

## CALIFORNIA COASTAL COMMISSION

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Th4b



**Prepared December 1, 2005 (for December 15, 2005 hearing)**

**To:** Commissioners and Interested Persons

**From:** Peter Douglas, Executive Director  
Steve Monowitz, Central Coast District Manager  
Dan Carl, Coastal Planner

**Subject: Procedures 3-05-1-EDD. Commission Determination of Applicable Coastal Development Permit Application Processing Procedure (pursuant to California Code of Regulations, Title 14, Section 13569 and Santa Cruz County Local Coastal Program Section 13.20.085) for Proposed Greene and Ceresa Residential Development in South Santa Cruz County (Santa Cruz County Application Number 04-0116).**

#### Summary

After Local Coastal Program (LCP) certification, the Coastal Commission is responsible for resolving disagreements between the certified local governments and the Commission's Executive Director regarding the noticing and hearing requirements applicable to coastal development proposals (i.e., whether they are categorically excluded from coastal development permit (CDP) requirements, non-appealable, or appealable), pursuant to Section 13569 of the Commission's Regulations (California Code of Regulations (CCR), Title 14). Santa Cruz County's LCP contains a similar dispute resolution provision (LCP Section 13.20.085).

In this case, Santa Cruz County disagrees with the Executive Director's determination that the proposed demolition of an existing residence, and construction of a new residence, at 106 Farley Drive (in the unincorporated Aptos area of south Santa Cruz County), requires a CDP that is appealable to the Commission. The County and the applicants assert that the proposed development is excluded from CDP requirements pursuant to a residential categorical exclusion adopted by the Commission in 1983 (Categorical Exclusion Order E-82-4 as amended by Order E-83-3, hereafter E-83-3) referenced by LCP Section 13.20.071 of the certified LCP Implementation Plan (IP). This disagreement surfaced after the applicants submitted a CDP application that was accepted and approved by the County Zoning Administrator, but denied on an appeal (by neighboring property owners) to the County Planning Commission. The applicants appealed the Planning Commission denial to the Board of Supervisors, contending, among other things, that the project should have been excluded from coastal permit requirements, despite the fact that the 10-day window for challenging the County's determination of permit requirements, established by LCP Section 13.20.085, had long since passed. The Board of Supervisors eventually remanded the application back to the Planning Commission for further evaluation of the exclusion issue. The Planning Commission subsequently determined that the proposed project is subject to Exclusion Order E-83-3 as reflected in LCP Section 13.20.071, giving rise to the disagreement currently before the Commission.



California Coastal Commission

December 2005 Meeting in San Francisco

Staff: D.Carl Approved by: S. Monowitz

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At the center of this disagreement is whether the proposed development is located within 300 feet of the coastal bluff edge. Among other things, Exclusion E-83-3 excluded certain residential development from coastal permit requirements in certain circumstances provided such residential development was, among other geographic criteria, located inland of 300 feet from the coastal bluff edge. Exclusion E-83-3's 300-foot boundary is, by design, co-terminus with the boundary of the Commission's appeal jurisdiction in relation to coastal bluffs (the 300-foot line forms the inland boundary of both the categorical exclusion and the Commission's appeal jurisdiction at this location). CCR Section 13577 identifies the methodology that is to be used to determine the precise jurisdictional boundaries associated with all applicable provisions of the Coastal Act, including specifically those associated with appeal boundaries (Coastal Act Section 30603) and also those associated with categorical exclusions (Coastal Act Section 30610(e)), such as Exclusion E-83-3. Both County and Commission staff geologists applied the methodology prescribed by CCR Section 13577(h) to determine the location of the coastal bluff edge in the vicinity of the project, but came to different conclusions as a result of different interpretations and applications of this section. The coastal bluff edge lines (and associated 300-foot buffers) delineated by County and Commission staff are shown in Exhibit A (page 3). The technical basis for the Commission staff's delineation of the coastal bluff edge, which shows that the project in question is not excluded, is explained in a memo from the Commission's staff geologist, attached to this report as Exhibit B. Exhibit D includes a copy of a memo prepared by the County's staff geologist, explaining the County's delineation of the coastal bluff, which supports a conclusion that the project is excluded (pages 10-14 of Exhibit D).

The applicants have developed a third coastal bluff edge line that differs from that of the County and that of the Commission. Like the County's line, the applicants' coastal bluff edge line maps the subject parcel almost entirely outside of the 300-foot buffer (see Exhibit D, pages 14-27, for the applicants' bluff edge line and copies of the applicants' geologists explanation). In describing the basis for their delineation of the coastal bluff edge, the applicants cite both the methodology of CCR Section 13577(h) and a definition of "coastal bluff" from the geologic hazards chapter of the LCP, asserting that the coastal bluff definition in that chapter provides direction for making the coastal bluff edge delineation in relation to the exclusion. However, Exclusion Order E-83-3 is the controlling legal instrument for the subject exclusion, including the criteria for determining what is and isn't excludable.<sup>1</sup> By extension, CCR Section 13577 contains the applicable standards that must be consulted to understand and interpret the categorical exclusion not any LCP definitions. Moreover, even if the LCP "coastal bluff" definition noted by the applicants did apply, by its own terms it applies to the geologic hazards chapter of the LCP (Chapter 16.10 "Geologic Hazards"), and not the LCP chapter containing the subject residential exclusion (Chapter 13.20 "Coastal Zone Regulations").<sup>2</sup> Finally, even if the Chapter 16.10 "coastal bluff" definition was applicable to Chapter 13.20, it does not affect the determination of the location of the coastal bluff edge. In sum, even presuming that the cited "coastal bluff" definition were applicable to

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<sup>1</sup> Although LCP Section 13.20.071 reflects Exclusion Order E-83-3 for ease of exclusion and LCP implementation, it does not, of its own, provide the legal authority for any exclusion absent E-83-3.

<sup>2</sup> Similar to other definition sections in other LCP chapters, the definition section for LCP Chapter 16 states: "**For the purposes of this chapter**, the following definitions apply" (LCP Section 16.10.040, emphasis added). The only place in the LCP where "coastal bluff" is defined is in Chapter 16.10.



this determination, it is the opinion of Commission staff that the project would still be within 300 feet of a coastal bluff and thus not excluded.

Finally, the applicants refer to the Commission's adopted post-certification maps (identifying the Commission's retained permitting and appeal jurisdiction), which do not graphically depict the project site within the Commission's appeal jurisdiction, as evidence that the property is located within the exclusion area. The post-certification maps, though, are at such a gross scale, that development proposed near map boundaries oftentimes requires a finer level of review of site-specific information in order to make appeal boundary determinations; it is precisely the type of finer level evaluation that has since occurred in response to the procedural questions that have been raised by the applicants. In fact, the maps include a standard note that indicates that the boundaries shown do not necessarily show all areas within which the Commission retains appeal jurisdiction, and directs map users to the local government (Santa Cruz County in this case) and the Executive Director for any questions regarding the precise boundaries emanating from Coastal Act Section 30603. The portion of post-certification map applicable to this section of coast, including the map's note text, is provided in Exhibit A (page 2).

Although the proposed development does not appear to raise any significant coastal resource or access and recreation issues, the determination of appeal boundaries, and by extension the accurate and consistent application of CCR Section 13577, is of both regional and statewide importance. In order to ensure that the boundaries of Santa Cruz County's exclusion area and the Commission's appeal jurisdiction are accurately delineated and consistently applied, **staff recommends that the Commission concur with the Executive Director's determination that an appealable coastal development is required for the proposed project.**

It is important to note that Commission staff has attempted to work with the applicant and the County throughout the local review process to resolve these procedural issues as efficiently as possible, in a manner that retains the integrity of the Commission's appeal jurisdiction and the established boundaries of the Exclusion. Commission staff provided early feedback in response to the County inquiries concerning the permitting requirements for the project. In addition to advising that the project was not excluded, staff has encouraged the applicant and the County to complete the CDP application process initiated in 2004. Instead, their decision to challenge the requirement for a CDP has delayed resolution of the design issues that resulted in the Planning Commission's denial of the proposed development. Had the applicants attempted to address the Planning Commission's reasons for denial through their appeal to the Board of Supervisors, it is likely that this matter could have been resolved by now. Commission staff has also encouraged the County and the applicants to pursue an amendment of the Exclusion that would refine the boundaries of the residential exclusion area. Such an amendment may provide an opportunity to resolve this case and avoid similar disagreements in the future. In the event that the Commission concurs with the Executive Director's determination that a CDP is required, Commission staff will continue to work with the applicant and the County towards expeditious resolution of this matter through either of the processes described above.



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## 1. Executive Director’s Recommendation

The Executive Director has determined that Santa Cruz County application number 04-0116 is not excludable by virtue of Exclusion Order E-83-3 as reflected in LCP Section 13.20.071 because the project site is located within 300 feet of the coastal bluff edge, and that, as a result, if the applicant chooses to continue to pursue application number 04-0116, a regular, appealable coastal development permit application process will be required. If the Commission concurs, then notice of this Commission determination will be forwarded to Santa Cruz County and the applicant.

**Motion.** I move that the Commission reject the Executive Director’s determination that the development excluded from coastal permit requirements by Santa Cruz County under Exclusion No. 04-0116 on August 25, 2005 requires a coastal development permit that is appealable to the Coastal Commission.

**Executive Director’s Recommendation.** Staff recommends a **NO** vote. Failure of this motion will result in: (1) the Commission upholding the Executive Director’s determination that the development excluded by Santa Cruz County under Exclusion No. 04-0116 on August 25, 2005 requires a coastal development permit that is appealable to the Coastal Commission; and (2) the adoption of the following resolution and findings. The affirmative vote of a majority of the Commissioners present is necessary to pass the motion.

**Resolution.** The Commission, by adoption of the attached findings, determines, consistent with Section 13569 of Title 14 of the California Code of Regulations, that the development excluded from coastal permit requirements by Santa Cruz County under Exclusion No. 04-0116 on August 25, 2005 requires a coastal development permit that is appealable to the Coastal Commission.



## 2. Recommended Findings and Declarations

The Commission finds and declares as follows:

### A. Dispute Background

#### 1. Santa Cruz County Urban Residential Categorical Exclusion

Coastal Act Section 30610(e) states:

**Section 30610.** *Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:...*

(e) *Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program.*

Pursuant to Section 30610(e), the Commission adopted Categorical Exclusion Order E-83-3 in 1983.<sup>3</sup> Order E-83-3 allowed for certain types of urban residential development to be excluded from the normal CDP application and approval process, subject to certain criteria. For ease of reference and day-to-day implementation, the categories of residential development excluded by E-83-3 were referenced in the LCP; LCP Sections 13.20.070 and 13.20.071 state:

**13.20.070 Exclusions.** *Projects listed in Sections 13.20.071 through 13.20.078 below have been approved as categorical exclusions by the California Coastal Commission. Such projects do not need to obtain a Coastal Zone approval provided that a “Notice of Exclusion” is issued pursuant to Section 13.20.080. Requirements for any other County permit or approval are unaffected by this section. Challenges to determinations of exclusion may be made pursuant to Section 13.20.085.*

**13.20.071 Residential development--One to four unit exclusion.**

(a) *Except as indicated in subsection (b) of this section, the exclusion for residential development is for projects as described below on lands within the Urban Services Line or Rural Services Line, and where designated as a principal permitted use under the applicable zone district: The construction, reconstruction, demolition, repair, maintenance, alteration or addition to any 1 to 4 unit residential development or accessory structure on legal lots or*

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<sup>3</sup> Exclusion Order E-83-3 amended Categorical Exclusion Order E-82-4, previously adopted in 1982.



*lot combinations or record on the date of Local Coastal Program certification, and at densities specified in the Land Use Plan.*

*(b) This exclusion for residential projects does not include projects located within any of the following areas:*

*(1) Between the sea and the first through public road paralleling the sea, except in the areas shown on the map entitled "Residential Exclusion Zone," hereby adopted by reference and considered a part of this County code section; or*

*(2) Within 300 feet of the inland extent of any beach or of the mean high tide line where there is no beach, or within 300 feet of the top of the seaward face of any coastal bluff, whichever is the greater distance; or*

*(3) On land subject to public trust; or*

*(4) On lots immediately adjacent to the inland extent of any beach, or the mean high tide line where there is no beach; or*

*(5) Within 100 feet of any wetland, estuary, or stream; or*

*(6) Within a scenic resource area as designated on the General Plan and Local Coastal Program Visual Resources Maps, or within a Special Community designated on the General Plan and Local Coastal Program Land Use Plan maps; or*

*(7) Within the habitat ("essential" area and area adjacent to the "essential" area) of the Santa Cruz Long-Toed Salamander as mapped in the General Plan and Local Coastal Program Land Use Plan.*

Thus, the Exclusion includes certain limitations. Among them, development located within 300 feet of the top of a seaward face of any coastal bluff cannot be excluded from CDP requirements. The 300-foot blufftop setback area corresponds to one of the criteria for determining whether an action taken by a local government on proposed development is appealable to the Commission (pursuant to Public Resources Code (PRC) Section 30603(a)(2); similarly codified locally in LCP section 13.20.122(a)(1)). In other words, applications for development in the coastal zone that include development that is appealable by virtue of its location relative to the coastal bluff cannot be excluded.

## 2. Santa Cruz County Application Number 04-0116

Santa Cruz County application number 04-0116 is an application by Lauren Greene and Glen Ceresa to demolish an existing one-story single family dwelling and construct a new two-story single family home (along with all associated related development) at 106 Farley Drive in the unincorporated Aptos area of south Santa Cruz County (see location map in Exhibit A, and see proposed project plans in Exhibit D, pages 6-9). Originally, application number 04-0116 was determined by the County to be a regular appealable (to the Coastal Commission) CDP application, and not subject to the exclusion referenced by



LCP Section 13.20.071. The CDP application was approved by the County Zoning Administrator on October 15, 2004. The Zoning Administrator's approval decision was then appealed to the County Planning Commission by a neighboring property owner,<sup>4</sup> and the Planning Commission ultimately denied the application on February 9, 2005.

Following the Planning Commission denial, the applicants began to question whether the project should actually have been categorically excluded from coastal permit requirements, and thus not subject to the appealable County CDP process. The applicants' representatives contacted Commission staff at this time to inquire about whether the project was excludable, and were told that because the project was located inland of the first through public road, the applicable criteria to consider would be the project's relation to the coastal bluff, which would need to be mapped.<sup>5</sup> Subsequently, the County asked Commission staff to review the coastal bluff information that had by then been developed by the applicant and provide guidance as to whether the project was excludable.<sup>6</sup> The Commission staff, including its geologist, reviewed this information and, on March 2, 2005, indicated to the County and the applicants' representatives that staff did not concur with the applicants' identified bluff line, and instead believed the entire site to be located within 300 feet of the top edge of the coastal bluff and thus both not excludable and subject to the Commission's appeal jurisdiction.<sup>7</sup> On March 3, 2005, the applicant appealed the Planning Commission's denial to the Board of Supervisors, and included in its appeal the assertion that the project was located inland of the 300-foot bluff setback line and thus not subject to the coastal permit application process.<sup>8</sup> Since that time, the question of whether application number 04-0116 can be excluded from CDP requirements has been a matter of ongoing dispute.

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<sup>4</sup> Michael Mellon at 107 Farley Drive.

<sup>5</sup> Email correspondence of February 10-11, 2005.

<sup>6</sup> Santa Cruz County request received February 28, 2005 including with it the applicants' geologist's letter report mapping the coastal bluff (Zinn Geology 2-page letter report of February 23, 2005; see Exhibit D).

<sup>7</sup> Email correspondence of March 2, 2005.

<sup>8</sup> The applicants have since also asserted that the Commission's adopted post-certification maps do not depict the subject site as located within the Commission's appeal jurisdiction, and have indicted that this was the advice originally given to them by Commission staff in December 2004. In terms of the maps, the Commission concurs that the maps do not directly depict the subject site as located within the appeal zone. In fact, when the question was posed as to whether the coastal permit decision that had been appealed to the Planning Commission could be appealed to the Commission as well, Commission staff on December 9, 2004 indicated to the applicant that the project was not located in the appeal zone shown on the maps. However, the maps are at such a gross scale that development proposed near map boundaries oftentimes requires a finer level of review of site-specific information in order to make boundary determinations when there are disputes. In fact, the maps include a standard note that indicates that the boundaries shown do not necessarily show all areas within which the Commission retains appeal jurisdiction, and directs map users to the local government (Santa Cruz County in this case) and the Executive Director should questions arise regarding the precise boundaries emanating from Coastal Act Section 30603 (see the post-certification map applicable to this section of coast, including the map's note text, in Exhibit A). In this case, Commission staff was unaware that there was any question with respect to the appeal or other boundaries until informed of same by the applicants' representatives two months later on February 10, 2005. It was at that time that Commission staff recommended that a finer level of bluff evaluation be undertaken to verify the location of the area within 300 feet of the bluff for all parties. And it is now this finer level evaluation that has since occurred relative to this site.



Both the Commission's regulations and the County's LCP provide a resolution mechanism for such disputes. CCR Section 13569 states:

**Section 13569 (Determination of Applicable Notice and Hearing Procedures).** *The determination of whether a development is categorically excluded, non-appealable or appealable for purposes of notice, hearing and appeals procedures shall be made by the local government at the time the application for development within the coastal zone is submitted. This determination shall be made with reference to the certified Local Coastal Program, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the Local Coastal Program. Where an applicant, interested person, or a local government has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:*

- (a) *The local government shall make its determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development. The local determination may be made by any designated local government employee(s) or any local body as provided in local government procedures.*
- (b) *If the determination of the local government is challenged by the applicant or an interested person, or if the local government wishes to have a Commission determination as to the appropriate designation, the local government shall notify the Commission by telephone of the dispute/question and shall request an Executive Director's opinion;*
- (c) *The executive director shall, within two (2) working days of the local government request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable:*
- (d) *Where, after the executive director's investigation, the executive director's determination is not in accordance with the local government determination, the Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the local government request.*

Santa Cruz County LCP Section 13.20.085 states:

**Section 13.20.085 Challenges to County's Determination of Coastal Review Requirement.** *If the County's determination of coastal approval requirement, exclusion, or hearing and appeals procedures is challenged within 10 days, the Planning Director shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion. Local acceptance for filing or processing of the permit application shall cease until the*





*Planning Department receives the determination of appropriate process from the Executive Director of the Coastal Commission or the Coastal Commission.*

Despite the fact that the 10-day deadline for challenging the requirement that a coastal permit be obtained (pursuant to LCP Section 13.20.085) had long since passed by the time of the applicants' appeal to the Board in early March 2005, the County continued to entertain the question of whether the project could be excluded from coastal permit requirements. Ultimately, in response to a continued dispute between the applicant and County (where the County continued to indicate that the application was subject to the normal appealable CDP process and not excludable, and the applicant maintained that it was excludable and thus not subject to the normal CDP process), the County asked for the Executive Director's formal determination on the matter pursuant to CCR Section 13569 and LCP Section 13.20.085. On March 30, 2005, the Executive Director responded to the County (and the applicant) reiterating the guidance previously provided by Commission staff on March 2, 2005, indicating that the application did not meet the exclusion criteria because the project site was located within 300-feet of the coastal bluff edge and thus it could not be excluded from the requirement for a CDP, and that any CDP approval at that location could be appealed to the Coastal Commission (see Exhibit E, page 12).<sup>9</sup>

The County Board of Supervisors then reviewed the applicants' appeal of the Planning Commission denial at a hearing on April 19, 2005. At that time, the County's position remained the same as the Executive Director's that the project was not excludable (see County Board staff report in Exhibit C). However, the applicants presented additional information regarding the location of the coastal bluff edge relative to the project site (see Exhibit D, pages 14-27), and the Board decided to remand the project to the Planning Commission for the Planning Commission to determine whether the project was located in an area that could be excluded from coastal permit requirements by virtue of the criteria referenced in LCP Section 13.20.071. Following the Board remand to the Planning Commission, County staff developed additional materials regarding the bluff and its relation to the site. On June 15, 2005, the County indicated to Commission staff that the new County-developed materials showed the proposed development to be inland of the 300-foot setback line and thus excludable, and asked for an updated Executive Director's determination (again pursuant to CCR Section 13569 and LCP Section 13.20.085) in light of the new materials (see County geologist memo and bluff exhibit in Exhibit D, pages 10-14). On August 4, 2005, the Executive Director responded to the County (and the applicant) indicating that the new materials had not altered the Executive Director's original determination, and that an appealable CDP process was still the required process for application number 04-0116 (see Exhibit E, page 11).<sup>10</sup>

Subsequently, on August 10, 2005 the Planning Commission determined that the application could be excluded from CDP processing requirements notwithstanding the Executive Director's August 4, 2005 determination that it could not. It was not, however, until September 8, 2005 that Commission staff were

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<sup>9</sup> This March 30, 2005 response was again based upon review of the materials forwarded by the County to the Commission, including review by the Commission's staff geologist of graphic depictions of the bluff area topography in relation to the project site that were prepared by the applicant (Zinn February 23, 2005 letter report – see Exhibit D).

