

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT ST, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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FAX (415) 904-5400
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W19a



Prepared December 6, 2011 (for December 7, 2011 hearing)

To: Coastal Commissioners and Interested Persons

From: Charles Lester, Executive Director
Ruby Pap, District Supervisor
Nicholas Dreher, Coastal Planner

Click here to go
to the original staff report.

**Subject: STAFF REPORT ADDENDUM for Item W19a
Appeal No. A-2-SMC-11-023 (Westerfield, Montara)**

The purpose of this staff report addendum is to add findings responding to the Appellants' December 2, 2011 response to the staff report, released on November 18, 2011. Deletions are shown in ~~strike through~~ and additions are shown in underline.

Staff continues to recommend that no substantial issue has been raised with regard to San Mateo County's approval of the proposed project as discussed in the November 18, 2011 staff report.

1. Add to end of Findings on Page 4, before Conclusion section:

Response to Appellants' December 2, 2011 Letter: In their December 2, 2011 letter, the Appellants contend that issues not specifically listed in the appeal warrant further consideration.

The Appellants state that the two-car off-street parking exception that was approved as part of the project would have a direct negative effect on public access. The parking exception was approved by the County to allow for two tandem parking spaces partially within the public road right of way immediately adjacent to the Applicant's property (to the east) and partially on the Applicant's property. The parking will not be located in the right of way adjacent to the publicly owned property (to the south). As a condition of the County's approval, the Applicant is required to remove and replace the portion of the fence on his private property, reducing the total height to no taller than four (4) feet. This condition was put in place in order to widen the entry between the Applicant's home and the approved tandem parking spaces. Even though the tandem parking will be located in the public right of way immediately adjacent to the Applicant's property rather than in the right of way adjacent to the public property of concern to the Appellants, the Appellants' concern is that tandem parking (two cars) will potentially block public access through the fence door/gate, block signage to the public street and give the false impression that the west end of Seventh Street is private, when it is in fact public.

The Appellants' original appeal focuses on "access to the bluff." Rather than supplement this contention, the Appellants raise a new issue regarding the approved parking exception. The Appellants' new concern is not within the scope of the original appeal as written. The concern raised by the parking exception is not timely because it was not raised within the 10-working day appeal period. In addition, even if the alleged potential public access impediment caused by the

approved tandem parking exception was raised within the appropriate appeal period, the untimely assertion does not raise a substantial issue of conformance with the County's certified Local Coastal Plan or the public access policies of the Coastal Act for the following reasons.

Rather than allege an inconsistency of the approved project with either the certified Local Coastal Plan or the public access policies of the Coastal Act as required by Section 30603 of the Coastal Act, the Appellants' claims continue to focus geographically on the portion of the legal non-conforming fence located on adjacent publicly owned property that currently blocks the public from accessing the public bluff top viewing area. (14 feet of the fence is located on private land and 46 feet of the fence is located on public land).

The approved addition will take place on private property, located at 101 Seventh Street, Montara (San Mateo County) [APN 036-057-240], and the off-street parking exception will allow some parking within a public road right of way unrelated to the portion of the fence located on the adjacent publicly owned property, which is of concern to the Appellants. The subject approval relates only to the approved addition and a two-car off-street parking exception partially on the Applicant's private property and partially within the public right of way on the street. Previous to the Applicant's purchase of the subject property, a prior owner converted available garage space to a bedroom. Accordingly, the County approved the parking exception to provide adequate parking on site. The site plan, as approved by the County, shows the tandem parking occurring approximately 15 feet to 50 feet north of the public portion of the fence, which would establish at least a 15 ft. gap between the public portion of the fence and a parked vehicle (Page 1 of Exhibit 6 of the November 18, 2011 staff report). Given the limitations on site, the Commission finds that the County's approval would not impair available public access on site. In the event that parking occurs that is inconsistent with the County approval and obstructs public access or public access signage, the County enforcement office could pursue any violation of the County permit as it is within their jurisdiction.

Finally, the Appellants continue to raise enforcement issues unrelated to the subject appeal. As stated in the staff report, the appeal contentions must relate to the specific development approval. The new concerns raised in the section entitled "Violations and Non-Permitted Work History" of the Appellants' December 2, 2011 letter, do not relate to the specific development approval in question. The Commission cannot consider matters not specifically addressed by the County in their approval of the subject development. While there may potentially be an enforcement concern that the County has a right to enforce, these concerns are not a result of the approved development and can be separately addressed by an enforcement action involving the separate parcel of public property.

Therefore, the Commission finds that the appeal of the County's approved project raises no substantial issue of conformity of the approved project with the certified Local Coastal Plan or the public access policies of the Coastal Act.

W19a

Marilyn Winkler
1662 Graff Court
San Leandro, CA 94577

December 1, 2011

RECEIVED

DEC 02 2011

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Attention: Nicholas B. Dreher, Coastal Program Analyst

Re: Appeal No. A-2-SMC-11-023
Hearing date, December 7, 2011
Item No. W19a
Submitted by Appellant Marilyn Winkler

Dear Sirs/Madams:

Due to surgery, I shall be unable to attend the December 7th hearing.

There is a "substantial issue" here in regard to the coastal resources affected by your decision. The County conditioned the Applicant's permit to address the blocked public access at the site, thereby recognizing substantial Coastal Commission concerns, but its decision was without precedential value of its LCP for future interpretation as Applicant's actions here were flagrant.

1. Applicant, with knowledge of the public's historic paths on his property, maintained an always closed 7 foot fence (see attached Exhibit 5, page 8 of 11).
2. Applicant frequently locked the 7 foot fence so emergency equipment couldn't accomplish a rescue there.
3. Applicant never posted signs regarding the public's path, only his own address number.
4. Applicant willfully and maliciously destroyed the public's vertical path with debris, including throwing cement bags over the path and by plantings.
5. Applicant turned the public's lateral path into a private area for his use.

Applicant's actions have been clearly illegal and in direct opposition to Coastal Commission principles. He asks for a favor in the form of his permit application, but clearly has come before the County and the Coastal Commission with "unclean hands". As it now stands, the public will have lost its vertical path and its lateral path and only left with a small viewing area.

If the Coastal Commission grants the Applicant his permit in spite of his actions, it should condition it upon:

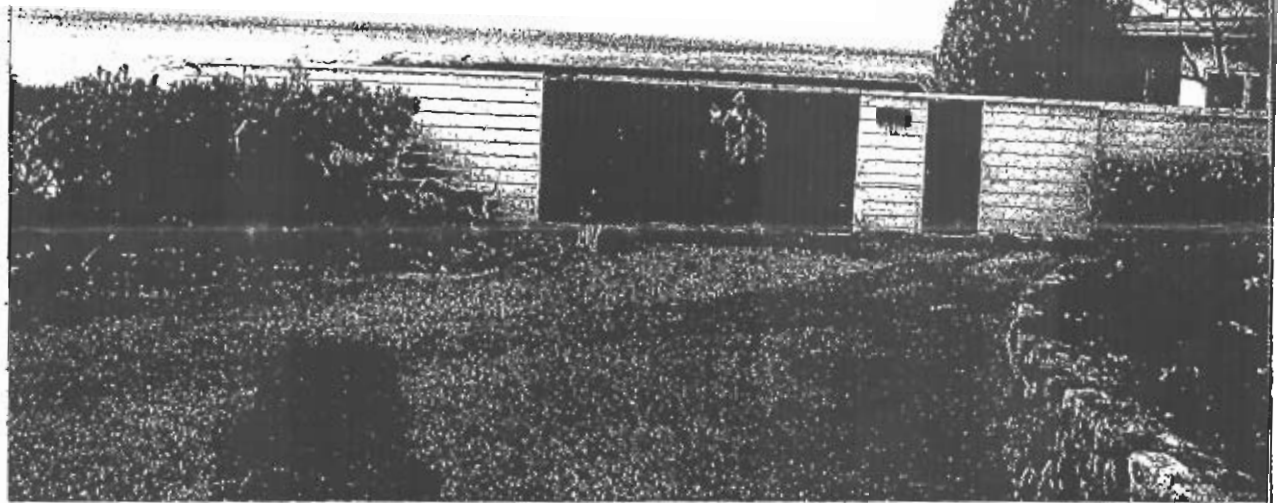
1. Applicant should maintain benches for the public's use at the viewing site at the south end (Exhibit 5, page 11 of 11).
2. Applicant should remove his bushes and plants on the western side of the his property. When his bushes and plants are removed, the lateral path to the north end would be at least 15 to 20 feet wide. This walk belongs to the public historically and should be returned to the public (Exhibit 5, page 10 of 11) (Exhibit 3, page 1 of 1).
3. At the north end of the public's lateral path, there is a viewing area that Applicant converted for his personal use, while denying the public's use thereof, though clearly on the public's property (Exhibit 5, page 9 of 11). This area should also be restored to public use.

Coastal resources, as here, are priceless to the public. Founded on hope and trust by the public, the Coastal Commission is doing a fine job, and is the champion of the public's dreams that "right" will prevail for them.

Sincerely,

Signature on file

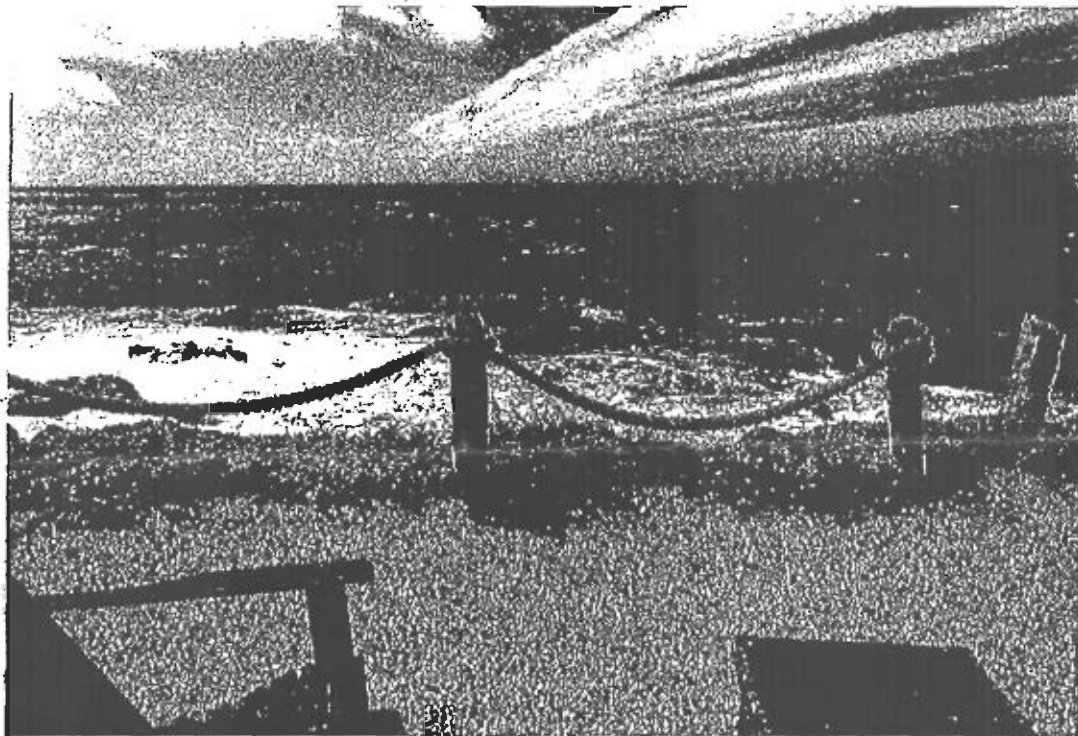
Mrs. R.V. Winkler



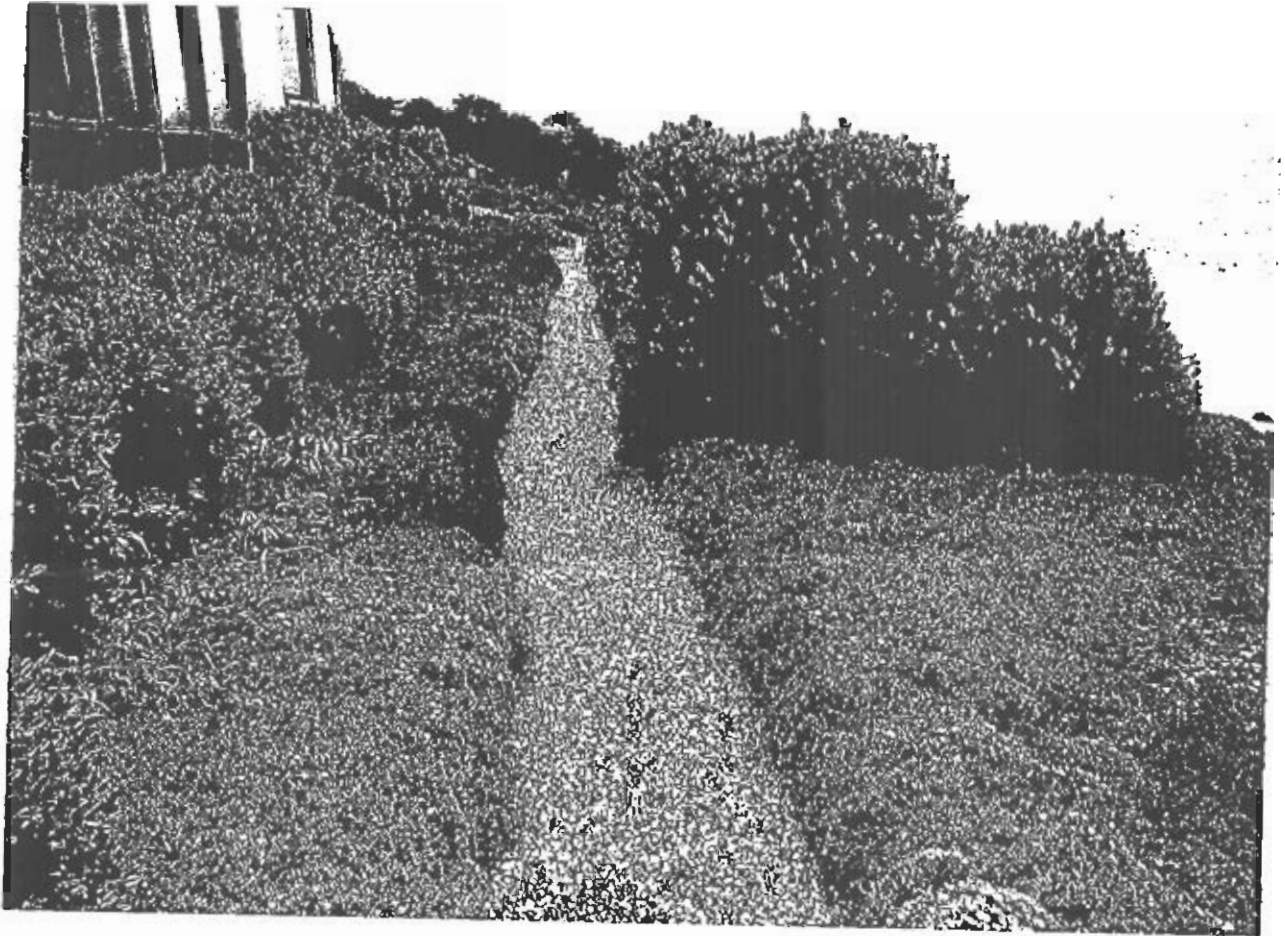
This is the public's
view on 7th street
of their entrance to
their public access.
Gate and small
entrance are always
closed (or locked)

Thick hedges to
left of gate
surrounding owner's
property are
impenetrable for
public access

Man in front of
gate is six feet tall.
Board on top of gate
makes gate height
seven feet.



Sitting area for
owners pictured -
This should be
for public to enjoy
view. Owner should
install C.T. approved
benches for public
use

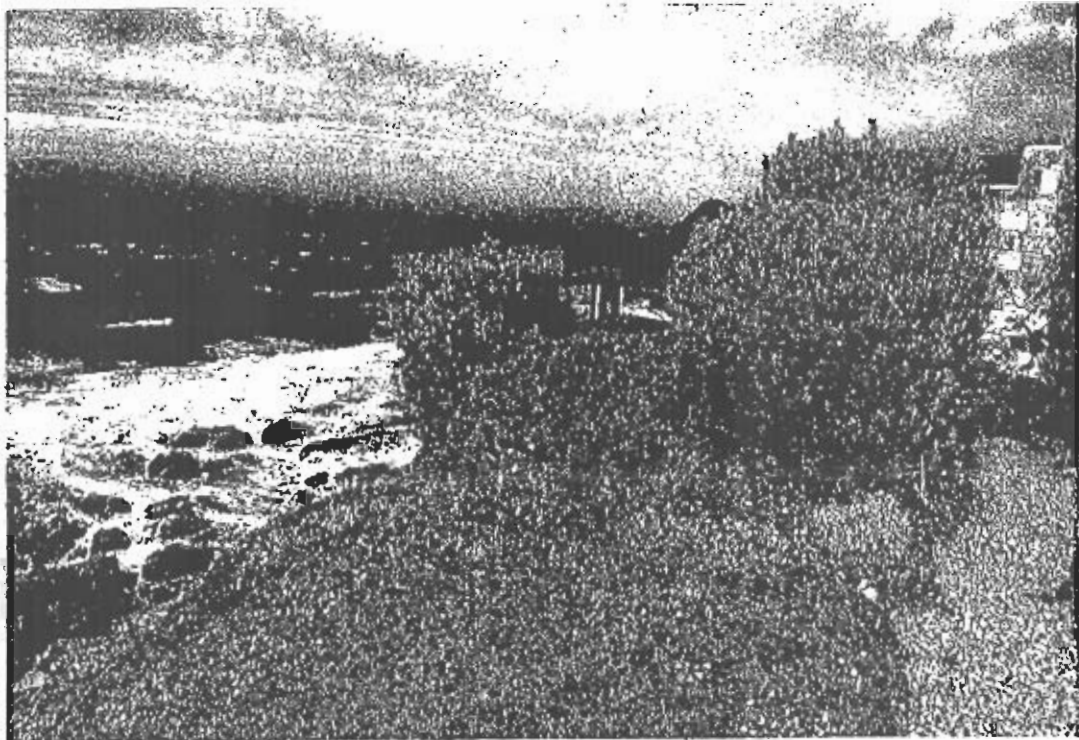


Property owner has
glass wall - probably
on property line.
Lateral path thus
could be widened to
glass.
Trees in foreground
should be removed.



