

CALIFORNIA COASTAL COMMISSION

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

Th13a



Filed: 9/13/2005
49th Day Waived: 9/26/2005
Staff: Susan Craig
Staff report: 4/20/2006
Hearing date: 5/11/2006
Hearing item number: Th13a

APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION**Appeal number**A-3-SCO-05-066, Ubaldi SFD Addition**Applicants**Ronald & Esther Ubaldi**Appellants**Friends of Sand Dollar Beach**Local government**Santa Cruz County**Local decision**Approved with Conditions (August 10, 2005)**Project location**807 The Shore Line, La Selva Beach (Santa Cruz County)

Project descriptionRemodeling and construction of additions to a single-family dwelling. Additions total approximately 575 square feet and include an expanded kitchen, family room, living room and master suite; enclosure of an existing carport to create a garage; construction of a pier foundation; removal and reconstruction of a portion of an existing retaining wall, and installation of a new retaining wall along the northern property line.

File documentsSanta Cruz County Certified Local Coastal Program (LCP); Santa Cruz County CDP Application File 04-0018; Geotechnical Review Memorandum dated April 17, 2006 (California Coastal Commission Staff Geologist – see this memorandum for list of geotechnical documents included in the file)

Staff recommendation ...No Substantial Issue

Summary of staff recommendation: Santa Cruz County approved a proposal to remodel and construct additions totaling 575 square feet to an existing three-bedroom residence located at 807 The Shoreline in the La Selva Beach area of Santa Cruz County. The edge of a coastal bluff, which was altered by massive grading in the 1960s to allow for construction of the subdivision within which the project site is located, is adjacent to the northwestern (rear) property line. Portions of the existing residence are located as close as 15 feet from the current bluff edge.

The approved project includes remodeling of and additions to an existing three bedroom single-family dwelling, including second-story additions to the family room, bathroom, kitchen, construction of a master suite on the second level, and excavation on the lower level to allow the construction of a living room and a one-car garage (which will replace an existing carport). The additions will add approximately 575 habitable square feet to the residence. The approved project also includes construction of a two-to-three-foot high retaining wall along the northern property line, and replacement

**California Coastal Commission**

May 11, 2006 Meeting in Costa Mesa

Staff: S. Craig Approved by:

G:/Central Coast/Staff Reports/CCC Meeting Packet/2006/05/Th13a-5-2006.doc

Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 2

of a portion of an existing retaining wall, as well as installation of buried foundation piers.

The Appellant contends that the approved additions to the house will be located seaward of the required 100-year bluff setback line, inconsistent with the requirements of the LCP. The Appellant contends that the County's determination of the 100-year setback of 25 to 28 feet from the bluff edge is incorrect and that the required setback is equal to 83 feet. The Appellant also contends that prior grading of the site, the new pier foundation, the approved retaining walls, and foundational and support measures for the second-story additions qualify as protection measures for the approved additions to the existing single-family dwelling and should not be taken into consideration in determining the 100-year setback.

The Commission's staff geologist reviewed numerous documents relating to the project, performed a site visit, and determined that the County-approved setback distances of 25 to 28 feet are appropriate and that the approved additions will not be threatened by coastal erosion during the next 100 years. Additionally, massive grading done in 1966 to form the Sand Dollar subdivision does not qualify as a "protective measure" under the LCP. The approved retaining walls are located inland of the required 100-year setback and do not serve as bluff-top protective measures. The approved piers will provide support for the portion of the existing residence that is located seaward of the required setback line, but are not necessary to support the approved additions. Foundational and other support structures for the additions do not constitute protective measures from bluff-top erosion and are located outside of the 100-year setback line.

Thus, Staff recommends that the Commission finds that no substantial issue exists with respect to this project's conformance with the certified LCP and thereby declines to take jurisdiction over the coastal development permit for the project.

Report Contents

	page
I. Appeal of Santa Cruz County Decision	3
A. Santa Cruz County Action	3
B. Appeal Procedures	3
C. Appellant's Contentions	4
II. Staff Recommendation on Substantial Issue.....	4
III. Project Location & Description	5
IV. Substantial Issue Findings	5
A. Geologic Hazards Policies and Zoning Code Sections.....	5
B. Geologic Hazards Issues	7
V. Exhibits	
Exhibit 1.....County Staff Reports, Findings, and Conditions	
Exhibit 2.....Letter from Sand Dollar Beach Architectural Review Committee	
Exhibit 3.....Appellant's Contentions	
Exhibit 4.....Supplement to Contentions from Appellant's Attorney	
Exhibit 5.....Applicants' Attorney's Response to Supplemental Contentions	



Exhibit 6.....Location Map

Exhibit 7.....Project Plans

Exhibit 8.....Aerial Photograph of Project Site

Exhibit 9.....Geotechnical Review Memorandum: Mark Johnsson, Commission Staff Geologist

I. Appeal of Santa Cruz County Decision

A. Santa Cruz County Action

Santa Cruz County approved this proposed project subject to multiple conditions on August 10, 2005 (see Exhibit #1 for the County's staff reports, findings and conditions on the project). The County's approval was by the Planning Commission following an appeal of the Zoning Administrator's original approval. The appeal to the Planning Commission was based on visual and geological impacts. The Planning Commission's approval was not appealed locally (i.e., to the Board of Supervisors).¹

Notice of the Planning Commission's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on August 29, 2005. The Coastal Commission's ten-working-day appeal period for this action began on August 30, 2005 and concluded at 5pm on September 13, 2005. One valid appeal from "Friends of Sand Dollar Beach" was received during the appeal period (see below).

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is located seaward of the first public road and is located within 300 feet of the top of the coastal bluff.

The grounds for appeal under Section 30603 are limited to allegations that the development does not

¹ Normally local appeals must be exhausted before an appeal can be made to the Coastal Commission. In Santa Cruz County's case, the appeals process is that Zoning Administrator decisions can be appealed to the Planning Commission, and Planning Commission decisions can be appealed to the Board of Supervisors (and the Board can also independently elevate an item to the Board for consideration). However, because Santa Cruz County charges a fee for local coastal permit appeals to the Board of Supervisors, aggrieved parties can appeal lower decisions directly to the Commission. Since the appeal in this case is of a Planning Commission decision, the Appellants have availed themselves of the direct appeal route.



conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. Under Section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is so located and thus this additional finding would need to be made in a *de novo* review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicants, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the *de novo* stage of an appeal.

C. Appellant’s Contentions

The Appellant (“Friends of Sand Dollar Beach”) includes several neighbors located inland of the Ubaldi site who will have their private views slightly impacted by the approved project (see Exhibit #2 for the letter from the Architectural Review Committee of the Sand Dollar Beach Homeowners Association). The Appellant contends that the approved project is inconsistent with the LCP because it does not comply with the LCP’s required 25-foot/100-year setback (whichever is greater). The Appellant contends that prior grading of the site, the new pier foundation, and the approved retaining walls qualify as protection measures for the approved additions to the existing single-family dwelling and should not be taken into consideration in determining the 100-year setback. The Appellant also contends that the County’s determination of the 100-year setback of 25 to 28 feet is incorrect and that the required setback is equal to 83 feet, based on expert evidence. See Exhibit #3 for the Appellant’s contentions and Exhibit #4 for a supplement to these contentions provided by the Appellant’s attorney. Please see Exhibit #5 for a response from the Applicants’ attorney to the supplemental contentions in Exhibit #4.

II. Staff Recommendation on Substantial Issue

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

Motion. I move that the Commission determine that Appeal Number A-3-SCO-05-066 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.



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

Resolution to Find No Substantial Issue. The Commission hereby finds that Appeal Number A-3-SCO-05-066 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

III. Project Location & Description

The project site is located at 807 The Shore Line within the Sand Dollar Beach Planned Unit Development in La Selva Beach in the southern portion of Santa Cruz County (see Exhibit #6 for site location). The edge of a coastal bluff is adjacent to the northwestern (rear) property line. Portions of the existing residence are located as close as 15 feet from the current bluff edge (see Exhibit #7 for site plan and project plans). Massive grading of this bluff area, which lowered the bluff by nearly 40 feet, took place in 1966 (prior to the passage of the Coastal Act) in order to establish the Sand Dollar subdivision. A single-family dwelling and a row of townhouses are located seaward of the project site (see Exhibit #8).

The approved project includes remodeling of and additions to an existing three bedroom single-family dwelling, including second-story additions to the family room, bathroom, and kitchen, construction of a master suite on the second level, and excavation on the lower level to allow the construction of living room and a one-car garage (which will replace an existing carport). The additions will add approximately 575 habitable square feet to the residence. The approved project also includes construction of a two-to-three-foot high retaining wall along the northern property line to allow the grade around the master bedroom and bathroom to be lowered slightly, which will allow for access around the outside of the master suite. A portion of an existing retaining wall along the new first-floor living room will be replaced.

IV. Substantial Issue Findings

A. Geologic Hazards Policies and Zoning Code Sections

The Appellant cites the following Santa Cruz County Land Use Plan (LUP) Policies and Zoning Code Sections in the appeal:

LUP Policy 6.2.11 – Geologic Hazards Assessment in Coastal Hazard Areas:



Require a geologic hazards assessment or full geologic report for all development activities within coastal hazards areas, including all development activity within 100 feet of a coastal bluff. Other technical reports may be required if significant potential hazards are identified by the hazards assessment.

Policy 6.2.13 – Exception for Foundation Replacement and/or Upgrade:

Foundation replacement and/or foundation upgrades that meet the definition of development activity shall meet the 25-foot minimum and 100-year stability setback requirements. An exception to those requirements may be granted for existing structures that are located partly or wholly within the setback if the Planning Director determines that: 1) the area of the structure that is within the setback does not exceed 25% of the area of the structure, or; 2) the structure cannot be relocated to meet the setback due to inadequate parcel size.

Zoning Code Section 16.10.070(h) – Permit Conditions Regarding Geologic Hazards – (h) Coastal Bluffs and Beaches:

1. Criteria in Areas Subject to Coastal Bluff Erosion: Projects in areas subject to coastal bluff erosion shall meet the following criteria:

(i) for all development and for non-habitable structures, demonstration of the stability of the site, in its current, pre-development application condition, for a minimum of 100 years as determined by either a geologic hazards assessment or a full geologic report.

(ii) for all development, including that which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.

(iii) the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers.

(iv) foundation replacement and/or foundation upgrades that meet the definition of development per Section 16.10.040(s) and pursuant to Section 16.10.040(r), shall meet the setback described in Section 16.10.070(h)(1), except that an exception to the setback requirement may be granted for existing structures that are wholly or partially within the setback, if the Planning Director determines that:

- a) the area of the structure that is within the setback does not exceed 25% of the total area of the structure, OR b) the structure cannot be relocated to meet the setback because of inadequate parcel size.*
- (v) additions, including second story and cantilevered additions, shall comply with the minimum 25 foot and 100 year setback.*



(vi) The developer and/or the subdivider of a parcel or parcels in an area subject to geologic hazards shall be required, as a condition of development approval and building permit approval, to record a Declaration of Geologic Hazards with the County Recorder. The Declaration shall include a description of the hazards on the parcel and the level of geologic and/or geotechnical investigation conducted.

(vii) approval of drainage and landscape plans for the site by the County Geologist.

(viii) service transmission lines and utility facilities are prohibited unless they are necessary to serve existing residences.

(ix) All other required local, state and federal permits shall be obtained.

Although not directly cited by the Appellant, LUP Policy 6.2.12 is relevant because it sets the standard requirements for setbacks from coastal bluffs:

LUP Policy 6.2.12 – Setbacks from Coastal Bluffs:

All development activities, including those which are cantilevered, and non-habitable structures for which a building permit is required, shall be set back a minimum of 25 feet from the top edge of the bluff. A setback greater than 25 feet may be required based on conditions on and adjoining the site. The setback shall be sufficient to provide a stable building site over the 100-year lifetime of the structure, as determined through geologic and/or soil engineering reports. The determination of the minimum 100-year setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed shoreline or coastal bluff protection measures.

B. Geologic Hazards Issues

1. Determination of 100-Year Setback Line

The Appellant contends that the approved additions to the house will be located on the coast side of the 100-year setback line, inconsistent with LUP Policies 6.2.12 and 6.2.13 and Zoning Code Sections 16.10.070(h)(1)(i) and 16.10.070(h)(1)(ii). These regulations require that new development be set back a minimum of 25 feet from the edge of the bluff or the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.

The Applicants' geotechnical consultant (Haro, Kasunich and Associates, Inc. (HKA)) determined the average erosion rate at the site to be approximately three inches per year and recommended a 25-foot minimum setback² for the great majority of the property, and a 28-foot setback along a small area of the southernmost portion of the property where the bluff-top turns at a sharp angle due to massive grading of the bluff area undertaken before the Coastal Act went into effect (the County conditioned its approval

² 3 inches per year x 100 years = 300 inches; 300 inches/12 inches/foot = 25 feet.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 8

to require that this 28-foot setback area be shown on the site plan – see Exhibit #1, page 9). The HKA setback determination was based on a qualitative slope stability analysis, including sites visits and review of available data pertinent to the site and the vicinity. The County’s staff geologist concurred with HKA’s findings.

The Appellant retained a geotechnical consultant (Gary B. Griggs, Ph.D.), who determined that the appropriate erosion rate for this area was an average of 10 inches per year, which in 100 years would cause the bluff edge to retreat 83 feet³, approximately 58 feet further inland than the analysis performed by the Applicants’ geotechnical consultant. This setback determination was based on a site visit, review of aerial photos taken of the site over a period of years, and FEMA maps.

The Commission’s staff geologist visited the site on April 13, 2006 and additionally reviewed numerous documents relating to the project, as well as oblique aerial photographs of the Sand Dollar Beach subdivision available on the California Coastal Records web site.⁴ The analysis of these documents is presented in a Geotechnical Review Memorandum attached as Exhibit #9. This memorandum states that there has been little or no erosion in the 39 years since the “as built” topographic map was prepared of the “Finished Contour Lines of Sand Dollar Beach,” after massive grading was undertaken to create the Sand Dollar subdivision. The conclusion is that although “neither that applicant nor the appellant have demonstrated a well-justified measured erosion rate for the Ubaldi parcel, I think that a rate closer to three inches per year than 10 inches per year is justified for evaluating stability over the next 100 years.” This conclusion is based primarily on the fact that the topographic information from 1967 is nearly identical to that on a 2003 map prepared by the County, i.e. there is no discernible difference in the position of the bluff edge or in the shape of the slope between these two references separated by 36 years. The Commission’s staff geologist interprets this to mean that there has been no measurable erosion between 1967 and 2003 on the slope directly below the Ubaldi residence, and further notes that the high erosion rate estimated by Dr. Griggs based on aerial photographs taken in 1953 and 1994 is probably due to the massive grading of the bluff top, bluff edge, and bluff face in 1966 to create the Sand Dollar subdivision. The Commission’s staff geologist’s final conclusion is that the approved additions, which are set back more than 25 feet, will not be threatened by coastal erosion over the next 100 years. For all the above stated reasons, this aspect of the appeal raises no substantial issue in regard to conformity of the approved development with the geologic hazards policies and zoning code sections of the certified County of Santa Cruz LCP.

³ 10 inches per year x 100 years = 1,000 inches; 1,000 inches/12 inches/foot = 83.3 feet.

⁴ <http://www.californiacoastline.org/>



2. 28-Foot Required Setback at Southernmost Portion of the Property

The Appellant contends that the southernmost second-story addition does not comply with the 28-foot setback requirement at the southernmost portion of the property (see Exhibit #7 page 1).

According to the Applicants' geotechnical consultant, the required setback at the southernmost portion of the property increases from 25 to 28 feet because of the unusual configuration of the bluff-top in relation to the parcel and the existing residence on the parcel (the house is skewed in relation to the bluff edge, with the southernmost portion of the house located closest to the bluff edge and the northernmost portion of the house located at the greatest distance from the bluff edge – see Exhibit #7 page 1). The County required that this 28-foot setback be shown on the plans as a condition of approval. The line marked as "Section D-D" on page 1 of Exhibit #7 shows the measurement of the 28-foot setback. This line is drawn appropriately perpendicular to the slope of the bluff face and not to the top of the bluff, because the bluff face is not parallel to the bluff top edge (due to the massive grading done in 1966). The required setback of 28 feet is noted on Exhibit #7 page 1 as point "A." The required setback decreases from 28 feet along the line noted as "B-A" until it reaches the required 25-foot setback line at point "B." The family room addition is located behind the required 100-year setback line, in conformity with the requirements of LUP policy 6.2.12. Thus, this aspect of the appeal raises no substantial issue in regard to conformity of the approved development with the geologic hazards policies and zoning code sections of the certified County of Santa Cruz LCP.

