



HISTORIC LANDMARKS BOARD AGENDA

CITY OF SAUSALITO

COMMUNITY DEVELOPMENT DEPARTMENT / 420 LITHO STREET / SAUSALITO, CA 94965 / (415) 289-4128

MEETING DATE: Wednesday, March 10, 2010
MEETING TIME: 5:30 P.M.
LOCATION: Conference Room, 420 Litho Street, Sausalito

CALL TO ORDER / ROLL CALL

Chair Thomas Theodores Vicki Nichols Morgan Pierce Denina Fredrickson
Brad Paul, Secretary

APPROVAL OF AGENDA

PUBLIC COMMENTS ON ITEMS NOT ON THIS AGENDA

OLD BUSINESS- None

NEW BUSINESS-

- 1. GENE HILLER (AKA FORMER CITY HALL) PAINT COLORS/729 BRIDGEWAY (APN 065-071-21)**
Project: Study Session review of paint colors for the Gene Hiller (former City Hall) Building.
- 2. HOLDERMAN RENNOVATIONS/317 FOURTH STREET (APN 065-233-03)**
Project: 50-Year review for renovations to a single family dwelling.

APPROVAL OF MINUTES –January 25, 2010, February 10, 2010, and February 17, 2010

COMMUNICATIONS

- 1. Staff Updates**

ADJOURNMENT TO A JOINT PLANNING COMMISSION AND HISTORIC LANDMARKS BOARD MEETING ON MARCH 10, 2010 AT 6:30 PM IN THE CITY COUNCIL CHAMBERS

- 3. PLAZA VINA DEL MAR ACCESSIBILITY PROJECT/ (DR 10-029)** Staff: Burns
City of Sausalito (Applicant/Owner)

DESCRIPTION: Design Review Permit to allow accessibility improvements at Vina Del Mar park located at the intersections of Bridgeway, El Portal, and Tracy Way (APN 065-074-01).

RECOMMENDATION: Approve, subject to conditions

ADJOURNMENT OF HISTORIC LANDMARKS BOARD MEETING TO A REGULARLY SCHEDULED MEETING ON MARCH 24, 2010 AT 5:30 PM IN THE CONFERENCE ROOM

APPEALS: Any decision of the Historic Landmarks Board may be appealed by filing an appeal form and the required appeal fee with the Community Development Department within ten (10) calendar days of the date of the decision. If you challenge a decision of the Historic Landmarks Board in court you may be limited to raising only those issues you or someone else raised at the hearing or on appeal to the Planning Commission and City Council.

SPECIAL NEEDS: In compliance with the Americans with Disabilities Act (29 CFR 35.102-35.104 ADA Title 11), if you need special assistance to participate in this meeting, please contact the Community Development Department at 289-

4128. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

AGENDAS are available on the Friday prior to the Historic Landmarks Board meeting at the City Hall entrance at 420 Litho Street.



City of Sausalito
Community Development Department
420 Litho Street
Sausalito, CA 94965
(415) 289-4128
www.ci.sausalito.ca.us

Jeremy Graves, **Community Development Director**

Mary Wagner, **City Attorney**

Heidi Burns, **Associate Planner**

Lilly Schinsing, **Associate Planner**

Alison Thornberry, **Assistant Planner**

Alberto Viana, **Administrative Aide I**



**CITY OF SAUSALITO
PLANNING DIVISION
MEMORANDUM**

Date: March 10, 2010
To: Historic Landmarks Board (HLB)
From: Heidi Burns, Associate Planner *HB*
Subject: **729 Bridgeway/ Gene Hiller (AKA Former City Hall)
(APN 065-071-21)**

The City's Department of Public Works has received City Council authorization to repaint the Gene Hiller Building, formally known as the original City Hall Building, located at 729 Bridgeway, subject to the Historic Landmarks Board review and approval of the proposed color scheme. The Department of Public Works is proposing to repaint the faded building with the current color scheme. Paint samples and pictures of the building will be provided at the meeting.

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**CITY OF SAUSALITO
PLANNING DIVISION
MEMORANDUM**

Date: March 10, 2010
To: Historic Landmarks Board (HLB)
From: Heidi Burns, Associate Planner **HB**
Subject: **HLB 50-year Review of Zoning Permit for 317 Fourth Street
(APN 065-233-03)**

The applicant and property owner, Holly Holderman, is requesting a 50-year review:

- Window Replacement and enlargements
 - North, West, South, East
- Remove plaster decorative feature at top of façade;
- New Stucco to replace existing wood siding as shown on the plans;

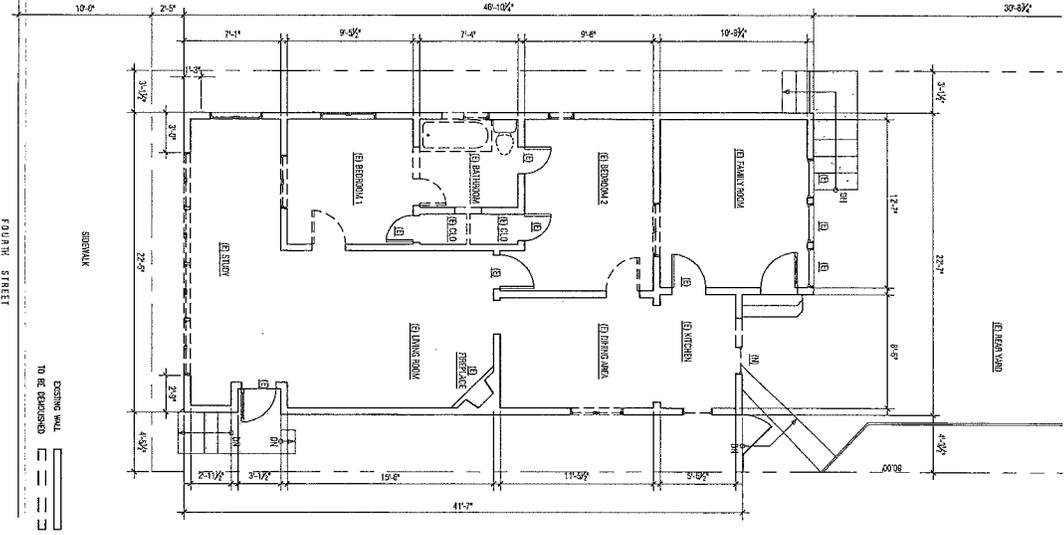
Board members Nichols and Pierce are preparing a 50-year review memo. Due to a conflict of interest regarding three Board members living within 500-feet of the project site, straws will need to be drawn as to which Board member will review the project.

