

AGENDA NO. 7



PLANNING COMMISSION

STAFF REPORT

DATE: January 11, 2010

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A TENTATIVE MAP (T-5-03), DEVELOPMENT PLAN (D-15-03), AND CONDITIONAL USE PERMITS (C-26 & 27-03) FOR A SEVEN-LOT RESIDENTIAL SUBDIVISION ON A 2.13-ACRE SITE LOCATED WEST OF THE TERMINUS OF CONCHO CIRCLE AND EAST OF FOSS LAKE HABITAT AREA – PILGRIM CREEK – APPLICANT: DAVID ZERNIK**

RECOMMENDATION:

Staff recommends that the Planning Commission by motion:

- (1) Adopt Planning Commission Resolution No. 2010-P02; denying Tentative Map (T-5-03), Development Plan (D-15-03), and Conditional Use Permits (C-26 & 27-03) with findings of denial attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Site Review: The proposed project is a request to subdivide a single parcel into a seven-lot subdivision with a private panhandle access road. The subject proposal would be located on a vacant 2.13-acre parcel situated between the Foss Lake Habitat Preserve to the north, Whelan Ranch Subdivision to the west, Mission Valley Estates Unit #7 subdivision to the east, and Mission Valley Estates Unit #6 subdivision to the south, within the North Valley Neighborhood. The site has a General Plan land use designation of Single-Family Detached-Residential (SFD-R) which permits 3.6-5.9 dwelling units per gross acre and is Zoned Single-Family Residential (RS) on the City's official zoning map.

The subject site is characterized as a remnant parcel from a previous subdivision and exists as a significant natural topographic feature. The topography of the entire site contains natural slopes of 20 percent or more with a minimum elevation differential of 50 feet, with approximately 37 percent of the site existing as undevelopable land (lands with slopes over 40 percent greater than 25' height differential). One major site characteristic that should be noted is the proximity immediately adjacent to the Foss Lake Habitat Conservation Area and upslope

from the perimeter boundary of the conservation area. Any development proposed shall respect the preserve and may not encroach into the sensitive area.

Background: On February 22, 1972, the Planning Commission adopted Planning Commission Resolution No. 72-P19 recommending approval of Mission Valley Estates Unit No.7, a 58-lot subdivision of 6000-square foot lots. In March 1972, the City Council approved the tentative map, and the project was constructed a short time later. The subdivision consists primarily of single-story, ranch-style homes of small to moderate size. The subject site was designated as a 2.13-acre remnant parcel and although originally part of the project, was subsequently removed from consideration prior to project approval and therefore, development was never approved for the subject site. In the ensuing 38 years, the site has remained largely undisturbed, although the land immediately adjacent was designated as a wildlife preserve and/or mitigation bank due to its value as a natural wildlife habitat.

Project Description: The project application is comprised of four components, a Tentative Map, Development Plan, and two Conditional Use Permits as follows:

Tentative Subdivision Map T-5-03 represents a request for the following:

- (a) Represents a request to subdivide an approximately 2.13-acre site into seven single-family residential lots and one lettered lot dedicated for open space purposes pursuant to Article VI of the Oceanside Subdivision Ordinance. The proposed project is within the Single-Family Residential (RS) Zone District and as per the Oceanside Zoning Ordinance the minimum lot area in this zoning district is 6,000 square feet.

Development Plan D-15-03 represents a request for the following:

- (a) To construct seven single unit-variable (SU-V) dwelling units on a 2.13-acre site that exists as a steeply sloping parcel defined in the City of Oceanside General Plan as a "Natural Topographic Feature" (Slopes greater than 20 percent with a minimum elevation differential of 50'-0"). The subject development plan, while substantially incomplete, has been prepared pursuant to Articles 10, 30, and 43 of the Zoning Ordinance. The detached structures would contain one multi-leveled dwelling unit and are proposed to be stepped into the hillside of the site; therefore, making the Hillside Development Provisions applicable to overall development of the site.

Conditional Use Permit C-26-03 represents a request for the following:

- (a) To exceed the base density of 3.6 dwelling units per acre.

Density: The average number of residential dwelling units per gross developable acre of land expressed as "units per acre". Density is calculated by dividing the number of residential dwelling units by the total number of gross developable acres of land. Lands considered undevelopable per Section 1.25 of the Land Use Element of the General Plan shall not be included in density calculations.

Staff has requested that the applicant deduct undevelopable lands from the density calculations, and based upon the revised slope analysis map submitted on September 24, 2009. To date, the applicant has refused to revise plans in a manner that accurately illustrates overall density and site design of the proposed development. While the subject application remains substantially incomplete, staff has provided the following table to illustrate the proposed lot area breakdown as conveyed by the applicant on plans submitted on January 17, 2007 along with staff's analysis of the site with regards to undevelopable areas to be deducted from density calculations:

	Gross SF	40% Slopes (Undevelopable)	Approximate Net SF
Lot 1	8,829 SF	3,800 SF	5,029 SF
Lot 2	9,500 SF	1,118 SF	8,382 SF
Lot 3	8,829 SF	2,400 SF	6,429 SF
Lot 4	9,500 SF	2,170 SF	7,330 SF
Lot 5	8,829 SF	4,000 SF	4,829 SF
Lot 6	9,500 SF	1,025 SF	8,475 SF
Lot 7	8,829 SF	6,275 SF	2,554 SF
Lot A	12,695 SF	11,360 SF	1,335 SF
Total	Approx.	32,148 SF	

The applicant's proposal to subdivide an existing 2.13-acre lot into seven lots illustrates an estimated density of 4.3 dwelling units per acre, but having calculated density based upon the revised slope analysis submitted on September 24, 2009, staff has approximated the density at 5.03 dwelling units per acre where 5.9 dwelling units per acre is the maximum density allowed.

Conditional Use Permit C-27-03 represents a request for the following:

- (a) To permit the use of a panhandle driveway design for vehicle access.

Lot 7 has been designed to have access via a panhandle driveway at the terminus of the private road. Plans submitted as part of the overall entitlement request illustrates two lots (6 and 7) being proposed within areas of undevelopable land and can not be supported as currently designed. Staff has determined that creation of

a panhandle driveway for vehicle access to parcel 7 can not be supported because the area can not be developed based upon the undevelopable lands that encumber the property.

The project is subject to the following Ordinances and City policies:

1. General Plan Land Use Element
2. Zoning Ordinance
4. Subdivision Ordinance
3. California Environmental Quality Act

ANALYSIS

KEY PLANNING ISSUES

1. General Plan Conformance

The General Plan Land Use Map designation on the subject property is Single-Family Detached Residential (SFD-R) which has a density range of 3-5.9 dwelling units per gross acre. Staff has evaluated the request to subdivide the 2.13-acre parcel in to seven single-family residential lots, and has determined that the proposed development is inconsistent with the goals and objectives of the City's General Plan as follows:

A. Land Use Element

Goal 1.24: Topographic Resources

Objective: To ensure that development preserves and enhances the unique beauty and character of the City's natural topographic features and does not contribute to slope instability, flooding, or erosion hazards to life and property.

Policy: B. Lands considered to possess significant topographical features shall be preserved and integrated into the project designs. Such lands include natural slopes of (20 percent) or more with a minimum elevation differential of 50 feet; major canyons and/or watercourses; significant rock outcroppings, trees, and native vegetation.

Policy: D. The term "natural slope" shall also apply to any man-made or altered slope which, over a period of years, revegetation and/or erosion has made indistinguishable from the natural terrain.

The subject request is to develop a seven-lot subdivision on a remnant parcel that contains approximately 37 percent of undevelopable lands, and with the entire site being considered a natural topographic feature due the fact that the

entire site contains slopes over 20 percent with a minimum differential of 50'-0". Staff has determined that the subject proposal to develop the site is inconsistent with the General Plan goal for Topographic Resources. The proposed subdivision layout and site design, along with a multi-level stepped housing product that does not implement a design that enhances the surrounding natural topographic features has been determined to conflict directly with the City's General Plan goal to preserve and integrate topographic features into the overall site design. It is further noted that based upon soil conditions found on site, development will require an extensive use of retaining walls and non traditional building construction techniques necessary to develop on the sites steep slopes. Based upon the proposed site development denoted on submitted plans, staff has determined that the design does not preserve the natural topographic features of the site. Further more the intensity of the proposed development on the steep sloped parcel coupled with the use of extensive retaining walls and multi-level stepped homes could potentially contribute to slope instability.

B. Land Use Element II. Community Development

Goal: The continual long term enhancement of the community through the development and use of land which is appropriate and orderly with respect to type, location, timing, and intensity.

Objective 2.3 Residential Development: To direct and encourage the proper type, location, timing, and design of housing to benefit the community consistent with the enhancement and establishment of neighborhoods and a well balanced and organized City.

2.32 Potential Range of Residential Densities Policy A: The base density shall be considered the appropriate density for development within each residential land use designation.

The applicant proposes a density of 5.03 dwelling units per gross acre, which is slightly under the maximum potential density within the RS Zone District which establishes a base density of 3.5 dwelling units per gross acre and a maximum density of 5.9 dwelling units per acre.

The proposed subdivision would be out of character with the pattern of development located along the perimeter of the Foss Lake Habitat Preserve, and would establish densities which would contribute to removal of significant topographic features that the General Plan identifies as in need of being preserved. The intensity of development proposed would not benefit the community or provide any enhancement to the surrounding neighborhoods pattern of development, because the type of development and site design is not characteristic of the flat pad subdivisions throughout the surrounding North Valley

Neighborhood. The overall pattern of development adjacent to the Foss Lake Habitat Preserve is best characterized as 70's style ranch homes developed on flat pads with manufactured sloping open space areas buffering the residential developments from the preserve area.

2. Zoning Ordinance

This proposed project site is situated within a Single-Family Residential (RS) zone district and due to the significant sloping topography of the site is required to adhere to Article 30 Section 3039 "Hillside Development Provisions" of the Oceanside Zoning Ordinance. The subject application remains substantially incomplete and is in need of revisions in order to deduct out the undevelopable lots and provide a Hillside Development Plan that reflects the actual conditions of the site. The proposed residential product type and site design of lots 1, 5, 6, and 7 are in conflict with the Hillside Development Provisions of the zoning ordinance because the site designed proposed is within areas of slopes defined as undevelopable and to be preserved in their natural state. Furthermore, lots 2, 3, and 4 are located on significant topographic features and the proposed site design in these areas has been determined by staff to conflict the specific purposes of the Hillside Development Provisions.

