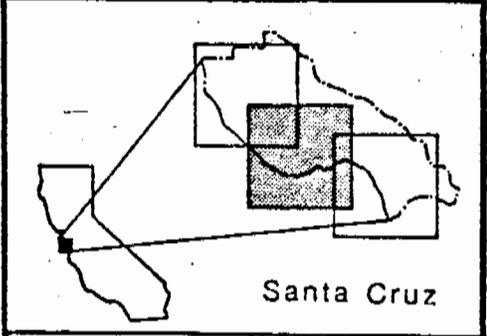


SITE



Santa Cruz



California Coastal Commission

LOCATION MAP



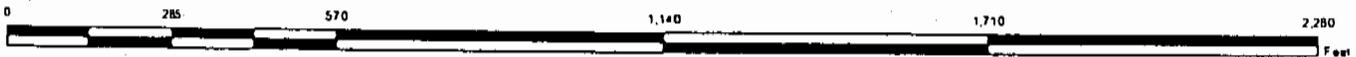
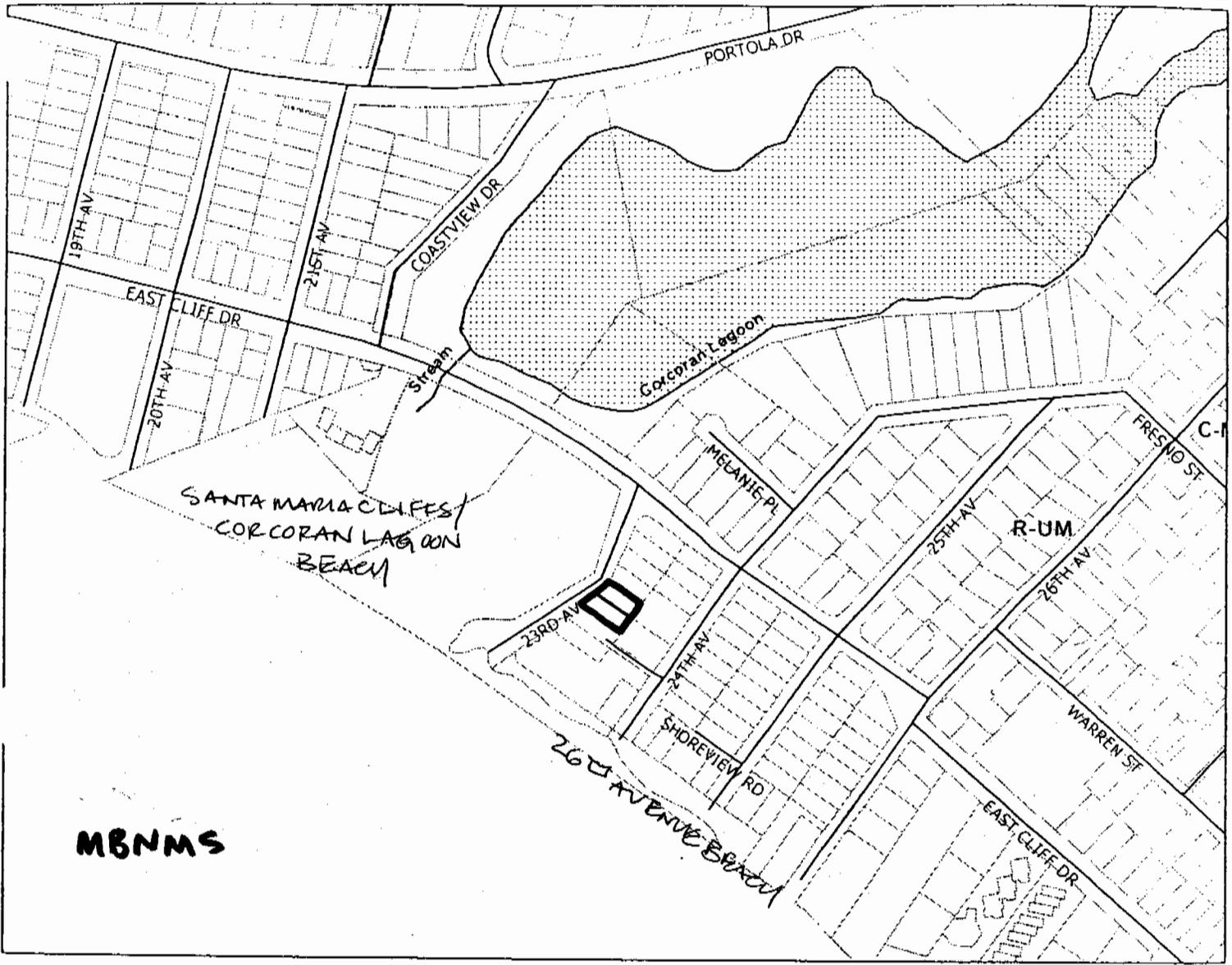
County of Santa Cruz

Sheet 2 of 3

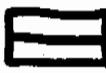
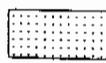
CCC Exhibit A
 (page 1 of 4 pages)



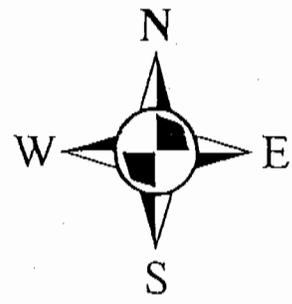
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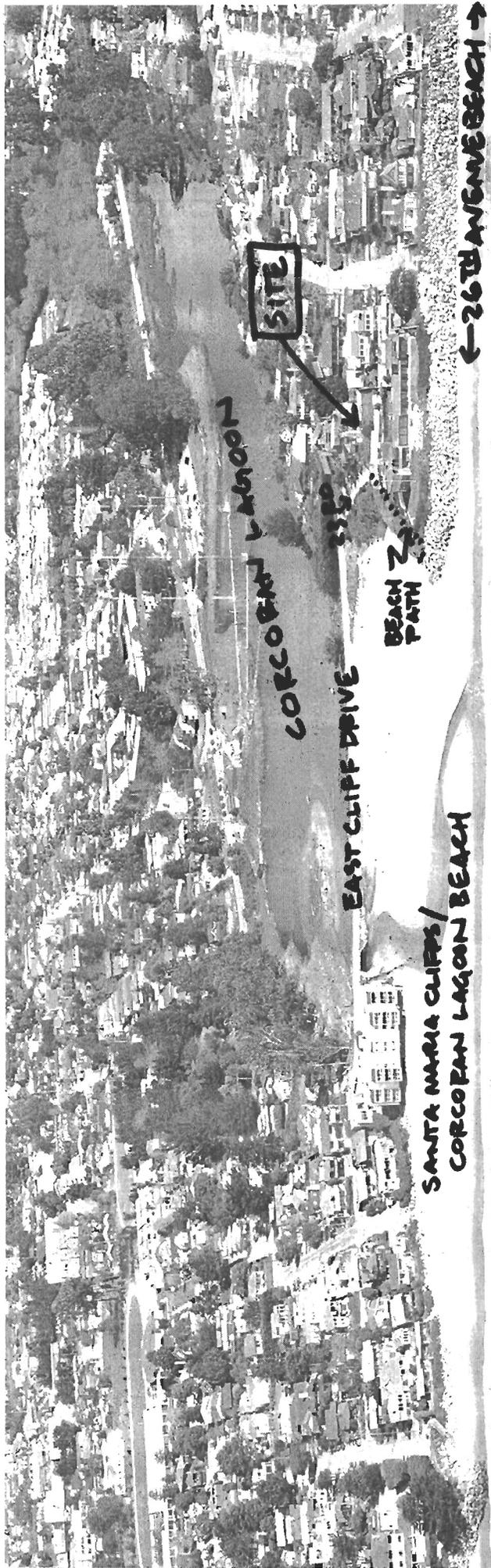
Legend

-  APN: 028-232-16 + 028-232-15
-  Streets
-  Assessors Parcels
-  Lakes
-  INTERMITTENT STREAM

CCC Exhibit A
 (page 3 of 4 pages)



Map Created by
 County of Santa Cruz
 Planning Department
 August 2005



← SUNNY COVE

PLEASANT POINT →

← 26th AVENUE BEACH →

MONTEREY BAY
NATIONAL MARINE
SANCTUARY

CCC Exhibit A
(page 4 of 4 pages)

Source: California Coastal Records Project (Image 628, March 16, 2002)



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

December 31, 2007

January 9, 2008

Item # 9

Time: after 1:30 p.m.

APN: 028-232-16

Application: 02-0432

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

**SUBJECT: Appeal of the Zoning Administrator's decision to approve
Application Number 02-0432**

Members of the Commission:

History

This application was before the Zoning Administrator on December 2, 2005 and was recommended for denial at that time due to incomplete drainage plans. This issue was subsequently addressed and the application returned to the Zoning Administrator for re-consideration on June 21, 2006. At that time, it was referred to the Planning Commission for General Plan/Local Coastal Program (GP/LCP) consistency issues regarding the coastal bluff setback. Following additional staffwork, it was put back on the Zoning Administrator's January 5, 2007 agenda for review.