3. Prior Grading of Site

The Appellant also contends that prior grading of the site, which was done in 1966, qualifies as a shoreline protection measure and thus should not be taken into consideration in determining the 100-year setback (see Exhibit #3 page 3 & Exhibit #4 page 4 for this contention). Santa Cruz County Code Section 16.10.070(h)(1)(iii), however, states that:

*(iii) the determination of the minimum setback shall be based on the **existing site conditions** and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers [bold added].*

The Sand Dollar bluff area was massively graded in 1966. Thus, the existing site condition at the Ubaldi residence, upon which the minimum setback is required to be based, consists of a bluff that has been greatly altered by non-natural processes, i.e. the previous grading. Thus, it is appropriate and consistent with Zoning Code Section 16.10.070(h)(1)(iii) to base the setback requirement on the existing condition of the bluff and not on the configuration of the bluff prior to 1966. Furthermore, the "proposed protection measures" listed in Zoning Code Section 16.10.070(h)(1)(iii) include "shoreline protection structures" such as retaining walls or deep piers. The previous grading does not constitute a "shoreline protection structure." For these reasons, this aspect of the appeal raises no substantial issue in regard to conformity of the approved development with the geologic hazards policies and zoning code sections of the certified County of Santa Cruz LCP.



4. Structure on Coast Side of Setback Line/Structural Protection Measures

The Appellant contends that the LCP prohibits additions to a structure that is already on the coast side of the minimum setback line and that relies on protection measures such as grading, deep pier foundations, and retaining walls. See Exhibits #3 & #4 for the full appeal contentions.

Santa Cruz County Zoning Code Sections 16.10.070(h)(1)(iii)&(iv) state:

1. Projects in areas subject to coastal bluff erosion shall meet the following criteria:

(iii) the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers.

(iv) foundation replacement and/or foundation upgrades that meet the definition of development per Section 16.10.040(s) and pursuant to Section 16.10.040(r), shall meet the setback described in Section 16.10.070(h)(1), except that an exception to the setback requirement may be granted for existing structures that are wholly or partially within the setback, if the Planning Director determines that:

a) the area of the structure that is within the setback does not exceed 25% of the total area of the structure, OR

b) the structure cannot be relocated to meet the setback because of inadequate parcel size.

The approved project includes construction of a two-to-three-foot high retaining wall along the northern property line to allow the grade around the master suite to be lowered slightly, which will allow for access around the outside of the master suite. A portion of an existing retaining wall near the new first-floor living room will be replaced (see Exhibit #7 for the location of both of these retaining walls) in order to provide better natural light, ventilation, and access for the first-floor living room. Both of these retaining walls are located inland of the 25-foot setback line and thus comply with the 100-year setback requirement.

A portion of the existing home is located seaward of the 100-year setback line. The approved project includes the installation of piers buried below grade along the southern and western portions of the existing residence. According to the Applicants' geotechnical consultant, the approved piers are not necessary for the approved addition, but are instead necessary for the existing residential development so that as bluff recession occurs over time, the existing house (a portion of which is located seaward of the 100-year setback line) will be structurally supported (see Exhibit #7 page 1). Santa Cruz County Zoning Code Section 16.10.070(h)(1)(iv) allows for exceptions to the setback requirement for foundation upgrades if the area of the structure that is seaward of the required setback does not exceed 25% of the total area of the structure, or if the structure cannot be relocated to meet the setback because of inadequate parcel size. Only approximately 10% to 15% of the existing house is located seaward of the 100-year setback line; additionally, the structure cannot be relocated to meet the setback requirement



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 11

because the parcel is only approximately 3,136 square feet in size. Thus, the exception to the setback requirement in Zoning Code Section 16.10.070(h)(1)(iv) for foundation upgrades has been met.

Additionally, the Appellant contends that foundations and support for the proposed second-story additions constitute “protective measures,” as does the excavation that will be necessary to construct the garage (see Exhibit #4, pages 5-6). However, these foundational and support measures, as well as the excavation, are necessary elements of the project, as they would be if the project site were located at an inland location. They do not provide protection from bluff erosion and are located behind the 100-year setback line.

In conclusion, both of the retaining walls are located inland of the 25-foot setback line and thus comply with the 100-year setback requirement. The approved piers will provide support for the portion of the existing residence that is located seaward of the required setback line, but are not necessary to support the approved additions. Finally, the piers meet the standards of Zoning Code Regulation 16.10.16.10.070(h)(1)(iv) regarding exceptions to foundation upgrades located seaward of required setbacks. Finally, the foundational and support measures for the second-story additions to the residence and the garage excavation do not constitute “protective measures” from bluff-top erosion. Therefore, this aspect of the appeal raises no substantial issue in regard to conformity of the approved development with the geologic hazards policies and zoning code regulations of the certified County of Santa Cruz LCP.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 12

NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

County of Santa Cruz

Date of Notice: August 25, 2005

Notice Sent to (via certified mail):

California Coastal Commission
Central Coast Area Office
725 Front Street, Ste. 300
Santa Cruz, CA 95060

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-SCO-05-345
APPEAL PERIOD 8/30 - 9/13/05

RECEIVED

AUG 29 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please note the following **Final Santa Cruz County Action** on a coastal permit, coastal permit amendment or coastal permit extension application (all local appeals have been exhausted for this matter):

Project Information

Application No.: 04-0018

Project Applicant: Ronald and Esther Ubaldi

Applicant's Rep: Robert Goldspink, Architect

Project Location: Property located at the northwestern end of The Shore Line about 350 feet north west of the intersection with Sand Dollar Lane (807 the Shore Line).

Project Description: Proposal to remodel and construct additions to a single-family dwelling and to construct a new roof with decreased pitch. Additions include an expanded kitchen and family room, a garage (replacing a carport), a living room, and a master bathroom. Total addition of about 575 sq. ft. Also includes the demolition and construction of a new retaining wall along the northern property line. Requires a Coastal Development Permit and a Soils Report Review.

Final Action Information

Final Local Action: Approved with Conditions by the Planning Commission on 8/10/05

Final Action Body:

- ☐ Zoning Administrator
☒ Planning Commission
☐ Board of Supervisors

Required Materials Supporting the Final Action	Enclosed	Previously sent (date)
Staff Report	X	
Adopted Findings	X	
Adopted Conditions	X	
Site Plans	X	
Elevations	X	

Additional Materials Supporting the Final Action	Enclosed	Previously sent (date)
CEQA Document	X	
Geotechnical Reports	X	
Biologic Reports	N/A	
Other: Photo-simulations	X	
Other: Correspondence from file	X	

Coastal Commission Appeal Information

This Final Action is:

- ☐ **NOT** appealable to the California Coastal Commission. The Final County of Santa Cruz Action is now Effective.
- ☒ **Appealable** to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this Final Action. The Final Action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission Central Coast Area Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact the Central Coast Area Office at the address listed above, or by phone at (831) 427-4863.

Copies of this notice have also been sent via first-class mail to:

- Applicant and applicant's representative (Robert Goldspink, Architect)
- Appellant (Jonathan Wittwer, Esq.)

Exhibit 1
A-3-SCO-05-066
Page 1 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 13



COUNTY OF SANTA CRUZ
Planning Department

COASTAL DEVELOPMENT PERMIT

Owner: **RONALD AND ESTHER UBALDI**
Address: **4719 QUAIL LAKES DRIVE, #G-114**
STOCKTON, CA 95207

Permit Number: **04-0018**
Parcel Number(s): **046-341-23**

PROJECT DESCRIPTION AND LOCATION

Permit to remodel and construct additions to a single-family dwelling and to construct a new roof with decreased pitch. Additions include an expanded kitchen and family room, a garage (replacing a carport), a living room, and a master bathroom. Total addition of about 575 sq. ft. Also includes the demolition and construction of a new retaining wall along the northern property line. Requires a Coastal Development Permit. Property located at the northwestern end of The Shore Line about 350 feet north west of the intersection with Sand Dollar Lane (807 the Shore Line).

SUBJECT TO ATTACHED CONDITIONS

Approval Date: **8/10/05**

Effective Date: **8/24/05**

Exp. Date (if not exercised): **8/24/07**

Coastal Appeal Exp. Date: **Call Coastal Com**

Denial Date: _____

Denial Date: _____

____ This project requires a Coastal Zone Permit which is not appealable to the California Coastal Commission. It may be appealed to the Board of Supervisors. The appeal must be filed within 14 calendar days of action by the decision body.

☒ This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110.) The appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of local action. Approval or denial of the Coastal Zone Permit is appealable. The appeal must be filed within 14 calendar days of action by the decision body.

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

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

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

Signature of Owner/Agent

RECEIVED

Date

Staff Planner

AUG 29 2005

Date

Distribution: Applicant, File, Clerical, Coastal Commission

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Exhibit 1

A-3-SCO-05-066

Page 2 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 14



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

TOM BURNS, PLANNING DIRECTOR

August 3, 2005

AGENDA DATE: AUGUST 10, 2005

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

**SUBJECT: REVISED FINDINGS AND CEQA EXEMPTION NOTICE FOR
APPLICATION 04-0018, 807 THE SHORE LINE**

Dear Members of the Commission:

On July 27, 2005, your commission directed staff to revise findings and the Notice of Exemption to the California Environmental Quality Act and to place them on the consent agenda for the August 10, 2005 hearing for your approval.

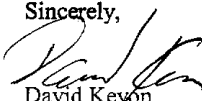
Specifically, the following findings have been revised:

Coastal Development Permit Finding 5 has been revised to read "the visual impact from the beach has been minimized."

Development Permit Finding 2 has an additional sentence addressing County Code Section 13.11.072(a)(3)(ii) on minimizing impacts to private views.

In addition to the revised findings, a revised notice of exemption to the California Environmental Quality Act is attached. This revised notice expands on reasons the project is exempt from further review.

Sincerely,


David Keyon
Project Planner
Development Review

**Exhibit 1
A-3-SCO-05-066
Page 3 of 22**

Attachments:

Attachment 1: Revised Coastal and Residential Development Findings.
Attachment 2: Revised notice of exemption to the California Environmental Quality Act



Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts, other than the Special Use (SU) district, listed in section 13.10.170(d) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the property is zoned RM-4 (Multi-family residential, 4,000 square feet per unit), a designation which allows residential uses. The project will not alter the use of the site, which will remain a single-family residence. This use is a principal permitted use within the zone district, consistent with the site's (R-UL) Urban Low Residential General Plan designation.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

This finding can be made, in that the proposal does not conflict with any existing easement or development restriction such as public access, utility, or open space easements in that no such easements or restrictions are known to encumber the project site.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to section 13.20.130 et seq.

This finding can be made, in that the development is consistent with the surrounding neighborhood in terms of architectural style; the site is surrounded by lots developed to an urban density; the colors shall be natural in appearance and complementary to the site; and the proposed additions will not significantly alter the height, bulk, mass, or scale of the house when viewed from the beach.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the General Plan and Local Coastal Program land use plan, specifically Chapter 2: figure 2.5 and Chapter 7, and, as to any development between and nearest public road and the sea or the shoreline of any body of water located within the coastal zone, such development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act commencing with section 30200.

This finding can be made, in that the proposed project will not impede public access, as no easements exist on site. Adequate public access already exists from The Shore Line, about 130 feet south of the project site.

5. That the proposed development is in conformity with the certified local coastal program.

This finding can be made, in that additions are designed to be visually compatible, in scale with, and integrated with the character of the existing dwelling, and subsequently

Exhibit 1
A-3-SCO-05-066
Page 4 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 16

the surrounding neighborhood. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range.

The proposal complies with General Plan/LCP Policy 5.10.7 (development on Open Beaches and Blufftops) in that the visual impact of the additions from the beach *has been minimized*. With the exception of the small living room addition and a portion of the master bathroom, the additions will occur at the front of the house opposite the sides visible from the beach.

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the proposed additions will comply with coastal bluff setbacks and will be required to meet all applicable building, plumbing, and electrical codes for the purposes of ensuring the health, safety, and welfare of residents or the general public. The additions will be required to meet all applicable energy codes.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed addition complies with all applicable site standards of the Sand Dollar Beach Planned Unit Development, and the required coastal bluff setbacks required under Section 16.10.070(h) of the County Code and as established by the Geotechnical report prepared for the project. The additions will not alter the single-family residential use of the site, and will therefore comply with the purpose of the RM-4 zone district.

The proposed additions comply with Section 13.11.072(a)(3)(ii) of the County Code as impacts to private views have been minimized in order to gain approval of the Sand Dollar Beach Homeowner's Association.

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.

This finding can be made, in that the proposed addition meets the use and density requirements specified for the Urban Low Residential (R-UL) land use designation in the County General Plan.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 17

The proposed additions will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, as all site standards for the Sand Dollar Beach Planned Unit Development will be met, as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance).

The proposed additions will also comply with all applicable Local Coastal Program policies for neighborhood compatibility and structures located on bluff tops or visible from a beach, as addressed in finding 5 of the Coastal Development Permit Findings, above.

The additions comply with General Plan Policy 5.10.7 (Open Beaches and Blufftops) as they are infill development that will result in a single-family dwelling that is visually compatible with surrounding development.

A specific plan has not been adopted for the La Selva or San Dollar Beach Area.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the additions are of such a small scale that any increase in demand for utilities will be minor, and no additional traffic will be generated.

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

This finding can be made, in that the proposed additions will be designed to complement and harmonize with the existing single-family dwelling, which in turn is consistent with the mix of styles present in the Sand Dollar Beach development. As no new bedrooms or dwelling units are proposed, the additions will not increase the land use intensity or dwelling unit density of the site.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed single-family residence will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 18



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

TOM BURNS, PLANNING DIRECTOR

July 20, 2005

AGENDA DATE: JULY 27, 2005

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: CONTINUED PUBLIC HEARING ON THE APPEAL OF COASTAL DEVELOPMENT PERMIT 04-0018, AN APPLICATION TO REMODEL AND CONSTRUCT AN ADDITION TO A SINGLE-FAMILY DWELLING

Members of the Commission:

This item was originally proposed to be heard by your commission at the April 27, 2005 hearing, and has been continued twice, once at the request of the applicant to respond to new information and once at the request of the attorney representing the appellants for personal reasons. Additional information has been provided by both the applicants and the appellants regarding the stability of the coastal bluff adjacent to the project site (Exhibits 2, 3 and 5), which have been reviewed by the County Geologist (Exhibit 1).

BACKGROUND

On January 14, 2004, the County accepted this application for a Coastal Development Permit to construct additions totaling about 575 square feet to the existing single-family dwelling at 807 The Shore Line. The proposal includes additions to the family room, bathroom, and kitchen, construction of a master bathroom, and excavation on the lower level to allow the construction of a one car garage and living room. During the application review process, the proposal was modified to obtain approval from the Sand Dollar Beach Homeowner's Association and to conform to the County's Geologic Hazards ordinance regarding setbacks from coastal bluffs (16.10.070(h)).

The Zoning Administrator approved the proposed additions and remodel at a public hearing on February 18, 2005, a decision subsequently appealed by a group of neighbors referred to as "Friends of Sand Dollar Beach," represented by attorney Jonathan Wittwer. Mr. Wittwer's appeal letter of March 4, 2005 contends the proposed addition and remodel will not comply with the required minimum 25 feet/100 year stability coastal bluff setbacks, and that the added weight of the addition will increase the likelihood of bluff failure. The appeal letter also states that the additions will negatively impact scenic resources due to the project's visibility from the beach, and will partially block ocean views from private residences within the vicinity. The appeal was originally scheduled for a hearing before your commission on April 27, 2005, but was continued to June 8, 2005

Exhibit 1
A-3-SCO-05-066
Page 7 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 19

Appeal of 04-0018
July 27, 2005
Page 2

request of the applicant in order to respond to a report submitted by the appellant the week prior to the hearing. This report, prepared by Consulting Engineering Geologist Gary Griggs, claims a coastal bluff setback of 83 feet is required for 100-year stability rather than the 25-foot setback established in the report by Haro, Kasunich, and Associates report, dated June 2004, and accepted by the County Geologist.

A further continuance was requested by the appellant from June 8th to July 27, 2005, a continuance that was accepted by your commission with direction to have any supplemental information submitted to staff by June 24 to allow adequate time for analysis.

SUPPLEMENTAL INFORMATION

On June 7th, the applicant submitted a supplemental report by Haro, Kasunich, and Associates (Exhibit 5), responding to the claims made in the Griggs report and supporting the adequacy of a 25-foot coastal bluff setback for 100-year stability for the site. On June 24th, an updated report prepared by Griggs was submitted for review by the County, continuing to claim erosion rates greater than those claimed by Haro, Kasunich, and Associates (Exhibit 3). A response to this updated report was submitted by Haro, Kasunich, and Associates on July 15th, defending their position that the 100-year stability setback as established in their earlier reports is adequate (Exhibit 2).