Staff has focused specifically on purpose number four (4) and number six (6) which states that proposed development shall, "Provide a mechanism for flexible design of residential development projects in hillside areas so that development may be concentrated in those areas with the greatest environmental carrying capacity and areas with low environmental carrying capacity developed at a very low density or reserved as permanent open space" and shall "Preserve the natural appearance of hillsides by assuring that development density and intensity relates to the slope of the land, and is compatible with hillside preservation." The applicant's unwillingness to revise the proposed hillside development plan consistent with the site conditions has prohibited staff from providing a thorough review and analysis of the project's adequacy with the Hillside Development Regulations, and has resulted in the formulation of a recommendation of denial based upon inconsistency with the General Plan and Hillside Development Regulations of the Oceanside Zoning Ordinance. An example is best illustrated by a cross section denoted on the Tentative Map and Development Plan dated January 16, 2007. The subject cross section illustrates a rear yard perspective for Lots 2-5 that based upon the revised slope analysis map received by the Planning Division on September 24, 2009 would propose large retaining walls within areas identified as undevelopable. It is this level of inconsistency between plan sets that does not allow for an acceptable level of review by staff and has resulted in staff focusing their attention to intensity of development rather than development specific regulations such as building height and usable open space area.

While staff lacks sufficient information necessary to analyze residential specific site design and development standards with Article 30 Section 3039, the

following table has been provided in order to illustrate the intensity of development on the site as conveyed by the applicant on the last revised Description and Justification (D&J) received by staff on January 17, 2007. It is this proposed intensity of development that conflicts with the purpose of the Hillside Development Provisions to preserve the natural appearance of hillsides and that avoids development that would result in unacceptable slide or other safety hazards.

Table 1: Conceptual House Sizes

LOT #	Approx. Livable Area	Bed Bath Ratio	Deck Area	Garage Area/ Spaces	Basement
Lot 1	1,500 SF	4 : 4	100 SF	651 SF /3	567 SF
Lot 2&5	1,410 SF	2 : 2.5	35 SF	880 SF /3	
Lot 3&4	1,450 SF	2: 3	48 SF	400 SF /2	
Lot 6	1,265 SF	3: 2.5	32 SF	580 SF /3	700 SF
Lot 7	1,708 SF	2: 3.5	0 SF	666 SF/ 3	820 SF

3. California Environmental Quality Act

Pursuant to the California Environmental Quality Act of 1970 and State Guidelines thereto; the project is exempt from CEQA review at this time because staff is recommending that the project be rejected or disapproved by the Planning Commission. CEQA Guidelines Section 15061(b) (4) and Section 15270 (b).

However, if the Planning Commission were to overturn staff's recommendation and state its intention to approve the application as submitted, the applicant would need to comply with CEQA and prepare either a MND or EIR as determined by the Environmental Resource Officer. That level of environmental review has not yet been done due to staff's recommendation of denial and the applicant's unwillingness to modify the project to address staff's concerns.

ENVIRONMENTAL DETERMINATION

Pursuant to the California Environmental Quality Act of 1970 and State Guidelines thereto; the project is exempt from CEQA review at this time because staff is recommending that the project be rejected or disapproved by the Planning Commission. CEQA Guidelines Section 15061(b) (4) and Section 15270 (b).

PUBLIC NOTIFICATION

Pursuant to Article 41 of the Oceanside Zoning Ordinance, Legal notice was published in the North County Times and notices were sent to property owners of record/and occupants within a 1,500-foot radius of the subject property, to individuals/organizations requesting notification, and to the applicant.

As of Wednesday, January 6, 2010, no communication supporting or opposing the request had been received.

SUMMARY

The proposed Tentative Map (T-5-03), Development Plan (D-15-03), and Conditional Use Permits (C-26 & 27-03) are inconsistent with the requirements of the Zoning Ordinance and the land use policies of the General Plan. The project is not compatible with the densities, site designs, or neighborhood character found throughout the surrounding developed area. As such, staff recommends that the Planning Commission deny the project based upon the attached findings contained within the attached Planning Commission Resolution. Staff recommends that the Planning Commission:

- Move to deny Tentative Map (T-5-03), Development Plan (D-15-03), and Conditional Use Permits (C-26 & 27-03) by adopting Planning Commission Resolution 2010-P02 as attached.

PREPARED BY:


Richard Greenbauer
Senior Planner

SUBMITTED BY:


Jerry Hittlerman
City Planner

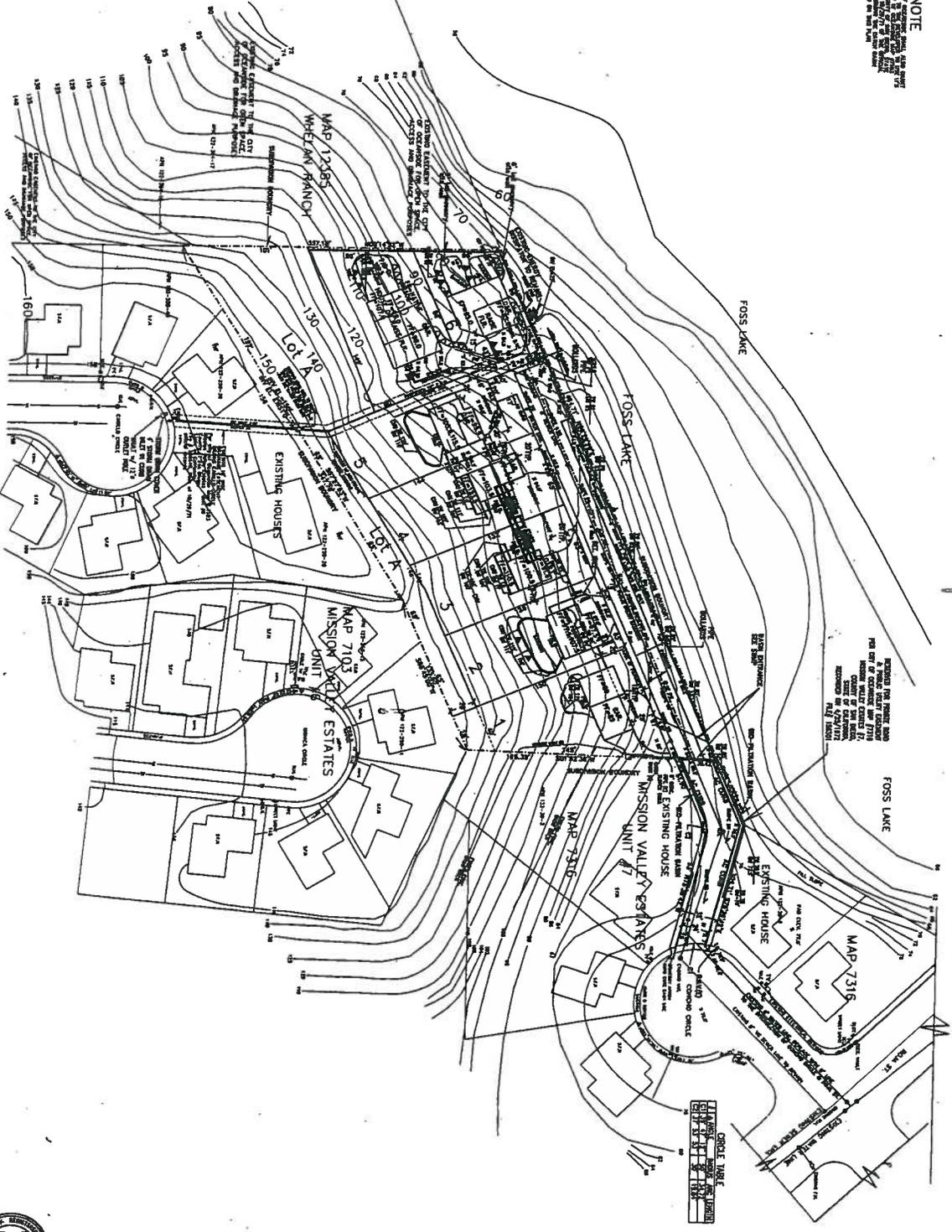
JH/RG/fil

Attachments:

1. Tentative Parcel Map, Development Plans, and Landscape Plans
2. Planning Commission Resolution No. 2010-P02
3. Planning Commission Resolution No. 1972-P19

TENTATIVE MAP AND DEVELOPMENT PLAN FOR PILGRIM CREEK

CATCH BASIN NOTE
 THE CATCH BASIN LOCATED AT THE INTERSECTION OF LOT 107 AND LOT 108 IS TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF OAKLAND TYPICAL SPECIFICATIONS AND STANDARD DRAWINGS.



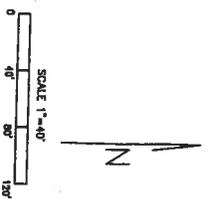
EXISTING HOUSES TO BE DEMOLISHED AND RECONSTRUCTED IN ACCORDANCE WITH THE CITY OF OAKLAND TYPICAL SPECIFICATIONS AND STANDARD DRAWINGS.