<sup>10</sup> Again, the Executive Director's determination was based upon review of the materials provided by the County (both County-developed materials and applicant-developed materials), including review of the materials by Commission mapping staff and the Commission's staff geologist.



formally informed that the County was in disagreement with the Executive Director (see County's September 6, 2005 letter; Exhibit E, page 10).<sup>11</sup> On September 14, 2005, the County was informed that, because the County and the Executive Director were not in agreement, the processing dispute would thus need to be resolved by the Commission at a hearing pursuant to CCR Section 13569 and LCP Section 13.20.085 (see Exhibit E, page 9). It is this dispute that is before the Commission at the December hearing.

## B. Dispute Resolution

The dispute emanates from a difference of opinion regarding the location of the coastal bluff edge (because it is the coastal bluff edge from which is delineated the 300-foot non-excludable area pursuant to Exclusion Order E-83-3 and LCP Section 13.20.071).

### 1. Applicable "Coastal Bluff" Definitions

The applicants have raised questions whether the CCR Section 13577 ("Criteria for Permit and Appeal Jurisdiction Boundary Determinations") definitions of coastal bluff and coastal bluff edge should be used in determining the location of the coastal bluff edge in this case, and whether certain LCP bluff definitions should also be applied.<sup>12</sup> CCR Section 13577 states in applicable part:

***CCR Section 13577. Criteria for Permit and Appeal Jurisdiction Boundary Determinations.***  
*For purposes of Public Resources Code Sections 30519, 30600.5, 30601, 30603, and all other applicable provisions of the Coastal Act of 1976, the precise boundaries of the jurisdictional areas described therein shall be determined using the following criteria:...*

*(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean: (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).*

*Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the*

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<sup>11</sup> Commission staff had received the County's exclusion notice on August 26, 2005, and had returned it as deficient inasmuch as the project was not excludable on August 31, 2005 (see Exhibit D). Subsequently, the County's September 6, 2005 letter identifying the disagreement was received on September 8, 2005.

<sup>12</sup> Both the County in its interpretation and the Commission in its interpretation have utilized the CCR Section 13577 definitions.



*seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.*

There are several compelling reasons why the CCR Section 13577 definitions must be applied to this case.

Exclusion Order E-83-3 is Controlling

Although the categories of residential development excluded by E-83-3 are referenced in the LCP, Exclusion Order E-83-3 is the controlling legal instrument for the subject exclusion, including the criteria for determining what is and isn't excludable.<sup>13</sup> CCR Section 13577 identifies the methodology that is to be used to determine the precise jurisdictional boundaries associated with all applicable provisions of the Coastal Act, including those associated with categorical exclusions (Coastal Act Section 30610(e)), such as Exclusion Order E-83-3. Thus, E-83-3 itself and CCR Section 13577 (as described above) are the applicable standards that must be consulted to understand and interpret its terms – including its definitions, and ultimately its boundaries.

Appealability as Criteria for Exclusion

It is also important to understand the genesis and purpose of the Exclusion Order E-83-3 text referenced in LCP Section 13.20.071(b) with respect to its identifying the type of residential development that is not excludable. The Exclusion was originally adopted by the Commission in 1982.<sup>14</sup> In this 1982 exclusion request, the County indicated that development located within the Commission's appeal jurisdiction was not part of the requested exclusion (i.e., wouldn't be excludable). Subsequently, the categories of development excluded by the Commission explicitly did not include development that was "appealable to the California Coastal Commission pursuant to Section 30603(a) of the Coastal Act."<sup>15</sup> In other words, if the development was located in an appealable area or otherwise appealable pursuant to the Act, it could not be excluded. The Commission's original adoption of the Exclusion was thus premised on appealable development not being excludable.

When Exclusion Order E-83-3 was adopted in its current form in 1983 (amending the 1982 Exclusion), the explicit reference to appealable development not being excludable was replaced by current Exclusion Order E-83-3 text reflected in LCP Sections 13.20.071(b)(1) through (b)(5). The reason for this was that the purpose of amending the exclusion was to allow for certain residential development located seaward of the first through public road to be excluded notwithstanding that such development would be located within the Commission's appeal jurisdiction. In order to account for this, the appeal

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<sup>13</sup> Although LCP Section 13.20.071 reflects Exclusion Order E-83-3 for ease of exclusion and LCP implementation, it does not, of its own, provide the legal authority for any exclusion absent E-83-3.

<sup>14</sup> Categorical Exclusion Order E-82-4.

<sup>15</sup> Exclusion Order E-82-4, Categories of Development Section 1(a). The 1982 exclusion also contained other criteria similar to current Exclusion Order E-83-3 text reflected in LCP Section 13.20.071(b)(6) and identical to current LCP Section 13.20.071(b)(7).



criteria of Coastal Act Section 30603(a) were parsed out to allow for this exception to be written in relation to the first public road (see LCP Section 13.20.071(b)(1)). To account for this, the remaining appeal criteria of Section 30603(a) were likewise parsed out (in LCP Sections 13.20.071(b)(2)-(b)(5)). These sections essentially broke out the Coastal Act Section 30603 appeal criteria more explicitly than the previous (Order E-82-4) reference to Section 30603 alone. As before, the Commission's adoption of the Exclusion was thus again premised on appealable development not being excludable.

Thus, although not explicit in the Exclusion text itself, the purpose of the criteria of Exclusion Order E-83-3 as referenced in LCP Sections 13.20.071(b)(1) through (b)(5) (and the requirement for the subject development to be principally permitted pursuant to 13.20.071(a)) is to ensure that appealable residential development is not excluded from the normal coastal permit process. By extension, the purpose of the Section 13.20.071(b)(2) reference to the area within 300 feet of the coastal bluff is a reference to the appeal criteria for same emanating from Coastal Act Section 30603(a)(2).<sup>16</sup> Therefore, the coastal bluff and 300-foot determination in this case is the same as an appeal boundary determination. The purpose of CCR Section 13577 is explicitly to provide a methodology for determining permitting, appeal, and other applicable jurisdiction boundaries as reflected by the Act, including specifically Section 30603 (see Section 13577 previously cited). Therefore, in addition to the fact that Exclusion Order E-83-3 is controlling (as described above), CCR Section 13577 includes the applicable definitions to be used in this case in terms of the original premise of the Exclusion Order.

#### LCP's Definitions Unclear

Even if CCR Section 13577 were to be disregarded, the LCP's definitions are unclear with respect to coastal bluff-related definitions and the way they apply to the Exclusion Order E-83-3 criteria as referenced in LCP Section 13.20.071. Towards this end it is important to note the manner in which the LCP is constructed related to definitions. The Land Use Plan (LUP) includes one major definitions section (the LUP Glossary) with definitions that apply throughout the LCP. The LCP IP is then made up of different Titles (e.g., Title 13 "Planning and Zoning Regulation," Title 14 "Subdivision Regulations," etc.), each of which is made up of separate Chapters (e.g., Title 13 includes Chapter 13.10 "Zoning Regulations," Chapter 13.20 "Coastal Zone Regulations," etc.). Each IP chapter has its own sets of definitions that apply within those chapters.<sup>17</sup> Thus, only the LUP Glossary includes definitions that explicitly apply throughout the LCP, and each IP chapter has its own supplementary set of chapter-specific definitions.

The term used by Exclusion Order E-83-3 and Section 13.20.071(b)(2) ("seaward face of any coastal bluff") is not defined in the LCP. Likewise, the term "coastal bluff" is not defined in the LUP, and it is not defined in the IP chapter containing LCP Section 13.20.071 (i.e., Chapter 13.20 "Coastal Zone Regulations"). The only reference within Chapter 13.20 that might be relevant to the coastal bluff and

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<sup>16</sup> In applicable part, identifying development "within 300 feet of the top of the seaward face of any coastal bluff" as appealable.

<sup>17</sup> For each chapter, the definitions sections contain text to the effect of "for the purposes of this chapter, the following definitions apply" (reference Chapter 16.10 "Geologic Hazards").



the area within 300 feet of it are the appeal criteria of LCP Section 13.20.122.<sup>18</sup> In other words, within Chapter 13.20, the only way to understand the relevance of Section 13.20.071(b)(2) is in relation to the appealability criteria emanating from Coastal Act Section 30603(a). As such, the determination of what can be excluded pursuant to Section 13.20.071(b)(2) is the same as identifying what type of development is not appealable to the Coastal Commission by virtue of its location relative to the bluff, beach, or mean high tide (i.e., if development is appealable by virtue of its location relative to the bluff, beach, or mean high tide, then it cannot be excluded).

The only place where “coastal bluff” is defined in the LCP is in the separate IP chapter applicable to geologic hazards (i.e., Title 16, Chapter 16.10 “Geologic Hazards”), where it is explicitly identified to be used for the purposes of Chapter 16.10, and not Chapter 13.20. In other words, the definitions of Chapter 16.10 are specifically provided for the purposes of addressing the geologic hazards requirements of Chapter 16.10, and not for other purposes (like identifying what can and cannot be excluded from coastal permit requirements pursuant to another LCP chapter). Thus, these Chapter 16.10 definitions do not strictly apply to Chapter 13.20 and Section 13.20.071.

That said, construing the LCP more liberally to apply the definitions of Chapter 16.10 to Chapter 13.20, “coastal bluff” is defined in Chapter 16.10 as follows:<sup>19</sup>

*Coastal Bluff. A bank or cliff along the coast subject to coastal erosion processes. Coastal bluff refers to the top edge, face, and base of the subject bluff.*

Chapter 16.10 defines “coastal erosion processes” as follows:<sup>20</sup>

*Coastal Erosion Processes. Natural forces that cause the breakdown and transportation of earth or rock materials on or along beaches and bluffs. These forces include landsliding, surface runoff, wave action and tsunamis.*

Thus, when read together, the coastal bluff definition of Chapter 16.10 is fairly broad and lacks specificity that could help identify its topmost edge in this case. The banks/cliffs at this location are subject to natural forces than can cause the breakdown and transportation of earth/rock materials along the beaches and bluffs, including through landsliding, surface runoff, wave action, and tsunamis,<sup>21</sup> and thus constitute “coastal bluffs” pursuant to Chapter 16.10.<sup>22</sup> However, there is nothing in the Chapter

<sup>18</sup> The criteria of Section 13.20.122 identifies the types of development that are appealable to the Coastal Commission (pursuant to Coastal Act Section 30603(a)), and these are essentially the same criteria for not excluding some residential development pursuant to LCP Section 13.20.171.

<sup>19</sup> LCP Section 16.10.040(j).

<sup>20</sup> LCP Section 16.10.040(l).

<sup>21</sup> Note, for example, that the base of the bluffs at this location are mapped by FEMA and the County as areas subject to both landslide and inundation from run-up from high waves or storm surge (FEMA designated 100-year flood zone) and within which flood elevation to the 100-year flood elevation is required (+21 feet NGVD according to FEMA and as applied in recent cases along the base of the bluff).

<sup>22</sup> The applicant appears to have used the cited LCP “coastal bluff” definition to define only portions of the subject bluffs as “coastal bluffs” (see applicant’s geologists’ memos in exhibit D, pages 14-27). In other words, the applicant has apparently drawn a distinction



16.10 definitions that can provide guidance with respect to then mapping the coastal bluff edge to any level of detail. In such a case, it is appropriate to refer back to the Act and the Commission's regulations for guidance and interpretation, particularly because the LCP definitions emanate from the Act and the Commission's regulations in the first place.<sup>23</sup> In this respect, CCR Section 13577 includes very detailed parameters for identifying coastal bluff edges. The applicants' interpretation conflicts with the methodology prescribed by CCR Section 13577 designed to establish the Commission's appeal and categorical exclusion boundaries. Again, CCR Section 13577 includes the applicable definitions to be used in this case.

#### Conclusion: CCR Section 13577 Applies

Exclusion Order E-83-3 is the controlling legal instrument for the subject exclusion, including the criteria for determining what is and isn't excludable. By extension, E-83-3 itself and CCR Section 13577 are the applicable standards that must be consulted to understand and interpret its terms – including its definitions, and ultimately its boundaries – and not LCP definitions. Even were LCP definitions to be applicable, the LCP is not explicit when it comes to determining coastal bluff edge and the area within 300 feet of it for purposes of the residential exclusion. The clearest and most direct LCP reference for determining this boundary is its relation to the appeal criteria of Chapter 13.20, and this is borne out by the fact that the adopted residential exclusion is premised on certain appealable development not being excluded. Definitions from elsewhere in the LCP are inconclusive and do not provide determinative guidance in this respect. Thus, because Exclusion Order E-83-3 is the controlling, because the 300-foot boundary relative to E-83-3 as reflected in Section 13.20.071(b)(2) is coterminous with the appeal boundary, and because the LCP's definitions do not provide adequate guidance otherwise, CCR Section 13577 provides the applicable and appropriate basis for determining the coastal bluff edge and the 300-foot boundary from it in this case.

## 2. Location of Coastal Bluff Edge and Area Within 300 Feet

The applicant has developed their version of the coastal bluff edge and 300-foot buffer (see Exhibit D, pages 14-27), and the County has developed their version (see Exhibit D, pages 10-14; see also Exhibit A, page 3). In both cases, only a small corner of the subject site is located within the 300-foot buffer

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between the upper portion of the bluffs and the lower portion of the bluffs (and within the upper portion, has apparently further distinguished the bluffs in relation to the canyon features), and determined that portions of the upper bluffs in the canyon features are not actually coastal bluffs because they aren't subject to coastal waves. However, such an argument is predicated on parceling the subject bluffs into individual pieces, then determining which of the sub-pieces are subject to marine processes, and finally defining some sub-pieces as coastal bluffs and some sub-pieces not as coastal bluffs depending on which sub-pieces are subject to marine processes. However, such a methodology is not what is envisioned by the Act and the LCP. Bluffs are considered as a whole entity, and not as individual pieces to which various criteria are to be applied to make some parts of them coastal and some parts of them non-coastal. Thus, although the Commission's staff geologist concurs that the erosion processes in the upper part of these bluffs in the canyons are dominantly fluvial and not marine, such a distinction is not germane to determining the location of the coastal bluff edge (see also Exhibit B).

<sup>23</sup> The Commission's regulations are specifically meant to be "interpreted and liberally construed to accomplish the purposes and carry out the objectives of the California Coastal Act" (CCR Section 13003).



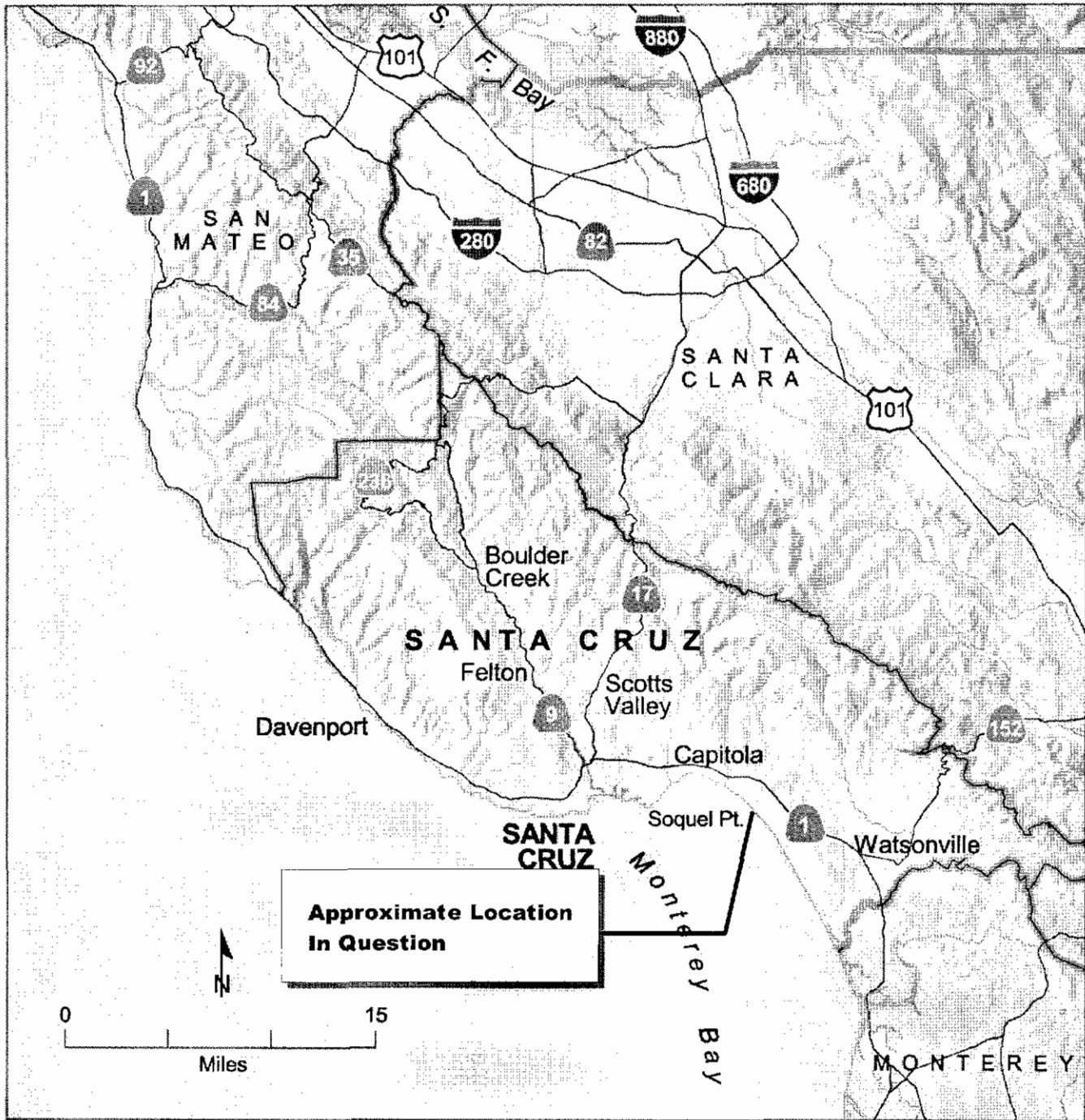
area.<sup>24</sup>

Commission planning and technical staff, including the Commission's staff geologist, have reviewed the available information, and field verified their observations. In conclusion, and as Commission staff has consistently informed the County and the applicant during the course of this dispute since early 2005, the entire site is located within 300 feet of the top edge of the coastal bluff (see memo prepared by the Commission staff geologist in Exhibit B, and see the corresponding coastal bluff edge and 300-foot buffer from it in Exhibit A, page 3). As a result, Application Number 04-0116 does not meet the exclusion criteria of Exclusion Order E-83-3 and LCP Section 13.20.071(b)(2), and a regular CDP application process is required. In addition, because the appealability criteria in this case relies on the same 300-foot measurement (per PRC Section 30603(a)(2) and LCP section 13.20.122(a)(1)), any CDP approval decision on application number 04-0116 will be appealable to the Commission.

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<sup>24</sup> There is a small area of difference between the County's version of the coastal bluff edge and the applicants' version, but the end result when the 300-foot buffer is applied is essentially the same.





