this Notice of Intent to commence Cease and Desist Order and Restoration Order proceedings by completing the enclosed Statement of Defense form. **The Statement of Defense form must be returned to the Commission's San Francisco office, directed to the attention of Daniel Duke, no later than February 13, 2004.**

The Commission staff is tentatively scheduling the hearing for the Cease and Desist Order and Restoration Order during the Commission meeting that is scheduled for March 17-19, 2004 in Monterey, California. If you have any questions regarding this letter or the enforcement case, please call Daniel Duke at (415) 904-5298 or send correspondence to his attention at the address listed on the letterhead.

Sincerely,



Peter Douglas
Executive Director

cc: Daniel Duke, Headquarters Staff
Lisa Haage, Chief of Enforcement
Sandy Goldberg, Staff Counsel
Nancy Cave, Northern California Enforcement Supervisor

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit O
Page 7 of 8

Encl.: Statement of Defense Form for Cease and Desist Order and Restoration Order

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit O
Page 8 of 8



CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit P
Page 1 of 1

CALIFORNIA COASTAL COMMISSION

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



EMERGENCY PERMIT ACCEPTANCE FORM

TO: CALIFORNIA COASTAL COMMISSION
CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(831) 427-4863

RECEIVED

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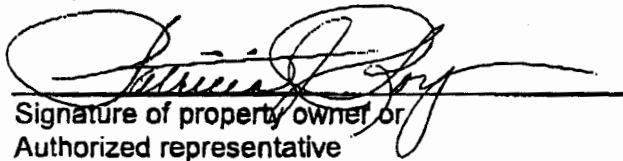
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Emergency Permit No. 3-02-103-G

INSTRUCTIONS: After reading the attached Emergency Permit, please sign this form and return to the Central Coast Area Office within 15 working days from the permit's date.

I hereby understand all of the conditions of the emergency permit being issued to me and agree to abide by them.

I also understand that the emergency work is TEMPORARY and that a regular Coastal Permit is necessary to make it a permanent installation. I agree to apply for a regular Coastal Permit within 60 days of the date of the emergency permit (i.e., by February 10, 2003), OR I will remove the emergency work authorized by such permit in its entirety within 150 days of the date of the emergency permit (i.e., by May 11, 2003).


Signature of property owner or
Authorized representative

Patricia J. Roy re
Name

P.O. Box 5667
Address

San Jose Ca 95150-5667

Site address: 200 Geoffrey Dr
Santa Cruz Ca 95062

Date of Signing 12-20-02

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit Q
Page 1 of 1

JAMES E. TOOTHMAN & ASSOCIATES

JAMES E. TOOTHMAN
EVA G. ABRAMS
JOEL F. DONAHOE
HEATHER BRAE HOESTEREY

ATTORNEYS AT LAW
61 EAST MAIN STREET, SUITE A
LOS GATOS, CALIFORNIA 95030
EMAIL: info@jet-law.com

AREA CODE (408)
TELEPHONE 395-6021
FACSIMILE 395-1088

February 13, 2004

Daniel Duke
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 1 of 54

Re: Statement of Defense for Patricia Roy
Bluff and rock shelf fronting 200 Geoffroy Dr., Santa Cruz, CA 95062
APN 028-212-006; Case No.: V-3-02-043

Dear Mr. Duke:

This office represents Patricia Roy in the above-referenced matter. Ms. Roy hereby submits the following **Statement of Defense** in response to the California Coastal Commission's "Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings" dated January 23, 2004. This Statement of Defense conforms to the format required by §§ 13181 and 13191 of the Coastal Commissions Regulations.

I. **ADMITTED FACTS OR ALLEGATIONS** (*page and paragraph numerical citations refer to the Commissions Notice of Intent to Commence Cease and Desist Order and Restoration Order Proceedings dated January 23, 2004*).

Page 1, Paragraph 1. On December 12, 2002, Patricia Roy obtained an emergency permit from the Coastal Commission (hereinafter, "Commission") for the temporary approval of the development of the subject seawall. (See **Exhibit "A"**.)

Page 2, Paragraph 3. Patricia Roy has allowed and maintained development of the wall in question. However, her maintenance and development of said wall was specifically within the parameters of the Coastal Zone permit #96-0398 issued to her by the County of Santa Cruz in 1997. (See **Exhibits "B" and "E-G", inclusive.**)

Page 3, Paragraphs 2-6. The Emergency CDP allowed 30 days for the completion of work, and allowed 60 days for submission of a regular CDP application. The Coastal Commission requires that the emergency work be removed if the regular CDP application was not submitted timely. However, the deadlines for Ms. Roy's compliance in submitted a regular CDP application were extended on multiple occasions. Ms. Roy requested and received an extension to file the regular CDP application based on a memo she received from Tim Reilley, Trustee of Reilley Beach, LLC, postmarked January 24, 2003, in which he expressed his willingness to work with the homeowners along the rock shelf to arise at a compromise for upkeep of seawalls thereon. (See **Exhibit "C"**.)

Ms. Roy requested and received another extension on the deadline to file the regular CDP application because one of her consultants was selected for jury duty. Another extension was allowed to determine whether any restrictions in the title obtained by Reilley Beach, LLC would preclude repair and maintenance of the seawall. The relevant restriction agreement, attached as **Exhibit "D,"** restricts only habitable structures and therefore does not apply to the seawall in question.

II. DENIED FACTS OR ALLEGATIONS

Page 1, Paragraph 1. At no time on or around December 12, 2002, the time frame in which she sought and received the Emergency CDP application, did Patricia Roy represent or suggest that she owned the property upon which the seawall was located. In fact, Ms. Roy expressly stated to Dan Carl of Commission's Santa Cruz office that the seawall was not located on her property. Patricia Roy explained the permit was required per her written agreement with the Commission recorded in 1997 (*see* Section IV., below). Following these explanations, and thus knowing that Ms. Roy did not own the property where the seawall was located but understood she was required to maintain and repair the seawall, Mr. Carl expressly instructed Patricia Roy to fill out the permit with her name and address.

Page 3, Paragraph 1. Patricia Roy did not tell the Commission staff on December 12, 2002 that the seawall was present when she and her late husband purchased the property, or that they purchased the property in the late 1980's. Ms. Roy told Mr. Carl that she did not recall when the wall was originally constructed, and that they purchased the property in 1982.

Page 3, Paragraph 3. No debris and/or concrete related to work on the seawall was left on the seawall site. The property was clean when Patricia Roy inspected the site on January 1, 2003. Thereafter, Ms. Roy left the country for three weeks. Upon her return the third week in January, she received the Commission's letter dated January 21, 2003 concerning complaints of debris. Patricia Roy re-inspected the site and found some rotted wood fence materials, some rusted barbed-wire attached to old fence posts, and approximately 2½ gallons of small rocks, similar to the type used to back-fill the seawall during repairs. Ms. Roy promptly removed all of this "debris".

There had been major winter storms during the three weeks between Patricia Roy's inspection of the seawall site. All of the debris, except the small rocks, appeared clearly to have been deposited on the rock shelf from the waves caused by those storms. The rocks had been washed out through the four-inch drain holes at the bottom of the seawall. Ms. Roy submits that any investigation of the site by the Commission would have confirmed that the debris was in fact wave and weather related, as opposed to the result of any work performed on the seawall.

Page 3, Paragraph 4. Ms. Roy did not represent in the Emergency CDP application that she owned the property on which the seawall was located. The permit application did not specifically ask for the name and address of the property owner. Ms. Roy filled out and submitted the application pursuant to Dan Carl's instructions following her explanation to him that she did not own the property, that she did not know who did, and that she was required by separate declaration recorded with the County to maintain and/or repair the seawall. Further, Ms. Roy did not inform the Commission in January 2003 that Tim Reilley had agreed to co-sign the permit application. Ms. Roy simply requested an extension based on Mr. Reilley's anticipated cooperation as suggested by his

written memorandum to Ms. Roy post-marked January 24, 2003 (*see* Section IV., below).

Page 4, Paragraph 1. Patricia Roy was not aware that Reilley Beach, LLC owned the rock shelf underneath the seawall until late December 2002. Patricia Roy's first attempt to contact Reilley Beach, LLC was in a letter dated December 24, 2002, attached hereto as **Exhibit "H"**. However, the address to which Patricia Roy sent this letter – the address she received from The Santa Cruz Land Title Company – was incorrect. She sent a second letter to a new address on January 2, 2003, attached hereto as **Exhibit "I"**. Contrary to the Commission's representations of statements supposedly made by Diana Reilley to the Commission on August 11, 2003, Ms. Roy was not "informed several times that she could not build on Reilley Beach property prior to construction of the wall in December 2002."

III. FACTS OF WHICH PATRICIA ROY HAS NO PERSONAL KNOWLEDGE

Page 2, Paragraph 1. Patricia Roy does not know when the Commission also learned or knew that Reilley Beach, LLC owned the property on which the seawall was located. Ms. Roy herself discovered that Reilley Beach owned the rock shelf in December 2002.

Page 3, Paragraph 1. Patricia Roy does not recall when or by whom the seawall was originally erected.

Page 4, Paragraph 2. Patricia Roy does not know of any instance in which Mr. Reilley stated, let alone "continually stated" that he does not want the seawall on his property. Rather, in a letter postmarked January 24, 2003 and addressed to the neighbors bordering his rock shelf property, Mr. Reilley stated that: "In principle, I do not object to the protection of your property by maintaining or constructing the retaining walls and draining systems [on Reilley Beach, LLC property]." Patricia Roy has no personal knowledge that Reilley Beach, LLC believe a seawall on the rock shelf "compromises the integrity" of the rock shelf. (*See* **Exhibit "C"**.)

IV. FACTS WHICH EXONERATE AND/OR MITIGATE PATRICIA ROY'S POSSIBLE RESPONSIBILITY FOR THE VIOLATION ALLEGED

The seawall in question has been in existence for at least 15 years, to the best of Patricia Roy's recollection. On or about March 21, 1997, Ms. Roy obtained a building permit for the property not directly related to the subject seawall, which then required a geologic survey and report of the property. (*See* **Exhibit "E"**) The map of Ms. Roy's property that was filed with that permit showed the seawall was not on Patricia Roy's land. As this information was filed with the County of Santa Cruz in 1997, the Commission had record notice prior to issuing Patricia Roy's emergency CDP that she did not own the land under the seawall.

The aforementioned geological report, prepared by Rogers E. Johnson & Associates and dated December 2, 1996 (hereinafter "RJA"), "strongly recommend[s] that the existing seawall be properly maintained (or replaced, as necessary) to preserve development options, not to mention the back yard." (*See* **Exhibit "E"**, at pp. iii., vii.) The March 1997 permit lists as a condition of its approval compliance with pertinent recommendations of the RJP. (*See* **Exhibit "B"** at p. 9.)

On May 27, 1997, Ms. Roy signed a Declaration Regarding Issuance of Development Permit related to the property, which was recorded in Santa Cruz County on May 29, 1997 as the Recorder's Document Number 1997-0023938. (See **Exhibit "G"**.) As stated in that document, "the subject property is subject to Coastal Processes that are causing erosion," and, referring expressly to the Rogers E. Johnson & Associates report, states that "this erosion can be reduced to an acceptable level by following the recommendations of the RJA." By way of this declaration, in conjunction with the previous March 1997 development permit and the 1996 RJA, Ms. Roy reasonably understood and believed that she was obligated to maintain and repair the existing seawall. Similarly, the County knew or at least was on notice that it had effectively required her to maintain the seawall, notwithstanding any questions regarding actual ownership of the sliver of property upon which it stands.

In November 2002, severe weather caused the seawall to fail. Pursuant to the recorded declaration, Ms. Roy began work to repair the wall and sought and obtained an emergency permit to do so on or about December 12, 2002. Knowing, as did the Coastal Commission, that the seawall was only adjacent to her property and actually rested on another parcel, Ms. Roy thereafter investigated and discovered the owner of the subject property to be Reilley Beach, LLC in late December, 2002. By way of a letter dated December 24, 2002 and sent to the correct address on January 2, 2003, Ms. Roy informed Tim Reilley of the situation and requested his attention and input.

Nearly one month later, on or about January 24, 2003, Mr. Reilley sent a letter apparently addressed to all owners of property adjacent to his rock shelf, indicating that he might cooperate with Ms. Roy's proposed permit and seawall repair, albeit conditioned on the execution of a hold harmless agreement and waiver of liability in favor of Reilley Beach, LLC. However, Mr. Reilley also noted in that letter that Reilley Beach's purchase of the rock shelf included a restriction agreement whereby "no temporary or permanent building or structure shall be placed on the property." Mr. Reilley actually misquoted the that Restriction Agreement, which in complete relevant part: ". . . [N]o temporary or permanent building or structure *for the purpose of human habitation or that would permit human habitation of any kind* shall be built or placed on the property." (See **Exhibit "D"**.) As a seawall cannot reasonably be considered a building or structure built for the purpose of human habitation, there was and is in fact no restriction to Reilley Beach's ability to consent to the repair or existence of the seawall.

Through her attorney, Ms. Roy advised Mr. Reilley that she was willing to prepare or discuss any hold harmless agreement or "conceptual guidelines" he may feel necessary to enable his consent to the permit. For three weeks thereafter, Ms. Roy's attorneys attempted to work with Mr. Reilley's attorneys toward the preparation and execution of documents, only to be told abruptly on or around February 20, 2003 that Reilley Beach was no longer proceeding with that plan.

On February 20, 2003, Ms. Roy suggested to Mrs. Reilley the possibility that she might by the specific portion of their parcel upon which the seawall stood, as yet another option to resolving this issue. Although she stated she would consider this option and respond, Mrs. Reilley did not. On April 10, 2003, Ms. Roy submitted a formal purchase offer to the Reilleys. In early May 2003, approximately one month after her good-faith offer, Mr. Reilley finally responded by stating that a sale was "out of the question." Since that conversation, Ms. Roy has had no further contact with

Reilley Beach, LLC regarding the permit or repair of the subject seawall.

Patricia Roy believes that the seawall is appropriate and sound in all respects, and its approval is ultimately being prevented only by an inexplicable lack of cooperation by Reilley Beach, LLC and refusal to allow Patricia Roy to proceed in seeking a regular permit to complete the repairs she is obligated to perform under the May 29, 1997 Declaration. At the same time, Ms. Roy is also unable to remove the seawall because she is not the owner of the rock shelf on which it sits. Therefore, even to the extent any action or consequence attributable to Ms. Roy conceivably could be considered a violation for which she may fairly be deemed responsible, she remains in no position to remedy said violation absent participation and cooperation from the Coastal Commission and/or Reilley Beach, LLC.