CIRCLE TABLE	
1/4"	10'
1/8"	20'
1/16"	40'
1/32"	80'
1/64"	160'



I-5-03
D-15-03

CIVIL ENGINEER
 STATE ENGINEERING
 EXPIRES: 12/31/2004
 785-781-8333
 SURVEYING
 1100 AVILA LANE, SUITE 100
 CALIFORNIA CITY, CALIF. 90601
 781-781-8333
 OWNER
 RANDY TRIMMER
 1220 N. WINDY ST.
 90601-1307



LANDSCAPE CONCEPT PLAN FOR PILGRIM CREEK

- LEGEND:**
- A. HUBBARD STRONG ANGR
 - B. TREXU STRONG ANGR
 - C. FERRARI STRONG ANGR
 - D. PEARSON STRONG ANGR
 - E. FINE THICK CLAYTONIA
 - F. RALPH STRONG ANGR

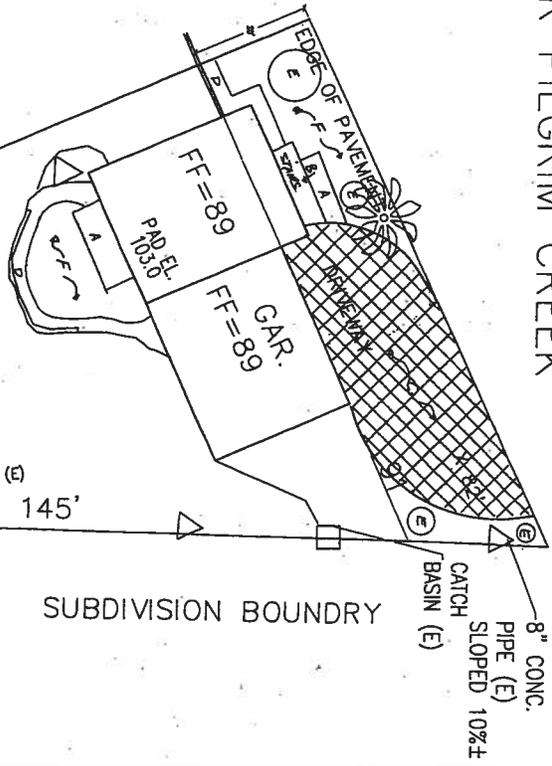
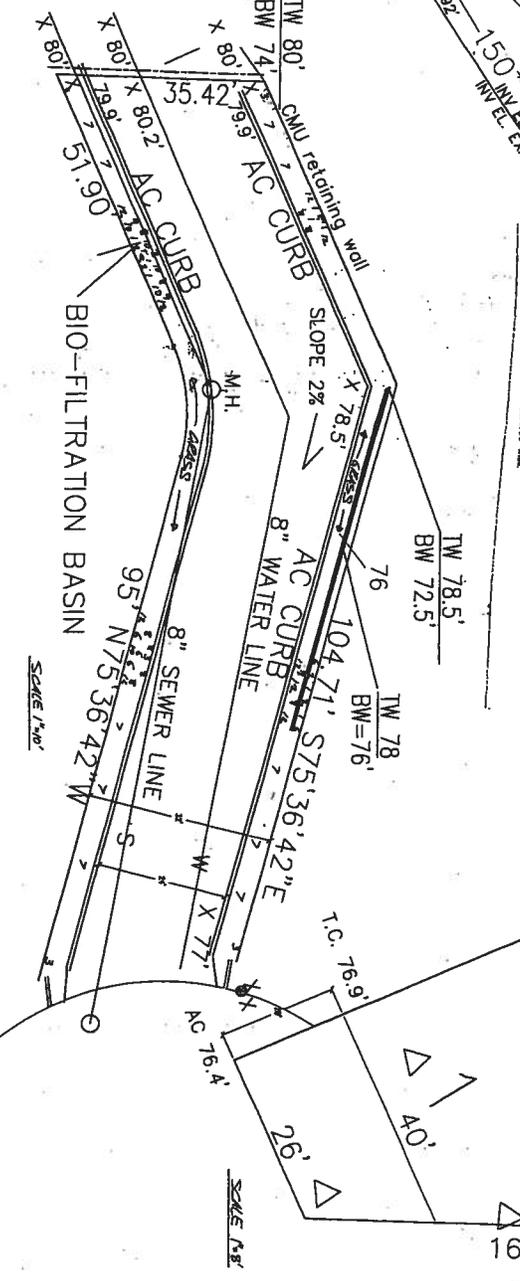
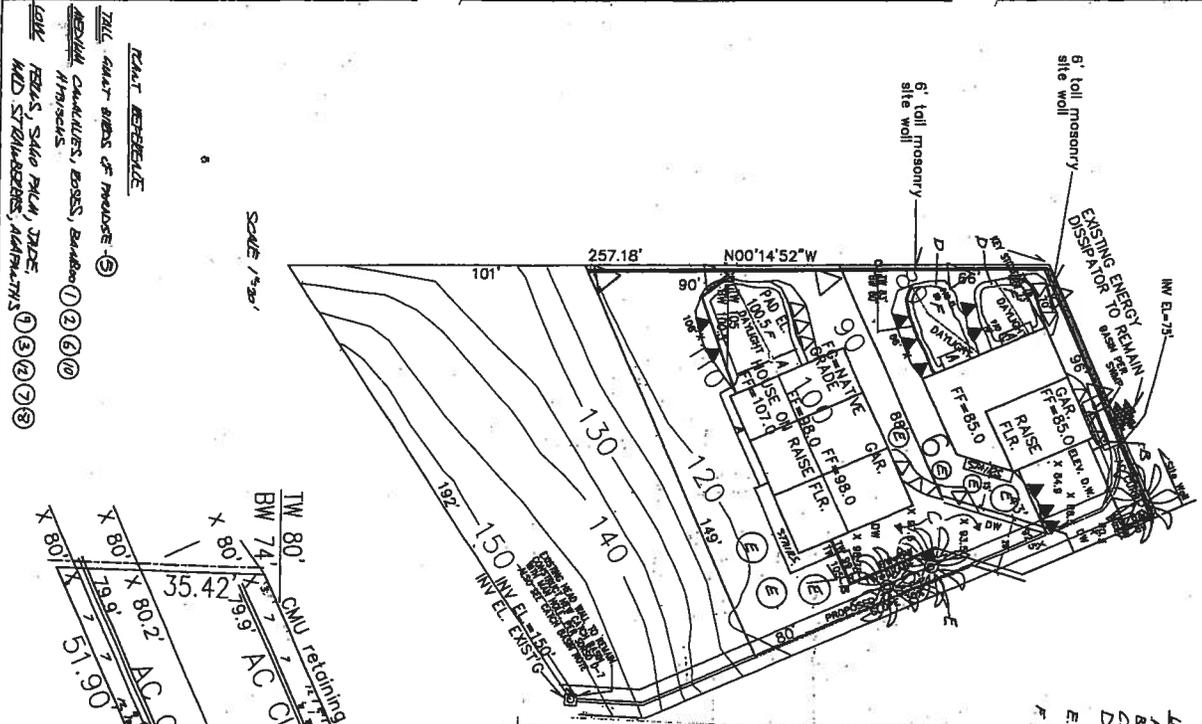
Notes:

Any trees removed during construction, with over 10" caliper shall be replaced for the same species and size.

Plantings shall be approved by the contractor to meet the project's irrigation needs. The contractor shall provide a list of plants to be used in the landscape plan.

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OWNER:
 DAVID ZENNER
 1220 S. DILLON ST.
 OAKLAND, CALIF. 94612
 DATED 2-2-2009

SCALE 1/8" = 1'-0"

SCALE 1/4" = 1'-0"

SCALE 1/2" = 1'-0"

SCALE 3/4" = 1'-0"

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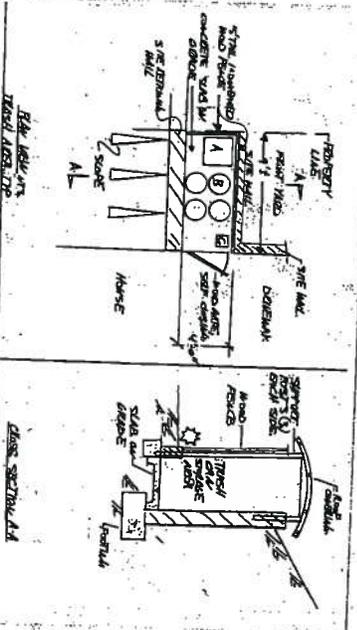
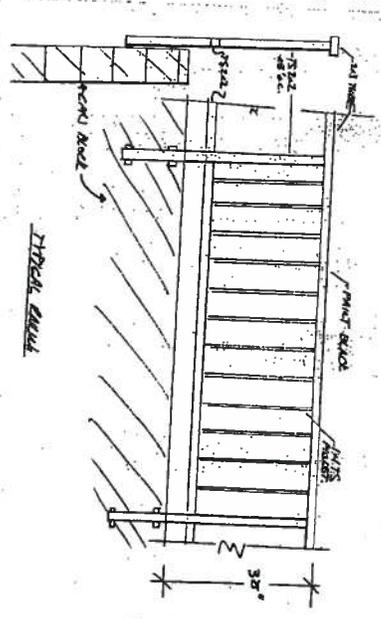
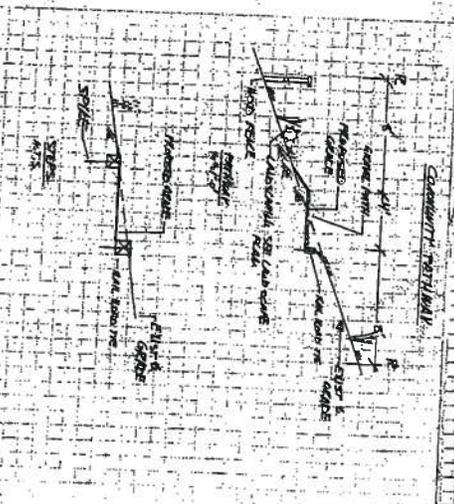
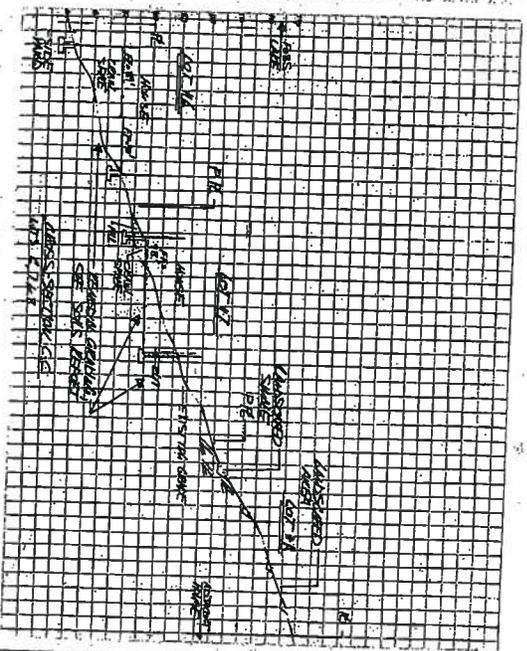
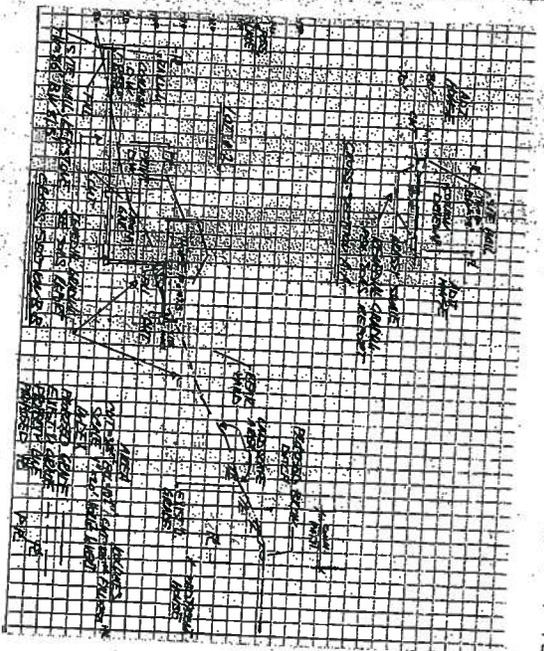
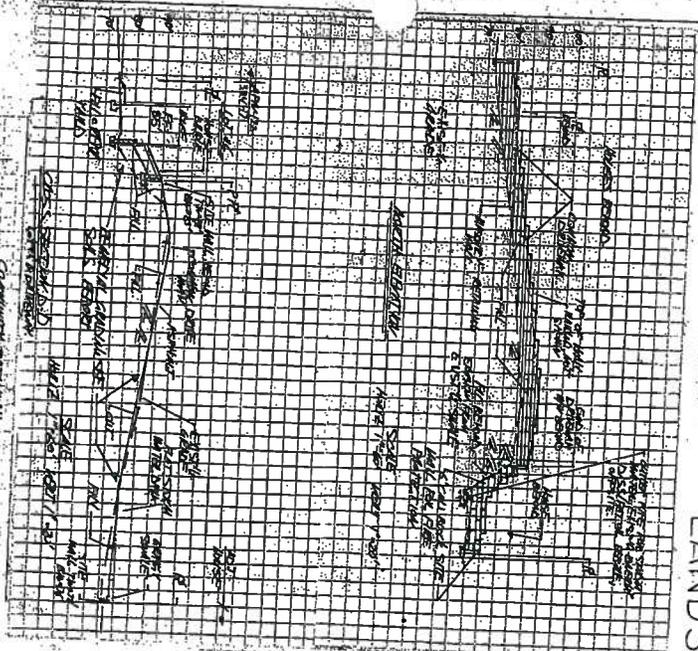
SCALE 5 3/4" = 1'-0"