Review by County Geologist

Joe Hanna, the County's Geologist, reviewed the submitted supplemental reports from both the applicant and appellant. After analysis of both reports, Joe Hanna concluded that the recommendations outlined in the Haro, Kasunich, and Associates reports, including the 25-28 foot setback for 100-year bluff stability, are still accurate based on past bluff erosion patterns for the site (Exhibit 1).

CONCLUSION

No supplemental information was received regarding other issues raised in the original appeal letter, such as visibility from the beach or impacts on private views. These issues are discussed in detail in the letter to the Planning Commission dated April, 27, 2005, included as Exhibit 6.

The scope of the project remains the same as that approved by the Zoning Administrator on February 18, 2005, with the exception of a foundation upgrade allowed under the Geologic Hazards Ordinance (Section 16.10.070(h)(iv)) as recommended by Haro, Kasunich, and Associates. Information submitted by the appellant relating to the stability of the coastal bluff and supplemental reports prepared by Haro, Kasunich, and Associates has been reviewed by the County Geologist, who continues to support the recommendations and setbacks established in the Haro, Kasunich, and Associates reports.

To reflect a recommended increase in coastal bluff setbacks resulting from later Haro, Kasunich, and Associates reports, staff recommends changing Condition of Approval II.B.2 to read:

Exhibit 1
A-3-SCO-05-066
Page 8 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 20

Appeal of 04-0018
July 27, 2005
Page 3

"Show the location of the 28 foot coastal bluff setback as established by the project Geotechnical Engineer on the site plan and the proposed floor plans. With the exception of repairs in kind *and foundation upgrades*, all new development must be located outside these setbacks (including new habitable space and retaining walls)."

With the exception of the above change to the conditions of approval, all previous findings and conditions as approved by the Zoning Administrator on February 18, 2005, still apply.

RECOMMENDATION

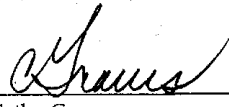
Staff recommends your commission take the following actions:

1. **DENY** the appeal of application 04-0018.
2. **APPROVE** application 04-0018 subject to the findings and conditions of approval in the staff report to the Zoning Administrator approved on February 18, 2005, and certify the exemption to the California Environmental Quality Act.

Sincerely,



David Keyon
Project Planner
Development Review

Reviewed By: 

Cathy Graves
Principal Planner
Development Review

Exhibits:

1. Memorandum from Joe Hanna, County Geologist, dated July 15, 2005.
2. Letter from Haro, Kasunich, and Associates, dated July 15, 2005.
3. Letter from Gary B. Griggs, dated June 24, 2005.
4. Letter from Haro, Kasunich, and Associates, dated June 21, 2005.
5. Letter from Haro, Kasunich, and Associates, dated June 1, 2005.
6. Planning Commission letter for the April, 27, 2005 hearing, with attached Zoning Administrator Staff Report.





COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

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

TOM BURNS, PLANNING DIRECTOR

April 18, 2005

AGENDA DATE: APRIL 27, 2005

Planning Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: APPEAL OF COASTAL DEVELOPMENT PERMIT 04-0018, AN APPLICATION TO REMODEL AND CONSTRUCT AN ADDITION TO A SINGLE-FAMILY DWELLING

Members of the Commission:

This item is before your commission due to an appeal of the Zoning Administrator's approval of Coastal Development Permit application 04-0018 on February 18, 2005. The attached letter of appeal (Attachment 1) lays out the neighbor's concerns regarding the proposed project.

BACKGROUND

On January 14, 2004 application 04-0018 was submitted to the County requesting a Coastal Development Permit to remodel and construct minor additions to the existing single-family dwelling at 807 the Shore Line. During the application review process, the proposal was modified obtain approval from the Sand Dollar Beach Homeowner's Association and to conform to the County's Geologic Hazards ordinance regarding setbacks from coastal bluffs (16.10.070(h)).

As approved by the Zoning Administrator, the proposal includes the following changes/additions to the existing single-family dwelling:

- 1) A decrease in the roof pitch from $\frac{1}{2}$ to $\frac{1}{4}$ to allow an addition of about 100 square feet to the family room, resulting in an increase in height of about four feet at the southeast corner of the house (the tallest point on the house will remain unchanged).
- 2) Construction of a new master-bathroom of about 110 square feet at the north end of the house.
- 3) Minor additions totaling about 140 square feet along the northeast side of the house.
- 4) A new hip roof along the east side of the house to cover the new additions, replacing the existing gabled roof.
- 5) Construction of a new retaining wall at the western end of the property, designed to conform to the required 25 foot, 100 year coastal bluff setback established by the Geotechnical Engineer and accepted by the County Geologist.

Exhibit 1
A-3-SCO-05-066
Page 10 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 22

Appeal of application 04-0018
April 13, 2005
Page 2

- 6) Excavation under the existing house to construct a new garage into an existing crawl space and allow the addition of a living room, resulting in an addition of about 225 square feet.

ISSUES

The appellants claim the project as approved will be detrimental to the health and safety of the occupants due to encroachment into the required coastal bluff setbacks, the project will disrupt the scenic value of the area, and the approved design is not compatible with the neighborhood.

Coastal Bluff Issues

General Plan Policy 6.2.12 requires a minimum 25 foot setback from the top of a coastal bluff, or the minimum setback necessary to provide a stable building site for a period of 100 years, as determined by a geologic and/or an soils engineering report accepted by the County. For the project, the Geotechnical report prepared by Haro, Kasunich, and Associates dated June 2004 (Attachment 3) determined the minimum setback for the site to be 25 feet, a determination accepted by the County Geologist (Attachment 4). No new habitable area may be constructed within this setback, so the project design has been altered to conform to the established setback by removing proposed improvements within the setback from the project.

In the appeal letter, the neighbor's contend that the measurement of the setback is not accurate and that the new development will impact the portions of the site within the setback. The location of the setback has been determined by the project Geotechnical Engineer and approved by the County Geologist, and the location of the setback must be shown on plans for the building permit stage. Prior to issuance of the building permit, the project's Geotechnical Engineer must review the plans showing the bluff setback and submit a plan review letter indicating final approval. A survey may be necessary if either the project Geotechnical Engineer or the County Geologist questions the location of the setback as represented on the plans. The appellant has not submitted evidence that would dispute the findings of the project Geotechnical Engineer and the County Geologist.

Impacts to public views in scenic resource areas

The residence is located in a scenic resource area due to the visibility of the site from a public beach and proximity to Sand Dollar Drive, a County designated scenic road. As the total addition is more than 500 square feet within a scenic resource area, the project required evaluation under the County's Site, Architectural, and Landscape Design Review Ordinance (Section 13.11). The County's Urban Designer evaluated the impacts of the proposed additions and alterations in terms of the impact they would have on views from the beach and neighborhood compatibility.

The appellants contend the County did not adequately analyze the impact of the proposed additions and alterations on the public viewshed from the beach, as story poles with colored netting were not required during the Coastal permit review process. However, during review of the project by the Sand Dollar Beach Homeowner's Association, the owners erected story poles to assess impacts to private views and to create a visual simulation to demonstrate the increased visual impact the additions will have on the street and the beach (see Attachment 5 for visual simulation). Although the erected story poles lacked colored netting, they did demonstrate the proposed change in roof pitch and the addition of the rear bathroom sufficiently to determine that the proposed alterations will not significantly alter the bulk, mass, and scale of the existing dwelling. Staff did not require new story poles during review of this application as the submitted visual simulation proved the addition v

Exhibit 1
A-3-SCO-05-066
Page 11 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 23

Appeal of application 04-0018
April 13, 2005

Page 3

not significantly increase the bulk of the structure when viewed from the beach, as most of the addition is proposed on the north and east sides of the house opposite the beach:

The portions of the addition visible from the beach, a small portion of the new master bathroom and the 100 square foot living room addition with a decreased roof pitch, will not be readily noticeable to beachgoers as they will blend in with existing development. The additions will incorporate wood siding with earth tone colors to match the existing structure. The project site is surrounded on three sides by existing development of a greater height and bulk, including visually prominent townhouses to the east and three-story single-family dwellings to the rear that overshadow the Ubaldi residence and the proposed additions.

The appellants also claim that Coastal Development Permit finding five (that the proposed development is in conformity with the certified local coastal program) has not been adequately addressed, as it does not conclude that visual impact from the beach was "minimized." To obtain approval from the Sand Dollar Beach Homeowner's Association, the project architect reduced the proposed height of the roof along the south side of the house and replaced a gabled roof with a flat roof for the proposed master bathroom (Attachment 6). These alterations in the design, along with the proposed earth-tone colors, minimize the visual impact of the additions from the beach to the satisfaction of staff and the County's Urban Designer.

The residence is not visible from Sand Dollar Lane, a County designated scenic road, due to size, placement, and orientation of existing residential development on Sand Dollar Lane. Three-story houses on the north side of the Shore Line obscure views of the project site where gaps exist in development on Sand Dollar Lane.

Neighborhood compatibility

The proposed additions and alterations have been reviewed by the County's Urban Designer for conformance with the County's Coastal Zone Design Criteria (County Code Section 13.20.130) and the County's Design Review Ordinance (County Code Section 13.11072) to evaluate neighborhood compatibility (Attachment 7). The Urban Designer determined the proposed additions and alterations to be visually compatible with the surrounding neighborhood as the bulk, mass, and scale will be similar (if not smaller) than the surrounding residences. Furthermore, the proposed colors and materials will be compatible with the range of earth-tone colors used in the vicinity.

Impacts to private views

The appellants state the developers of Sand Dollar Beach intended future development to preserve private views of neighboring properties. Correspondence from the original Planned Unit Development file seems to indicate private views were a factor in the design of the development, and the approval of unique site standards for different portions of the development supports this claim. However, the proposed alterations conform to the purpose and intent of the original Planned Unit Development since the additions will conform to all adopted site standards, including the maximum 25-foot height limit for the subject parcel.

The appellants also contend the County protects private views, per County Code section 13.11.072(b)(2), which states:

"Development should minimize the impact on private views from adjacent parcels, wherever practicable."

Exhibit 1
A-3-SCO-05-066
Page 12 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 24

Appeal of application 04-0018
April 13, 2005
Page 4

It is not the policy of the County Planning Department to protect private views, though the County may require slight modifications to a project to minimize impacts to private views. The proposed additions already minimize impacts to private views by limiting increases in height and changes to the roof line.

The Sand Dollar Beach Architecture Review Committee and the Sand Dollar Beach Homeowner's Association reviewed and approved the proposed addition on May 8, 2004 after multiple alterations to the roofline to address neighbor's concerns about views. These alterations included lowering the proposed height of the roof over the living room and addition, and replacing a proposed gabled roof over the new master bathroom with a flat roof (Attachment 6).

RECOMMENDATION

Staff recommends your commission take the following actions:

1. **DENY** the appeal of application 04-0018.
2. **APPROVE** application 04-0018 subject to the findings and conditions of approval in the staff report to the Zoning Administrator approved on February 18, 2005, and certify the exemption to the California Environmental Quality Act.

Sincerely,


David Keyon
Project Planner
Development Review

Reviewed By: 

Cathy Graves
Principal Planner
Development Review

Attachments:

1. Appeal letter from Jonathan Wittwer, attorney representing appellants, dated 3/4/05
2. Staff report to the Zoning Administrator for the February 18, 2005 hearing.
3. Conclusions and Recommendations extracted from Geotechnical Report prepared by Haro, Kasunich, and Associates dated June 2004.
4. Letter from the County Geologist, dated April 15, 2005, with attached letter from project Geotechnical Engineer dated April 13, 2005.
5. Visual simulation submitted by applicant
6. Letters from applicant, dated 3/8/04 and 6/30/04, with extract of minutes from the Sand Dollar Beach Homeowner's Association's meeting of 5/8/04.
7. Urban Designer's comments, including Section 13.11 comments.

Exhibit 1
A-3-SCO-05-066
Page 13 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 25



**Staff Report to the
Zoning Administrator**

Application Number: **04-0018**

Applicant: Robert Goldspink
Owner: Ronald and Esther Ubaldi
APN: 046-341-23

Agenda Date: February 18, 2005
Agenda Item #:
Time: After 10:00 a.m.

Project Description: Proposal to remodel and construct additions to a single-family dwelling and to construct a new roof with increased pitch. Additions include an expanded kitchen and family room, a garage (replacing a carport), a living room, and a master bathroom. Total addition equals about 575 sq. ft. Also includes the demolition and construction of a new retaining wall along the northern property line.

Location: Property located at the northwestern end of The Shore Line about 350 feet north west of the intersection with Sand Dollar Lane (807 the Shore Line).

Supervisory District: 2nd District (District Supervisor: Ellen Pirie)

Permits Required: Coastal Development Permit

Staff Recommendation:

- Approval of Application 04-0018, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Exhibits

- | | |
|---|-------------------------------------|
| A. Project plans | F. Zoning map |
| B. Findings | G. Sand Dollar Beach site standards |
| C. Conditions | H. Urban Designer's comments |
| D. Categorical Exemption (CEQA determination) | I. Comments & Correspondence |
| E. Assessor's parcel map | |

Parcel Information

Parcel Size: 3,136 square feet (EMIS Estimate)
Existing Land Use - Parcel: Single-family dwelling
Existing Land Use - Surrounding: Single-family and multi-family dwellings

County of Santa Cruz Planning Department
701 Ocean Street, 4th Floor, Santa Cruz CA 95060

Exhibit 1
A-3-SCO-05-066
Page 14 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 26

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

Page 2

Project Access:	The Shore Line, a privately maintained road
Planning Area:	La Selva Beach
Land Use Designation:	R-UL (Urban Low Residential)
Zone District:	RM-4 (Multi-family residential, 4,000 square feet per unit)
Coastal Zone:	<input checked="" type="checkbox"/> Inside <input type="checkbox"/> Outside
Appealable to Calif. Coastal Comm.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Environmental Information

Geologic Hazards:	Site adjacent to coastal bluff, 25 foot setbacks apply
Soils:	Beach sand (soils index number 109)
Fire Hazard:	Not a mapped constraint
Slopes:	Up to 75% slopes on site
Env. Sen. Habitat:	Potential biotic, non on site as parcel already developed
Grading:	Grading permit required for excavation, retaining wall
Tree Removal:	No trees proposed to be removed
Scenic:	Scenic resource area due to visibility from public viewshed
Drainage:	Proposed drainage adequate
Traffic:	No increase due to no increase to number of bedrooms
Roads:	Existing roads adequate
Parks:	Existing park facilities adequate
Archeology:	Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line:	<input checked="" type="checkbox"/> Inside <input type="checkbox"/> Outside
Water Supply:	Soquel Creek Water District
Sewage Disposal:	Santa Cruz County Sanitation District
Fire District:	Aptos/La Selva Fire Protection District
Drainage District:	No Drainage District

Project Setting

The project site is located within the Sand Dollar Beach Planned Unit Development in La Selva Beach, a development with its own site standards independent of the RM-4 zone district standards (detailed below). The site sits at the northern end of The Shore Line, bordering Residential Agricultural zoned land to the north. The edge of a coastal bluff is adjacent to the north-western (rear) property line, limiting development seaward of the existing house (see coastal bluff discussion, below).

Project scope

The owner seeks to remodel and construct various small additions to an existing three-bedroom single-family dwelling. The proposed changes include additional excavation on the lower level to add a living room and garage, and the addition of about 350 square feet on the 2nd floor for the

Exhibit 1
A-3-SCO-05-066
Page 15 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 27

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

Page 3

expansion of the family room, kitchen, bathroom, and the construction of a new master bathroom. No additional habitable area is proposed within the 25-foot coastal bluff setbacks established in the Geotechnical Report, which has been accepted by the County Geologist. An existing retaining wall will be demolished and reconstructed, a portion of which lies within the coastal bluff setback.

Zoning & General Plan Consistency

The subject property is located within the RM-4 zone district, but adheres to specific site standards for the Sand Dollar Beach development approved under Planned Unit Development Permit 2628-U in May 1966 and revised under 3470-U in 1969 (Exhibit G). The proposed additions have been designed to conform to the unique site standards, including the maximum 25-foot height limit. No Floor Area Ratio and lot coverage standards exist for this development. Parking requirements for the property only require two on-site spaces per unit (one covered and one uncovered), which will continue to be provided.

The RM-4 zone district implements the R-UL (Urban Low Residential) General Plan/Local Coastal Program Land Use Designation. The density and intensity of the residential use on site will remain the same as originally approved under the Planned Unit Development, as no additional residential units or bedrooms are proposed.