Attachment

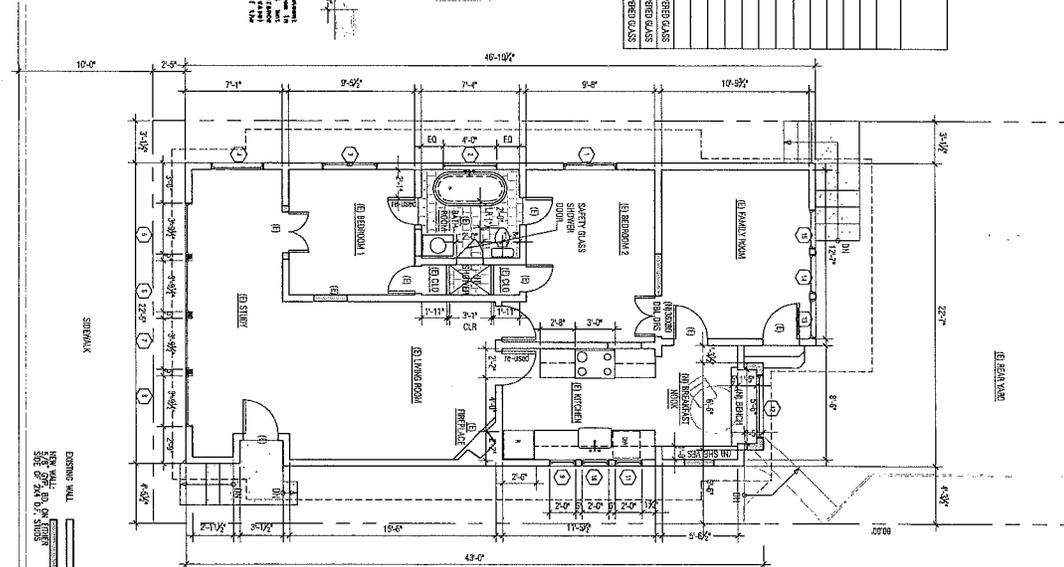
1. Proposed Plans
2. Permitting History and Picture for the Subject Site (from the City's archive files)

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EXISTING FIRST FLOOR PLAN



NEW FIRST FLOOR PLAN



NO.	WIDTH	SIZE	TYPE	MATERIAL	FINISH
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2	48	48	DR. HUNG	WOOD	WOOD
3	48	42	CASSETT	WOOD	WOOD
4	48	42	DR. HUNG	WOOD	WOOD
5	45.5	42	DR. HUNG	WOOD	WOOD
6	45.5	42	DR. HUNG	WOOD	WOOD
7	48	42	DR. HUNG	WOOD	WOOD
8	48	42	DR. HUNG	WOOD	WOOD
9	48	42	DR. HUNG	WOOD	WOOD
10	24	36	DR. HUNG	WOOD	WOOD
11	24	36	DR. HUNG	WOOD	WOOD
12	56	54	SCISSOR	WOOD	WOOD
13	48	42	DR. HUNG	WOOD	WOOD
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HOLLY HOLDERMAN

 LICENSED PROFESSIONAL ENGINEER

 STATE OF CALIFORNIA

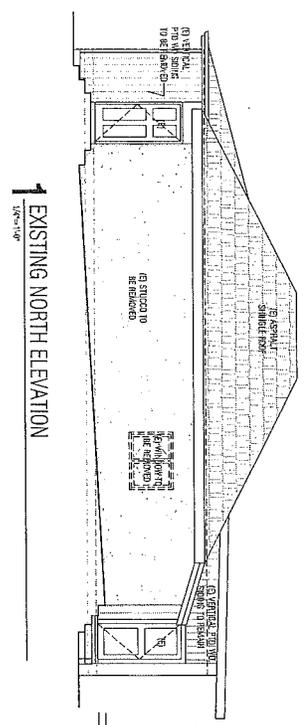
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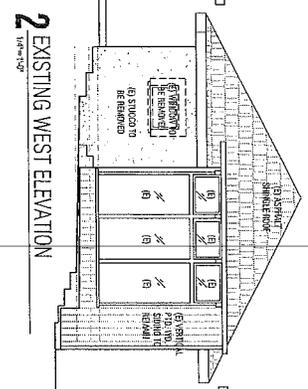
317 FOURTH STREET
SAUSALITO, CALIFORNIA

ITEM NO. 2 PAGE 2

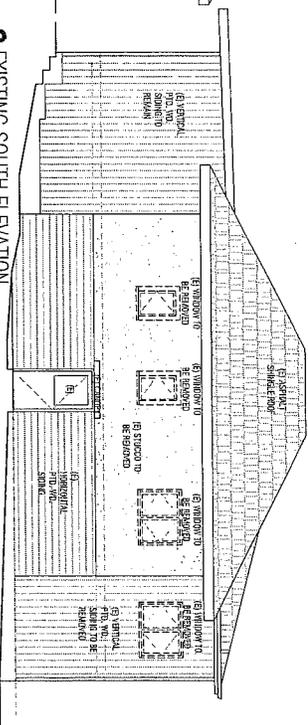
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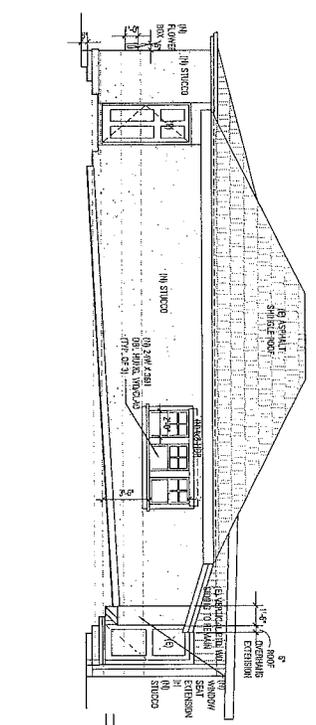
1 EXISTING NORTH ELEVATION
1/4"=1'-0"



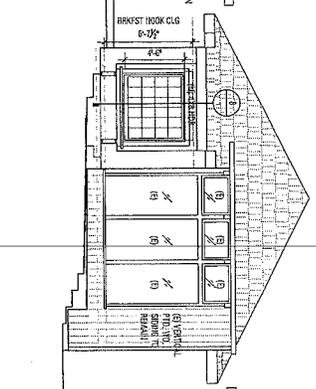
2 EXISTING WEST ELEVATION
1/4"=1'-0"



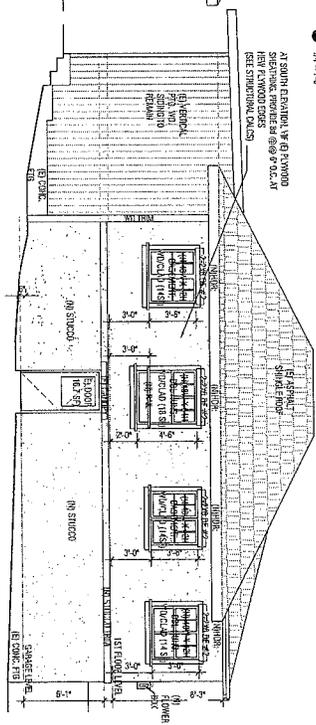
3 EXISTING SOUTH ELEVATION
1/4"=1'-0"



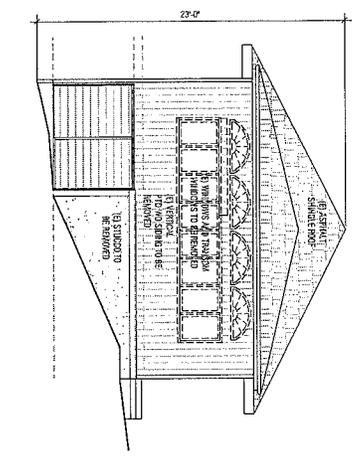
4 NEW NORTH ELEVATION
1/4"=1'-0"