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—	Approximate Location of Second Floor Addition
- - - - -	Approximate Property Line
- - - - -	Vertical Pathway (improvements removed)



Pictured is extreme
north of public path.
Viewing point at
end (boards showing)
maintained by owner
with hedge and his
plantings.
(Denied to public's
viewing by owner's
frontal gate)

December 2, 2011

W19a

RECEIVED

DEC 02 2011

CALIFORNIA
COASTAL COMMISSION
NORTH CENTRAL COAST

To: California Coastal Commission
From: James Montalbano, Louise Montalbano, Marilyn A. Winkler

After reviewing the Staff Recommendations for Appeal A-2-SMC-11-023 Westerfield/Montara, it comes to our attention that the context of our appeal was not expansive enough. After reviewing the limitation of the Staff Report and recommendations of staff, the appeal form states, Item # 3 at the top of the appeal form "This need not be a complete or exhaustive statement for reasons for this appeal".

We would like to expand on our original appeal (as allowed Item 3 of the appeal form) to further outline the direct effect the addition of this home will have on Public Access, Public Safety, Views, and the Shoreline Access Component (LCP 10.1) including Table 10.6 Shoreline Destination Sea Cliff Ct./Marine Walk

We are asking the proposed addition be denied as this addition will have a direct effect on public access due to the following issues that will encumber Public Access, Safety, and Views etc.

If any portion of the 60' long fence at the end of 7th St. is to remain the 380 sq/ft addition will impact the Public Access in the following ways, specifically, the "nexus" between the addition and the relationship to Public Access.

PARKING & PUBLIC ACCESS

We the appellants believe the decision by the zoning hearing officer does not address the issues concerning public access to the bluff area that will become further encumbered if the house is allowed to increase in size we believe the nexus between the addition to the house will directly effect the public access.

- The new structure will give the ability to increase the amount of residents of the house, which in turn will increase the number of cars and visitors. Minimizing the standard parking requirement in San Mateo County for this addition will create parking in front of the Public Access to the Bluff, preventing views of the signage and the open gates.

- Increasing off street parking will block the signage proposed by the County of San Mateo as a solution to the fence that already exceeds all rules & regulations of San Mateo County and the LCP.
- The only access to this house at this time is through a Public Access gate in the fence blocking 7th street allowing this fence to remain will permanently prohibit access to 101 7th St. through any other location other than the 6'10" gate to the Marine Walk.
- Driveways traditionally provide a 20' x 20', 400 sq/ft of off-street parking, due to the 20' setback requirement. This property does not even provide a Driveway for over flow traffic further burdening the county streets, with excess traffic.
- This leaves only one way to enter the property at 101 7th street, **THROUGH THE GATES ON THE COUNTY RIGHT OF WAY.**

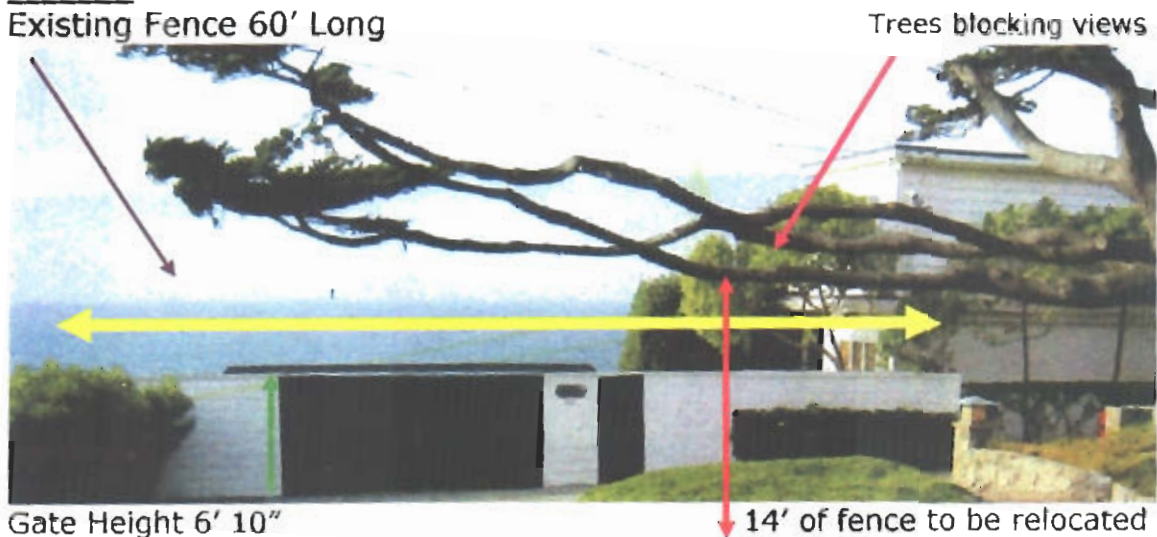
The nexus is that this house is related to the fence and gates because it is the only access to the house by that use, it implies to the general public both parcels are one parcel and private property.

The applicants are required by the County of San Mateo, to add tandem parking for 2 vehicles, when tandem parking is not allowed in the LCP nor does the LCP allow uncovered parking, which would be granted by this permit. This block of 7th St. is already over burdened by the following additional conditions:

- Exhibit 2 of the staff report shows 7th street is 60' wide: on 11-30-11 the County of San Mateo reduced the width of the 7th St. to 22 feet after installing a landscape project to minimize hazardous run-off into the ocean. (**attachment 1**)
- This section of 7th street does not have standard width streets with curbs, gutters or sidewalks and does not allow for off street parking due to the drainage ditches on both sides of the street, leaving parking for the enlarged proposed residence to encumber the public street, hence blocking public access (**see attachment 1**)
- San Mateo County does not improve roads or Fire Access
- Most of the Streets in Montara have road widths below the minimum standards, this is common practice on the MidCoast
- If the residential use of this house exceeds the use of the proposed tandem parking, there will be no space for Fire Trucks or Rescue Vehicles to turnaround endangering lives and public safety
- The tandem parking is very narrow and difficult to access, even with 14' of the fence moved to the East. Additional residents or visitor parking will be forced to park on the public street that is already maximum capacity by nature of its location

FENCE

Existing Fence 60' Long



To create tandem parking for the addition, 14' of the fence needs to be removed and rebuilt to the west toward the house, as one of the County of San Mateo's requirements.

The 14' of the fence is attached to the Public Access fence which clearly gives the public the impression this is private property. The 60' of fence is directly connected to the fence crossing 7th street clearly giving the impression that the Westerfield property continues across 7th street blocking the Shoreline Access and the Marine Walk (**Attachment 2 Deed**) (**Attachment 3 Map**)

Mr. Westerfield by his own actions of private use have created the nexus between these two entities by his private use: decorating with patio furniture, maintaining, barricading, hindering public safety, planting trees without permits, signage for his house on the public access, the address of his residence on the public fence, name of the house on the public fence, locking the gates, and specifically the gates on the fence in the Public Right of Way using the gates for his sole access to 101 7th Street.

It is only because of this permit Mr. Westerfield will unlock and open gates. By taking down the fence, this would create public awareness that the Bluff and Shoreline Access area are not part of 101 7th street, as it has historically appeared. Removal of the fence would permanently prevent future possible problems of closure or locking the gates by any owners, misleading the public this is private property.

Mike McCracken states on behalf of Mr. Westerfields (Exhibit 7, the staff report) "there is no proper nexus for a requirement to remove the fence".

However, January 14, 2003 Mike McCracken was and still is James Montalbano's attorney stating "the fence must be removed for public health and safety issues due to a water rescue that required breaking down the locked gates". (**Attachment 4 letter**) (**Attachment 5**)

Another example of why the fence should come down is that a visitor at the Westerfield home on 11-26-11 (**Attachment 6**) parked in front of the public gates and could have possibly blocked the future signage for public access as well as the entrance to the bluff..

Another example of why the fence should come down is due to the age of the Fence. The fence contains lead paint that is considered a health and safety hazard and should be removed from all public locations according to the EPA website. (**Lead test photo Attachment 7**)

- Any changes or alteration to the 60' of fence, necessary for the addition and its parking, will create dust and fumes, releasing Lead into the Shoreline Access, which leads to the Marine Walk access point leading into the ocean, specifically, the Fitzgerald Marine Reserve
- When 14' of the fence are relocated there will be a direct health and safety risk to the general public

When the fence on the property line of the Westerfields property at 101 7th Street is demolished, there is nothing left to support the remaining 46' long x 6'10" tall fence blocking the public access point:

- The County fence ordinance does not allow for any fence in the first 20' of the property line to exceed 4 feet (San Mateo County Fence Ordinance)
- The portion of the fence to remain in the county right of way is failing, the far south side is held up with a brace, the center two gates don't open and are nailed together to keep the gates from falling to the ground. (**Attachment 8**)
- If the gates in their current state were allowed to open, the weight of the gates opening would collapse the gates to the ground. The gates would no longer function
- The County of San Mateo Requires that the gates are unlocked for the issuance of this permit during daylight hours, however, the residents do not live in this home full time to manage and fulfill this requirement

For the Gates to open into the Shoreline Access point to the Marine Walk, the gates will need extensive repair at minimum. The gates and painted support posts will need to be replaced. Because the gates and fence as they are now, there is concern that when the 14' of the fence is removed, the remaining 46' standing alone will not be safe, creating an additional health and safety issue, not only due to the failure of the gates and fence, but the Lead Paint.

VIOLATIONS & NON-PERMITTED WORK HISTORY

This property and the new structure have a long history of violations of county codes, and alterations that have been overlooked for years creating a home that does not conform to the standards for development today. These violations include:

- The Westerfield home had two garages, one attached, one detached garage
- Currently the Westerfield home has NO GARAGE(S)
- The main garage within the structure was turned into a bedroom without a permit

- A lot line adjustment was done and approved without a survey, leaving the Westerfield property substandard under 5000 sq/ft with NO GARAGE, DRIVEWAY OR DESIGNATED PARKING
- In 2003 Mr. Westerfield kept **the public access gate padlocked for nearly a year**, despite letters to the county written by James Montalbano and his attorney Mike McCracken
- A Letter dated April 17, 2002 from Mr. Brian C. Lee, Division Manager of Programs and Engineering Services of the County of San Mateo states that " **Mrs. Westerfield has refused the Department's request to, unlock the gate**"
- November 23, 2002, a water rescue attempt was made but the Public Access gate and fence at 101 7th was padlocked and rescue personnel were forced to break down the door for access to the bluff (see attached)
- The owner planted Cypress trees and shrubbery on the County Public bluff and along the cliff without permits for years, with the possibility of hindering views. We requested him to take them out many times. Mr. Westerfield refused to do so, until it became a condition of this permit
- The owner of 101 7th street has not respected the LCP, planting hedges and trees higher than the 4ft requirement for public views on his lot at 101 7th St. as seen on page 3 of this document
- Mr. Westerfield has placed blue tarps along the cliffs
- Mr. Westerfield has placed a ladder on the south side of the cliff for his private use
- Mr. Westerfield has used barb-wire behind the shrubbery at the end of 7th St.
- Mr. Westerfield has thrown clippings and yard debris over the sides of the bluff even after notification by the County of San Mateo to discontinue doing so

The Westerfield home at 101 7th street continues to grow in living space and continues to be granted forgiveness for all infractions.

IN CONCLUSION:

We feel we have shown the relationship 'NEXUS' between the addition to the Westerfield home and how keeping the fence in the Public right of way, will directly affect public access.

This permit for the addition should not be granted for the following reasons:

Additional living space will create a higher use of the home increasing traffic, due to the tandem parking requirement any additional parking has the potential to physically or visually block public access. Removing, rebuilding and relocating 14' of the 60' fence is a health and safety issue.

As we know, the coastal area is very fragile and we very concerned that there has not been a survey of the actual property lines to determine the true impacts of the proposed addition.

Nov/Dec 2011County drainage improvements on 100 block of 7th Street

Attachment 1

California Beachs and Parks Tax Records of the Marine Walk
Map of Marine walk & Original Grant Deed

Attachment 2

Marine Walk location map Adjacent to 101 7th Street

Attachment 3

Letter on behalf of James Montalbano by Mike McCracken

Attachment 4

Water Rescue Report 11-23-2002

Attachment 5

Visitor to Westerfield home

Attachment 6

Home Lead Test Taken in July 2011 and again November 2011 both test
conclusive for lead

Attachment 7

Photo - back of gates and fence

Attachment 8



CURRENT INFORMATION

Property Use Details

HIGHWAYS & STREETS (88)

Summary of Property Details

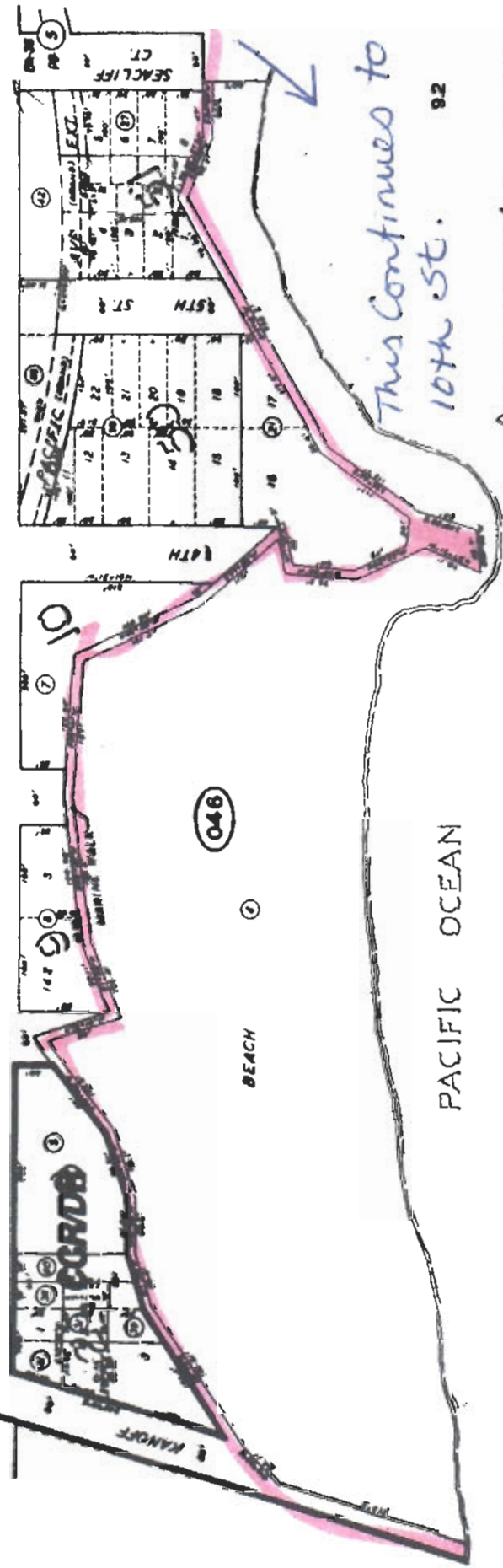
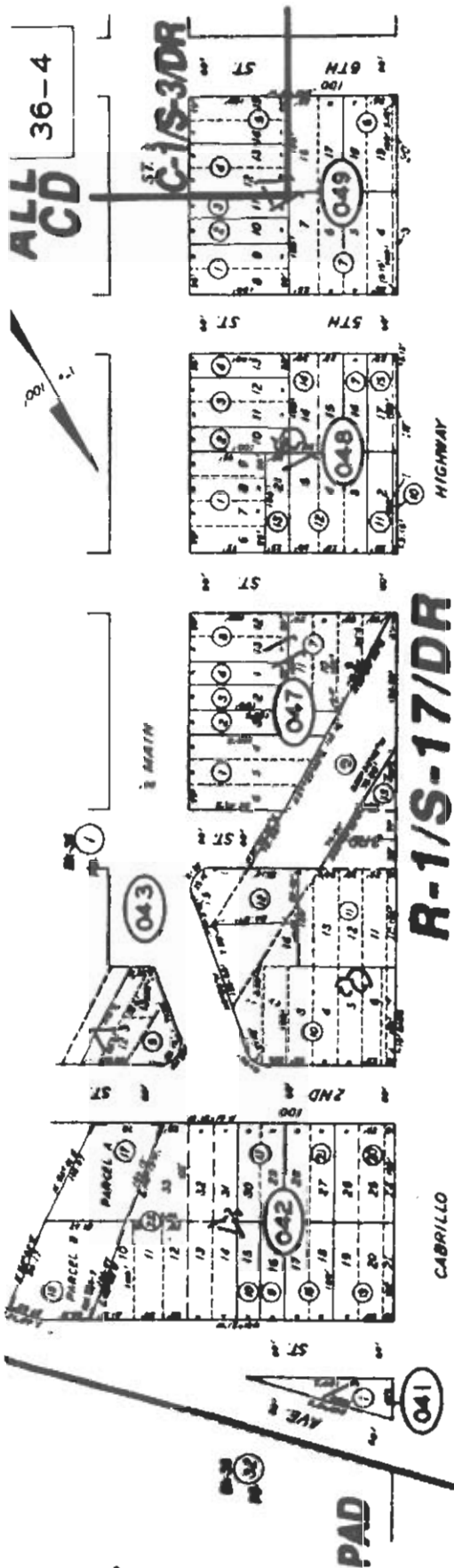
APN: 036321010
Owner 1: State Of Calif
Owner 2: Beaches & Parks
Care Of:
Owner Address: Po Box 38
Half Moon Bay CA
94019--0038
Situs Address:
no situs city
Legal Description: 16.60 AC MOL BND ELY BY COAST HWY SWLY BY
KANOFF AVE WLY BY PACIFIC OCEAN CABRILLO
UNIFIED SCH DIST
District: 5
Neighborhood: 088

Secured Assessment Roll: 2010-1

Assessee Details		Assessment Values		Assessment Details	
Owner 1:	STATE OF CALIF	Land:		Assessment Type:	Annual
		Temp Land:		Temp Code:	
Owner 2:	BEACHES & PARKS	Root:		Notice Date:	
Care Of:		Min/Mineral:		Change #:	
		Improvements (Structure):			
		Temp Improvements (Structure):			
Owner Address:	PO BOX 38 HALF MOON BAY, CA 94019-0038	Fixtures:		TRA:	087076
		Total Gross:		PUC:	88
		Total Temp:			
		Exemption - Home Owner:		PUC Description:	Highways & Streets
Document Number:	AJ084219	Exemption - Other:			
		Net Assessed:			

Current Jurisdictions**Current Tax Rate Area #087076**

Supervisory:	3	GENERAL TAX RATE	GENERAL COUNTY TAX	COUNTY DEBT SERVICES
Congressional:	12	FREE LIBRARY	CABRILLO UNIFIED GEN PUR	CABRILLO UNIFIED BOND
Assembly:	19	SM JR COLLEGE GEN PUR	SM JR COLLEGE BD 2002	SM JR COLL BOND SER 2005 B
Senatorial:	8	SM JR COLL BOND 2001 SER C	SM JR COLL BOND 2006 SER A	SAN MATEO COMM COLL 2005 SER B
Election Precinct:	3306	COUNTY SERVICE AREA NO 12	COUNTY SERVICE AREA NO 10	COASTSIDE FIRE PROTECTION DIST
City Name:	UNINCORPORATED	MONTARA SANITARY DISTRICT	MONTARA SANI BOND SER 2003	MONTARA LIGHTING
Zip Code:	94038	BAY AREA AIR QUALITY MANAGEMEN	COUNTY HARBOR DISTRICT	COUNTY EDUCATION TAX
Mitigation Fee Area:	RURAL AREA NORTH			



PARCEL MAP VOL 38/6-7
 FARALLONE CITY LOTS 45, 46, 47, 48, 49, 50, 51 RSM 6/2
 Update 2005

ASSESSOR'S MAP COUNTY OF SAN MATEO, CALIF

126

California on March 18, 1930 in Liber 20 of Maps at pages 73 and 74.