Local Coastal Program Consistency

The proposed single-family residence is in conformance with the County's certified Local Coastal Program, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood as the overall bulk, mass, and scale of the structure will not be significantly altered by the proposed additions. The proposed materials will match the existing wood siding, and colors will be required to be earth-tone.

The proposal complies with General Plan/LCP Policy 5.10.7 (development on Open Beaches and Blufftops) in that the visual impact of the additions from the beach will be minimal. With the exception of the small living room addition and a portion of the master bathroom, the additions will occur at the front of the house opposite the sides visible from the beach. The visible additions (the family room addition and a small portion of the master bathroom addition) will be designed to integrate into the existing design and will not alter the bulk, mass, or scale of the structure in relation to neighboring residences as viewed from the beach.

No coastal access exists through the subject property, and the project will not alter existing coastal access for Place del Mer residents or the general public as a public access point already exists from The Shore Line.

Coastal bluff issues

A Geotechnical Report (by Haro, Kasunich, & Associates, dated June 2004, on file with the Planning Department) determined the existence of a coastal bluff immediately adjacent to the subject property, requiring a minimum 25 foot setback (the report determined the minimum 100-year setback to be 25 feet). This setback bisects the southwest corner of the existing dwelling,

Exhibit 1
A-3-SCO-05-066
Page 16 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 28

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

Page 4

passing through the deck and living room. Under the County's Geologic Hazards Ordinance (16.10.070(h)), no new development may be constructed within the coastal bluff setbacks, and, with the exception of proposed the retaining wall, the project has been designed to comply with this ordinance by limiting new development to areas outside the bluff setback.

The plans show a proposed retaining wall within the coastal bluff setbacks, which cannot be approved due to their proximity to the coastal bluff. Existing retaining walls within the setbacks may be repaired in kind. A condition of approval requires any new retaining walls to be located outside the 25 foot coastal bluff setbacks (Condition of Approval II.B.2).

Design Review

The County's Urban Designer evaluated the proposed addition and remodel for conformance with the County's Design Review ordinance (Chapter 13.11) and the County's Coastal Zone Design Criteria, and found the proposal to meet all standards as the height, bulk, mass, scale, materials, and colors will be compatible with the surrounding neighborhood and the natural setting of the site (Exhibit H).

Impacts to private views

Though the County does not protect private views, the potential loss of ocean views has been a concern of residents up-slope from the project site. During review by the Sand Dollar Beach Homeowner's Association, story poles were erected to assess impacts to private views. Due to the size and scale of the proposed additions, loss of private views will be minimal.

Conclusion

As proposed and conditioned, the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- **APPROVAL** of Application Number **04-0018**, based on the attached findings and conditions.
- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

**Exhibit 1
A-3-SCO-05-066
Page 17 of 22**



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 29

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

Coastal Development Permit Findings

1. That the project is a use allowed in one of the basic zone districts, other than the Special Use (SU) district, listed in section 13.10.170(d) as consistent with the General Plan and Local Coastal Program LUP designation.

This finding can be made, in that the property is zoned RM-4 (Multi-family residential, 4,000 square feet per unit), a designation which allows residential uses. The project will not alter the use of the site, which will remain a single-family residence. This use is a principal permitted use within the zone district, consistent with the site's (R-UL) Urban Low Residential General Plan designation.

2. That the project does not conflict with any existing easement or development restrictions such as public access, utility, or open space easements.

This finding can be made, in that the proposal does not conflict with any existing easement or development restriction such as public access, utility, or open space easements in that no such easements or restrictions are known to encumber the project site.

3. That the project is consistent with the design criteria and special use standards and conditions of this chapter pursuant to section 13.20.130 et seq.

This finding can be made, in that the development is consistent with the surrounding neighborhood in terms of architectural style; the site is surrounded by lots developed to an urban density; the colors shall be natural in appearance and complementary to the site; and the proposed additions will not significantly alter the height, bulk, mass, or scale of the house when viewed from the beach.

4. That the project conforms with the public access, recreation, and visitor-serving policies, standards and maps of the General Plan and Local Coastal Program land use plan, specifically Chapter 2: figure 2.5 and Chapter 7, and, as to any development between and nearest public road and the sea or the shoreline of any body of water located within the coastal zone, such development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act commencing with section 30200.

This finding can be made, in that the proposed project will not impede public access, as no easements exist on site. Adequate public access already exists from The Shore Line, about 130 feet south of the project site.

5. That the proposed development is in conformity with the certified local coastal program.

This finding can be made, in that additions are designed to be visually compatible, in scale with, and integrated with the character of the existing dwelling, and subsequently the surrounding neighborhood. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range.

Exhibit 1
A-3-SCO-05-066
Page 18 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 30

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

The proposal complies with General Plan/LCP Policy 5.10.7 (development on Open Beaches and Blufftops) in that the visual impact of the additions from the beach will be minimal. With the exception of the small living room addition and a portion of the master bathroom, the additions will occur at the front of the house opposite the sides visible from the beach.

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the proposed additions will comply with coastal bluff setbacks and will be required to meet all applicable building, plumbing, and electrical codes for the purposes of ensuring the health, safety, and welfare of residents or the general public. The additions will be required to meet all applicable energy codes.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed addition complies with all applicable site standards of the Sand Dollar Beach Planned Unit Development, and the required coastal bluff setbacks required under Section 16.10.070(h) of the County Code and as established by the Geotechnical report prepared for the project. The additions will not alter the single-family residential use of the site, and will therefore comply with the purpose of the RM-4 zone district.

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

This finding can be made, in that the proposed addition meets the use and density requirements specified for the Urban Low Residential (R-UL) land use designation in the County General Plan.

The proposed additions will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, as all site standards for the Sand Dollar Beach Planned Unit Development will be met, as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance).

The proposed addition will also comply with all applicable Local Coastal Program policies for neighborhood compatibility and structures located on bluff tops or visible from a beach, as addressed in finding 5 of the Coastal Development Permit Findings, above.

A specific plan has not been adopted for La Selva Beach.

Exhibit 1
A-3-SCO-05-066
Page 19 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 31

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the additions are of such a small scale that any increase in demand for utilities will be minor, and no additional traffic will be generated.

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

This finding can be made, in that the proposed additions will be designed to complement and harmonize with the existing single-family dwelling, which in turn is consistent with the mix of styles present in the Sand Dollar Beach development. As no new bedrooms or dwelling units are proposed, the additions will not increase the land use intensity or dwelling unit density of the site.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed single-family residence will be of an appropriate scale and type of design that will enhance the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area.

Exhibit 1
A-3-SCO-05-066
Page 20 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 32

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

Conditions of Approval

Exhibit A: Project plans, 10 sheets, drawn by Robert Goldspink, dated 12/4/03 and revised 1/5/05.

- I. This permit authorizes the remodel and construction of additions to an existing single-family residence. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Demolition Permit from the Santa Cruz County Building Official.
 - C. Obtain a Building Permit from the Santa Cruz County Building Official.
 - D. Obtain a Grading Permit from the Santa Cruz County Building Official.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder).
 - B. Submit Final Architectural Plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "A" on file with the Planning Department. The final plans shall include the following additional information:
 1. Identify finish of exterior materials and color of roof covering for Planning Department approval. Any color boards must be in 8.5" x 11" format.
 2. Show the location of the 25 foot coastal bluff setback as established by the project Geotechnical Engineer on the site plan and the proposed floor plans. With the exception of repairs in kind, all new development must be located outside these setbacks (including new habitable space and retaining walls).
 3. A grading plan.
 4. A drainage plan detailing how runoff from all proposed impervious surfaces and the proposed retaining walls will be directed.
 5. An erosion control plan.
 6. Details showing compliance with fire department requirements.

Exhibit 1
A-3-SCO-05-066
Page 21 of 22



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 33

Application #: 04-0018
APN: 046-341-23
Owner: Ronald and Esther Ubaldi

- C. Meet all requirements and pay any applicable plan check fee of the Aptos/La Selva Fire Protection District.
 - D. Submit a plan review letter from the project Geotechnical Engineer approving the final design of the additions and retaining walls.
 - E. Provide required off-street parking for two cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
 - F. Complete and record a Declaration of Geologic Hazards. **You may not alter the wording of this declaration.** Follow the instructions to record and return the form to the Planning Department.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The project must comply with all recommendations of the approved soils reports.
- IV. Operational Conditions
- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

Please note: This permit expires two years from the effective date unless you obtain the required permits and commence construction.

Approval Date: _____

Effective Date: _____

Expiration Date: _____

Exhibit 1
A-3-SCO-05-066
Page 22 of 22



SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION

Architectural Review Committee

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December 11, 2005

Central Coast District Office
Charles Lester, Deputy Director
Steve Monowitz, District Manager
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Subject: An appeal by "Friends of Sand Dollar Beach" regarding 807 The Shoreline at Sand Dollar Beach

Gentlepeople:

As Chairman of the Architectural Review Committee (ARC) for the Sand Dollar Beach Homeowners Association, it may be appropriate to provide some background information and comments relating to the subject appeal.

The ARC approved Homeowner Ubaldi's application as amended to remodel their house in accord with revised drawings provided by their architect, Robert Goldspink. Their proposed materials, colors, exterior changes, set backs and height limits comply with Sand Dollar Beach CC&R's and Architectural Standards. The ARC's approval was then forwarded to the Sand Dollar Board for its approval also in accord with our CC&R's, which stipulate, among other things, that all homeowners be treated equally. This means that, regardless of who builds or remodels first, every homeowner should receive the same consideration as all others in accord with our governing documents.

While the ARC's decision was based on strict interpretation of our governing documents, the Board considered subjective objections from the neighbors affected by the Ubaldi's proposed exterior changes. In this case, objections were based on the impact such changes would have on neighbors' views, which are derived from different perspectives by individual observers. As a result of neighbors' objections, the Ubaldis revised their plans three times in an effort to satisfy neighbors complaints. However, it became clear that no changes would be tolerated as long as views were impaired in any way, and no compromise was offered or accepted by the neighbors in a spirit of cooperation.

These neighbors then chose to take action outside of the Sand Dollar Beach Homeowners Association as anonymous "Friends of Sand Dollar Beach" in an appeal to the Santa Cruz County Planning Commission, which subsequently rejected such appeal. This request for appeal was an unfortunate precedent if being good neighbors counts for anything over the long term. There are other Sand Dollar homeowners who support the Ubaldi's plans in a spirit of fairness and cooperation. Therefore, the "Friends of Sand Dollar Beach" don't necessarily represent Sand Dollar Beach.

With regard to arguments expressed in an appeal letter to the Planning Commission dated March 4, 2005, none of these arguments are relevant to the actual objection by the "Friends of Sand Dollar Beach," which is concerned only about the impact on their views, not health and safety, not landslides, not public expense, not scenic values from the beach, and not even "neighborhood compatibility."

Enclosed herewith are thumbnail photographs of every freestanding house at Sand Dollar Beach, which can be used to subjectively compare such "compatibility" of one house with another by lot number. The Ubaldi's 2-story house on Lot 54 looks small and unpretentious compared to most other properties in Sand Dollar Beach, many of which are 3-story houses. Ubaldi's architect has provided photographs marked to clearly show how relatively insignificant their proposed changes are from every perspective. From the beach, for example, proposed changes are even difficult to recognize against the background of their larger more imposing neighbors homes.

Based on these facts, I suggest the California Coastal Commission let Sand Dollar Beach homeowners resolve internal conflicts by themselves. Thank you for your consideration on this matter.

Sincerely,

Don Breuner

Architectural Review Committee Chairman, Sand Dollar Beach Homeowners Association
Enclosure

cc: Owner Ron Ubaldi, SDBHOA President Bill Russell

Exhibit 2
A-3-SCO-05-066
Page 1 of 3



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 37

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260 FAX (415) 904-5400



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Friends of Sand Dollar Beach (Wittwer & Parkin, LLP)

Mailing Address: 147 S River Street, Suite 221

City: Santa Cruz

Zip Code: CA

Phone: 95060

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SEP 13 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Cruz

2. Brief description of development being appealed:

Proposal to remodel and construct additions to a single-family dwelling and to construct a new roof with decreased pitch. Additions include an expanded kitchen and family room, a garage (replacing a carport), a living room, and a master bedroom. Total addition of about 575 sq. feet. Also includes construction of pier foundation (including inside coastal bluff setback areas) the demolition and construction of a new retaining wall along the northern property line. Requires a Coastal Development Permit and a Soils Report Review.

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

807 The Shore Line, La Selva Beach, County of Santa Cruz, California - northwestern end of The Shore Line about 350 feet northwest of the intersection with Sand Dollar Lane - APN 046-341-23

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

- ☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SCO-05-066

DATE FILED: 9-13-05

DISTRICT: Central Coast

Exhibit 3
A-3-SCO-05-066
Page 1 of 5



California Coastal Commission

Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 38

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

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

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

6. Date of local government's decision: August 10, 2005

7. Local government's file number (if any): 04-0018

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Ronald and Esther Ubaldi
4719 Quail Lakes Drive, #G-114
Stockton, CA 95207

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Jonathan Wittwer - testifying on behalf of Friends of Sand Dollar
c/o Wittwer & Parkin, LLP
147 S River Street, Suite 221
Santa Cruz, CA 95060

(2) Robert Goldspink
8042 Soquel Drive
Aptos, CA 95003

(3)

(4)

Exhibit 3
A-3-SCO-05-066
Page 2 of 5



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 39

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

The single-family dwelling in this appeal ("Project") is currently situated ten (10) feet on the coast side of the 25-foot minimum setback line from the coastal bluff. Setbacks from the top of coastal bluffs are required to be a minimum of 25-feet or the 100-year setback (whichever is greater), pursuant to the General Plan for the County of Santa Cruz, Policy 6.2.11 and County Code Section 16.10.070(h)(1)(ii).

Additions to structures are subject to the same setback requirement, as stated in General Plan Policy 6.2.13 and County Code Section 16.10.070(h)(1)(v) ("additions, including second story and cantilevered additions, shall comply with the minimum 25 foot and 100 year setback"). This setback requirement originated in the General Plan for the County of Santa Cruz, Chapter 6: Public Safety and Noise. The purpose of Chapter 6 is to protect human life, private property and the environment, and to minimize public expenses.

The County LCP also provides that in a location subject to coastal bluff erosion, the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers. See County Code Section 16.10.070(h)(1)(iii). The prior grading of the site, the new pier foundation, and the retaining walls qualify as protection measures and shall not be taken into consideration in determining the 100-year setback.

The County has determined that the 100 year setback requirement is 28 feet. That determination relies on prior grading of the coastal bluff, a new pier foundation which is necessary for the proposed development and retaining walls, all of which are protection measures which may not be considered in determining the required setback. Friends of Sand Dollar Beach provided expert testimony that without considering those protection measures, the required setback would be approximately 83 feet. Hence the addition proposed would not be allowed because it would violate the County LCP.

RECESSION RATE AND GRADING

The Applicant's consultant stated that 1) the grading of the Project site stabilized it so as to reduce the rate of recession of the coastal bluff as compared to other coastal bluffs in the area and immediately adjoining the project site, and 2) that based on a qualitative assessment of the historical aerial photographs, that the average recession rate of the bluff at the project site is about 3 inches/year after the 1972 grading and development of the project site. Even this rate would produce 28 feet of bluff retreat in 100 years, leaving ~10 feet of the structure extending over the bluff edge. (CONTINUED ON ATTACHED SHEET)

Exhibit 3
A-3-SCO-05-066
Page 3 of 5



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 40

Appellants submitted expert evidence as follows:

The stability of any structure built close to the bluff edge is directly related to the long-term bluff retreat rates. While "average" long-term bluff retreat rates can be calculated or quantified based on the changing position of the bluff edge over time as measured from aerial photographs, bluff failure is an episodic process, with most failure occurring during short intervals of time. In this area, the Loma Prieta earthquake of 1989, the 100-year rainstorm of early January 1982 and the other severe El Niño storms of the past 25 years have been the dominant factors affecting bluff retreat. Based on measurements of the changing position of the bluff edge as identified in the 1953 and 1994 stereo photographs, a long-term bluff retreat rate of ~10 inches/year has been calculated for the bluff area immediately adjoining the Project site. This value is very similar to the bluff retreat rate averaged for a one-mile long stretch of shoreline adjacent to and upcoast from the Project site (~9 inches/year).

The aerial photographs of the Sand Dollar area span about 75 years, commencing in 1928. There is clear evidence in the 1928 to 1956 interval of bluff failure throughout this area, including the Project parcel. This interval preceded the 1972 grading of the Project parcel. There is also clear evidence of bluff failure adjacent to the Project parcel after the 1972 grading, and to the present. The practical result of bluff recession is that any homes or other structures built too close to the bluff edge will ultimately have their foundations undermined or compromised.