At that meeting, the Zoning Administrator noted that the required lire turnaround is considered a right-of-way and a setback is required from the right-of-way and that half of the turnaround on this property would have to be deducted from the site area. The application was re-advertised for the Zoning Administrator's agenda on October 5, 2007 to include site area and lot width variances (see project plans - Exhibit A and ZA staff report - Exhibit B). The Zoning Administrator approved the application on October 5th 2007 and the approval was appealed on October 16, 2007 (see Exhibit A).

The appeal was scheduled to be heard on November 28, 2007 and the office of the attorney for the appellant asked for a continuance (due to illness). The commission agreed to hear the appeal on January 9, 2008.

Project Description

The proposal is to construct a two-story 3-bedroom single-family dwelling with a basement on parcel

CCC Exhibit B
(page 1 of 37 pages)

APN 028-232-16. This application continues the pattern of development that has occurred on the four developed parcels to the north of the subject site along 23rd Avenue. These properties have similar *size* and style residences (*see* Figure 3). The design of the new residence is similar to the existing residences, in that the lower floor **has** a garage that is in a basement structure (the lots all slope upward from 23rd Avenue). Visually the existing houses all have a "**three-story**" appearance, although the lower floor may **or** may not count as a story per the County Code. The new residence **has** been designed with a similar appearance. *See* Section 6 below for a discussion about the basement/story.

A coastal bluff setback was established for the property by staff consistent with the GPLCP and County Code. The proposed residential structure is located substantially behind the setback. However, due to the location of 23rd Avenue, the extension of the paved surface of the 23rd Avenue roadway and the underground utilities are proposed to be constructed within the setback area¹.

Twenty-Third Avenue is a private road (not accepted by the County) within a dedicated right-of-way that varies from 35-feet to 65-feet in width **as** it extends southward towards the bay. Twenty-Third Avenue currently serves four residences located on the east side of the right-of-way. The roadway serving these residences is about 15-feet in width and **is** located on the extreme eastern side of the right-of-way **as** the remainder of the right-of-way consists of steep slope and sandy beach². The only possible access to the proposed residence and the adjacent vacant lot would extend the existing roadway for two new residences. No other new development would be accessed from 23rd Avenue. The lot immediately to the south of the two lots in this application (APN 028-232-24) is developed with a single-family residence and is accessed from 24th Avenue through an easement from the neighbor. The next lot (APN 028-232-29) is vacant, however it has an easement from 24th Avenue to obtain access (*see* Exhibit D). The two lots in this application would not physically be able to get an access from 24th Avenue.

Central Fire Protection District originally approved the project with only a 12-foot wide driveway to the subject property. Ultimately, the **fire** department required a hammerhead turn-around **for** the development to meet the fire access requirements. The layout of the hammerhead **is** split at the property **line** with the property to the south, which is also a vacant lot. The addition of the turn-around reduced the site area and width of the two parcels, requiring the application to be amended to include a Site *Area* Variance and a Site Width Variance.

Water, gas and cable would be installed underground and would extend from East Cliff Drive to the proposed development via the existing improved roadway to the property (within the 23rd Avenue ROW). The sewer **line** exists at the rear of the property.

Appeal Issues

The appellant **has** raised number of **issues** related to the development of this property. The primary **issue** raised by the appellant is that the project involves improper construction in the coastal bluff setback, and the proposed residence will adversely affect the existing residence located on the adjacent property. The following is an analysis of each of the issues raised in the appeal letter.

¹ In fact, the entire 23rd Avenue right-of-way is located either within the coastal bluff setback or **as** a part of the bluff itself.

² When the adjacent lot was developed, the Coastal Development Permit did not consider it **as** having a coastal bluff.

1. Setback requirements from coastal bluff.

The appellant believes that the **Zoning** Administrator's approval was inappropriate because the development of the roadway and utilities serving the proposed residence within the coastal bluff setback are inconsistent with the GP/LCP and County Code. The appellant, however, does state that, if the proposed residence is moved back about 5-feet to the rear of the property, the roadway improvements moved as far from the coastal bluff as possible, and the *visual* impacts are mitigated, that the proposal would be better.

The central question for the Commission to consider in this case is how to balance the GP/LCP and Implementation Plan (County General Plan) requirements to allow orderly development that is equitable and reasonable, consistent with policies for coastal protection. The GP/LCP requires that adequate vehicular access be provided to all new structures, pursuant to Policy, 6.5.1:

"All new structures, including additions of more than 500 square feet, to single family dwellings on existing parcels of record, to provide an adequate road for fire protection ..."

As 23rd Avenue is the only access to the property, some type of roadway (with utilities) must be constructed to provide access or the property becomes unbuildable. The appellant, however, notes that GP/LCP Policy 6.2.11 does not allow development in the coastal bluff setback

"All development, including cantilevered portions of a structure, shall be set back a minimum of 25 feet from the top edge of a bluff."

While this policy would seem to disallow the proposed roadway and utility improvements, another policy exists that recognizes the difficulty of such a strict policy when dealing with infill development. GP/LCP Policy 6.2.15 (New Development on Existing Lots of Record) states the following:

"Allow development in areas subject to storm wave inundation or beach or bluff erosion on existing lots of record, within existing developed neighborhoods under the following circumstances:

- 1. Where a technical report (including a geological hazards assessment, engineering geology report and/or soil engineering report) demonstrates that the potential hazard can be mitigated over the 100-year lifetime of the structure. Mitigations can include, but are not limited to, building setbacks, elevation of the structure, friction pier or deep caisson foundation;*
- 2. Where mitigation of the potential hazard is not dependent on shoreline protection structures except on lots where both adjacent parcels are already similarly protected; and*
- 3. Where a deed restriction indicating the potential hazards on the site and the level of prior investigation conducted is recorded on the deed with the County Recorder."*

Staff believes that the proposed development of roadway and utilities within the required bluff setback meets these three tests per GP/LCP Policy 6.2.15 in the following manner:

1. The applicant has submitted an Engineering Geology Report (which has been reviewed and accepted by the County Geologist). The report concludes, in part, that the development will meet the 100-year lifetime for the development. The report includes a quote that states, "Historical aerial photographs extending back to 1931 provide evidence that there has been no historical erosion of the coastal bluff at the property in the last 72 years."
2. Mitigation for this parcel is not dependent on shoreline protection as no shoreline protection (riprap) structures are proposed.
3. A Condition of Approval will require the applicant to file a deed restriction that indicates the potential hazards on the site and the level of prior investigation conducted.

While staff recognizes that potentially conflicting General Plan policies must be harmonized, based on this determination, staff concludes that the proposed development is consistent with the GP/LCP.

In the Zoning Administrator staff report, staff had originally cited County Code Section 16.10.070(h)2.(i) as a means to allow the proposed improvements within the coastal bluff setback. This exception allows certain types of improvements that do not require building permits within the coastal bluff setback with some restrictions. Staff's position was that the construction of the roadway and underground utilities do not, by themselves, require a building permit so that the exception could apply. However, the restrictions on the exceptions limits grading and the appellant has questioned this approach because of that issue.

After additional analysis of the GP/LCP and the County Code, it is clear that Policy 6.2.15 is sufficient by itself to allow the proposed development within the coastal bluff setback. Besides meeting the three criteria for the policy, in this case, there is no other option for the access roadway or the utilities. The applicant has taken all appropriate mitigation measures into account and the project is consistent with the existing development. The situation presented by this application is unique, in that:

1. The lot is a legal lot of record, created by the original 1891 subdivision.
2. 23rd Avenue is a right-of-way created by the original 1891 subdivision.
3. The only access to the site is from 23rd Avenue.
4. The access to the site is an extension of a right-of-way that serves four existing residences in a similar situation.
5. A coastal permit was issued for the immediate neighbor to the north to construct a similar project.
6. The house itself is not proposed within the 25 feet bluff setback.
7. The driveway and utilities must be within the bluff setback and are located as far from the edge of the bluff as is practical.