SUBJECT HOWEVER TO THE EASEMENTS AS SHOWN ON THE MAP ABOVE referred to.

SUBJECT TO conditions and restrictions contained in the deed from Aragon Company, a corporation to Donald W. Leadley dated March 28th, 1930, and recorded March 23, 1930 in Book 683 of official records at page #11, San Mateo County records disclosing a general plan of the improvements of said tract.

IN WITNESS WHEREOF, the said first party has executed this conveyance this 6th day of November, 1935 (CORP. SEAL) ARAGON COMPANY, a corporation William S. Leadley. Pres.

STATE OF CALIFORNIA, Frederick F. Colleson Secy. Treas.

County of San Mateo (ss. On this 6th day of November in the year one thousand nine hundred and thirty-six, before me, James A. Lee, a Notary Public in and for the County of San Mateo, State of California, residing therein, duly commissioned and sworn, personally appeared William S. Leadley and E. C. Lane known to me to be the President and Secretary of the corporation described in and that executed the within instrument, and also known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, in the County of San Mateo, the day and year in this certificate first above written. (SEAL NOTARY PUBLIC SAN MATEO CO. CAL.) James A. Lee Notary Public in and for the County of San Mateo State of California.

Recorded at Request of CALIFORNIA PACIFIC MILK & ICE COMPANY NOV 23 1935 AT 54 Min. Past 9 A.M. San Mateo County Records E. C. Rice, Recorder, By Edith E. Letts, Deputy Recorder. Ruth Kirste, Copyist. Compared & Corrected OK Copyist's note: --933750-- 5

XXXXXXXXXXXXXXXXXXXX

GRANT DEED (CORPORATION) DISTRICT COUNTY ROUTE SECTION IV S.K. 56 D

KNOW ALL MEN BY THESE PRESENTS:- McNEE COMPANY a corporation organized and existing under and by virtue of the laws of the State of California, in consideration of Ten and no/100 Dollars (\$10.00) to it in hand paid, receipt of which is hereby acknowledged, does hereby GRANT to the STATE OF CALIFORNIA all that real property in the City of , County of San Mateo, State of California, described as:

A portion of the Rancho Corral de Tierra (Palomares) known as Lot 4 on the Partition Map of said Rancho, filed in the office of the Recorder of San Mateo County in Liber "A" of Maps at page 22 and a copy entered in Liber 2 of Maps at page 31; a portion of fractional Section 27 in Township 4 South, Range 6 West, Mount Diablo Base and Meridian and a portion of Lot 13 as designated on the map entitled, "Map of part of the San Pedro Rancho forming the Mahoney Interest", which map was filed in the office of the Recorder of the County of San Mateo, State of California on June 25, 1879 in Liber "A" of Maps, at page 56 and a copy entered in Liber 1 of Maps, at page 25; more particularly described as follows, to-wit:

COMMENCING at a point in the center line of Kanoff Ave. designated as Engineer's Station 298+60.49 of the Department of Public Works' survey for the State Highway between Paraglone City and Rockaway Beach, Road IV-S.M.55-D, distant N. 45° 26' W., 10.41 feet and N. 28° 25' E., 31.13 feet from the northwesterly corner of Block 1 as designated on the map entitled, "Map of a Re-subdivision of all of Paraglone City except Blocks 6, 13, 14, 19, 20, 23, 24, 27 and 28", which map was filed in the office of the Recorder of the County of San Mateo, State of California on March 10, 1908 in Liber 6 of Maps, at page 2; thence along the center line of Kanoff Ave. S. 45° 26' E., 52.65 feet to a point in a line parallel to and 50 feet southeasterly, measured at right angles, from the center line of said survey; thence along said parallel line N. 28° 25' E., 427.46 feet; thence tangent to the last mentioned course along a curve to the left, having a radius of 2050 feet, through an angle of 36° 31', a distance of 1306.54 feet; thence N. 8° 06' W., 551.86 feet; thence N. 5° 56' 10" W., 206.16 feet; thence N. 22° 08' 10" W., 206.16 feet; thence N. 8° 06' W., 500 feet; thence N. 0° 58' 30" W., 403.11 feet; thence N. 8° 00' W., 89 feet; thence tangent to the last mentioned course along a curve to the left, having a radius of 800 feet, through an angle of 13° 15' 30", a distance of 185.14 feet; thence S. 68° 39' 24" W., 20 feet; thence from a tangent that bears N. 21° 21' 36" W., along a curve to the left, having a radius of 780 feet, through an angle of 25° 47' 54", a distance of 351.21 feet; thence N. 47° 02' 30" W., 209.44 feet; thence tangent to the last mentioned course along a curve to the right, having a radius of 320 feet, through an angle of 100° 11' 30", a distance of 509.59 feet; thence N. 53° 02' E., 152.26 feet; thence N. 32° 40' 02" E., 157.03 feet; thence tangent to the last mentioned course along a curve to the left, having a radius of 450 feet, through an angle of 53° 36' 39", a distance of 421.08 feet; thence N. 69° 03' 30" E., 30 feet; thence N. 20° 58' 30" W., 296.53 feet to a point distant N. 69° 03' 30" E., 20 feet from Engineer's Station 348+23.15 of said survey; thence from a tangent that bears N. 22° 56' 30" W., along a curve to the right, having a radius of 320 feet, through an angle of 25° 19' 55", a distance of 141.48 feet; thence N. 85° 36' 35" W., 30 feet; thence from a tangent that bears N. 4° 23' 25" E., along a curve to the right, having a radius of 350 feet, through an angle of 20° 23' 35", a distance of 173.44 feet; thence N. 32° 47' E., 249.24 feet; thence tangent to the last mentioned course along a curve to the left, having a radius of 750 feet, through an angle of 14° 27' 51", a distance of 189.34 feet; thence N. 18° 19' 00" E., 249.19 feet; thence N. 8° 33' 55" W., 593.43 feet; thence N. 24° 00' 50" W., 202.18 feet to a fence line marking the line common to the lands of McNea Company and Hibernia Savings and Loan Society; thence along said fence line, S. 59° 30' W., 133.56 feet to Engineer's Station 336+73.80 of said survey; thence continuing along said fence line, S. 59° 26' W., 81.75 feet; thence S. 10° 32' E., 100.99 feet; thence S. 8° 01' 55" W., 223.61 feet; thence S. 45° 57' 15" E., 195.43 feet; thence S. 9° 15' 45" E., 190.55 feet;

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thence S. 22° 23' 15" W., 335.12 feet; thence S. 18° 08' 08" W., 374.20 feet; thence tangent to the last mentioned course, along a curve to the left, having a radius of 450 feet, through an angle of 39° 04' 38", a distance of 308.91 feet; thence S. 20° 56' 30" E., 296.59 feet to a point distant S. 69° 03' 30" W., 50 feet from Engineer's Station 345+50.40 of said survey; thence from a tangent that bears S. 20° 56' 30" E., along a curve to the right, having a radius of 350 feet, through an angle of 73° 58' 30", a distance of 451.89 feet; thence S. 53° 02' W., 159.86 feet; thence tangent to the last mentioned course along a curve to the left, having a radius of 450 feet, through an angle of 100° 11' 30", a distance of 788.90 feet; thence S. 47° 09' 30" E., 209.44 feet; thence tangent to the last mentioned course, along a curve to the right, having a radius of 650 feet, through an angle of 39° 03' 30", a distance of 443.10 feet; thence S. 8° 06' E., 989 feet; thence S. 5° 56' 10" W., 206.16 feet to a point distant S. 81° 54' W., 100 feet from Engineer's Station 313+00 of said survey; thence S. 22° 08' 10" E., 206.16 feet to a point in a line parallel to and 50 feet southwesterly measured at right angles to the center line of said survey; thence along said parallel line S. 8° 06' E., 551.86 feet; thence tangent to the last mentioned course along a curve to the right, having a radius of 1950 feet, through an angle of 7° 06' 31", a distance of 241.93 feet; thence S. 25° 01' 25" W., 95.61 feet; thence S. 32° 11' 25" E., 70.37 feet; thence from a tangent that bears S. 3° 18' 21" W., along a curve to the right, having a radius of 1950 feet, through an angle of 25° 06' 39", a distance of 854.62 feet; thence S. 28° 25' W., 398.50 feet to the center line of Kanoff Ave.; thence along said center line, S. 45° 26' E., 52.05 feet to the point of commencement.

CONTAINING 23.14 acres, more or less, including 0.05 of an acre lying within the limits of Kanoff Ave.

Excepting therefrom the following described property; a strip of land the roadbed and right of way of the Ocean Shore Railroad through and across the Melles Company property bounded on the south by Parallone City, as recorded in Book 6 of Maps, page 2, and on the north by Lot 5 of "the Southerly Regan Tract in San Pedro Rancho" subdivided in 1972 and described in Book 17 of Deeds at page 389, San Mateo County records, said strip of land being 125 feet in width, lying 50 feet on the westerly side and 75 feet on the easterly side of a line herein described and extending lengthwise from said northerly boundary 6018.4 feet, more or less, southerly to the south bank of Martinis Creek, thence 60 feet in width, being 30 feet on each side of said described line, southerly for a distance of 2000 feet; thence 85 feet in width being 42.5 feet on each side of said described line, 589.5 feet to the southerly boundary of grantor's property, said line being described in detail as follows:

COMMENCING at a point on said northerly boundary bearing S. 57° 45' W., a distance of 5761 feet more or less from corner #10, being the most easterly corner of said Lot 5, said point also bearing S. 57° 45' W. 81.1 feet from a one inch pipe in concrete, thence on a circular curve to the right, having a radius of 350 feet, the tangent of which at the point of beginning bears S. 17° 17' 23" W., through an angle of 9° 47', a distance of 58.3 feet; thence S. 27° 04' 30" W., a distance of 1361.7 feet; thence along a curve to the right, of radius 1600 feet through an angle of 11° 17' 24", 315.3 feet; thence S. 39° 21' 54" West, a distance of 157.5 feet; thence along a curve, left, of radius 356.53 feet, through an angle of 73° 53' 54", a distance of 478.5 feet; thence along a curve, right, of radius 471.72 feet, through an angle of 54° 15', a distance of 448.6 feet; thence along a curve, right, of radius 358.1 feet, through an angle of 36° 31', a distance of 228.2 feet; thence S. 52° 14' West, a distance of 283.4 feet; thence along a curve, left, of radius 310 feet, through an angle of 58° 30' 30", a distance of 318.6 feet; thence along a curve, left, of radius 559.5 feet, through an angle of 43° 58', a distance of 429.6 feet; thence S. 50° 14' 30" East, a distance of 191.5 feet; thence along a curve, right, of radius 200 feet, through an angle of 31° 19' 30", a distance of 109.3 feet; thence S. 18° 55' East, a distance of 323.8 feet; thence along a curve, right, of radius 300 feet, through an angle of 10° 58', a distance of 57.3 feet; thence S. 7° 59' East, a distance of 2887.4 feet; thence along a curve, right, of radius 1093.5 feet, through an angle of 60° 18' 54", a distance of 960.8 feet to a point on said southerly boundary of the intersection with the center line of Kanoff Ave. in Parallone City, which bears N. 45° 12' West 231.1 feet from the center of Parallone Ave., containing 21.18 acres. Said point of intersection also lies 42.5 feet westerly and 42.5 feet easterly along the said center line of Kanoff Ave. from two one-inch pipes set in concrete, being the most southerly corners of the right of way.

Also excepting the right of way formerly sought to be condemned by Joint Highway District No. 9, in 1930, more particularly described as follows:

A strip of ground 100 feet wide, except as herein modified, by the next succeeding paragraph hereof, lying 50 feet on either side of a center line described as follows:

COMMENCING at a point on the southerly line of the McKee Company, Inc., 196.75 acre tract, the same being a portion of Lot No. 4, Rancho Corral De Tierra, Palomares, as described in Book 12 of Deeds at page 340, San Mateo County Records; said point bearing North 45° 12' West 231.1 feet from the intersection of Parallone Avenue and Kanoff Avenue, as shown on that certain map entitled, "Map of Resubdivision of Blocks 1 to 33 of Parallone City" filed for record May 20, 1907, in Book 5 of Maps, at page 5, San Mateo County Records; running thence along the arc of a curve to the left whose tangent at its point of beginning bears North 42° 30' East and whose radius is 1093.50 feet, a distance of 960.59 feet; thence North 7° 50' West 2887.32 feet; thence along the arc of a curve to the left, whose radius is 300 feet and whose central angle is 10° 58', a distance of 57.25 feet; thence North 18° 55' West 323.81 feet; thence along the arc of a curve to the left whose radius is 200 feet and whose central angle is 31° 19' 30", a distance of 109.34 feet; thence North 50° 14' 30" West, a distance of 191.53 feet; thence along the arc of a curve to the right whose radius is 559.48 feet and whose central angle is 43° 58', a distance of 429.60 feet; thence along the arc of a curve to the right, whose radius is 310 feet and whose central angle is 58° 30' 30", a distance of 318.56 feet; thence North 52° 14' East, 283.44 feet; thence along the arc of a curve to the left, whose radius is 358.10 feet and whose central angle is 36° 31', a distance of 228.23 feet; thence along the arc of a curve

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20408

to the left, whose radius is 471.72 feet and whose central angle is 54° 15', a distance of 446.64 feet; thence along the arc of a curve to the right, whose radius is 356.53 feet and whose central angle is 70° 53' 54", a distance of 478.51 feet; thence North 38° 21' 54" East, 167.53 feet; thence along the arc of a curve to the left, whose radius is 1600 feet and whose central angle is 11° 17' 24", a distance of 315.28 feet; thence North 27° 04' 30" East, 1361.73 feet; thence along the arc of a curve to the left, whose radius is 350 feet and whose central angle is 8° 47' 07", a distance of 58.77 feet to a point on the northerly line of the McKee Company 115.74 acre tract, as the same is described in Volume 252 of Deeds, at page 311, San Mateo County Records, said point bearing South 57° 45' West, 5730.31 feet from corner No. 10, as the same is described in the above conveyance, being a nail in a sunken post.

CONTAINING 20.06 acres, more or less.

In lieu of the said 100 foot strip of ground, it is hereby agreed and understood that of the above described property only a parcel 60 feet in width is herein excepted, extending from the south bank of Martinis Creek to a point 2000 feet south; thence a parcel 35 feet in width south to Parollone City, more particularly described in that certain deed from the McKee Company, a corporation, to the Ocean Shore Railroad Company, dated November 27, 1934 and recorded December 7, 1934 in Liber 642 of Official Records, page 96, of San Mateo County.

IN WITNESS WHEREOF, said Corporation has caused its corporate name and seal to be affixed hereto and this instrument to be executed by its President and Secretary thereunto duly authorized, this 18th day of September, 1938.

(CORP. SEAL) McKee Company,

By Julia J. Morrison, President

By Netta C. McIntosh, Secretary

(CORPORATE SEAL)

STATE OF CALIFORNIA)

CITY AND COUNTY OF SAN FRANCISCO) SS. On this 18th day of September, 1938, before me, Eleanor J. Smith, a Notary Public in and for said City and County, personally appeared Julia J. Morrison, known to me to be the President, and Netta C. McIntosh, known to me to be the Secretary of McKee Company, the corporation that executed the within and foregoing instrument, and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Eleanor J. Smith

(SEAL ELEANOR J. SMITH, NOTARY PUBLIC) Notary Public in and for the City and County of SAN

(IN AND FOR THE CITY & COUNTY OF) FRANCISCO, State of California.