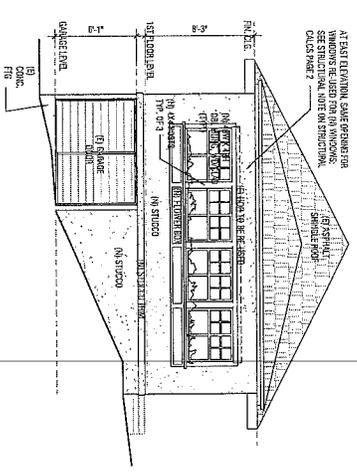
5 NEW WEST ELEVATION
1/4"=1'-0"



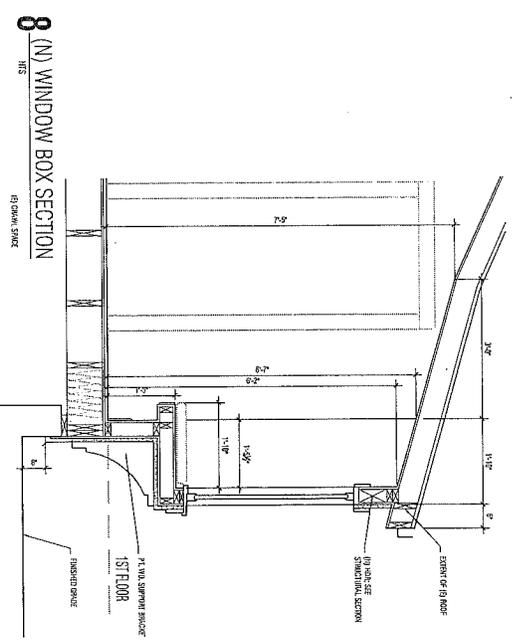
6 NEW SOUTH ELEVATION
1/4"=1'-0"



6 EXISTING EAST ELEVATION
1/4"=1'-0"



7 NEW EAST ELEVATION
1/4"=1'-0"



8 (N) WINDOW BOX SECTION
1/4"=1'-0"

EXISTING AND NEW EXTERIOR ELEVATIONS

A3.1

1. BIDDING SHEET **20.6/8**

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**317 Fourth Street
APN 065-233-03
Permitting History**

County Assessor's Record

Constructed in 1911

1 unit

2,400 square feet of land area

994 Square Feet of Floor Area

333 Square Feet of Garage Space

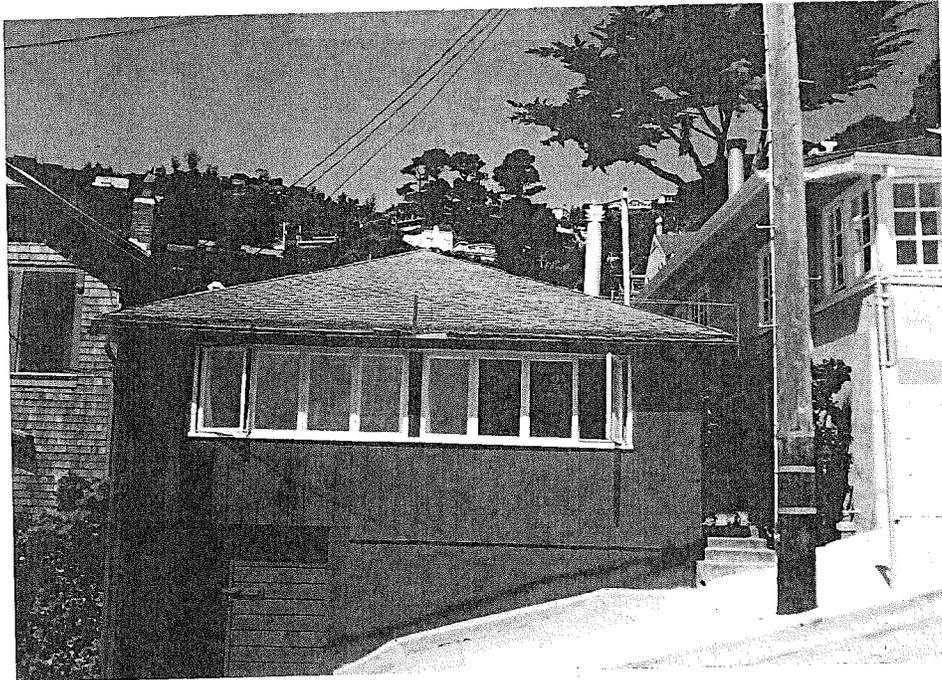
Building Permit Record

P07-822	Replace 4" sewer lateral from House to City Main	11-2007
B07-354	Replace 40 Gallon Water Heater with a 20 Gallon Electric Heater	5-2007
AE4431	Re-Slope Roof and add windows	5-1994
1467	New room and new foundation under south side of house	3-1955
1150	Enclose Front Porch and make new entrance. New room addition & foundation	7-1953

Planning Approval Record

1953 Room Addition

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STAFF REPORT

SAUSALITO PLANNING COMMISSION

Project Vina Del Mar Accessibility Improvements
Design Review Permit
DR 10-029

Meeting Date March 10, 2010

Staff Heidi Burns, Associate Planner 

REQUEST

- Approval of a **Design Review Permit** to allow capital improvements to provide enhanced accessibility to and within the Vina Del Mar Park.

PROJECT INFORMATION

Applicant/Owner City of Sausalito

Location/Size 700 Block of Bridgeway; APN 065-074-01
13,642 square feet (see **Exhibit B** for vicinity map)

General Plan Public Recreational and Parks

Zoning Public Parks (PP) Zoning District

Authority Design Review Permit (Zoning Ordinance Section 10.54.050.A) Section 10.54.050.B.11 and Section 10.54.050.B.13 authorize the Planning Commission to approve a Design Review Permit for modifications to structures listed on the National Register of Historic Places, or on a local register, or structure located within the City Designated Historic District as well as a local public enhancement project. Section 10.54.050.A authorizes the Historic Landmarks Board to provide concurrent review and recommendations for projects located in the Historic District and/or listed on the local register.

Environmental Review The subject application is categorically exempt from the California Environmental Quality Act (CEQA), in accordance with Section 15301 the CEQA Guidelines.

PROJECT DESCRIPTION

SITE LOCATION

The subject parcel is generally triangular in shape and fronts Bridgeway, El Portal, and Tracy Way. The site is the location of the Vina Del Mar Park within the Public Parks (PP) Zoning District.

Vina Del Mar Park is the centerpiece of the Downtown Historic District and is listed as a California Point of Historical Interest (MRN-002). The project site is surrounded by a variety of

mixed-commercial and residential uses, as well as hotels, public parking, and in close proximity to the Ferry Landing.

BACKGROUND

Vina Del Mar Park was originally constructed in 1904 by the North Shore Railroad to beautify the area and to cover-up a former dumping area. The Park was designed to be a garden oasis for train and ferry passengers. After the closure of the Panama Pacific International Exposition in 1916, resident William Faville arranged the purchase and relocation of a cement fountain and pair of elephant statues from the Exposition to Vina Del Mar Park.