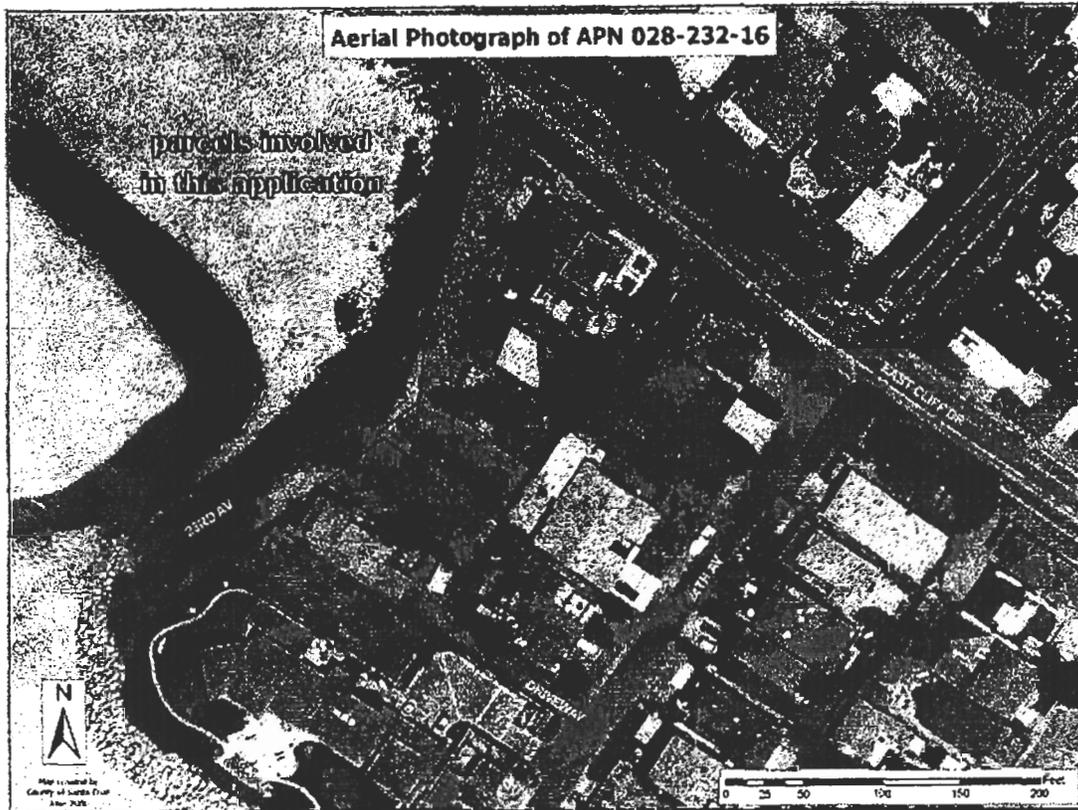


Figure 1. Aerial photo of project vicinity

2. Reciprocal easements for fire turnaround are unsatisfactory

The appellant asserts that the Zoning Administrator did not clearly resolve the issue of whom the fire turn-around easements would be assigned to.

Staff agrees with this and has added a condition that requires the applicant to make an irrevocable offer to dedicate the fire turnaround area to the County of Santa Cruz, and to establish a road maintenance agreement for the long-term maintenance of the roadway.

3. Fire truck turnaround is not a special circumstance upon which to base a required variance finding

The appellant disagrees with the **Variance** finding that the requirement for an easement for a fire turn-around is a special circumstance.

The fire truck turnaround was considered to be a right of way by staff and is, therefore, required to be subtracted from the Net Site Area and the Net Site Width, just as if the county had required a road widening dedication. Section 13.10.230 (a) (2) of the County Code (Variance Approvals) states:

"Variance to site area requirements may be approved only in the case where no new additional building sites would thereby be created (relief in which case may be provided only through rezoning of the property), or in any of the following instances:

- 1. To facilitate certificates of compliance.*
- 2. To facilitate dedications of rights-of-way or other required improvements for public benefit. [emphasis added]*
- 3. To allow the consideration of the creation of new lots when the size of the lot is within 1% of the zoning requirement and is consistent with the General Plan."*

As discussed above under Section 2, the applicant will be required to dedicate the right-of-way for the fire turn-around to the County of Santa Cruz as a condition of approval.

The appellant is arguing both that the area and width of the fire turn-around be subtracted from site area and site width, but that these are not a special circumstance for a variance. Clearly, being required to provide fire access to a residential site that requires the reduction in the dimensions of the property is grounds for a finding of special circumstance for a variance. Staff could not find another situation where an urban lot was required to have a fire turnaround dedicated within the property.

a. Views from the beach

The appellant raises the issue that the proposed residence must be visually un-intrusive from the beach.

As discussed above, the proposed residence will be similar in design and size with the four existing residences on 23rd Avenue. This structure does not protrude beyond the existing houses on 23rd Avenue, meets the front, rear and side setbacks and is similar in design to the neighbors (see discussion below). Moving the house to the rear of the lot will have an insignificant effect when viewed from the beach.



Figure 2. Aerial view showing neighboring structures

b. View from private homes in area and neighborhood compatibility

These are two separate issues. The appellant asserts that the County Code requires that private views be protected and that the development of a residence within **the** 25-foot setback will interfere with private views.

First of all, the assertion that the residence is located within the coastal bluff setback is incorrect. The residence is about 10-feet behind the setback. Furthermore, County Code section (13.11.072 b.2) states that, "Development *should minimize* the impact on private views from adjacent parcels, wherever practicable" (**emphasis added**). The ordinance does not include the word '**shall**'. The County **has** consistently not protected private views when all site standards are met. Relocating the proposed residence to the rear of the lot will unnecessarily increase the amount of grading for the project.

A finding of neighborhood compatibility is required for both the Coastal and Development Permits. The Urban Designer found the design of the proposed structure to be compatible with the residences facing 23rd Avenue (see photos below) in terms of building bulk, massing and scale.

4. Roadway maintenance agreement required

The appellant contends that a requirement of Public Works to develop a road maintenance agreement was not included in the approval by the Zoning Administrator.

Staff recommends that a condition of approval be added that the applicant be required to join a road maintenance agreement with the neighbors. The existing homes that are served by 23rd Avenue are not a part of this application, and therefore cannot be required to form a road maintenance association.

5. Front yard paved area exceeds county code restrictions

The appellant contends that the required fire turn-around area should be counted as a part of the allowed paved area that is limited to 50% of the front yard per Section 13.10.554(d). Another variance should have been required.

Section 13.10.554(d) of the County of Santa Cruz Code reads "***Parking areas, aisles and access drive*** (emphasis added) together shall not occupy more than fifty (50) percent of any required front yard setback area for any residential use..." County Code does not designate a dedicated right-of-way for road and fire access purposes as a parking area, an aisle nor an access drive.

6. Setbacks from the front and coastal side property line do not meet Coastal Zone requirements

The appellant states that the development does not meet the site standards of the GP/LCP as they relate to mass and scale of the proposed building and that it cannot be constructed because of this fact.

The mass and scale standards of the GP/LCP are implemented through the County Code and specifically through the Zoning Ordinance. There are no separate Local Coastal Program standards. The County Code, in Section 13.10.323, lists the Site and Structural Standards of the various residential zone districts. This property is zoned R-1-4 and the Site and Development Standards Chart in the County Code lists the required minimum setbacks for this zone. The chart *clearly* lists the front yard setback as 15 feet and not 20 feet as the appellant asserts (see R-1 Single Family Residential Zoning District Site and Structural Dimensions Handout - Exhibit E).

This property is 40 feet wide and the chart on page 725, under the section "All Districts" allows the minimum side setbacks to be 5 feet on both sides if the lot is less than 60 feet wide, not the 5 feet and 8 feet as the appellant asserts.

Staff has reviewed the height and determined that under the definitions and interpretations (that are available to the public) the height of this structure does not exceed 28 feet.

The basement shown on the plans was also reviewed by staff and determined to meet the requirements for a "basement". Section 13.10.700, under the definition of basement states, "Basements are not considered a story".

There are no separate "established LCP mass and scale limits" as the appellant asserts. The standards for this lot in terms of setbacks, lot coverage, lot, and floor area ratio are the same as for any other

lot in the county with identical zoning. The “appearance” of three stories is very similar to that of the neighboring structures (which would argue for compatibility). See photos below.