(SAN FRANCISCO, STATE OF CALIF.) MY COMMISSION EXPIRES DECEMBER 29, 1938

(CERTIFICATE OF ACCEPTANCE, CIVIL CODE, SECTION 1153)

THIS IS TO CERTIFY, That the State of California, acting by and through the Department of Public Works, Division of Highways, hereby consents to execution and recordation of the within deed, and accepts for public purposes the real property therein described.

IN WITNESS WHEREOF, I have hereunto set my hand, this 21st day of September, A. D., 1938

EARL LEE KELLY Director of Public Works

By Jno H Skeggs Attorney in fact and District Engineer,

Division of Highways

RESOLVED: That the President and Secretary of this corporation be, and they are, hereby authorized and empowered for, on behalf of, in the name, under the seal, and as the act and deed of this corporation, to make, execute and deliver to the STATE OF CALIFORNIA, a good and sufficient deed of right-of-way over land belonging to the McKee Company situate in the County of San Mateo, State of California, which land is particularly described in said deed, executed September 18, 1938.

I, NETTA C. MCINTOSH, Secretary of the McKee Company, a corporation, hereby certify, that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Board of Directors of the McKee Company, a corporation, at a special meeting of said Board of Directors, held at the office of said corporation, Room 616, 114 Sansome Street, San Francisco, California, on Friday, the 18th day of September, 1938, at 10:30 o'clock A.M., which said resolution is duly entered in the Minutes of said Board of Directors' Meeting, and that said resolution has never been cancelled, annulled or revoked, and the same is in full force and effect. DATED: San Francisco, California, September 18, 1938.

(CORP. SEAL)

Netta C. McIntosh

Secretary of the McKee Company.

Recorded at Request of CALIFORNIA PACIFIC TITLE & TRUST COMPANY NOV 23 1938 AT 56 Min. Past 9 A.M. San Mateo County Records P. C. RICE, Recorder, By Edith E. Lotts, Deputy Recorder. Ruth Kirsto, Copyist. Compared & Corrections OK. Copyist's note: Had ink numerals in above same as pencil in original. --93377C-- 37

\$3.50 U.S.I.R. Doc. Stamps Cancelled

DEED

EXX N.P. BAYWOOD PROPERTIES, INC.

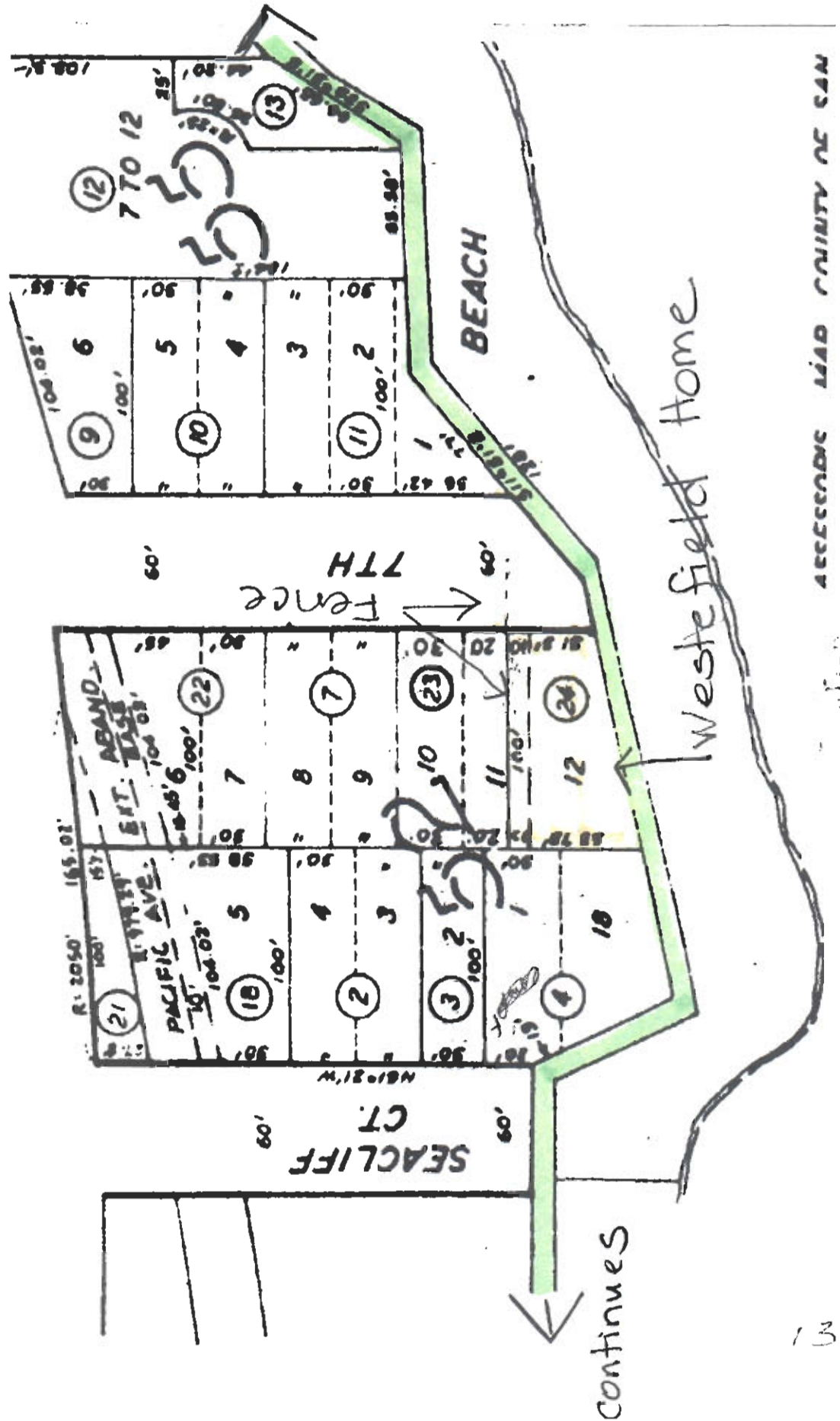
~~XXXXXXXXXXXXXXXXXXXX~~ a corporation organized and existing under the laws of the State of California and having its principal place of business in the City and County of San Francisco, in said State, grantor, does hereby grant to G. E. WILLIAMS CO., a corporation, grantee (the singular herein including the plural) the real property situate, lying and being in Baywood, San Mateo County, California, particularly described as follows, to wit:

Lot No. 16 in Block No. 21

as laid down and designated on a certain map entitled "Baywood," surveyor and subdivided by Geo. A. Kneese, Civil Engineer, Redwood City, California, filed for record in the office of the County Recorder of San Mateo County, California, May 16, 1927, and recorded in Map Book 16, at pages 3, 4 and 5;

Reserving and excepting therefrom all riparian and water rights, also easements and rights of way for the placing, construction, maintenance, operation and repair of poles, lines, wires, con-

marine walk



McCracken, Byers & Haesloop LLP

Attorneys at Law
1528 So. El Camino Real, Suite 306
San Mateo, California 94402
Telephone: (650) 377-4890
Facsimile (650) 377-4895

FACSIMILE TRANSMISSION COVER SHEET

Date: January 14, 2003

Number of Pages (including cover sheet): 2

Original to be Mailed: Yes _____ No _____

Re: Fence and Gate at the End of 7th St., Montara

To: Jim Montalbano

Fax No. (650) 728-7309

From: Michael D. McCracken
McCRACKEN, BYERS & HAESLOOP LLP
Fax No. (650) 377-4897/95

Notes:

If there is any problem with the transmission of this Document(s), please call Nory at (650) 377-4890, ext. 14.

This FAX is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under the applicable laws. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original FAX to us at the above address.

Neil Cullen
Director of Public Works

Re. Fence and Gate at the End of 7th St., Montara

Dear Neil:

This goes back to a matter last which was the subject of back and forth correspondence between you and our client, Jimi Montalbano, last August through November – namely, an illegal fence and gate at the end of 7th Street in Montara.

In your September 26, 2002 letter to Mr. Montalbano, you stated that, based on the information before you, you did not believe it "is in the best interest of the County to have the gate and fence removed." Based on the information you had at that time, your position may very well have been well founded. However, I do not believe you had all of the relevant information at your disposal – indeed, some of it may have been inaccurate – in which to take this stance.

As Mr. Montalbano correctly informed you, this fence and gate were installed without a CDP. It does not matter whether or not this action "predated the approval of the County's LCP". The property on which it was installed is a publicly owned and maintained road easement. Accordingly, the County not has the right, but also the duty, to keep it safe and free of obstructions and unauthorized encroachments. This fence and gate are obvious encroachments for which an encroachment permit was never issued. It is, therefore, an illegal use which cannot ripen into a legal non-conforming use under the Coastal Act. It is not only subject to the County's CDP requirements, but the Public Works Departments' encroachment permit requirements as well. If the County determines that it poses any kind of detriment or hazard to the public's safety, the County is fully within its rights to order it removed. The undeniable fact, as demonstrated by the attached Incident Report of the San Mateo Sheriff's Department, is that this fence and locked gate is a hazard to the public's health and safety. When responding to a potential water rescue situation on November 23, 2002, the rescue unit encountered a locked gate and was forced to break the gate open in order to perform its duties.

This fact, and this fact alone, apart from all of the other reasons Mr. Montalbano has cited in his letter to you, warrants an immediate removal of the gate. [I will not, at this time, go into these other reasons. Suffice it to say for now that I fully agree with them.]

Neil, I am sure you will want to discuss this with the County Counsel before taking any action. All I ask at this time is that you give this your attention and keep me posted as to the status of your findings and proposed action.

Thanks in advance Neil for your consideration of this.

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attachment 4 pag 2 of 2
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PAGE 1 OF

INSTRUCTIONS: THIS FORM SHALL NOT BE USED WHEN AN ARREST IS MADE, WHEN PROPERTY IS LOST, FOUND OR TAKEN INTO CUSTODY, WHERE SUPPLEMENTAL REPORTS ARE NECESSARY, OR WHEN CRIMINAL ACTS ARE INVOLVED AND FOLLOW-UP INVESTIGATION IS REQUIRED. THIS IS A FINAL REPORT.

1 SO FAR CASE NO.

02-327-16

2 DATE(S) AND TIME(S) OCCURRED 11/23/2002 1312		3. LOCATION OF OCCURRENCE 115 Sea Cliff Court Montara, CA 94037		4 BEAT CODE 70	
5 VICTIM/REPORTING PARTY: LAST, FIRST/MIDDLE Anderson, Anne D.		6 DOB/CDL 11-16-41 A4913195	7 RESIDENCE ADDRESS INCLUDE CITY, STATE 115 Sea Cliff Court Montara, CA 94037	8 RES. PHONE 728-1102	9 BUS. PHONE N/A
10 VICTIM/WITNESS: LAST, FIRST/MIDDLE Spencer, David Dolberg		11 DOB/CDL 11-28-45	12. RESIDENCE ADDRESS INCLUDE CITY, STATE 37 Terrace Ave. Richmond, CA 94801	13 RES. PHONE 510-215-7647	14 BUS. PHONE 510-215-0597
15 SUSPECT #1: LAST, FIRST/MIDDLE		16 DOB	17. RESIDENCE ADDRESS INCLUDE CITY, STATE	18 RES. PHONE	19 BUS. PHONE
20 SUSPECT #2: LAST, FIRST/MIDDLE		21 DOB	22. RESIDENCE ADDRESS	23 RES. PHONE	24 BUS. PHONE

25 TYPE OF INCIDENT AND HOW HANDLED

☐ AMBULANCE FOLLOW-UP ☐ INDUSTRIAL INJURY ☐ MEDICAL AID ☐ EMS AID ☐ TREATED AT SCENE ☐ TRANSPORTED BY ☐ REFUSED AID
☐ SUSPICIOUS CIRCUMSTANCES ☐ PROWLER ☐ PERSON ☐ AUTO ☐ BUSINESS ☐ RESIDENCE ☐ OTHER ☐ UNFOUNDED ☐ GOA ☐ UTL ☐ AREA SECURE
☒ BEAT INFORMATION ☐ TRAFFIC ☐ PARKING ☐ CIVIL MATTER ☐ PARTY ☒ OTHER ☐ PATROL CHECK ☐ INFORMATION ONLY
☐ DISTURBANCE: ☐ FAMILY ☐ NEIGHBORS ☐ PARTY ☐ OTHER ☒ UNFOUNDED ☐ GOA ☐ UTL ☐ AREA SECURE ☐ HANDLED AT SCENE

26 DETAILS: (RECONSTRUCT THE INCIDENT)

On 11-23-02 at approximately 1312 hours, I was dispatched to 115 Sea Cliff Court, Montara, regarding a possible water rescue. R/P-Anderson called 911 and stated there was a boat adrift approximately 100 yards off shore and there appeared to be no one in the boat.

I responded with Half Moon Bay Fire Department, Half Moon Bay Water Rescue units, Half Moon Bay Fire Ambulance, and State Parks Lifeguard to the west end of 7th street. The Harbor Master, and the US Coast Guard Helicopter were dispatched to the area.

Upon our arrival at 7th St. in Montara, there was a secured gate at the end of the street. The gate was secured with a large padlock, preventing entrance to the bluffs, and a clear view of the ocean. Fire personnel forced the gate open by kicking it and breaking a piece of wood giving Emergency personnel access to the bluffs.

W-Spencer, who arrived shortly after our arrival, stated that he owned the boat and was trying to launch the boat at Montara State Beach when it got away from him. He said the boat was taken south by the current and his friend was in a canoe in the water trying to retrieve his boat. The Harbor Master Patrol/Rescue boat arrived at the location of the boat, and towed the boat to Pillar Point Harbor.

It was determined by the information given by the boat owner, W-Spencer, that there were no people in the water and I cleared the scene.

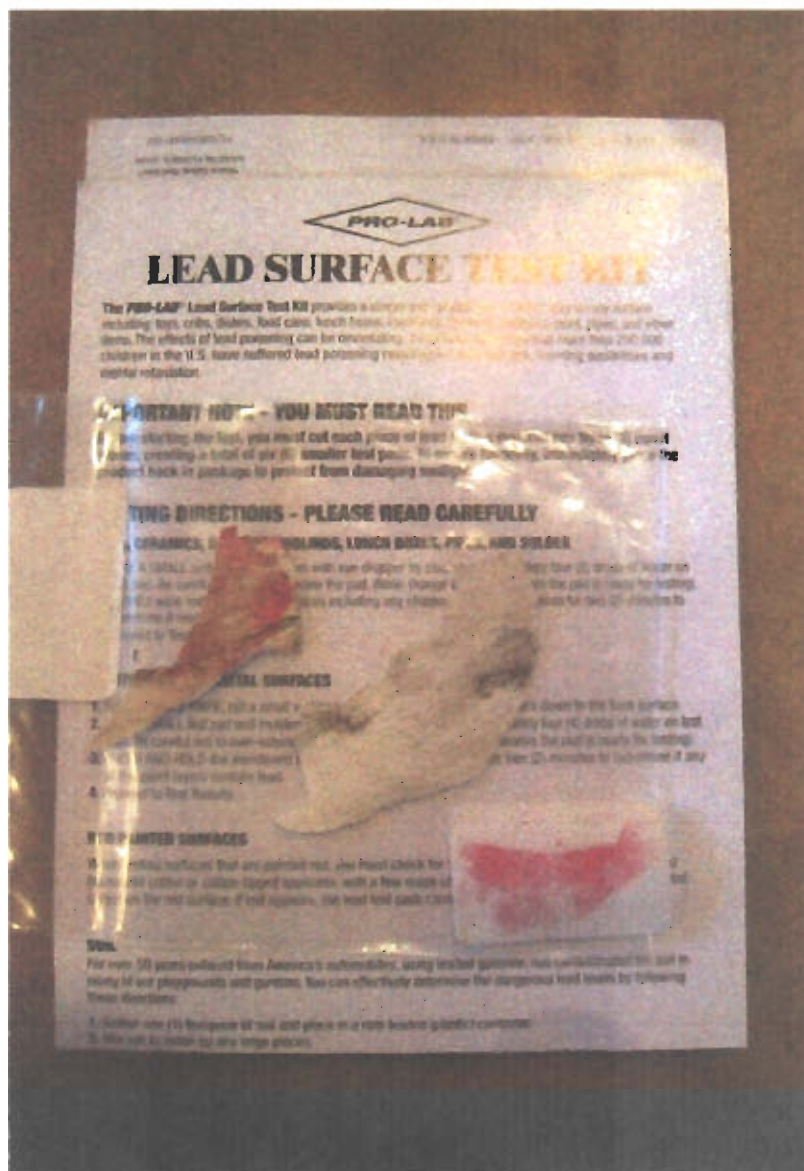
16

☐ Continuation (use Cr-1/3 Form)



17

Visitor to Westerfield home



18

Home Lead Test Taken in July 2011 and again November 2011 both test conclusive for lead



San Mateo County Zoning Hearing Officers Meeting

Attachment: **D**

Owner/Applicant: **WESTERFIELD/LOVE**

File Numbers: **PLN2010-00112**

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26

Photo - back of gates and fence

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT ST, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260
FAX (415) 904-5400
TDD (415) 597-5885

W19a



Date: November 18, 2011

To: Coastal Commissioners

From: Charles Lester, Executive Director
Ruby Pap, North Central Coast District Supervisor
Nicholas B. Dreher, Coastal Program Analyst

RE: **Appeal A-2-SMC-11-023**, (Westerfield, Montara).
Filed: April 20, 2011; 49 Days: Waived

Recommendation: Staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which appeal A-2-SMC-11-023 was filed.

Staff recommends a YES vote on the following motion & resolution:

Motion & Resolution. I move that the Commission determine and resolve that:

Appeal Number A-2-SMC-11-023 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Coastal Act Section 30603 regarding consistency with the certified Local Coastal Program and/or the public access policies of the Coastal Act.

Following the staff recommendation by voting “yes” will result in adoption of the following findings of No Substantial Issue and the local action will become final and effective. Failure of this motion and resolution via a “no” vote, thereby rejecting the staff recommendation, will result in the Commission conducting a de novo review of the application. It takes an affirmative vote of a majority of Commissioners present to find that no substantial issue is raised.