106 Farley Drive  
 County of Santa Cruz  
 APN 043-102-09

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

CALIFORNIA  
**COASTAL**  
 COMMISSION

Technical Services Division



**Exhibit**

DAR, 11/2005

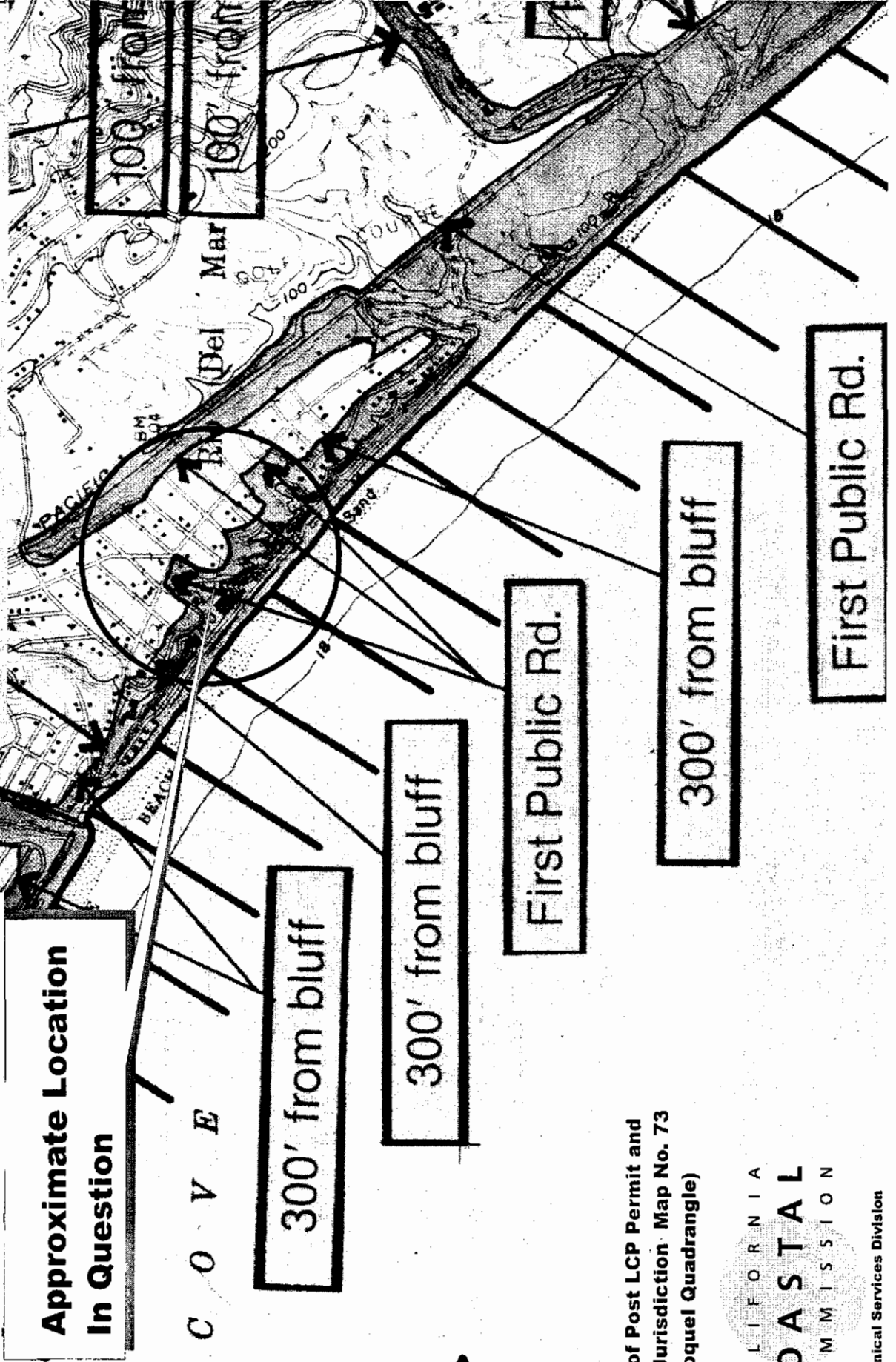


This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. §305.19(b) and §306.03(a)(1) and (a)(2). In addition, developments may also be appealable pursuant to P.R.C. §306.03(a)(3), (a)(4), and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the local government and/or the Executive Director of the Commission for clarification and information. This plat may be updated as appropriate and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Commission.

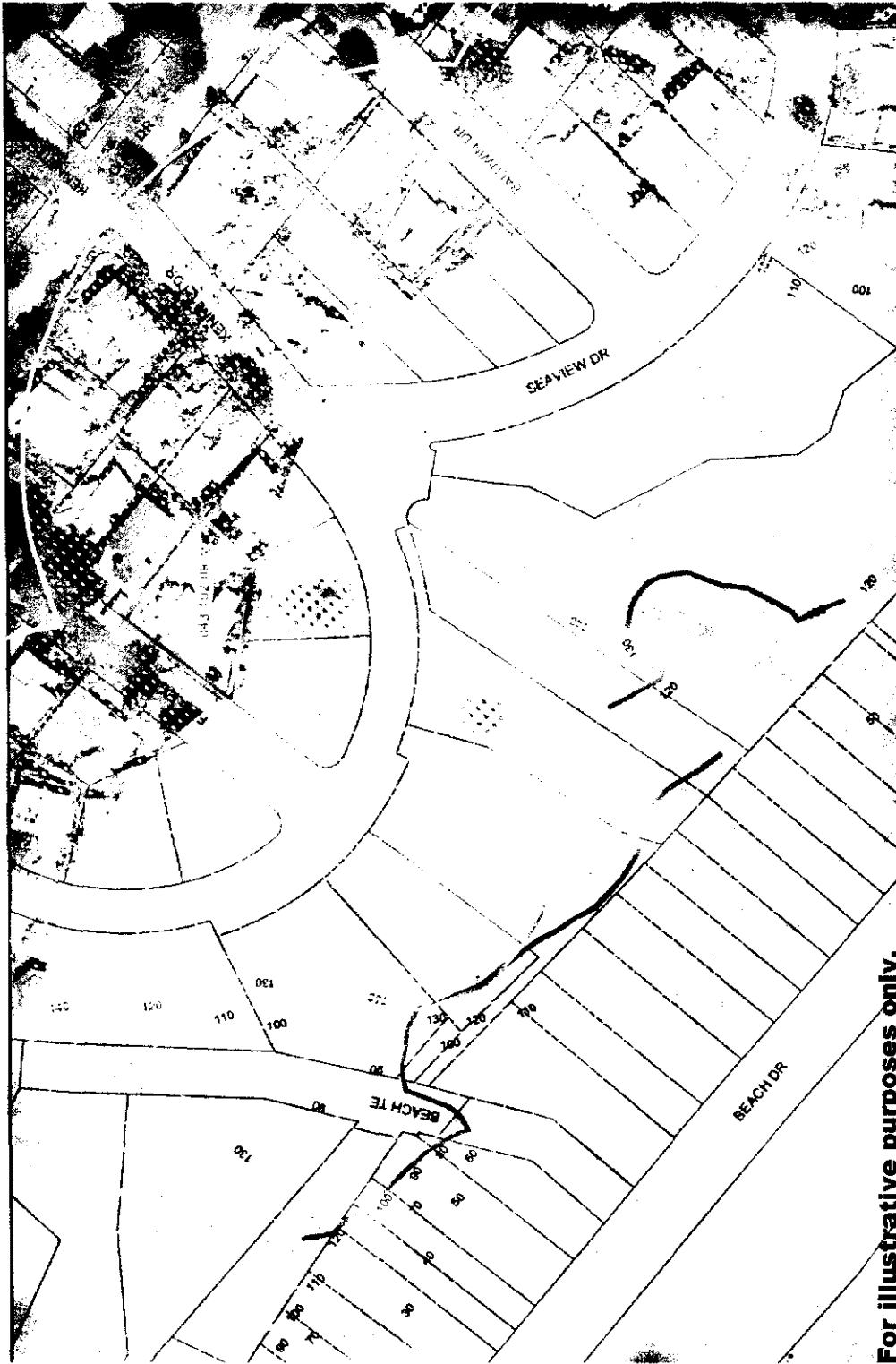
**Approximate Location  
In Question**



**Appeal Jurisdiction**  
This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of coastal bluff.



# Area Located Within 300' of Coastal Bluff Edge 300' Buffer of Coastal Bluff



For illustrative purposes only.

Santa Cruz

County: — Coastal Bluff Edge

Coastal Commission: — Coastal Bluff Edge  
 300' Buffer of Coastal Bluff



Source:  
 County of Santa Cruz  
 California Coastal Commission  
 DAR 11/2005

**CALIFORNIA COASTAL COMMISSION**

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



30 November 2005

**GEOTECHNICAL REVIEW MEMORANDUM**

To: Dan Carl, Coastal Program Analyst  
From: Mark Johnsson, Staff Geologist  
Re: Santa Cruz County CDP Application Number 04-0116 (Greene)

The purpose of this memo is to summarize my position regarding the location of the coastal bluff edge in relation to the development proposed in the above-referenced Santa Cruz County application. I have reviewed the map prepared by the County of Santa Cruz that shows a "coastal bluff" line and a 300 foot buffer drawn from it, and that does not include the parcel in question (see exhibit attached). My interpretation of the topographic information on that map, however, is that the actual bluff edge is actually quite different than the line adopted by the County. I visited the project site and surrounding area on 21 September 2005, and my inspection of the landform in question confirmed my interpretation. In my opinion, the bluff edge lies near the 130 and 140 foot contours, as seen on the attached exhibit.

The bluff edge line determined with reference to the definition of bluff edge found in California Code of Regulations, Title 14, §13577 (h) (2), that states, in relevant part:

... the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge....

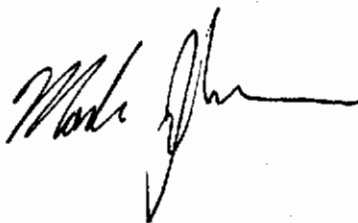
At the subject site, several prominent canyons or arroyos are cut into the top of the bluff. These steep-sided canyons have prominent rims, and there is little question, in light of the definition above, of where the "bluff edge" at the margins of these arroyos should be drawn. I have discussed this matter with Dr. Gerald Weber, a geologist hired by the applicant, and he points out that the erosional processes in the upper part of the bluff in the canyons are dominantly fluvial, not marine. I concur with this, but that distinction is not germane to the definition of coastal bluff edge under §13577 (h) (2). Apparently, the "coastal bluff" line on the County's map is an

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

attempt to define the top edge of a bluff that is subject to marine erosion. This line can not, in my opinion, be taken to be the bluff edge consistent with §13577 (h) (2).

I hope that this review is useful. Please do not hesitate to contact me if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Johnson", with a long horizontal flourish extending to the right.

Mark Johnson, Ph.D., CEG, CHG  
Staff Geologist

# 300' Buffer of Coastal Bluff

DRAFT 6/3/05



For illustrative purposes only.

Santa Cruz

County: — Coastal Bluff  
Edge

Coastal Commission: — Coastal Bluff  
Edge

300' Buffer of Coastal Bluff

300' Buffer of Coastal Bluff

Source:

County of Santa Cruz  
California Coastal Commission

DAR 11/2005



~~0231~~

0499

# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

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

**TOM BURNS, PLANNING DIRECTOR**

April 1, 2005

**AGENDA DATE: APRIL 12, 2005**

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

**SUBJECT: JURISDICTIONAL HEARING OF THE PLANNING COMMISSION'S DECISION  
REGARDING APPLICATION 04-0116 - 106 Farley Drive, Rio Del Mar**

Members of the Board:

This proposal involves demolishing an existing one story single-family dwelling and constructing a new two-story single-family dwelling. This application was received in March of 2004 and deemed complete in July of 2004. The application was heard by the Zoning Administrator on October 15, 2004 and approved.

Michael and Ellen Mellon, residents of the neighborhood, appealed the Zoning Administrator's approval to the Planning Commission, based on issues raised in their letter dated October 29, 2004 – primarily compatibility of the design with the surrounding neighborhood. At the first Planning Commission hearing on January 12, 2005, the Commission directed the applicant to meet with the neighbors, in an attempt to resolve design concerns, and return to the Commission. The Planning Commission considered the application again on February 12, 2005, and at the conclusion of the hearing voted 3-2 to uphold the appeal, reversing the decision of the Zoning Administrator (thereby denying the project). The Commission on February 23, 2005, approved findings for denial. (The Planning Commission minutes are provided in Attachment 4 and Planning Commission staff reports in Attachments 5, 6 and 7).

The applicant and owner then appealed the Planning Commission decision to your Board on March 3, 2005 (Attachment 1). This hearing is the opportunity for the appellants to convince your Board that grounds exist for you to take jurisdiction and to schedule a public hearing to consider the project anew.

### Grounds for Jurisdiction

County Code Section 18.10.340 (c) establishes the findings that must be made in order for your Board to take jurisdiction of an appeal from the Planning Commission. The specific findings for the Board to take jurisdiction are limited to the following:

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

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1. There was an error or abuse of discretion on the part of the Commission, Zoning Administrator, or other officer;
2. There was a lack of a fair and impartial hearing;
3. The decision appealed from is not supported by the facts presented and considered at the time the decision appealed from was made;
4. There is significant new evidence relevant to the decision which could not have been presented at the time the decision appealed from was made; or
5. There is either error, abuse of discretion, or some other factor which renders the act done or determination made unjustified or inappropriate to the extent that a further hearing before the Board is necessary.

If the Board finds that one or more of these findings apply, the Board must either schedule a public hearing within 30 days to consider the appeal or, if appropriate, remand the matter for further consideration by the Planning Commission or other Approving Body.

#### **Basis of Appeal/Staff Response**

The appellants, in their letter of March 3, 2005, have presented two issues. One is regarding whether this project was appropriately subjected to the requirement for a Coastal Permit. The other is that the Commission's actions were not supported by the facts. These are analyzed separately below.

#### **Allegation that the Project Does Not Require a Coastal Permit**

Subsequent to the Planning Commission's denial of the project, the applicant's representatives raised concerns regarding the appropriateness of staffs determination that the project was subject to a Coastal Permit. To support that allegation, they submitted a geologic report from Eric Zinn, a Registered Geologist (Attachment 2), that concludes that the subject property is located more than 300-feet from the coastal bluff. Under their reasoning, then the property would lie inside the residential exclusion area where the development of a residential unit could be accomplished without a Coastal Development Permit. As a result, they contend that no discretionary permit should have been required and all they need to do is to apply for a building permit. It is not clear how, under this reasoning, this issue would be resolved at this late stage in the permit process.

By way of background on this issue, one of the first issues that is reviewed when new development is proposed within the Coastal Zone is whether a Coastal Development Permit (CDP) is required or whether the project is excluded or exempt. For residential projects, exemptions generally apply to additions and remodels. In the excludable area

of the Coastal Zone, residential developments of 1-4 units do not require a CDP. The exclusion does not apply to projects located within the following areas:

- Between the sea and the first through public road paralleling the sea, except in the areas shown on the map entitled "Residential Exclusion Zone," hereby adopted by reference and considered a part of this County code section;
- Within three hundred (300) feet of the inland extent of any beach or of the mean high tide line where there is no beach, or within three hundred (300) feet of the top of the seaward face of any coastal bluff, whichever is the greater distance;
- On land subject to public trust;
- On lots immediately adjacent to the inland extent of any beach, or the mean high tide line where there is no beach;
- Within one hundred (100) feet of any wetland, estuary, or stream;
- Within a scenic resource area as designated on the General Plan and Local Coastal Program Visual Resources Maps, or within a Special Community designated on the General Plan and Local Coastal Program Land Use Plan maps; or
- Within the habitat ("essential" area and area adjacent to the "essential" area) of the Santa Cruz Long-Toed Salamander as mapped in the General Plan and Local Coastal Program Land Use Plan. (ref. County Code Section 13.20.071)

In this case, staff made a determination, based on the County's mapping of the non-excludable areas (Attachment 3), that a CDP was required for the demolition and replacement of the existing residence. County Code Section 13.20.085 implements Coastal Commission regulation 13569 (CCR) by providing a mechanism for challenges to the County's determination of specific coastal review requirements, as follows:

"If the County's determination of coastal approval requirement, exclusion, or hearing and appeals procedures is challenged within 10 days, the Planning Director shall notify the Coastal Commission by telephone of the dispute/question and shall request an Executive Director's opinion. Local acceptance for filing or processing of the permit application shall cease until the Planning Department receives the determination of appropriate process from the Executive Director of the Coastal Commission or the Coastal Commission."

In this case, County staff, at the intake of the application, made the determination that the project required a Coastal Development Permit. The applicant could have, at that time or within 10 days of the application, made a challenge to the staff's determination



and the process described above would have been commenced. As this was not done, staff believes that this issue is not appealable at this point.

However, in an attempt to fully explore the full facts, Planning staff recently contacted the California Coastal Commission as provided for in County Code Section 13.20.085 to request a review of our determination that the site was subject to a Coastal Development Permit (not excludable). Pursuant to Section 13569 of the Coastal Commission's regulations, the response to this request must be completed within two days. Later that same day, we received the Executive Director's Determination (Attachment 8). In this letter, the Deputy Director of the California Coastal Commission concurs with our determination that the project site does not qualify for a Coastal Exclusion. Furthermore, their letter states that, "Because the County and Executive Director are in agreement on this determination, there is no further recourse for the applicant pursuant to Sections 13569 and 13.20.085."

With regard to this issue, staff believes that it is not relevant with regard to your Board's jurisdiction decision. Not only do we believe that the appeal period for the decision to require a Coastal Permit has long since passed, but the Coastal Commission has indicated that they concur with our determination, making clear the outcome of an appeal if one could be filed at this late stage in the process.

#### Commission Decision Not Supported by the Facts

The second issue raised in the appeal letter is that the Planning Commission decision is not supported by the facts presented and considered at the time the decision was made. The appellant claims that the Planning Commission's approved findings are not based on the evidence submitted to and considered by the Commission, and have submitted alternate language for those specific Coastal Development Permit findings.

The Commission's decision to deny the project and uphold the neighbor's appeal was based on the Design Criteria for Coastal Zone Developments from Section 13.20.130 (b) of the County of Santa Cruz Code. In establishing design criteria for projects subject to Coastal Permits, this section of the Code requires that projects be found to be visually compatible with the surrounding neighborhood. Specifically, that policy requires that:

"All new development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas."

In order to make its findings, the Planning Commission: visited the site and the area; heard testimony from the applicant and the appellants; and viewed exhibits from staff, the applicant and the appellants during the hearing.

In the end, the Commission adopted findings that this design is not compatible with the neighborhood. This decision was arrived at by the Commissioners exercising their

judgment and experience, and reviewed against the facts that were presented at the hearing.

**DISCUSSION AND RECOMMENDATION:**

Staff does not believe that the appellant has demonstrated that there is new relevant information germane to the decision or that the Planning Commission decision was unsupported by the facts presented and considered at the time the decision was made. Based on the material presented in the appellant's letter, staff has not identified any grounds for your Board to take jurisdiction.

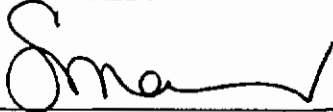
It is therefore RECOMMENDED that your Board not take jurisdiction on the appeal of Application Number 04-0116.

Sincerely,



Tom Burns  
Planning Director

**RECOMMENDED:**



SUSAN A. MAURIELLO  
County Administrative Officer

**Attachments:**

1. Appeal letter from Austin Comstock, Attorney, dated March 3, 2005
2. Bluff setback letter and map from Zinn Geology, dated February 23, 2005
3. Coastal Zone Residential Exclusion Map, dated February 2005
4. Planning Commission minutes dated January 12, 2005; February 9, 2005; February 23, 2005
5. Planning Commission staff report dated February 23, 2005 (on file with the Clerk)
6. Planning Commission staff report dated February 9, 2005 (on file with the Clerk)
7. Planning Commission staff report dated January 12, 2005 (on file with the Clerk)
8. Letter of Charles Lester, Deputy Director, California Coastal Commission, dated March 30, 2005
9. Exhibits: Photo montages, Project plans (on file with the Clerk)

~~0236~~

ATTORNEYS  
**COMSTOCK, THOMPSON, KONTZ & BRENNER**

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

340 SOQUEL AVENUE, SUITE 205  
SANTA CRUZ, CALIFORNIA 95062

(831) 427-2727  
FAX 458-1165

2005 MAR 3 PM 2 34

AUSTIN B. COMSTOCK  
JAMES C. THOMPSON\*  
THORNTON KONTZ  
LAWRENCE M. BRENNER

NATHAN C. BENJAMIN

(\*JAMES C. THOMPSON, P.C.)

March 3, 2005



Board of Supervisors  
Santa Cruz County  
701 Ocean Street  
Santa Cruz, CA 95060

Re: Notice of Appeal  
Application 04-0116  
106 Farley Drive, Aptos

To the Board of Supervisors:

Lauren Greene and Glen Ceresa, owners of the captioned property, appeal the decision of the Planning Commission and findings filed February 23, 2005, in connection with denial of the appeal from the decision of the Zoning Administrator regarding the captioned application. The owners' check in the sum of \$3,386.00 is enclosed as a filing fee.

Appellants first make reference to the ascertainment by Licensed Geologist Eric Zinn in the attached letter dated February 23, 2005, that the improvements proposed on the subject property are beyond the 300-foot bluff setback line, thereby eliminating the need for any public hearing and mandating the issuance of a building permit (absent any action by the California Coastal Commission).

Appellants challenge the findings filed in support of the Planning Commission decision in that in each case there is lack of evidentiary support:

**A. COASTAL DEVELOPMENT PERMIT FINDINGS**

- 1. **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.**

Finding: The proposed improvements are consistent with the spirit and letter of every subsection of section 13.20.130 in that they are sited, designed, and landscaped to be visually compatible and integrated with the surrounding neighborhood or area.

Board of Supervisors  
 Re: Notice of Appeal, 04-0116, 106 Farley Dr., Aptos  
 March 3, 2005  
 page two

## B. DEVELOPMENT PERMIT FINDINGS

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 zoned district in which the site is located.