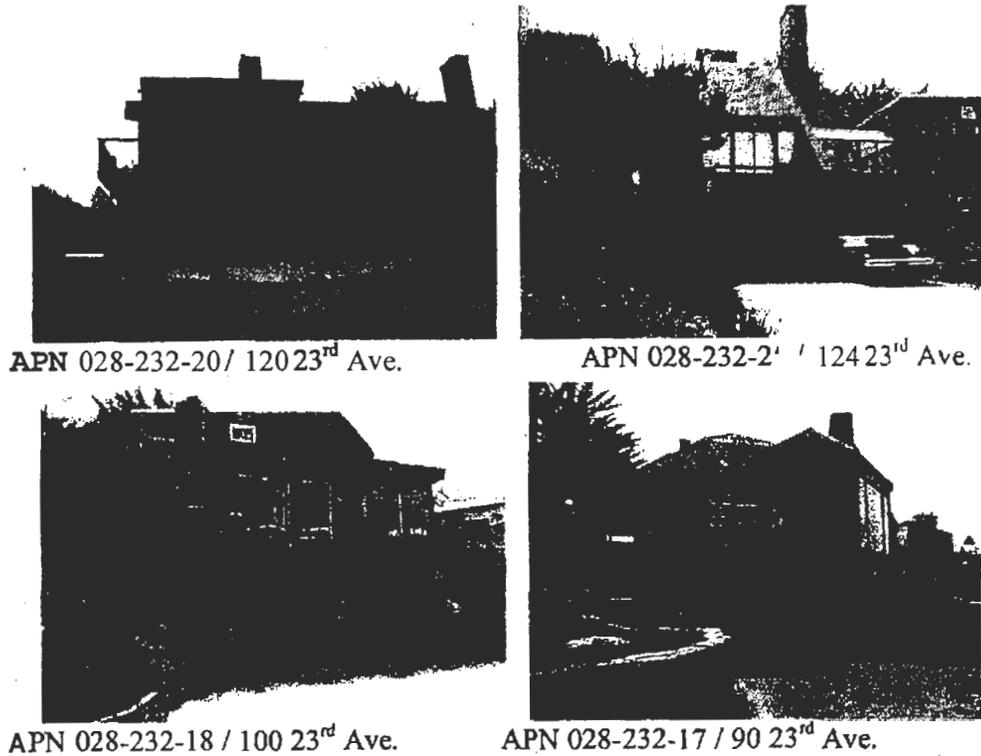


Figure 3. Neighboring houses on 23rd Avenue

Conclusion and Recommendation

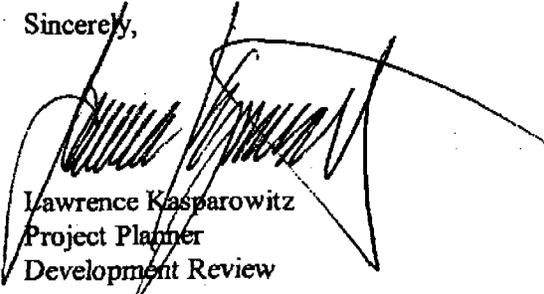
The proposal itself is simple – a single-family residence on an existing lot of record, served by a right-of-way created from an 1891 subdivision. The complication is in the project’s location, having the access roadway and utilities within a coastal bluff setback. Staff and the Zoning Administrator recognized that the property owner was in a “catch-22” with regard to the fire access and coastal bluff protection policies for the development of this property. The Zoning Administrator based the approval on an interpretation of a section of County Code that allows exceptions for development within the coastal bluff setback. As noted above, we now realize that General Plan/Local Coastal Program Policy 6.2.15 is very clear in creating its own exception by allowing “development in areas subject tocoastal erosion on existing lots of record, within existing developed neighborhoods”.

The other details of the project and the issues raised by the appellant, from variances to recognize the effects of requiring a fire turn-around on the property to establishment of a road maintenance agreement for 23rd Avenue to neighborhood compatibility, have been addressed.

It is, therefore, RECOMMENDED that your Commission:

1. Deny the appeal and approve Application No. 02-0432, subject to the attached revised findings and revised conditions; and
2. Certify the CEQA Exemption.

Sincerely,



Lawrence Kasparowitz
Project Planner
Development Review

Reviewed By: _____

Mark Deming
Assistant Director
Development Review

Exhibits

- A. Architectural plans prepared by Wayne Miller, dated 1/16/07.
Civil Engineering plans prepared by Mid State Engineers, dated April 21, 2005.
- B. Zoning Administrator staff report and attachments for the January 12, 2007 meeting.
- C. Appeal Letter by Jonathan Wittwer, dated October 18, 2007.
- D. Road access Easement for APN 028-232-29 (Trust Deed)
- E. R-1 Single Family Residential Zoning District Site and Structural Dimensions Handout
- F. Revised Findings.
- G. Revised Conditions of Approval
- H. ~~Responses~~ to Issues previously raised (added per Commission request)

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 R-1-4 (4,000 sq. ft. min. parcel size), a designation that allows residential uses. The proposed single family residence is a principal permitted use within the zone district, consistent with the site's Urban Medium Density Residential (R-UM) General Plan land use 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 easements 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, and all the nearby lots are developed at the same density surround the site. The exterior colors will be natural in appearance and complementary to the site.

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. The project site is located between the shoreline and the first public road, however, the single family residence will not interfere with public access to the beach, ocean, or any nearby body of water. Further, the project site is not identified as a priority acquisition site in the Local Coastal Program.

Although 23rd Avenue is identified as a neighborhood public access point, the roadway itself will end at the southern property line of the project site with no other improved access to the beach along the roadway or at the end of the ROW. Given the proximity of direct public access points from East Cliff Drive to the beach immediately to the west of this site, it does not appear to be necessary to provide additional access where there is adequate access and where the coastal bluff prevents easy pedestrian reach of the beach.

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

This finding can be made, in that the structure is sited and designed to be visually compatible, in

scale with, and integrated with the character of the surrounding neighborhood. Additionally, residential uses are allowed uses in the R-1-4 (4,000 sq. ft. min. parcel size) zone district of the area, as well as the General Plan and Local Coastal Program land use designation. Developed parcels in the area contain single-family dwellings of similar size and scale. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range.

Construction of the driveway and underground utilities within the coastal bluff setback is exempt from the setback requirement pursuant **General Plan/Local Coastal Program Land Use Plan Policy 6.2.15**. This policy allows infill development under certain criteria that can be met, as discussed in the staff report. This is consistent with past practices and with development on neighboring properties.

23rd Avenue is a privately maintained roadway serving 4 existing residences. This proposal will provide a driveway about 60-feet long and provide additional access to a vacant parcel to the south. Although 23rd Avenue is identified as a neighborhood public access point, the driveway itself will end at the southern property line of the project site with no other improved access to the beach along the driveway or at the end of the ROW. Given the proximity of direct public access points from East Cliff Drive to the beach immediately to the west of this site, it does not appear to be necessary to provide additional access where there is no need nor where vertical access does not exist.

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 project is located in an area designated for residential uses. Construction will comply with prevailing building technology, the Uniform Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed single family residence will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all property line setbacks that ensure access to light, air, and open space in the neighborhood. The development will not contribute to coastal bluff retreat.

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 location of the single family residence and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the R-1-4 (4,000 sq. ft. min. parcel size) zone district in that the primary use of the property will be one single family residence that meets all current site standards for the 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 residential use is consistent with the use and density requirements specified for the Urban Medium Residential (R-UM) land use designation in the County General Plan.

The proposed single family residence will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district as specified in Policy 8.1.3 (Residential Site and Development Standards Ordinance), in that the single family residence will not adversely shade adjacent properties, and will meet current setbacks for the zone district that ensure access to light, air, and open space in the neighborhood.

The proposed single family residence will not be improperly proportioned to the parcel size or the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the proposed single family residence will comply with the site standards for the R-1-4 zone district (including setbacks, lot coverage, floor area ratio, height, and number of stories) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

A specific plan has not been adopted for this portion of the County.

Conditions of Approval

Exhibit A: Building plans prepared by Wayne Miller, dated 1/16/07
Civil engineering plans prepared by Mid Coast Engineers, dated March 2006.

- I. This permit authorizes the construction of one single family residence with driveway and fire turn around. 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 Building Permit from the Santa Cruz County Building Official.
 - C. Obtain a Grading Permit from the Santa Cruz County Building Official.
 - D. Obtain an Encroachment Permit from the Department of Public Works for all off-site work performed in the County drive right-of-way.
 - E. **The applicant shall make an irrevocable offer to dedicate the fire turnaround area to the County of Santa Cruz, and establish a road maintenance agreement for the long-term maintenance of the roadway.**
- 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. One elevation shall indicate materials and colors as they were approved by this discretionary application. If specific materials and colors have not been approved with this discretionary application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material board in 8 1/2" x 11" format for Planning Department review and approval.
 2. Grading, drainage, and erosion control plans.
 3. Details showing compliance with fire department requirements.
 4. **A planting and irrigation plan shall be designed by a licensed Landscape Architect that addresses visual mitigation, selects appropriate plants for a coastal bluff and uses drip irrigation, submitted to staff for review and approval.**

5. Section showing that the height of the large volume in the Living Room is less than sixteen feet in height.
6. Building plans must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site that clearly depict the total height of the proposed structure.
7. The site plan shall indicate the following:
 - a. The space in front of the house shall be a minimum of twenty feet from the house to the front property line.
 - b. The residence shall meet a fifteen feet setback from the rear of the fire turn around and a ten feet setback from the side of the fire turn around.
 - b. The utilities to the structure shall enter the lot from the corner furthest away from the bluff.
 - c. The ~~fire~~ turn around shall be striped and posted as a fire turn around, and a "no parking" sign shall be installed.
 - d. No irrigation shall be allowed in the area between the proposed driveway/~~roadway~~ and the top of the bluff.
 - e. The height of the large volume in the Living Room must be less than sixteen feet high.
 - f. The parking spaces shall be no greater than 17 feet in width for the paved area.
 - g. ~~The residence shall be moved back on the site to the fifteen feet rear setback.~~
 - h. ~~The door to the basement storage shall be no wider than six feet wide.~~
- C. Meet all requirements of and pay Zone 5 drainage fees to the County Department of Public Works, Drainage. Drainage fees will be assessed on the net increase in impervious area.
- D. Meet all requirements and pay any applicable plan check fee of the Central Fire Protection District.

- E. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
 - F. Pay the current fees for Parks and Child Care mitigation for three bedrooms. Currently, these fees are, respectively, \$1,000 per bedroom and \$109 per bedroom (respectively), but are subject to change.
 - G. Pay the current fees for Roadside and Transportation improvements for one unit. Currently, these fees are, respectively, \$2,080 per unit and \$2,080 per unit (respectively), but are subject to change.
 - H. Provide required off-street parking for three cars. Parking spaces must be 8.5 feet wide by 18 feet long and must be located **20 feet from the building and** entirely outside vehicular rights-of way. Parking must be clearly designated on the plot plan.
 - I. Submit a written statement signed by an authorized representative of the school district in which the project is located confirming payment in full of all applicable developer fees and other requirements lawfully imposed by the school district.
- 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.
 - D. A deed restriction shall be filed with the County Records Office in which the applicant shall indicate:
 - 1. The potential geological hazards on the site and the level of prior investigation conducted,
 - 2. The owner of parcels 028-232-16 and 15 shall be responsible for the maintenance of the existing and proposed drainage facilities along the non-county maintained drive sections.
 - E. Pursuant to Sections 16.40.040 and 16.42.100 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in

Sections 16.40.040 and 16.42.100, shall be observed.