V. ADDITIONAL INFORMATION AND STATEMENT

The Coastal Commission's assertion that Patricia Roy has violated the Coastal Commission Act in fact arise from Patricia Roy's diligent efforts to abide by the Coastal Commissions requirements. She began work on repairing the seawall and applied for the Emergency CDP based on a reasonable understanding and belief that she was obligated to do so under a written declaration recorded with the County in 1997. She obtained the Emergency CDP having disclosed to the Coastal Commission that she did not own the land on which the seawall was located, and upon the Commissions directions that she apply for the permit in her name nonetheless.

Immediately after receiving the Emergency CDP in December 2002, Ms. Roy made a concerted effort to locate the owner of the property in the hope of complying with the Coastal Commissions procedures for securing a regular permit. Once she identified and located Reilley Beach, LLC, Ms. Roy sought to obtain the Reilleys' consent and/or otherwise resolve any concerns by offering to hold them harmless from any liability, agreeing to work with them in creating conceptual guidelines for maintenance, and even offering to purchase the small portion of their parcel under the seawall. All of Ms. Roy's proposals have been rejected. In the meantime, beginning with her initial application for the emergency permit in December 2002 and through the date of this Statement of Defense, Ms. Roy has incurred \$30,887.30 in actual expenses related to the repair of this seawall, including permit fees, materials, structural and soils engineering costs, and attorney's fees related to this ongoing dispute.

Despite all her good faith efforts and considerable expenses, Patricia Roy is left with partially repaired seawall which, despite its existence for at least 15 years, she is now powerless to either complete or remove. For all of the above reasons, Ms. Roy contends that she is not at fault for any violation asserted by the Coastal Commission, and that the completion of repairs on the seawall should be permitted. If, for any reason, the Coastal Commission determines that no such permission shall be granted and that the seawall must be removed, Ms. Roy nonetheless has committed no violation and should incur no further expense related to this issue, whether by way of penalty or cost for removing the seawall.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 5 of 54

VI. DOCUMENTS AND EXHIBITS ATTACHED TO THIS FORM

Exhibit A:	Copy of the Emergency CA Costal Permit Issued to Patricia Roy on 12/12/03
Exhibit B:	Santa Cruz County Coastal Zone Permit #98-0398 Issued to Patricia Roy on 03/07/97
Exhibit C:	Letter from Reilley Beach LLC postmarked 01/24/03 and received by Patricia Roy
Exhibit D:	Restriction Agreement (Document Title) for Timothy and Diana Reilley recorded in Santa Cruz County on 04/24/02
Exhibit E:	Santa Cruz County Building Permit #00115211 issued to Patricia Roy on 06/06/97
Exhibit F:	Geologic Report by Rogers E. Johnson & Associates regarding Roy Property, dated 12/02/96
Exhibit G:	Patricia Roy's Declaration Regarding Issuance of Development Permit in an Area Subject to Geologic Hazards, Document#1997-0023938, recorded in Santa Cruz County 05/29/97
Exhibit H:	Letter from Patricia Roy to Timothy Reilley, dated 12/24/02
Exhibit I:	Letter from Patricia Roy to Reilley Beach LLC, dated 01/02/03
Exhibit J:	Letter from Patricia Roy to Timothy and Diana Reilley, dated 04/10/03

Very truly yours,



JOEL E. DONAHOE,, ESQ.

JFD:kam
Enclosures
cc: Patricia Roy
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CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 6 of 54

CALIFORNIA COASTAL COMMISSION

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

**EMERGENCY PERMIT**Issue Date: **December 12, 2002**Emergency Permit No. **3-02-103-G**

Patricia Roy
200 Geoffroy Drive
Santa Cruz, CA 95062

LOCATION OF EMERGENCY

On the bluffs fronting 200 Geoffroy Drive in the unincorporated Live Oak area of Santa Cruz County.

WORK PROPOSED

To recognize after-the-fact the construction of a wood lagging seawall anchored by steel I-beams set in concrete caissons drilled into the sandstone rock shelf to replace a previously existing failed seawall at the same location. The new seawall runs the length of the inland residential property, approximately 50 feet in length, with the 10 foot tall I-beams embedded approximately 5 feet into the sandstone leaving a roughly 5 foot tall wood lagging wall above grade. The seawall is backfilled with drain rock and soil, and is topped with vegetation.

This letter constitutes approval of the emergency work that you have requested as described above. I understand from the information that you submitted that an unexpected occurrence in the form of a failed seawall has occurred which represents "a sudden unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property or essential public services." (Definition of "emergency" from § 13009 of the California Administrative Code of Regulations.) Therefore, the Executive Director of the Coastal Commission hereby finds that:

- (a) An emergency exists which requires action more quickly than permitted by the procedures for administrative or ordinary permits and the development can and will be completed within 30 days unless otherwise specified by the terms of this permit; and
- (b) Public comment on the proposed emergency action has been reviewed if time allows.

The work is hereby approved, subject to the conditions listed on the attached pages.

Sincerely,

Peter M. Douglas
Executive Director

Steve Monowitz
By: Steve Monowitz
Permit Supervisor

Copies to: Joe Hanna, Santa Cruz County Planning Department
Deirdre Hall, Monterey Bay National Marine Sanctuary
Nanci Smith, California State Lands Commission

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit R
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Enclosure: Emergency Permit Acceptance Form

EXHIBIT A

CONDITIONS OF APPROVAL

1. The enclosed emergency permit acceptance form must be signed by the owner(s) of the property where the emergency work authorized in this permit is located and returned to the California Coastal Commission's Central Coast District Office within 15 days of the date of this permit (i.e., **by December 27, 2002**). This emergency permit is not valid unless and until the acceptance form has been received in the Central Coast District Office.
2. Only that work specifically described in this permit and for the specific property listed above is authorized. Any additional work requires separate authorization from the Executive Director.
3. The work authorized by this permit must be completed within 30 days of the date of this permit (i.e., **by January 11, 2003**) unless extended for good cause by the Executive Director.
4. The measures authorized by this emergency permit are only temporary. Within 60 days of the date of this permit (i.e., **by February 10, 2003**), the permittee shall submit a complete application for a regular coastal development permit to have the emergency work be considered permanent. The emergency work shall be removed in its entirety within 150 days of the date of this permit (i.e., **by May 11, 2003**) unless before that time the California Coastal Commission has issued a regular permit for the development authorized by this emergency permit.
5. In exercising this permit, the permittee agrees to hold the California Coastal Commission harmless from any liabilities for damage to public or private properties or personal injury that may result from the project.
6. This permit does not obviate the need to obtain necessary authorizations and/or permits from other agencies (e.g., Santa Cruz County, California State Lands Commission, Monterey Bay National Marine Sanctuary). Permittee shall submit to the Executive Director copies of all such authorizations and/or permits upon their issuance.
7. Construction activities that result in discharge of materials, **polluted runoff**, or wastes to the adjacent marine environment are prohibited.
8. Equipment and materials shall not be stored on the rock shelf.
9. The construction work area, including but not limited to the rock shelf, shall be restored to its pre-development condition and all debris removed within **3 days** of completion of the emergency work authorized.
10. All exposed slopes and soil surfaces inland of the seawall at the site shall be stabilized with erosion control native seed mix, jute netting, straw mulch, or other applicable best management practices (for example, those identified in the *California Storm Water Best Management Practice Handbooks* (March, 1993)).
11. Failure to comply with the conditions of this approval may result in enforcement action under the provisions of Chapter 9 of the Coastal Act.
12. The issuance of this emergency permit does not constitute admission as to the legality of any development undertaken on the subject site without a coastal development permit and

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Emergency Perr **Number 3-02-103-G**
Issue Date December 12, 2002
Page 3 of 3

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 9 of 54

shall be without prejudice to the California Coastal Commission's ability to pursue any remedy under Chapter 9 of the Coastal Act.

As noted in Condition 4 above, the emergency work carried out under this permit is at the applicant's risk and is considered to be temporary work done in an emergency situation. If the property owner wishes to have the emergency work become a permanent development, a coastal development permit (or waiver thereof) must be obtained. A regular permit is subject to all of the provisions of the California Coastal Act and may be conditioned or denied accordingly.

If you have any questions about the provisions of this emergency permit, please contact the Commission's Central Coast District Office at 725 Front Street, Suite 300, Santa Cruz, CA 95060, (831) 427-4863.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

COUNTY OF SANTA CRUZ
Planning Department

Exhibit R
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COASTAL ZONE PERMIT

Owner Patricia Roy
Address P.O. Box 5667
San Jose CA 95150

Permit Number 96-0398
Parcel Number(s) 028-212-06

PROJECT DESCRIPTION AND LOCATION

Proposal to remodel an existing nonconforming single family dwelling and construct a second story addition (874 square feet). Requires a Coastal Zone Permit and a Residential Development Permit to exceed the 800 square foot maximum size limitation for additions to a nonconforming structure. Property located on the south side of Geoffroy Drive (200 Geoffroy Drive), at the intersection of Sixteenth Avenue.
SUBJECT TO ATTACHED CONDITIONS.

Approval Date: 3/7/97
Exp. Date (if not exercised) 3/21/99
Denied by: _____

Effective Date: 3/21/97
Coastal Appeal Exp. Date: Call Coastal Comm.
Denial Date: _____

_____ This project requires a coastal zone permit which is not appealable to the California Coastal Commission. It may be appealed to the Planning Commission. The appeal must be filed within 10 working days of action by the decision body.

X This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 working days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 10 working days of action by the decision body.

This permit cannot be exercised until after the Coastal Commission appeal period. That appeal period ends on the above indicated date. Permittee is to contact Coastal staff at the end of the above appeal period prior to commencing any work. ✓

A Building Permit must be obtained (if required) and construction must be initiated prior to the expiration date in order to exercise this permit. **THIS PERMIT IS NOT A BUILDING PERMIT.**

By signing this permit below, the owner agrees to accept the terms and conditions of this permit and to accept responsibility for payment of the County's costs for inspections and all other actions related to noncompliance with the permit conditions. This permit shall be null and void in the absence of the owner's signature below.

[Signature]
Signature of Owner/Agent
[Signature]
Staff Planner

3-7-97
Date
3/7/97
Date

Distribution: Applicant - white, File - yellow, Clerical - pink, Coastal Commission - goldenrod

DEVELOPMENT PERMIT FINDINGS:

1. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE EXISTING STRUCTURE AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OR THE GENERAL PUBLIC, OR BE MATERIALLY INJURIOUS TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY.

The location of the proposed project will not be materially detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, or be materially injurious to properties or improvements in the vicinity in that the proposed project complies with all development regulations applicable to the site. The County has accepted a Geologic Report completed on December 19, 1996 for the project. Recommendations stated in the report will be incorporated into this Development/Coastal Permit conditions. Due to the location of the existing garage (11 feet from the front property line) the existing driveway approach appears to be located within the County right-of-way. The right-of-way at this point is about 60 to 80 feet wide and future road improvements by the County would not decrease the safety for vehicles backing out onto Goeffroy Drive from the garage.

2. THAT THE PROPOSED LOCATION OF THE PROJECT AND THE CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTENT WITH ALL PERTINENT COUNTY ORDINANCES AND THE PURPOSE OF THE ZONE DISTRICT IN WHICH THE SITE IS LOCATED.

The proposed project is an allowed use within the "R-1-6" zone district and the location of the project complies with the applicable regulations of the "Residential Development Criteria" under County Code Section 13.10.323. Particularly, the subject property complies with the maximum 30 percent lot coverage and the addition meets the required setbacks, maximum 28 foot height and required parking standards. The project also complies with the intent of the "Site, Architectural and Design" ordinance. The project exceeds the 800 square foot addition allowed for existing nonconforming structures and the required findings listed in County Code "Nonconforming Structures" Section 13.10.265 (j) can be made and are included with this document.

3. THAT THE PROPOSED USE AND RETENTION OF THE EXISTING STRUCTURE IS CONSISTENT WITH ALL ELEMENTS OF THE COUNTY GENERAL PLAN, INCLUDING THE GOALS AND OBJECTIVES, AND WITH ANY SPECIFIC PLAN WHICH HAS BEEN ADOPTED FOR THE AREA.

The proposed project is consistent with the "Residential Urban Low" General Plan Land Use Plan designation and with the "Residential Neighborhoods Objective 8.4" of the General Plan in that the addition matches the architectural character of the existing house and maintains significant features (wood siding, pitched roof, low profile building mass and silhouette) of the surrounding neighborhood homes.

Applicant: Thacher & Tompson Architects
Application No: 96-0398
APN: 28-212-06

4. THAT THE PROPOSED USE WILL NOT OVERLOAD UTILITIES AND WILL NOT GENERATE MORE THAN THE ACCEPTABLE LEVEL OF TRAFFIC ON THE STREETS IN THE VICINITY.

The proposed use will not overload utilities or generate more than the acceptable level of traffic expected for the proposed project.

5. THAT THE PROPOSED PROJECT AND RETENTION OF THE EXISTING STRUCTURE WILL COMPLEMENT AND HARMONIZE WITH THE EXISTING AND PROPOSED LAND USES IN THE VICINITY AND WILL BE COMPATIBLE WITH THE PHYSICAL DESIGN ASPECTS, LAND USE INTENSITIES, AND DWELLING UNIT DENSITIES OF THE NEIGHBORHOOD.

The proposed project will complement and harmonize with the existing residential use of the property and surrounding uses. The proposed dwelling will be compatible with the one and two story character of the area and maintain an acceptable building line along the coastal bluff which provides some public access beyond the property.

6. THAT THE PROPOSED PROJECT WILL NOT INCREASE THE NONCONFORMING DIMENSIONS OF THE STRUCTURE UNLESS A VARIANCE APPROVAL IS OBTAINED.

The proposed addition is located within the center of the existing building and will not increase the nonconformity of the building due to setback reduction.

Applicant: Thacher & Thompson Architects
Application No: 96-0398
APN: 28-212-06

COASTAL ZONE PERMIT FINDINGS

1. THAT THE PROJECT IS A USE ALLOWED IN ONE OF THE BASIC ZONE DISTRICTS, OTHER THAN THE SPECIAL USE (SU) DISTRICT, LISTED IN SECTION 13.10.170(d) AS CONSISTENT WITH THE LUP DESIGNATION.

The proposed project is an allowed use within the "R-1-6" zone district and is consistent with the "Residential Urban Low" land use plan designation of the General Plan.

2. THAT THE PROJECT DOES NOT CONFLICT WITH ANY EXISTING EASEMENT OR DEVELOPMENT RESTRICTIONS SUCH AS PUBLIC ACCESS, UTILITY, OR OPEN SPACE EASEMENTS.