Finding: The proposed project is consistent with the design criteria of County Code section 13.20.130(b) as set forth above. No special use standards are proposed.

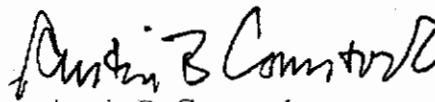
3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

Finding: The proposed project is consistent with Chapter 8 of the County General Plan in that it contemplates residential use of a two-story home which is consistent with design and situation of mass in the neighborhood. Moreover, the proposed improvements, given the irregular shape of the parcel, lend proportionality to the site and blend compatibly with neighborhood homes.

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

Finding: To the extent that such a finding is required to be made under this application, the proposed project meets all the physical design aspects of the neighborhood as set forth under number 3 above.

Yours truly,



Austin B. Comstock

ABC:ss  
 Copy: Clients  
 Matson Britton Architects

# ZINN GEOLOGY

ATTACHMENT 2  
0506238

3085 Carriker Lane, Suite B – Soquel, California 95073  
Tel. 831.476.8443 – Fax 831.476.1491 – enzinn@cruzio.com

23 February 2005

2005009-G-SC

Lauren Greene and Glen Ceresa  
c/o Cove Britton  
Matson - Britton Architects  
728 North Branciforte Avenue  
Santa Cruz, California 95062

Re: **Summary** of analysis for measuring distance to coastal bluff  
Proposed improvements  
106 Farley Drive  
Aptos, California 95003-5140  
Santa Cruz County APN 043-10-209

Dear Ms. Greene and Mr. Ceresa:

This letter and the attached figure summarize the results of our analysis for investigating the distance between your proposed improvement envelope and the coastal bluff. The primary objective of our investigation was to ascertain if your proposed improvements are located more than 300 feet from the top of the *coastal bluff*.

We have reviewed some literature addressing the criteria for what constitutes the top of the coastal bluff, and have procured a high-resolution orthophoto topographic base map from the County of Santa Cruz Public Works to measure the distance between the top of the coastal bluff and your proposed improvements. We have plotted a line representing the top of the coastal bluff upon the orthophoto topographic base map, using geologic reasoning and geomorphic criteria. We have also plotted a line representing a 300-foot setback from the top of the bluff and a shaded envelope depicting the extent of your proposed improvements. The resulting figure clearly demonstrates that all of your proposed improvements lie landward of the 300-foot bluff setback line.

Sincerely,

Zinn Geology

By Erik N. Zinn  
Principal Geologist  
C.E.G. No. 2139

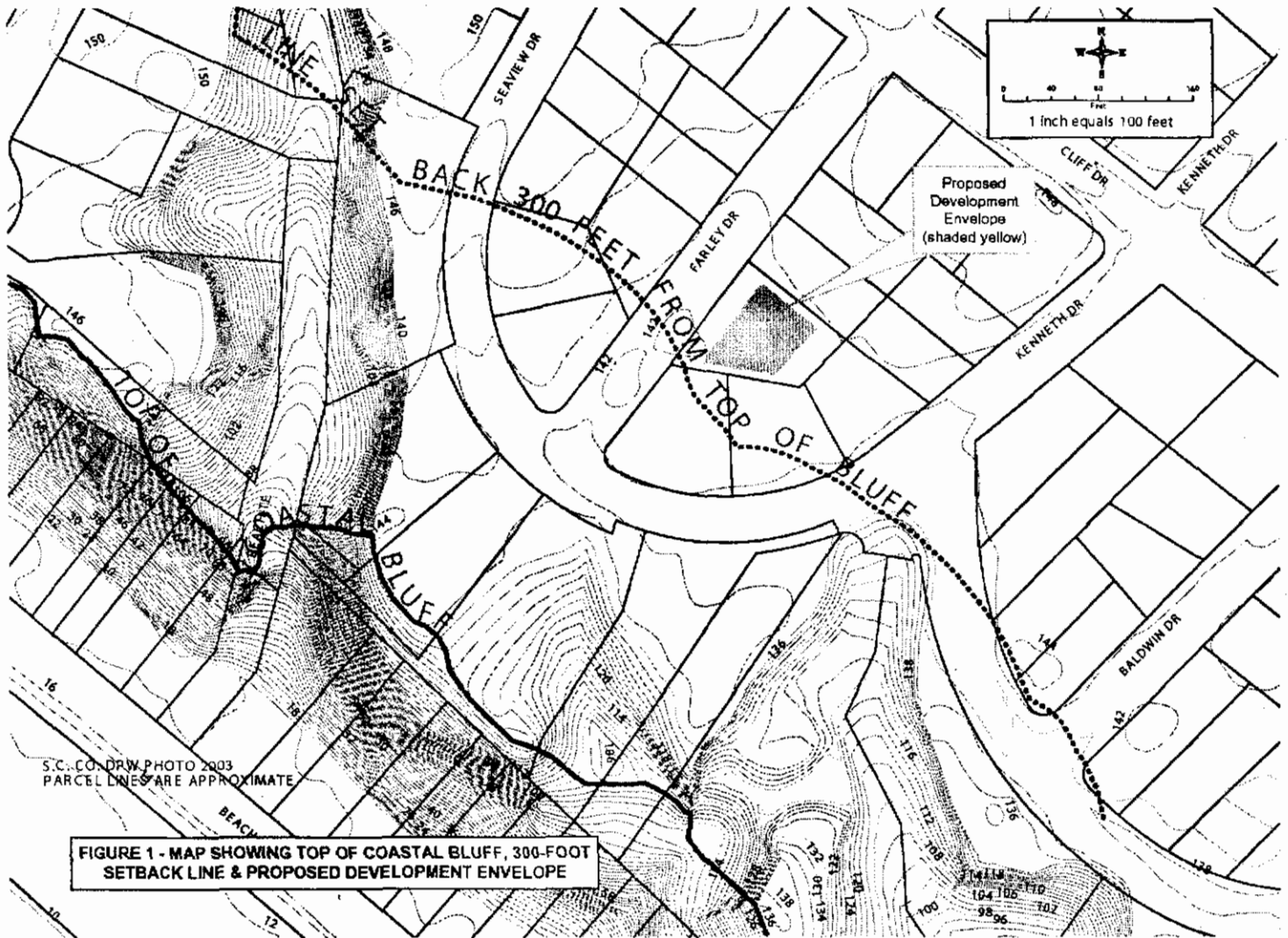
Attachments: Figure 1 – Map showing top of coastal bluff, 300-foot setback and proposed development envelope

46

CCC Exhibit C  
(page 8 of 10 pages)

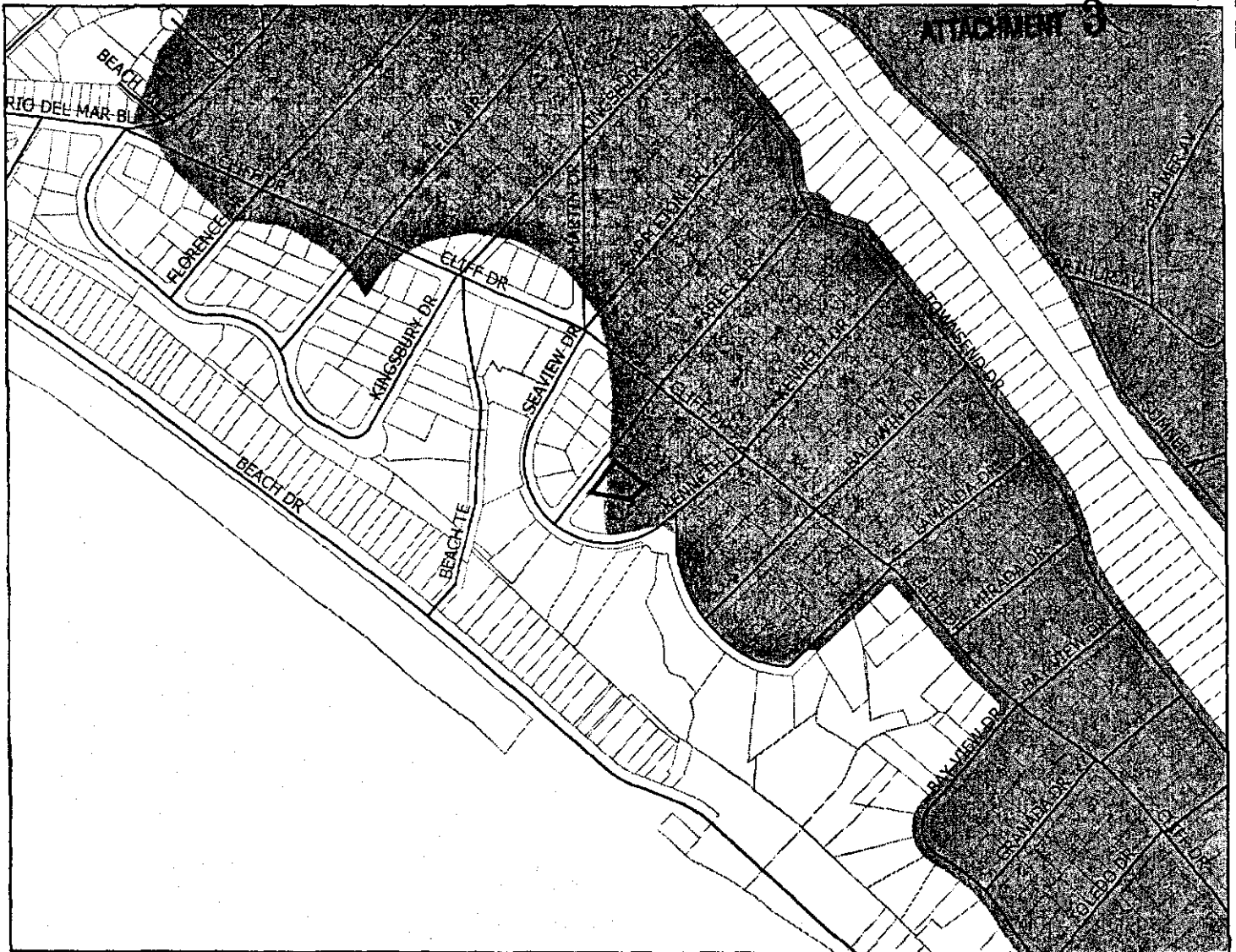
0507

~~0239~~









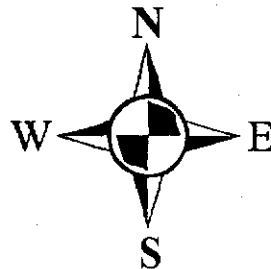
# Coastal Zone Residential Exclusion Map



1,500 0 1,500 Feet

## Legend

-  CZ-RESEX
-  APN 043-102-09
-  Streets
-  Assessors Parcels



Map Created by  
County of Santa Cruz  
Planning Department  
February 2005

46

CCC Exhibit C  
(page 10 of 10 pages)

## CALIFORNIA COASTAL COMMISSION

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



**Date:** August 31, 2005  
**To:** Cathy Graves, Santa Cruz County Planning Department  
**From:** Steve Monowitz, District Manager  
**Subject:** Deficient notice for Coastal Exclusion No 04-0116, Lauren Green/Glen Caresa, demolition and construction of new residence, 106 Farley Drive, Aptos APN 043-102-09, Santa Cruz County - CCC reference number 3-SCO-05-338.

Please note that the notice of final County of Santa Cruz action (required pursuant to California Code of Regulations Section 13571) that we received for the above application was deficient as indicated below (deficiencies and means to correct them noted by check mark below):

- Finality of action.** The action notice was sent during the period of time that the action taken could be appealed locally (i.e., a decision of the Zoning Administrator can be appealed to the Planning Commission, and a decision of the Planning Commission can be appealed to the Board of Supervisors). Please note that actions taken are not final until all County appeal processes are completed (please re-send the notice\* after all applicable appeal periods have run without appeal or all appeal avenues have been exhausted through the County).
- Action.** The action date and action body was not included or was not clear (please send indication of the action date and the action taking body).
- Staff report.** The adopted staff report was not included (please send a copy of the adopted staff report).
- Plans.** The approved plans were not included (please send a copy of the approved plans; including the Tentative Map for the subdivision).
- Conditions.** The adopted conditions were not included or were not clear (please send a clean copy of the adopted conditions).
- Findings.** The adopted findings were not included or were not clear (please send a clean copy of the adopted findings).
- Appeal status.** The action taken was incorrectly identified as not appealable to the Coastal Commission (please re-send the notice\* with corrected appeal status and procedures for appeal). Wireless projects are a conditional use and are appealable projects under the Local Coastal Program.
- Notice.** The notice was not sent to all interested parties (please re-send the notice\* with evidence that it was also sent to all interested parties).
- Other.** This project is not excludable because the subject parcel is located within the 300 feet of the top of the coastal bluff.

If the County action that was taken is appealable to the Coastal Commission, then please note that the effective date of the action has been suspended, and that the 10-working day Coastal

**CCC Exhibit D**  
**(page 1A of 27 pages)**



Commission appeal period will not begin until the deficiency is corrected as directed above. If you have any questions regarding this matter, please contact me at the Central Coast District Office address and phone number above.

- \* Note: When action notices are sent (or re-sent), copies must be sent to: (1) the Coastal Commission's Central Coast District Office; (2) the applicant and/or the applicant's designated representative; (3) all persons who requested notice of such action; and (4) all aggrieved persons with standing to file an appeal with the Commission (where "aggrieved person" means any person who, in person or through a representative, appeared at Santa Cruz County public hearing in connection with the action, or who by other appropriate means prior to a hearing, informed the County of the nature of his or her concerns, or who for good cause was unable to do either (Public Resources Code Section 30801)).



**County of Santa Cruz  
Planning Department**

**FINAL LOCAL  
ACTION NOTICE**  
 REFERENCE # 3-500-05-338  
 APPEAL PERIOD NA

**Notice of Coastal Exclusion - Coastal Zone  
(No Coastal Development Permit Required)**

**RECEIVED**

Notice of Coastal Exclusion #: 04-0116  
 Assessor's Parcel Number: 043-102-09  
 Applicant: Lauren Green/Glen Caresa  
 Project Location: 106 Farley Drive, Aptos  
 Project Description: Proposal to construct a single family dwelling.  
 Type of Exclusion:

AUG 26 2005

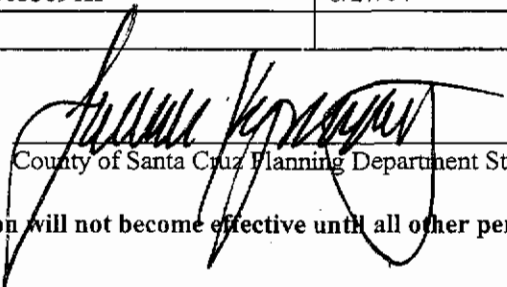
CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

x 13.20.071 - Residential 1-4 Unit

- Project is not located between the sea and the first public through road, or x is located within the Residential Exclusion Zone;
- Project is not located within 300 feet of the inland extent of any beach or of the mean high tide line where there is no beach, nor within 300 feet of the top of the seaward face any coastal bluff, whichever is the greater distance;
- Project is not on land subject to public trust;
- Project is not on a lot immediately adjacent to the inland extent of any beach, or the mean high tide line where there is on beach;
- Project is not within 100 feet of any wetland, estuary, or stream;
- Project is not within a scenic resource area as designated on the General Plan/LCP Visual Resources maps, or within a Special Community designated on the General Plan/LCP;
- Project is not located within the habitat of the Santa Cruz Long-Toed Salamander as mapped in the General Plan/LCP.

Other Permits or Approvals	Application Number	Application Date
Demolition Permit	0053092C	8/26/04
Building Permit	0053091H	8/27/04

Date Issued: 8/25/05

By:   
 County of Santa Cruz Planning Department Staff

**Note: This is not a permit. This notice of exclusion will not become effective until all other permits and approvals required for the project are obtained.**

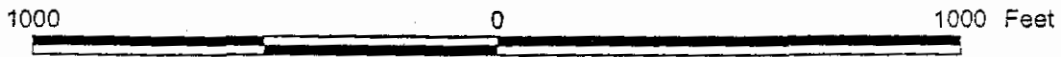
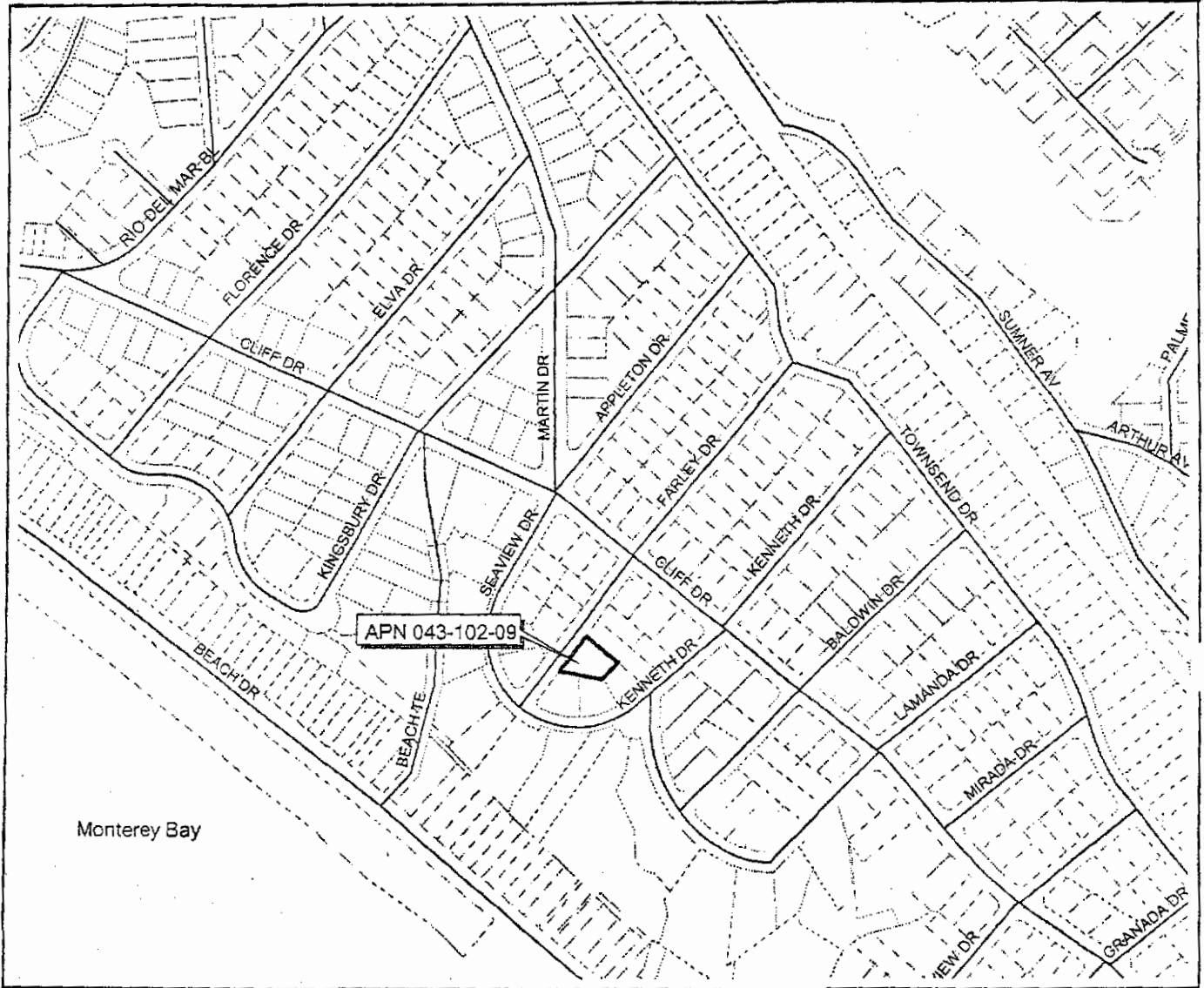
The County's determination to issue a Notice of Exclusion may be challenged. If challenged, the Executive Director of the Coastal Commission will review the determination; if he/she disagrees with the County (i.e. believes that a Coastal Development Permit should be obtained, the Coastal Commission will decide whether a Coastal Development Permit is required.