SCALE 6" = 1'-0"

SCALE 6 1/4" = 1'-0"

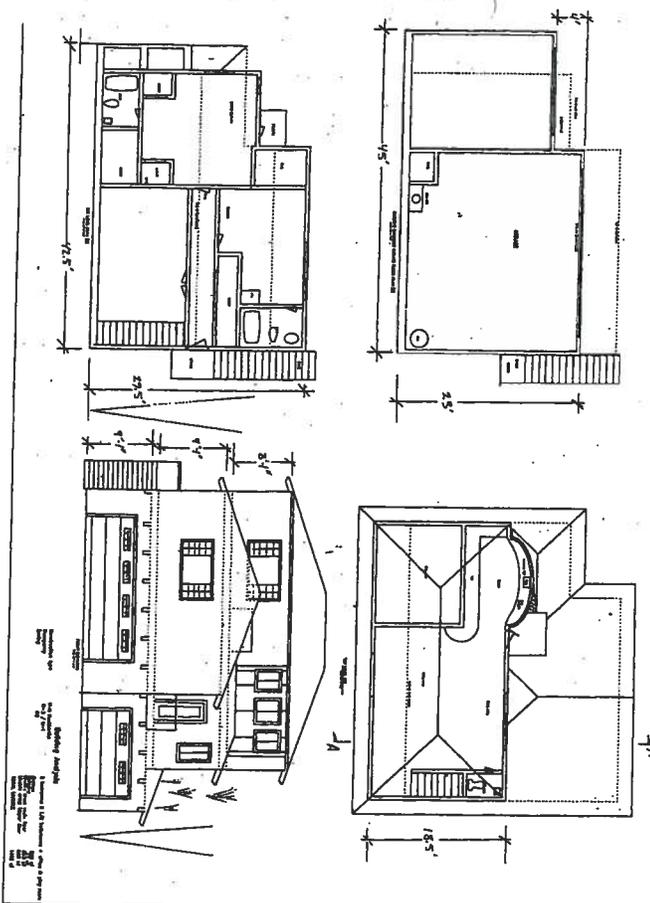
SCALE 6 1/2" = 1'-0"

LANDSCAPE CONCEPT PLAN FOR PILGRIM CREEK



- 1. LAKEN WHITE OUTDOOR
- 2. TRAM CASH VLOS
- 3. GLASS PANEL, PLANTIC
- 4. DECORATIVE BRASS

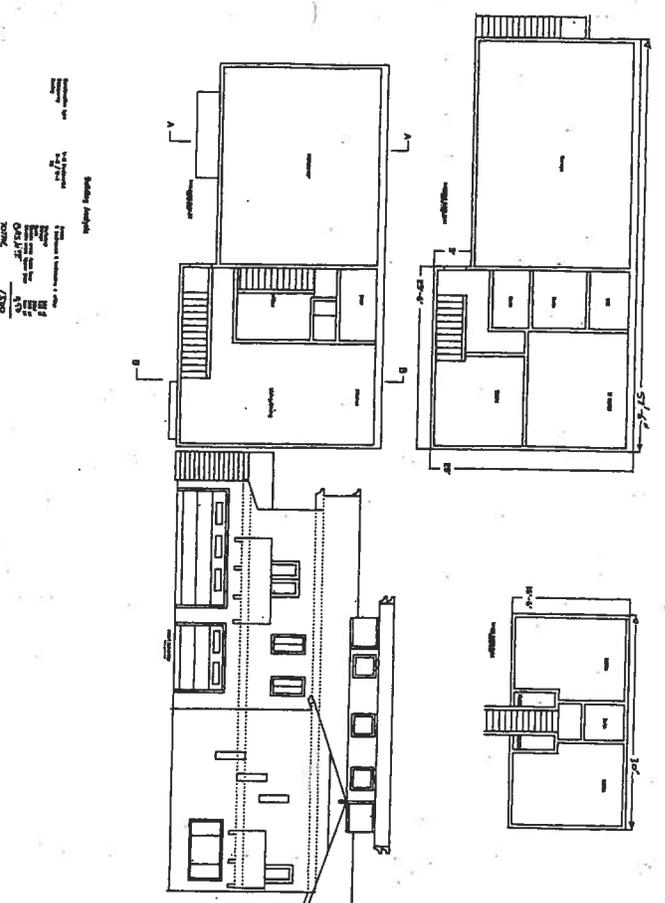
OWNER
 DAVID ZENNIK
 220 S. GILMAN ST.
 705-721-5000
 DAVID 3-8-2005



project description
Pilgrim Creek Residence
 Concept Design Iss #1
 Occidental, California 92054

sheet description
ARCHITECTURAL ELEVATIONS
 This sheet shows the exterior elevations of the residence as shown on the site plan. It is to be used in conjunction with the site plan and the other sheets of this set.

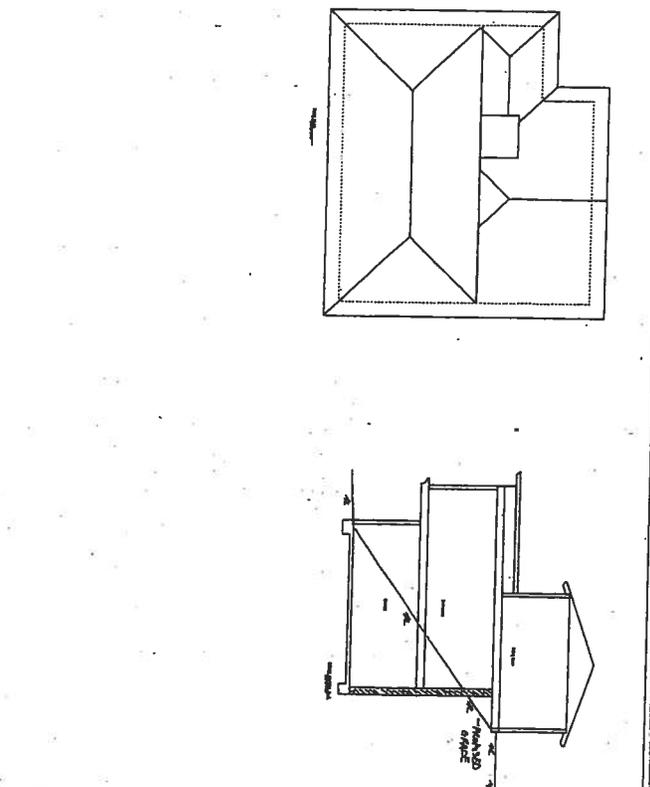
Skyline Engineering
 1320 S. Shore Dr.
 Redwood City, California 94061
 Phone 714/362-9200



project description
Pilgrim Creek Residence
 Concept Design Iss #1
 Occidental, California 92054