The project does not conflict with any existing or proposed easements or development restrictions including public access, utility, or open space easements. The project is within an established subdivision that provides a 10 foot wide pedestrian easement to the coastal bluff; this project will not interfere with this access.

3. THAT THE PROJECT IS CONSISTENT WITH THE DESIGN CRITERIA AND SPECIAL USE STANDARDS AND CONDITIONS OF THIS CHAPTER PURSUANT TO SECTION 13.20.130 ET SEQ.

The proposed project is consistent with all applicable regulations under County Code Section 13.20.130 for development within the coastal zone. The proposed dwelling addition will be located on a flat parcel (within the developable area) and will be visually compatible with the surrounding neighborhood in that the neighborhood is comprised of a mix of one and two story dwellings with pitched roofs and wood exterior siding. The addition will be located in the center of the existing building footprint thereby maintaining a low profile building mass and silhouette.

4. THAT THE PROJECT CONFORMS WITH THE PUBLIC ACCESS, RECREATION, AND VISITOR-SERVING POLICIES, STANDARDS AND MAPS OF THE LOCAL COASTAL PROGRAM LAND USE PLAN, SPECIFICALLY SECTION 4, 5, 7.2 AND 7.3, AND, AS TO ANY DEVELOPMENT BETWEEN AND NEAREST PUBLIC ROAD AND THE SEA OR THE SHORELINE OF ANY BODY OF WATER LOCATED WITHIN THE COASTAL ZONE, SUCH DEVELOPMENT IS IN CONFORMITY WITH THE PUBLIC ACCESS AND PUBLIC RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT COMMENCING WITH SECTION 30200.

The proposed project is subject to the public access requirements in that the location of the property is between the first public road and the sea. However, public access is not designated for this property and the property is not designated for public recreation or visitor serving facility requirements. Public access is via the public streets adjacent to the property.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Applicant: Thacher & Thompson Architects
Application No: 96-0398
APN: 28-212-06

5. THAT THE PROPOSED DEVELOPMENT IS IN CONFORMITY WITH THE CERTIFIED LOCAL COASTAL PROGRAM.

The proposed project conforms to the "Residential Urban Low" land use plan designation of the Local Coastal Program and is consistent with the development standards applicable to parcels within the Coastal Zone. The proposed further development of the property will be within the perimeter of the existing structure and not impact the public use of the coastal bluff adjacent to and beyond the project.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

CONDITIONS OF APPROVAL

Coastal/Residential Development Permit No. 96-0398

Applicant and Property Owner: Thacher & Thompson/Roy
Assessor's Parcel No. 28-212-06
Property location and address: 200 Geoffroy Drive
Live Oak planning area

EXHIBITS:

- A. Architectural Plans prepared by Thacher & Thompson dated May 15, 1996.
(plans on file in the Planning Department)
-

- I. This permit authorizes remodel to an existing nonconforming single family dwelling and construction of a second story addition (874 square feet). Prior to exercising any rights granted by this Approval, the owner shall sign, date and return one copy of the Approval to indicate acceptance and agreement with the conditions thereof.
- II. The applicant shall obtain a Building Permit. Prior to issuance of a Building Permit, the following shall be complied with:
- A. Building plans shall conform to plans marked "Exhibit A" on file in the Planning Department.
 - B. Building plans shall comply with all requirements of the Central Fire Protection District dated July 16, 1996 on file in the Planning Department or available from Central Fire Protection District.
 - C. Building plans shall show all existing and proposed plumbing fixtures on floor plans of building application.
 - D. Pay the Santa Cruz County Park Dedication fee in effect at the time of Building Permit issuance. On 3/7/1997, this fee would total \$930.00.
 - E. Pay the Santa Cruz County Child Care fee in effect at the time of Building Permit issuance. On 3/7/1997, the fee would total \$109.00.
 - F. Pay the Santa Cruz County Transportation Improvement fee in effect at the time of Building Permit issuance. On 3/7/97 this fee would total \$667.00.

Applicant: Thacher & ompson Architects
Application No: 96-0398
APN: 28-212-06

- G. Pay the Santa Cruz County Roadside Improvement fee in effect at the time of Building Permit issuance. On 3/7/97, this fee would total \$667.00.
- H. Obtain an Encroachment Permit from the Department of Public Works, as necessary, for any work performed in the public right-of-way. All work shall be consistent with the Department of Public Works Design Criteria.
- I. Submit proof of payment of the school impact fee to the appropriate school district.
- J. Record the Declaration of Acknowledge for Geologic Hazard at the County Records office. The form can be obtained from the Planning Department.
- K. Comply with the recommendations (those pertinent to this project) in the Rogers Johnson & Associates Geologic Report dated December 2, 1996

III. All construction shall be performed in accordance with the approved plans. Prior to final building inspection and building occupancy, the applicant/owner meet the following conditions:

- A. All improvements shown on the approved Building Permit shall be completed.

IV. Operational Conditions.

- A. All landscaping shall be permanently maintained.
- B. Comply with the recommendations in the Rogers Johnson & Associates Geologic Report dated December 2, 1997
- C. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

Reilley Beach LLC
100 Sunnycove
Santa Cruz, CA 95060

Dear Neighbor,

As you know, the Reilley Beach LLC owns the "rock shelf" (APN-028-21-13) adjoining your property on Geoffroy Drive.

I am aware that some retaining walls, landscaping, and drainage systems have been constructed on or adjacent to the "rock shelf" that are encroaching onto the Reilley Beach LLC property.

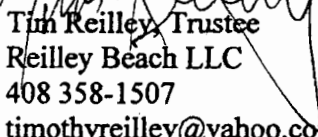
In principle, I do not object to the protection of your property by maintaining or constructing the retaining walls and drainage systems. However, you should be aware, that when I purchased the "rock shelf", a Restriction Agreement was executed that states "that no temporary or permanent building or structure shall be placed on the property" and that lack of enforcement would constitute a breach of the agreement.

Consequently, I am requesting from you, in return for continued permission to use of the "rock shelf" and Reilley Beach LLC property for the purpose of maintenance and/or construction of a retaining wall and drainage system, the following:

1. The execution of a hold harmless agreement and waiver of liability of the Reilley Beach LLC property.
2. The execution of a conceptual guidelines agreement for the maintenance and/or construction of retaining walls and drainage systems that may include percolation basins and overflow drains for the protection of the "rock shelf" from accelerated and unnatural erosion or other damage.

Per my agreement, I will be moving forward quickly with the above items. If you have any questions, please do not hesitate to contact me. I want to thank you in advance. I am sure we all want to do what's best to protect our beautiful piece of the shoreline.

Very truly yours,


Tim Reilley, Trustee
Reilley Beach LLC
408 358-1507
timothyreilley@yahoo.com

cc: Scott Ross, Mount & Stoelker
Rick Mount, Mount & Stoelker
Wayne Miller

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 17 of 54

RECEIVED

C

Patricia Roy
P.O. Box 5667
San Jose, CA 95150



CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)



2002-0030095

RECORDED AT THE REQUEST OF:

First American Title Company

WHEN RECORDED MAIL TO:

ROBERT TOMASELLI
402 GRAND AVENUE
CAPITOLA, CA. 95010

Recorded
Official Records
County Of
SANTA CRUZ
RICHARD W. BEDAL
Recorder

REC FEE 45.00

01:07PM 24-Apr-2002

LAH
Page 1 of 14

166995-8

(SPACE ABOVE IS FOR RECORDER'S USE ONLY)

RESTRICTION AGREEMENT
(DOCUMENT TITLE)

"This document has been submitted to
First American Title Insurance Company
to record as an accommodation only and
has not been examined for effect,
sufficiency, or accuracy."

THIS PAGE IS TO PROVIDE ADEQUATE SPACE FOR
RECORDING INFORMATION
(CAL GOV. CODE SECTION 27961.0)

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit R
Page 19 of 54

EXHIBIT D

166995-8

MAIL TO: ROBERT TOMASELLI
402 GRAND AVENUE
CAPITOLA, CA 95010

RESTRICTION AGREEMENT

This RESTRICTION AGREEMENT (hereinafter sometimes referred to as "Agreement") is entered into this 24th day of May, 2000 by and between MARY G. KIRWAN; WILLIAM O. GEOFFROY; JULIE BISCEGLIA, Trustee of the Clorinda B. Geoffroy Trust dated December 21, 1992; DONALD D. GEOFFROY and NORMA F. KRIEGE, Co-Trustees of the Alice C. and Donald D. Geoffroy Trust dated December 15, 1986; NORMA F. KRIEGE and BARBARA F. SAMPER, Co-Trustees of the Dorothy R. and Morey B. Fleming Trust dated August 4, 1987; and MARTHA ANN GEOFFROY, Trustee of the James J. Geoffroy Q-Tip Trust dated February 11, 1988 (hereinafter referred to individually and collectively as "Seller") and TIMOTHY J. REILLEY and DIANA L. REILLEY (hereinafter referred to individually and collectively as "Buyer") with reference to the following facts:

- A. Seller is the owner of that certain real property located in the County of Santa Cruz, State of California, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"). As of the date of this Agreement, there is no structure or improvement located on the Property.
- B. Buyer desires to purchase the Property from Seller, and Seller desires to sell the Property to Buyer but Seller does not want a habitable structure constructed on the Property.

NOW, THEREFORE, in partial consideration for the purchase and sale of the Property, Buyer hereby agrees that while Buyer, is an owner or in control of the Property (in any capacity, including, but not limited to, as an individual, as trustee or beneficiary of a trust for the benefit of Buyer, as a partner in any form of partnership or a shareholder in any corporation), no temporary or permanent building or structure, including but not limited to any house, cabin, cabana, hut, shed, or cottage, shall be built or placed on the Property for the purpose of human habitation or that would permit human habitation of any kind.

This Agreement shall be specifically enforceable by Seller, individually or collectively, in addition to any damages that may be assessed in any action for breach of this Agreement.

If any action or other proceeding is brought by Seller for the enforcement of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and other expenses incurred in connection with such action or proceeding.

This Agreement shall inure to the benefit of the heirs, successors, executors, administrators and assigns of the Seller.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 20 of 54

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit "A"

Exhibit R
Page 21 of 54

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ, UNINCORPORATED AREA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

BEING THAT PORTION OF THE LANDS DESIGNATED AS ROCK SHELF, LYING SOUTHERLY OF THE SOUTHERLY LINE OF LOTS 22, 23, 24, 25, 26, 27, 28, 29 AND 30, EXTENDED EASTERLY AND WESTERLY TO MONTEREY BAY, AS THE SAME ARE SHOWN UPON THE MAP ENTITLED, "TRACT NO. 57, SANTA MARIA CLIFFS, BEING A PART OF SECTIONS 20, T. 11 S. R. 1 W., M. D. B. SANTA CRUZ COUNTY, CALIF." FILED FOR RECORD MARCH 11, 1947, IN MAP BOOK 28, PAGE 48, SANTA CRUZ COUNTY RECORDS, AND BOUNDED ON THE EAST, SOUTH AND WEST BY THE MEAN HIGH TIDE LINE ALONG THE SHORE OF MONTEREY BAY, AS SHOWN ON THE MAP THEREOF, FILED FOR RECORD ON OCTOBER 18, 1960, IN MISCELLANEOUS MAP BOOK, AT PAGE 2, SANTA CRUZ COUNTY RECORDS.

PARCEL TWO:

BEGINNING AT A PIPE AT THE NORTHEASTERLY CORNER OF THE LANDS CONVEYED TO AUGUST GEOFFROY, ET AL., BY QUIT CLAIM DEED RECORDED IN VOL. 395, PAGE 14, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, ON THE SOUTHERLY TERMINUS OF THE EASTERLY LINE OF JOHAN'S BEACH DRIVE; THENCE FROM SAID POINT OF BEGINNING ALONG THE EASTERLY LINE OF SAID LANDS OF GEOFFROY, ET AL., SOUTH 29 DEGREES 20' EAST 16.08 FEET TO A PIPE; THENCE SOUTH 9 DEGREES 15' EAST 94 FEET TO A PIPE AND SOUTH 25 DEGREES 00' WEST TO THE BAY OF MONTEREY; THENCE WESTERLY ALONG THE BAY OF MONTEREY TO THE NORTHEASTERLY CORNER OF THE LANDS DESCRIBED AS PARCEL 2 IN THE DECREE OF FINAL DISTRIBUTION RECORDED IN VOL. 1450, PAGE 56, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 2 NORTH 63 DEGREES 35' WEST 18 FEET, MORE OR LESS, TO AN IRON PIPE AT THE NORTHWESTERLY CORNER THEREOF ON THE EASTERLY LINE OF GEOFFROY DRIVE, A 50 FOOT ROAD, AS SHOWN UPON THE MAP ENTITLED, "TRACT NO. 57, SANTA MARIA CLIFFS, BEING A PART OF SECTION 20 T. 11 S. R. 1 W. M. D. B. SANTA CRUZ COUNTY, CALIF." FILED FOR RECORD MARCH 11, 1947, IN MAP BOOK 28, PAGE 48, SANTA CRUZ COUNTY RECORDS; THENCE ALONG SAID EASTERLY LINE OF GEOFFROY DRIVE NORTH 26 DEGREES 25' EAST 237.45 FEET TO A PIPE AT A POINT OF CURVATURE; THENCE NORTHERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 126 FEET THROUGH AN ANGLE OF 43 DEGREES 15' A DISTANCE OF 94.38 FEET TO A PIPE AT A POINT OF TANGENCY; THENCE NORTH 16 DEGREES 50' WEST 142.33 FEET TO THE MOST SOUTHERLY CORNER OF THE LANDS CONVEYED TO THE COUNTY OF SANTA CRUZ BY DEED RECORDED IN VOL. 1105, PAGE 124, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE ALONG THE SOUTHEASTERLY, NORTHEASTERLY AND NORTHWESTERLY LINES OF SAID LAST NAMED LANDS NORTH 73 DEGREES 10' EAST 21 FEET, NORTH 16 DEGREES 50' WEST 25 FEET AND SOUTH 76 DEGREES 10' WEST 21 FEET; THENCE CONTINUING ALONG SAID EASTERLY LINE OF GEOFFROY DRIVE NORTH 16 DEGREES 50' WEST 29.59 FEET TO A PIPE AT THE MOST SOUTHERLY CORNER OF LOT 47, AS SHOWN ON AFOREMENTIONED SUBDIVISION MAP; THENCE LEAVING GEOFFROY DRIVE ALONG THE SOUTHEASTERLY LINE OF SAID LOT 47 NORTH 73 DEGREES 10' EAST 109.40 FEET TO A PIPE AT THE SOUTHEASTERLY CORNER THEREOF ON THE WESTERLY LINE OF JOHAN'S BEACH DRIVE; THENCE ALONG LAST MENTIONED LINE SOUTH 0 DEGREES 45' WEST 99.40 FEET TO A PIPE AND SOUTH 30 DEGREES 45' EAST 75 FEET TO A PIPE; THENCE ALONG THE SOUTHERLY LINE OF JOHAN'S BEACH DRIVE EAST 73.26 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCELS ONE AND TWO, HEREINABOVE DESCRIBED, THAT PORTION THEREOF WATERWARD OF THE NATURAL ORDINARY HIGH TIDE LINE.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the State of California as of the day and year first written above.