Coastal Act section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.¹ Since the staff is recommending no substantial issue, the Commission will hear arguments and vote on the substantial issue question and the proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission on the substantial issue question are the applicants, the appellant

¹ The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues, or those of regional or statewide significance.

and persons who made their views known to the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing.

Findings

On March 17, 2011 the San Mateo County Zoning Hearing Officer approved a Coastal Permit with conditions for the construction of a 380 sq. ft. second story addition to an existing non-conforming 1,738 sq. ft. single-family residence (SFR), located on a 5,252 sq. ft. legal parcel at 101 Seventh Street in the unincorporated Montara area of San Mateo County (Exhibits 1, 2, and 3). An Off-Street Parking Exception allowed two uncovered tandem parking spaces along the right side setback of the project site, where the requirement is to provide for two non-tandem covered parking spaces in garages or carports. The project site is zoned R-1 (residential) with an S-17 combining district (dictating development standards) and is located in an existing developed area. With the addition, the two-story 20-foot tall structure would create a 40% floor area ratio (FAR) where the maximum is 53%. The approved addition to the existing SFR would be located on top of the existing building footprint, no farther seaward of the existing development. Pursuant to Coastal Act section 30603, this approval is appealable to the Commission because it is located between the sea and the first public road paralleling the sea. Because of the approved development's location, the standard of review is the certified LCP and the public access policies of the Coastal Act.

Appellants (James Montalbano et al.) claim the following with respect to the County approval:

We the appellants, feel that the decision by the zoning hearing officer does not address the issues concerning public access to the bluff area. We feel that in order to comply with the LCP the entire fence blocking public access should be removed. We also feel that the applicant should restore the vertical pathway to the shoreline by re-building the stairs that he did not maintain and have been destroyed. We need to have every tree planted by the applicant on public access be removed to restore the public view. We must ensure that the public can visually see and use their long time established but too long denied prescriptive rights to the horizontal and vertical pathways that were established on this bluff years ago. (Exhibit 5).

Coastal Act section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed. Commission staff has visited the property, analyzed the County's Notice of Final Local Decision for the development, the local record, appellants' claims, aerial photos, and the relevant requirements of the LCP and the public access policies of the Coastal Act (Exhibits 3, 4, 5, 6, 7 and 8). As discussed below, the appeal raises no substantial issue of conformance of the approved development with the LCP or the public access policies of the Coastal Act.

The Appellants' contentions focus upon potential public access issues related to existing development on adjacent property rather than issues arising from the development approved by the County. The Appellants are raising enforcement issues concerning the continued existence and maintenance of a fence that was built prior to the Coastal Act that blocks public access to the

public bluff edge at the western end of Seventh Street.² While the fence in question was erected by a former owner of 101 Seventh Street, and it has arguably been maintained by the current owner, it is not the appealable development approved by the County on the property that is the subject of this appeal, i.e. a 380 sq. ft. addition to the existing residence. As discussed further below, the Appellants' claims do not raise a substantial issue of conformity of the approved development with the San Mateo County certified Local Coastal Plan or the public access policies of the Coastal Act because there is no relationship between the potential public access issues raised by the appellants about existing development on adjacent property and the newly approved development on the property that is the subject of this appeal.

More specifically, the appeal does not relate to the specific development approval (380 sq. ft. second story addition and parking exemption). While LCP Policy 10.30 requires a minimum amount of required shoreline access for projects located between the first public road and the sea, the public access improvements requested by the Appellants are located on separate public property not included within the project description or scope of property. In fact, the newly approved addition on top of the existing SFR will not result in any direct or indirect impacts to public access along the coast. Instead, the Appellants raise public access issues related to property not owned by the Applicant, to the south and west of the approved development, which is not germane to the Applicant's permit application or the County's approval. While public access on separate County property is obstructed, and there may potentially be an enforcement concern that the County has a right to enforce, these concerns are not a result of the approved development and can be separately addressed by an enforcement action involving the separate parcel of property.

Second, even assuming there was a relationship between the potential public access issues raised by the appellants about existing development on adjacent property and the newly approved development on the property that is the subject of this appeal, the County has conditioned the permit to address the blocked public access at the site. In response to the Appellants' contentions at the local hearing that the fence (which was built prior to the passage of the Coastal Act) be removed in order to open access to the County owned blufftop trail, and enforcement concerns, the County imposed the following conditions to its approval, specifically addressing the public access concerns:

3. The applicant shall submit the following items and/or indicate the following on plans submitted for a building permit:

- a. Installation of "Coastal Bluff Public Access" fence signage and signage to inform public of bluff hazard.*
- b. Ensuring that the fence door and gate shall remain unlocked and open during daylight hours for public access.*
- c. Relocation of the house number signage from the public right-of-way area further into the private property area to clearly delineate such areas.*

² The fence was erected pursuant to an encroachment permit in the 1960's and was later acknowledged by the County by letter in 1974. The County recognized the blocked portion of the bluff, which is owned by the County, and deferred maintenance responsibilities to the former owner of the subject property. (Exhibit 7).

- d. Recordation of a Deed Restriction that specifies that as long as the fence remains, it shall be maintained by the property owner and kept open during daylight hours to allow public access to the bluff top viewing area.*

The Appellants also seek replacement of a previously removed legal non-conforming staircase (Exhibits 3 and 5); however, the staircase was removed in April of 2011 by the Applicant at the direction of San Mateo County staff, consistent with Condition 5 of the subject project approval.³ The Applicant has permitted members of the public to enter a door in the fence to access the public area in the past. Going forward, any additional concerns related to the public's right to access the western end of Seventh Street can be separately addressed by enforcement staff within the San Mateo County planning office.

In addition, appellants' claims also do not raise a substantial issue as further discussed. First, the County has strong legal and factual support for its decision to approve the addition to the existing residence. Second, the extent and scope of the project approved is small – a 380 square foot addition with a street parking exemption for two spaces in an existing developed residential area. Third, there are no significant coastal resources affected by the development project. As discussed by the County, the project conforms to surrounding community character, public views are not impacted by the addition, and there are no sensitive resources such as habitats, wetlands, or streams, in the vicinity. Fourth, no adverse precedent for interpretation of the LCP will be set by the County's approval. Finally, the appeal does not raise any issues of regional or statewide significance. Rather, the project constitutes a small addition to existing residential development in an existing developed area, as contemplated by the Coastal Act.

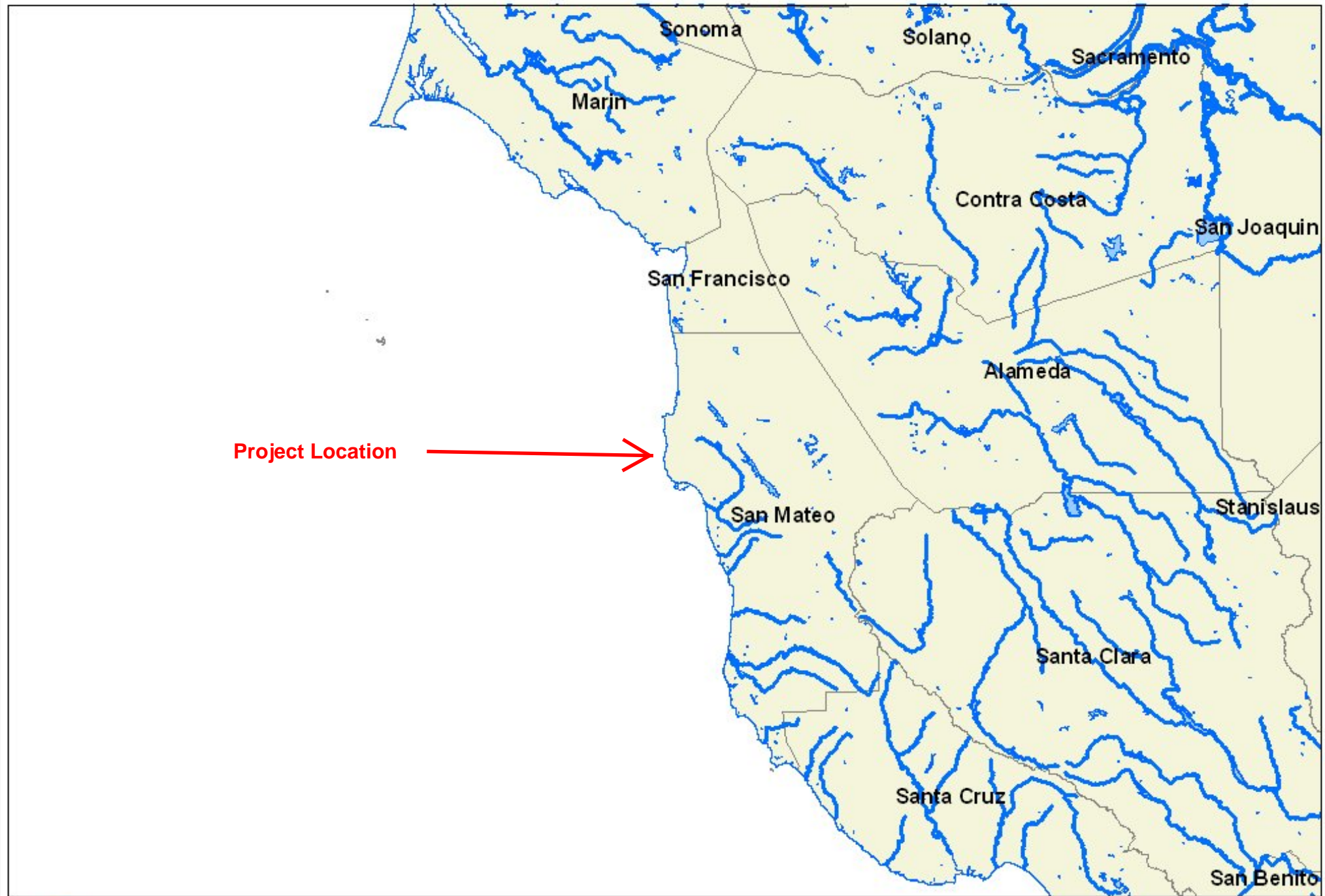
Conclusion

In conclusion, the Commission finds that the appeal raises “No Substantial Issue” because it does not allege an inconsistency of the development approved by the County with either the certified LCP or the access policies of the Coastal Act.

EXHIBITS

1. Project Location
2. Parcel Map
3. Oblique Photograph
4. San Mateo County Final Local Action
5. Appeal Documents
6. Project Plans
7. Correspondence
8. LCP and Coastal Act Policies

³ Condition 5 of the subject approval (PLN2010-00112) states that “The applicant shall remove the debris on the bluff portion of the bluff seaward of the subject property that is associated with the former accessway and/or other property improvements.” (Exhibit 4).



Project Location



Locations approximate.
For illustrative purposes only.



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- Approximate Location of Second Floor Addition
- Approximate Property Line
- .-.-.- Vertical Pathway (improvements removed)



County of San Mateo

Planning & Building Department

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849

Mail Drop PLN122
plngbldg@co.sanmateo.ca.us
www.co.sanmateo.ca.us/planning

April 4, 2011

NOTICE OF FINAL LOCAL DECISION
Pursuant to Section 6328.11.1(f) of the San Mateo County Zoning Regulations

CERTIFIED MAIL

California Coastal Commission
Nr. Central Coast District Office
Attn: Ruby Pap Coastal Planner
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

County File No.: PLN2010-00112

Applicant Name: ED LOVE

Owner Name: PUTNEY WESTERFIELD

The above listed Coastal Development Permit was conditionally approved by the County of San Mateo on **March 17, 2011**. The County appeal period ended on **March 31, 2011**. Local review is now complete.

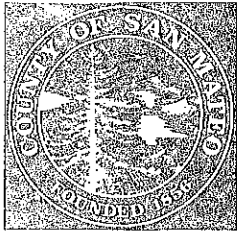
This permit IS appealable to the California Coastal Commission; please initiate the California Coastal Commission appeal period.

If you have any questions about this project, please contact D. AGUIRRE at (650) 363-4161.



D. AGUIRRE

Project Planner



County of San Mateo

Planning & Building Department

455 County Center, 2nd Floor
Redwood City, California 94063
650/363-4161 Fax: 650/363-4849

Mail Drop PLN122
plngbldg@co.sanmateo.ca.us
www.co.sanmateo.ca.us/planning

RECEIVED

MAR 22 2011

CALIFORNIA
COASTAL COMMISSION

**Please reply to: Dennis Aguirre
650/363-1867**

March 17, 2011

Edward Love
720 Mill Street
Half Moon Bay, CA 94019

Subject: PLN2010-00112
Location: 101 Seventh Street, Montara
APN: 036-057-240

On March 17, 2011, the Zoning Hearing Officer considered your request for a Coastal Development Permit, Design Review and Off-Street Parking Exception, pursuant to Sections 6328.4, 6565.7 and 6120, respectively, for the construction of a 380 sq. ft. second floor addition to an existing non-conforming 1,738 sq. ft. single-family residence, located on a 5,252 sq. ft. legal parcel at 101 Seventh Street in the unincorporated Montara area of San Mateo County. The Off-Street Parking Exception is required to allow two uncovered tandem parking spaces along the right side setback of the project site, where the requirement is to provide for two non-tandem covered parking spaces in garages or carports. No trees are to be removed. This project is continued from the November 4, 2010 meeting

The Zoning Hearing Officer made the findings and approved this project subject to the conditions of approval as attached.

Any interested party aggrieved by the determination of the Zoning Hearing Officer may appeal this decision to the Planning Commission within ten (10) working days from such date of determination. The appeal period for this project will end on **March 31, 2011 at 5:00 p.m.**

This approval is appealable to the California Coastal Commission. Any aggrieved party may appeal this decision to the California Coastal Commission within ten (10) working days following the Coastal Commission's receipt of the County's final decision.

March 17, 2011
Edward Love
Page 2

Please contact the Coastal Commission's North Central Coast District Office at 415/904-5260 for further information concerning the Commission's appeal process. The County and Coastal Commission appeal periods are sequential, not concurrent, and together total approximately one month. A project is considered approved when these appeal periods have expired and no appeals have been filed.

If you have any questions concerning this item, please contact the Project Planner on page one.

Very truly yours,



Matthew Seubert
Zoning Hearing Officer
Zhd0317V_9_dr

cc: Assessor's Office
Building Inspection Section
California Coastal Commission
Coastside Fire Protection District
Half Moon Bay Planning Department
Midcoast Community Council
Montara Water and Sanitary
Public Works Department
Putney Westerfield
Marilyn Graff
Mike McCracken
Marilyn Winkler
Jim and Louise Montalbano

County of San Mateo
Planning and Building Department

FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2010-00112

Hearing Date: March 17, 2011

Prepared By: Dennis P. Aguirre

Adopted By: Zoning Hearing Officer

FINDINGS

Regarding the Environmental Review, Found:

1. That the proposed project is categorically exempt pursuant to Section 15301, Class 1(e), of the California Environmental Quality Act related to additions to existing structures.

Regarding the Coastal Development Permit, Found:

2. That the project, as described in the application and accompanying materials required by Zoning Regulations Section 6328.4 and as conditioned in accordance with Section 6328.14, conforms with the plans, policies, requirements and standards of the San Mateo County Local Coastal Program (LCP) for the reasons specified in Section 2 of the November 4, 2010 staff report, and in the March 17, 2011 staff report addendum.
3. That the project conforms to specific findings required by policies of the San Mateo County Local Coastal Program since it complies with the Visual Resources, Hazards and Shoreline Access Policies as previously referenced in Section 2 of the November 4, 2010 staff report, and in the March 17, 2011 staff report addendum.
4. That the provision of the bluff top access complies with the public access and recreation requirements contained in Chapter 3 of the California Coastal Act.

Regarding the Design Review, Found:

5. That with the conditions of approval recommended by the Coastsides Design Review Committee at its meeting of August 12, 2010, the project is in compliance with the Design Review Standards for the Coastsides as detailed in Section 4 of the November 4, 2010 staff report.

Regarding the Off-Street Parking Exception, Found:

6. That the establishment, maintenance and/or conducting of the proposed off-street parking facilities are as nearly in compliance with the requirements as are reasonably possible, pursuant to Section 6120 of the San Mateo County Zoning Regulations, as previously elaborated in Section 5 of the November 4, 2010 staff report, and in the March 17, 2011 staff report addendum.

CONDITIONS OF APPROVAL

Current Planning Section

1. The project shall be constructed in compliance with the plans approved by the Zoning Hearing Officer March 17, 2011. Any changes or revisions to the approved plans shall be submitted to the Community Development Director for review and approval prior to implementation. Minor adjustments to the project may be approved by the Community Development Director if they are consistent with intent of and are in substantial conformance with this approval. Alternatively, the Community Development Director may refer consideration of the revisions to the Zoning Hearing Officer, with applicable fees to be paid.
2. The applicant shall include the approval letter on the top pages of the building plans. This would provide the Planning approval date and its contents on the on-site plans.
3. The applicant shall submit the following items and/or indicate the following on plans submitted for a building permit:
 - a. Installation of "Coastal Bluff Public Access" fence signage and signage to inform public of bluff hazard.
 - b. Ensuring that the fence door and gate shall remain unlocked and open during daylight hours for public access.
 - c. Relocation of house number signage from the public right-of-way area further into the private property area to clearly delineate such areas.
 - d. Recordation of a Deed Restriction that specifies that as long as the fence remains, it shall be maintained by the property owner and kept open during daylight hours to allow public access to the bluff top viewing area.
4. The property owner shall manage site drainage consistent with Area of Special Biological Significance (ASBS) requirements, among other ways, by avoiding

any direct discharges to the bluff, and by preventing any non-stormwater discharges from entering the Seventh Street culvert.