Appellants position is that the LCP (as well as sound planning policy) prohibits addition to a structure: (1) which is already on the coast side of the minimum set back line, as acknowledged by the Applicants, and relies on protection measures such as grading, deep pier foundations, and retaining walls; and/or (2) where expert evidence demonstrates that the area where the additions are being made will be on the coast side of the 100 year set back line without those protection measures and that adjoining bluff top land supporting the project site will have receded well beyond the area where the additions are being made.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 41

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

SECTION V. Certification

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

Jonathan Wittwer for Wittwer & Parkin, LLP
Signature of Appellant(s) or Authorized Agent

Date: 9/13/05

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

Section VI. Agent Authorization

I/We hereby authorize Wittwer & Parkin, LLP, including Jonathan Wittwer
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Jon Marchini Chuck Allen
Signature of Appellant(s)

Date: Sept 13, 2005 9/13/05

Exhibit 3
A-3-SCO-05-066
Page 5 of 5



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 42

Jonathan Wittwer
William P. Parkin
Shandra D. Handley

WITTWER & PARKIN, LLP
147 SOUTH RIVER STREET, SUITE 221
SANTA CRUZ, CALIFORNIA 95060
TELEPHONE: (831) 429-4055
FACSIMILE: (831) 429-4057
E-MAIL: office@wittwerparkin.com

PARALEGAL
Miriam Celia Gordon

March 8, 2006

Susan Craig
California Coastal Commission
Central Coast District Office
725 Front St., Suite 300
Santa Cruz, CA 95060

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MAR 09 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Mr. David Keyon, Project Planner
County of Santa Cruz
701 Ocean Avenue, Room 400
Santa Cruz, CA 95060

**Re: Ubaldi – County of Santa Cruz Application No. 04-0018
Coastal Commission Appeal No. A-3-SCO-05-066**

Dear Ms. Craig and Mr. Keyon:

This office represents the Appellants in the Appeal referenced above. This letter addresses, in detail, Appellants' concerns with the project proposed in Application No. 04-0018 ("Project") and responds to a letter dated February 2, 2006 from the Applicant's attorney, received February 14, 2006. The County determined that this redevelopment project alters 54 percent of the walls of the existing single-family dwelling. In light of applicable Coastal Act policies, this significant redevelopment of rental housing, which is already, in certain areas, 10 feet coastward of the minimum 25-foot coastal bluff setback, raises a substantial issue.

(1) The Minimum Setbacks Have Not Been Properly Determined

The County has required as a permit condition that the southern end of the property must have a 28 foot setback line as opposed to the 25 foot setback line required for the remainder of the property.¹ The County's Project Planner stated that:

The portion of the additions that will be over the deck will have to be decreased by three feet in order to meet the 28-foot setback.

As will be explained in this letter, this three foot decrease has never occurred.

¹ A Transcript of the hearing before the County Planning Commission is enclosed as Exhibit 1. Citations to the Transcript will be by page number: line number. The 28-foot requirement was confirmed at Transcript 9:12-16.

**Exhibit 4
A-3-SCO-05-066
Page 1 of 9**



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 43

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 2 of 9

The southernmost second story addition does not comply with the 28 foot setback requirement. On February 14, 2006, Applicants' counsel provided Appellants with a revised plan of the Project that purported to indicate the southernmost second story addition is set back beyond a 28 foot setback line. A copy of that revised plan was provided to the Coastal Commission staff sometime thereafter and may have been provided to the County Planning Department as well. That revised plan does not show the southernmost second story addition being a perpendicular distance of 28 feet from the coastal bluff line.

A line on the revised plan purports to show the southernmost second story addition measured 28 feet back from the coastal bluff edge. There are at least two problems with this measurement. First, the measurement is taken at an angle to result in a 28 foot distance. A setback cannot be measured based on taking the measurement at a nonperpendicular angle. If setbacks could be measured on any angle, virtually any setback distance could be reached based on the degree of the angle used to take such measurement. The County Code has established a means for measuring setbacks for required yards. Front, rear and side yard setbacks are measured as the "*minimum horizontal distances between the property line and a line parallel thereto on the site.*" County Code § 13.10.700-Y. When measurement is taken on the revised plan of the minimum horizontal distance between the second story addition and the coastal bluff line, it measures 26+ feet, not 28 feet. The June 2005 plans show the second story addition only 25 feet from the coastal bluff line and immediately adjacent to the 25-foot setback line.

In a recent meeting with Applicant's counsel and Appellants' counsel, Applicant's counsel explained that the Geotechnical Engineer had made his borings and hence his measurement at a diagonal from the beach (and down coast of Applicant's property) up to the inland boundary of Applicant's property. This was not made clear at the County Planning Commission hearing where the County Planner informed the Planning Commission that the second story addition would have to be decreased by three feet in order to meet the 28-foot setback (see quote on page 1 above). Furthermore, the 28-foot setback shown on the Boring Site Plan for the Subject Property (Exhibit 2 enclosed) shows a sizable resulting decrease for the full width of the second story addition. Applicant's counsel indicates that the Geotechnical Engineer was being conservative in this regard and that the actual area where the 28-foot setback applies is only a very small portion of the width of the second story addition.

The second problem with the purported 28-foot measurement is that the line used to take this measurement is the "25 foot setback line" as shown on both the revised plan and the plan submitted to the County in June 2005. There is no new line identified as or qualifying as a "28 foot setback line."

The "25 foot setback line" on the revised plan has been altered from its location on the plan submitted to the County in June 2005. The line marked as the "25 foot setback line" on the plan submitted to the County in June of 2005 ran immediately alongside the western side

Exhibit 4
A-3-SCO-05-066
Page 2 of 9



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 44

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 3 of 9

of the southernmost addition, indicating that the addition will be built immediately alongside the 25 foot setback line. The revised plan does not change the designation of the "25 foot setback line," but it does move the setback line so it appears there is a distance of one (1) foot between the southernmost addition and the setback line. The dimensions of the addition have not changed, nor has any other feature of the plans which would increase the distance between the addition and the setback line. In other words, the plan submitted to the County in June 2005 shows the southernmost addition immediately adjoining the 25 foot setback line, while the revised plan indicates the addition is 26 feet away from the edge of the coastal bluff. When the revised plan is laid atop the plan submitted to the County in June 2005, what can be seen is that the "25 foot setback line" has been altered, while the line along the bluff edge creating the starting point to establish the setback line has not.

Before this appeal can be evaluated, accurate and complete plans should be required showing all additions behind a properly drawn 28 foot set back line.

Even the County Geologist stated that a setback line of "30 feet plus or minus" would be appropriate; conservatively that should mean 30 feet, especially in light of Dr. Griggs photo analysis showing 83 feet. Appellants continue to assert that the appropriate setback line should be 83 feet, based on the technical analysis performed by Dr. Gary Griggs. Dr. Griggs' analysis provides that, on average, the bluff recession rate up coast and adjoining Applicants' property has been approximately 10 inches/year over the last 50 years. This translates to 83 feet over 100 years. This is based on review of aerial photographs and measurements taken based on those photographs. The coastal bluff at the site and nearby is composed of unconsolidated sand dune. [Dr. Griggs – Transcript 16:9-11; 17:19-18:3; 22:8-17]

The County's Geologist, Joe Hanna, stated that "30 feet plus or minus is an appropriate amount" for the setback. [Transcript 52:23-25] Given the health and safety issues at stake, a conservative approach is warranted. At a minimum, the appropriate setback line needs to be determined.

(2) Calculation for Setbacks is Based on Protective Measures

Appellants also contend that the setbacks are based on protective measures required under the permit. Applicants contend that the geotechnical analysis for the addition did not consider any protective measures, but just the existing site conditions. Pursuant to the Santa Cruz County Code "the determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protective measures, such as shoreline protection structures, retaining walls or deep piers." [County Code Section 16.10.070(h)1(iii)]. There are a number of protective measures which Appellants assert account for the lower rate of recession argued by Applicants. They include the following:

Exhibit 4
A-3-SCO-05-066
Page 3 of 9



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 45

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 4 of 9

(a) **Prior Grading.** As Applicants admit, there was prior grading which took place in approximately 1972. Applicants argue that because it was done prior to the implementation of the Coastal Act, the grading should only be "considered" as an impact [Letter from Haro, Kasunich and Associates, Inc., October 10, 2005], but not as a protective measure. The grading has reduced the rate of recession on the specific site, but not on the immediately adjoining vacant land upcoast.

The County Geologist testified that "at this specific site, after it's been graded:"

The slope that we have now is substantially more stable than the slope that occurred before, the natural slope, where the top of the slope was oversteepened.

[Mr. Hanna – Transcript 51:12-15]. This grading allows the Applicant's geotechnical engineer to conclude that there have been substantially reduced recession rates on the subject site as compared to the immediately adjoining land.

County Code Section 16.10.070(h)(iii) should be applied as follows to these rather unique circumstances: the prior grading should be treated as a "proposed protective measure" because: [1] it has never been previously approved under the Coastal Act, [2] the single family dwelling has been built into the 25-foot minimum coastal bluff setback, and [3] the adjoining coastal bluff recession will undermine the upcoast side of the single family dwelling.

(b) **Deep Piers.** According to the Applicants, the County required the installation of deep piers in order to have a proper foundation [Letter from Haro, Kasunich and Associates, Inc., October 10, 2005].

During the Santa Cruz County Planning permit process it was requested that any portion of the existing home seaward of the 25' and 28' setback line be underpinned with piers buried below grade so that should this recession occur the existing house would be structurally supported.

[Letter from Haro, Kasunich and Associates, Inc., January 31, 2006 (emphasis added)²]. Mr. Kasunich noted in an earlier letter that the pier foundation "is

² See also Transcript 36:23-25 [Architect says house is built on concrete slab and Geotechnical Engineer recommends putting a few caissons around the perimeter of that corner]; 42:7-8 [Geotechnical Engineer says "lets get this house where its extending properly founded"]; 47:21-24 [Engineering Geologist says "we did recommend that the homeowners underpin the portion of their home within that 25 to 28 feet to mitigate their future risk"]; 53:2-



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 46

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 5 of 9

necessary for the existing development.” [Letter from Haro, Kasunich and Associates, Inc., October 10, 2005]. Applicants contend that these foundational piers are unrelated to the determination of the setback. It is difficult to imagine how the redeveloped and expanded second floor addition would not be adversely affected if the existing development were to fail because the newly required deep pier protective measures were not installed. If this is truly the case, then the spread footings and other proposed protective measures (see (d) below) for the redevelopment and expansion must be truly substantial and on their own be capable of enabling the geotechnical engineer to support a lower recession rate.

(c) **Retaining Wall.** In addition, there is the retaining wall that was built on the upcoast side of the Project house after the prior grading took place. As Dr. Griggs has stated, the bluff on the upcoast side of the Project is receding at 10 inches per year, which will cause that side of the house to be undermined along with the recession of the coastal bluff on the southwest side. See Exhibit 3 enclosed which shows the retaining wall in question and some of the bluff movement at the top.

(d) **Foundations and Other Support for Additions.** Additionally, the County did not take into consideration the foundations and other support for the additions which Mr. Kasunich references in his January 31, 2006 letter and apparently are required as a protective measure. The Project permit requires foundations to support the second story additions [Haro, Kasunich and Associates, Inc. letter, January 31, 2006]. The type of foundations or other support for the second story addition is not shown on the plans, nor is their placement shown. The plans must be revised to show the type and placement of the foundations and other support for the second story additions. It is noteworthy that the County Geologist described the weight to be added on top of the bluff as follows: “They’re just going to use standard walls and standard wood construction.” If there are going to be special support measures for the second story addition and other redevelopment features, these may add weight onto the bluff. These foundations and other support must also be looked at as protective measures. To do otherwise would deny the fact that the existing site conditions required such additional protective measures.

(e) **Additional Excavation for Garage and Living Room Expansion.** Furthermore, when asked about the excavation that would take place for the garage and the first floor living room, Joe Hanna, the County’s Geologist, indicated that such excavation would aid in alleviating the additional weight placed on the existing structure by the addition.

6 [County Geologist says “I’m not a structural engineer.... I do know that the Geotechnical Engineer has stated that there’s a need to support the edge of the slope within the setback”].



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 47

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 6 of 9

The excavation of the garage will actually remove driving forces or weight from the site.

[Transcript of Planning Commission Hearing, July 25, 2005, p. 55, ln. 14-16]. This also must be viewed as a protective measure considering the excavation is not part of the existing site conditions and is purported to reduce the stress on the coastal bluff.

To the extent that any of these protective measures were undertaken prior to this remodel (such as the grading), the County has interpreted the law to require more than "consideration" of the prior grading. As the County's Project Planner stated:

The historic coastal bluff was modified by grading. Going by the strict interpretation of the Coastal Provision of the State Statuets (sic) the historic position of the coastal bluff must be considered in determining the location of the coastal bluff. The consultants show (sic) [should] determine if the subdivision grading affected the location of the bluff and indicate the coastal bluff location before grading on the project plans.

[Email from David Keyon to Robert Goldspink (Applicants' architect), June 10, 2005, see Exhibit 4 enclosed]. Clearly, the coastal bluff location prior to the grading should be reviewed to determine the rate of recession for the property as an existing site condition. Using the pre-grading bluff location would result in the rate of recession being much greater requiring an increased setback line.

This appeal does not require the Coastal Commission to determine whether other developed parcels down coast would be precluded from redevelopment by treating the prior grading as a protective measure for the historic coastal bluff. The Applicants' property and development proposal is quite unique as can be seen by the five protective measures discussed above. It is particularly unique because it can be undermined by upcoast recession on vacant adjoining property.

(3) Foundation Upgrades Must Meet Setback Requirements

The foundation upgrades required by the County and those apparently needed but not shown as foundation measures to support the second story addition do not meet the requirements under the County Code for setback requirements. Section 16.10.070(h)1(iv) provides as follows:

foundation replacement and/or foundation upgrades that meet the definition of development per Section 16.10.040(s) and pursuant to Section 16.10.040(r), shall

Exhibit 4
A-3-SCO-05-066
Page 6 of 9



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 48

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 7 of 9

meet the setback described in Section 16.10.070(h)1, except that an exception to the setback requirement may be granted for existing structures that are wholly or partially within the setback, if the Planning Director determines that:

- a) the area of the structure that is within the setback does not exceed 25% of the total area of the structure³, OR
- b) the structure cannot be relocated to meet the setback because of inadequate parcel size.

The County has determined that the foundation upgrades meet the definition of development under Section 16.10.040. Therefore, the Applicants were required to request and be granted an "exception" to the setback requirement pursuant to County Code Section 16.10.100.

(a) Request for Exception: A request for an exception to the provisions of this chapter or the permit conditions may be considered by the Planning Director if the exception is necessary to mitigate a threat to public health, safety and welfare.

(b) Reason for Request. A request for an exception shall state in writing the reason why the exception is requested, the proposed substitute provisions, when the exception would apply, and the threat to public health, safety, or welfare that would be mitigated.

(c) Required Findings: In granting an exception, the Planning Director shall make the following findings:

- 1. that hardship, as defined in Section 16.10.040(2j)⁴, exists; and
- 2. the project is necessary to mitigate a threat to public health, safety, or welfare.
- 3. the request is for the smallest amount of variance from the provisions of this Chapter as possible; and,
- 4. adequate measures will be taken to ensure consistency with the purposes of this Chapter and the County General Plan.

[County Code Section 16.10.100]. No application for exception under this Section was made and the County did not grant an exception. Therefore, the foundation upgrades must either meet the 28 foot setback line, or this application must be returned to the County so the Applicants may file a request for an exception. However, it is unlikely that

³ See Exhibit 4 attached in which apparently all "foundations of the existing home" are recommended to be improved.

⁴ (2j) Hardship. For the purposes of administering Section 16.10.100, means the exceptional hardship that would result from failure to grant the requested Exception. The specific hardship must be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of neighbors also cannot qualify as exceptional hardship, as these problems can be resolved through means other than granting an Exception, even if those alternative means are more expensive, require a property owner to build elsewhere, or put the parcel to a different use than originally intended or proposed.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 49

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 8 of 9

the County could make the necessary findings under Section 16.10.100. First, there is no hardship here. This is an application for redevelopment of a rental property. Second, there are no threats to the public health, safety or welfare. Third, the request is not for the smallest amount of variance as possible.

Given that the findings for an exception to the setback requirements for the foundation upgrades falling within the setback line could not be made and there is no way to place the foundation upgrades outside of the setback line without either (1) not effectively supporting the existing structure or (2) clearly becoming a protective measure for the addition, the Application should be denied and returned to the County for further review or denial.