The restoration of the Park and the fountain was conducted in 1977 as a bicentennial project known as the "Horizon Project".

On October 28, 1996, a Vina Del Mar Park Modification Plan, prepared by Paul Leffingwell for the Downtown Planning Forum, was presented to the Planning Commission, Design Review Board, and the Historic Landmarks Board. The joint boards approved the plan on November 20, 1996. The plan was considered by the City Council and was ultimately approved for construction but not pursued. This plan is the basis for the current proposed project within the Park.

On December 18, 1997, Ordinance 1128 was adopted and requires that any sale, leasing, or changes to the Park beyond minor maintenance and upkeep necessary to maintain the Park requires a vote of the electorate.

In 2005 the City was sued due to violations of Title II of the 1990 Americans with Disabilities Act (ADA)¹ because the City made improvements to the Park without making necessary changes to provide disabled access. The plaintiff alleged that the City engaged in the denial of civil rights by not providing public facilities to physically disabled persons.

In August 2006, a Settlement Agreement and Release of All Claims between the Plaintiff and the City occurred. As part of the Settlement Agreement, the City agreed to provide access to the fountain and the upper landing of the steps at the Bridgeway entrance. The City was allowed discretion to choose the location of the accessible path to the fountain and method of vertical access to the upper landing.

Although there is a conflict between the Settlement Agreement which requires non-minor modifications to the Park related to accessibility improvements and Ordinance 1128, the accessibility improvements related to ADA compliance supersedes the City's jurisdiction due to the Federal Supremacy clause stated in Article VI of the Federal Constitution (see **Exhibit C** for

¹ The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

Title II requires city governments to ensure that all of their programs, services, and activities, when viewed in their entirety, are accessible to people with disabilities. Program access is intended to remove physical barriers to city services, programs, and activities, but it generally does not require that a city government make each facility, or each part of a facility, accessible.

an opinion from the City Attorney regarding Federal Supremacy). If the scope of the project included design modifications to the Park that were not required to comply with ADA, then those modifications would be required to be approved by a vote of the electorate before installation.

On January 11, 2010, January 25, 2010, and February 10, 2010, the project was reviewed by the Historic Landmarks Board (HLB). Additionally, on January 13, 2010, the staff hosted a public workshop for the proposed accessibility improvements. Comments raised at both the HLB meetings and the public workshop ranged from path location, impact to the existing trees, lowering the upper landing, and identifying which improvements are required for accessibility and which improvements are design enhancements. The proposed project has been redesigned in response to many of the comments raised.

Lastly, on February 17, 2010, the HLB conducted a special meeting at Vina Del Mar Park to review the proposed path location, materials, and colors.

PROJECT DESCRIPTION

Structures and Land Use

The project involves the following accessibility improvements to the Vina Del Mar Park:

Accessibility Improvements

- 48" wide dark brown decomposed granite (DG) path with header, adjacent to the fountain.
- 48" wide dark brown DG path with header, access from El Portal to the fountain.
- Accessible ramp with black metal kick-plate and railing from El Portal to the upper landing. The ramp will be concrete to match the existing sidewalk.
- Metal Handrails on each side of existing stairs on east (water) side of the upper landing.
- Black metal kick-plate to be installed below the existing black metal railing on the eastern side of the upper landing.

Handrails

- Each side of new accessible ramp.
- Each side of existing monument stairs adjacent to elephant statues.

Relocation of Existing Facilities

- Electrical utilities and housing unit to be located to the eastern side of the flagpole.
- Irrigation.
- Benches to provide seating on the upper landing.
- Trash cans on the upper landing.

Other

- Sod and plantings to be replaced by accessible paths, headers and accessible ramp.
- Decommissioning of existing drinking fountain, removal of bubbler and cap plumbing.

No new landscaping is proposed.

The project also includes installing curb ramps at the corners of Bridgeway/El Portal, El Portal/Tracy Way, and Bridgeway/Tracy Way. The following specific improvements are proposed:

Bridgeway and El Portal

- Installation of new curb ramp, truncated domes, sidewalk, curb and gutter, and cross walk striping.

El Portal and Tracy Way

- Installation of new curb ramp, truncated domes, sidewalk, curb and gutter, and cross walk striping.

Bridgeway –Tracy Way

- Installation of new curb ramp, truncated domes, sidewalk, curb and gutter, and cross walk striping.
- Installation of new stone seat wall to match existing Vina Del Mar stone wall. The stone seat is to create a barrier to prevent pedestrians from walking into the intersection.

PROJECT ANALYSIS

GENERAL PLAN CONSISTENCY

General Plan Consistency

To approve the proposed project the Planning Commission must determine that the project is consistent with all applicable General Plan policies. Staff has identified the following policies most relevant to the proposed project:

Policy LU-4.7.4, Improved Access. *Improve public access by implementing policy CP-4.7 [Listed below].*

Policy CP-4.7, Pedestrian Safety. *Provide a safe walking environment along City streets and pathways.*

Policy CP-4.9. Handicap Accessibility. *Facilitate access for the physically disabled to sidewalks and pathways throughout the City.*

Policy EQ-2.1, Parklands and Open Recreation Areas. *Preserve and improve existing parklands and recreation areas for passive and recreation use by City Residents.*

The project is intended to facilitate and enhance disabled access to Vina Del Mar Park and is therefore found to be consistent with the intent of the General Plan.

ZONING CONSISTENCY

The project is located in the PP Zoning District. The purposes of the Open Space and Public Districts (Per Section 10.10.030) are:

- A. To preserve existing City owned open space and parks; and
- B. To provide guidelines for development and use of facilities on City- and federally-owned lands.

The additional purposes of the PP Zoning District are:

- D. To conserve and protect existing and future public parks and recreational facilities;

- E. To encourage long term maintenance and enhancement of parks and recreational facilities; and
- F. To ensure that parks and recreational uses are compatible with adjacent uses and the character of the area in which they are located.

The proposed accessibility improvements are consistent with the general and additional purposes of the PP Zoning District.

Design Review Permit

Pursuant to Section 10.54.010, the purpose of the Design Review Permit is to "provide for discretionary review of the architectural and design features of selected projects for which design review is required..."

The project consists of modifications necessary to facilitate disabled accessibility to the park. The visual elements of the project, which includes handrails, bench relocation, a new concrete ramp with brick curbs to match the existing brick located on the upper landing, and decomposed granite paths will not significantly modify the design of the Park and would be in keeping with the general aesthetic of the Park. Additionally, the proposed curb ramps associated with the cross walks will further facilitate safe accessibility within the Downtown. Lastly, because the proposed project is limited to ADA and accessibility improvements only as required by Federal Law, the project is not in violation of Ordinance 1128, which prohibits design changes to the Park unless approved by the electorate.

Of importance for consideration relating to the accessibility improvements is to ensure the aesthetic compatibility of the materials and colors with the surrounding environs. Conditions of approval are included to require the following:

- Relocate existing ferns which will be removed as a result of the accessible path; and
- Use truncated domes materials similar to the truncated domes used for the Non-motorized Transportation Project improvements on Humboldt Street, Bay Street, and Anchor Street. This will provide consistency of truncated domes used in the downtown area.