IV. Operational Conditions

A. In the event that future County inspections of the subject property disclose non-compliance 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.

B. Limit all construction to the time between 8:00 am and 5:00 pm weekdays unless a temporary exception to this time restriction is approved in advance by County Planning to address and emergency situation.

C. The owner shall be required to repair 23rd Avenue to the pre-construction condition. Contact Operations Engineering in the Department of Public Works for conditions.

V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.

A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.

B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:

1. COUNTY bears its own attorney's fees and costs; and
2. COUNTY defends the action in good faith.

C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.

D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor'(s) in interest, transferee(s), and assign(s) of the applicant.

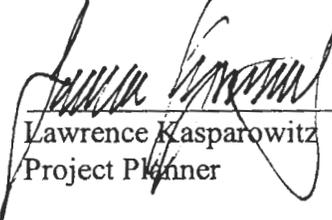
Application #: 02-0432
APN: 028-232-16
Owner: Val Vaden

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: 1/9/08
Effective Date: 1/23/08
Expiration Date: 1/23/10


Mark Deming
Assistant Planning Director


Lawrence Kasparowitz
Project Planner

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

County of Santa Cruz
Planning Department

Planning Commission
Meeting Date: 11/28/07
Agenda Item #: 7
Time: After 9:00 a.m.

Application Number: 02-0434

Staff Report to the Planning Commission

Exhibit B

10/5/07 Staff Report to the Zoning Administrator



**Staff Report to the
Zoning Administrator**

**Application Number:
02-0432**

Applicant: Wayne Miller
Owner: Val Vaden and Lilli Rey
APN: 028-232-16 and 15

Agenda Date: October 5, 2007
Agenda Item #: 3
Time: After 10:00 a.m.

Project Description: Proposal to construct a two-story, single family dwelling with a basement. Includes construction of a driveway and utilities within the existing right-of-way for 23rd Avenue and located in the coastal bluff setback. Grading for residence is about 140 cubic yards. Project also includes a fire turn-around serving the subject parcel and an adjacent parcel.

Location: end of 23rd Avenue, about 170-feet south of east Cliff Drive, Live Oak Area

Supervisory District: First District (District Supervisor: Janet K. Beautz)

Permits Required: Coastal Development Permit, Preliminary Grading Approval, Net Site Area Variance (to allow a 3,406 sq. ft. parcel where 4,000 sq. ft. is the minimum) and a Site Width Variance (to allow 34 ft. where 35 ft. is the minimum width for the R-1-4 zone district).

Staff Recommendation:

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 02-0432, based on the attached findings and conditions.

Exhibits

- | | |
|------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
| A. Project plans | L. Update letter prepared by Haro, Kasunich & Associates, dated 15 August 2003 |
| B. Findings | M. Geologic report prepared by Neilsen and Associates, dated July 2003 |
| C. Conditions | N. Letter from Neilsen and Associates to Joe Hannah, County Geologist, dated May 16, 2005 |
| D. Categorical Exemption (CEQA determination) | O. Review of Geotechnical Investigation and Review of Geologic Investigation, prepared by Joe Hannah, dated July 1, 2005 |
| E. Location map | P. Drainage letter and calculations prepared by Mid Coast Engineers, dated July 17, |
| F. General Plan map | |
| G. Zoning map | |
| H. Discretionary Application comments | |
| I. Urban Designer's memorandum | |
| J. Gross Building Area calculations | |
| K. Geotech. investigation prepared by Haro, Kasunich & Associates, dated June 1999 | |

- 2005
- Q. Redevelopment Agency comments, prepared by Melissa Allen, dated September 24, 2002
- R. Central Fire Protection District memo, prepared by Eric Sitzenstratter, dated 3 September 2002
- S. Central Fire Protection District letter, prepared by Jeanette Lambert, dated 21 October 2003
- T. Central Fire Protection District memo, prepared by Jeanette Lambert, dated February 9, 2004
- U. Central Fire Protection District memo, prepared by Jeanette Lambert, dated August 19, 2004
- V. Santa Cruz County Sanitation District memo prepared by Diane Romero, dated September 11, 2002
- W. Inter-office Correspondence from Supervisor Jan Beautz, dated September 12, 2002
- X. California Coastal Commission letter prepared by Dan Carl, dated September 23, 2002
- Y. California Coastal Comm. letter prepared by Dan Carl, dated October 1, 2002
- Z. Letter from Borelli Investment Company, dated September 19, 2002
- AA. Letter from Bolton Hill Company, prepared by Todd Graff, dated September 27, 2002
- BB. Letter from Bolton Hill Company, prepared by Todd Graff, dated June 9, 2003
- CC. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated November 14, 2003
- DD. Letter from Wittwer and Parkin LLP (to Central Fire District), prepared by Jonathon Wittwer, dated November 24, 2003
- EE. Letter from Wittwer and Parkin, LLP to Central Fire Protection District), prepared by Jonathon Wittwer, dated December 8, 2003
- FF. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated
- November 26, 2003
- GG. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated May 14, 2004
- HH. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated September 1, 2005
- II. Letter from Wittwer and Parkin, LLP, prepared by Jonathon Wittwer, dated April 6, 2007

Parcel Information

Parcel Size:
 APN: 028-232-16 (Vaden) 3,568 sq. ft. (gross) 3,406 sq. ft. (net)
 APN: 028-232-15 (Rey) 4,052 sq. ft. (gross) 3,896 sq. ft. (net)
Existing Land Use - Parcel: vacant
Existing Land Use - Surrounding: residential
Project Access: 23rd Avenue
Planning Area: Live Oak
Land Use Designation: R-UM
Zone District: R-1-4 (4,000 sq. ft. min. parcel size)
Coastal Zone: Inside Outside
Appealable to Calif. Coastal Comm. Yes No

Environmental Information

Geologic Hazards: Geological report submitted
Soils: N/A
Fire Hazard: Not a mapped constraint
Slopes: 5-10%
Env. Sen. Habitat: Not mapped/no physical evidence on site
Grading: 137 cu. yds. proposed
Tree Removal: No trees on property
Scenic: Not a mapped resource, however both parcels are visible from a public beach
Drainage: Existing drainage adequate
Traffic: N/A
Roads: Existing roads adequate
Parks: Existing park facilities adequate
Archeology: Not mapped/no physical evidence on site

Services Information

Urban/Rural Services Line: Inside Outside
Water Supply: City of Santa Cruz Water Department
Sewage Disposal: Santa Cruz County Sanitation District
Fire District: Central Fire Protection District
Drainage District: Zone 5

Project Setting

The project site is located on 23rd Avenue, south of East Cliff Drive. 23rd Avenue is a narrow paved roadway that currently serves four homes on the east side of the right-of-way. The

pavement does not extend beyond the developed properties. The subject property is one of three undeveloped parcels beyond the end of the road. To the west of these parcels is a bluff that descends to a sandy beach area at the rear of Santa Maria beach. Monterey Bay is located to the south.



Figure 1. View of 23rd and 24th Avenue from Monterey Bay

History

This application was before the Zoning Administrator on December 2, 2005 and was recommended for denial at that time (see attached Exhibit). The recommendation was based on incomplete drainage plans. This issue has subsequently been addressed and the application returned to the Zoning Administrator for re-consideration on June 21, 2006. At that meeting, staff recommended that the application be referred to the Planning Commission for a review of the policies related to the placement of utilities and "roadways" adjacent to coastal bluffs, and the Zoning Administrator agreed. Since then, staff has re-evaluated the application and has determined that the matter may proceed without the policy interpretation by the Planning Commission.

The application came back to the Zoning Administrator on January 5, 2007. It was noted that the fire turnaround is considered a right-of-way and a setback is required from the r.o.w. and that half of the turnaround on this property would have to be deducted from the site area. Floor Area Ratio and Lot Coverage would have to be recalculated using the net site developable area.

deducted and removed from agenda

Project Description

The proposal is to construct a two-story 3-bedroom single-family dwelling with a basement, on one of the northern parcel (APN 028-232-16). Access would be from a driveway, which extends from the edge of the existing paved roadway (23rd Avenue) to the south end of the property to a hammerhead fire department turn-around. All utilities would be installed underground and would extend from the existing improved roadway to the property (within the 23rd Avenue ROW).

Local Coastal Program

Land Use Designation – The property is zoned R-1-4, consistent with the underlying land use designation of Residential Urban Medium Density. The parcel size (3,583 s.f.) is less than the minimum parcel size for the zone district but development on existing parcels is not constrained by insufficient parcel area. The proposed use is a principal permitted use in the R-1-4 zone district. The Coastal Development Permit for this development is appealable to the California Coastal Commission.

Design Issues - The proposed single family residence and improvements are in conformance with the County's certified Local Coastal Program Land Use Plan, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Developed parcels in the area contain two-story single-family dwellings, many with basements or excavated garages (including the adjacent residence at 90-23rd Avenue).