(4) The Project is Not Too Minor to be Subject to the Rules

The County has referred to the Project as minor additions to a single-family home. However, the Project is described as additions to the family room, bathroom, and kitchen, construction of a master bathroom, and excavation on the lower level to allow the construction of a one car garage and living room. This total remodel alters 54 percent of the walls, which is a considerable alteration of the existing structure.

Our review of the preliminary plans indicate that the proposed modifications to exterior walls involves 54% of the original walls as opposed to 50%, and therefore is considered development per 16.10.040(s).

[See Memorandum to David Keyon from Joe Hanna, July 15, 2005, p. 3]. This amount of alteration is significant and requires additional review.⁵ This is an important precedent which should not be allowed to skate through as if it were de minimus.

CONCLUSION

For the reasons set forth above, it is respectfully requested that this appeal be deemed to raise a substantial issue and the application be required to submit adequate plans and either returned to the County or considered after a public hearing by the Coastal Commission.

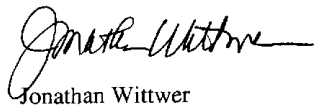
⁵ At the Planning Commission hearing, a Planning Commissioner asked Staff to provide a breakdown of the square footage of each of the areas that are considered part of the total addition, including the square footage of the garage. [See Transcript of July 27, 2005 Planning Commission Hearing, p. 11, ln. 21-25 and p. 12, ln. 24-25]. These calculations were never provided. The plans for the Project do not provide adequate detail to determine such measurements. At a minimum, the plans should be required to show the size of the addition, broken down into the separate addition areas.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 50

Susan Craig
California Coastal Commission
Appeal No. A-3-SCO-05-066 (Ubaldi)
March 8, 2006
Page 9 of 9

Sincerely,
WITTWER & PARKIN, LLP


Jonathan Wittwer

Encl. Exhibit 1 - Transcript of 7-27-05 Planning Commission Meeting
Exhibit 2 - Boring Site Plan
Exhibit 3 - Photograph showing Retaining Wall and Bluff Recession
Exhibit 4 - Email from County Planner to Project Architect

cc: Charlene Atack, Esq. - Attorney for Applicants, w/o enc
Clients

Exhibit 4
A-3-SCO-05-066
Page 9 of 9



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 51

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March 14, 2006

RECEIVED

MAR 14 2006

Susan Craig
California Coastal Commission
725 Front Street, Suite 300
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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**Re: Owners: Ronald and Esther Ubaldi
Coastal Commission Appeal No. A-3-SCO-05-066
County of Santa Cruz Application No. 04-0018**

Dear Ms. Craig:

This letter is on behalf of Applicants Ron and Esther Ubaldi in response to Appellants' assertions set forth in their letter of March 8, 2006. Appellants' assertions are in error as they are not based upon the applicable law and are without factual merit. John Kasunich, Applicants' geotechnical consultant, properly set and measured the 100-year slope stability setback line, and his assessment was accepted and supported by County Geologist Joe Hanna. As more specifically set forth below, the project meets all County regulations and coastal policies, and Appellants fail to present a substantial coastal issue; therefore, their appeal should be denied.

**1. The Addition Complies With the Coastal Bluff Setbacks
Established by the Haro, Kasunich & Associates Report**

The coastal bluff setback was properly set pursuant to Local Coastal Policy 6.2 and implementing ordinances of Chapter 16.10 of the Santa Cruz County Code.¹ Appellants assert that the second story addition does not meet the 100-year slope stability setback set by John Kasunich of Haro, Kasunich & Associates in his geotechnical report because Mr. Kasunich's measurements of the addition's position in relation to the setback are not in accord with the measurement

¹ References hereinafter to the "County Code" are to the Santa Cruz County

Exhibit 5
A-3-SCO-05-066
Page 1 of 11



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 52

Susan Craig
March 14, 2006
Page 2 of 9

requirements of County Code Section 13.10.700-Y. That assertion is without merit because Section 13.10.700-Y does not apply to geological assessments of coastal bluff setbacks. Rather, the section is expressly limited in its application to the provisions of Chapter 13, and merely provides a definition for "Yard" and measurement procedures for front, rear and side yard setbacks from *property lines* for the topics of Chapter 13 (i.e., zoning and building purposes).² Thus, County Code Section 13.10.700-Y is inapplicable to geological setbacks from coastal bluffs.

The correct definitions and provisions for determination of coastal bluff setbacks are contained in County Code Chapter 16.10, "Geologic Hazards." County Code Section 16.10.070(h)(1), in pertinent part, sets forth the appropriate requirements for location and setback of development along coastal bluffs:

For all development, including that which is cantilevered, and for non-habitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater. S.C.C. § 16.10.070(h)(1)

Pursuant to Chapter 16.10, Mr. Kasunich of Haro, Kasunich & Associates prepared a geological assessment of the site that established 100-year stability setback line. In compliance with the explicit wording of Chapter 16.10 and with Local Coastal Plan Policy 6.2.11, Mr. Kasunich measured the 100-year stability line directly from the top edge of the coastal bluff. He, along with Applicants' architect, Robert Goldspink, confirmed that the addition meets the setback line. Describing the 100-year slope stability line at the Planning Commission Hearing of July 27, 2005, Mr. Kasunich stated,

[The] house is skewed from the bluff edge. It's built at the bluff in front of the bluff, and then it works itself diagonally back. So this is really a lot where you don't have the same distance from one side of the house to the existing bluff edge as you do to other side of the house to the bluff edge. All those townhouses do. They're parallel to the top of the bluff. This lot and home is not. That's why there's a variation from

² Section 13.10.700 states: "For the purposes of this chapter certain terms used here are defined as follows: 'Y' definitions/Yard. A required setback space adjacent to a front, side, or rear property line or right of way, within which no structure may be built." Santa Cruz County Code § 13.10.700 (emphasis added)



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 53

Susan Craig
March 14, 2006
Page 3 of 9

25 in one zone to 28. Robert Goldspink, the architect, clearly moved his additions back behind that line.³

In accord with Mr. Kasunich, at the same hearing Mr. Goldspink stated,

The setback measured along the bulk of the bluff remains 25 feet. At one end where the addition is being proposed, it increases to 28 feet because of the shape of the land and the shape of the property and the location of the building. And the proposed addition complies with that 28-foot setback.⁴

Pursuant to Permit Condition #2, Mr. Goldspink provided a site plan showing the locations of the 100-year slope stability setback line and the addition. This site plan was provided in our previous letter of February 2, 2006, along with Mr. Goldspink's written confirmation that the addition is located behind the setback line established by the Haro, Kasunich report.⁵ Thus, the assessment and measurement of the setback comports with the local coastal plan policies and the applicable county ordinances.

2. No Plan Revisions Are Necessary to Meet the Setback Requirements

Appellants claim that at the Planning Commission Hearing of July 27, 2005, the County Planner required the plans to be revised to meet the setback requirements. However, Appellants make this claim in reliance on a misstatement by the County Planner that was later corrected during the hearing. Specifically, at the hearing County Planner Mr. Keyon mistakenly stated that the addition over the deck needed to be changed by three feet in order to meet the Haro, Kasunich setback line. This error was brought to the County's attention by the Planning Commission's Chair and corrected by the Applicants' architect who stated that no changes needed to be made because the addition had been *already* been revised to relocate the addition beyond the Haro, Kasunich setback line.⁶ This is consistent with the planner's earlier comments that the additions met the Haro, Kasunich & Associates setback⁷ and with the permit conditions which do not require the addition to be redesigned and relocated but only that the Haro, Kasunich setback line needs to be shown on the site plan.

³ Transcript of the Meeting of the Santa Cruz County Planning Commission, July 27, 2005, 41:6-17 [hereinafter referred to as "Transcript"].

⁴ Transcript, 39:5-13.

⁵ "I am confirming that the addition for the Ubaldi residence, as approved by the County of Santa Cruz, is located beyond the 25/28 foot setback." Robert Goldspink letter dated February 1, 2006. See also enclosed letter of March 14, 2006.

⁶ Transcript, 39:14-23.

⁷ Transcript, 6:15-21.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 54

Susan Craig
March 14, 2006
Page 4 of 9

3. Position of Addition in Relation to 25 Foot Setback Line Is
Accurate In Both the Original and Revised Plans

Appellants allege that the 25 foot setback line has been altered in the revised plan. This allegation mischaracterizes the changes in the revised plan. In drawing the revised plan, Applicants' architect, Mr. Goldspink, was able to place the 25 foot setback line with more precision because he was able to incorporate Mr. Kasunich's precise measurements of the setback from the top of the slope. This does not mean that the original plan was incorrect in its placement of the setback line, it merely means that the revised plan did so with more precision. Most important to note is that in both plans the addition clearly falls beyond the required setback.⁸

4. County Geologist Joe Hanna Accepted the Haro, Kasunich
Analysis

County Geologist Joe Hanna reviewed both the information provided by Appellants' expert, Dr. Griggs, and the study provided by Applicants' geologist, Mr. Kasunich.⁹ Mr. Hanna stated that Dr. Grigg's studies are "limited,"¹⁰ and that "you cannot rely upon a photographic regional study like... [Mr. Griggs'] for a specific site."¹¹ By contrast, Mr. Hanna found Mr. Kasunich's study to be the more reliable and accurate assessment and noted, "The study that's been done by Haro, Kasunich is reasonable in showing that the actual instability is less than 25 feet... I would project a setback similar to what Haro, Kasunich has stated for the next 100 years."¹² Thus, the Haro, Kasunich setback is very conservative in that the projected erosion rate will be considerably less than the erosion rate used to calculate the County required minimum setbacks.

5. It Is Proper Under the Code to Include the 1970 Grading In the
Determination of Slope Stability

Appellants erroneously assert that the prior grading that took place in 1970 should not have been taken into account in determining slope stability. This

⁸ "I am confirming that the addition for the Ubaldi residence, as approved by the County of Santa Cruz is located beyond the 25/28 foot setback line. . . . A copy of Drawing 1 [site plan submitted] is attached hereto. As you will see, the addition is located beyond the 25/28 minimum setback. Including that portion of the setback consisting of 28 feet." Robert Goldspink letter dated February 1, 2006. "In their letter, dated 4.13.05, Haro, Kasunich & Associates confirms that our proposed additions fully comply with their recommended setbacks." Robert Goldspink letter dated August 22 2005.

⁹ County planner David Keyon noted that both reports were reviewed by Joe Hanna and that Mr. Hanna determined and accepted the Haro, Kasunich assessment (6:15-21).

¹⁰ Transcript, 52:4-5.

¹¹ Transcript, 52: 5-7.

¹² Transcript, 53:8-11 53:14-16.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 55

Susan Craig
March 14, 2006
Page 5 of 9

assertion is directly contrary to the clear and explicit wording of the applicable County Code section and unreasonable in its application. The County Code provides that

[D]emonstration of the stability of the site, in its *current*, pre-development application condition [is required]... the determination of the minimum setback shall be based on the *existing* site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers. S.C.C.C. § 16.10.070(h)(ii)-(iii) (emphasis added)

Thus, the County Code is clear that assessment of slope stability must be based upon *current, existing* site conditions. Not only is Appellants' position directly contrary to the clear wording of the provisions, it would be patently unreasonable, and contrary to the purposes of the Coastal Act, for a site assessment of slope stability not to include and consider prior activities on the site which affect erosion and the stability of the site. Appellants attempt to bolster their position by claiming that the prior grading is a "protective measure" that is excluded from consideration under Section 16.10.070(h)(iii). However, the pre-Coastal Act grading, which occurred over 30 years ago, was not a protective measure when it occurred nor can it be said by any stretch of imagination that it is "proposed" for this project. It defies logic to interpret Section 16.10.070(h)(iii) as contemplating that any past activities that affected grading on a site would be automatically considered "proposed protection measures." The Code as written clearly provides for a determination based upon *existing* site conditions, and that only *proposed* protective structures are not to be taken into account. Thus, it was proper for Applicants to take into account the effect of the 1970 grading in determining slope stability.

6. The Excavation For the Garage and the Existing Retaining Wall
On the Adjacent Property Are Not Proposed Protective Measures

Appellants argue that the excavation necessary for the garage and the existing retaining wall on the neighbor's adjacent property are "proposed protective measures" for this project which violate the applicable Code provisions. To the contrary, the proposed excavation for the garage is not a proposed protective measure, but rather, is a necessary element for the expansion of the garage. The excavation will not adversely impact slope stability as it may offset

Exhibit 5
A-3-SCO-05-066
Page 5 of 11



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 56

Susan Craig
March 14, 2006
Page 6 of 9

any increase in the weight of the structure.¹³ In any event, even if it could remotely be argued that this is a "protective measure," the proposed excavation of the garage was not considered in the determination of the 100-year setback.

Similarly, the neighbor's existing retaining wall is not a "proposed" measure for this project. As set forth above, Appellants' allegation that the adjacent property will cause the Ubaldi house to be undermined is totally without basis and is contrary to the findings by Haro, Kasunich & Associates and County Geologist Joe Hanna. The assessment and determination of the coastal setback by Haro, Kasunich for the subject site took into account all relevant factors including the adjacent property conditions, but properly did not include proposed protective measures such as the piers for the existing foundation.

7. Appellants' Statement That Joe Hanna Concluded That the
Adjoining Property Has Substantially More Erosion Is Incorrect

Appellants claim that Joe Hanna concluded that the land adjoining the project site has substantially more erosion than the project site. To the contrary, Mr. Hanna stated in a memo that "very little bluff retreat has occurred on this site in the forty years since the initial subdivision grading and my own analysis of the aerial photos *show little bluff retreat in the immediate vicinity of 807 Shoreline since 1928.*"¹⁴ This is consistent with the conclusions of Haro, Kasunich and Associates. Mr. Kasunich states that the adjacent site erosion rate is approximately the same as the subject site and that the study for the project site "parallels a study done in 1996 just up coast of their project (500 Heather Point) fronting the same beach by Hans Nielson, C.E.G., who also indicated that the blufftop historically shows less than 25 feet of erosion for 100 years."¹⁵ Further, Mr. Kasunich states that his "study indicated that the upcoast portions of the property would not erode to the present coastal blufftop."¹⁶

8. Proposed Piers Supporting the Corner of the Existing Structure
Were Properly Not Considered in the Determination of the
Setback

As previously addressed, the proposed piers for a corner of the existing structure were not considered in the determination of the coastal bluff setback. In fact, the piers are not a necessary component of the project. As noted by Chairman Durkee,

¹³ Joe Hanna states at the Hearing that "The excavation of the garage will actually remove driving forces or weight from the site (55:13-15).

¹⁴ Joe Hanna memo dated July 15, 2005 (emphasis added).

¹⁵ John Kasunich letter dated January 31, 2006.

¹⁶ John Kasunich letter dated January 31, 2006.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 57

Susan Craig
March 14, 2006
Page 7 of 9

[I]f it's a good idea... to shore up the corner of the house ... go ahead and do it. It's a good idea to do it... At the same time you can't use that shoring up as your justification for adding on stuff behind the 25 feet, and in this case, the testimony from Mr. Hanna and Mr. Kasunich has been that... the addition is not dependent upon the shoring up of the corner of the house that's within the 25 feet.¹⁷

Mr. Kasunich specifically addresses this issue, stating,

The proposed first and second story additions by permit requirement were setback beyond the 100 year erosion line and will be supported by foundations that are not dependent on the underpinning piers proposed on the seaward southwest perimeter corner of the existing structure. Areas of the [existing] home that might be undermined will not support the proposed additions."¹⁸

There are no special support or protective measures proposed for the addition as claimed by Appellants. Further, as to Appellants' claims that the additional weight will be a factor, the County Geologist noted that the weight of the addition including any piers would not change the overall dynamics and stability of the site and that the removal of the garage would actually remove weight and make the slope "significantly stronger."¹⁹

9. The Foundation Upgrades Are Allowed Under the County Code and No Special Findings Need to Be Made

The proposed foundation upgrades for the existing structure are not required to meet the setback requirements of Section 16.10.070(h)(iv), as the upgrades fall within both exceptions expressly provided for in that section.²⁰ This conclusion is consistent with that made by County Planner David Keyon in a letter to the Planning Commission dated July 20, 2005. Thus, contrary to Appellants' assertions, no request for a "hardship" exception under Section 16.10.040 is necessary. Section 16.10.070(h)(1)(iv) provides that foundation upgrades do not need to meet the Section's setback requirements if the County determines that either a) the area of the structure that is within the setback does not exceed 25% of the total area of the structure or b) the structure cannot be relocated to meet the setback because of inadequate parcel size. The foundation upgrades in

¹⁷ Transcript, 65:19-25, 66: 1-5.

¹⁸ John Kasunich letter dated January 31, 2006.