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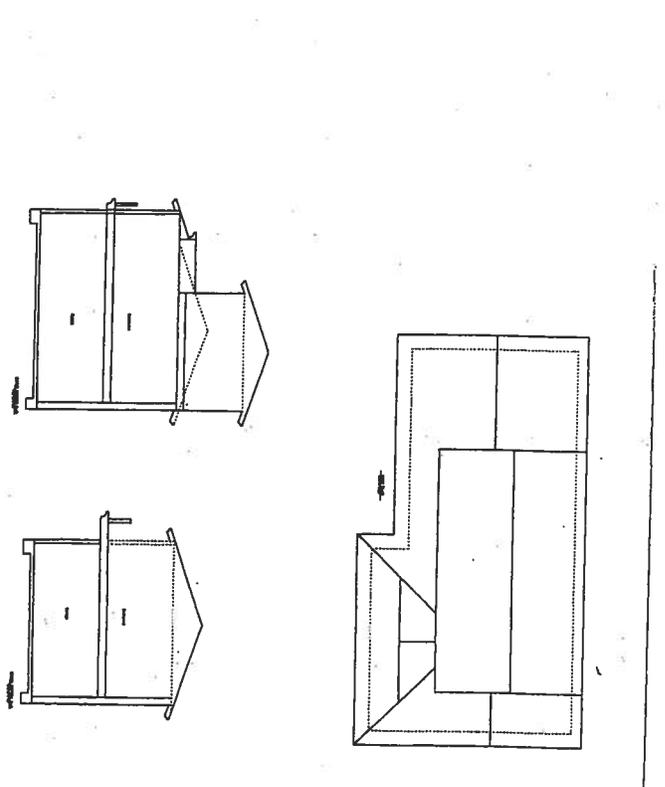
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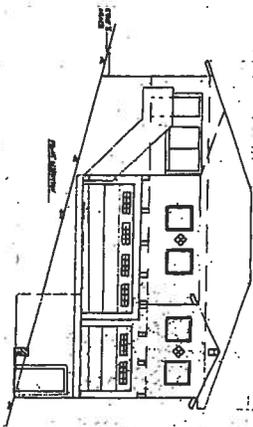
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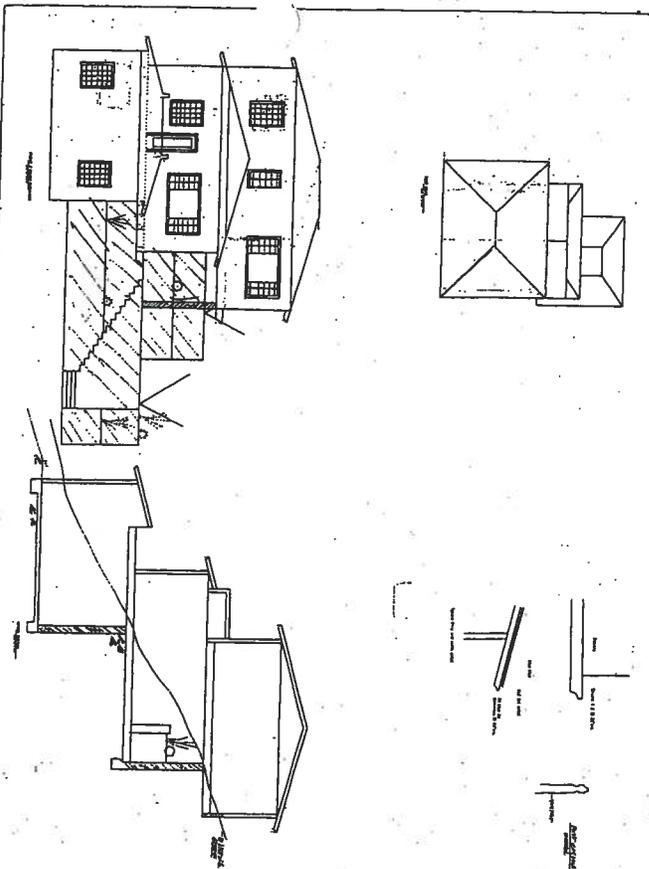
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 Concept Design Iss #1
 Occidental, California 92054

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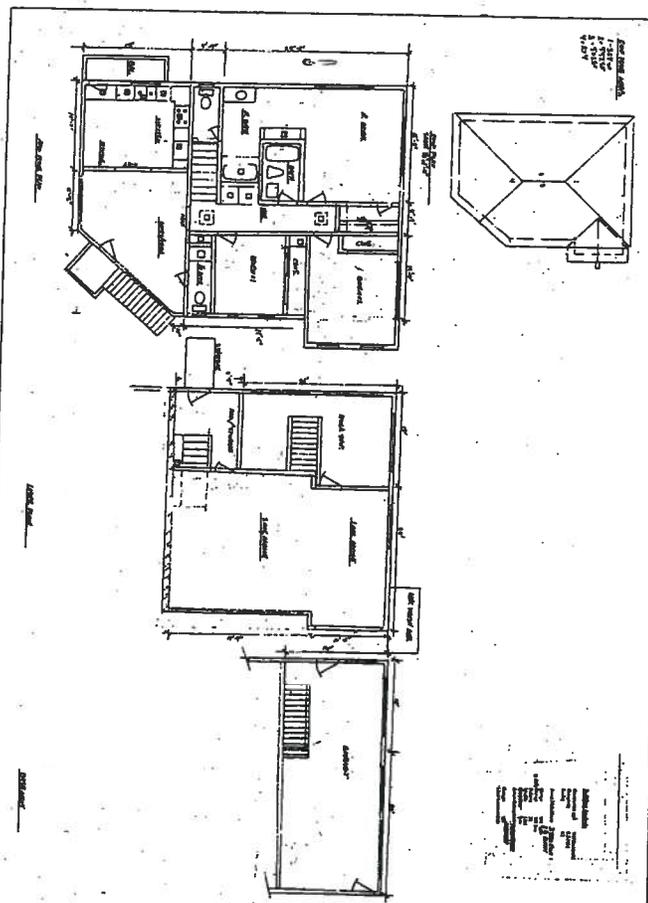
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 Phone 714/362-9200



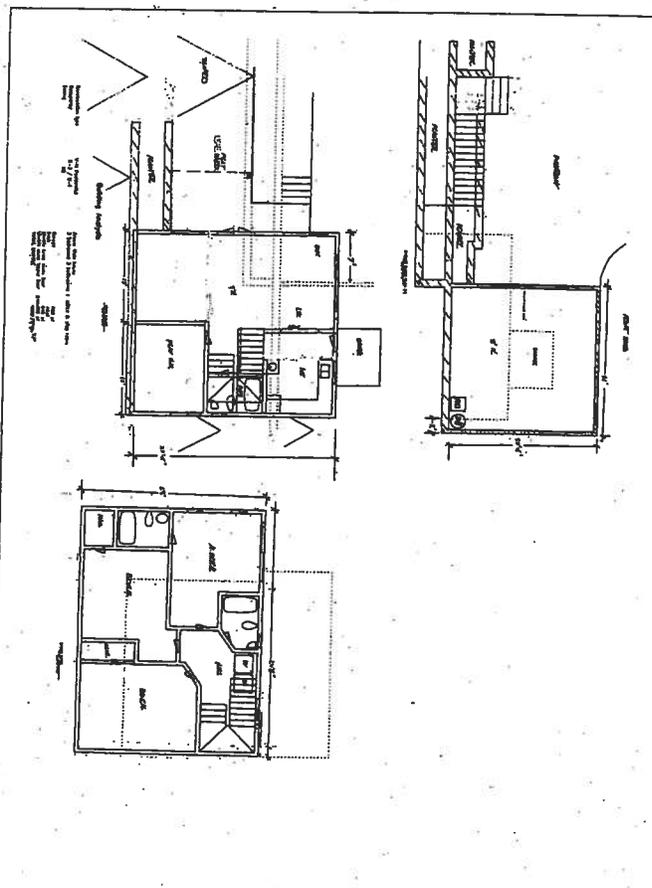
2-1 project description Pilgrim Creek Residence Concept design 4841 Camino del Rio San Diego, California	sheet description Architectural drawings for the design of the exterior of the house showing the roof, chimney, and other exterior features. Scale: 1/8" = 1'-0"	Skyline Engineering 1288 S. River St. San Diego, California 92104 Phone: (619) 591-2800



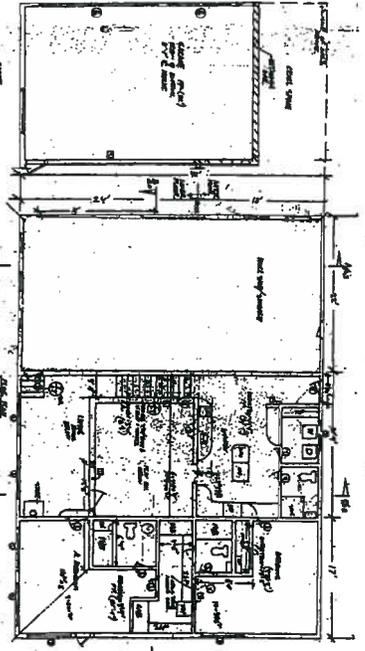
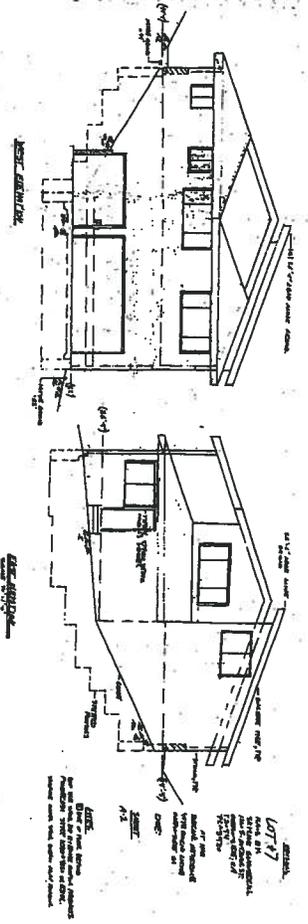
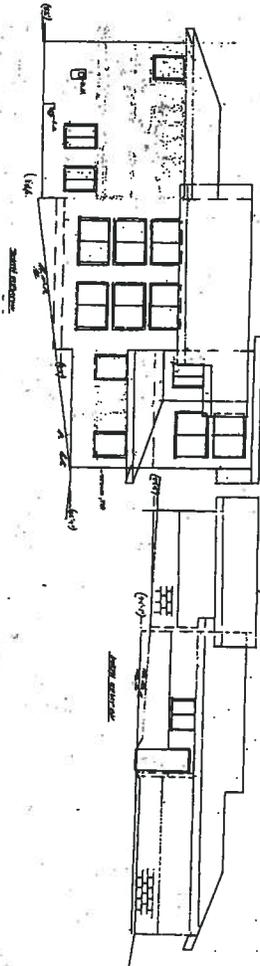
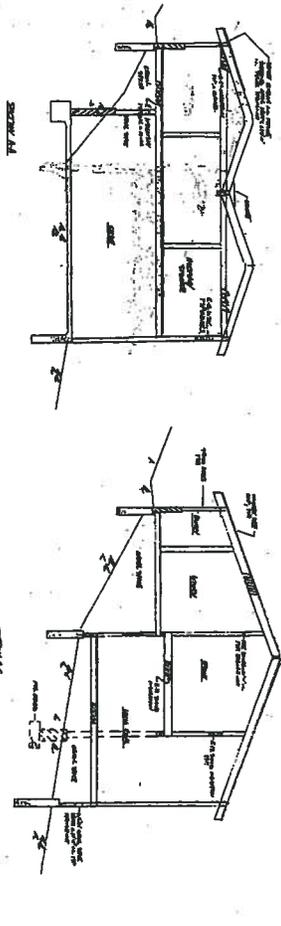
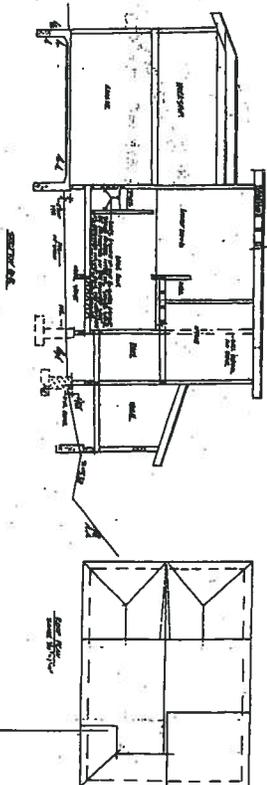
2-2 project description Pilgrim Creek Residence Concept design for #1 & 4 San Diego, California 92104	sheet description Architectural drawings for the design of the exterior of the house showing the roof, chimney, and other exterior features. Scale: 1/8" = 1'-0"	Skyline Engineering 1288 S. River St. San Diego, California 92104 Phone: (619) 591-2800