"Seller"

X Mary G. Kirwan
MARY G. KIRWAN

WILLIAM O. GEOFFROY

JULIE BISCEGLIA, Trustee of the
Clorinda B. Geoffroy Trust dated 12/21/92

X Donald D. Geoffroy, Co-Trustee of
the Alice C. and Donald D. Geoffroy Trust
dated 12/15/86

NORMA F. KRIEGL, Co-Trustee of
the Alice C. and Donald D. Geoffroy Trust
dated 12/15/86

NORMA F. KRIEGL, Co-Trustee of
the Dorothy R. and Morey B. Fleming
Trust C dated 8/4/87

X Barbara F. Samper
BARBARA F. SAMPER, Co-Trustee of
the Dorothy R. and Morey B. Fleming
Trust C dated 8/4/87

MARTHA ANN GEOFFROY, Trustee of
the James J. Geoffroy Q-Tip Trust dated
2/11/88

"Buyer"

Timothy J. Reilley, Trustee
TIMOTHY J. REILLEY, TRUSTEE
Diana L. Reilley, Trustee
DIANA L. REILLEY, TRUSTEE

kric14824/restriction agreement

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 22 of 54

STATE OF CALIFORNIA
COUNTY OF _____

SANTA CRUZ

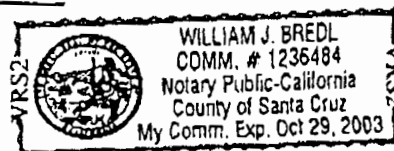
} ss.

On 5/24/00, before me, WILLIAM J. BREDLpersonally appeared TIMOTHY J. REILLEY AND DIANA L. REILLEY

_____, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same
in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature


WILLIAM J. BREDL

(This area for official notarial seal)

Title of Document _____

Date of Document _____

No. of Pages _____

Other signatures not acknowledged _____

RECORDED AT THE REQUEST OF
FIRST AMERICAN TITLE COMPANY

Order No.
Escrow No. 166995-8
Loan No.

WHEN RECORDED MAIL TO:

TIMOTHY J. REILLEY
17100 PINE AVENUE
LOS GATOS, CA 95032



2000-0033726

Recorded	REC FEE	13.00
Official Records	SURVEY	10.00
County Of		
SANTA CRUZ		
RICHARD W. BEDAL		
Recorder		

02:09PM 12-Jul-2000 BLS
Page 1 of 3

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

SPACE ABOVE THIS LINE FOR RECORDER'S USE
DOCUMENTARY TRANSFER TAX \$ Counter Part Deed

Computed on the consideration or value of property conveyed; OR
Computed on the consideration or value less liens or encumbrances
remaining at time of sale.

As declared by the undersigned Grantor

Signature of Declarant or Agent determining tax - Firm Name

028-212-13

028-212-13

GRANT DEED

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

JULIE BISCEGLIA, SUCCESSOR TRUSTEE OF THE CLORINDA B. GEOFFROY TRUST DATED 6/29/93, WHO
ACQUIRED TITLE AS JULIE BISCEGLIA AS TRUSTEE OF THAT CERTAIN DECLARATION OF TRUST DATED
DECEMBER 21, 1992

hereby GRANT(S) to

TIMOTHY J. REILLEY and DIANA L. REILLEY, TRUSTEES OF THE REILLEY FAMILY TRUST DATED 9/6/86

the real property in the
County of
as

Unincorporated Area
Santa Cruz

, State of California, described

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF

Dated June 12, 2000

STATE OF CALIFORNIA)
COUNTY OF Los Angeles)ss.

On June 12, 2000
before me, Monica Rae Stein, personally
appeared JULIE BISCEGLIA

personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized
capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s) or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Monica Rae Stein

MAIL TAX STATEMENTS AS DIRECTED ABOVE



(This is

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ, UNINCORPORATED AREA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

BEING THAT PORTION OF THE LANDS DESIGNATED AS ROCK SHELF, LYING SOUTHERLY OF THE SOUTHERLY LINE OF LOTS 22, 23, 24, 25, 26, 27, 28, 29 AND 30, EXTENDED EASTERLY AND WESTERLY TO MONTEREY BAY, AS THE SAME ARE SHOWN UPON THE MAP ENTITLED, "TRACT NO. 57, SANTA MARIA CLIFFS, BEING A PART OF SECTIONS 20, T. 11 S. R. 1 W., M. D. B. SANTA CRUZ COUNTY, CALIF." FILED FOR RECORD MARCH 11, 1947, IN MAP BOOK 28, PAGE 48, SANTA CRUZ COUNTY RECORDS, AND BOUNDED ON THE EAST, SOUTH AND WEST BY THE MEAN HIGH TIDE LINE ALONG THE SHORE OF MONTEREY BAY, AS SHOWN ON THE MAP THEREOF, FILED FOR RECORD ON OCTOBER 18, 1960, IN MISCELLANEOUS MAP BOOK, AT PAGE 2, SANTA CRUZ COUNTY RECORDS.

PARCEL TWO:

BEGINNING AT A PIPE AT THE NORTHEASTERLY CORNER OF THE LANDS CONVEYED TO AUGUST GEOFFROY, ET AL., BY QUIT CLAIM DEED RECORDED IN VOL. 395, PAGE 14, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, ON THE SOUTHERLY TERMINUS OF THE EASTERLY LINE OF JOHAN'S BEACH DRIVE; THENCE FROM SAID POINT OF BEGINNING ALONG THE EASTERLY LINE OF SAID LANDS OF GEOFFROY, ET AL., SOUTH 29 DEGREES 20' EAST 16.08 FEET TO A PIPE; THENCE SOUTH 9 DEGREES 15' EAST 94 FEET TO A PIPE AND SOUTH 25 DEGREES 00' WEST TO THE BAY OF MONTEREY; THENCE WESTERLY ALONG THE BAY OF MONTEREY TO THE NORTHEASTERLY CORNER OF THE LANDS DESCRIBED AS PARCEL 2 IN THE DECREE OF FINAL DISTRIBUTION RECORDED IN VOL. 1450, PAGE 56, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 2 NORTH 63 DEGREES 35' WEST 18 FEET, MORE OR LESS, TO AN IRON PIPE AT THE NORTHWESTERLY CORNER THEREOF ON THE EASTERLY LINE OF GEOFFROY DRIVE, A 50 FOOT ROAD, AS SHOWN UPON THE MAP ENTITLED, "TRACT NO. 57, SANTA MARIA CLIFFS, BEING A PART OF SECTION 20 T. 11 S. R. 1 W. M. D. B. SANTA CRUZ COUNTY, CALIF." FILED FOR RECORD MARCH 11, 1947, IN MAP BOOK 28, PAGE 48, SANTA CRUZ COUNTY RECORDS; THENCE ALONG SAID EASTERLY LINE OF GEOFFROY DRIVE NORTH 26 DEGREES 25' EAST 237.45 FEET TO A PIPE AT A POINT OF CURVATURE; THENCE NORTHERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 125 FEET THROUGH AN ANGLE OF 43 DEGREES 15' A DISTANCE OF 94.36 FEET TO A PIPE AT A POINT OF TANGENCY; THENCE NORTH 16 DEGREES 50' WEST 142.33 FEET TO THE MOST SOUTHERLY CORNER OF THE LANDS CONVEYED TO THE COUNTY OF SANTA CRUZ BY DEED RECORDED IN VOL. 1105, PAGE 124, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE ALONG THE SOUTHEASTERLY, NORTHEASTERLY AND NORTHWESTERLY LINES OF SAID LAST NAMED LANDS NORTH 73 DEGREES 10' EAST 21 FEET, NORTH 16 DEGREES 50' WEST 25 FEET AND SOUTH 76 DEGREES 10' WEST 21 FEET; THENCE CONTINUING ALONG SAID EASTERLY LINE OF GEOFFROY DRIVE NORTH 16 DEGREES 50' WEST 29.59 FEET TO A PIPE AT THE MOST SOUTHERLY CORNER OF LOT 47, AS SHOWN ON AFOREMENTIONED SUBDIVISION MAP; THENCE LEAVING GEOFFROY DRIVE ALONG THE SOUTHEASTERLY LINE OF SAID LOT 47 NORTH 73 DEGREES 10' EAST 109.40 FEET TO A PIPE AT THE SOUTHEASTERLY CORNER THEREOF ON THE WESTERLY LINE OF JOHAN'S BEACH DRIVE; THENCE ALONG LAST MENTIONED LINE SOUTH 0 DEGREES 45' WEST 99.40 FEET TO A PIPE AND SOUTH 30 DEGREES 45' EAST 75 FEET TO A PIPE; THENCE ALONG THE SOUTHERLY LINE OF JOHAN'S BEACH DRIVE EAST 73.26 FEET TO THE POINT OF BEGINNING.

Order No. 166995-8

EXCEPTING FROM PARCELS ONE AND TWO, HEREINABOVE DESCRIBED, THAT PORTION
THEREOF WATERWARD OF THE NATURAL ORDINARY HIGH TIDE LINE.

A.P. No.: 028-212-13



2001-0082622

Recording requested by:
Scott A. Ross, Esq.
MOUNT & STOELKER
333 West San Carlos St.
Suite 1650
San Jose, CA 95110

Recorded	REC FEE	13.00
Official Records	CC CONF	.00
County Of	SURVEY	10.00
SANTA CRUZ		
RICHARD W. BEDAL		
Recorder		

08:02AM 27-Dec-2001 | DLA
Page 1 of 3

When recorded mail to:
Timothy J. Reilley
Diana L. Reilley
17100 Pine Avenue
Los Gatos, CA 95032

Space above this line for recorder's use

APN: 028-212-13

a.k.a.: Johan's Beach Property - Unincorporated Area of County of Santa Cruz, State of California

GRANT DEED

The undersigned Grantors declare under penalty of perjury that the following is true and correct:

THERE IS NO CONSIDERATION FOR THIS TRANSFER.

[X] Transfer to LLC where the membership interest is proportional to the transferors' interest in the property.

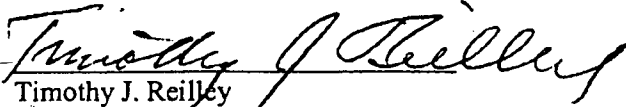
GRANTORS: Timothy J. Reilley and Diana L. Reilley, Trustees of the Reilley Trust
Dated 9/6/86

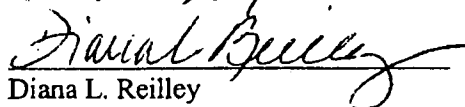
hereby **GRANT TO:** Reilley Beach LLC, a California Limited Liability Company

the following real property in the Unincorporated Area, County of Santa Cruz, State of California,
described as follows:

SEE ATTACHED LEGAL DESCRIPTION MADE A PART HEREOF BY THIS REFERENCE.

Dated: 11/21/01


Timothy J. Reilley


Diana L. Reilley

Mail tax statements to: Reilley Beach LLC, 17100 Pine Avenue, Los Gatos, CA 95030

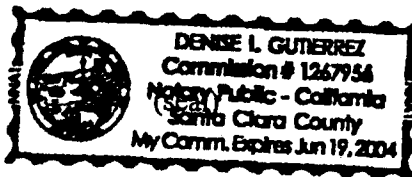
ACKNOWLEDGMENT

State of California)
County of Santa Clara) ss.

On November 21, 2001, before me Denise I. GuTierres, a notary public, personally appeared Timothy J. Reilley and Diana L. Reilley, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS MY HAND AND OFFICIAL SEAL.

Notary Public



THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SANTA CRUZ, UNINCORPORATED AREA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

BEING THAT PORTION OF THE LANDS DESIGNATED AS ROCK SHELF, LYING SOUTHERLY OF THE SOUTHERLY LINE OF LOTS 22, 23, 24, 25, 26, 27, 28, 29 AND 30, EXTENDED EASTERLY AND WESTERLY TO MONTEREY BAY, AS THE SAME ARE SHOWN UPON THE MAP ENTITLED, "TRACT NO. 57, SANTA MARIA CLIFFS, BEING A PART OF SECTIONS 20, T. 11 S. R. 1 W., M. D. B. SANTA CRUZ COUNTY, CALIF." FILED FOR RECORD MARCH 11, 1947, IN MAP BOOK 28, PAGE 48, SANTA CRUZ COUNTY RECORDS, AND BOUNDED ON THE EAST, SOUTH AND WEST BY THE MEAN HIGH TIDE LINE ALONG THE SHORE OF MONTEREY BAY, AS SHOWN ON THE MAP THEREOF, FILED FOR RECORD ON OCTOBER 18, 1960, IN MISCELLANEOUS MAP BOOK, AT PAGE 2, SANTA CRUZ COUNTY RECORDS.