The size of the proposed house (1700 sq. ft.) is similar to or smaller than the four existing houses on 23rd Avenue. Architectural styles vary widely in the area. The design submitted has Cottage / Craftsman style elements - steep roofs, shingles, divided window lites, a stone fireplace and curved brackets. The colors submitted show a dark green composition shingle roof, natural shingles and dark green trim. These colors will be compatible with the adjacent houses and will blend with the landscape.

Public Access Issues - The project site is located between the shoreline and the first public road, however it is not identified as a priority acquisition site in the County's Local Coastal Program. There is direct public coastal access from East Cliff Drive to Santa Maria beach just below 23rd Avenue, with a variety of parking opportunities in the area. Consequently, the proposed project will not interfere with public access to the beach, ocean, or other nearby body of water.

Currently, 23rd Avenue is a privately maintained roadway serving 4 existing residences. This proposal will create a driveway about 60-feet in length to provide access to the parcel to be developed (to the north) and the vacant parcel (to the south). Although the end of 23rd Avenue is identified in the General Plan as a neighborhood public access point, the access is referred to in Policy 7.6.2, which discusses trail easements. A trail easement across the subject property would not lead to, or add a section to any trail area. Given the proximity of direct public access points from East Cliff Drive to the beach immediately to the west of this site, it does not appear to be necessary to provide additional access, especially where a bluff prevents easy access to the sand.



Figure 2. Bluff face from beach looking toward Monterey Bay.

Access Road/Utility Installation Issues - There has been concern that the proposed driveway and extension of the utilities (which currently serve four residences and will serve the proposed residence as well as one additional residence which may be developed in the future), is inconsistent with policies and ordinances regarding development within the coastal bluff setback area. These policies and ordinances are discussed below.

An access road is required for access by safety vehicles per General Plan/LCP Policy, 6.5.1:

"All new structures, including additions of more than 500 square feet, to single family dwellings on existing parcels of record, to provide an adequate road for fire protection ..."

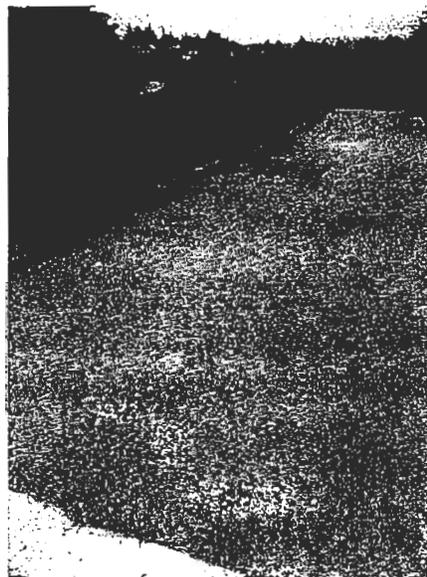


Figure 3. The end of 23rd Avenue looking toward East Cliff Drive.

As is demonstrated in Exhibit E, the subject property has no access other than from 23rd Avenue. Approximately one-half of the 23rd Avenue ROW is below the top of the coastal bluff (to the west). The paved road has therefore been developed in the eastern part of the right-of-way, as far as possible from the edge of the bluff. It runs on top of the bluff close to the top edge. As the other residences on 23rd have done, the paving will be extended to meet the new house and will be constructed as far from the coastal bluff as is possible. As is typical, utilities will be extended under the new driveway, from the end of the existing lines that serve the four existing residences, to just beyond the new residence.

The General Plan/LCP, under Policy 6.2.11, does not allow *development* in the coastal bluff setback:

"All development, including cantilevered portions of a structure, shall be set back a minimum of 25 feet from the top edge of a bluff."

This Policy is implemented in Chapter 16.10 (Geologic Hazards) of the County Code; Section 16.10.070(h). Subsections (i) and (ii) of this section require a minimum setback from the top of the coastal bluff of 25-feet for all development, including non-habitable structures and cantilevered portions of a building.

The proposed residence, including almost all of the parking and landscaping areas, lies outside the 25-foot coastal bluff setback. However, the driveway lies entirely within the coastal bluff setback. The question arises of whether or not the driveway and extension of utilities constitute development, and must be further than 25 feet from the top of bluff. Section 16.10.040 (s)(11) does define the construction of a driveway and utilities as "Development"; however Section 16.10.070 (2) allows an exemption:

- (i) *"Any project which does not specifically require a building permit pursuant to Section 12.10.070(b) is exempt from Section 16.10.070(h) 1, with the exception of: non-habitable accessory structures that are located within the minimum 25 foot setback from the coastal bluff where there is space on the parcel to accommodate the structure outside of the setback, above-ground pools, water tanks, projects (including landscaping) which would unfavorably alter drainage patterns, and projects involving grading.*

For the purposes of this Section, the unfavorable alteration of drainage is defined as a change that would significantly increase or concentrate runoff over the bluff edge or significantly increase infiltration into the bluff. Grading is defined as any earthwork other than minor leveling, of the scale typically accomplished by hand, necessary to create beneficial drainage patterns or to install an allowed structure that does not excavate into the face or base of the bluff."

Because the construction of the driveway and the utilities would not require a building permit, these facilities are exempt from the restrictions discussed above just as they have been for the development of the other four residences located on 23rd Avenue, north of the project site.

The sewer line that serves this property is located at the rear of the property and would therefore

not be within the bluff setback. The gas and water lines are located within the 23rd Avenue right of way and will have to be located within the bluff setback to service this lot and the adjacent property.

Geological Review

A Geological report was prepared by Neilsen and Associates, dated July 30, 2003. Their analysis showed that "essentially there has been no bluff retreat at the property in the last 70 years". The report recommends, "the minimum building setback of 25 feet applies to the property".

In terms of the driveway, the report states "the driveway will not exacerbate erosion of instability in the bluff since we recommended development of an engineered drainage plan that will most certainly not allow discharge of concentrated runoff from impermeable surfaces, such as the driveway, down the bluff face".

Both the Geotechnical Report and the Geotechnical Investigation have been reviewed and accepted by the County Geologist.

Fire Access

The project requires a fire turnaround, which has been equally divided at the shared property line of the two undeveloped properties (see Exhibit A). Each parcel is separately owned and each owner has provided owner agent forms and there will be reciprocal easements granted for the fire turnaround. Staff is treating the turnaround easement as a "right-of-way" and has requested that setbacks be maintained from its boundaries.

The applicant has submitted a revised site plan that shows the location of the building meeting the required setbacks from the "right-of-way". In addition, the area of the turn around which is on the applicant's property must be subtracted from the gross development area (the lot area). The revised plans indicate a reduction in net site area (3,406 sq. ft.). The revised Lot Coverage and Floor Area Ratio do not exceed the maximums allowed by code (see table below). The turn around will be striped and posted as a fire turnaround (No Parking Area - see Conditions of Approval).

Front Yard Coverage

The parcel width is 40-feet. The fire turn-around effectively reduces this by 6-feet. To comply with the 50% limitation on parking occupancy within the front yard setback area, no more than 17-feet of parking area can be constructed. The plans depict 20-feet of parking area, but the spaces only occupy 17-feet of that area. Therefore, the building plans must limit the parking area to 17-feet in width for the two parking spaces. A Condition of Approval requires the building permit plans to reflect this.

Zoning Standards Conformance

The subject property is a 3,583 square foot lot, located in the R-1-4 (4,000 sq. ft. min. parcel size) zone district, a designation that allows residential uses. The proposed single family residence is a principal permitted use within the zone district and the project is consistent with the site's (R-UM) R-UM General Plan designation. The residence has been re-sited following the addition of the fire turnaround to meet the required setbacks.

SITE DEVELOPMENT STANDARDS TABLE

	R-1-4 Standards	Proposed Residence
Front yard setback:	15 feet (15 ft. at fire turn-around)	15'-0" 15'-0"
Side yard setback (North side):	5 feet	5'-0"
Street side yard (South side):	5 feet beyond (10 ft. at fire turn-around)	5'-0" 11'-0"
Rear yard setback:	15 feet	19'-10"
Lot Coverage:	40 % maximum	39 %
Building Height:	28 feet maximum	28'-0"
Floor Area Ratio (F.A.R.):	0.5:1 maximum (50 %)	50.0 %
Parking	3 bedrooms – 3 (18' x 8.5')	three uncovered

The basement level is shown in the section (Sheet 3, Detail 4 in Exhibit A) as 7-feet in height. This area cannot be designated as one of the parking spaces because there is insufficient height to meet the minimum height for a garage (7'6" is required). The 7-foot height also means that the basement is not considered a 'story' and the area is excluded from the Floor Area Ratio calculations. The height of the large volume in the Living Room must be less than sixteen feet in height for it to not count twice in F.A.R. calculations. A Condition of Approval requires the building permit plans to specify an interior height of no greater than 16 feet.

The space in front of the garage door is only eighteen feet, at its narrowest, from the property line. While the plans provide the required parking outside of the structure, staff is requesting a twenty feet long setback in front of the garage door, and movement of the residence back two feet on the property. These have also been added as Conditions of Approval.