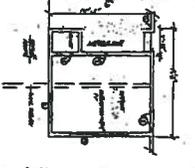
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- 1. FRONT PORCH
- 2. LIVING ROOM
- 3. DINING ROOM
- 4. KITCHEN
- 5. BATH
- 6. BED ROOM
- 7. HALL
- 8. STAIRS
- 9. CLOSET
- 10. TERRACE



MEAS. CHECKED FOR APPROX. 12.5.1974 BY ARCHITECT
LOT 47

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LOT 47

MEAS. CHECKED FOR APPROX. 12.5.1974 BY ARCHITECT
LOT 47

MEAS. CHECKED FOR APPROX. 12.5.1974 BY ARCHITECT
LOT 47

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PLANNING COMMISSION
RESOLUTION NO. 2010-P02

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DENYING A TENTATIVE MAP, DEVELOPMENT PLAN AND TWO CONDITIONAL USE PERMITS ON CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: T-5-03, D-15-03, C-26-03, and C-27-03
APPLICANT: David Zernik
LOCATION: West of the terminus of Concho Circle and east of Foss Lake Habitat Area

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Tentative Map, Development Plan and two Conditional Use Permits under the provisions of Articles 10, 30, 41 & 43 of the Zoning Ordinance of the City of Oceanside to permit the following:

subdivision of a 2.13-acre site into seven single-family residential lots, with lot 7 being created as a flag lot, and creating a density of 5.03 dwelling units per acre, where the base density is 3.6 and the maximum density is 5.9;

on certain real property described in the project description. (please add what CUPs are for here as well).

WHEREAS, the Planning Commission, after giving the required notice, did on the 11th day of January, 2010 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; the project is exempt from CEQA review at this time because staff is recommending that the project be rejected or disapproved by the Planning Commission. CEQA Guidelines Section 15061(b)(4) and Section 15270 (b);

WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS HEREBY GIVEN that the 90-day period to protest the imposition of any fees, dedications, reservations and other exaction

1 described in this resolution begins on the effective date of this resolution and any such protest must
2 be in manner that complies with Section 66020;

3 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
4 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

5 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
6 the following facts:

7 FINDINGS:

8 For Denial of Tentative Map T-5-03:

- 9 1. The project proposes a seven-lot subdivision, subjecting the project to the requirements
10 of the Subdivision Map Act (Govt. C. §§ 66410-66499.58) as well as Article IV of the
11 Oceanside Subdivision Ordinance.
- 12 2. Government Code § 66473.5 provides in pertinent part that, no local agency shall
13 approve a tentative map unless the body finds the subdivision is consistent with the
14 General Plan. Likewise, Section 406 D of the Oceanside Subdivision Ordinance states
15 that a tentative map may be denied by the Planning Commission on any of the grounds
16 provided by the Subdivision Map Act or the Subdivision Ordinance, including that the
17 proposed map is inconsistent with the General Plan, or other applicable provisions of the
18 City Code and Zoning Ordinance.
- 19 3. Staff has determined, and the Planning Commission hereby finds, that the project as
20 proposed is inconsistent with the General Plan and Subdivision Ordinance, including but
21 not limited to the proposed project's noncompliance with General Plan Land Use
22 Element objectives 1.24 and 1.25. Specifically, Land Use Element 1.24 regarding
23 topographical resources states that the objective is to ensure that development preserves
24 and enhances the unique beauty and character of the City's natural topographic features
25 and does not contribute to slope instability, flooding, or erosion hazards to life and
26 property.
- 27 4. The project is inconsistent with various provisions of the General Plan, including the
28 above noted sections, because the subdivision submitted for review and approval has
29 development proposed on steep slopes that qualify as undevelopable and on slopes that

1 are also steep and considered to be natural topographic features that, while potentially
2 buildable, should be preserved and integrated into the overall subdivision.

3 5. Additionally, the site is not physically suitable for subdivision and construction of 7
4 detached residential units that are stepped into the steeply sloping hillside of the site.
5 The proposal likewise violates the purpose of Section 3039 Hillside Development
6 Provisions of the Zoning Ordinance, because the overall site development proposal
7 includes lands that are undevelopable, and fails to maintain an environmental
8 equilibrium consistent with existing vegetation, soils, geology, slopes and drainage
9 patterns, and fails to preserve the natural appearance of hillsides by failing to relate to
10 the slope of the land, and failing to preserve the natural appearance of hillsides with a
11 minimal amount of grading. Specifically, the project proposes to place seven detached,
12 single-family homes of at least 2000 square feet, and multi-leveled, stepped into the
13 hillside. The overall effect of seven massive homes stuck to the side of a steep hill fails
14 to make even a token attempt at preservation of the natural appearance of the hillside.

15 6. Additionally, the project, as proposed, is incompatible with the existing and potential
16 development on adjoining properties or in the surrounding neighborhood, because the
17 proposal to develop stepped houses into a steeply sloping hillside does not occur
18 anywhere in the area and is out of character with the surrounding neighborhoods which
19 consist of small single and two story homes on flat level pads.

20 For Denial of Development Plan D-15-03:

21 1. The proposed development plan is required by Article 43 of the Oceanside Zoning
22 Ordinance. Section 4306 provides that the Planning Commission may approve a
23 Development Plan if the project meets five criteria, including the following: 1) that the
24 site plan and physical design of the project as proposed is consistent with the purposes of
25 the Zoning Ordinance, 2) that the Development Plan as proposed conforms to the
26 General Plan of the City, 3) that the area covered by the Development Plan can be
27 adequately, reasonably and conveniently served by existing and planned public services,
28 utilities and public facilities, 4) that the project as proposed is compatible with existing
29 and potential development on adjoining properties or in the surrounding neighborhood,
5) that the site plan and physical design of the project is consistent with the policies

1 contained within Section 1.24 and 1.25 of the Land Use Element of the General Plan, the
2 Development guidelines for Hillsides, and Section 3039 of the Zoning Ordinance.

- 3 2. For all of the reasons enumerated in the Findings for Tentative Map T-05-03, the
4 Planning Commission hereby finds that the Development Plan is not consistent with the
5 General Plan and Subdivision Ordinance, including General Plan Objectives 1.24 and
6 1.25; as well as, Section 3039 Hillside Development Provisions of the Zoning
7 Ordinance, because the overall site development proposal includes lands that are
8 undevelopable, is incompatible with the existing and potential development on adjoining
9 properties or in the surrounding neighborhood, in that the proposal to develop stepped
10 houses into a steeply sloping hillside does not occur anywhere in the area and is out of
11 character with the surrounding neighborhoods development pattern of small single and
12 two story homes on flat level pads.

13 For Denial of Conditional Use Permit (C-26-03) to exceed base density:

- 14 1. The proposed development is zoned RS with a corresponding Land Use designation of
15 Residential Single-Family, and has a density range of 3.6-5.9 dwelling units per acre.
16 The project density for the seven-lot subdivision is approximately 5.03 dwelling units
17 per acre which exceeds the base density of 3.6 dwelling units per acre. The site is not
18 physically suitable for 5.03 dwelling units per gross acre based upon the fact that the
19 entire site is considered a Natural Topographic Feature with approximately 37 percent of
20 the site containing undevelopable lands that can not support the proposed density of
21 development.
22 2. The project does not proposes an excellence in design features in accordance with Section
23 2.32 of the General Plan, because the designs proposed are stepped multi-level homes that
24 provide no superior design features.

24 //////////////

25 //////////////

26 //////////////

27 //////////////

28 //////////////

29 //////////////

1 For Denial of Conditional Use Permit (C-27-03) to create a flag lot:

2 3. The proposed design of the seven-lot subdivision and request to access portions of the
3 site via a flag lot is in conflict with the zoning ordinance because the proposed
4 development of lot 7 is solely situated upon lands that have been identified as
5 undevelopable.

6
7 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
8 deny Tentative Map (T-5-03), Development Plan (D-15-03) and Conditional Use Permits (C-26-
9 03 and C-27-03).

10 PASSED and ADOPTED Resolution No. 2010-P02 on January 11, 2010 by the
11 following vote, to wit:

12 AYES:

13 NAYS:

14 ABSENT:

15 ABSTAIN:

16
17 _____
Claudia Troisi, Chairperson
Oceanside Planning Commission

18 ATTEST:

19
20 _____
Jerry Hittleman, Secretary

21 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
22 this is a true and correct copy of Resolution No. 2010-P02.