PARCEL TWO:

BEGINNING AT A PIPE AT THE NORTHEASTERLY CORNER OF THE LANDS CONVEYED TO AUGUST GEOFFROY, ET AL., BY QUIT CLAIM DEED RECORDED IN VOL. 395, PAGE 14, OFFICIAL RECORDS OF SANTA CRUZ COUNTY, ON THE SOUTHERLY TERMINUS OF THE EASTERLY LINE OF JOHAN'S BEACH DRIVE; THENCE FROM SAID POINT OF BEGINNING ALONG THE EASTERLY LINE OF SAID LANDS OF GEOFFROY, ET AL., SOUTH 29 DEGREES 20' EAST 16.08 FEET TO A PIPE; THENCE SOUTH 9 DEGREES 15' EAST 94 FEET TO A PIPE AND SOUTH 25 DEGREES 00' WEST TO THE BAY OF MONTEREY; THENCE WESTERLY ALONG THE BAY OF MONTEREY TO THE NORTHEASTERLY CORNER OF THE LANDS DESCRIBED AS PARCEL 2 IN THE DECREE OF FINAL DISTRIBUTION RECORDED IN VOL. 1450, PAGE 56, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL 2 NORTH 63 DEGREES 35' WEST 18 FEET, MORE OR LESS, TO AN IRON PIPE AT THE NORTHWESTERLY CORNER THEREOF ON THE EASTERLY LINE OF GEOFFROY DRIVE, A 50 FOOT ROAD, AS SHOWN UPON THE MAP ENTITLED, "TRACT NO. 57, SANTA MARIA CLIFFS, BEING A PART OF SECTION 20 T. 11 S. R. 1 W. M. D. B. SANTA CRUZ COUNTY, CALIF." FILED FOR RECORD MARCH 11, 1947, IN MAP BOOK 28, PAGE 48, SANTA CRUZ COUNTY RECORDS; THENCE ALONG SAID EASTERLY LINE OF GEOFFROY DRIVE NORTH 26 DEGREES 25' EAST 237.45 FEET TO A PIPE AT A POINT OF CURVATURE; THENCE NORTHERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 125 FEET THROUGH AN ANGLE OF 43 DEGREES 15' A DISTANCE OF 94.36 FEET TO A PIPE AT A POINT OF TANGENCY; THENCE NORTH 16 DEGREES 50' WEST 142.33 FEET TO THE MOST SOUTHERLY CORNER OF THE LANDS CONVEYED TO THE COUNTY OF SANTA CRUZ BY DEED RECORDED IN VOL. 1105, PAGE 124, OFFICIAL RECORDS OF SANTA CRUZ COUNTY; THENCE ALONG THE SOUTHEASTERLY, NORTHEASTERLY AND NORTHWESTERLY LINES OF SAID LAST NAMED LANDS NORTH 73 DEGREES 10' EAST 21 FEET, NORTH 16 DEGREES 50' WEST 25 FEET AND SOUTH 76 DEGREES 10' WEST 21 FEET; THENCE CONTINUING ALONG SAID EASTERLY LINE OF GEOFFROY DRIVE NORTH 16 DEGREES 50' WEST 29.59 FEET TO A PIPE AT THE MOST SOUTHERLY CORNER OF LOT 47, AS SHOWN ON AFOREMENTIONED SUBDIVISION MAP; THENCE LEAVING GEOFFROY DRIVE ALONG THE SOUTHEASTERLY LINE OF SAID LOT 47 NORTH 73 DEGREES 10' EAST 109.40 FEET TO A PIPE AT THE SOUTHEASTERLY CORNER THEREOF

ON THE WESTERLY LINE OF JOHAN'S BEACH DRIVE; THENCE ALONG LAST MENTIONED LINE SOUTH 0 DEGREES 45' WEST 99.40 FEET TO A PIPE AND SOUTH 30 DEGREES 45' EAST 75 FEET TO A PIPE; THENCE ALONG THE SOUTHERLY LINE OF JOHAN'S BEACH DRIVE EAST 73.26 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM PARCELS ONE AND TWO, HEREINABOVE DESCRIBED, THAT PORTION THEREOF WATERWARD OF THE NATURAL ORDINARY HIGH TIDE LINE.

A.P. No.: 028-212-13

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060

FAX (408) 454-2131

TDD (408) 454-2123

BUILDING PERMIT

PERMIT NO: **00115211**

APPLICATION NO: **23281G**

ASSESSOR'S PARCEL NO: **028-212-06**

DATE: **06/06/1997**
PHONE: **(408) 454-2077**

INITIALS OF ISSUING OFFICER: _____

PERMITS ARE BASED ON SPECIFIC PLANS AND SPECIFICATIONS FILED WITH THE COUNTY AND ARE SUBJECT TO ALL APPLICABLE STATE STATUTES, COUNTY ORDINANCES, AND SPECIAL CONDITIONS IMPOSED. I HAVE READ BOTH SIDES OF THIS FORM AND VERIFY THAT THE INFORMATION IS CORRECT.

06/06/1997

INITIALS OF OWNER CONTRACTING W/LICENSED CONTRACTOR: _____

PERMIT TYPE: ROOM ADDITION/REMODEL

SITUS: 200 GEOFFROY DR SANTA CRUZ 95062

PERMIT DESCRIPTION:

CONSTRUCT A SECOND STORY ADDITION TO A SINGLE STORY SINGLE FAMILY DWELLING. TO INCLUDE 2 BEDROOMS, 2 BATHROOMS. REMODEL THE FIRST FLOOR TO INCLUDE CONVERT 2 BEDROOMS TO MASTER BEDROOM plus misc. changes through. Results in 2 story SFD WITH 4 BEDROOMS (one labeled a guest room) 4.5 bathrooms. ATTACHED GARAGE, DECKS.

OWNER: ROY PATRICIA J TRUSTEE

P O BOX 5667 SAN JOSE CA 95150

CONTRACTOR: CALIFORNIA CONTRACTORS CO.

973 WHITE DRIVE SANTA CLARA CA 95051

COMMENTS:

THIS PERMIT IS VOID IF FIELD INSPECTION REVEALS STRUCTURE OR USE TO BE ILLEGAL.

The issuance of this permit does not confer legal status on any structure or a portion of any structure, except those portions of the structure expressly covered by this permit.

I hereby affirm that I am licensed under provisions of Chapter 9 of the Business and Professions Code, and my license is in full force and effect.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation laws provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

PERMIT ISSUED TO: OWNER CONTRACTING W/LICENSED CONTRACTOR

HOLDS: AGENCY

ENVIRONMENTAL PLANNING
CENTRAL FIRE
DPW SANITATION

CONTACT

J. NELSON
CENTRAL FIRE DISTRICT
SANITATION INSPECTOR

PHONE

454-3163
479-6843
454-2895

PERMIT FEES PAID: RECEIPT: 00021320

DATE PAID: 06/06/1997

BUILDING PLAN CHECK
BUILDING PLAN CHECK
BUILDING PERMIT
ELECTRICAL PERMIT
MECHANICAL PERMIT

1322.27
-868.14
1149.80
23.00
23.00

CCC-04-CD-06 (Roy)

CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R

Page 30 of 54

COPY - APPLICANT

PAGE 1

RECEIVED

PLUMBING PERMIT	23.00	
SEWER PERMIT FEE	2.00	
TECHNICAL TRAINING HEALTH/SAFETY	12.71	
CHILD CARE DETACHED RESIDENTIAL ADDITION	109.00	
EROSION - ADDITIONS/DETACHED STRUCTURES	230.00	
PK LIVE OAK - ADDITION SFD	930.00	
RS LIVE OAK - NEW/ADD'L BEDROOMS	667.00	
SCCSD SEWER FIXTURE UNITS	3135.00	
STRONG MOTION - RESIDENTIAL	13.79	
TR LIVE OAK - NEW/ADD'L BEDROOMS	667.00	
ZONING PLAN CHECK - MINOR	207.00	
ZONING PLAN CHECK - MINOR	-207.00	
*** TOTAL ***	7439.43	***

* **NOTICE TO PERMITTEE:** *

* This permit is subject to all applicable sections of Santa Cruz County Codes. The job copy of this permit shall *

* be available at all inspections. *

* *

* Contact Inspections Services at (408) 454-2077 to arrange for Building Inspections. Inspectors must be given *

* 24 hours notice for each inspection. *

* *

* Proper grading and drainage of the building site must be completed prior to requesting a foundation inspection. *

* Foundation inspections will not be approved if improper grading or drainage exists. The issuance of this permit *

* without a grading permit does not indicate that one is not required. Grading for other than foundation *

* excavations may require a grading permit. If it is found during site inspection that a grading permit is *

* required, construction shall be ordered stopped until a grading permit is fully processed and issued. *

* *

* A SEPARATE GRADING PERMIT IS REQUIRED FOR PROJECTS INVOLVING: *

* *

* 1) EXCAVATIONS: exceeding 100 cubic yards, or creating cut slopes greater than five (5) feet in depth. *

* *

* 2) FILLS: exceeding 100 cubic yards, or more than two (2) feet in depth, or placed on slopes *

* steeper than five horizontal to one vertical (5:1), or obstructing a drainage course, *

* or used for structural support. *

* *

* This permit shall expire by limitation and become null and void if work is not commenced, inspected and approved *

* within one year; or if no inspections are obtained and approved for a period of one year or more. *

* COMMENCEMENT OF WORK is defined as the completion of the first permanent work (not including wells, septic tanks, *

* grading or temporary power poles). See the County's list of typical inspections for qualifying inspections. *

* INSPECTION AND APPROVAL is defined as an inspection performed by a Santa Cruz County Building Inspector, with *

* the Inspector's written approval on the Building Permit of the work inspected. Inspections by other agencies *

* such as the local Fire Department, Public Works, or Environmental Health do not protect this permit from *

* becoming void by limitation. *

* *

* In most cases, an extension of the active permit may be granted for good cause if the request is received prior *

* to expiration of the permit. Contact the Planning Department for details. *

* *

* Concrete must be poured within five (5) days of inspection and approval. *

* *

* NO BOISTEROUS, IRRITATING, PENETRATING, OR UNUSUAL NOISE which is unreasonably distracting, or likely to disturb *

* people of ordinary sensitivities, shall be made between the hours of 10:00 PM and 8:00 AM within 100 feet of any *

* place used for sleeping purposes, or which disturbs any person of ordinary sensitivities within his or her place *

* of residence. *

* *

COUNTY OF SANTA CRUZ - ALUS 3.0
 RECEIPT FOR PAYMENT
 APPLICATION NO.: 0023281G
 ID: 1 PERMIT NO.: 00115211
 ORCEL NO.: 028-212-06
 DATE: 06/06/97
 TIME: 09:35:04
 RECEIPT NO: 00021320
 DEPOSIT NO: 97157PL

COUNTY OF SANTA CRUZ - ALUS 3.0
 RECEIPT FOR PAYMENT
 APPLICATION NO.: 0025089M
 PARCEL NO.: 028-212-06
 CASHIER: RAJ
 DATE
 TIME
 RECEIPT NO
 DEPOSIT NO

TRANSACTION	FUNDING FOR	DESCRIPTION	FEE AMOUNT
EE PAID	REVIEW PLANS	BLDG PLN CK	1322.27
WTAKE DEP CR	REVIEW PLANS	BLDG PLN CK	-868.14
EE PAID	REVIEW PLANS	BLDG PERMIT	1149.80
EE PAID	INSPECT INSTALLATION	ELEC PERMIT	23.00
EE PAID	INSPECT INSTALLATION	MECH PERMIT	23.00
EE PAID	INSPECT INSTALLATION	PLUMBING PMT	23.00
EE PAID	PROCESS PERMIT	SEWR PERMIT	2.00
EE PAID	ST REQUIRED TRAINING	TRAINING H&S	12.71
EE PAID	PROVIDE FACILITIES	CHILD CARE	109.00
EE PAID	VISIT/ASSESS SITE	EC ADDS	230.00
EE PAID	PARK ACQUISITION	PK L O ADSFD	930.00
EE PAID	ROADSIDE CONSTRUCTION	RS LO BR	667.00
EE PAID	SCCSD	SC SWR FU	3135.00
EE PAID	CA EARTHQUAKE STUDY	STRO MD RES	13.79
EE PAID	ROADWAY CONSTRUCTION	TR LO BR	667.00
EE PAID	REVIEW PLANS	Z PLN CK MNR	207.00
WTAKE DEP CR	REVIEW PLANS	Z PLN CK MNR	-207.00
			7439.43

PAYMENT TYPE	CHECK NO.	RECEIVED FROM	AMOUNT PAID
PERSONAL CHECK	7645	ROY & ASSOCIATES	7439.43

TRANSACTION	FUNDING FOR	DESCRIPTION	FEE
FEE PAID	REVIEW PLANS	PLAN CK HRLY	

PAYMENT TYPE	CHECK NO.	RECEIVED FROM	AMOUNT
PERSONAL CHECK	7782	ROY & ASSOCIATES	

COUNTY OF SANTA CRUZ - ALUS 3.0
 RECEIPT FOR PAYMENT
 APPLICATION NO.: 0023281G
 PARCEL NO.: 028-212-06
 CASHIER: RAJ
 DATE
 TIME
 RECEIPT NO
 DEPOSIT NO

PAYMENT TYPE	CHECK NO.	RECEIVED FROM	AMOUNT
PERSONAL CHECK	796	PATRICIA J ROY	

CCC-04-CD-06 (Roy)
 CCC-04-CD-07 (Reilly Beach LLC)

COUNTY OF SANTA CRUZ - SANITATION DISTRICTS
SEWER CONNECTION PERMIT

APN: 028-212-06

A sewer connection permit is hereby approved upon payment of the following charges for (use of premises)
CONSTRUCT 2 ND STORY ADDITION TO EXISTING SINGLE FAMILY DWELLING
ADDS 2.5 BATHS RESULTS IN SFD WITH 4 BDRM. / 4.5 BATH

TYPE OF CONNECTION	UNITS	(NUMBER OF FIXTURE UNITS = 37)		
Sccsd Sewer Fixture Units	19.00 @ \$	165.00	= \$	3135.00
	.00 @ \$		= \$	
Other Fees/Credits: _____	Repayment/Annexation Agreement# _____		\$	_____
			TOTAL	\$ 3135.00

DISTRICT/ZONE: SANTA CRUZ COUNTY SANI. DISTRICT

RECEIPT NO. _____

CONSTRUCTION SITE LOCATION: 200 GEOFFROY DR.

DATE CONNECTED: NO

BUILDING PERMIT APPLICATION NO. 0023281G

PROOF OF EASEMENT: N/A

In consideration of the granting of a connection permit, the undersigned agrees to the following conditions:

1. To accept and abide by all provisions of all existing ordinances of the Sanitation District and all pertinent ordinances or regulations that may be adopted in the future, including the conditions listed below.
2. To OBTAIN THE REQUIRED INSPECTION of your building sewer construction or sewer lateral connection for the subject property from the Sanitation District Inspector. You and your contractor must request an inspection at least 24 hours in advance. Call 454-2160 before 9 a.m. or 454-2895 for message phone.***
3. To complete authorized work within 6 months of the issuance of connection permit or prior to expiration/finalization of building permit. If work is not to be performed, an 80% refund of the sewer connection fee can be claimed within six months of connection permit issuance or prior to building permit voidance.
4. An overflow or backflow protective device is required when the finished floor elevation is less than one(1) foot above the nearest upstream structure's rim elevation.
5. Any change in use or operation, or any expansion of residence or facility must be reviewed by the Sanitation District and additional connection fees may be required.
6. Each parcel must be served by a separate lateral.
7. The septic tank must be pumped and backfilled at the time of sewer connection inspection. If pumped and filled at a later date, the Office of Environmental Health must inspect abandonment and charge an inspection fee. Abatement proceedings will be initiated if septic tank is not properly abandoned.