The design of the basement and the calculation of the perimeter have been reviewed by the Project Planner and the Principal Planner. The plans indicate a wing wall, which supports the upper floor. This wall does not enclose any interior basement space and will not be counted as perimeter for the definition of the basement.

Net Site Area Variance and Site Width Variance

As discussed in the “Fire Access” section above, the fire turnaround is considered a right-of-way. County code requires that a right-of-way be subtracted from the site area. The resulting parcels are reduced in size to a net site area that is further under the minimum parcel size (4,000 sq. ft.) for the zoning district. In addition, the removal of the area of the turn around will create parcels which are less than the minimum lot width (35 ft.) for the zoning district.

Both of these reductions require a variance to the site standards. Staff supports the variances based on the small size of the original parcels. The imposition of a fire turnaround on an urban parcel is a rare condition. None of the other avenues in similar situations in this area have a fire turnaround which was imposed on a private parcel.

The impact to Net Site Area and Net Site Width for both parcels is summarized in the following chart:

PARCEL	OWNER	Size of Original lot	Size of lot less fire turn-around	Width of Original lot	Width of lot less fire turn-around
APN 028-232-16	Vaden	3,583 sq. ft.	3,406 sq. ft.	40 ft.	34 ft.
APN 028-232-15	Rey	4,052 sq. ft.	3,896 sq. ft.	40 ft.	34 ft.

Design Review

The proposed single family residence was reviewed by the Urban Designer (see Exhibit I) and complies with the requirements of the County Design Review Ordinance (Section 13.11) and the Local Coastal Program (Section 13.20)

Chapter 13.20 of the Zoning Ordinance requires that projects in the Coastal Zone be visually compatible with the neighborhood. This is a subjective criterion that is reviewed by the County Urban Designer. The Urban Designer has visited the site, reviewed the plans (see memo dated September 24, 2002) and believes that the proposed residence is compatible with the variety of residential design along 23rd Avenue and is a pleasing design by itself.

A Condition of Approval will require a planting and irrigation plan be provided by a licensed Landscape Architect that addresses visual mitigation, selects appropriate plants for a coastal bluff and uses drip irrigation.

Drainage

Increased bluff top erosion has been curtailed by the project drainage design. The driveway will include an asphalt concrete curb on the bluff side, which will direct water to the existing roadway of 23rd Avenue. The existing roadway already has a curb and the water flows back toward East Cliff Drive. All downspouts from the residence will be directed to splash blocks, which will divert

the rainwater into grassy swales. The swales then bring the water to the driveway and fire turnaround.

The existing drainage on 23rd Avenue flows to an area drain on East Cliff Drive. The property owner involved in this application will be required to maintain this area drain and submit a maintenance agreement to the Department of Public Works.

The edge of the asphalt along 23rd Avenue on the bluff side shows some minor cracking. This can be caused by a number of factors. The project Geologist did not identify any underlying instability in this area. It should be noted that the neighbors have installed spray irrigation adjacent to the road and the top of the bluff and planted non-native vegetation, which may have contributed to the cracking. This application will be conditioned to not irrigate in the area between the proposed driveway and the top of the bluff.

Environmental Review

Environmental review has not been required for the proposed project in that the project, as proposed, qualifies for an exemption to the California Environmental Quality Act (CEQA). The project qualifies for an exemption because the property is located with the Urban Services line and will be served by existing water and sewer utilities (See CEQA Exemption for additional information – Exhibit D).

Review by the County of Santa Cruz Environmental Planning Division indicates that this site is well over 100 feet from any standing water (the minimum for a riparian setback).

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

- Certification that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number 02-0432, based on the attached findings and conditions.

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

Application #: 02-0432
APN: 028-232-16 and 15
Owner: Val Vaden and Lilli Rey

Page 12

Report Prepared By: Lawrence Kasparowitz
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-2676
E-mail: pln795@co.santa-cruz.ca.us

CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 02-0432

Assessor Parcel Number: 028-232-16 and 15

Project Location: 23rd Avenue, Santa Cruz

Project Description: Proposal to construct a two-story, single family dwelling with a basement. Includes construction of a driveway, and utilities within the existing right-of-way for 23rd Avenue and located in the coastal bluff setback, and a fire turnaround serving the subject parcel and an adjacent parcel.

Person Proposing Project: Wayne Miller

Contact Phone Number: (831) 724-1332

- A. The proposed activity is not a project under CEQA Guidelines Section 15378.
- B. The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
- C. Ministerial Project involving only the use of fixed standards or objective measurements without personal judgment.
- D. Statutory Exemption other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).

Specify type:

- E. Categorical Exemption

15303 New construction of small structure.

- F. Reasons why the project is exempt:

Chapter 3 (CEQA), Article 19 (Categorical Exemptions) of Title 14 of the California Code describes the exemptions to CEQA under 15303 New Construction or Conversion of Small Structures:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

- (a) **One single-family residence**, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

Staff believes that the construction of this single-family residence and the utilities to serve such construction qualifies for this exemption.

Further, staff believes that the minor trenching and placement of the utilities within the bluff setback does not rise to a "significant impact to a particularly sensitive environment" nor would the extension of the utilities to the adjacent lot be a "cumulative impact of successive projects" which would make the exemption inapplicable.

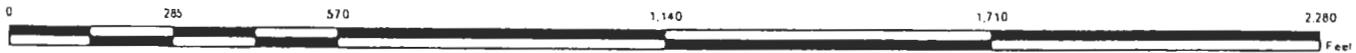
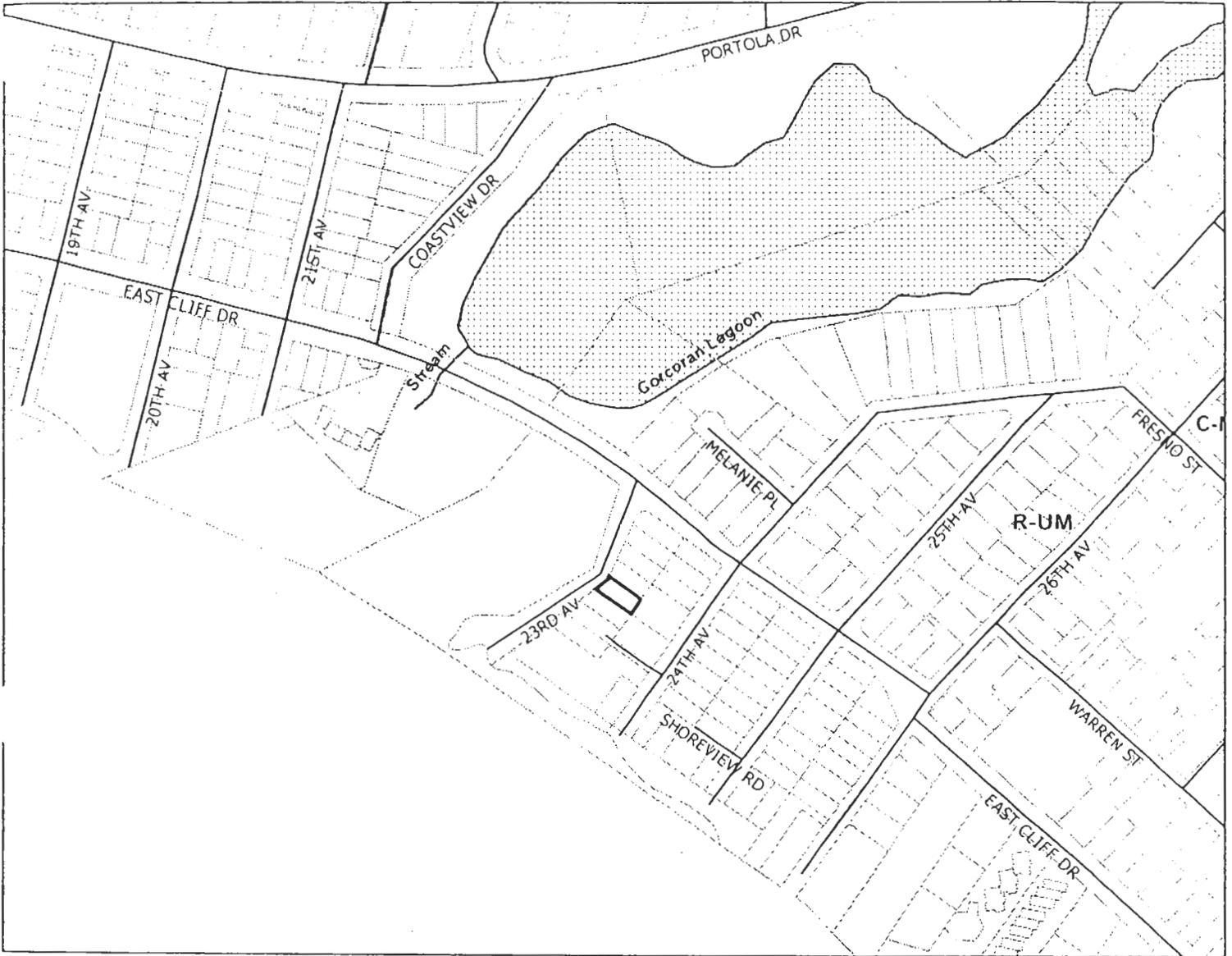
In addition, none of the conditions described in Section 15300.2 apply to this project.