Cc: Applicant  
 Coastal Commission

Attachments: Location Map  
 Site Plan  
 Elevations

# Location Map

0278



Map created by Santa Cruz County  
 Planning Department:  
 March 2004



ATTACHMENT 7  
 EXHIBIT E

29

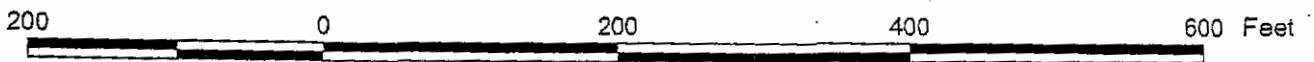
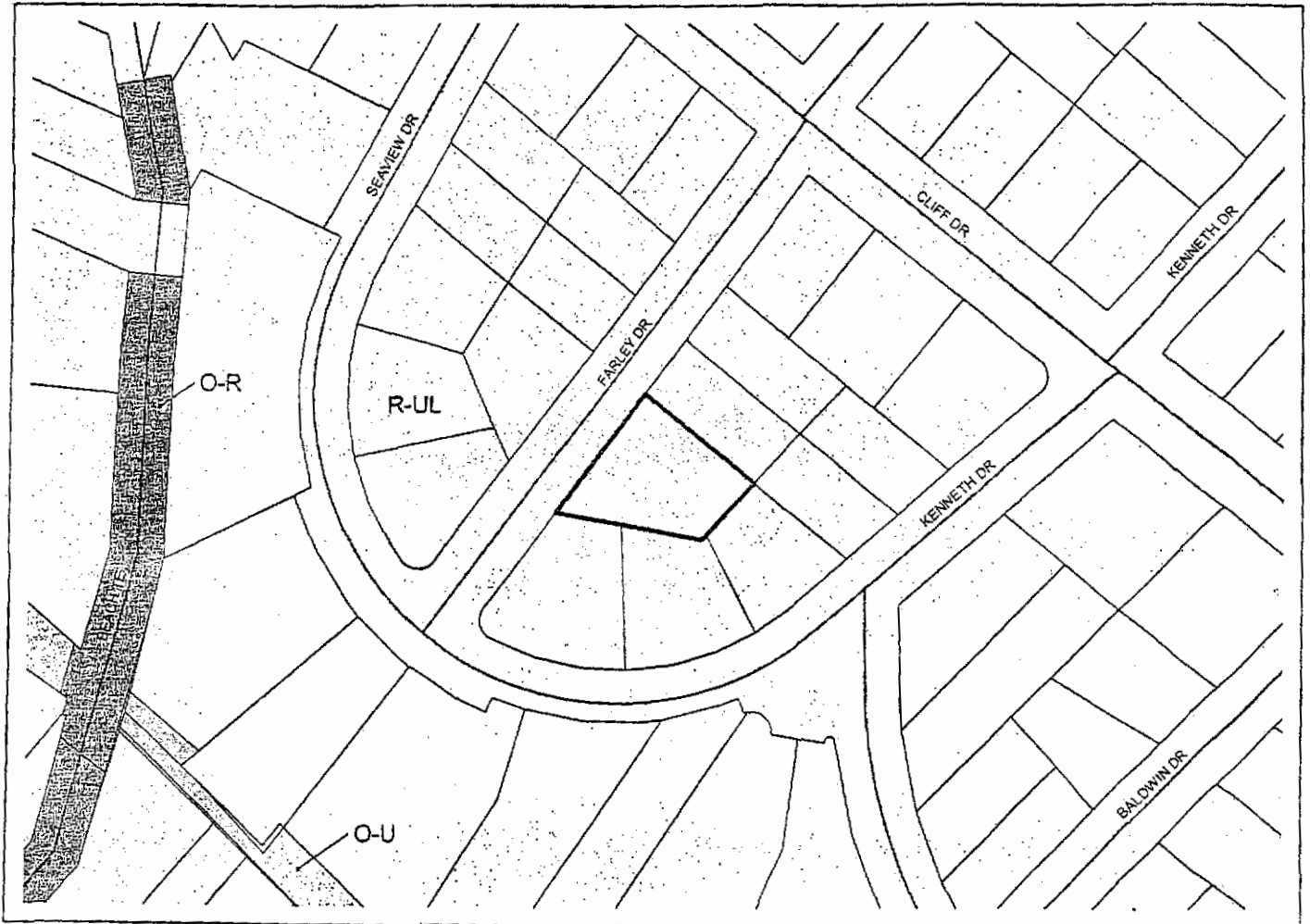
CC Exhibit D  
 page 2 of 27 pages!

63

EXHIBIT D

# General Plan Map

## ATTACHMENT 7



### Legend

	APN 043-102-09
	Streets
	Parks and Recreation
	Urban Open Space
	Residential - Urban Low Density

Map created by Santa Cruz County  
 Planning Department:  
 March 2004

# 29

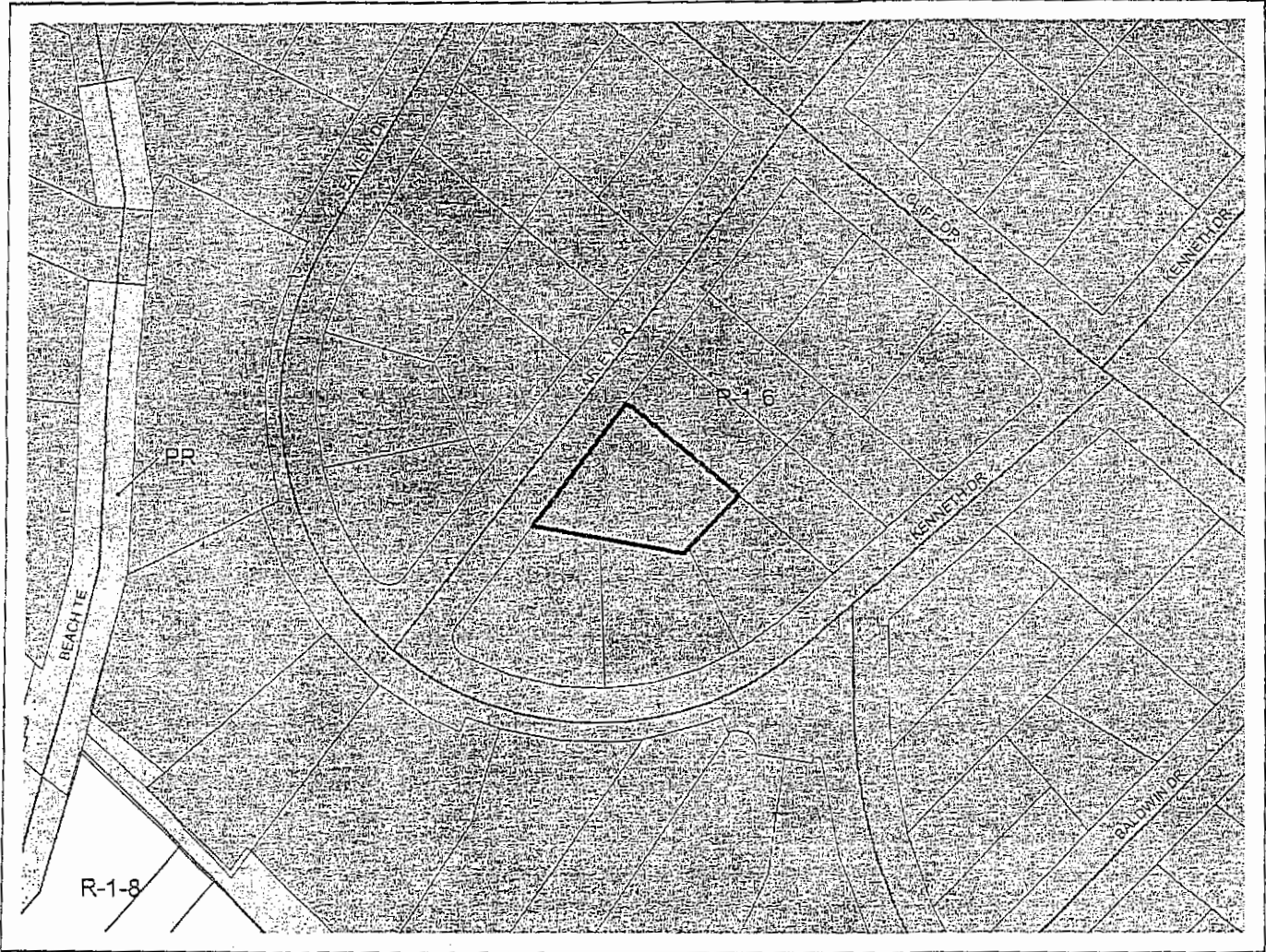
SC Exhibit **D**  
 page **3** of **27** pages

ATTACHMENT 3  
 EXHIBIT F

64

## EXHIBIT D

# Zoning Map



200 0 200 400 600 Feet

### Legend

- APN 043-102-09
- Streets
- R-1-X
- PR
- R-1-8



Map created by Santa Cruz County  
 Planning Department:  
 March 2004

65

FOR PURPOSES ONLY  
THE ASSessor's OFFICE  
WARRANTS AS TO MAP ACCURACY NOR ASSUMES ANY  
LIABILITY FOR OTHERS.  
AS NOT TO BE REPRODUCED. ALL RIGHTS RESERVED.  
© COPYRIGHT SANTA CRUZ COUNTY ASSESSOR 1999

POR. 1 S RANCHO  
S.E. 1/4 SEC. 18, & N.E. 1/4 SEC. 19, T.11S., R.1E., M.D.B. & M.

Tax Area Code  
69-273

13-10

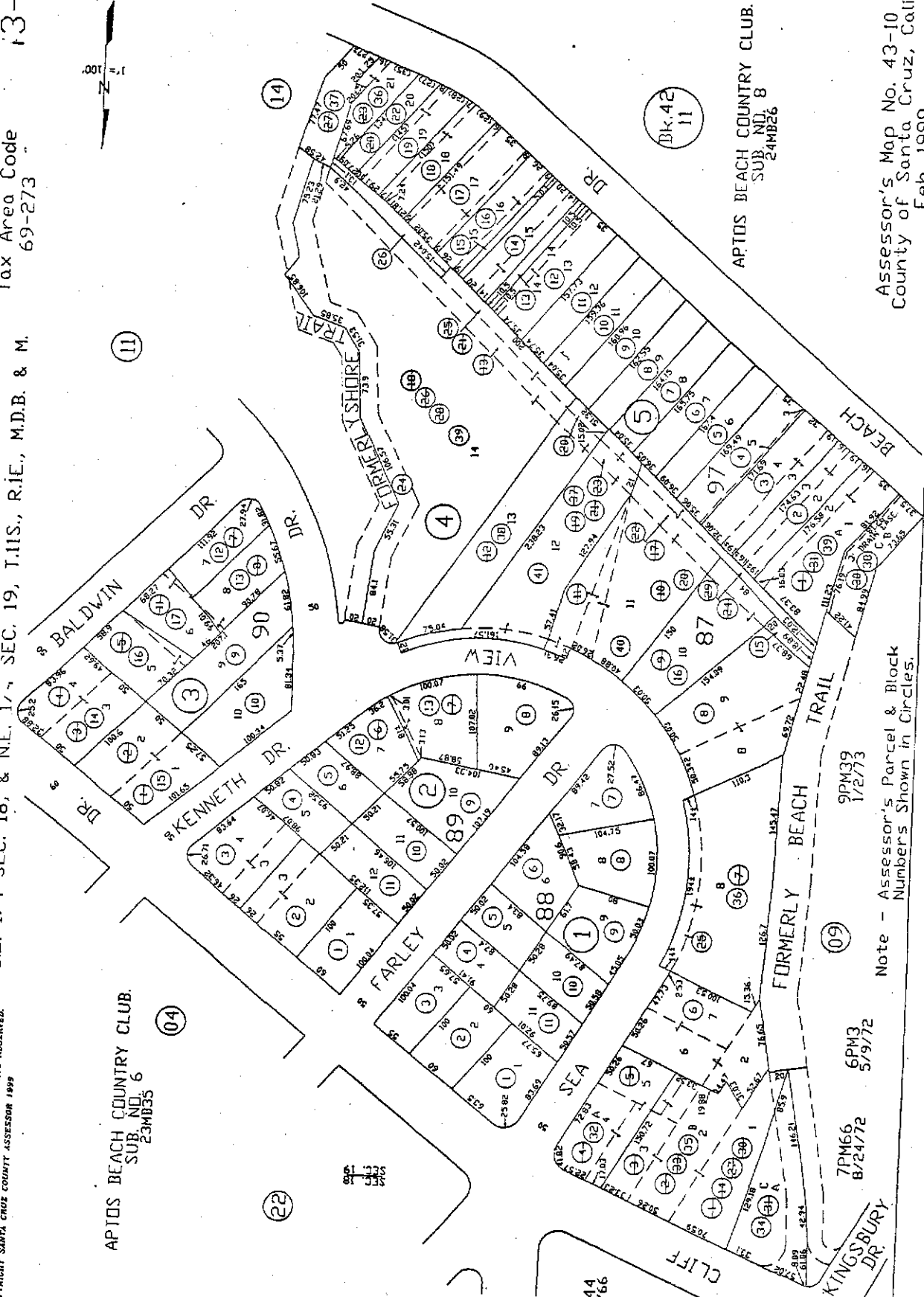


APTOS BEACH COUNTRY CLUB.  
SUB. NO. 6  
23MB55

APTOS BEACH COUNTRY CLUB.  
SUB. NO. 8  
24MB26

Assessor's Map No. 43-10  
County of Santa Cruz, Calif.  
Feb. 1999.

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



CC Exhibit D  
page 5 of 27 page

24MB44  
10/19/66

7PM66 8/24/72  
6PM3 5/9/72  
9PM39 1/2/73

29 1

ATTACHMENT 3

EXHIBIT H

EXHIBIT D

66

**OWNERS:** CERRITA-ARIZONA  
 108 FARLEY DRIVE  
 APTOS, CA 95008

**A. P. N.:** 048-102-04

**OCCUPANCY GROUP:** R-8 (PER VI U.B.C.)

**CONSTRUCTION TYPE:** V-N FULLY SPRINKLERED

**PROJECT DESCRIPTION:** THIS PROJECT CONSISTS OF A NEW TWO STORY RESIDENCE WITH TWO BEDROOMS, TWO AND A HALF BATHS, KITCHEN, LIVING ROOM, DINING ROOM & OFFICE.

**CODE COMPLIANCE:** THIS RESIDENTIAL CONSTRUCTION COMPLIES WITH TITLE 24, AND THE FOLLOWING CODES: 2001 IBC, 1991 IBC, 1991 UPC, AND 1991 NEC.

**LOT SIZE:** 8191 S.F.

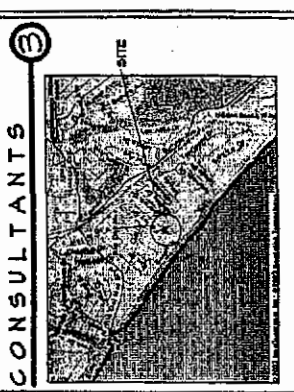
**GROSS FLOOR AREAS:**

(A) HOUSE TO BE DEMOLISHED:  
 1807 SQ. FT.  
 PROPOSED FIRST FLOOR:  
 1785 SQ. FT.  
 PROPOSED SECOND FLOOR:  
 1825 SQ. FT.  
 THREE CAR GARAGE:  
 825 SQ. FT.

**PLAN (1807/1785/1825/825) 2/2/04 9/1/04 9/1/04 9/1/04**  
**LOT COVERAGES: 2/44.9 S.F. / 8191 S.F. = 2.9%**

**ARCHITECTS:** HATSON BRITTON ARCHITECTS  
 281 N. BROADWAY  
 SAN JOSE, CA 95131  
 408-284-1144 T 408-452-4778

**STRUCTURALS:** MARK SURVEYING  
 1074 S. JARVIS AVENUE  
 SUITE A  
 SAN JOSE, CA 95128  
 408-423-9009



**VICINITY MAP**

1. TITLE SHEET  
 2. FIRST FLOOR PLAN  
 3. SECOND FLOOR PLAN  
 4. ELEVATIONS  
 5. SURVEY

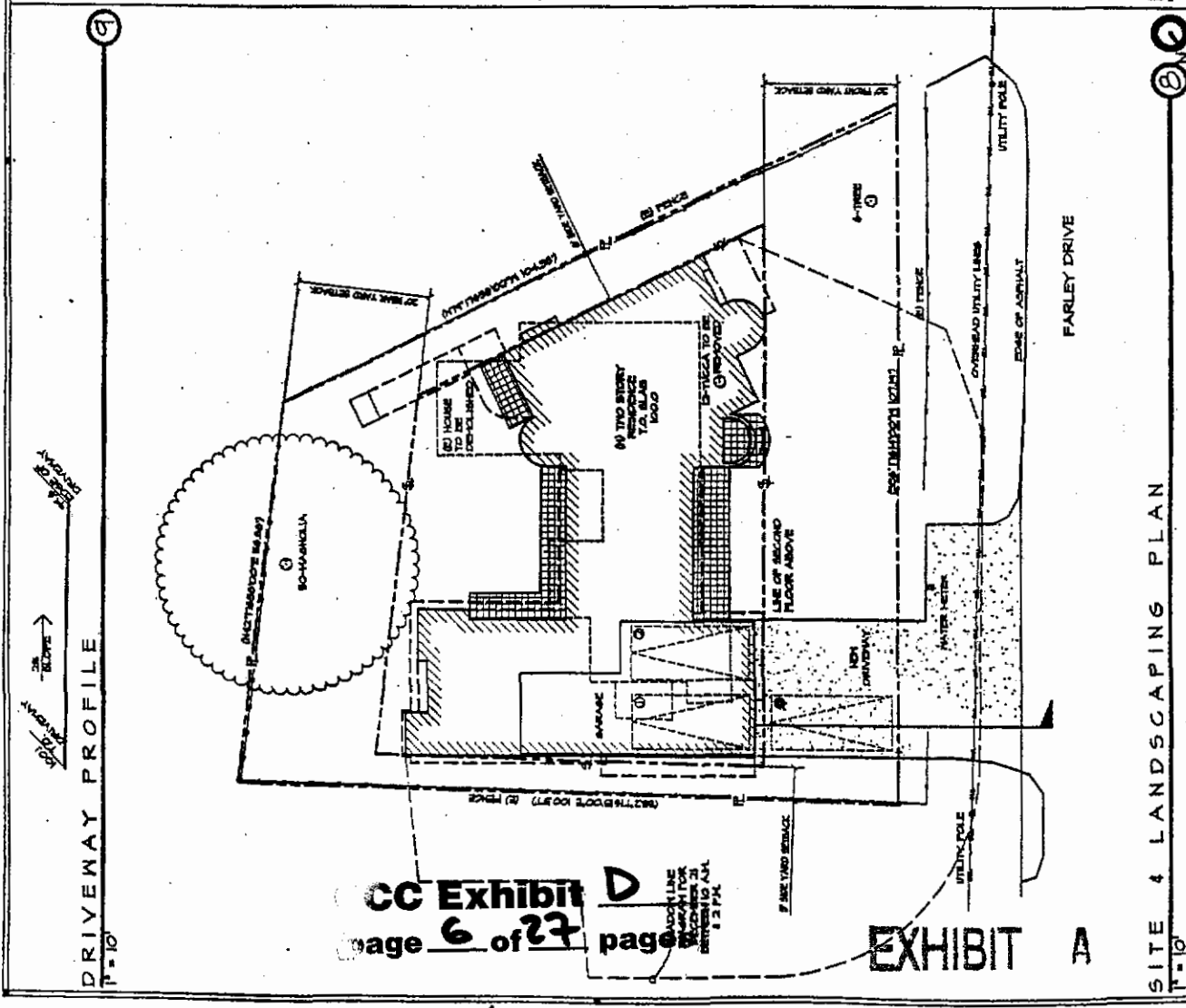
**SHEET INDEX**

**DRAINAGE NOTES**

1. FULL ROOF GUTTERS SHALL BE PLACED AROUND ALL EAVES. ALL ROOF DRAINAGE TO BE DISPERSED BY SPLASHED BLOCKS AS EXISTING. PATIO DRAINAGE TO BE SHEET DRAINED AS EXISTING.
2. SURFACE DRAINAGE ADJACENT TO FOUNDATION & PAVEMENTS SHALL BE SLOPED AWAY FROM BUILDING & BE MINIMUM GRADIENT.
3. REFER TO FIELD VERIFY LOCATIONS OF DOWNSPUTS.