23
24 Dated: January 11, 2010

1 PLANNING COMMISSION
2 RESOLUTION NO. 72-P19

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA, RECOMMENDING
5 THE APPROVAL OF TENTATIVE TRACT MAP OF MISSION
6 VALLEY ESTATES UNIT NO. 7 AND SPECIFYING THE
7 NATURE AND CHARACTER OF THE IMPROVEMENTS TO BE
8 MADE AS PROVIDED IN ORDINANCE NO. 946 AND
9 AMENDMENT THERETO, AND RECOMMENDING ITS ADOPTION
10 TO THE CITY COUNCIL.

11 TENTATIVE MAP - MISSION VALLEY ESTATES UNIT NO. 7
12 Applicant: Hill Top Developers
13 Location: Off North River Rd. adjoining Mission Valley #6

14 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA,
15 DOES HEREBY RESOLVE AS FOLLOWS:

16 WHEREAS, the Planning Commission did on the 22nd day of
17 February, 1972, consider Tentative Map of Mission Valley Estates
18 Unit No. 7 being a subdivision of property described as per attached
19 Exhibit "A" incorporated herein by reference thereto.

20 WHEREAS, the Planning Commission has determined that the
21 tentative map complies with all the provisions of the Subdivision
22 and Zoning Ordinances of the City of Oceanside.

23 NOW, THEREFORE, BE IT RESOLVED that the Planning
24 Commission does hereby recommend approval of the tentative map of
25 Mission Valley Estates Unit No. 7 subject to the following con-
26 ditions:

27 SECTION I - ENGINEERING DEPARTMENT:

- 28 1. The subdivider shall comply with all the conditions and
29 provisions, as specified in Planning Commission Resolution
30 70-P70, Sections I through VI.
31 2. The force main must extend southerly on Roja Drive to
32 Stephanie Place and the sewer pump station shall be placed
in a 20' by 20' sewer easement on Lot 35.

33 SECTION II - PLANNING DEPARTMENT:

- 34 1. All lots of this proposed tentative map shall comply with
35 the Zoning Ordinance as to minimum lot area and lot width
36 with the exception of those lots called out under Special
37 Conditions and Exceptions of this resolution.
38 2. Approval of this tentative map shall be for 58 lots.

39 SECTION III - WATER & SEWER DEPARTMENT:

- 40 1. Construction details of all water and sewer facilities shall
41 be in accordance with standard plans of the City of Oceanside.
42 2. The developer shall be required to pay any necessary sewer or
43 water inclusion fees.
44 3. City standard fire hydrants and blow-off structures shall
45 be constructed at those locations as indicated by the Fire
46 Department.

ENGINEER'S DESCRIPTION

Mission Valley Estates No. 7

That portion of the Southwest quarter of the Southeast quarter, together with a portion of Lot 6, all in Section 33, Township 10 South, Range 4 West, San Bernardino Meridian, in the City of Oceanside, County of San Diego, State of California, more particularly described as follows:

Commencing at the South quarter corner of said Section 33, thence along the Westerly line of said Southwest quarter of the Southeast quarter, North $0^{\circ} 14' 52''$ West, 1441.52 feet to the TRUE POINT OF BEGINNING; thence continuing along said Westerly line and the Westerly line of said Lot 6, North $0^{\circ} 14' 52''$ West, 257.18 feet to the Southeasterly line of Foss Lake per Superior Court Decree No. 49262 as shown on Record of Survey Map No. 3123 filed in the Office of the Recorder of said County; thence along the Southeasterly line thereof North $66^{\circ} 29' 25''$ East, 522.21 feet to an angle point therein; thence North $29^{\circ} 54' 55''$ East, 860.36 feet to the East-West centerline of said Section 33; thence along said line South $88^{\circ} 08' 21''$ East, 413.71 feet to the Northeast corner of said Lot 6; thence along the Easterly line thereof South $0^{\circ} 10' 36''$ East, 371.34 feet to the Northeast corner of Mesa Margarita Unit No. 5 according to map thereof No. 6230, filed in the Office of the Recorder of said County; thence along the boundary of said Map No. 6230 the following courses and distances: South $89^{\circ} 49' 24''$ West, 175.00 feet; thence South $44^{\circ} 46' 56''$ West, 120.20 feet; thence South $0^{\circ} 10' 36''$ East, 896.20 feet; thence South $51^{\circ} 02' 12''$ West, 146.69 feet; thence South $63^{\circ} 39' 05''$ West, 60.14 feet; thence South $67^{\circ} 38' 22''$ West, 333.75 feet; to the Easterly terminus of that certain course in the boundary of Mission Valley Unit No. 6, according to Map thereof No. 7103, filed in the Office of the Recorder of said County, noted as North $67^{\circ} 39' 05''$ East, 71.46 feet; thence along said course, South $67^{\circ} 39' 05''$ East, 71.46 feet, thence along the boundary of said Map No. 7103 the following courses and distances: North $0^{\circ} 14' 52''$ West, 209.69 feet; thence North $09^{\circ} 09' 15''$ East, 129.96 feet; thence North $05^{\circ} 15' 11''$ East, 266.22 feet; thence North $65^{\circ} 53' 37''$ West, 162.20 feet; thence South $66^{\circ} 45' 00''$ West, 135.80 feet; thence South $57^{\circ} 27' 53''$ East, 347.78 feet; to the TRUE POINT OF BEGINNING.

EXHIBIT "A"



File Number: T-5-03, D-15-03, C-26-03, C-27-03

Applicant: David Zernik

Description:

TENTATIVE MAP (T-5-03), DEVELOPMENT PLAN (D-15-03, and CONDITIONAL USE PERMITS (C-26-03 & C-27-03) for a 7-lot residential subdivision on a 2.13-acre site located west of the terminus of Concho Circle and east of Foss Lake Habitat Area. The project site is zoned Single-Family Residential (RS) and is situated within the North Valley Neighborhood. – **PILGRIM CREEK**

Environmental Determination:

Pursuant to the California Environmental Quality Act of 1970 and State Guidelines thereto; the City of Oceanside acting as Lead Agency intends to disapprove the project and in accordance with CEQA Section 15270 "Projects Which are Disapproved" (b) allows for an initial screening of projects on the merits for quick disapprovals prior to initiation of the CEQA process where the agency can determine that the project cannot be approved. Should staff's recommendation to deny be overturned, the project would need to be returned to staff in order to conduct the required CEQA review prior to any discretionary action occurring.

City of Oceanside, Planning Division
300 N. Coast Highway
Oceanside, CA 92054 (760) 435-3520

RECEIVED

OCT 28 2004
 HEARING
 Planning Department

Please Print or Type All Information

PART I - APPLICANT INFORMATION

1. APPLICANT DAVID IAN ZERNK	2. STATUS GRANT	3. ADDRESS 1220 S. DITMAR ST	4. PHONE/FAX 721-3520	MASTER/SP.PLAN	
				ZONE CH.	
				TENT. MAP	T-5-03
				PAR. MAP	
5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) SEE ABOVE				DEV. PL.	D-15-03
				C.U.P.	C-26+27-03
6. ADDRESS	7. PHONE/FAX			VARIANCE	
				COASTAL	

PART II - PROPERTY DESCRIPTION

8. LOCATION 4848 CONCHO CIRCLE	9. SIZE
10. GENERAL PLAN SFD-R	11. ZONING RS
12. LAND USE RESIDENTIAL	13. ASSESSOR'S PARCEL NUMBER 122-190280

PART III - PROJECT DESCRIPTION Rev-2/28/06, 1/17/07

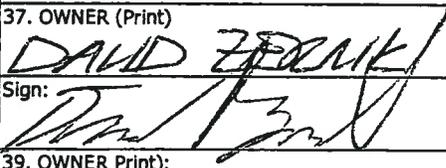
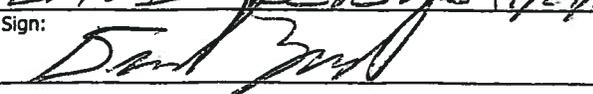
14. GENERAL PROJECT DESCRIPTION PARCEL MAP 1 LOT INTO 7 (1.9 ACRES) (2.13 ACRES)				
15. PROPOSED GENERAL PLAN	16. PROPOSED ZONING RS	17. PROPOSED LAND USE RESIDENTIAL	18. NO. UNITS 7	19. DENSITY VARIES
20. BUILDING SIZE VARIES	21. PARKING SPACES VARIES	22. % LANDSCAPE VARIES	23. % LOT COVERAGE VARIES	

PART IV - ATTACHMENTS

ALL APPLICATIONS **DEV. PLANS, C.U.P.s & TENT. MAPS**

24. DESCRIPTION/JUSTIFICATION	25. LEGAL DESCRIPTION	30. FLOOR PLANS AND ELEVATIONS
26. 300-FT. RADIUS MAP	27. PROPERTY OWNERS' LIST	31. CONSTRUCTION SCHEDULE
28. ENVIRONMENTAL ASSESSMENT	29. PLOT PLANS	32. OTHER

PART V - SIGNATURES

THE APPLICANT OR HIS/HER REPRESENTATIVE MUST BE PRESENT AT THE HEARING. FAILURE TO BE PRESENT MAY RESULT IN DENIAL OF THE APPLICATION.		SIGNATURES OF ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY).	
33. APPLICANT OR REPRESENTATIVE (Print): DAVID ZERNK	34. DATE 4/25/03	37. OWNER (Print) DAVID ZERNK	38. DATE 4/25/03
I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.		Sign: 	
35. APPLICANT (Print): DAVID ZERNK	36. DATE 4/25/03	39. OWNER (Print):	40. DATE
Sign: 		Sign:	

SKYLINE ENGINEERING
1220 S. DITMAR ST.
OCEANSIDE, CALIFORNIA 92054
760-721-3520
JOB #11-02
1/15/2007

RE: 7 LOT SUBDIVISION - PILGRIM CREEK
DESCRIPTION AND JUSTIFICATION

SITE ADDRESS
4848 CONCHO CIRCLE
OCEANSIDE, CALIFORNIA

THE CITY OF OCEANSIDE, PLANNING DEPARTMENT

THE DEVELOPMENT WILL CONSIST OF 7 HOMES. LOT A WILL BE AN OPEN SPACE AREA OWNED AND MAINTAINED BY THE HOME OWNERS ASSOCIATION. THERE WILL BE A MEDITERRANEAN THEME TO THIS HILLSIDE DEVELOPMENT. RED CONCRETE TILE ROOFS WILL BE USED THROUGHOUT. A VARIETY OF UNIQUE AND BOLD STYLE HOMES WILL BE BUILT. DUE TO THE STEEP TOPOGRAPHY THE STYLES WILL BE RELATED TO THOSE IN THE HOLLYWOOD HILLS, LAGUNA BEACH AND THE LOS FELOS AREA OF LOS ANGELES. THE CONCEPTUAL DESIGNS INCLUDE SPLIT LEVEL AND DAYLIGHT BASEMENT TYPE GARAGES THAT ARE DUG INTO THE HILLSIDES. SEE THE ENCLOSED CONCEPT PLANS.