Design Review Permit Findings

In order to approve the Design Review Permit, the Planning Commission must determine that the project is in conformance with the required Design Review Findings (Section 10.54.050 of the Zoning Ordinance).

The required Design Review findings are listed in the attached resolution (see **Exhibit A**). Staff concludes that the required findings can be made to support the approval of the project.

PUBLIC NOTICE AND CORRESPONDENCE

Public hearing notices were mailed to property owners within 300 feet of the project site on February 5, 2010. No correspondence regarding the project has been received as of the writing of the staff report.

RECOMMENDATION

Staff recommends the Planning Commission approve the attached draft resolution (**Exhibit A**) which approves a Design Review Permit to allow for capital improvements to allow for enhanced accessibility at Vina Del Mar Park (DR 10-029) and in accordance with the 2006 Settlement Agreement.

Alternatively, the Planning Commission may:

- Approve the Design Review Permit with modifications;
- Continue the hearing for additional information and/or project revisions; or
- Deny the Design Review Permit and direct Staff to return with a Resolution of Denial.

EXHIBITS

- A. Resolution [Draft]
- B. Vicinity Map
- C. Memo from Mary Wagner, dated February 11, 2010
- D. Project Plans, date stamped February 8, 2010
- E. Hand Rail Detail, date-stamped February 8, 2010
- F. Site Photographs

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**SAUSALITO PLANNING COMMISSION
RESOLUTION NO. 2010-XX**

**APPROVAL OF A DESIGN REVIEW PERMIT FOR CONSTRUCTION OF CAPITAL
IMPROVEMENTS TO PROVIDE ACCESSIBILITY IMPROVEMENTS FOR
VINA DEL MAR PARK (DR 10-029)**

WHEREAS, an application has been filed by the Department of Public Works, requesting Planning Commission approval of a Design Review Permit to allow the construction of capital improvements to provide disabled accessibility to and within Vina Del Mar Park (APN 065-074-01), as well as the Americans with Disabilities Act compliant accessibility curb ramps within portions of the Bridgeway, El Portal, and Tracy Way public rights-of-way; and

WHEREAS, in August 2006 the City agreed to provide accessibility improvements to the upper landing and fountain at Vina Del Mar Park in accordance with a Settlement Agreement and Release of Claims; and

WHEREAS, the Planning Commission conducted a duly-noticed public hearing on March 10, 2010, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Planning Commission has reviewed and considered the project plans titled "ADA Transition Plan Update-Vina Del Mar", date-stamped received February 8, 2010; and

WHEREAS, the Planning Commission has considered all oral and written testimony on the subject application; and

WHEREAS, the Planning Commission has reviewed and considered the information contained in the staff report dated March 10, 2010 for the proposed project; and

WHEREAS, the Planning Commission finds that the project is categorically exempt from California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines; and

WHEREAS, the Planning Commission finds that, as conditioned herein, the proposed project complies with the requirements of the General Plan and Zoning Ordinance as described in the staff report dated March 10, 2010.

NOW, THEREFORE, THE PLANNING COMMISSION HEREBY RESOLVES:

A Design Review Permit for the construction of accessibility improvements (a local public enhancement project) at Vina Del Mar Park in accordance with the 2006 Settlement Agreement is approved based upon the findings provided in Attachment 1, and subject to the conditions of approval provided in Attachment 2. The project plans are provided in Attachment 3.

RESOLUTION PASSED AND ADOPTED, at the regular meeting of the Sausalito Planning Commission on the XXth day of March 2010, by the following vote:

AYES: Commissioner:
NOES: Commissioner:
ABSENT: Commissioner:
ABSTAIN: Commissioner:

Jeremy Graves, AICP
Secretary to the Planning Commission

ATTACHMENTS

- 1- Findings
- 2- Conditions of Approval
- 3- Project Plans

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PLANNING COMMISSION RESOLUTION

March 10, 2010

DR 10-029

VINA DEL MAR PARK

ATTACHMENT 1: FINDINGS

1. DESIGN REVIEW PERMIT FINDINGS

In accordance with Zoning Ordinance Section 10.54 (Design Review Procedures), the Design Review Permit is approved based on the following findings:

- A) The proposed project is consistent with the General Plan, any applicable specific plans and this chapter.

The proposed project is limited to accessibility improvements as required by the Americans with Disabilities Act (ADA) and is therefore consistent with all applicable policies, standards, and regulations of the General Plan and Zoning Ordinance.

- B) The proposed architecture and site design complements the surrounding neighborhood and/or district by either: a) Maintaining the prevailing design character of the neighborhood and/or district or b) Introducing a distinctive and creative solution which takes advantage of the unique characteristics of the site and contributes to the design diversity of Sausalito.

The design of the improvements is the minimum necessary to provide accessibility to Vina Del Mar Park and the surrounding area in accordance with the 2006 Settlement Agreement and Release of All Claims at Vina Del Mar Park. Additionally, the materials utilized for the improvements will be compatible with the historic resources and nature of the park.

- C) The proposed project is consistent with the general scale of structures and buildings in the surrounding neighborhood and/or district.

The improvements consist of providing disabled access to and from Vina Del Mar Park and will blend in with the existing park improvements.

- D) The proposed project has been located and designed to minimize obstruction of public views and primary views from private property.

Due to the location of the accessibility improvements no obstruction of public views are anticipated.

- E) The proposed project will not result in a prominent building profile (silhouette) above a ridgeline.

The subject parcel is not located along a ridgeline.

- F) The proposed landscaping provides appropriate visual relief, complements the buildings and structures on the site, and provides an attractive environment for the enjoyment of the public.

The landscape features associated with the accessibility improvements consists of decomposed granite paths to connect the northerly sidewalk along El Portal to the fountain located in the center of the Park. The path is specifically located to meander through a portion of the park to avoid existing tree roots and will provide attractive access to the fountain.

- G) The design and location of buildings provide adequate light and air for the project site, adjacent properties, and the general public.

It is not anticipated that the accessibility improvements will disrupt the existing light and air associated with the project site because the improvements are low profile and will not create any new mass and bulk associated with the project site.

- H) Exterior lighting, mechanical equipment, and chimneys are appropriately designed and located to minimize visual, noise and air quality impacts to adjacent properties and the general public.

The project does not include the installation of new lighting, mechanical equipment, and/or chimneys. The project site is a public park and the improvements are necessary to provide disabled accessibility to the site, therefore, no impacts to the aesthetics, noise, and air quality are anticipated.

- I) The project provides a reasonable level of privacy to the site and adjacent properties, taking into consideration the density of the neighborhood, by appropriate landscaping, fencing, and window deck and patio configurations.

As stated in the above finding, the project site is a well utilized public park located in the Public Parks (PP) Zoning District. No impacts to privacy and density are anticipated.

- J) Proposed entrances, exits, internal circulation, and parking spaces are configured to provide an appropriate level of traffic safety and ease of movement.

The project consists of providing accessibility improvements in order to enhance access to the site for all people.

- K) The project site is consistent with the guidelines for heightened review for projects which exceed 80% of the maximum allowed Floor Area Ratio and/or site coverage, as specified in subsection E (Heightened [Design] Review Findings).