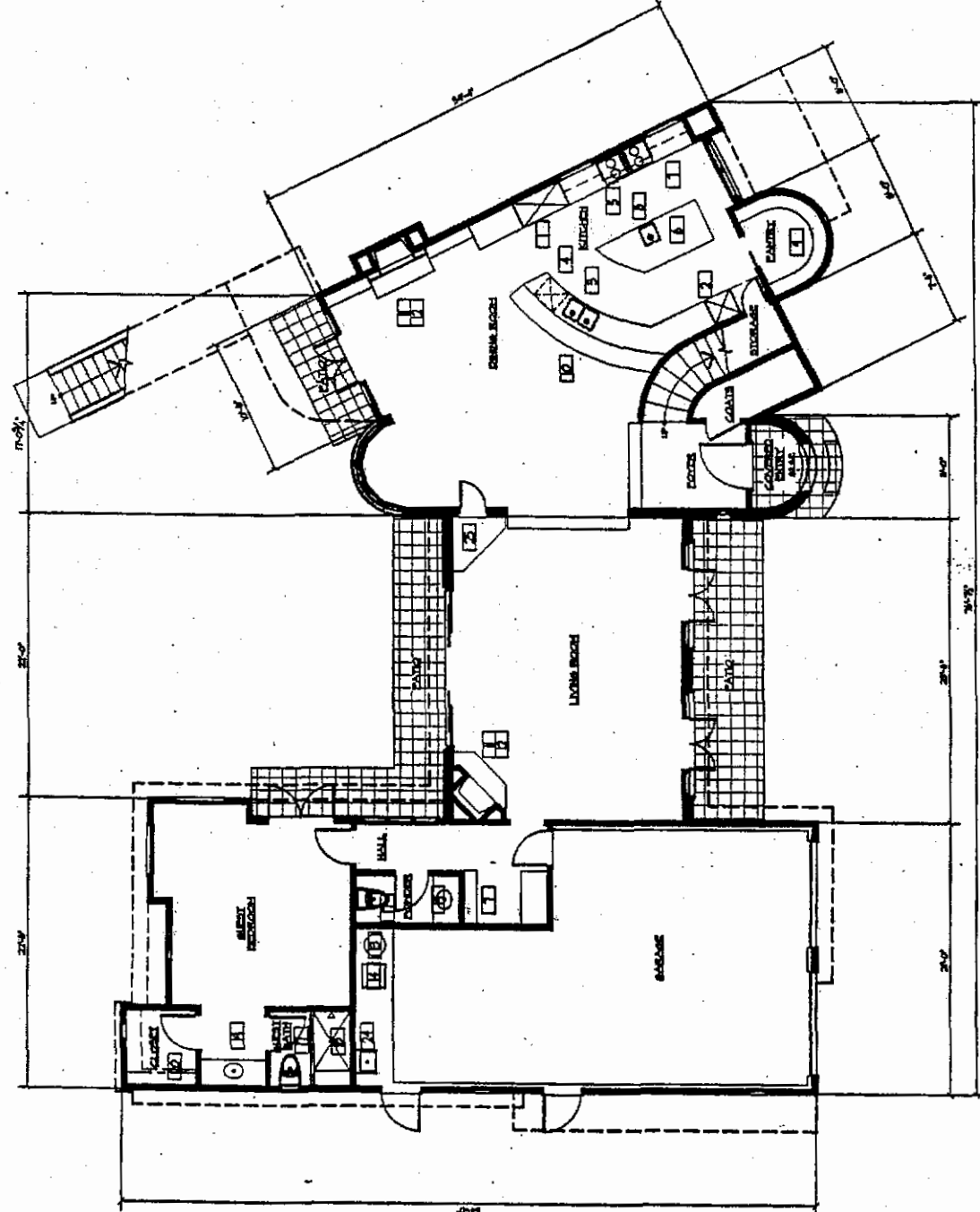
**FIRE NOTES**

1. THESE PLANS SHALL COMPLY WITH CALIFORNIA BUILDING AND FIRE CODES (CBC) AND DISTRICT ORDINANCES.
2. OCCUPANCY R-8, TYPE V-N, SPRINKLERED.
3. DESIGNER/INSTALLER SHALL SUBMIT THREE SETS OF PLANS AND CALCULATIONS FOR THE UNDERGROUND AND OVERHEAD RESIDENTIAL AUTOMATIC SPRINKLER SYSTEM TO THE CITY ENGINEER. ALL PLANS SHALL COMPLY WITH THE UNDERGROUND FIRE PROTECTION SYSTEM INSTALLATION POLICY HANDBOOK FOR THE APPOINTED CALIFORNIA FIRE DEPARTMENT.
4. ADDRESS NUMBERS SHALL BE POSTED AND MAINTAINED AS SHOWN ON THE SITE PLAN. ADDRESS NUMBERS SHALL BE A MINIMUM OF 4 INCHES IN HEIGHT AND OF A COLOR CONTRASTING TO THEIR BACKGROUND.
5. ROOF COVERINGS SHALL BE NO LESS THAN CLASS "B" RATED.
6. THE JOB CORNERS OF THE BUILDINGS AND FIRE STRIKER PLANS AND PERMITS MUST REMAIN ON-SITE DURING INSPECTIONS.
7. BUILDING TO BE PROTECTED BY AN AUTOMATIC SPRINKLER SYSTEM SHALL BE CURRENTLY ADOPTED EDITION OF IBC & IFC ADOPTED STANDARDS OF APPOINTED CALIFORNIA FIRE DEPARTMENT.
8. PUBLIC FIRE HYDRANT REQUIRED WITHIN 250 FEET OF THE BUILDING WITH A MINIMUM 1000 GALLON FIRE FLOW.
9. THIRTY (30) FOOT CLEARANCE TO BE MAINTAINED WITH NON-COMBUSTIBLE VEGETATION AROUND ALL STRUCTURES OR TO THE PROPERTY LINE, WHATEVER IS SHORTER DISTANCE.





FLOOR PLAN LEGEND	
---	2x4 WOOD STUDS @ 16" O.C. UNO.
---	PARTIAL HEIGHT WALL, 2x4 WOOD STUDS @ 16" O.C. UNO.
FLOOR PLAN NOTES	
1	REFRIGERATOR / FREEZER
2	DOUBLE OVEN W/ MICROWAVE
3	DOUBLE BURNER SINK
4	DISHWASHER
5	COOKTOP RANGE W/ DOWN VISIT
6	CORNERCUP WITH BACKPLASH DRAWERS & CABINETS BELOW
7	CORNERCUP WITH BACKPLASH DRAWERS & CABINETS BELOW & OPENED & CLOSED BELLY TANK
8	FRIG SINK
9	PANTRY W/ SHELVES
10	42" WASH COUNTER
11	FRYER / ICE
12	W/ NON-COMBUSTIBLE SURFACE
13	WATER HEATER
14	FORCED AIR UNIT
15	WASHER
16	DRYER
17	TOILET
18	SHOWER (BY TANK, ALSO INCLUDING LIN. VANITY CORNERCUP W/ BACKPLASH, CABINETS BELOW & WASH. PAN.)
19	POLE & SHELVES
20	STAIRS, 12" W/ 12" R-4
21	STAIRS, 12" W/ 12" R-4
22	STAIRS, 12" W/ 12" R-4
23	STAIRS, 12" W/ 12" R-4
24	STAIRS, 12" W/ 12" R-4
25	STAIRS, 12" W/ 12" R-4
26	STAIRS, 12" W/ 12" R-4
27	STAIRS, 12" W/ 12" R-4
28	STAIRS, 12" W/ 12" R-4



FIRST FLOOR PLAN  
SCALE: 1/4" = 1'-0"  
1807 SQ. FT. / GARAGE 623 SQ. FT. 1 N

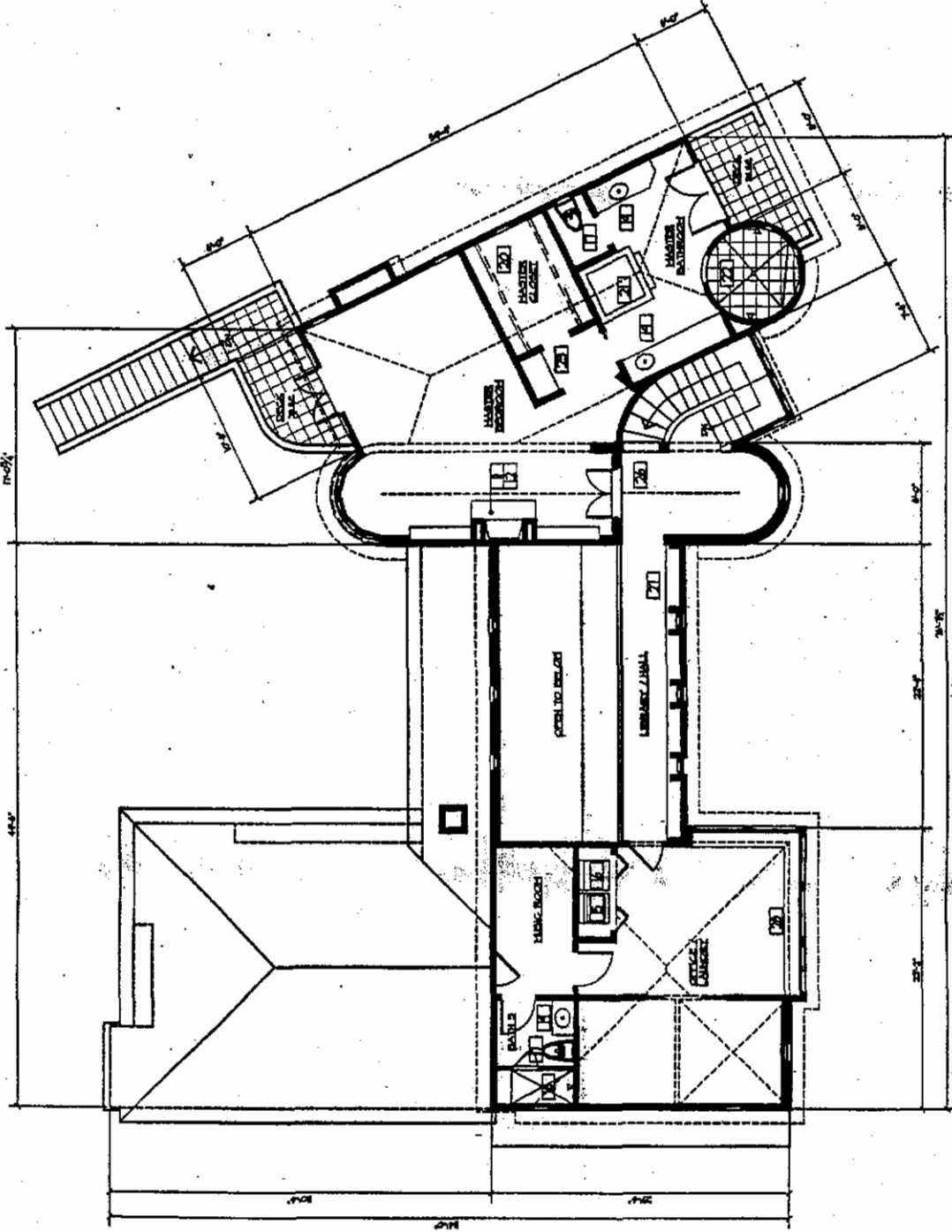


**FLOOR PLAN LEGEND**

304 WOOD STAIRS	6 WOOD, UNIC.
PARTIAL RISER	6 WOOD, UNIC.
PARTIAL RISER	6 WOOD, UNIC.
PARTIAL RISER	6 WOOD, UNIC.

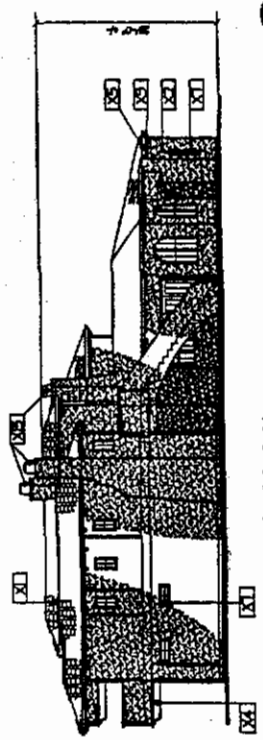
**FLOOR PLAN NOTES**

1. REFRIGERATOR / FREEZER
2. DOUBLE OVEN BY MICROVAVE
3. DOUBLE BURNER SINK
4. DISHWASHER
5. COUNTER SINK BY COFFIN VASE
6. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK
7. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK
8. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK
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41. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK
42. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK
43. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK
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50. COUNTER TOP SINK/LAKE TRAPERS & CABBAGES SINK

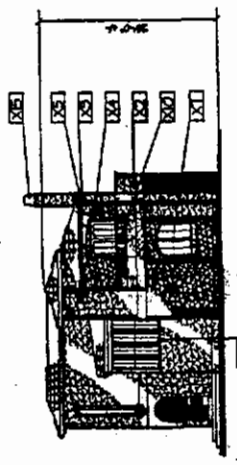


SECOND FLOOR PLAN  
 SCALE: 1/4" = 1'-0"  
 1185 SQ. FT.

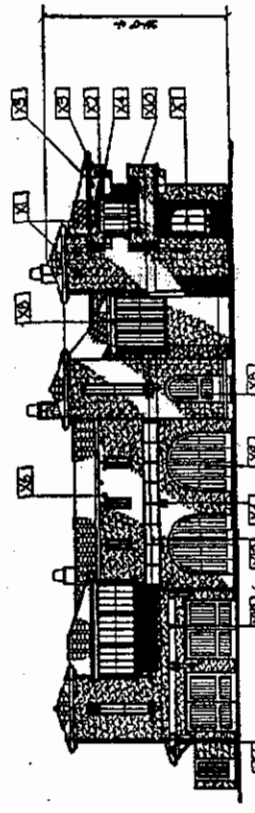
ELEVATION NOTES	
[X1]	CLAY ROOF TILE
[X2]	THIN COAT BRICKS BY MATERIAL COLOR
[X3]	SHAVED POURED RASTER STAIRS
[X4]	HAIR POOD CORNER
[X5]	COPPER ENTRY
[X6]	PRECAST CONCRETE LINEL
[X7]	METAL BALL
[X8]	METAL CLAD WINDOWS
[X9]	POOD PLANK PANEL DOOR
[X10]	METAL CLAD DOORS
[X11]	PREFABRICATION CONCRETE
[X12]	PANLED POOD TRAIL
[X13]	PREFABRICATION CONCRETE PANELS
[X14]	POOD TRAIL
[X15]	POOD BRACKERS
[X16]	COPPER CORNER CAP



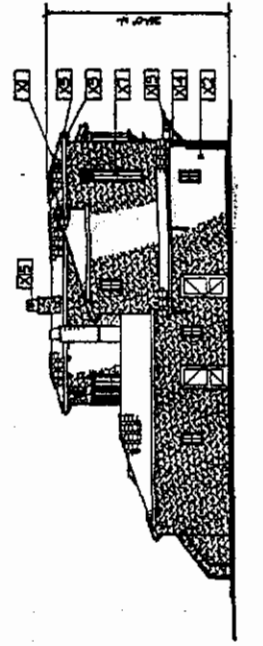
SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



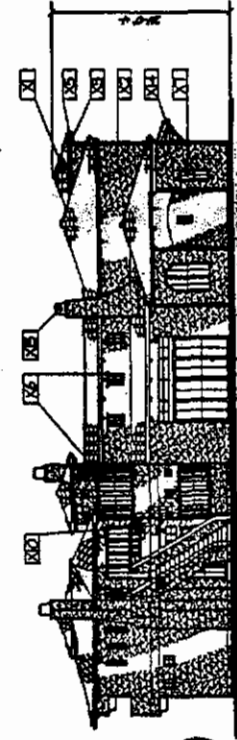
PARTIAL WEST ELEVATION  
SCALE: 1/8" = 1'-0"



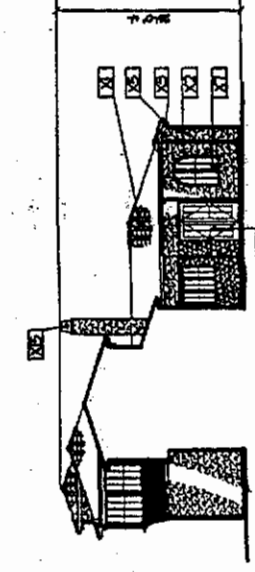
WEST/STREET ELEVATION  
SCALE: 1/8" = 1'-0"



NORTH ELEVATION  
SCALE: 1/8" = 1'-0"



EAST ELEVATION  
SCALE: 1/8" = 1'-0"



PARTIAL SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"

P4  
 ELEVATIONS  
 SHEET NO. 1  
 DATE 10/15/68  
 DRAWN BY C.M.  
 CHECKED BY C.M.  
 PROJECT NO. 100-100000  
 100% F.R. 100% P. 100% P.  
 100% P. 100% P. 100% P.

**MEMORANDUM**

Date: Friday, June 4, 2005

To: Lawrence Kasparowitz, Arch.10,911, Urban Designer

From: Joe Hanna, CEG 1313, County Geologist

Re: Lauren Green/Glen Ceresa Property, 106 Farley Road, Aptos APN 043-102-09,  
Application Number 04-0116

As you requested, we have determined the location of the Coastal Bluff near the Lauren Greene/Glen Ceresa property at 106 Farley Drive, APN 043-102-09. In order to make this determination, we have viewed a series of aerial photographs and have visited three sections of the bluff where there could be interpretive difficulties. We have also reviewed our previous bluff edge determinations near this property to make sure that this determination is consistent with our past practice. The location of the coastal bluff and three hundred foot setback are shown on attached **Exhibit A**.

**Methodology**

The coastal bluff edge was determined using the language of California Code Section 13577: Criteria for Permit and Appeal Jurisdiction Boundary Determinations, which states:

**Coastal Bluff** shall mean those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion;

And,

**Bluff Edge (or Cliff edge):** the upper termination of a bluff, cliff or seacliff. When the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the edge shall be defined as that point nearest the cliff beyond which the downward gradient of the land surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations (from California Code Section 13577).

Following the language of Section 13577, the location of the coastal bluff was determined and represented as a solid line on **Exhibit A**. Only three locations pose some interpretive difficulties (shown on Exhibit A as Capital Letters): the canyon to the west of Sea View Drive (**A**), the small canyon at the end of Farley Road (**B**), and the graded bluff to the southeast of Kenneth Drive (**C**). Our interpretations of the bluff edge at these locations are as follows.

- 1 At point **A**, the terminus of the coastal bluff was determined by following the outside of the narrow, outward curving ridgelines on both sides of the canyon. Use of the "bisection" formula specified in Section 13577 produces spurious results since the boundary between the coastal canyon and the coastal bluff follows an outward curving narrow ridge.
- 2 At point **B**, the coastal bluff follows a ridge along the western side of the canyon until the canyon intersects the coastal bluff. Beyond the intersection, the bluff is set at the "top most riser."
- 3 At point **C**, the graded section of the bluff, the bluff edge is drawn at the pre-grading location, which is within a few feet landward of the current edge of slope.

### Summary

**Exhibit A** shows the location of the coastal bluff near the Greene/Ceresa property. In addition to the location of the coastal bluff, the map shows a 300-foot setback line from the coastal bluff, as well as property boundaries. So that you can see the difference in our interpretation of the coastal bluff, and the location represented by the applicant's geologist, we have indicated the differences between our interpretation and the applicant's geologist on the attached Zinn map as **Exhibit B**.

# 300' Buffer of Coastal Bluff

DRAFT 6/3/05



300 Feet

300' Buffer of Coastal Bluff

Coastal Bluff

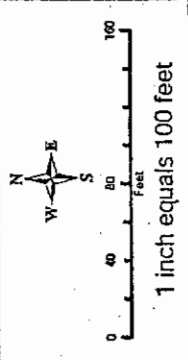
Exhibit A

EXHIBIT **D**  
(page 12 of 27 pages)

12

EXHIBIT B





Proposed  
Development  
Envelope  
(shaded yellow)



**FIGURE 1 - MAP SHOWING TOP OF COASTAL BLUFF, 300-FOOT  
SETBACK LINE & PROPOSED DEVELOPMENT ENVELOPE**

SEE DRAWING PHOTO 2303  
PARCEL LINES ARE APPROXIMATE

FILE 112

# ZINN GEOLOGY

3085 Carriker Lane, Suite B – Soquel, California 95073  
Tel. 831.476.8443 – Fax 831.476.1491 – enzinn@cruzio.com

23 February 2005

2005009-G-SC

Lauren Greene and Glen Ceresa  
c/o Cove Britton  
Matson - Britton Architects  
728 North Branciforte Avenue  
Santa Cruz, California 95062

Re: Summary of analysis for measuring distance to coastal bluff  
Proposed improvements  
106 Farley Drive  
Aptos, California 95003-5140  
Santa Cruz County APN 043-10-209

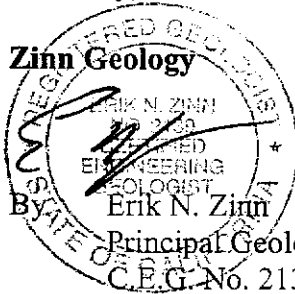
Dear Ms. Greene and Mr. Ceresa:

This letter and the attached figure summarize the results of our analysis for investigating the distance between your proposed improvement envelope and the coastal bluff. The primary objective of our investigation was to ascertain if your proposed improvements are located more than 300 feet from the top of the *coastal bluff*.