5. The applicant shall remove the debris on the bluff portion of the bluff seaward of the subject property that is associated with the former accessway and/or other property improvements.
6. The applicant shall provide "finished floor elevation verification" to certify that the structure is actually constructed at the height shown on the submitted plans. The applicant shall have a licensed land surveyor or engineer establish a baseline elevation datum point in the vicinity of the construction site.
 - a. The applicant shall maintain the datum point so that it will not be disturbed by the proposed construction activities until final approval of the building permit.
 - b. This datum point and its elevation shall be shown on the submitted site plan. This datum point shall be used during construction to verify the elevation of the finished floors relative to the existing natural or to the grade of the site (finished grade).
 - c. Prior to Planning approval of the building permit application, the applicant shall also have the licensed land surveyor or engineer indicate on the construction plans: (1) the natural grade elevations at the significant corners (at least four) of the footprint of the proposed structure on the submitted site plan, and (2) the elevations of proposed finished grades.
 - d. In addition, (1) the natural grade elevations at the significant corners of the proposed structure, (2) the finished floor elevations, (3) the topmost elevation of the roof, and (4) garage slab elevation must be shown on the plan, elevations, and cross-section (if one is provided).
 - e. Once the building is under construction, prior to the below floor framing inspection or the pouring of the concrete slab (as the case may be) for the lowest floor(s), the applicant shall provide to the Building Inspection Section a letter from the licensed land surveyor or engineer certifying that the lowest floor height--as constructed--is equal to the elevation specified for that floor in the approved plans. Similarly, certifications on the garage slab and the topmost elevation of the roof are required.
 - f. If the actual floor height, garage slab, or roof height--as constructed--is different than the elevation specified in the plans, then the applicant shall cease all construction and no additional inspections shall be approved

until a revised set of plans is submitted to and subsequently approved by both the Building Official and Community Development Director.

7. During project construction, the applicant shall, pursuant to Section 5022 of the San Mateo County Ordinance Code, minimize the transport and discharge of stormwater runoff from the construction site into storm drain systems and water bodies by:
 - a. Using filtration materials on storm drain covers to remove sediment from dewatering effluent.
 - b. Stabilizing all denuded areas and maintaining erosion control measures continuously between October 15 and April 15.
 - c. Removing spoils promptly, and avoiding stockpiling of fill materials, when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
 - d. Storing, handling, and disposing of construction materials and wastes so as to avoid their entry to the storm drain system or water body.
 - e. Avoiding cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff.
 - f. Limiting and timing applications of pesticides and fertilizer to avoid polluting runoff.
8. The applicant shall include an erosion and sediment control plan on the plans submitted for the building permit. This plan shall identify the type and location of erosion control devices to be installed upon the commencement of construction in order to maintain the stability of the site and prevent erosion and sedimentation off-site.
9. All new power and telephone utility lines from the street or nearest existing utility pole to the main dwelling and/or any other structure on the property shall be placed underground.
10. The applicant shall apply for a building permit and shall adhere to all requirements from the Building Inspection Section, the Department of Public Works and the respective Fire Authority.
11. No site disturbance shall occur, including any grading or tree removal, until a building permit has been issued, and then only those trees approved for removal shall be removed.

12. To reduce the impact of construction activities on neighboring properties, comply with the following:
 - a. All debris shall be contained on-site; a dumpster or trash bin shall be provided on-site during construction to prevent debris from blowing onto adjacent properties. The applicant shall monitor the site to ensure that trash is picked up and appropriately disposed of daily.
 - b. The applicant shall remove all construction equipment from the site upon completion of the use and/or need of each piece of equipment which shall include but not be limited to tractors, back hoes, cement mixers, etc.
 - c. The applicant shall ensure that no construction related vehicles shall impede through traffic along the right-of-way on Seventh Street. All construction vehicles shall be parked on-site outside the public right-of-way or in locations which do not impede safe access on Seventh Street. There shall be no storage of construction vehicles in the public right-of-way.
13. The exterior color samples submitted to the Committee are approved. Color verification shall occur in the field after the applicant has applied the approved materials and colors but before a final inspection has been scheduled.
14. Noise levels produced by the proposed construction activity shall not exceed the 80-dBA level at any one moment. Construction activities shall be limited to the hours from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday. Construction operations shall be prohibited on Sunday and any national holiday.
15. The existing portion of the wall and fence that is on the project parcel adjacent to the entry area to the proposed tandem parking spaces shall be removed and replaced with a fence and/or wall no taller than 4 feet and in general alignment with the existing wall of the home adjacent to the proposed tandem parking spaces, in order to widen the entry to the proposed tandem parking spaces, if such activity can be accomplished without jeopardizing the legal nonconforming status of the remaining existing portion of the wall and fence currently located in the public right-of-way, and if not in conflict with the Local Coastal Program and other applicable regulations.

Building Inspection Section

16. At the time of application for a building permit, the following will be required:

- a. Prior to pouring any concrete for foundations, written verification from a licensed surveyor must be submitted which will confirm that the required setbacks as shown on the approved plans have been maintained.
- b. A site drainage plan. This plan must demonstrate how roof drainage and site runoff will be directed to an approved disposal area that does not drain to the shoreline below, or create bluff erosion problems. The drainage plan shall also include stormwater filtration and/or treatment devices that remove pollutants to the satisfaction of the Community Development Director.
- c. Sediment and erosion control measures must be installed prior to beginning any site work and maintained throughout the term of the permit. Failure to install or maintain these measures will result in stoppage of construction until the corrections have been made and fees paid for staff enforcement time.
- d. This project must comply with the Green Building Ordinance.
- e. Not in an LRA/SRA Fire Severity Zone. Chapter 7A will not apply.
- f. Three complete sets of project plans with structural engineering from a licensed engineer from the State of California to include the existing structural conditions of the first floor bedroom to ensure that this room is compliant with current building codes.

Department of Public Works

- 17. Prior to the issuance of the building permit, the applicant will be required to provide payment of "roadway mitigation fees" based on the square footage (assessable space) of the proposed building per Ordinance No. 3277.
- 18. No proposed construction work within the County right-of-way shall begin until County requirements for the issuance of an encroachment permit, including review of the plans, have been met and an encroachment permit issued. Furthermore, the applicant must apply for an encroachment permit for any and all facilities currently located within the public right-of-way on Seventh Street.

Coastside Fire Protection District

- 19. The applicant shall comply with all conditions required by the Coastside Fire Protection District (see Attachment F).



COASTSIDE FIRE PROTECTION DISTRICT

1191 MAIN STREET ■ HALF MOON BAY, CA 94019

TELEPHONE (650) 726-5213

FAX (650) 726-0132

May 13, 2010

ATTACHMENT F

Ed Love
720 Mill Street
Half Moon Bay, CA 94019

Dear Applicant,

After reviewing the planning application for a 2nd floor addition to an existing single-family dwelling at 101 7th Street, Assessor's Parcel Number 036-057-240 in Montara (San Mateo County Permit No. PLN2010-00112) I offer the following comments/conditions, which will be applied to this project:

- **Occupancy Separation:** As per the 2007 CBC, Section 406.1.4, a one-hour occupancy separation wall shall be installed with a solid core, 20-minute fire rated, self-closing door assembly w/ smoke gasket between the garage and the residence.
- **Smoke Detectors which are hard wired:** As per the California Building Code, State Fire Marshal regulations, and Coastside Fire District Ordinance 2007-01, the applicant is required to install State Fire Marshal approved and listed smoke detectors which are **hard wired, interconnected, and have battery backup**. These detectors are required to be placed in each sleeping room and at a point centrally located in the corridor or area giving access to each separate sleeping area. A minimum of one detector shall be placed on each floor. Smoke detectors shall be tested and approved prior to the building final.
- **Address Numbers:** As per Coastside Fire District Ordinance 2007-01, building identification shall be conspicuously posted and visible from the street. (TEMPORARY ADDRESS NUMBERS SHALL BE POSTED PRIOR TO COMBUSTIBLES BEING PLACED ON SITE). The letters/numerals for permanent address signs shall be **4 inches** in height with a minimum 3/4-inch stroke. Such letters/numerals shall be internally illuminated and facing the direction of access. Finished height of bottom of address light unit shall be greater than or equal to 6 feet from finished grade. When the building is served by a long driveway or is otherwise obscured, a reflectorized address sign shall be placed at the entrance from the nearest public roadway. See Fire Ordinance for standard sign.

- ❑ **Roof Covering:** As per Coastside Fire District Ordinance 2007-01, the roof covering of every new building or structure, and materials applied as part of a roof covering assembly, shall have a minimum fire rating of Class "B" or higher as defined in the current edition of the California Building Code.
- ❑ **Solar Photovoltaic Systems:** These systems shall meet the requirements of the Coastside Fire Protection District as outlined in Standard Detail DI-007 Solar Photovoltaic Systems.
- ❑ **Vegetation Management:** The Coastside Fire District Ordinance 2007-01, the 2007 California Fire Code and Public Resources Code 4291.
A fuel break of defensible space is required around the perimeter of all structures to a distance of not less than 30 feet and may be required to a distance of 100 feet or to the property line. In SRA (State Responsible Area) the fuel break is 100 feet or to the property line.
Trees located within the defensible space shall be pruned to remove dead and dying portions, and limbed up 6 to 10 feet above the ground. New trees planted in the defensible space shall be located no closer than 10 feet to adjacent trees when fully grown or at maturity.
Remove that portion of any existing tree, which extends within 10 feet of the outlet of a chimney or stovepipe or is within 5 feet of any structure.

Our review is not construed as encompassing the structural integrity of the facility nor abrogating more restrictive requirements by other agencies having responsibility. Final acceptance is subject to field inspection and necessary tests.

If you have any questions regarding the above conditions, please call the administration office during normal working hours.

Respectfully,



John Riddell
Deputy Fire Marshal
CAL FIRE/Coastside Fire Protection District

cc: D. Aguirre/ Project Planner San Mateo County Planning & Building
File

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
(415) 904-5260 FAX (415) 904-5400
www.coastal.ca.gov

**COMMISSION NOTIFICATION OF APPEAL**

DATE: April 21, 2011

TO: Dennis Aguirre, Project Planner
County of San Mateo, Building & Planning
455 County Center, 2nd Floor
Redwood City, CA 94063

FROM: Nick Dreher, Coastal Program Analyst (NSD)

RE: **Commission Appeal No. A-2-SMC-11-023**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: PLN2010-00112

Applicant(s): Putney Westerfield; Ed Love

Description: For the construction of a 380 sq. ft. second floor addition to an existing non-conforming 1,738 sq. ft. single-family residence, and an off-street parking exception to allow two uncovered tandem parking spaces along the right side setback of the project site.

Location: 101 7th St., Montara (San Mateo County) (APN(s) 036-057-240)

Local Decision: Approved w/ Conditions

Appellant(s): James & Louise Montalbano; Marilyn M. Winkler

Date Appeal Filed: 4/20/2011

The Commission appeal number assigned to this appeal is A-2-SMC-11-023. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of San Mateo's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Nick Dreher at the North Central Coast District office.

cc: Putney Westerfield; Ed Love

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-6260 FAX (415) 904-5400
TDD (415) 697-5886



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: JAMES MONTALDANO, LOUISE MONTALBANO, MARILYN M. WINKLER
Mailing Address: P.O. BOX 370784
City: MONTARA Zip Code: 94037 Phone: 650-7287309

SECTION II. Decision Being Appealed

1. Name of local/port government: SAN MATEO COUNTY
2. Brief description of development being appealed: RE-MODEL, AND COMPLIANCE OF THE LOCAL COASTAL PROGRAM FOR THE SAN MATEO COUNTY COASTLINE
3. Development's location (street address, assessor's parcel no., cross street, etc.):
101 7th STREET MONTARA CA. 94037
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

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APR 20 2011

COASTAL COMMISSION
NORTH CENTRAL COAST

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-2-SMC-11-023
DATE FILED: 4/20/11
DISTRICT: North Central Coast

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: _____

7. Local government's file number (if any): APP 2-SMC-10-101

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:

PUTNEY WESTERFIELD
10 GREEN COURT
HILLSBOURGH CALIF

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) JAMES MONTALBANO

P.O. BOX 370784
MONTARA CA. 94037

(2) LOUISE MONTALBANO

P.O. BOX 370784
MONTARA. CA. 94037

(3) MARILYN M. WINKLER

1662 GRAFF ~~STREET~~ COURT
SAN LEANDRO, CA. 94577

(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.

We the appellants, feel that the decision by the zoning hearing officer does not address the issues concerning public access to the bluff area. We feel that in order to comply with the LCP the entire fence blocking public access should be removed. We also feel that the applicant should restore the vertical pathway to the shoreline by re-building the stairs that he did not maintain and have been destroyed. We need to have every tree planted by the applicant on public access be removed to restore the public view. We must assured that the public can visually see and use the bluff -

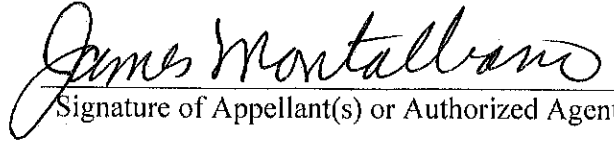
(over)

time established but too long denied
prescriptive rights to the horizontal
and vertical pathways that were
established on this Bluff years ago.

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 : April 20 2011

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date : _____

ume

RECEIVED

MAY 03 2011

CALIFORNIA
COASTAL COMMISSION

1662 Graff Ct.
San Leandro, CA

Re: Apped A2-SMC-11-023 May 2-2011

Dear Mr. Diehen-

Enclosed are pictures
taken last month - (and
my comments)

I shall be gone May 5-18
and shall have to you on
my return -

Sincerely -

Drailyn Winkler

COASTAL COMMISSION
NORTH OAK

MAY 03 2011

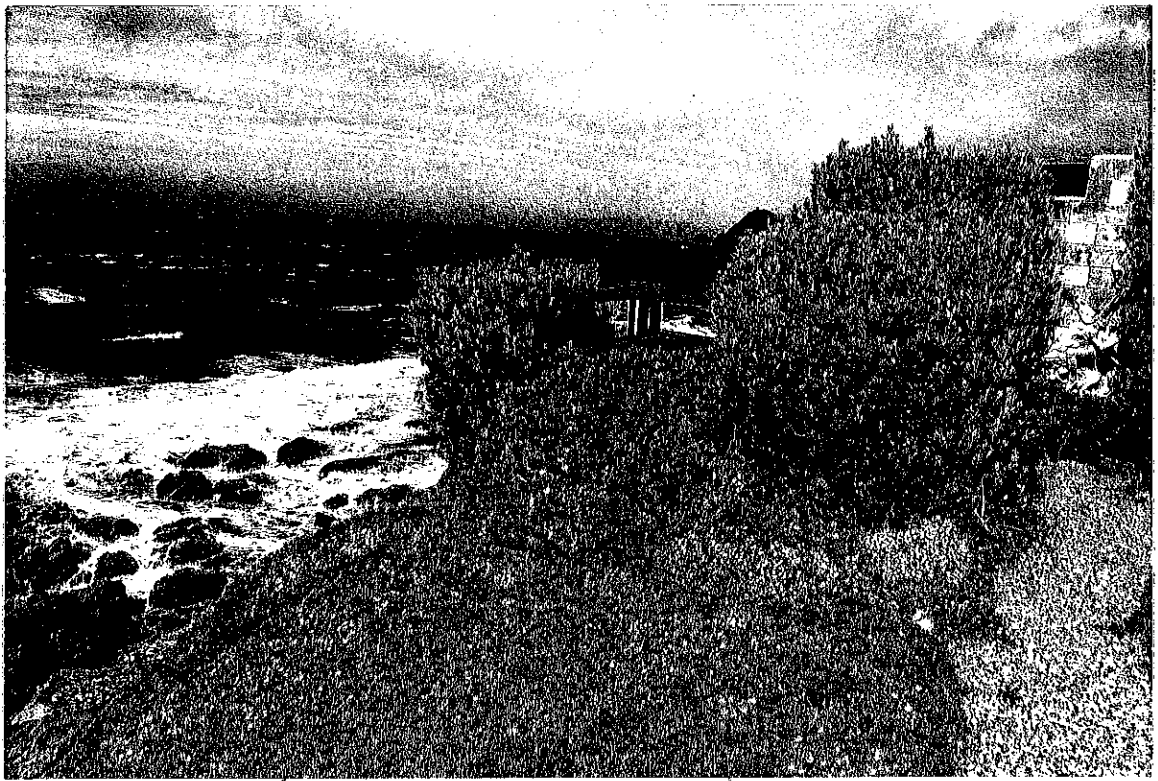
RECEIVED



This is the public's
view on 7th sheet
of their entrance to
their public access.
Gate and small
entrance are always
closed (or locked)

Thick hedges to
left of gate
surrounding owner's
property are
impenetrable for
public access

Man in front of
gate is six feet tall.
Board on top of gate
makes gate height
seven feet.



Pictured is extreme
north of public path.
Viewing point at
end (boards showing)
maintained by owner
with hedges and his
plantings.
(Denied to public's
viewing by owner's
frontal gate)

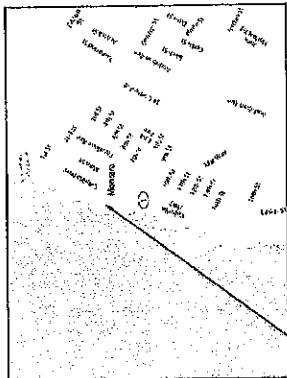


Property owner has
glass wall - probably
on property line.
Lateral path thus
could be widened to
glass.
Trees in foreground
should be removed.