Heightened Review is not required.

PLANNING COMMISSION RESOLUTION

March 10, 2010

DR 10-029

VINA DEL MAR PARK

ATTACHMENT 2: CONDITIONS OF APPROVAL

These conditions of approval apply to the plans prepared by Architerra Macrae Architects, entitled "ADA Transition Update-Vina Del Mar" date-stamped received February 8, 2010.

General

1. Upon building permit submittal the Conditions of Approval shall be shown on all construction drawings.
2. Upon building permit submittal the applicant shall provide a written response demonstrating compliance with each Condition of Approval.
3. The project shall adhere to all recommendations in the Arborist Report dated February 10, 2010.
4. No exterior lighting is approved for the project.
5. The truncated domes utilized for the project shall be the same type and color utilized for the City's Non-motorized transportation project improvements on Humboldt Street, Bay Street, and Anchor Street.
6. To the extent possible, all ferns removed as a result of the accessible paths shall be relocated and incorporated into other areas of the park.

Advisory Notes

Advisory notes are provided to inform the applicant of Sausalito Municipal Code requirements, and requirements imposed by other agencies. These requirements include, but are not limited to, the items listed below.

1. This approval will expire in two (2) years from the date of adoption of this resolution if the property owner has not exercised the entitlements hereby granted, or an extension has not been filed prior to the expiration date.
2. An approval granted by the Planning Commission does not constitute a building permit or authorization for construction. Appropriate construction permit(s) issued by the Building Division must be obtained prior to construction.
3. All applicable City fees as established by City Council resolutions and ordinances shall be paid.

4. Construction Impact Fees shall be paid in accordance with the Construction Impact Fee Ordinance. The fee is due prior to issuance of Building Permit.
5. Encroachment permit, grading permit, third party review fees (cost plus 10%) fees shall be paid.
6. An encroachment permit shall be obtained from the Public Works Department prior to working in the public right of way.
7. Grading/drainage permit(s) shall be obtained from the Public Works Department for any earthwork in excess of 50 cubic yards.
8. Grading and excavation work will be limited to between April 15 and October 15 without written approval of the City Engineer.
9. Pursuant to Municipal Code Chapter 8.54, applicants shall submit a Recycling Management Plan to the Community Development Department prior to the issuance of any construction permits, unless the requirement is waived pursuant to Section 8.54.050.
10. Pursuant to Municipal Code Chapter 11.17, dumping of residues from washing of painting tools, concrete trucks and pumps, rock, sand, dirt, agricultural waste, or any other materials discharged into the City storm drain system that is not composed entirely of storm water is prohibited. Liability for any such discharge shall be the responsibility of person(s) causing or responsible for the discharge. Violations constitute a misdemeanor in accordance with Section 11.17.060.B.
11. Pursuant to Municipal Code Section 12.16.140, the operation of construction, demolition, excavation, alteration, or repair devices and equipment within all residential zones and areas within a 500 foot radius of residential zones shall only take place during the following hours:
 - Weekdays – Between 8:00 a.m. and 6:00 p.m.
 - Saturdays – Between 9:00 a.m. and 5:00 p.m.
 - Sundays – Prohibited
 - City holidays (not including Sundays) – Between 9:00 a.m. and 7:00 p.m.
12. Permits required by other agencies having jurisdiction within the construction area must be obtained in accordance with the respective agency's regulations.
 - a. Marin Municipal Water District – (415-945-1400), including landscaping and irrigation regulations;
 - b. Southern Marin Fire Protection District – (415-388-8182);
 - c. Sausalito-Marín City Sanitary District – (415-332-0244); and
 - d. Bay Conservation and Development Commission – (415-352-3600)
13. The Community Development Director may authorize minor alterations to the approved plans and conditions of approval in accordance with Section 10.50.180 of the Zoning Ordinance. Major changes and alterations to the approved plans and conditions of approval shall be reviewed and approved by the Planning Commission in accordance with Section 10.84.070(B)(2) of the Zoning Ordinance.

14. Pursuant to Municipal Code Section 10.54.100, construction activities undertaken in accordance with a design review permit shall comply with the construction time limit regulations based upon the project's valuation. Construction projects which are not completed within the time limits are subject to daily penalties.

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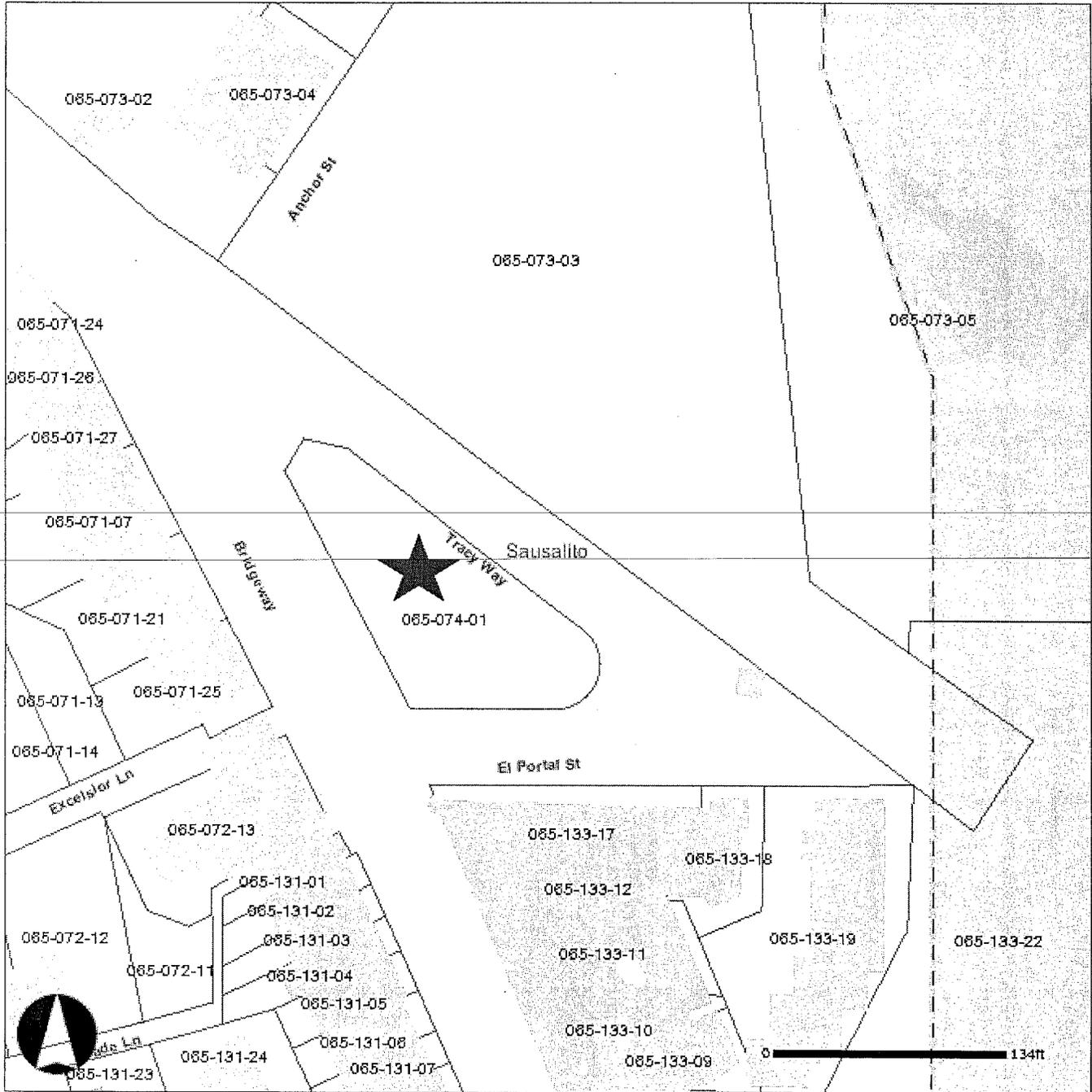
PLANNING COMMISSION RESOLUTION
March 10, 2010
DR 10-029
VINA DEL MAR PARK