¹⁹ Transcript, 54:14-25 55:1-10.

²⁰ See Transcript, 54:8-11.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 58

Susan Craig
March 14, 2006
Page 8 of 9

Applicants' project come within both exclusions (a) and (b). Appellants claim that "all" foundations are recommended to be improved²¹; however, this is a misstatement of the County's position as the approved plans clearly show that only a small corner of the existing house will be upgraded by piers. Therefore, the foundation upgrades fall within the Section 16.10.070(h)(1) exceptions and do not require Applicants to seek a special "hardship" exception under Section 16.10.040.

10. Project Meets All Applicable Rules and Regulations For Development

Since the proposed modification to exterior walls involves 54% of the original walls, the project is considered "development" for which a full geological assessment of 100-year stability must be prepared.²² Applicants' project meets the stability setbacks of the assessment.²³ There is no additional review necessary for the project. Contrary to the statements by Appellants' attorney that the project has "skated though," this project has been the subject of exhaustive review and analysis by at least three geotechnical and coastal engineers.²⁴

Conclusion

As Planning Commissioner Durkee stated,

[Appellants' attorney is] a worthy advocate... [who has] spread a lot of sand and cobwebs and so on [on this project]... the real issue is that one homeowner wants to make an addition to his home and other homeowners are affected by that and they don't like it and that's basically what this is all about...²⁵

The reality of this project is that, as stated by Commissioner Durkee,

²¹ Wittwer letter dated March 8, 2006, p. 7, ft. 3.

²² See Joe Hanna memo dated July 15, 2005.

²³ Appellants' concern with respect to the square footage to be added is a non-issue in that the addition is, as set forth in the staff report, 575 square feet. The garage will replace the carport and is not considered an addition, but even if it was it is shown on the plans and is 180 square feet, still under the 800 square foot limit.

²⁴ Haro and Kasunich reports, studies and assessments by John Kasunich dated June 2004, April 13, 2005, June 1, 2005, June 21, 2005, July 15, 2005 and letter dated January 31, 2006 including extensive aerial photo interpretations by Mark Foxx, CEG and cross sections of the site. In addition, independent analysis by County Geologist Joe Hanna, and opinion letters by Gary Griggs dated June 24, 2005 and undated letter submitted April 2005.

²⁵ Transcript, 63:1-4, 18-23.



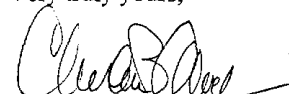
Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 59

Susan Craig
March 14, 2006
Page 9 of 9

The effect on private views has been minimized... and the same goes as far as the beach... [t]he views there have been minimized and, in fact, when you get down at the beach and you look up at this site and you appreciate that they are going to be in the same neutral colors that are on the existing structure and so on, it will fade into that and will in my view be minimized. . . . The home will still be much smaller than most of the homes around it there on The Shore Line. It's reasonable.²⁶

Despite all of Appellants' attempts to find fault in the County's approval of Applicants' project, the fact remains that the project complies with all applicable county ordinances and local coastal plan policies, including those regarding private and public views and geological issues, and there is no substantial coastal issue presented by the project. For these reasons, it is respectfully requested that the Commission uphold the Santa Cruz County Planning Commission's unanimous denial of the Appellants' appeal.

Very truly yours,


CHARLENE B. ATTACK

CBA:vh
Enclosures

Cc: Ronald and Esther Ubaldi
Jonathan Wittwer
John Kasunich
Robert Goldspink
David Keyon

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²⁶ Transcript, 66:20-24, 67:7-23.



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 60



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ROBERT GOLDSPIK

PAGE 01

ROBERT J GOLDSPIK ARCHITECTS

March 14th 2006

Charlene Atack
Bosso, Williams, Attorneys
133 Mission Street, Suite 280
Santa Cruz CA 95060

UBALDI RESIDENCE

**807 The Shoreline
La Selva Beach**

Dear Ms. Atack,

Thank you for forwarding a copy of Jonathan Wittwer's letter, dated 3.8.06.

As requested, I have prepared responses to his comments that refer to architectural items, as follows:

1. Coastal Bluff Setback Measurement

The addition as shown on my Site Plan submitted to you on February 6, 2006 shows the 100 - year coastal slope stability setback established by the Haro, Kasunich and Associates assessment. Mr. Kasunich confirmed that his field measurements at his cross - section DD included a horizontal dimension of 13' 6" from the exterior face of the retaining wall along the South side of the house to the top of the edge of the coastal bluff. I used this dimension and designated this line on my Drawing 1 (Revision 7, dated 1.31.06).

My letter to you, dated 2.1.06, explains that the slope setback dimension of 28 feet is measured along Section DD. The setback point of 28 feet only occurs at Section DD, the remainder is 25 feet. In order to accurately depict the slope, cross section DD is perpendicular to the bluff edge as any other angle would make the bluff slope appear less steep.

2. Excavation for Project

The proposed remodel of the existing carport area responds to the clients' desire to create an enclosed garage instead of a carport and a more attractive entry. The garage is located on the far landward side of the house away from the coastal bluff. It is not a protection measure for the coastal bluff. At the Planning Commission Hearing a Commissioner inquired if the excavation would negatively affect slope stability and Joe Hanna indicated that it would not.

3. Non-Conforming Structure

The project meets all the requirements for non-conforming structures in that although the addition is less than 800 square feet (more than 800 needs Level IV approval 13.10.265(b)) it has a Level V approval from the Zoning Administrator. Further, it meets the limitation of 13.10.265 (e) 3 which requires that within any five-year period, no more than fifty percent of the total length of the exterior walls within the nonconforming portions of the structure, exclusive of the foundation, shall be moved replaced or altered in any way. There is 49 linear feet of existing exterior wall within the setback, of which 18 feet [37%] is proposed to be remodeled.

Exhibit 5
A-3-SCO-05-066
Page 10 of 11



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 61

Ubaldi Residence
3.14.06
p2

4. Foundation Upgrade

The proposed foundation upgrade within the coastal bluff setback is permitted by the provisions of County Code Section 16.10.070(h)1.(iv)(a) which requires that the area of the structure that is within the setback does not exceed 25% of the total area of the structure. As shown on the site plans submitted to the County the area of the structure that is within the setback is 238 square feet, amounting to only 18% of the total area of the structure, namely 1,313 square feet.

Please call if you have any questions.

Sincerely,



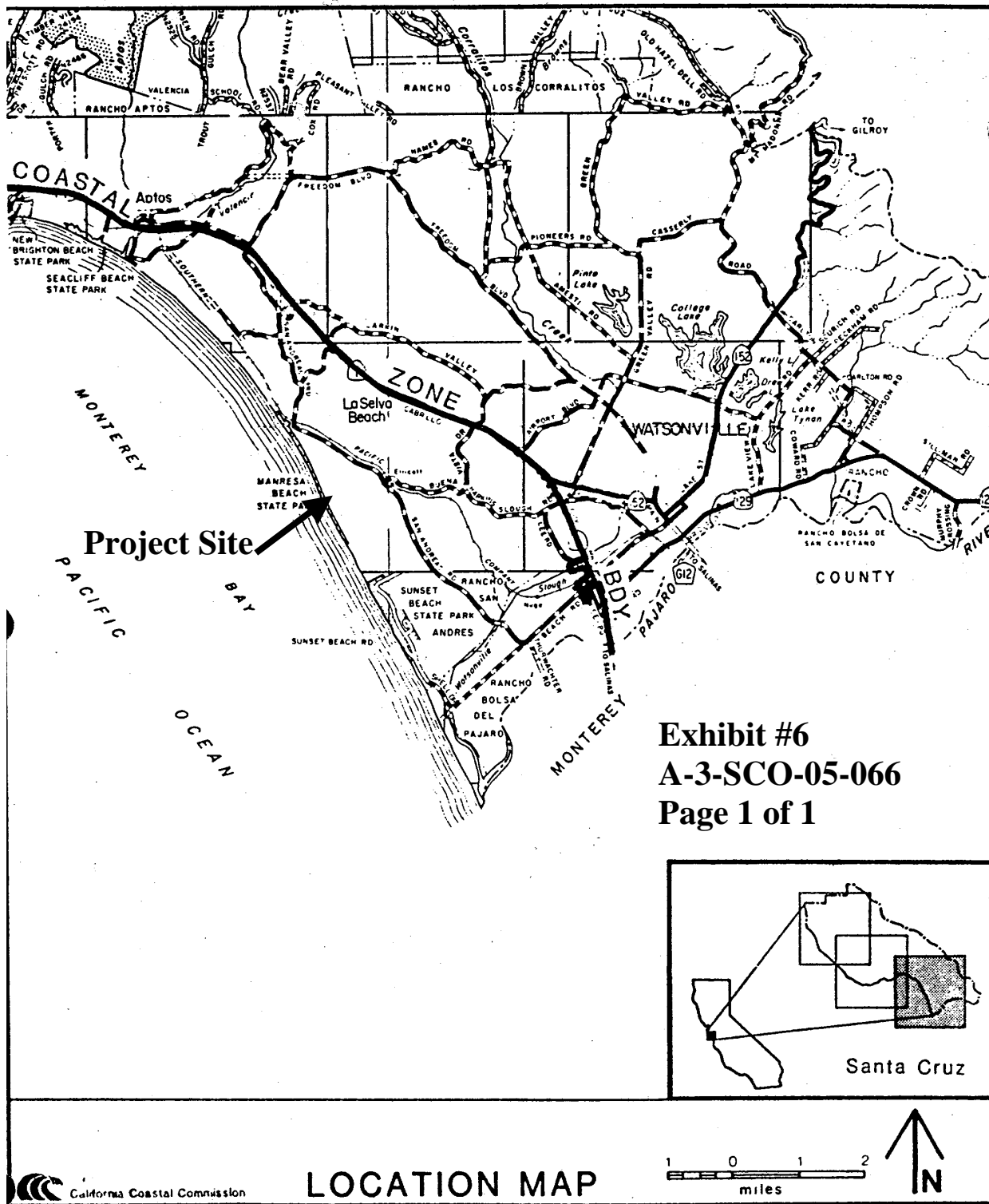
Robert J Goldspink

email cc John Kasunich

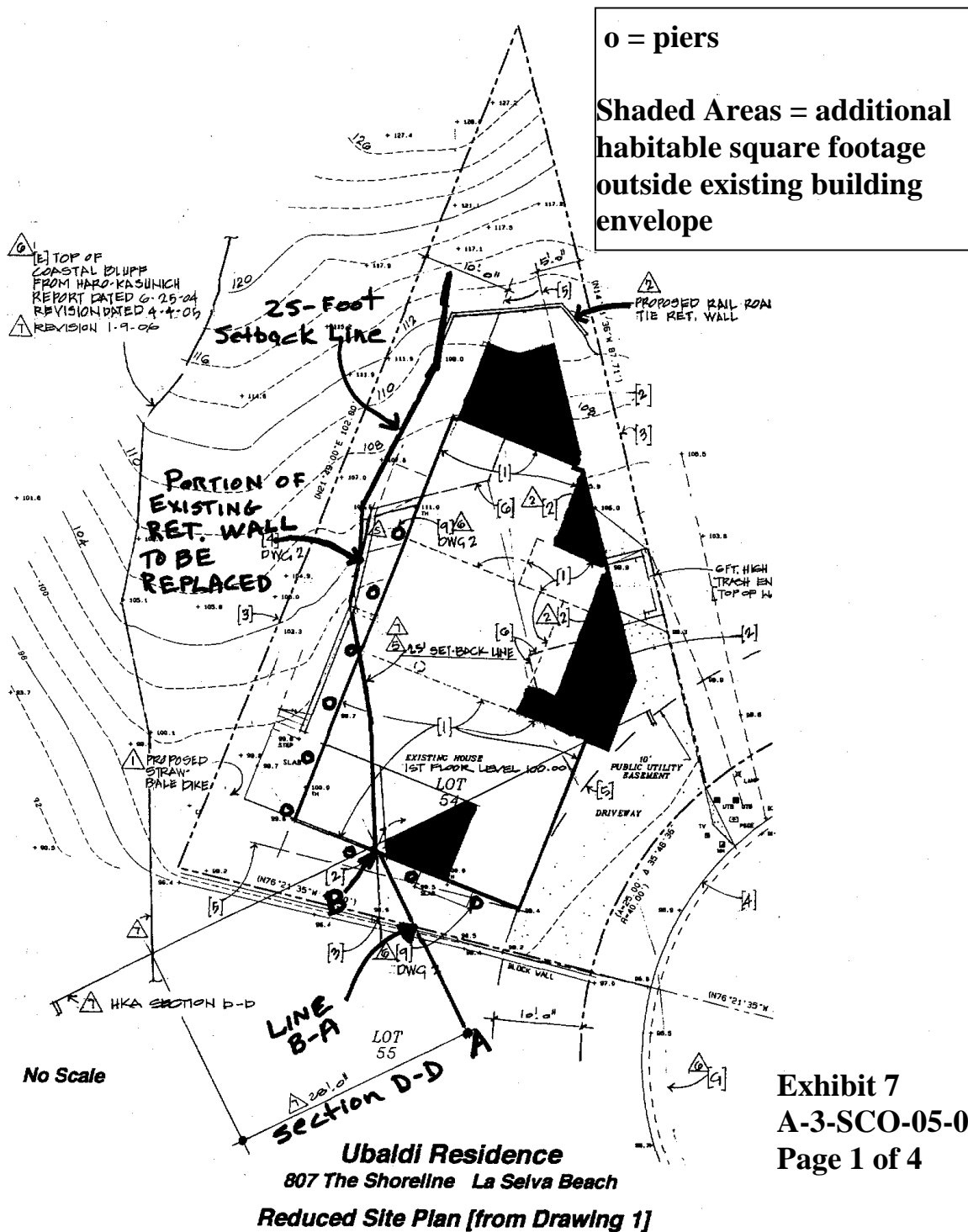
8042 Soquel Drive Aptos CA 95003 tel [831] 688 8950 fax [831] 688 4402
RobertGoldspink@aol.com

Exhibit 5
A-3-SCO-05-066
Page 11 of 11





Appeal A-3-SCO-05-066
 Ubaldi SFD Remodel & Additions
 Substantial Issue Staff Report
 Page 63



First Floor Plan
1/16" = 1'-0"

Legend:

- 1. Door (indicated by a circle with a dot)
- 2. Window (indicated by a circle with a cross)
- 3. Staircase (indicated by a circle with a cross and a dot)
- 4. Elevator (indicated by a circle with a cross and a dot)
- 5. Storage (indicated by a circle with a cross and a dot)
- 6. Office (indicated by a circle with a cross and a dot)
- 7. Bicycle (indicated by a circle with a cross and a dot)
- 8. Bicycle Rack (indicated by a circle with a cross and a dot)
- 9. Bicycle Storage (indicated by a circle with a cross and a dot)

Notes:

1. All dimensions are in feet and inches.
2. All dimensions are to the center of the room.
3. All dimensions are to the center of the door.
4. All dimensions are to the center of the window.
5. All dimensions are to the center of the staircase.
6. All dimensions are to the center of the elevator.
7. All dimensions are to the center of the storage.
8. All dimensions are to the center of the office.
9. All dimensions are to the center of the bicycle.
10. All dimensions are to the center of the bicycle rack.
11. All dimensions are to the center of the bicycle storage.