We have reviewed some literature addressing the criteria for what constitutes the top of the coastal bluff, and have procured a high-resolution orthophoto topographic base map from the County of Santa Cruz Public Works to measure the distance between the top of the coastal bluff and your proposed improvements. We have plotted a line representing the top of the coastal bluff upon the orthophoto topographic base map, using geologic reasoning and geomorphic criteria. We have also plotted a line representing a 300-foot setback from the top of the bluff and a shaded envelope depicting the extent of your proposed improvements. The resulting figure clearly demonstrates that all of your proposed improvements lie landward of the 300-foot bluff setback line.

Sincerely,

**Zinn Geology**  
ERIK N. ZINN  
REGISTERED  
ENGINEERING  
GEOLOGIST  
By Erik N. Zinn  
Principal Geologist  
C.E.G. No. 2139



Attachments: Figure 1 – Map showing top of coastal bluff, 300-foot setback and proposed development envelope



**FIGURE 1 - MAP SHOWING TOP OF COASTAL BLUFF, 300-FOOT SETBACK LINE & PROPOSED DEVELOPMENT ENVELOPE**

S.C. CO. DRW. PHOTO 2003  
 PARCEL LINES ARE APPROXIMATE





6 April 2005

2005009-G-SC

Lauren Greene and Glen Ceresa  
c/o Cove Britton  
Matson - Britton Architects  
728 North Branciforte Avenue  
Santa Cruz, California 95062

Re: Explanation of basis for analysis for measuring distance to coastal bluff  
Proposed improvements  
106 Farley Drive  
Aptos, California 95003-5140  
Santa Cruz County APN 043-10-209

Dear Ms. Greene and Mr. Ceresa:

This letter and the attached figure provide an explanation of how we derived the location of the coastal bluff and the 300-foot setback line in late February earlier this year (Zinn Geology, 2005). The primary objective of our original investigation was to ascertain if your proposed improvements are located more than 300 feet from the top of the *coastal bluff*.

Your project architect, Cove Britton of Matson – Britton Architects subsequently requested that we provide some supplemental information explaining how we constructed the map and arrived at our conclusion that your property is slightly more than 300 feet away from the top of the coastal bluff.

## BACKGROUND

The map provided with my letter on 25 February 2005 was constructed using the following methods:

1. A digital excerpt of the high-resolution orthophoto topographic base map was derived from the County of Santa Cruz Public Works Department. This provided the best base map for the area needing to be covered, accompanied by reasonably precise topography.
2. Application of a geomorphic criteria to locate the position of the top of the coastal

SC Exhibit D  
(page 16 of 27 pages)

Engineering Geology ⊗ Coastal Geology ⊗ Fault & Landslide Investigations

THINK

106

EXHIBIT F

29

bluff, partially based upon County of Santa Cruz ordinances and California Coastal Commission criteria for defining "Coastal Bluffs".

3. Review of a consultant report and letters issued by the County of Santa Cruz Geologist, Joseph Hanna, for nearby properties to assess how the ordinances and criteria have been utilized over the past several years.

The end result, a map depicting your property, our tracing of the top of the coastal bluff, and a 300-foot setback line is portrayed on Figure 1, is attached to this letter.

The California Coastal Commission criteria for determining the location of a coastal bluff is as follows (from Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 18, Section 13577 (h)(1 & 2):

*"Coastal bluff shall mean:*

- (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and*
- (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).*

*Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations."*

It appears that the California Coastal Commission utilizes a similar criteria for determining the top of bluff location along the seaward edge of the marine terraces, but for the situation where arroyos intersect the coastal bluff, they turn to a complicated geometric method which completely ignores the geologic basis by which the landscape along the coast has evolved. Fortunately, the County of Santa Cruz has a much simpler definition of a coastal bluff which does rely upon some acknowledgment of the geologic processes that have sculpted the bluffs in this region.

Our geomorphic criteria was primarily based upon the County of Santa Cruz definition of a coastal bluff, which is defined in section 16.10.040 (h) Coastal Bluff as a bank or cliff along the coast subject to coastal erosion processes. The County of Santa Cruz Geologist has defined "coastal erosion" in the past (County of Santa Cruz, 1998) as being the result of:

*"Natural forces that cause the breakdown and transportation of earth or rock materials on or along beaches and bluffs. These include landsliding, surface runoff, wave action and tsunamis."*

In essence, our criteria for locating the top of the coastal bluff was dictated by locating the boundary between slopes being eroded by coastal waves (directly and indirectly), and slopes being solely eroded by terrestrial processes.

For most of the alignment of the coastal bluff, the top of the coastal bluff was located by visually noting where the topographic contours became notably steeper when moving seaward from the gently-sloping terrace. The process of projecting the top of the bluff is more difficult when attempting to cross the arroyos which penetrate inland quite a distance from the true coastal bluff. Fortunately, the bottoms of all the arroyos are very gently sloping to flat-bottomed, with the inland portions of the arroyo bottoms maintaining a consistent gradient until they reached the portion of the coastal bluff which has been eroded by coastal waves. It is significant to note that the inland floors of the arroyos have not "graded" to the bottom of the today's coastal bluff, which implies that significant development of the arroyos occurred a very long time ago, when sea-level was lower, and when the pre-historic coastal bluff lay much farther seaward of where today's bluff is located. Keeping the aforementioned information in mind, we utilized the same technique in the arroyos that we used for the terraces; we simply located where the gently sloping arroyo floors "rolled" off steeply seaward, down toward the base of the coastal bluff. In essence, we mapped where the hanging valleys of the arroyos "daylighted" in the coastal bluff.

## PRECEDENT

The County of Santa Cruz Geologist has ruled on several occasions that the arroyos landward of the coastal bluff are not to be classified as coastal bluffs because "there is no direct connection between the primary causative coastal process, wave action, and the processes affecting" the arroyos (County of Santa Cruz, 1997; County of Santa Cruz, 1998; County of Santa Cruz, 2000).

A site of particular note is parcel number 043-104-36 (414 Seaview Drive), where a consulting geologic report has been completed, with commentary on the origins of the arroyo (Rogers E. Johnson and Associates [REJA], 2000) and the County of Santa Cruz Geologist has weighed in on the whether the arroyo constitutes a coastal bluff. REJA (2000) appears to have used a similar criteria in determining where the coastal bluff lies:

"The coastal bluff and beach at Rio Del Mar are more than 200 feet distant. The floor of the

ravine intersects the coastal bluff about 40 feet above the elevation of the beach, forming a "hanging valley". The ravine is therefore unaffected by coastal erosion and wave inundation."

The County of Santa Cruz Geologist commented on the report and the site (414 Seaview Drive) by stating:

"The project is located on the inland section of a coastal canyon and is therefore not a coastal bluff."

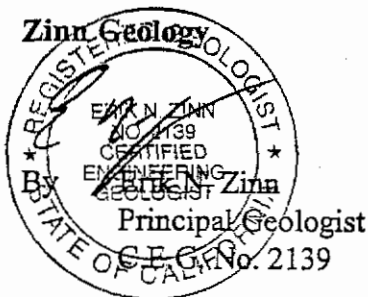
It is interesting to note that we have mapped the "coastal bluff" as coming to within about 100 feet of 414 Seaview Drive (see Figure 1), implying that we have applied the criteria even more conservatively than REJA (2000).

## CONCLUSION

We have reviewed some literature addressing the criteria for what constitutes the top of the coastal bluff, and have procured a high-resolution orthophoto topographic base map from the County of Santa Cruz Public Works to measure the distance between the top of the coastal bluff and your proposed improvements. We have plotted a line representing the top of the coastal bluff upon the orthophoto topographic base map, using geologic reasoning and geomorphic criteria. We have also plotted a line representing a 300-foot setback from the top of the bluff and a shaded envelope depicting the extent of your proposed improvements. The resulting figure clearly demonstrates that all of your proposed improvements lie landward of the 300-foot bluff setback line.

It is important to note that we are only party, to date, to have attempted to plot the position of the coastal bluff on a base map of reasonable resolution, with some reasonable precision and accuracy. Our results are reproducible, because we have applied a uniform criteria which takes geologic processes and geologic history into account.

Sincerely,



Attachments: Figure 1 -- Map showing top of coastal bluff, 300-foot setback and proposed development envelope

CC Exhibit D  
Page 19 of 27 pages

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ZINN GEOLOGY  
EXHIBIT F

## REFERENCES

California Coastal Commission Administrative Regulations, Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 18, Section 13577 (h)

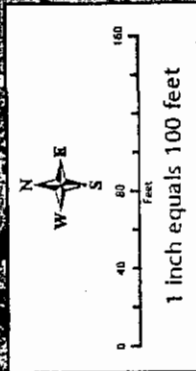
County of Santa Cruz Planning Department, 16 December 1997, Subject: Geologic hazards assessment 97-0794, APN 043-104-06 - Location: 408 Seaview Drive - Owner: Max & Dorothy Malutta, unpublished county letter by County Geologist - Joseph Hanna.

County of Santa Cruz, 27 July 1998, Inter-office correspondence from Joe Hanna Re: Kathryn Brown Property, Coastal Bluff Determination - 416 Seaview Drive Aptos, CA 95003 APPL#98-0464; unpublished government document.

County of Santa Cruz Planning Department, 15 November 2000, Subject: Engineering geology report: Rogers Johnson and Assoc., June 6 2000, File Number C 001014-57 - Soils Engineering Report: Steven Raas and Assoc., August 1999, File Number 9958-SZ 70- C 44, unpublished review letter by County Geologist, Joe Hanna.

Rogers E. Johnson and Associates, 6 June 2000, Geologic investigation - John Hunter Property - 414 Sea View {sic} Drive - Aptos, California - Santa Cruz County APN 043-104-36, unpublished consultant report.





Proposed  
Development  
Envelope  
(shaded yellow)

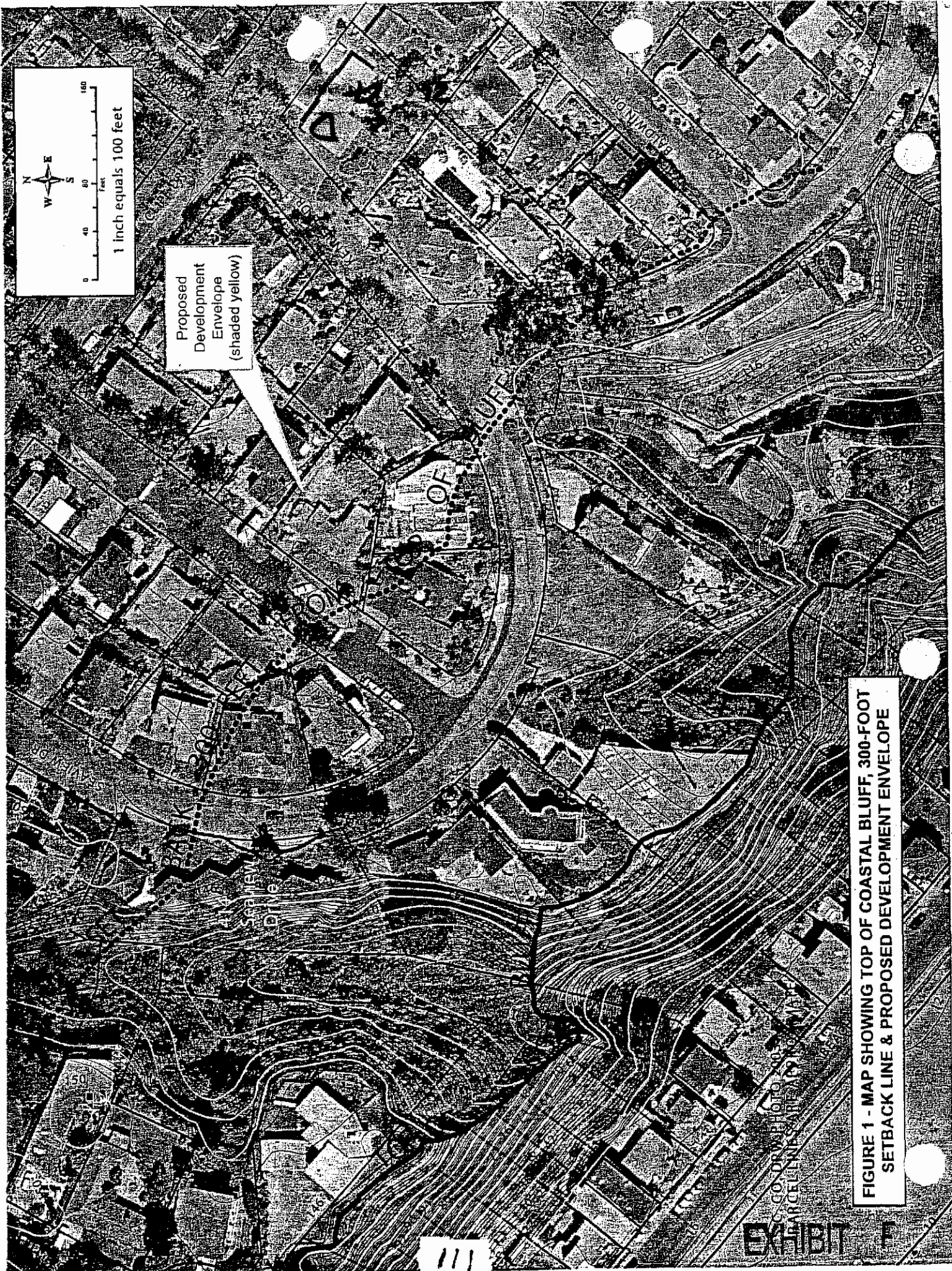


FIGURE 1 - MAP SHOWING TOP OF COASTAL BLUFF, 300-FOOT SETBACK LINE & PROPOSED DEVELOPMENT ENVELOPE

EXHIBIT F  
C.G. DRW. PHOTO 2003  
PARCEL LINES ARE APPROXIMATE

G. E. WEBER GEOLOGIC CONSULTANT

129 Jewell Street, Santa Cruz, CA 95060  
831. 469. 7211 831. 469. 3467 Fax

April 15, 2005

Mr. Cove Britton  
Matson - Britton Architects  
728 North Branciforte Drive  
Santa Cruz, California 95062

Re: Lauren Greene/Glen Ceresa Property 106 Farley Drive, Aptos

Dear Mr. Britton:

Since my initial review of materials I have had the opportunity to review the following reports which appear to shed light on the question of whether the above referenced property lies along a "coastal bluff."

1. Zinn Geology letter report of February 23, 2005
2. Zinn Geology letter report of April 6, 2005
3. Rogers E. Johnson and Associates Geologic Report for: John Hunter Property, 414 Sea View Drive, Aptos
4. Letter from Joe Hanna, County Geologist, dated November 15, 2000 regarding the geologic conditions on the Hunter Property.
5. Geotechnical Investigation for Soil Failure, 416 Sea View Drive Aptos, by Steven Raas & Associates, June 1, 1998.
6. Memo to File from Joe Hanna, County Geologist, dated July 27, 1998 regarding the 416 Sea View Drive property.
7. Letter dated December 16, 1997, from Joe Hanna, County Geologist, to Matson Britton Architects regarding geologic conditions at 408 Sea View Drive.
8. Chapter 8, Subchapter 2, Article 18 sect 13577: **Criteria for Permit and Appeal Jurisdiction Boundary Determinations**

Based on my review of these materials, I find no reason to alter my preliminary conclusions stated in my letter of March 14, 2005:

1. *The project area lies landward of the 300 foot setback line measured from the coastal bluff.*
2. *I believe that the setback is accurately depicted in Figure 1 of the Zinn Geology letter report of February 23, 2005.*

The primary reason for these conclusions is that the **CCC Permit Criteria** referenced in #8 above provides a definition that of "coastal bluff" that cannot include the small ravines that indent the face of the sea cliff. A careful reading of the criteria indicate that if a ravine is less than 500 feet in length it cannot be used to determine "termini" of the bluff edge. Quoting from section 13577 (h) "Coastal Bluffs" bluff line appears to be determined as follows: ( my comments regarding section 13577 (h) are included within the quote.)

***"Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff."*** ... here I have omitted a non relevant section of the definition that deals with the shape of the edge of cliff or bluff - i.e. is it rounded or stepped.

***"The termini of the bluff line, or edge along the seaward face of the bluff shall be defined as point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff."*** This definition describes how termini of the bluff edge are to be determined. In other words, it defines where the coastal bluff ends and a **stream valley** begins. This in turn appears to be the basis for allowing the determination of where **Streams** (as defined in Section 13577 (a) ) intersect the bluff edge and different criteria are to be used for determining jurisdictional areas.

***"Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations."*** This clearly applies to both the "**seaward side**" and the "**inland side**" of the bluff.

The ordinance as written is clear. The minimum length of bluff edge that can be used to make this determination of "**terminus**" is 500 feet. If a reentrant, gully, ravine, etc. in the face of the seacliff is less than 500 feet long it cannot be used to make a determination of where Section 13577 (a) is to be applied. Consequently, these small indentations in the face of the seacliff are not considered as portions of the coastal bluff. This interpretation of the Ordinance appears to be consistent with numerous previous decisions made by the County Planning Department and the County Geologist Joe Hanna; which I reference below.

My secondary reason for my conclusions are determinations made by County Geologist Joe Hanna for the Planning Department. His decisions over the past 10 years should be considered as the precedent for future decisions. All of the properties described below lie directly at the top of steep slopes of small reentrants or ravines eroded into the coastal bluff. These properties are closer to both the edge of the ravine and the coastal bluff, than the subject property on Farley Drive.

1. The Hunter Property, 414 Sea View Drive, Aptos lies directly adjacent to a deep, steep sided ravine that bisects the seacliff or coastal bluff. It is directly at the top of the steep slope. Document #4 (referenced above), page 1, i.; Joe Hanna states:



***"The project is located on the inland section of a coastal canyon and is therefore not a coastal bluff."***

2. The Max and Dorothy Malutta Property, 408 Sea View Drive, Aptos, lies northeast of the Hunter Property with almost the exact same geographic and geologic setting. The Geologic Hazard Assessment Letter of December 16, 1997 (Document #7 referenced above) from Joe Hanna and Dave Carlson makes no mention of coastal bluff.

3. The Dennis Burry (also described as the Kathryn Brown) Property, 416 Sea View Drive, Aptos, lies southwest of the Hunter property in an almost identical geologic and geographic setting. In a letter to file dated July 27, 1998 Joe Hanna County Geologist states:

***"I am writing this memo to indicate why I determined that this site is not a coastal bluff under 16.10 and consequently does not need a coastal permit. A coastal bluff is defined as (16.10.040 (h) Coastal Bluff) a bank or cliff along the coast subject to coastal erosion processes;***

Following a discussion of the definition of Coastal Erosion he states:

***"The property is located in an area of Coastal Hazard Areas, but is a side canyon adjacent to the beach and ocean. The site is not directly affected by wave action, and although affected by runoff and landsliding these are only indirectly triggered by coastal processes.***

His concluding statement is:

***The project site is not a coastal bluff as defined by the ordinance since there is no direct connection between the primary causative coastal process, wave action, and the processes affecting the site."***

#### **Conclusions:**

This series of decisions by the County Geologist are clearly the precedent for decisions of this type. The precedent developed past 10 years is that the County's interpretation of "coastal bluff" does not include the small ravines and reentrants that are incised into the face of the bluff. One of the parcels described above is closer to the face of the seacliff than the subject parcel; and the other two parcels are directly adjacent to steep slopes associated with one of these ravines.

In regard to the definition of the California Coastal Commission - these small ravines and erosional reentrants in the face of the seacliff are not coastal bluffs. It is also clear that if these ravines, etc. are to be regarded as Streams in respect to jurisdictional areas they must be greater than 500 feet in length. Two small ravines intersect the face of the sea cliff in the vicinity of the subject property. The one to the southeast is the closest to the

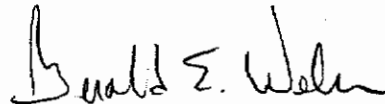
subject property. It is less than 500 feet in length and does fall under either the county's or the Coastal Commission's definition of coastal bluff. The ravine to the northwest is over 500 feet long but on at least 3 occasions has been declared not to be a coastal bluff.

Consequently, my conclusions regarding the subject property are unaltered:

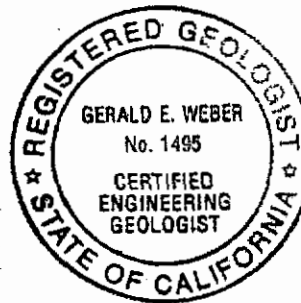
- 1. The project area lies landward of the 300 foot setback line measured from the coastal bluff.*
- 2. I believe that the setback is accurately depicted in Figure 1 of the Zinn Geology letter report of February 23, 2005.*

Please call me if you have any questions.

Very truly yours,



Gerald E. Weber, Ph.D.  
Registered Geologist #714  
Certified Engineering Geologist #1495



April 11, 2005

Cove Britton  
Matson-Britton Architects  
728 North Branciforte Avenue  
Santa Cruz, Ca. 95062

RE: Coastal Bluff status of APN 043-10-209, 106 Farley Drive, Aptos, Ca.