ATTACHMENT 3: PROJECT PLANS

VICINITY MAP

Vina Del Mar Park

DR 10-029



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Exhibit B
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MEMORANDUM

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FEB 11 2010

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

TO: Chair Keller, Members of the Planning Commission
CC: Jeremy Graves, Community Development Director
FROM: Mary Anne Wagner, City Attorney
RE: Compliance with ADA requirements at Plaza Vina Del Mar
DATE: February 10, 2010

BACKGROUND AND QUESTION PRESENTED

In December 1997, the City Council adopted an initiative ordinance (Ordinance No. 1128) regulating the disposition and use of various City-owned properties, including Plaza Vina Del Mar and Gabrielson Park. With respect to those two sites, Section 2 of Ordinance No. 1128 provides as follows:

The City of Sausalito shall retain ownership of Gabrielson Park and Plaza Vina Del Mar and shall not sell, lease, or otherwise dispose of such parks without voter approval. Such areas shall not be used for any purpose other than as public parks without voter approval. *Such areas shall not be changed from their presently existing condition with the exception of minor maintenance and upkeep necessary to maintain such areas in their presently existing condition without voter approval.* (Emphasis added.)

Subsequently the City was sued under the federal Americans with Disabilities Act (ADA) and Title 24 of the California Building Code (Title 24) regarding, among other things, disabled access in Plaza Vina Del Mar. In September, 2006 the City entered into a Settlement Agreement with the plaintiff pursuant to which the City agreed to make certain modifications to Plaza Vina Del Mar in compliance with the ADA and Title 24.

The proposed modifications to Plaza Vina Del Mar have been reviewed by the Historic Landmarks Board. During the public hearings in front of the Board a question arose as to whether voter approval of the federally mandated modifications to Plaza Vina Del Mar for disabled access is required pursuant to Section 2 of Ordinance No. 1128.

SHORT ANSWER

No, voter approval of the federally mandated accessibility modifications to Plaza Vina Del Mar is not required because the legal doctrine of federal pre-emption would apply and the federal law would control.

ANALYSIS

The issue presented is whether or not the ADA preempts the local regulation embodied in Ordinance No. 1128.

According to 42 USC 12101, Congress' stated purpose for enacting the ADA was:

- (1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;
- (2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;
- (3) to ensure that the Federal Government plays a central role in enforcing the standards established in this chapter on behalf of individuals with disabilities; and
- (4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

These are strong statements of purpose and illustrate the intent of Congress that the ADA preempt local law in the event of a conflict. Existing case law strong supports the conclusion that the ADA controls.

The first step in the analysis is to determine if a conflict exists. In *Independent Living Center of Southern California v. Maxwell-Jolly* (2009) 572 F.3d 644, the 9th Circuit analyzes "conflict preemption." The court explains that conflict preemption arises when compliance with both federal and state regulations is a physical impossibility or where state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. *Id.* at 653. That appears to be precisely the case here: the requirement to obtain voter approval poses a significant obstacle to make the necessary ADA compliant improvements. And there seems little substantive purpose in making the City "go through the motions" of an election. Were the voters to reject the changes, the City would still be mandated to comply with the ADA.

Having determined that there is a conflict, the next step is to determine if federal law trumps the conflicting local law. Based on *Hubbard v. Sobreck* (2009) 554 F.3d 742, there is a strong argument that the ADA would prevail. In that case, the Ninth Circuit Court of Appeals held that the provisions of the Americans with Disabilities Act preempt an award of attorneys fees for nonfrivolous claims brought by plaintiffs under the California Disabled Persons Act (CDPA). The ADA makes an award of attorney's fees to the prevailing party discretionary. Courts have interpreted this to mean that only plaintiffs who bring frivolous claims are to be saddled with paying attorney's fees to the defendant. The CDPA, on the other hand, permits an award of attorney's fees to a

Memorandum Re: Compliance with ADA Requirements

February 9, 2010

Page 3

prevailing party regardless of frivolousness of claims. Fees under the state construct are mandatory, not discretionary. The lower court awarded fees to the defendant under the CDPA. Plaintiffs appealed and the 9th Circuit reversed and remanded. The Ninth Circuit explained that federal law preempts state law if state law "actually conflicts" with federal law.

It is interesting to note that this same issue arose in concept when Ordinance No. 1128 was adopted in 1997. The then City Attorney came to the same conclusion set forth above and opined:

"It is unlikely that the initiative ordinance could bar installation of appropriate access for persons with disabilities to Plaza Vina Del Mar. The Americans with Disabilities Act of 1990, as well as state anti-discriminatory laws, would likely preempt local ordinances where there is conflict."

CONCLUSION

Because Ordinance No. 1128 stands as an obstacle to the goals and mandate of the ADA, the better argument is that Ordinance No. 1128 is preempted by the ADA. Accordingly, I do not believe that a court would require that the City seek voter approval prior the installation of ADA compliant facilities in Plaza Vina Del Mar.