MEASUREMENTS:	
△ 15.0	average of 15 heights at west side of reef wall
△ 6.75-0.4	measured inner reef wall
△ 1.31-0.3	measured top of section cut b/c
△ 0.21-0.05	measured 25 cm depth in line, calculated removing 1 m measuring 10 cm across according to record with 10 at 10 m & 10 m

2

Don A Esther Walsh
857 The Shoreline
La Brea Beach CA 96078

ROBERT J GOLDSPIK ARCHITECT
#042 Seaport Drive
(703) 498-8880

C 12,796

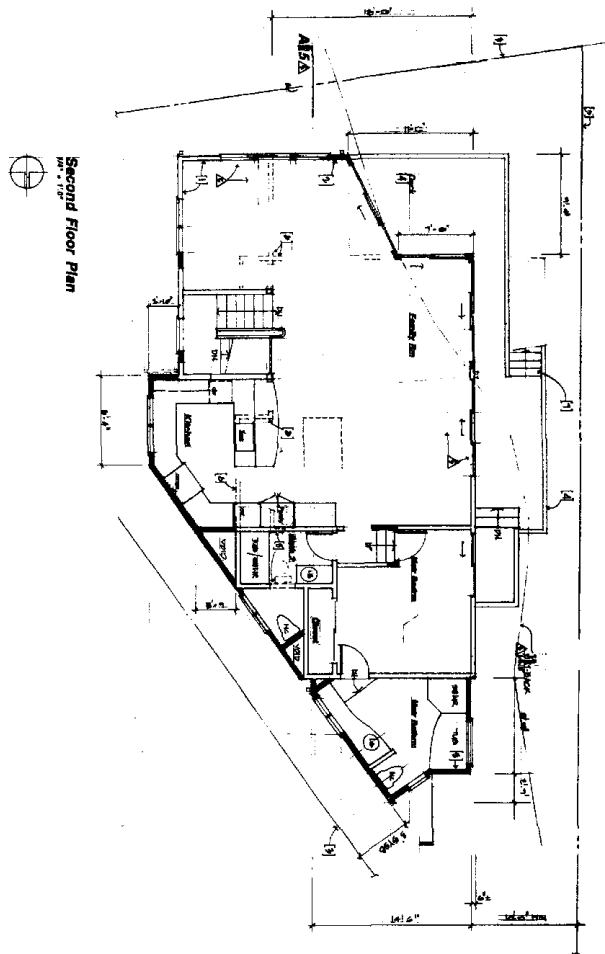
Appl. CA 00025
Fax (201) 686-4602

15-4-53



California Coastal Commission

Appeal A-3-SCO-05-066
 Ubaldi SFD Remodel & Additions
 Substantial Issue Staff Report
 Page 65



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Exhibit 7
 A-3-SCO-05-066
 Page 3 of 4

3

UBALDI RESIDENCE
 Ron & Esther Ubaldi
 207 The Shoreline
 La Brea Beach CA 90278

Second Floor Plan

ROBERT J GOLDBERK ARCHITECT
 1800 Newport Drive
 Newport Beach CA 92660
 (949) 866-1000

C 12,796
 Date: 10/10/04
 File: 0011 000 0002



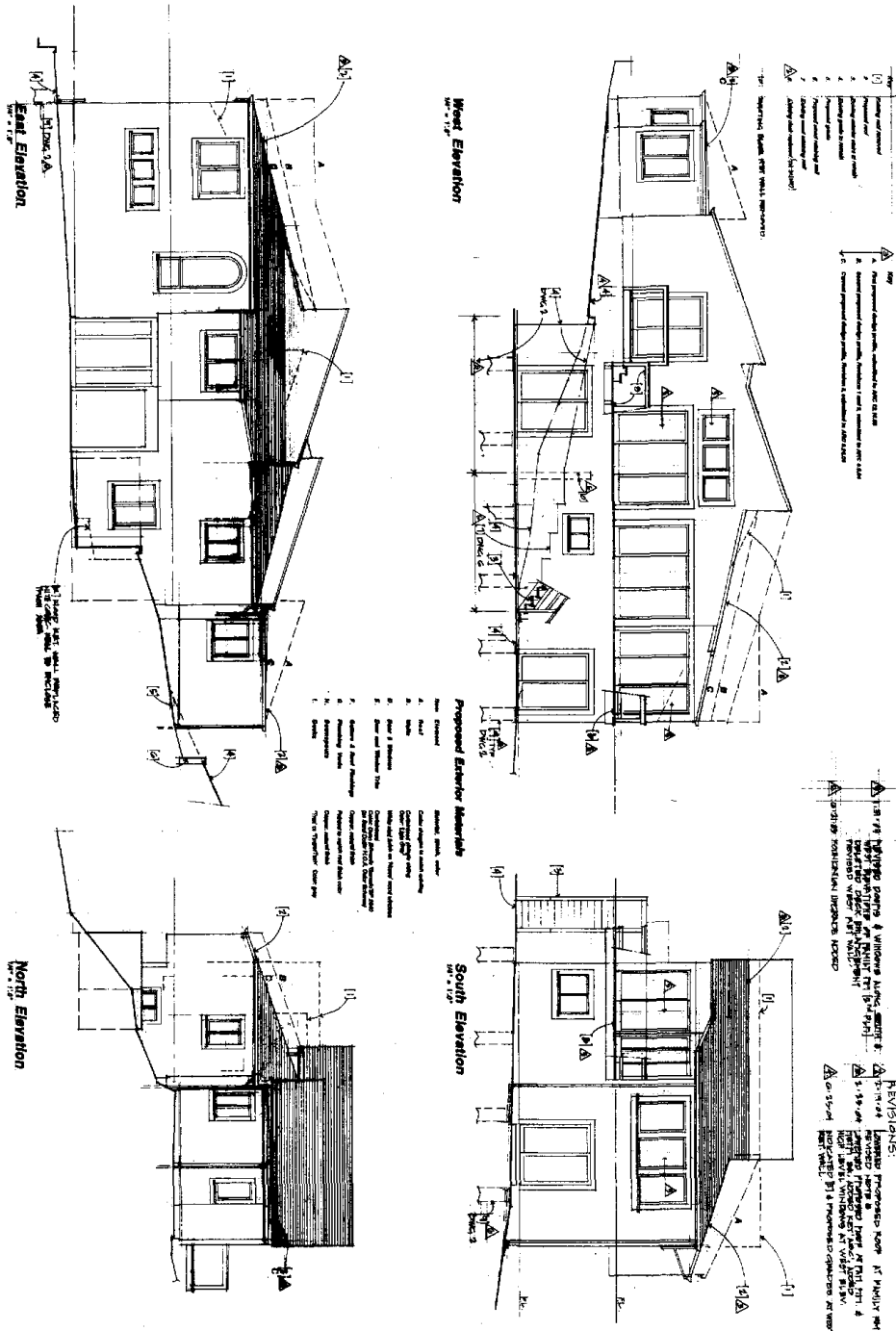


Exhibit 7
A-3-SCO-05-066
Page 4 of 4

California Coastal Records Image #6806

<http://www.californiacoastline.org/>



Exhibit #8, page 1 of 1

A-3-SCO-05-066



17 April 2004

GEOTECHNICAL REVIEW MEMORANDUM

To: Susan Craig, Coastal Program Analyst
From: Mark Johnsson, Staff Geologist
Re: A-3-SCO-05-066 (Ubaldi)

With regard to the above referenced appeal, I have reviewed the following documents:

- 1) Haro, Kasunich and Associates 2004, "Geotechnical Investigation, Proposed Ubaldi Residence Addition and Remodel", 22 p. geotechnical report dated 29 June 2004 and signed by J. E. Kasunich (GE 455) and W. E. St. Clair.
- 2) County of Santa Cruz, 2004, "Review of geotechnical investigation by Haro, Kasunich and Associates, Inc. dated: June 29, 2004, Project No. SC8592, APN: 046-341-23, Application No.: 04-0018," 2p. letter to Robert Goldspick dated 13 August 2004 and signed by Joe Hanna (County Geologist; CEG 1313)
- 3) Haro, Kasunich and Associates 2005, "Response to Santa Cruz County Planning Departments geotechnical concerns, Letter dated 13 August 2004 from Joe Hanna, County Geologist, Proposed Ubaldi Residence Addition and Remodel", 3 p. letter report dated 13 April 2005 and signed by J. E. Kasunich (GE 455).
- 4) Gary Griggs 2005, "Review of coastal bluff issues, 807 The Shoreline, La Selva Beach", 8 p. undated letter report signed by G. B. Griggs (CEG).
- 5) Haro, Kasunich and Associates 2005, "Review of Coastal Bluff Recession Issues, Proposed Ubaldi Residence Addition and Remodel", 4 p. letter report dated 1 June 2005 and signed by M. Foxx (CEG 1443) and J. E. Kasunich (GE 455).
- 6) Haro, Kasunich and Associates 2005, "Coastal bluff issues, Proposed Ubaldi Residence Addition and Remodel", 2 p. letter report dated 21 June 2005 and signed by J. E. Kasunich (GE 455).
- 7) Gary Griggs 2005, "Review of coastal bluff issues, 807 The Shoreline, La Selva Beach", 10 p. letter report dated 24 June 2005 and signed by G. B. Griggs (CEG).



Appeal A-3-SCO-05-066
Ubaldi SFD Remodel & Additions
Substantial Issue Staff Report
Page 69

- 8) Haro, Kasunich and Associates 2005, "Response to Gary Griggs letter dated June 24, 2005, Coastal Bluff Recession Rates, Ubaldi Residence Remodel Addition", 4 p. letter report dated 15 July 2005 and signed by J. E. Kasunich (GE 455).
- 9) County of Santa Cruz, 2005, "Application 04-0018," 3p. memorandum to David Keyon dated 15 July 2005 and signed by Joe Hanna (County Geologist, CEG 1313)
- 10) Haro, Kasunich and Associates 2005, "Appeal from coastal permit decision of local government #A-3-SCO-05-066, Ubaldi Residence", 2 p. letter report dated 10 October 2005 and signed by M. Foxx (CEG 1493) and J. E. Kasunich (GE 455).
- 11) Haro, Kasunich and Associates 2006, "Ron and Esther Ubaldi Home Addition", 2 p. letter report dated 31 January 2006 and signed by J. E. Kasunich (GE 455).
- 12) Wittwer and Parkin, LLP, 2006 "Ubaldi—County of Santa Cruz Application No. 4-0018, Coastal Commission Appeal No. A-3-SCO-05-066," 9 page letter to Susan Craig and David Keyon dated 8 March 2006 and signed by Jonathan Wittwer.
- 13) Myer and Baumbach, 1965, "Tentative map of Sand Dollar Beach," scale 1" = 60', 1 sheet.
- 14) Myer and Baumbach, 1967, "Finished contour lines, Sand Dollar Beach," scale 1" = 50', 1 sheet.

I have examined all of the aerial photographs, maps, and other material contained within these documents, as well as all of the oblique aerial photographs available on the California Coastal Records website. In addition, I visited the site on 13 April 2006.

The appellant contends that the County's minimum bluff edge setback of 25 feet will not be sufficient to protect the proposed additions for their 100 year expected economic life. Relying primarily on references (4) and (7), the appellant contends that coastal erosion is likely to erode 83 feet at the site over the next 100 years, placing the additions to the proposed home in jeopardy long before the end of their expected design life. I note that the residence itself encroaches as close as 15 feet to the current bluff edge, so it will be placed at risk prior to the additions that are the subject of this appeal.

Reference (1) uses an indirect methodology (referred to in the report as "qualitative") to approximate the position of the top of the bluff in one hundred years. This methodology first assumes, based on "previous geotechnical and geologic investigations," that there will be 14 feet of vertical scour at the toe of the bluff over the next 100 years. Next, it is assumed that this scour will result in 20 feet of lateral landward recession of the toe of the bluff, and that there will be a slight flattening of the existing slope (to a stable 1.5:1 slope). The result of these process would then be a landward recession of the bluff



edge of 25 feet over the next 100 years, or an average rate of three inches per year. This coincidentally corresponds to the County's minimum bluff edge setback. Since the additions are more than 25 feet from the bluff edge, the report concludes that they will be safe. Any foundation elements landward of 25 feet should, however, be supported by underpinning. This proposed setback was refined as a result of the County's initial review (reference 2), by applying these calculations to three additional cross sections through the bluff. Reference (3) then recommends a 25 foot setback for the northern parts of the property, and a 28 foot setback at the southernmost part of the property. References (1) and (3) contain other geologic information and geotechnical recommendations that have not been challenged by the appellant, nor do I question this information or recommendations.

The appellant retained Dr. Gary Griggs, who, citing his work and those of his students, makes three main points in reference (4). First, several large bluff collapses occurred in the area as the result of the 1989 Loma Prieta earthquake. Although the Ubaldi parcel was not affected, a similar earthquake could affect the site in the future. Second, citing a FEMA-funded study carried out by him and his students (Moore et al., 1999), he concludes that the bluff will erode much more than 25 feet in the next 100 years. In this study, the bluff edge was located on transects measured every 30 meters along shore on rectified aerial photographs taken in 1953 and 1994, and spanning the La Selva bluffs. The authors extrapolated the erosion rate calculated from these measurements to locate the future bluff edge at the end of 60 years, which at the Ubaldi parcel was about 50 feet landward of the 1994 bluff edge. Extrapolating this erosion rate 100 years into the future would result in a bluff edge 83 feet from the 1994 bluff edge. Finally, he notes continuing bluff instability (recognized mostly by lack of vegetation) in oblique aerial photographs from the California Coastal Records web site.

There are many arguments and counter arguments made in references (5), (6), (7), (8), (10), and (11). The County's geologist sided with the applicant in reference (9). Below I analyze what I consider to be the most significant arguments (on both sides) regarding stability of the site.

The Haro, Kasunich, and Associate analysis is qualitative and not based on actual bluff edge measurements.

I concur with the assertion in references (4) and (7) that no data are presented to support the assumptions inherent in the "qualitative" slope stability analysis in reference (1), nor were supporting data provided in any of the other references. Further, the indirect methodology applied in reference (1) is somewhat unusual; it seems to me that more direct historic measurements of the bluff edge position through time, such as done by Moore et al. (1999), are preferable to projecting hypothetical processes into the future.



The Moore et al. analysis is not site-specific and indicates much higher erosion rates near the Ubaldi site than up- and down-coast.

To the contrary, the analysis reported on in Moore et al. made use of transects spaced at 30-m intervals and brackets the Ubaldi site nicely. The rates reported for the one mile section upcoast are reported to be about 8.9 inches per year (reference 5), or very close to the rate calculated for the Ubaldi property, which is indicated to be 10 inches per year in reference (7) . Rates downcoast are more difficult to evaluate because of development on the bluff top and bluff face.

The Moore et al. analysis may have been biased by extensive grading that occurred when the Sand Dollar subdivision was established in 1966.

Although the exact way that the grading, which lowered the bluff by nearly 40 feet, might have affected the position of the bluff edge interpreted from aerial photographs is difficult to evaluate, it is certain that grading at the bluff edge would alter the apparent position, and may have made identification of the natural bluff edge difficult or impossible in subsequent photographs.

There has been little or no erosion at the site in the 39 years since the 1967 “as built” topographic map (reference 14) was prepared.

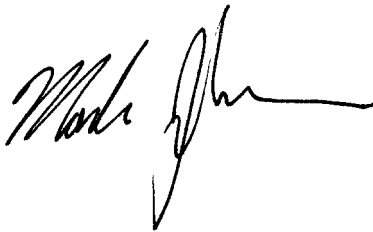
To me, this is the most telling point in this appeal. The appellant contends, and I concur, that the topographic information on reference (14) is nearly identical to that on a 2003 map prepared by the county and included in reference (6). There is no discernable difference in the position of the bluff edge or in the shape of the slope. The pad at the end of “The Shoreline” is shown at an elevation of approximately 54 feet on both maps, confirming that they are based on the same datum. On the 1967 map, I found the 20 foot contour to be located approximately 77 feet seaward of the edge of the cul-de-sac at the end of “The Shoreline,” as measured perpendicular to the bluff edge. On the 2003 map, the 20 foot contour actually was further *seaward* than on the 1967 map, approximately 87 feet seaward of the cul-de-sac. I take these data to indicate that there has been no measurable erosion between 1967 and 2003 on the slope directly below the Ubaldi residence. All of the erosion measured between 1953 and 1994 must thus have occurred before 1967. If the average erosion rate between 1953 and 1994 averaged 10 inches per year, as indicated in reference (7), then 34 feet of erosion must have occurred—all of it between 1953 and 1967 (an average rate of over 29 inches per year). There is no evidence of such a high rate of erosion nor of a single erosion event resulting in 34 feet of bluff loss during that time. What did occur during that time, however, was massive grading of the bluff top, bluff edge, and bluff face. I feel that the most likely explanation for the high erosion rate reported by Moore et al. at the subject site was misidentification of the natural bluff edge in the 1994 photo—there was no identifiable natural bluff edge at that time as a result of the grading.



Summary and Recommendation

In my opinion, the three inch per year erosion rate cited by Haro, Kasunich, and Associates is not well supported. In the past, I have generally considered the FEMA-funded study undertaken by Griggs and his students to represent the current “state of the art” in deriving erosion rates from aerial photography. Given the grading, and the demonstrated lack of appreciable erosion since 1967, I think it likely, however, that the rate at the Ubaldi site is greatly overstated, even if the rates genuinely have been much higher over the same time period just upcoast. Although I feel that neither the applicant nor the appellant have demonstrated a well-justified measured erosion rate for the Ubaldi parcel, I think that a rate closer to three inches per year than 10 inches per year is justified for evaluating stability over the next 100 years. Accordingly, although I recognize that there is no question that the existing residence is sited too close to the bluff edge, I feel that the additions, set back more than 25 feet, will not be threatened by coastal erosion over the next 100 years.

Sincerely,



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

Further references cited:

Moore, L.J., Benumof, B.T., and Griggs, G.B., 1999, Coastal erosion hazards in Santa Cruz and San Diego counties, California: Journal of Coastal Research, v. 28, p. 121-139.