Property Owner's Name/Tenant: ROY PATRICIA J TRUSTEE

Phone: _____

Address: P O BOX 5667 SAN JOSE CA

INITIALED BY _____

DATE 06/06/97

PERMIT NO. 00001183

DATE 04/14/97

NOTE: YOU WILL BE REQUIRED TO REEXCAVATE ANY WORK THAT IS BACKFILLED PRIOR TO INSPECTION BY THE SANITATION DISTRICT
sanpermit.doc - revised 02/94 *** sanitation inspection required? Y

THACHER & THOMPSON
ARCHITECTS
200 Washington Street Suite 201
SANTA CRUZ, CALIFORNIA 95060

(408) 457-3939

TO PATRICIA ROY
P.O. BOX 5667
SAN JOSE, CA 95150

LETTER OF TRANSMITTAL

DATE 9-4-97	JOB NO. 9592
ATTENTION PAT	
RE:	

WE ARE SENDING YOU ☒ Attached ☐ Under separate cover via _____ the following items:

- ☐ Shop drawings ☐ Prints ☐ Plans ☐ Samples ☐ Specifications
☐ Copy of letter ☐ Change order ☐ _____

COPIES	DATE	NO.	DESCRIPTION
1	4-14-97		APPLICATION RECEIPT (BUILDING PERMIT)
1	9-4-97		" " (CHANGE ORDER)

THESE ARE TRANSMITTED as checked below:

- ☐ For approval ☐ Approved as submitted ☐ Resubmit _____ copies for approval
☒ For your use ☐ Approved as noted ☐ Submit _____ copies for distribution
☐ As requested ☐ Returned for corrections ☐ Return _____ corrected prints
☐ For review and comment ☐ _____
☐ FOR BIDS DUE _____ 19 _____ ☐ PRINTS RETURNED AFTER LOAN TO US

REMARKS

PAT, ENCLOSED IS THE ORIGINAL APPLICATION RECEIPT AND THE RECEIPT FOR TODAY'S CHANGE ORDER. THE PERMIT FOR THE CHANGES SHOULD BE READY IN 2 DAYS OR SO.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 34 of 54

COPY TO FILE

SIGNED: *Dan*

If enclosures are not as noted, kindly notify us at once

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



COUNTY OF SANTA CRUZ

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060
FAX (408) 454-2131 TDD (408) 454-2123

BUILDING PERMIT APPLICATION

APPLICATION NO.: **23281G**

PRINT DATE: 04/14/1997
APPLICATION DATE: 04/14/1997

PARCEL NO. 028-212-06 SITUS ADDRESS 200 GEOFFROY DR SANTA CRUZ

PHONE: (408)454-2260 BETWEEN 1-5
FORM OF PLANS: BLUEPRINTS

PROJECT TYPE: RES

PROJECT DESCRIPTION:

CONSTRUCT A SECOND STORY ADDITION TO A SINGLE STORY SINGLE FAMILY DWELLING. TO INCLUDE TWO BEDROOMS, TWO BATHROOMS. REMODEL THE FIRST FLOOR TO INCLUDE CONVERTING TWO BEDROOMS INTO A MASTER BEDROOM. RESULT IS A TWO STORY SINGLE FAMILY DWELLING WITH FOUR BEDROOMS (one labeled a guest room) FOUR AND ONE HALF BATHROOMS, ATTACHED GARAGE, DECKS.

APPLICANT: THACHER & THOMPSON (DOUG WELTY)
200 WASHINGTON ST SANTA CRUZ CA 95060

CONTRACTOR: OUT TO BID

DESIGNER/ARCHITECT: THACHER & THOMPSON (DOUG WELTY)
200 WASHINGTON ST SANTA CRUZ CA 95060

OWNER: ROY PATRICIA J TRUSTEE
P O BOX 5667 SAN JOSE CA 95150

CONTACT: THACHER & THOMPSON (DOUG WELTY)
200 WASHINGTON ST SANTA CRUZ CA 95060

NO. OF PERMITS TO BE ISSUED: 1

PERMIT WILL BE ISSUED TO: OWNER CONTRACTING W/ LICENSED CONTRACTOR

MEASURE J ALLOCATION REQUIRED: NO

ROUTING:

ESTIMATED TIME FOR FIRST REVIEW: 4 WEEKS

BUILDING PLAN CHECK
DPW DRIVEWAY/ENCROACHMENT
ENVIRONMENTAL PLANNING
CENTRAL FIRE
ZONING REVIEW

APPLICATION FEES:

BUILDING PLAN CHECK
ZONING PLAN CHECK - MINOR
*** TOTAL ***

RECEIPT: 00020116

868.14
207.00
1075.14 ***

DATE PAID: 04/14/1997

ADDITIONAL DOCUMENTS REQUIRED PRIOR TO ISSUANCE:

WORKER'S COMPENSATION CERTIFICATE FOR CONTRACTORS WITH EMPLOYEES
SIGNATURES OF LICENSED CONTRACTOR/SUB-CONTRACTORS
SCHOOL DEVELOPMENT FEE RECEIPT

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit R
Page 35 of 54

I HAVE READ THIS FORM AND VERIFY THAT THE INFORMATION IS CORRECT.

INITIALS OF APPLICANT: dw

APPLICATION TAKEN BY
AARON A FEDASKO, PLANNING DEPARTMENT

*
* **NOTICE TO BUILDING PERMIT APPLICANT:** *
* When review of your Building Permit Application has been completed, you will be notified of the results: either *
* that your application has been approved, or, if any reviewer has not approved your application, their comments *
* will be forwarded to you. *
* *
* Your application fees are not refundable, except as specified in the Planning Department Fee Schedule. *
* *
* If you have begun an activity or work requiring county review or approval without first obtaining a permit, you *
* will be charged fees equal to the cost of investigation and resolution of the violation. Authority for these *
* charges is found in Chapter 1.12 of the Santa Cruz County Code. *
* *
* You need to advise residents of property that Planning Department staff may be visiting the site. Site should be *
* clearly marked/staked for staff inspection. Incomplete directions or marking will delay review of the project. *
* *

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 36 of 54

PLANNING DEPARTMENT

GOVERNMENTAL CENTER



C O U N T Y O F S A N T A C R U Z

701 OCEAN STREET SANTA CRUZ, CALIFORNIA 95060

FAX (408) 454-2131

TDD (408) 454-2123

BUILDING PERMIT APPLICATION

APPLICATION NO.: **25089M**

PRINT DATE: 09/04/1997
APPLICATION DATE: 09/04/1997

PARCEL NO. SITUS ADDRESS
028-212-06 200 GEOFFROY DR SANTA CRUZ

PHONE: (408)454-2260 BETWEEN 1-4
FORM OF PLANS: BLUEPRINTS

PROJECT TYPE: CO ORIGINAL PERMIT: 00115211
PROJECT DESCRIPTION:

CHANGE ORDER TO BP#115211(ra/re)CHANGE TO INCLUDE A BEAM AND FOOTING AT THE KITCHEN AREA, FOUNDATION/FOOTING/UNDERPINNING AT THE GARAGE AND THE ELIMINATION/RECONFIGURATION OF CLOSETS.

APPLICANT: THACHER & THOMPSON(DOUG WELTY) BUS: (408) 457-3939
200 WASHINGTON ST SANTA CRUZ CA 95060
CONTRACTOR: CALIFORNIA CONT.CO
DESIGNER/ARCHITECT: THACHER & THOMPSON(DOUG WELTY) BUS: (408) 457-3939
200 WASHINGTON ST SANTA CRUZ CA 95060
OWNER: ROY PATRICIA J TRUSTEE
P O BOX 5667 SAN JOSE CA 95150
CONTACT: THACHER & THOMPSON(DOUG WELTY) BUS: (408) 457-3939
200 WASHINGTON ST SANTA CRUZ CA 95060

NO. OF PERMITS TO BE ISSUED: 1
PERMIT WILL BE ISSUED TO: CONTRACTOR
MEASURE J ALLOCATION REQUIRED: NO
ROUTING:

ESTIMATED TIME FOR FIRST REVIEW: 2 DAYS

BUILDING PLAN CHECK
PRIORITY: Y

APPLICATION FEES: RECEIPT: 00023395 DATE PAID: 09/04/1997
BUILDING PLAN CHECK HOURLY RATE 61.00
*** TOTAL *** 61.00 ***

I HAVE READ THIS FORM AND VERIFY THAT THE INFORMATION IS CORRECT.

INITIALS OF APPLICANT: _____

APPLICATION TAKEN BY
AARON A FEDASKO, PLANNING DEPARTMENT

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit R
Page 37 of 54

ROGERS E. JOHNSON & ASSOCIATES
CONSULTING ENGINEERING GEOLOGISTS

1729 SEABRIGHT AVENUE, SUITE D
SANTA CRUZ, CA 95062

BUS. (408) 425-1288
FAX. (408) 425-6539

GEOLOGIC REPORT
ROY PROPERTY
200 GEOFFROY DRIVE
SANTA CRUZ, CALIFORNIA
SANTA CRUZ COUNTY APN 028-212-06

REJA Job No. C96046-68
2 December 1996

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

Exhibit R
Page 38 of 54

RECEIVED F

ROGERS E. JOHNSON & ASSOCIATES

CONSULTING ENGINEERING GEOLOGISTS

1729 SEABRIGHT AVENUE, SUITE D
SANTA CRUZ, CA 95062

BUS. (408) 425-1288

FAX. (408) 425-6539

2 December 1996

Ms. Patricia Roy
P.O. Box 5667
San Jose, CA 95150

Job No. C96046-68

Re: 200 Geoffroy Drive, Santa Cruz, California
Santa Cruz County APN 028-212-06

Dear Ms. Roy:

At your request we have completed a geologic investigation of the property referenced above. The homesite is located adjacent to a stepped coastal bluff about 30 feet high, which is eroded episodically by surf attack. The rates of bluff retreat at this location are relatively low, however, compared to many neighboring stretches of coastline in northern Monterey Bay. We attribute the low rates of erosion here to the presence of a wide, erosion-resistant bedrock platform elevated slightly above sea level, which acts as a natural revetment against surf attack. Nevertheless, during those occasional, violent storms arriving from the west or southwest, wave runup can still impact and erode the bank above and behind the shoreline platform. At present, the bank fronting the subject property is protected by a timber seawall 5½ feet high.

Based on our analysis of historical rates erosion at the site, we have presented two scenarios for the next 100 years (the design period now stipulated for coastal developments by the California Coastal Commission). If the existing seawall is adequately maintained and protected against "outflanking" at its ends, then future retreat of the upper bank would be virtually nil. On the other hand, if the existing seawall is poorly maintained or completely destroyed (and not replaced), then we would anticipate slightly more than 30 feet of additional bank retreat during the 100-year design period. This worst-case scenario would place the future top of the bank about 15 feet seaward of the existing building footprint on the subject property.

Job No. C96048-68
2 December 1996

As we understand, the implications of the worst-case scenario are as follows: At present, the existing building footprint is more than 25 feet from the top of the bank and thus meets one of the basic requirements for new construction/significant remodeling as stipulated by the California Coastal Commission. Without the erosion protection provided by the existing seawall, the buffer zone between the building footprint and the top of the bank would shrink to the 25-foot minimum in about 60 years, and additional remodeling would then be prohibited for the remainder of the 100-year design period (assuming Coastal Commission policy remains the same). Thus we strongly recommend that the existing seawall be properly maintained (or replaced, as necessary) to preserve future development options, not to mention the back yard.

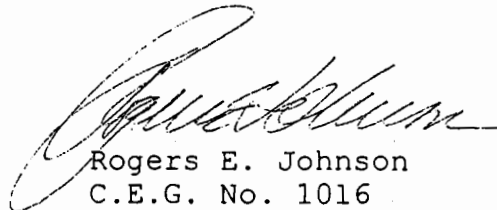
Finally, we recommend that you retain a geotechnical engineer to evaluate the foundation conditions of the site and provide design parameters for upgrading the existing foundation, if necessary. If you have any questions regarding our report, please contact us at your earliest convenience.

Sincerely,

ROGERS E. JOHNSON & ASSOCIATES



Alan O. Allwardt
R.G. No. 5520



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

AOA/REJ/ma

Copies: Client (1)
Thacher & Thompson, Attn: Bret Hancock (4)

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Job No. C96048-68
2 December 1996

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REPORT SUMMARY

Purpose

The subject property at 200 Geoffroy Drive, Santa Cruz, California (APN 028-212-06) is located adjacent to a stepped coastal bluff about 30 feet high. The owner wishes to construct a second-story addition to the existing single family dwelling. The new construction falls under the 100-year design criterion recently adopted by the California Coastal Commission.

Findings

The homesite is located on a terrace adjacent to a moderately steep bank about 13 feet high. Below the bank is a gently sloping, elevated shoreline platform 65 to 90 feet wide with a steep face on the seaward side. The upper bank is composed of erodible soil, terrace deposits, and weathered, somewhat friable sandy siltstone bedrock. The shoreline platform is composed of less weathered, indurated, sandy siltstone bedrock, which is much more resistant to surf erosion than the overlying materials.

The historical rates of bluff retreat at this location have been relatively low due to the presence of the erosion-resistant shoreline platform, which acts as a natural revetment against surf attack. Over the last 48 years the upper bank has retreated about 0.3 foot per year (on average) due to the runup of occasional storm waves. Since 1983 the toe of the bank fronting the subject property has been protected by a timber seawall 5½ feet high and the erosive retreat had essentially ceased. If the existing seawall is adequately maintained and protected against "outflanking" at its ends, then future retreat of the upper bank would be virtually nil over the 100-year design period. On the other hand, if the existing seawall is poorly maintained or completely destroyed (and not replaced), then we would anticipate slightly more than 30 feet of additional bank retreat in the next 100 years.

The retreat of the seaward edge of the shoreline platform has been less than 0.1 to 0.2 foot per year over the last 48 years. We did observe one sea cave along the face of the platform, located below a prominent blowhole, but the dimensions of this cave are small enough that it will not be a design factor in the next 100 years.

Levels of Risk

At the worst-case rate of retreat, the top of the upper bank would encroach within 15 feet of the existing building footprint by the end of the 100-year design period, assuming a 1:1 angle of repose for the terrace deposits. The risk to the existing building footprint is thus low. This risk assessment could be revised, however, in the event of unforeseen, dramatic oceanographic changes (such as might occur during global warming).