EACH HOUSE WILL BE ABOUT 2000 SQUARE FEET. THESE SIZES ARE COMPATIBLE WITH THE NEIGHBORHOOD. EACH HOUSE WILL EXCERPTUATE THE VIEW OF THE ADJACENT HILLSIDE AND CREEK, ATTEMPTS WILL BE MADE TO AVOID OBSTRUCTING ANYONES VIEW. THE NATURAL HILLSIDE WILL COMPLEMENT THE CHOSEN THEME. PAD GRADING WILL BE MINIMIZED, SMALL FLAT AREAS WILL BE CREATED PRIMARILY FOR REQUIRED YARDS. A SERIES OF SHORT RETAINING WALLS AND SHORT CUT AND FILL SLOPES WILL GENTLY TERRACE THE SLOPE. THE NATURAL APPEARANCE OF THE SLOPE WILL BE MAINTAINED. MEDITERRANEAN INFLUENCES WILL ALSO BE NOTICED WITH THE USE OF RED CONCRETE ROOF TILE, STUCCO WALLS, HILLSIDE HOMES, EXPANSIVE VIEW DECKS, AND EXPOSED HEAVY TIMBER CONSTRUCTION. SEE THE SPECIAL EAVE AND SOFFIT DETAILS.

TYPICALLY GARAGES WILL EXPAND WELL BEYOND THE MINIMUM REQUIREMENTS. THE FLOOR LAYOUTS WILL VARY, TYPICALLY A MINIMUM OF 3 BEDROOMS AND 2 BATHS WILL BE PROVIDED. THE LANDSCAPING WILL BE LAVISH WITH A FOCUS ON FRUIT PRODUCING TREES. I'M BORED WITH LANDSCAPED AREAS THAT ARE ONLY TO BE OBSERVED. A LANDSCAPED AREA MUST BE WALKED UPON, ENJOYED AND SUCH THAT SUSTENANCE CAN BE GAINED FROM THEM. SEE THE ENCLOSED LANDSCAPE PLANS. WHERE POSSIBLE IRRIGATION SYSTEMS WILL BE PROVIDED. SEVERAL RETAINING WALLS WILL BE PLANTED KEYSTONE WALLS. WALLS WILL ALSO BE TERRACED, TWO SHORTER WALLS WILL BE BUILT INSTEAD OF ONE LARGER WALL. LANDSCAPE PLANS WILL ALSO INCORPORATE THE CITY OF OCEANSIDES THEME OF PALM TREES AND GIANT BIRDS OF PARADISE.

THE REQUESTED ENTITLEMENTS INCLUDE THE FOLLOWING. AN ENCLOSED SUB-DIVISION MAP WHICH SPLITS 1 LOT INTO 7 LOTS PLUS AN OPEN SPACE LOT. A DEVELOPMENT PLAN AS SHOWN WITH THE ENCLOSED SUBMITTAL. A CONDITIONAL USE PERMIT FOR THE PAN HANDLE ACCESS SHOWN ON PROPOSED LOT #7. NO OTHER ENTITLEMENTS ARE REQUESTED AT THIS TIME.

CONDITIONAL USE PERMIT

THE PROPOSED LOCATION OF THE PANHANDLE ACCESS IS IN ACCORDANCE WITH THE OBJECTIVES OF THE ZONING ORDINANCE AND THE PURPOSES OF THE DISTRICT IN WHICH THE SITE IS LOCATED.

THE PROPOSED LOCATION OF THE CONDITIONAL USE AND THE PROPOSED CONDITIONS UNDER WHICH IT WOULD BE OPERATED OR MAINTAINED WILL BE CONSISTANT WITH THE GENERAL PLAN; WILL NOT BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFTY OR WELFARE OF PERSONS RESIDING OR WORKING IN OR ADJACENT TO THE NEIGHBORHOOD OF SUCH USE; AND WILL NOT BE DETRIMENTAL TO PROPERTIES OR IMPROVEMENTS IN THE VICINITY OR TO THE GENERAL WELFARE OF THE CITY.

THE PROPOSED CONDITIONAL USE PERMIT WILL COMPLY WITH THE PROVISIONS OF THIS ORDINANCE, INCLUDING ANY SPECIFIC CONDITIONS REQUIRED FOR THE PROPOSED CONDITIONAL USE IN THE DISTRICT IN WHICH IT WOULD BE LOCATED.

SEE THE ENCLOSED MAP. THE MAP SHOWS A PANHANDLE ACCESS THAT CONFORMS TO SECTION 1050 Y OF THE ZONING ORDINANCE.

THE PROPOSED DEVELOPMENT CONFORMS TO THE HILLSIDE DEVELOPMENT ORDINANCE OF THE CITY. EACH HOUSE IS DESIGNED CUSTOM TO "FIT INTO" THE EXISTING NATURAL HILLSIDE. THE VISUAL BULK OF THE HOUSES HAS BEEN REDUCED, AS EACH HIGHER LEVEL IS STEPPED BACK INTO THE HILLSIDE. THE NATURAL HILLSIDE WILL BE MAINTAINED. NO LARGE PAD AREAS WILL BE CREATED OR WILL TALL RETAINING WALLS BE BUILT.

PLEASE DO NOT HESITATE TO CALL IF YOU HAVE QUESTIONS OR CONCERNS REGARDING THIS PROJECT.

SINCERELY,

David Zernik

DAVID ZERNIK

Description and Justification
Conceptual house sizes

Lot #	Garage Area	Parking Spaces	Approx. Livable square footage	# bed Rooms	# Baths	Deck/balcony	Storage/Workshop/ Basement
Lot #1	651sf	3 car	1500 sf	4	4	100sf	567sf
				Plus office			
Lot #3&4	400sf	2 car	1450 sf	2	3	48sf	
				Plus office & play room			
Lot #2&5	880sf	3 car	1410 sf	2	2 ½	35sf	
				Plus office & play room			
Lot #6	580sf	3 car	1265 sf	3	2 ½	32sf	700 sf
Lot #7	666sf	3 car	1708 sf	2	3 ½	0sf	820 sf
				Plus office & play room			

DESCRIPTION

RECEIVED
OCT 01 2003

PARCEL 1:

Planning Department
THAT PORTION OF LOT 6 AND THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 10 SOUTH; RANGE 4 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF OCEANSIDE, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 33; THENCE NORTH 04° 14' 52" WEST, ALONG THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 33, 243.33 FEET TO THE NORTHWEST CORNER OF THAT LAND DESCRIBED IN DEED TO THE OCEANSIDE UNION SCHOOL DISTRICT RECORDED 2/19/71 AS FILE NO. 31900 OF OFFICIAL RECORDS; THENCE CONTINUING NORTH 0° 14' 52" WEST ALONG THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 33 AND ALONG THE WESTERLY LINE OF SAID LOT 6, 1455.37 FEET TO THE SOUTHEASTERLY LINE OF FOSS LAKE PER SUPERIOR COURT DECREE NO. 49262 AS SHOWN ON RECORD OF SURVEY MAP NO. 3123 FILED IN THE OFFICE OF THE RECORDER OF SAID COUNTY SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING; THENCE ALONG THE SOUTHEASTERLY LINE THEREOF NORTH 66° 29' 25" EAST 464.21 FEET TO AN ANGLE POINT IN THE BOUNDARY OF MISSION VALLEY ESTATES UNIT #7, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 7316 AS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY ON 4/25/72 AS FILE NO. 156501 OF OFFICIAL RECORDS; THENCE ALONG THE WESTERLY BOUNDARY OF SAID MISSION VALLEY ESTATES UNIT #7, SOUTH 01° 52' 38" WEST 201.81 FEET TO AN ANGLE POINT IN THE BOUNDARY OF MISSION VALLEY ESTATES UNIT #6, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 7103, AS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY ON 10/29/71 AS FILE NO. 250640 OF OFFICIAL RECORDS; THENCE ALONG THE BOUNDARY OF SAID MISSION VALLEY ESTATES UNIT #6, SOUTH 66° 45' 00", 135.80 FEET; THENCE SOUTH 57° 27' 53" WEST 347.78 FEET TO A POINT ON THE NORTH AND SOUTH CENTER LINE OF SAID SECTION 33; THENCE LEAVING THE BOUNDARY OF SAID MISSION VALLEY ESTATES UNIT #6, ALONG THE NORTH AND SOUTH CENTER LINE NORTH 0° 14' 52" WEST TO THE TRUE POINT OF BEGINNING.

EXCEPTING FROM SAID LOT 6 ANY PORTION THEREOF, UNDERLYING THE WATERS OF THAT CERTAIN POND OR LAKE AS SURVEYED AND SHOWN ON THE OFFICIAL PLAT THEREOF.

PARCEL 2:

AN EASEMENT AND RIGHT OF WAY FOR INGRESS AND EGRESS, ROAD AND UTILITY PURPOSES, INCLUDING BUT NOT LIMITED TO ELECTRIC POWER, TELEPHONE, GAS, WATER, SEWER AND CABLE TELEVISION LINES AND APPURTENANCES THERETO, OVER, UNDER, ALONG AND ACROSS THAT PORTION DESIGNATED AND DELINEATED AS "RESERVED FOR PRIVATE ROAD AND PUBLIC UTILITY EASEMENT" ON SUBDIVISION MAP OF MISSION VALLEY ESTATES #7, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 7316, AS RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY ON 4/25/72 AS FILE NO. 156501 OF OFFICIAL RECORDS.