Sitting area for
owners pictured -
This should be
for public to enjoy
view. Owner should
install C.C. approved
benches for public
use

VICINITY MAP NOT TO SCALE



3415

SITE DATA
 LBN 058-057-240
 ZONING R-1B-TL-CR-CP
 TWO STORY
 OCCUPANCY GROUP, 100
 TYPE OF CONSTRUCTION, V-B

APPLICABLE CODES
COUNTY OF SAN MATEO

- 2007 CALIFORNIA BUILDING CODE AND AMENDMENTS
2007 CALIFORNIA MECHANICAL CODE
2007 CALIFORNIA PLUMBING CODE
2007 CALIFORNIA ELECTRICAL CODE
2007 CALIFORNIA FIRE CODE
2007 CALIFORNIA ENERGY CODE
2007 CALIFORNIA FIRE CODE
2007 CALIFORNIA FIRE CODE
COUNTY OF SAN MATEO CODES, ORDINANCES AND/OR
AMENDMENTS TO THE CALIFORNIA BUILDING CODE

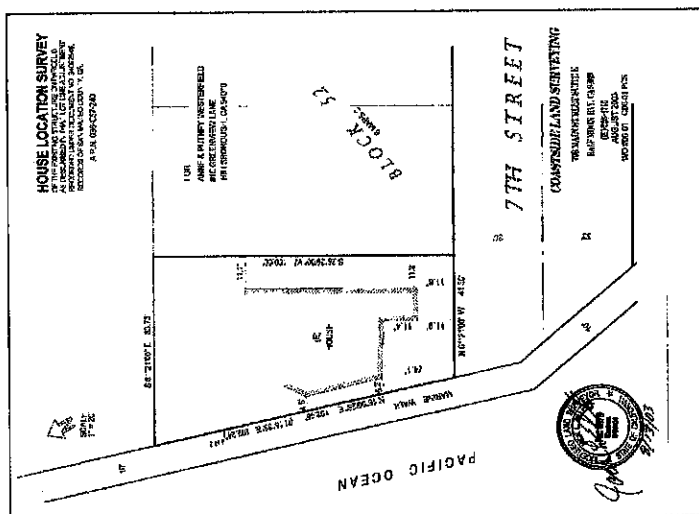
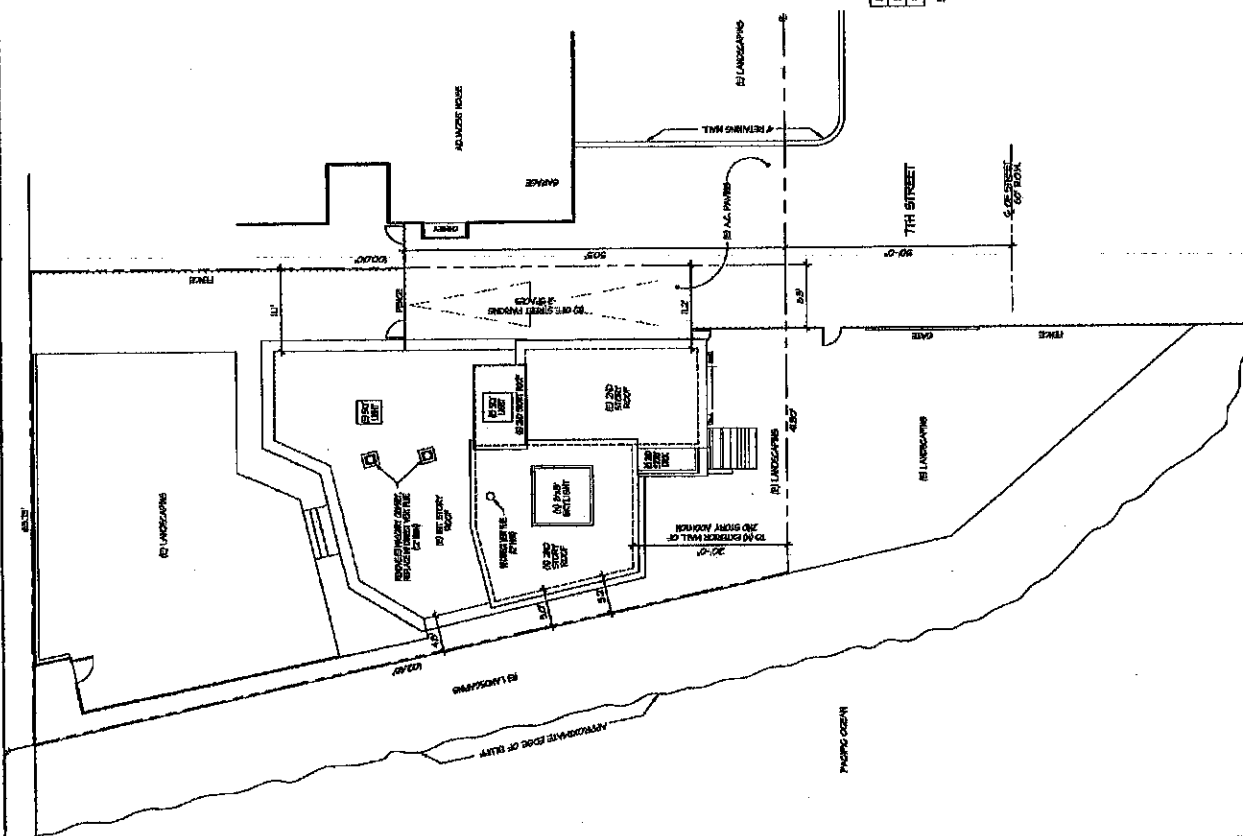
BUILDING	EXISTING		PROPOSED		TOTAL		ALLOWED AREA (SQFT)
	AREA (SQFT)	%	AREA (SQFT)	%	AREA (SQFT)	%	
LOT AREA	5,512.50	100					
PANEL COVERAGES	1,000.00	18.14	---	---	1,000.00	18.14	1,000.00
FLOOR AREA	2,280.00	41.36	3,800.00	100	2,160.00	40.28	2,160.00

GENERAL NOTES:

SPECIAL INSPECTION EPOXY HOLDINGS, HIGH STRENGTH BOLTS, SEISMIC RESISTANCE AND STRUCTURAL STEEL WELDING.

DRAWING INDEX

- SITE PLAN & HOUSE LOCATION SURVEY**
PROPOSED/ EXISTING
FIRST & SECOND FLOOR PLANS
ELEVATIONS
SECTIONS & DETAILS
ELECTRICAL PLAN

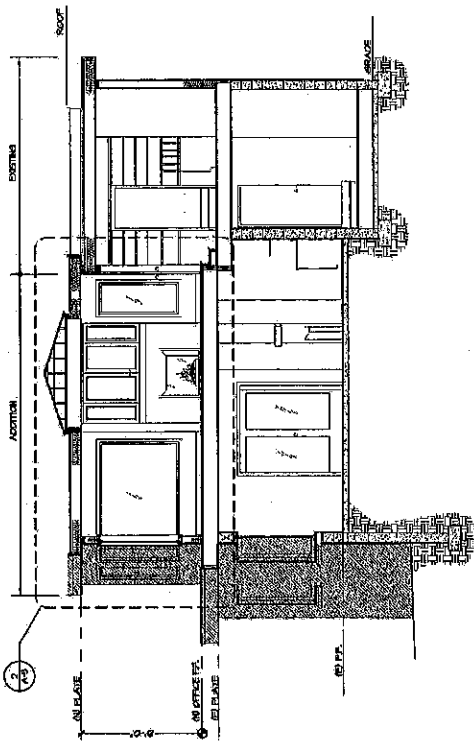


Attachment: C

San Mateo County Zoning Hearing Officer's Meeting

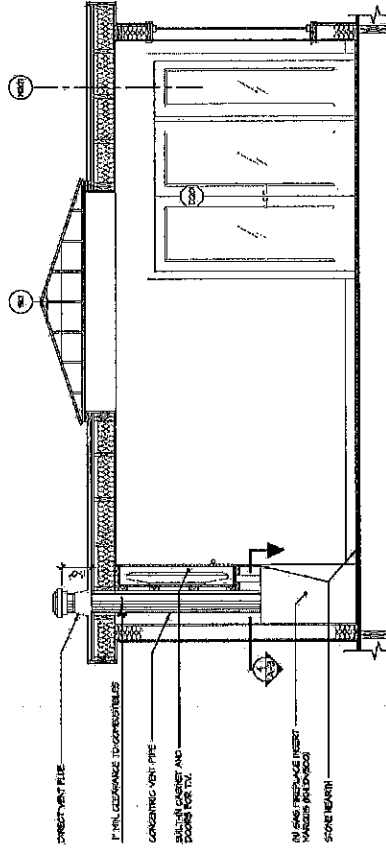
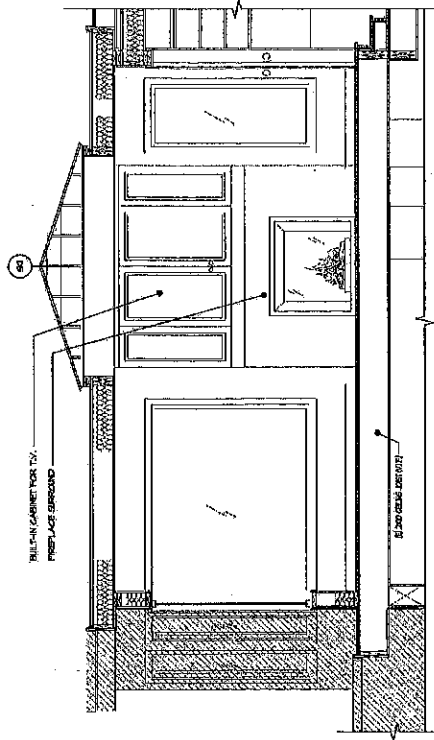
Owner/Applicant: **WESTERFIELD/LOVE**

File Numbers: **PLN2010-00112**

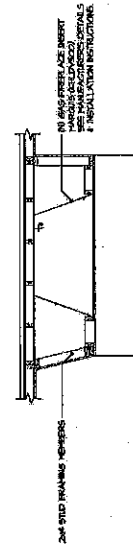


SECTION
SCALE 1/4"=1'-0"
1

ENLARGED SECTION
SCALE 1/2"=1'-0"
2



ENLARGED FIREPLACE FRAMING PLAN
SCALE 1/2"=1'-0"
3



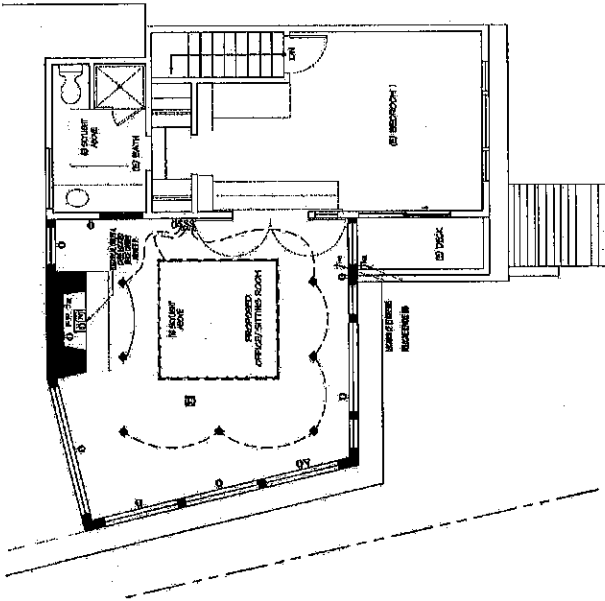
ENLARGED SECTION
SCALE 1/2"=1'-0"
2

San Mateo County Zoning Hearing Officer's Meeting

Owner/Applicant: **WESTERFIELD/LOVE**

Attachment: **C**

File Numbers: **PLN2010-00112**



SECOND FLOOR ELECTRICAL PLAN
SCALE: 1/8"=1'-0"

- ELECTRICAL SYMBOLS**
- 1. 200 AMP SERVICE AND BREAKER PANEL
 - 2. RECESSED LIGHT (INCANDESCENT)
 - 3. RECESSED ADJ. LIGHT (INCANDESCENT)
 - 4. RECESSED FLUORESCENT
 - 5. RECESSED ADJ. SMALL AMBIENT/PERIMETER LIGHT (INCANDESCENT)
 - 6. RECESSED WATERPROOF
 - 7. RECESSED HALL JANITOR
 - 8. WATERPROOF SURFACE LIGHT FIXTURE
 - 9. PLUSH FLOOR-OUTLET
 - 10. JUNCTION BOX
 - 11. PENDANT (INCANDESCENT)
 - 12. HEATER/ROOF 600V DRYER-OUTLET
 - 13. DRYER-OUTLET
 - 14. DRYER-OUTLET, 200 AMP OUTLET SWITCHED
 - 15. FOUR-PORT OUTLET
 - 16. CORONA LIGHT STRIP
 - 17. FLUORESCENT STRIP UNDER CABINETS
 - 18. CEILING MTD. LIGHT
 - 19. HALL MTD. LIGHT
 - 20. DARK MTD. EXTERIOR FIXTURE (SEE CATALOG CUT)
 - 21. PORTABLE LIGHTING 1200-0-0 BLACK
 - 22. HALL MOUNTED SCENE OR LIGHT FIXTURE (INCANDESCENT)
 - 23. MOTION DETECTOR LIGHT
 - 24. PHONE JACK
 - 25. HALL SWITCH
 - 26. THREE-WAY SWITCH
 - 27. FOUR-WAY SWITCH
 - 28. DINING SWITCH
 - 29. SWITCH W/ OCCUPANCY SENSOR
 - 30. TANK SWITCH
 - 31. THREE-WAY DIMMER SWITCH
 - 32. CABLE TV OUTLET
 - 33. SMOKE DETECTOR, HARD WIRE/HEAT/VENTILATION BACKUP
 - 34. GAS TAP
 - 35. COLD WATER SUPPLY
 - 36. HOT WATER SUPPLY
 - 37. HOT MTD. RELOCATED

NOTES

1. ALL DRYER-OUTLETS 12" AFF. UO.N.
2. ALL SWITCHES 12" AFF. UO.N.
3. ALL LIGHT FIXTURES TO BE FLUORESCENT
4. ALL EXTERIOR LIGHTING TO BE FLUORESCENT
5. ALL EXTERIOR RECEPTACLE-OUTLETS TO BE 15 AMP/250 VOLT PROTECTED RECEPT. 200V
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San Mateo County Zoning Hearing Officer's Meeting

Owner/Applicant: WESTERFIELD/LOVE

File Numbers: PLN2010-00112

Attachment: C

PW copied

COUNTY OF SAN MATEO
ENGINEERING AND ROAD DEPARTMENT
COUNTY GOVERNMENT CENTER • REDWOOD CITY, CALIFORNIA 94063
Telephone 364-5600, Extension 2641

B. H. CANTWELL JR.
COUNTY ENGINEER
AND
ROAD COMMISSIONER

R. L. BANE
CHIEF DEPUTY ENGINEER

V. K. SANDERS
DEPUTY ENGINEER

G. J. MURPHY
ROAD SUPERINTENDENT

December 23, 1974

Ref. No. 0174

Mrs. C. Hayes Gowen
Box 132
Montara, CA 94037

Dear Mrs. Gowen:

This letter will confirm your conversation with Mr. G. Murphy from this office concerning the drainage mentioned in your letter of November 25, 1974.

As you know, we have replaced the small cross pipe into our downdrain. We have also spoken to the sanitary district personnel concerning their sewer manhole. The overflow pipe which used to extend over the bank has been disconnected. At this time, should the pumps fail, the sewage would back up and flow into our surface water drainage to the ocean. We have requested they research the feasibility of providing some type of warning signal in the event of a pump failure.

You have fenced off the end of Seventh Street at the present time. This was done some years ago through an encroachment permit. When a property owner is granted permission to make use of a section of road right of way, not needed for road purposes, they must assume responsibility for the maintenance of the area. We would not maintain any of the drainage necessary for this area.

Thank you for your understanding and cooperation in this matter.

Very truly yours,

S. H. Cantwell, Jr.
County Engineer and Road Commissioner

by:
Gerald J. Murphy
Road Superintendent

SHC:GJM:fp

cc: E. H. Barnes - Asst. Rd. Supt.
W. Floyd - Construction Inspec.
J. Fitzgerald, Supervisor

1662 Raff Court
San Leandro, CA 94577
Oct. 15-2010

County of San Mateo
Planning & Building Dept.
County Office Building
455 County Center - Mail drop PLN 122
Redwood City, CA 94063

Re: Zoning hearing Oct. 21-2010. File No. PLN2010-00112
Project planner Dennis Aguirre. Owner: P. Westerfield

Dear Sirs/Madams:

The owner is asking for an off street parking exception as well as for a second floor addition.

What isn't mentioned here is that 101-7th Avenue is the site of an historic public path to the beach below that was in existence for many years before owner bought this property. (Don & I and my parents and I and my family used this path frequently)

When building his house, owner totally fenced this property, including the beach access, with a 6'-7' fence and then locked the fence, so the public has been foreclosed from using this path. There never was a fence on 101-7th Ave. Before owner installed his public exclusion fence. Owner was well aware of the public's right to beach access through this property.

Historic public paths to the beach should be protected by the County and not allowed to be eliminated.

The public deserves parking on 7th Ave., so the public can have access again — before owner's requests, if proper and coastal views aren't hindered, are considered.

Sincerely -

Marilyn D. Winkler
(Mrs. Robert V. Winkler)

ATTACHMENT G

Historical Narrative (Revised)

101 Seventh Street, Montara

Prepared by Putney Westerfield, May 2010

In 1907 the Half Moon Bay Colony prepared a sub-division map for a new entity, Farallone City. (It would later be re-named Montara). The land was vacant. There was no road connection to the north. What is now the Coastal Highway was the "Ocean Shore Railway Right of Way." There had been railroad stops at the south end of Montara Beach and at Seacliff just before Seventh Street. The objective was to entice people to buy lots. Buildable lots were 25' or 30' by 100'. Shortly after the earthquake the Right of Way became Cabrillo (Coastal) Highway.

Among the first buyers was the **Rousseau Family** who acquired "Lot 12, Block 52" (now 101 Seventh Street) shortly after the Montara Sub-Division in 1910 and held the property until 1946.

The attached plan shows the Rousseau house in 1946 to have about 525sqft of living area plus a small garage. This plan was included in the architectural plans and other papers given to me by the Seller (Richard Warren) in 1986. There appears to be no record of the Rousseau house in the Assessor's office.