The risk from the slowly retreating shoreline platform is very low over the design period.

The subject property lies in a seismically active region with a moderate to high probability for strong seismic shaking in the next 100 years.

Recommendations

We recommend that the existing seawall be properly maintained (or replaced, as necessary) to preserve future development options, as well as the usable area in the back yard.

We recommend retaining a geotechnical engineer to evaluate the foundation conditions of the site and provide design parameters for upgrading the foundation, if necessary. Seismic shaking parameters for design purposes are included in this geologic report.

Dx. #1997-0023938
5/29/97 3:29 p.m.

RECORDED AT REQUEST OF:
County of Santa Cruz

WHEN RECORDED MAIL TO:
Santa Cruz County Planning
701 Ocean St.
Santa Cruz, CA 95060

Note to Recorder:
Please return to the Staff Geologist in Planning Department when completed.

DECLARATION REGARDING THE ISSUANCE OF A DEVELOPMENT PERMIT IN AN
AREA SUBJECT TO GEOLOGIC HAZARDS.

The undersigned, Patricia J. Roy, Trustee of the Patricia J. Roy Survivor's Trust UAD 12/23/93 does hereby certify to be the owner of the real property located in the County of Santa Cruz, State of California commonly known as 200 Geoffroy Drive, Santa Cruz, CA, legally described in that certain deed recorded in Book 5667 on Page 865 of the official records of the Santa Cruz County Recorder on 5/2/95; Assessor's Parcel No. 028 212-06.

And, acknowledges that the records and reports filed with the Santa Cruz County Planning Department indicate that the above described property is located within an area that is subject to geologic hazards, to wit:

The subject property is subject to Coastal Processes that are causing erosion (see Rogers Johnson & Associates dated 12/2/96 (RJA)). This erosion can be reduced to an acceptable level by following the recommendations of RJA.

And, having full understanding of said hazards, I elect to pursue development activities in an area subject to geologic hazards and do hereby agree to release the County from any liability and consequences arising from the issuance of the development permit.

This Declaration shall run with the land and shall be binding upon the undersigned, any future owners, encumbrancers, their successors, heirs or assigns. This document should be disclosed to the foregoing individuals. This Declaration may not be altered or

(Form A - For use when site-specific Geologic or Soils Report has been prepared.)

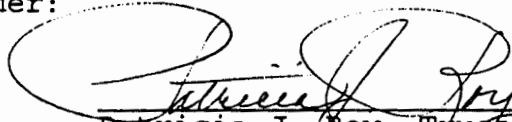
CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilly Beach LLC)

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EXHIBIT G

removed from the Records of the County Recorder without the prior consent of the Planning Director of the County of Santa Cruz.

Owner:


Patricia J. Roy, Trustee of the
Patricia J. Roy Survivor's Trust
under Agreement dated 12/23/93.

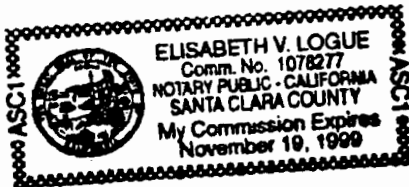
Date: 5/27/97

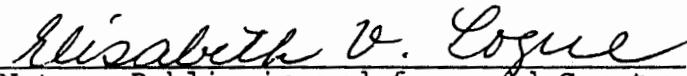
All signatures are to be acknowledged before a Notary Public. If a corporation, the corporate form of acknowledgement shall be used.

State of California)
) SS
County of Santa Clara)

On May 27, 1997 before me ELISABETH V. LOGUE,
personally appeared PATRICIA J. ROY, personally known to me (or
proved to me on the basis of satisfactory evidence) to be the person
whose name is subscribed to the within instrument and acknowledged
to me that she executed the same in her authorized capacity, and
that by her signature on the instrument, the person or the entity
upon behalf of which the person acted, executed the instrument.

WITNESS my hand and Official Seal:




Notary Public in and for said County
and State.

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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Roy Properties

1660 HAMILTON AVENUE, SUITE 204

SAN JOSE, CA 95125

(408) 266-6666 • FAX 266-6685

12-24-02
Jan

Dear Mr. Rielley:

I understand from Mr. Tomaselli that you have recently purchased Sunny Cove Beach, and the rock ledge or shelf between the water line and the first row of homes on Geoffroy Drive in Santa Cruz. I have a home at 200 Geoffroy that my late husband and I purchased in the early 1980s, and which I extensively remodeled in 1996. As part of that remodel, the California Coastal Commission required that I record an acknowledgment that our home was in a seismic hazard zone, and an agreement to maintain, repair and replace (if needed) the then existing seawall at the base of our slope, in perpetuity.

The wooden retaining wall, approximately 5.5 feet high by 50 feet in length is located on the property you have purchased, about eight feet from our southerly lot line, and failed in the November, 2002 storms. As a result of the recorded agreement I began work to repair the wall as agreed; however the Coastal Commission indicates it requires a permit for this work, despite the recorded agreement. I have obtained an emergency permit, but must complete the repair work prior to January 11, 2003, and this agency requires me to submit an application for a 'regular' permit no later than February 10, 2003. In the event the permit is denied, the repaired wall must be removed entirely by May 11, 2003. Since the project is located on your property, your consent is required for the permit.

A loss of this protective wall would subject your property (and ultimately mine) to considerable erosion over the next several years, and I believe it is imperative that I act now, deal with the Coastal Commissions' requirements and get a more permanent structure completed as soon as possible, particularly since I understand the Commission has become more and more reluctant to permit any protective structures along the coast. To this end I have hired soils engineers Haro Kusunich & Associates (Rich Parks - (831) 722 4175), and Structural Engineer, George Reynolds (831) 426 3637) to do the necessary reports and design work, and Richard Beale Inc. (831) 425 5999 (Betty Costa) which firm specializes in the submission and processing such permit applications to the Coastal Commission, in an effort to meet these very restrictive time frames. The general contractor who is doing the emergency repair work is California Contractors (Jess Gonzalez) at 408 623 6666 or 408 697 2664, with whom I have done business for the past ten years and he will do the permanent work if such is allowed.

I understand from Richard Beale that if you consent, your signature would be required on the permit application as "owner" of the property on which the retaining wall is to be constructed. I accept full responsibility for the project costs and expenses, and if you desire I am willing to execute a hold harmless agreement in your favor and/or secure construction insurance (if such is available) in addition to that carried by California Contractors to protect your interests.

I apologize for troubling you with this request during the Holidays, but "Mother Nature" and the Coastal Commission regulations don't provide much room to put off this matter, and I will be in New Zealand/Australia from January 2nd through January 22nd, of the new year. If you will agree to assist me with your consent, I will ask my attorney to contact you while I am out of the country, to work out any details which would make you feel more comfortable in this project.

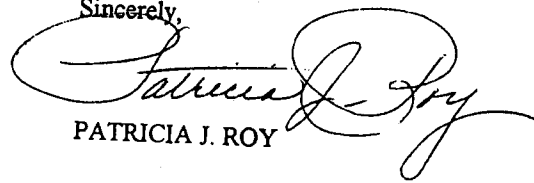
CCC-04-CD-06 (Roy)
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If you would like to discuss this work with me, I will be in my office during the holidays from 10 a.m. to about 2 p.m. or you may reach me at my San Jose home (408 266 1222) at your convenience. I shall await your reply.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia J. Roy". The signature is fluid and elegant, with a large initial "P" and a long, sweeping underline.

PATRICIA J. ROY

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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Page 48 of 54

File

Jan. 2, 2003

Reilley Beach LLC
17100 Pine Avenue
Los Gatos, CA 95032 and to

202 Cherry Avenue, #1,
Capitola 95010

Gentlemen:

I own real property at 200 Geoffroy Drive in Santa Cruz, CA immediately adjacent to property owned by you fronting on Monterey Bay near Johann's Beach. Mr. Bob Tomaselli has been helpful in assisting me in locating you, and you may have received by fax a copy of my letter dated 12/24/02 which he was kind enough to forward to you.

The letter is self explanatory. The sea wall, formerly of wood construction, was more than 20 years old when it failed in the storms of early November 2002. Under an emergency permit issued by the California Coastal Commission I was allowed to rebuild it in generally the same form, except that 14" steel "I" beams have been used for the vertical supports with 4' x 12' wood lagging between the uprights. The structure must be completely removed by May 11, 2003, unless I have submitted a complete and satisfactory application for a 'regular' permit by February 11, 2003. And since I am leaving today for New Zealand, returning on January 22nd, time is short for me to complete the application which requires your consent.

I have discussed this matter with my attorneys (Toothman & Associates, 61 East Main Street, Los Gatos, CA 95030 - 408 395 6021 - Joel Donahoe) who will be happy to discuss this with you while I am gone, and work out satisfactory protective assurances for your company if you will consent to my proceeding with the regular permit application. Otherwise I will have to remove the repaired structure which I do not think is in your best interests or mine and let the waves and erosion take over.

Your favorable consideration would be very much appreciated.

Sincerely,

PATRICIA J. ROY

*cc sent to Joel Donahoe
at Toothman's office
for*

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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I

April 10, 2003

Mr. and Mrs. Timothy J. Reilley
Reilley Beach, LLC
17100 Pine Street
Los Gatos, CA 95032

Dear Mr. and Mrs. Reilley:

I appreciate your efforts and the time you have spent with me on the telephone while I try to find a way to meet the permit requirements of the California Coastal Commission and of my recorded agreement with the County of Santa Cruz for the repair of the seawall located on your property at the face of bluff on the south side of my lot. And I understand your concerns relating to the Restriction Agreement executed by you when you purchased the rock shelf in 2000, and liability issues you might face in the future.

In my conversation with Mrs. Reilley on Feb. 20, 2003 she spoke of two or three options you were considering offering to the homeowners along Geoffroy Drive, relative to the maintenance, etc. of existing walls and drainage systems, but she and I agreed that it could take several months or more to develop the details of your plans. As you know I am greatly restricted by the time frame allowed me by the Coastal Commission and I have already received three extensions of time in which to file. I had suggested to Mrs. Reilley that perhaps you might consider selling me a sufficient portion of the shelf allowing me to obtain a minor lot line adjustment from the County to bring the existing seawall into my lot and allow me to go forward with an application for a regular permit to complete the necessary repairs.

Towards this end, attached is a formal offer to purchase approximately 1000 square feet (more or less) of the shelf which is contiguous to the south boundary and within the (extended) east and west boundaries of my property. The square footage is an estimate only, but it is my offer to purchase only a sufficient amount of the shelf as determined by a survey to extend the south boundary of my property to include the wall by two feet. As you will note in the offer, I am willing to pay the escrow and transfer fees, title report costs, survey expenses and whatever fees are required of the County for the lot line adjustment process, which I understand might take several months to complete. And it is my hope that the Coastal Commission would agree to extend the time for the filing of the permit application while the lot line adjustment process was underway, if we could reach an agreement.

I hope you will consider my offer favorably. This sale would alleviate your concerns, and allow me to continue to meet my obligation to the Coastal Commission and the County of Santa Cruz to maintain the wall as I agreed to do in 1997.

If you have any questions concerning my offer, please do not hesitate to call me directly at 408 266 6666.

Sincerely,

PATRICIA J. ROY

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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J

OFFER TO PURCHASE

PATRICIA J. ROY, TRUSTEE OF THE PATRICIA J. ROY SURVIVOR'S TRUST UAD December 23, 1993, hereby offers to purchase from TIMOTHY J. REILLEY AND DIANA REILLEY and REILLEY BEACH, LLC. a portion of that certain real property described as Parcel One on that certain Grant Deed dated June 12, 2000, recorded July 12, 2000 in the official Records of Santa Cruz County as Document 2000-0033726, and commonly known as APN 028-212-13 in said County, State of California, described as follows:

That portion of the said rock shelf approximately 59.7 feet by approximately 18 feet which lies contiguous to the southern boundary of lot 6, Tract No. 57, Santa Maria Cliffs, between the said southern boundary of Lot 6, southward to and including two feet beyond the existing steel and wooden sea wall located on the bluff face on the northerly boundary of the said rock shelf, being approximately 1,000 square feet, more or less, and as outlined on the attached Exhibit "A" which by this reference is made a part of this offer.

The exact dimensions of said land to be purchased shall be determined by survey, and shall include only so much of the said rock shelf as to grant to Purchaser ownership of the land between Purchaser's southern lot boundary to and including by two feet the said sea wall erected on Seller's property lying within the (projected) east and west boundaries of Purchaser's property.

The Purchase Price shall be FIVE THOUSAND DOLLARS (\$5,000.00) ALL CASH at close of escrow, which funds shall be deposited in escrow with First American Title Company, 330 Soquel Avenue, Santa Cruz, CA 95062 within two (2) business days of acceptance of this offer by Sellers, to be held in an interest bearing account for the benefit of Purchaser until close of escrow.

Sellers shall grant access to the property, and Purchaser shall pay for the survey to determine the exact dimensions of the land to be purchased; as well as all escrow and transfer fees, title insurance and recordation costs associated with this sale and transfer. Proration of real property taxes shall be made as of the date of transfer. Purchaser shall apply for and this offer is contingent upon Purchaser receiving approval of the County of Santa Cruz for a minor lot line adjustment to include said land with the parcel owned by the Patricia J. Roy Survivor's Trust UAD 12/23/93, known as APN 028 212 06, County of Santa Cruz, State of California, and the fee for such application shall be borne by Purchaser. Sellers agree to cooperate with Purchaser in obtaining the lot line adjustment.

Purchaser shall provide Sellers with a copy of said survey within five days of its receipt. Sellers shall have five days from receipt thereof to approve said survey by notice given in writing to Purchaser by Fax to 408 266 6685, or by mail to Post Office Box 5667, San Jose, CA 95150-5667.

Purchaser is aware that the property is located in a Natural Hazard and Earthquake Zone, and has completed and paid for Geologic, Seismic, Soils and Drainage investigations made by California licensed engineers, and approved said reports. Purchaser is further aware that governmental agencies and the County of Santa Cruz may not permit any further structures (except the repair of the existing seawall) to be built on said property.

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CCC-04-CD-07 (Reilley Beach LLC)

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Within ten (10) days of acceptance of this offer, Seller shall provide to Purchaser in writing, the following information:

1. Any lawsuits by or against Seller threatening or affecting the property, or any known notice of abatement or citations filed or issued against the property.
2. Any deed restrictions or obligations concerning said property.
3. The absence of legal or physical access to the Property.
4. Any encroachments, easements or similar matters that may affect the Property.
5. In the event Seller, prior to Close of Escrow becomes aware of adverse conditions which may affect the property or any material inaccuracy in any information previously provided to Purchaser of which Purchaser is otherwise unaware.