Cove,

I have reviewed a number of documents in order to render a professional judgement on whether or not the property and proposed improvements on APN 043-10-209 fall within an area defined by the County of Santa Cruz as a coastal bluff.

These include:

- 1] the Brief Report and accompanying map from Zinn Geology dated 6 April 2005.
- 2] A Geologic Investigation of 414 Seaview Drive (APN 043-104-36) by Rogers E. Johnson & Associates ( June 2000)
- 3] Geologic Hazards Assessment of 97-0794, APN 043-104-06, 408 Seaview Drive by Joe Hanna (December 1997)
- 4] Geotechnical Investigation for Soil Failure at 416 Seaview Drive by Steven Raas & Associates and accompanying letter from County Geologist Joe Hanna (June 1998)

In Reference 4] Joe Hanna has included a letter to file dated July 27, 1998 for parcel APN 043-104-08 in which he states why the site is not a *coastal bluff* under 16.10 and consequently does not need a coastal permit:

"A *Coastal Bluff* is defined as (16.10(h) Coastal Bluff) a bank or cliff along the coast subject to coastal erosion processes. By reading of the definition of Coastal Bluff makes the definition dependent upon the definition of Coastal Erosion:"

*Natural forces that cause the breakdown and transportation of earth or rock materials on or along beaches and bluffs. These include landsliding, surface runoff, wave action and tsunamis."*

The property Joe Hanna refers to "*is a side canyon adjacent to the beach and ocean. The site is not affected directly by wave action, and although affected by runoff and landsliding, these are only indirectly triggered by coastal processes*".

He concludes with "*The project site is not a coastal bluff as defined by the ordinance since there is no direct connection between the primary causative coastal process, wave action, and the processes affecting this site*".

The topographic map, descriptions and topographic setting of the 106 Farley Drive site indicate that it is not a *coastal bluff* by the same county ordinance. The parcel is approximately 300 feet inland from the top of the coastal bluff, as measured by Zinn Geology on the Santa Cruz County Public Works Department digital high-resolution orthophoto topographic base map. The topography of the site is not complex, and the determination of the location of the edge of the coastal bluff also appears to be relatively straightforward based on landforms and contours. Two separate parcels and Seaview Drive separate the 106 Farley Drive from the coastal bluff above Beach Drive.

Respectfully submitted,

Gary B. Griggs  
Registered Geologist  
Certified Engineering Geologist

**CALIFORNIA COASTAL COMMISSION**

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



**October 27, 2005**

Senator Abel Maldonado  
1356 Marsh Street  
San Luis Obispo, CA 93401

Subject: ***Your Letter of October 18, 2005 Regarding Concerns Expressed by Glen Ceresa of Aptos***

Dear Senator Maldonado:

The staff at the Central Coast District Office of the Coastal Commission has been forwarded the above referenced letter, and appreciates the opportunity to respond to the concerns expressed by Mr. Ceresa. We apologize that you did not receive a response to the earlier inquiry noted by your letter, for which we could not identify any record of receipt.

The matter to which Mr. Ceresa refers involves a disagreement regarding whether development proposed on property within the coastal zone is within an area that has been categorically excluded from coastal development permit requirements in accordance with the provisions of Section 30610(e) of the Coastal Act. At the request of the Santa Cruz County Planning Department, the Commission staff determined that the parcel on which the development is proposed is not located within the categorical exclusion area. We have clearly and consistently communicated this determination to Santa Cruz County, as well as the applicant's representative, on numerous occasions, and were not officially informed of the County's disagreement with this determination until September 6, 2005. Pursuant to Section 13569 of the Commission's Administrative Regulations, a hearing to resolve this disagreement and determine permit requirements will be scheduled at the next hearing in the Central Coast region, which will be the December 14 - 16 Commission meeting in San Francisco. Alternatively, the applicant and the County could accept the Commission staff's determination, and process the required coastal development permit, as previously recommended by Commission staff.

In reflecting upon the events associated with this project, the Commission staff has submitted the following observations and suggestions to both the Santa Cruz County Planning Department and the applicant. First, we have noted that in instances such as these, the County should inform us of any disagreement with a Commission staff determination regarding the application of a categorical exclusion at the time of application intake, so that any disputes regarding permitting and processing requirements can be resolved at the outset. Second, in order to prevent future disagreements, we have encouraged the County to work with us to amend the terms of the categorical exclusion in a manner that clarifies its geographic extent. We hope that continued coordination in this regard will help prevent the type of unfortunate delays and confusion that have resulted in this case.

The Commission staff will continue to do everything in its power to resolve this matter as expeditiously as possible, in a manner consistent with state law and regulations. In light of these efforts, we find the specific accusations and statements submitted by Mr. Ceresa to be both inaccurate and offensive. Mr. Ceresa's interest or involvement in the project is unclear, as our records do not list this individual as the applicant or agent. To my knowledge, Mr. Ceresa

**CCC Exhibit E**  
**(page 1 of 12 pages)**

Senator Maldonado  
October 27, 2005  
Page 2

has not made any effort to contact this office or discuss these matters with the Commission staff.

Please feel free to contact me if you have questions or need more information.

Sincerely,



Steve Monowitz  
District Manager  
Central Coast District Office

cc: Sarah Christie, CCC Legislative Analyst



# California State Senate

ABEL MALDONADO  
FIFTEENTH SENATE DISTRICT

**RECEIVED**

OCT 25 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

October 18, 2005

Ms. Meg Caldwell, Chair  
California Coastal Commission  
45 Fremont, Suite 2000  
San Francisco, CA 94105

Dear Ms. Caldwell:

I previously contacted you on behalf of one of my constituents, Glen Ceresa of Aptos, regarding his concerns with a building permit and a potential coastal zone, but have not yet received a reply. Enclosed is a copy of Mr. Ceresa's concern.

Please direct your response to me at my District Office in San Luis Obispo. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Abel Maldonado".

ABEL MALDONADO  
Senator, 15<sup>th</sup> District

AM:cr

Enclosure

**CCC Exhibit E**  
**(page 3 of 12 pages)**

sep 19 2005 10:50

Ceresa Smile Design

831-438-4436

P.1

805 548 3779

T-598 P.001/001 F-258

STATE CAPITOL  
SACRAMENTO, CA 95814  
(916) 445-3843  
(916) 445-9081 FAX



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OCT 25 2005

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

California State Senate

ABEL MALDONADO  
FIFTEENTH SENATE DISTRICT

RELEASE OF INFORMATION FORM

I have sought the assistance of Senator Abel Maldonado on a matter which may require the release of information contained in records maintained by your agency and which may be prohibited from dissemination under the Privacy Act of 1974.

I hereby authorize you to release all relevant portions of my records and to discuss problems involved in this case with Senator Abel Maldonado and with any authorized member of his staff until the matter is resolved.

Glen Ceresa  
Printed Name

562-70-4080  
Social Security Number

106 Farley  
Address

12/17/47  
Date of Birth

Aptos Ca 95003  
City, State, and Zip

831-476-8009 HOME  
831-438-4411 work  
Telephone

Describe your situation in detail:

The county of Santa Cruz has been ready to issue us a permit to build our dream home for almost a year now. Our property is near the ocean in Aptos. There was originally a question as to whether we where in the "coastal zone". So far, four independent geologists (including Santa Cruz County) have determined that we are not in the coastal zone, and therefore, not subject to Coastal Commission jurisdiction. The County Planning Director and County Council have been unable, on numerous occasions, to get a determination from the Coastal Commission Staff. Only opinion prevails.

The law states that they may take jurisdiction only if there is a disagreement or by the action of two commissioners. Neither is the case but the local staff continues to stonewall the county and act in a capricious and irresponsible manner.

Please help - call the County Planning Director/Coastal Commission. No one should be able to wield that power with out accountability. This is not 1930's Germany.

Signature [Handwritten Signature]

Date 8/19/05

100 PASAD DE SAN ANTONIO, SUITE 206  
SAN JOSE, CA 95113  
(408) 277-9468  
(408) 277-9464 FAX

1386 MARSH STREET  
SAN LUIS OBISPO, CA 93401  
(805) 549-3784  
(805) 549-3778 FAX

CCC Exhibit E  
(page 4 of 12 pages)



**CALIFORNIA COASTAL COMMISSION**

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



**September 23, 2005**

Mark Deming  
Assistant Planning Director  
Santa Cruz County Planning Department  
701 Ocean Street  
Santa Cruz, CA 95060

Subject: **04-0116, 106 Farley Drive, Aptos, APN 043-102-09**

Dear Mr. Deming,

I received your letter dated September 16, 2005 on September 21, 2005, after returning from a site inspection of the subject property with the Commission staff's geologist. This site inspection confirmed the Commission's staff's earlier determination that the entirety of Assessor Parcel No. 043-102-09 is within 300 feet of the top edge of the coastal bluff. As a result, the development proposed for the site is not excluded from coastal development permit requirements, and is appealable to the Coastal Commission. This determination was previously provided to County staff on numerous occasions, including in letters dated March 30, 2005, August 4, 2005, and September 14, 2005.

Your letter states that in our telephone conversation of September 14, 2005, I indicated that the Commission's mapping division had not reviewed your requests for technical determinations. That is not the case. Our determinations have been closely coordinated with the Commission staff's geologist and mapping division. During our conversation, I stated that no map had been drawn. Such a map is being prepared, and will be provided to all interested parties. To the degree your letter implies that the County issued the exclusion based on a lack of technical feedback from the Commission staff, I believe that our letters have clearly represented the Commission staff's position on the matter. As stated in our letter of August 4, 2005, we considered the information provided by the County geologist in making our determination.

Your letter also states that you are troubled by language in our reply that references the location of the parcel as applying to the determination regarding the applicability of the exclusion. As we discussed, our letter referenced the parcel because we determined that the entirety of the lot was within 300 feet of the bluff. Thus, in this case, there is no conflict with your position that the location of the development, rather than the position of the parcel, must be used to determine whether the exclusion applies. In other cases where development is proposed on parcels bisected by jurisdictional boundaries, project specific review should be used to determine appropriate processing procedures.

In this case, the Commission staff was originally informed that the County staff accepted our determination. We were not officially noticed of the County's disagreement until your letter of September 6, 2005. The next possible Coastal Commission hearing to resolve this disagreement is the November 16-18, 2005 meeting in Los Angeles. You will be provided with a copy of the Commission staff's report analyzing the issues approximately two weeks prior to the hearing. I would be happy to discuss these matters with you in the meantime.

**CC Exhibit E**  
**(page 5 of 12 pages)**

Mark Deming  
106 Farley Drive Determination  
September 23, 2005  
Page 2

In future cases, I recommend that the County inform us of disagreements with our jurisdictional determinations earlier in the local review process, so any hearings required to resolve procedural issues can occur in a more timely fashion. The County may also want to consider amending its exclusion to adjust the basis under which its boundaries are determined. We would welcome the opportunity to meet with you and your staff to discuss these options, and to review the maps and procedures being applied to jurisdictional determinations. I look forward to working with the County to improve this process, and our coordination overall.

Sincerely,



Steve Monowitz  
District Manager  
Central Coast District Office

cc: Lauren Greene  
Cove Britton  
Ellen Pirie

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SEP 21 2005



CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
TOM BURNS, PLANNING DIRECTOR

September 16, 2005

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

RE: 04-0116, 106 Farley Drive, Aptos, APN 043-102-09

Dear Mr. Monowitz,

This letter is to memorialize our telephone discussion of September 14<sup>th</sup> regarding the Coastal Commission's review of the County-issued exclusion for the referenced property, and to clarify the County's position regarding the issuance of the building permit.

The County has not issued the building permit for the replacement residence for 106 Farley Drive nor do we intend to do so in the near future. During this period, it is expected that Coastal Commission staff from the 'mapping section' will perform the necessary inspections and measurements to determine where the coastal exclusion boundary lies in relation to the proposed development. As you know, the County has made two previous requests for this technical determination (the first on March 29, 2005 by telephone per County Code Section 13.20.085 and the second by letter on June 14, 2005). According to your information, neither one of our requests was formally reviewed by the 'mapping section'. Absent any technical information from the Coastal Commission, our issuance of the exclusion was based on the only available technical information (the analysis by the County Geologist, based on CCR Section 13577).

I am hoping that a determination can be reached in a relatively short time. If the Commission's 'mapping section' disagrees with our finding, we expect that the item will be placed on the next available Commission agenda. If this determination is unreasonably delayed, our position regarding the issuance of the building permit will be re-assessed.


I continue to be troubled by the language used in your reply to our exclusion where you referenced the 'parcel' as somehow important in the determination of the exclusion. Again, I wish to remind you that our certified LUP Implementation Plan does not, in any instance,

**CCC Exhibit E**  
**(page 7 of 12 pages)**

refer to parcel boundaries in the context of appealable area or exclusions. If it is determined that the development lies within the exclusion area, then the exclusion applies and we will issue the building permit.

Please let me know as soon as possible the outcome of the 'mapping section' review. Also, I would appreciate an immediate response as to when the Coastal Commission will hear this item. Thank you for your consideration.

Sincerely,

  
Mark Deming, AICP  
Assistant Planning Director

cc: Lauren Green  
County Counsel  
Ellen Pirie

**CALIFORNIA COASTAL COMMISSION**

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



September 14, 2005

Mark Deming, Assistant Planning Director  
Santa Cruz County Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

**Subject: 04-0116 (Greene SFD on Farley Drive in South Santa Cruz County) – Coastal Permit Processing Dispute**

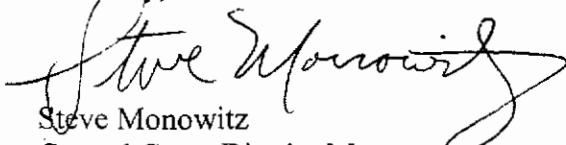
Dear Mr. Deming:

We received your letter dated September 6, 2005 in which you disagree with the Executive Director's opinion concerning the correct processing category for the above-referenced application. Because the County and the Executive Director are not in agreement, this matter will need to be decided by the Coastal Commission (pursuant to CCR Section 13569(d) and LCP Section 13.20.085). You will be informed in advance when the Commission hearing on this matter is scheduled.

In the interim, please note that the Executive Director's determination was based on a review of the topographic maps and other materials provided by the County that appeared to show the entire parcel within 300 feet of the coastal bluff. In the next few weeks, our technical services staff will do additional field work to verify the precise location of the top edge of the coastal bluff and associated appeal boundary per CCR Section 13577 and the LCP. As soon as we have that information and a graphic depiction, we will provide it to you.

You indicate in your letter that the County intends to issue the building permit for the subject application. Please note that LCP Section 13.20.085 specifically requires that all processing of this permit application be stayed until after the Commission has made its decision. Accordingly, permits may not be issued. If any permits have been issued in the time since your letter, please take whatever action necessary to undo such issuance. Please feel free to contact me, or staff analyst Dan Carl, if you have any questions or would like to discuss this matter further.

Sincerely,

  
Steve Monowitz  
Central Coast District Manager

cc: Lauren Greene (applicant)  
Cove Britton (applicant's representative)  
Ellen Mellon

**CCC Exhibit E**  
**(page 9 of 12 pages)**



# COUNTY OF SANTA CRUZ

## PLANNING DEPARTMENT

701 OCEAN STREET, 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123  
TOM BURNS, PLANNING DIRECTOR

September 6, 2005

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CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

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

RE: Notice of Coastal Exclusion No. 04-0116, 106 Farley Drive, Aptos, APN 043-102-09

Dear Mr. Monowitz,

We have received your notice of deficiency for the above project. We disagree with your conclusion that the project is not excludable because the subject parcel [emphasis added] is located within 300 feet of a coastal bluff. We had previously forwarded information to your office (copies attached) from geologists, including the County's geologist, Joe Hanna, that indicates the proposed project is more than 300 feet from the edge of the coastal bluff, and is thus within the residential exclusion area. Although we received a letter from your office that disagreed with the conclusion that the project was within the exclusion area, we did not receive any technical documentation in support of that opinion.

In reaching our conclusion that the project was within the residential exclusion area, we relied on the County's Coastal Zone Regulations, Chapter 13.20 of the County Code. Section 13.20.071 specifies that the residential development-one to four unit exclusion is for projects [emphasis added] located within the Urban Services Line or Rural Services Line where designated as a principal permitted use. The definition of project is "any development as defined in this section" (13.20.040), and the definition of development is, verbatim, identical to the definition in the Coastal Act. Nowhere is there any reference to parcel boundaries. Because the proposed residential structure, which constitutes the project, is located within the residential exclusion area, we issued the Notice of Coastal Exclusion.

Based on this, we intend to issue the building permit for the replacement dwelling when all of the reviews have been completed. Thank you for your consideration.

Sincerely,

Mark Deming, AICP  
Assistant Planning Director

Attachments

cc: Lauren Green  
County Counsel

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(page 10 of 12 pages)

**CALIFORNIA COASTAL COMMISSION**

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



August 4, 2005

Mark Deming, Assistant Planning Director  
Santa Cruz County Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

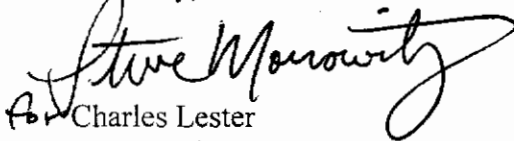
Subject: **04-0116 (Greene SFD on Farley Drive in South Santa Cruz County) – Request for Executive Director’s Determination**

Dear Mr. Deming:

As you are aware, the Executive Director previously responded to the County’s request for a determination on the 300-foot setback line in relation to the coastal bluff, and its relation to the above-referenced application (pursuant to CCR Section 13569 and LCP Section 13.20.085). In short, the Executive Director determined that the subject parcel is located within the 300 feet of the top of the coastal bluff and that, as a result: (a) it does not meet the criteria of LCP Section 13.20.071(b)(2) and thus cannot be excluded from the requirement for a coastal development permit (CDP); and (b) any CDP approval at that location can be appealed to the Coastal Commission (per LCP Section 13.20.122(a)); please refer to our March 30, 2005 letter to this effect.

You recently submitted additional materials developed by the County’s geologist regarding the bluff setback line, and asked for a new Executive Director determination in light of the additional materials submitted. The purpose of this letter is to inform you that our technical services staff have reviewed the additional materials, and these materials do not alter the Executive Director’s original conclusion. Thus, this letter and the conclusion above constitute the Executive Director’s opinion concerning the County’s Section 13569 and Section 13.20.085 request. We hope that this information helps the County to move forward with application processing at this site.

Sincerely,

  
Charles Lester  
Deputy Director

cc: Lauren Greene (applicant)  
Cove Britton (applicant’s representative)

CC Exhibit **E**  
Page 11 of 12 pages

**CALIFORNIA COASTAL COMMISSION**

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



March 30, 2005

Mark Deming, Assistant Planning Director  
Santa Cruz County Planning Department  
701 Ocean Street, 4<sup>th</sup> Floor  
Santa Cruz, CA 95060

**Subject: 04-0116 (Greene SFD on Farley Drive in South Santa Cruz County) – Request for Executive Director’s Determination**

Dear Mr. Deming:

On March 30, 2005 you called the Central Coast District office of the California Coastal Commission on behalf of Santa Cruz County to formally request an Executive Director’s opinion (pursuant to Section 13569 of the Commission’s regulations and Section 13.20.085 of the County’s Local Coastal Program (LCP)) as to whether residential development proposed at 106 Farley Drive (APN 043-102-09) in south Santa Cruz County is categorically excluded from coastal development permit (CDP) requirements under the County’s LCP. We understand that the County has determined that the development is not excluded from CDP requirements, but that the applicant is disputing this County determination.

We note that this dispute is not new, that the County previously requested advice on this same question on February 28, 2005, and that we advised the County and the applicant on March 2, 2005 that the project site is located within the 300 feet of the top of the coastal bluff and that, as a result: (a) it does not meet the criteria of LCP Section 13.20.071(b)(2) and thus cannot be excluded from the requirement for a CDP; and (b) any CDP approval at that location can be appealed to the Coastal Commission (per LCP Section 13.20.122(a)).

We have again reviewed the available administrative record for this item and have come to the same conclusion. Thus, this letter and the conclusion above constitute the Executive Director’s opinion concerning the County’s Section 13569 and Section 13.20.085 request. Because the County and the Executive Director are in agreement on this determination, there is no further recourse for the applicant pursuant to Sections 13569 and 13.20.085.

Please feel free to call me or Dan Carl if you have further questions about this opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles Lester".

Charles Lester  
Deputy Director

cc: Lauren Greene (applicant)  
Cove Britton (applicant’s representative)

CC Exhibit E  
Page 12 of 12 page(s)