Lawrence Kasparowitz, Project Planner

Date: _____



Location Map



Legend

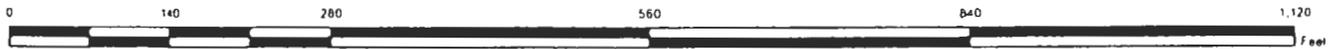
-  APN 028-232-16
-  Streets
-  Assessors Parcels
-  Lakes
-  INTERMITTENT STREAM



Map Created by
 County of Santa Cruz
 Planning Department
 August 2005



General Plan Designation Map



Legend

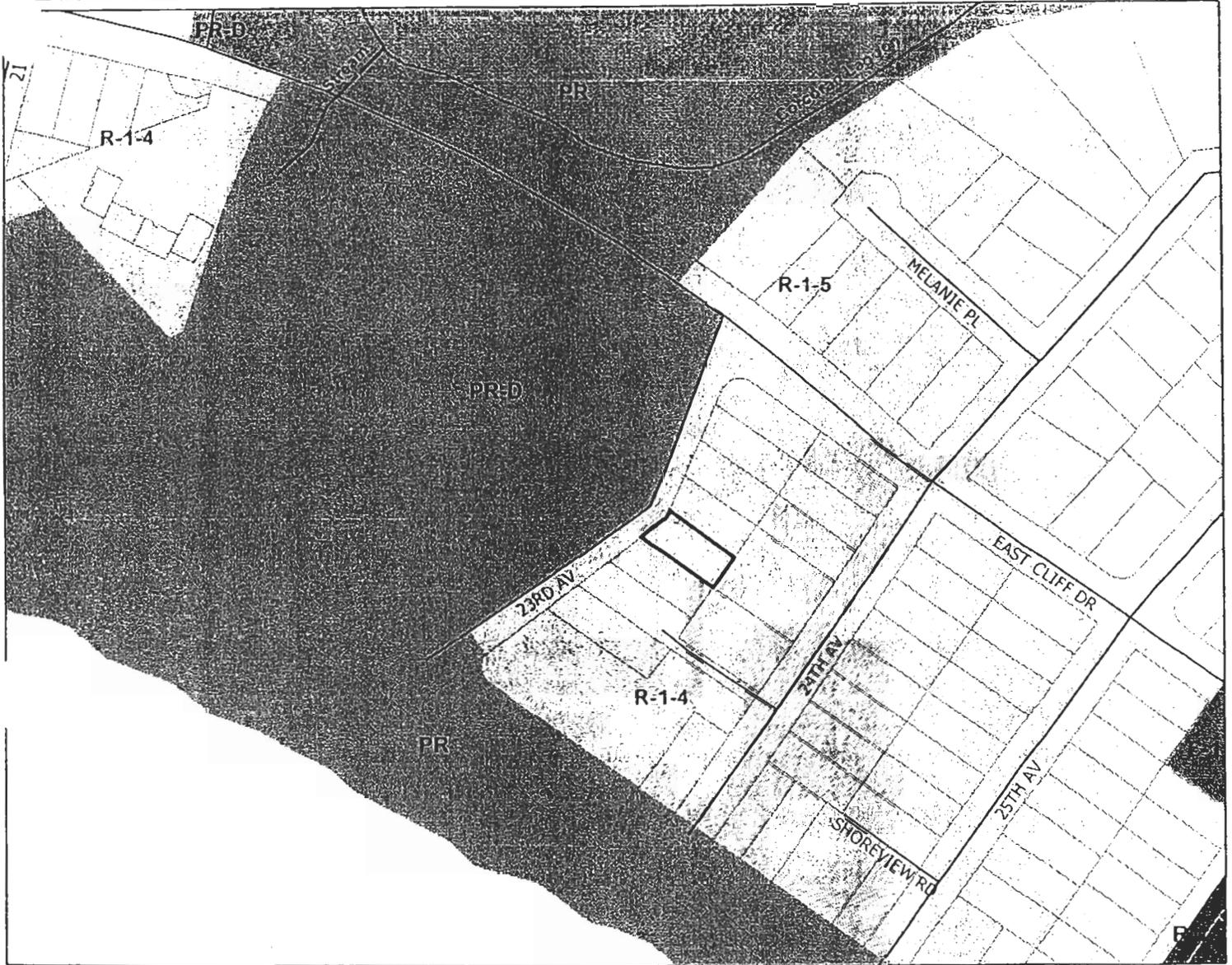
- APN 028-232-16
- Streets
- Assessors Parcels
- Lakes
- PERENNIAL STREAM
- Residential - Urban Medium Density (R-UM)
- Urban Open Space (O-U)
- Parks and Recreation (O-R)
- Lake (O-L)
- Commercial-Neighborhood (C-N)



Map Created by
County of Santa Cruz
Planning Department
August 2005

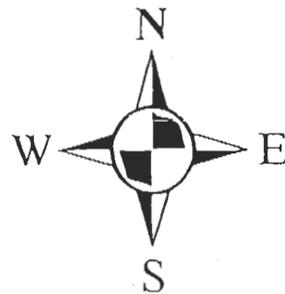


Zoning Map



Legend

-  APN 028-232-16
-  Streets
-  Assessors Parcels
-  Lakes
-  PERENNIAL STREAM
-  RESIDENTIAL-SINGLE FAMILY (R-1)
-  PARK (PR)
-  COMMERCIAL-NEIGHBORHOOD (C-1)
-  RESIDENTIAL-MULTI FAMILY (RM)



Map Created by
County of Santa Cruz
Planning Department
August 2005

CALIFORNIA COASTAL COMMISSION

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

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

SECTION I. Appellant(s)

Name: William Parkin on behalf of Ralph Borelli

Mailing Address: 147 South River Street, Suite 221

City: Santa Cruz

Zip Code: CA

Phone: 95060

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Cruz

2. Brief description of development being appealed:

Approval of County Application # 02-0432 for a single family dwelling and other improvements that would be located within the 25 foot setback area required along Coastal Bluffs.

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

23rd Avenue (APN 028-232-16)

RECEIVED

FEB 19 2008

CALIFORNIA
 COASTAL COMMISSION
 CENTRAL COAST AREA

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A.3.SCO.08.010

DATE FILED:

FEBRUARY 19, 2008

DISTRICT:

CENTRAL COAST

CCC Exhibit C
(page 1 of 4 pages)

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

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

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

6. Date of local government's decision: January 9, 2008

7. Local government's file number (if any): Coastal Development Permit #02-0432

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:

Wayne Miller for owners Val Vaden and Lilli Rey
P.O. Box 1929
Freedom, CA 95019

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) Reid Schantz, Esq., attorney for owners/applicant
133 Mission Street, suite 230
Santa Cruz, CA 95060

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

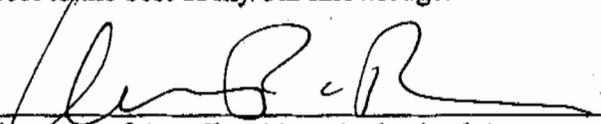
On January 9, 2008, the Santa Cruz County Planning Commission approved the Project. The Planning Commission accepted staff's rationale that the 25-foot setback of LCP Policy 6.5.1 does not apply to this Project because Policy 6.2.15 exempts such development on existing lots of record from the requirement. Appellant contends that the County's interpretation does away with the 25-foot setback requirement of Policy 6.5.1, and sets a dangerous precedent for coastal development throughout the County. See also County Code Section 16.10.070(h)(1)(ii) (new development must be setback at least 25 feet from the top edge of the coastal bluff). Nevertheless, while supporting staff's interpretation, the Commission moved the project back to the rear setback line of the lot allowing for a greater setback from the coastal bluff. The result was that development, including the fire turnaround for the project, would essentially be set back approximately 24 feet, and nine inches from the edge of the coastal bluff. (The roadway access and utilities qualify as development and are substantially closer to the edge of the bluff.)

While the Appellant accepts the result of setting back the house and fire turnaround nearly 25 feet from the edge of the coastal bluff, the Planning Commission's approval and direction is not accurately reflected in the final conditions of approval. Indeed, the final conditions of approval allow development to once again encroach up to 20 feet from the edge of the bluff in violation of LCP Policy 6.5.1. While added Condition 7.g states that "[t]he residence shall be moved back on the site to the fifteen feet rear setback," Condition 7.a for the Project states that "[t]he space in front of the house shall be a minimum of twenty feet from the house to the front property line." These conditions simply allow a larger home to be constructed on the lot and the fire turnaround to be constructed within 20 feet of the edge of the bluff, and the conditions do not require that development, including roadway access and utilities, be set back from the edge of the bluff more than 20 feet. Accordingly, the project as conditioned violates LCP Policy 6.5.1 and County Code Section 16.10.070(h)(1)(ii).

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.



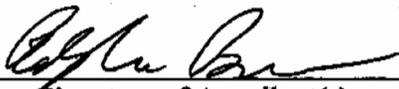
Signature of Appellant(s) or Authorized Agent

Date: February 19, 2008

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

Section VI. Agent Authorization

I/We hereby authorize William Parkin
to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: February 19, 2008