Upon receipt of the above information Purchaser shall have five (5) days in which to approve in writing the information provided by Sellers. In the event Purchaser does not approve such information, Purchaser shall have the right to cancel this agreement in writing, and Seller shall promptly authorize the return of Purchaser's funds in escrow.

Escrow shall close within five (5) days of receipt of the County's approval for the minor lot line adjustment, and Sellers shall deliver possession of the property to Purchaser on the date of recordation of the transfer in its present physical condition as of the date of acceptance of this offer, and free of all liens and encumbrances. Purchaser and Sellers agree to execute mutual, timely and joint escrow instructions to escrow holder to effectuate this agreement on forms provided by the escrow holder. In the event the County of Santa Cruz denies Purchaser's application for the lot line adjustment, this agreement shall terminate, and all funds deposited in escrow by Purchaser shall be returned to Purchaser.

In any action, proceeding, or arbitration between Purchaser and Seller arising out of this Agreement, the prevailing party shall be entitled to reasonable attorneys fees and costs from the non-prevailing Purchaser or Seller.

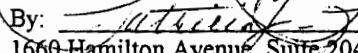
Time is of the essence. All understandings between the parties are incorporated in this Agreement. Its terms are intended by the parties as a final, complete and exclusive expression of their Agreements with respect to the subject property. If any provision of this agreement is held to be ineffective or invalid the remaining provisions will be given full force and effect. Neither this Agreement nor any provision in it may be extended, amended, modified, altered or changed, except in writing signed by both Purchaser and Sellers.

Sellers are hereby made aware that Patricia J. Roy, acting as Principal and Trustee of the Purchaser herein is licensed by the State of California as a real estate salesperson, License No. 00357549. No sales commissions or fees of any kind are due and payable to any person under this agreement.

This offer shall be deemed revoked and unless the offer is signed by Sellers and a copy of the signed offer is personally received by Purchaser by 5:00 p.m. on April 18, 2003.

Date: April 10, 2003

Purchaser: Patricia J. Roy, Trustee of the Patricia J. Roy Survivor's Trust UAD 12/23/93.

By:  TRUSTEE
1660 Hamilton Avenue, Suite 204 (Post Office Box 5667)
San Jose, California 95125 (San Jose, CA 95150-5667)
(408) 266-6666

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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Acceptance: Sellers warrant that Sellers are the owner of the Property, or have the authority to execute this Agreement. Sellers accept the above offer, agree to sell the Property on the above terms and conditions, and acknowledge receipt of a copy of this Agreement.

Date: _____
Sellers: _____
By: _____
Title: _____
Address: _____
Telephone: _____

CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

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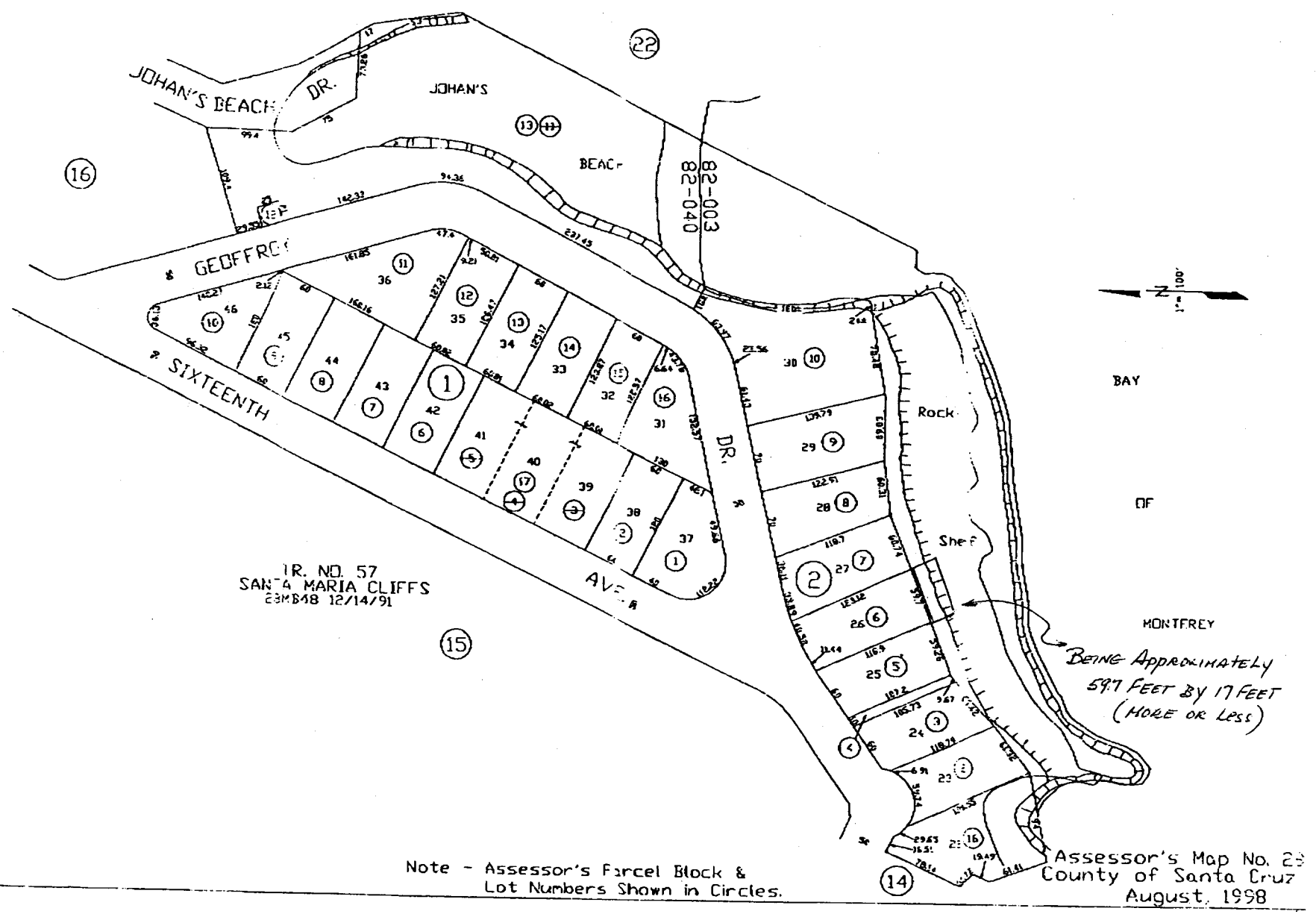
EXHIBIT A TO PURCHASE OFFER DATED April 10, 2003 By PARADISE TRAIL SIGNIFICANT TRUST

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

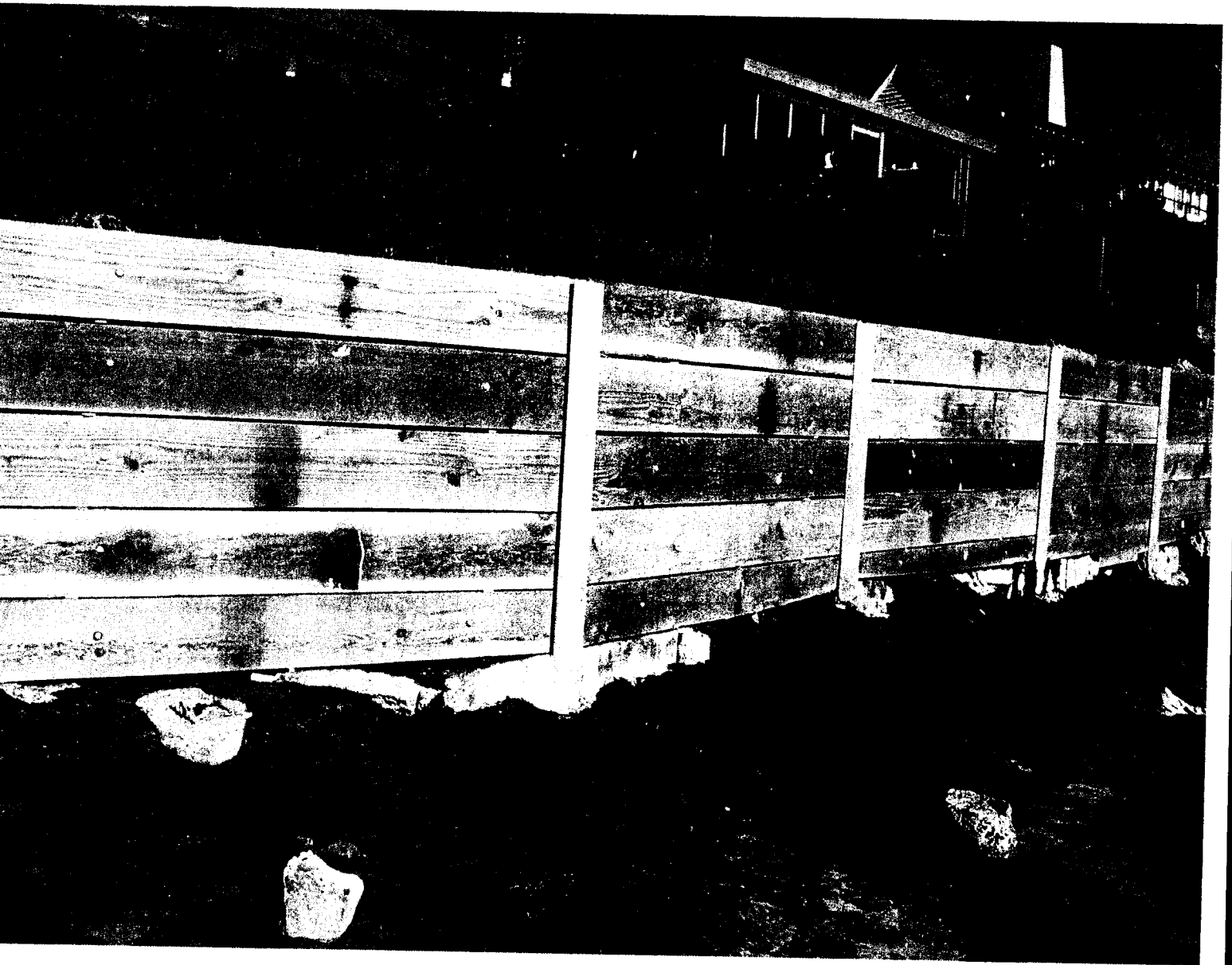
T.IIS., R.IW. M.D.B. & M.

82-003 82-040

LC



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



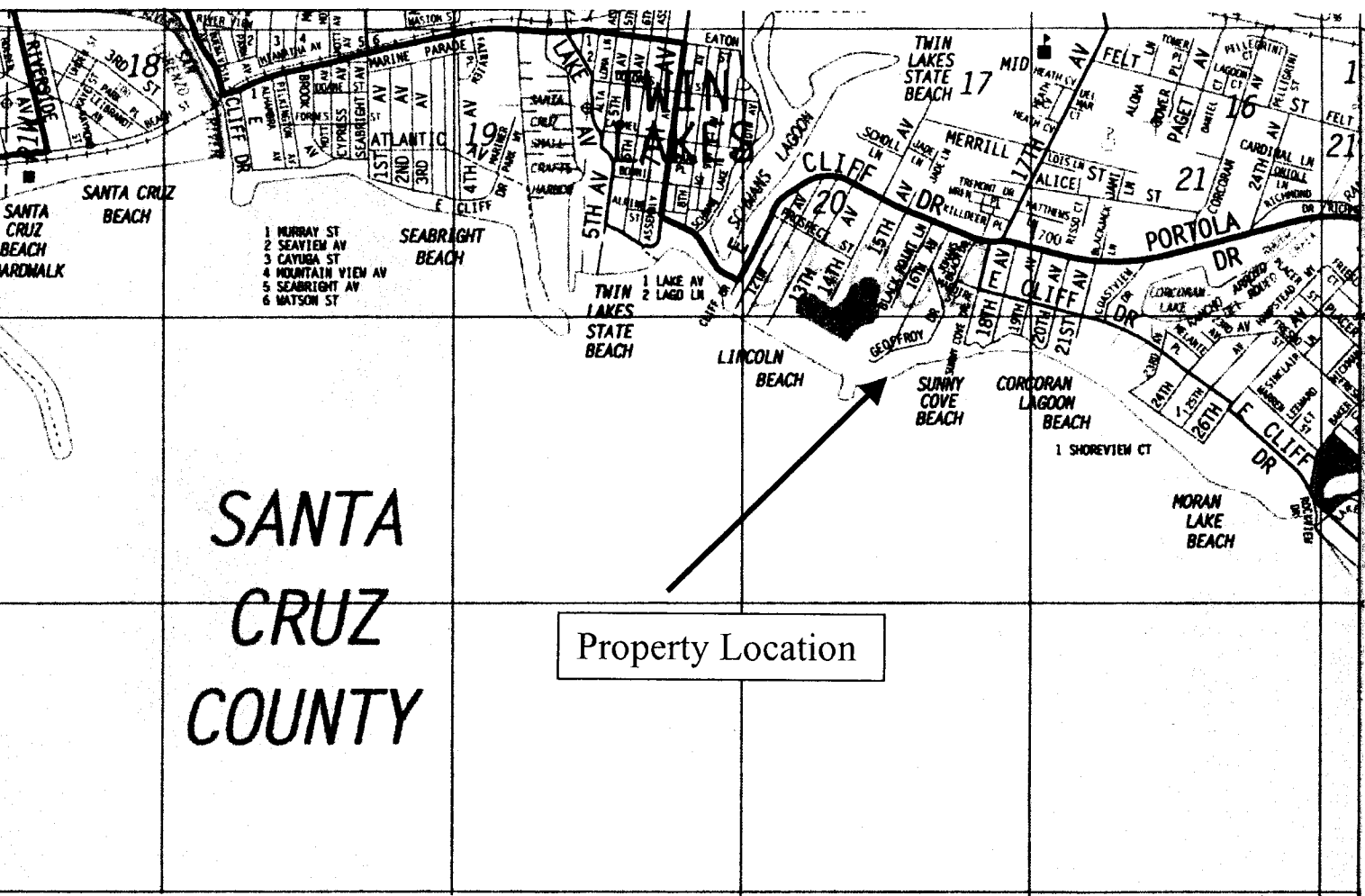
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CCC-04-CD-07 (Reilley Beach LLC)

Exhibit S
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CCC-04-CD-06 (Roy)
CCC-04-CD-07 (Reilley Beach LLC)

Exhibit T
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CCC-04-CD-07 (Reilly Beach LLC)