NOTE: It is important to note that the Assessor's Office has no information on 101 Seventh Street before the 1979 report. When I became the owner in 1986 and attempted to obtain historical documentation, I was informed that there had been a fire in the building that housed the Assessor's Office (next to the Court House) in the '60s or early '70s, and "no doubt the relevant papers were burned."

The Rousseau property was acquired by **C. Hayes Gowan in 1946.** In 1950 the house was more than doubled in size to roughly 1300 sqft. (In 1986, the owner Richard Warren, gave me the Gowans' 1950 building plans).

*Only
about
10 houses*

In June 2010 I was able to find Richard Warren in Oregon. He may be reached at 541-857-6472. Since the Planning Department was unable to find records covering the conversion of the 101 Garage to a Bedroom, I asked Mr. Warren. He said: "In the early '70s I was renting the small back cottage at 120 Seventh Street and enjoyed being with the elderly widow, Mrs. Gowan, at 101 7th Street. I had bought the property next to 101, namely 123 Seventh Street. Mrs. Gowan needed money, and proposed a deal. Build me a small cottage on your property, and take care of me for the rest of my life, and I will sell you 101 for a deal." (It was a deal: \$56,000).

Mrs. Gowan was the focus of social attention for years; 'everyone' came for cocktails daily. She lived at 123 Seventh until her death in 1985.

2. In 1979, Mr. Warren added the upstairs bedroom to 101 Seventh Street. (I have the architectural plans). Warren says, *Yes, of course, the contractor converted the garage at that time. This meant just replacing the garage door with a wall-and-window. I assume it was part of the building plans that the contractor used for the project.*"

3. *"There was no need for the garage. I built the 123 house with garages on both sides of the house, sufficient for me and Mrs. Gowan and even a third car. The County never questioned this. I owned both houses. I lived in 101 Seventh St. and*

4. The Fence Warren told me: In their friendship of 15 years, Mrs. Gowan frequently told the story of the fence: how her husband asked for the right to build the fence in 1950 when they enlarged the 101 Seventh St. house. *"They gave me an encroachment permit because the street was going nowhere. It was really dangerous without a fence... cars could easily go over the cliff. There was certainly no problem. They thanked me."*

This explains the language used in the letter sent to Mrs. Gowan in 1974 in response to her letter regarding potential erosion from water flowing down Seventh Street.

"You have fenced off the end of Seventh Street. This was done some years ago through an encroachment permit. When a property owner is granted permission to make use of a section of road right of way, not needed for road purposes, they must assume responsibility for the maintenance of the area. We would not maintain any of the drainage necessary for this area..." Signed: S.H. Cantwell, Road Commissioner, Gerald Murphy, Road Superintendent, cc'd E. H. Barnes, W. Floyd (Construction Inspector), J. Fitzgerald, Supervisor.

I have this original letter.

As the owner since 1986, I have assumed that responsibility, including repaving (black top) the entire area, and installing drainage systems and pipes to carry all run-off to the ocean. These efforts have prevented any erosion.

Also relevant is the **Founders Title Company** search in connection with Mr. Warren's purchase of 101 Seventh Street from Mrs. Gowan recorded September 30, 1977. *"An inspection has disclosed that there is an **easement** for the benefit of said Lot 12 for ingress, egress and parking over adjacent land to the Southeast."* This is the County parcel (the end of 7th Street) behind the fence. This easement has never been withdrawn and therefore is still in effect. Presumably these easement papers were lost in the fire referenced above.

In 2002 my neighbor at 123 7th Street, James Montalbano, sought to have the fence removed. (Subsequently he has changed his mind, since I always leave the gate open so that he, and others, can access the pocket piece of land at any time). In 2002 I was informed that Neil Cullen or Gary Warren (or some associate) had

referred the fence matter to the County Counsel for opinion. I never heard anything further.

It should be noted that the end of 7th Street drops off precipitously. To deter the possibility of cars going over the edge, I completed a hedge on the left half of the end of 7th Street that is now strong enough to prevent a car from going over the side. The fence serves the same purpose on the right side.

Needless to say, when the fence was erected in 1950 there was no Coastal Commission nor a LCP.

In April 1986 the Westerfields acquired both properties (101 and 123 Seventh Street) from Richard Warren. In 1994, the Westerfields applied for and received approval for a Lot Line Adjustment, adding 10' x 100' to 101 Seventh Street and reducing 123 Seventh Street by the same amount, leaving 50' x 100'.

The Westerfield's objective was to gain space for off-street parking, because there was no way a garage could be built on 101 Seventh Street property. The **Planning Permit Application Form reads as follows: "... The proposed project will make possible off-road parking for 101 7th St. This residence has no garage, no off-road parking feasibility, and in fact no contiguous street parking."**

The Lot Line Adjustment was approved by Terry Burnes, Planning Administrator, on April 27, 1994.

Regarding this Lot Line Adjustment, it should be pointed out that the Blueprint Map of the Rousseau House (1910 - 1946) -- in my possession -- shows the concrete block wall that stretched the entire 100' on the East side of the property. This wall is shown as 3' from the house. However, the Westerfield survey of 2003 showed the property line to be only 1' from the house. Therefore, the 10 feet gained by the Lot Line Adjustment provided 11' on the East side (for Parking) and 5' on the West.

Since 1994 The Westerfields have used the space gained in the Lot Line Adjustment for parking. We never park on Seventh Street.

Putney Westerfield
June 10, 2010
342-0338

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September 14, 2011

California Coastal Commission
Att'n: Nick Dreher
45 Fremont St. Suite 2000
San Francisco, CA 94105

Re: April 20, 2011 Appeal by James Montalbano of Local Land Use Decision
(APP 2-SMC-10-101 – San Mateo County)
Property Address: 101 Seventh Street, Montara, California
Owner/Applicant: Putney Westerfield

Dear Mr. Dreher:

I. INTRODUCTION

This office represents the property owner and applicant for the above matter.

Per applicable Coastal Act and Coastal Commission regulations, we hereby submit for your and the Commission's consideration the applicant's response to the above appeal. We thank you for the opportunity to address the relevant facts and law.

II. THE APPEAL PRESENTS NO SUBSTANTIAL ISSUE UNDER Pub. Res. Code 30603(b)(1):

California Public Resources Code 30603(b)(1) provides, in relevant part:

"The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the Local Coastal Program or the public access policies set forth in this division."

A. Re. Non- Conformity with the County of San Mateo Certified LCP: Nowhere in the appeal form section entitled "Reasons Supporting This Appeal" does the appellant allege non-conformity of the approved project with the LCP. Nowhere.

B. Re. Non-Conformity with Coastal Act Public Access Issues: Although the appellant states in his handwritten "Reasons Supporting the Appeal" that "We the appellants, feel that the decision by the zoning hearing officer does not address the issues concerning public access to the bluff area ", he again fails to present a single

fact in support of this strictly conclusory allegation.

Throughout the hearing before the San Mateo County Zoning Hearing Officer ("ZHO"), and in his appeal form, the appellant requested that the "vertical" pathway to the ocean from the applicant's property be restored by "rebuilding the stairs that he did not maintain and have been destroyed".

FACT: One of the conditions recommended by the County Planning Staff, and adopted by the ZHO in his decision, requires the applicant, for strictly safety reasons, to "remove the debris on the bluff portion of the bluff seaward of the subject property that is associated with the former access way and/or other property improvements". As even a cursory glance at the remnants of this former "stairway" will confirm, due to its location, the severity of the slope of the bluff, and the non-code stairwell construction, it is, by any measure, an inherently unsafe structure. The County long ago determined that it had to go. In April of 2011, the applicant fully complied with the ZHO's directive to remove the stairway debris.

C. Re Existing Fence: The appellant requests that "the entire fence blocking public access should be removed".

FACT: The existing fence was specifically addressed at page 2 (first complete paragraph) of the Planning Staff Report and at the ZHO hearing. Staff and the ZHO acknowledged (a) the fence's legal non-conforming ("grandfathered") status, and (b) the lack of a requisite "nexus" between the fence and public access:

"As mentioned, a previous owner constructed the fence, with authorization from the County sometime prior to 1974." (See 12.23.74 letter from County of San Mateo Engineering and Road Department to Mrs. C. Hayes Gowen.) After consulting with County Counsel and Public Works, and considering the minor scope and impact of the of the proposed project, staff does not recommend requiring the fence be removed as suggested at the November hearing, as there is no proper nexus for such a requirement..." (Italics added).

FACT: At Page 7, Paragraph 3 of its "RECOMMENDED CONDITIONS OF APPROVAL", the planning staff recommended, and the ZHO adopted, four conditions obligating the applicant to provide public access. The applicant agreed to all four.

a. Installation of "Coastal Bluff Public Access" fence signage and signing to inform public of bluff hazard;

b. Ensuring the fence door and gate shall remain unlocked and open during daylight hours for public access;

c. Relocation of house number signage from the public right-of-way.

way area further into the private property area to clearly delineate such areas;

d. Recordation of a Deed Restriction that specifies that as long as the fence remains, it shall be maintained by the property owner and kept open during daylight hours to allow public access to the bluff top viewing area.

D. Re Other Appeal "Issues":

1. The appellant asserts, "We need to have every tree planted by the applicant on public access removed to restore the public view".

FACT: There are *no* trees planted "on public access". There are, however, *on the slope between the public access area and the ocean*, bushes which are regularly trimmed by the owner/applicant for the benefit of the public and immediate neighbors.

2. Last, the appellant makes vague reference in his last sentence to the public's purported "prescriptive rights to the horizontal and vertical pathways that were established on the bluffs years ago."

FACTS:

Re "Vertical" Access: As above noted, the "vertical" pathway (i.e. the staircase and stairwell) that existed on the applicant's property was, by all reasonable engineering and safety code measures, unsafe for human use. The ZHO observed in his decision: "A vertical access stairway also exists at the end of this walkway, but is now unsafe for public use". Per the ZHO's directive, the applicant removed the stairway debris that existed in the pathway, and the pathway is now is now inaccessible for safe public access.

Re "Horizontal" Access: As with the vertical access staircase and stairwell, the horizontal access (i.e. the pathway alongside the applicant's home on the bluff side) is by all reasonable measure unsafe for access and use by humans. County LCP Policy 10.9 ("Public Safety") provides, in relevant part:

10.9 Public Safety

a. ****

b. Discourage public use of access trails which are hazardous because safety improvements have not been provided or cannot be built due to physical limitations. Specifically,

(1) Close undeveloped trails which are hazardous when an alternative safe existing or potential access is available for the same beach or bluff.

(2) When no safe access alternative is available, close undeveloped hazardous trails identified in Tables 10.1 and 10.2 as having a "high" rating in the public safety hazards category and which pose a risk of serious bodily harm because of the height or unstable nature of bluffs or the limited beach area between the mean high tide line and the base of the bluff. Give priority to the acquisition and improvement of nearby access or for the improvement and re-opening of accesses closed for safety reasons to those trails which lead to long sandy beaches as indicated on Table 10.1.

(3) Where a trail to the beach is closed, provide a bluff top access point or trail for public viewing of the shoreline when consistent with Policy 10.9(a).

(4) ****

FACT: Per the above Policy 10.9(b)(3), the owner/applicant has provided a public access point and viewing area to the south of the entrance to his property.

III. CONCLUSION

For the foregoing reasons, we respectfully request that the Commission find and conclude that under PRC 30603(b)(1) the appellant's appeal presents no substantial issue.

We thank you for your consideration of our arguments.

Respectfully Submitted



Michael McCracken, Esq.
Attorney for Owner/Applicant

cc: Putney Westerfield

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September 6, 2011

RECEIVED
SEP 07 2011
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
Attention: Nicholas B. Dreher, Coastal Program Analyst

Re: A-Z-SMC-11-023


Dear Sirs/Madams:

I declare as follows:

I am 56 years old. During my early years and through high school, my family went frequently to Montara as they have 2 lots on 7th Street.

We had picnics on the small picturesque rocky beach slightly north of the path which was approachable from 7th Street. At that time, there was no house on the now Westfield property and no fence eliminating the public from using the path that existed from the open property down to the rocks. The path was not dangerous, as coolers and other items were carried down, as well as my two younger siblings being able to use the path.

Under penalty of perjury, sworn to and subscribed this 6th day of SEPTEMBER 2011, at San Leandro, California.


Robert D. Winkler

RDW/kp

Westerfield Appeal: Applicable LCP and Coastal Act Policies

Coastal Act Section 30210 Access; recreational opportunities; posting

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 New development projects

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(b) For purposes of this section, "new development" does not include:

(1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.

(2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

(4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not a seaward of the location of the former structure.

(5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

Local Coastal Plan Policies

LCP Policy 10.1 Permit Conditions for Shoreline Access

Require some provision for shoreline access as a condition of granting development permits for any public or private development permits (except as exempted by Policy 10.2) between the sea and the nearest road. The type of provision, the location of the access and the amount and type of improvements required shall be consistent with the policies of this component.

LCP Policy 10.2 Definition of Development

[...]

c. Exempt from the requirement for provision of shoreline access the following:

[...]

(3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10%, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.

[...]

LCP Policy 10.3 Definition of Shoreline Access

Define shoreline access as the provision of access for the general public from a public road to and along the shoreline. Classify shoreline access into two types: vertical and lateral.

a. Define vertical access as a reasonably direct connection between the nearest public roadway and the shoreline. Define shoreline as a beach, where contact with the water's edge is possible, or a bluff, where only visual access is afforded. Call passageways which provide vertical access trails.

b. Define lateral access as a strip of land running along the shoreline, parallel to the water and immediately inland from the mean high tide line. Lateral access may include a beach, where contact with the water's edge is possible, or a bluff, where only visual access is afforded. Refer to lateral access areas as shoreline destinations.

LCP Policy 10.5 Definition of Established Shoreline Access

Define established vertical (trails) and lateral (shoreline destinations) access as areas where the public's right to use has been legally established through permit conditioning, acquisition, and/or prescriptive rights.

LCP Policy 10.12 Residential Areas

Locate shoreline access within existing or new residential areas in the least disruptive manner. Specifically,

a. Provide vertical access (trails) at the ends of streets perpendicular to the shoreline.

- b. If there are few or no such right angle streets, provide vertical access (trails) between houses at 1/4 mile intervals, where consistent with the public safety policies in this component and the policies of the Sensitive Habitats Component. Require more frequent trails if there are several non-continuous shoreline destinations.*
- c. Give priority to improving existing access trails.*

LCP Policy 10.20 Posting

Clearly post new or improved public access areas.

LCP Policy 10.27 Residential

- a. Provide separation between shoreline access and adjacent residential uses to protect the privacy and security of houses and the public nature and use of the shoreline. Specifically, keep the edge of lateral shoreline access trails 25 feet and vertical shoreline access trails 10 feet from any occupied residential structure.*
- b. Maximize the use of landscaping, fences, and grade separation.*

LCP Policy 10.30 Requirement of Minimum Access as a Condition of Granting Development Permits

- a. Require the provision of shoreline access for any private or public development between the sea and the nearest public road.*
- b. Base the level of improvement and development of access support facilities at a site on the Locational Criteria and Development Standards Policies and the Site Specific Recommendations contained in Table 10.6.*
- c. Base the responsibility and requirements of the property owner for the provision of this access on: (1) the size and type of development, (2) the benefit to the developer, (3) the priority given to the type of development under the Coastal Act and (4) the impact of the development, particularly the burden the proposed development would place on the public right of access to and use of the shoreline. Determine the minimum requirements according to the following:*
 - (1) For small non-agricultural developments (i.e., construction of nonresidential structures 500 sq. ft. and smaller, fences, wells, placement of utility poles), require the retention of existing public access as defined in Policies 10.5 and 10.6, the posting of hazardous and environmentally sensitive areas, and pay an in-lieu fee of a minimal sum not to exceed 5% of the project cost to contribute to the provision of public access elsewhere along the County shoreline.*
 - (2) For small to medium developments (i.e., single-family residences, all minor land divisions, barns over 5,000 sq. ft., small greenhouses), not specifically exempted from shoreline access requirements by Policy 10.2, require the offering or granting of a vertical and/or lateral access consistent with the policies of this component, to either a public agency or private group acceptable to the County for improvement and maintenance.*
 - (3) For large agricultural and non-agricultural developments (i.e., developments of more than one single-family house, major subdivisions, commercial and industrial developments, and large greenhouses and agricultural processing plants), require the property owner to provide, improve, and maintain shoreline access consistent with the policies of this component.*

LCP Policy 10.31 Requirement of Additional Access as a Condition of Granting Development Permits

Require additional access areas, improvements or operation and maintenance beyond the minimum when a project decreases the existing or potential public access to the shoreline by: (1) removing or infringing upon an area which historically has been subject to public use without permission or effective interference by the owner and/or (2) decreasing the amount of sandy beach by building seawalls, etc., and/or (3) removing future recreation opportunities by committing lands suitable for recreational development to uses which are not assigned priority for use of oceanfront land by Section 30222 of the Coastal Act.

LCP Policy 10.39 Signing and Publicizing Access

a. Sign and publicize established shoreline access areas. Specifically:

(1) Place signs in prominent locations along Route 1 and at the trailhead of each established access point indicating its location and the degree of difficulty in using trails. Make signs visible but not detract from the scenic quality of the Coastal Zone.

(2) Place warning signs at the trailheads of difficult access trails.

(3) Before and possibly after educational displays and interpretive trails are built, post signs next to sensitive habitats to protect them.

(4) Post two types of signs: (1) those that describe the resource and forbid public entry to sensitive habitats, and (2) those that prohibit the collection of specimens.

(5) Require that all signs be distinctive in their design, easy to understand, and uniform.

b. Develop maps and a brochure showing all established trails, shoreline destinations, parking, and pedestrian and bicycle routes to: (1) encourage the public to assist in monitoring maintenance, (2) prevent the closing of established shoreline access by encouraging public use, and (3) encourage the public to inform the County of any failures to meet permit conditions.

Encourage the Chambers of Commerce and other civic groups to assist in the printing and distribution of this brochure.