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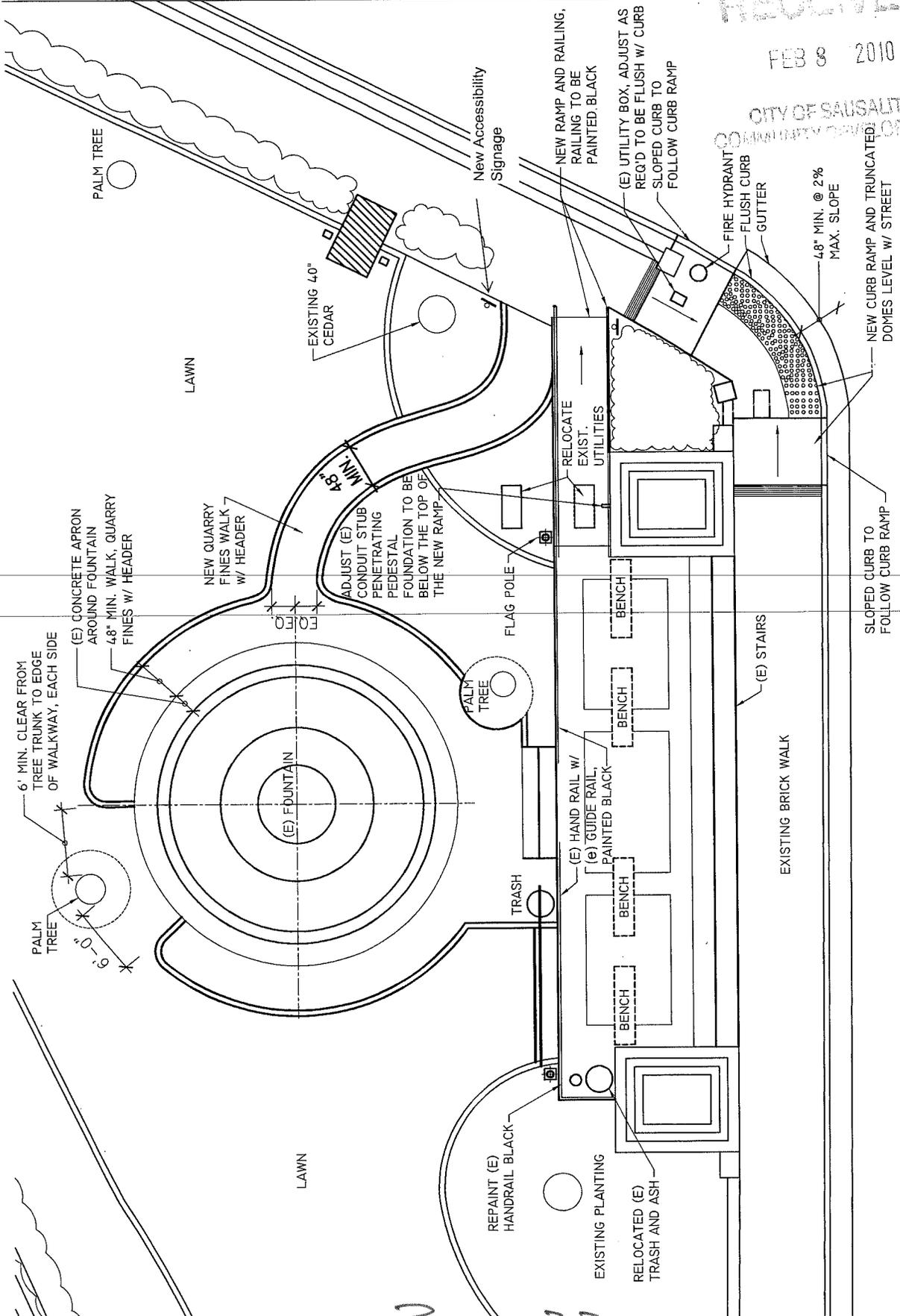
CITY OF SAUSALITO
 480 LITHO ST., SAUSALITO, CA
 ADA TRANSITION PLAN UPDATE
 PROPOSED SITE PLAN - VINA DEL MAR

SCALE: 1/8" = 1'-0"
 JOB NO. 07/25/10
 DATE

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FEB 8 2010

CITY OF SAUSALITO
 COMMUNITY DEVELOPMENT





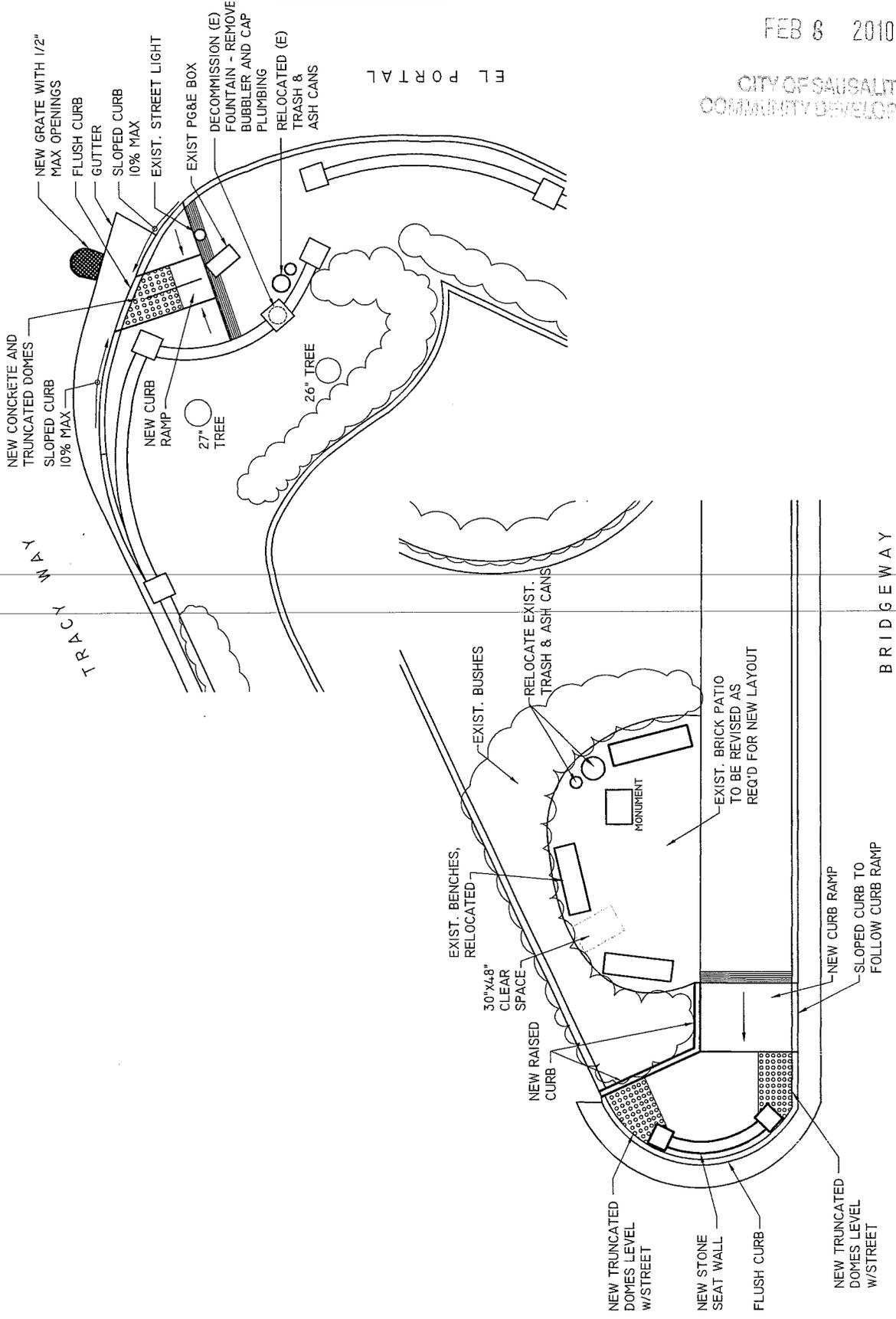
PROPOSED SITE PLAN - VINA DEL MAR
 ADA TRANSITION PLAN UPDATE
 420 LITHO ST., SAUSALITO, CA
 CITY OF SAUSALITO

SCALE: 1/8" = 1'-0"
 DATE: 02/25/10
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CITY OF SAUSALITO
 COMMUNITY DEVELOPMENT



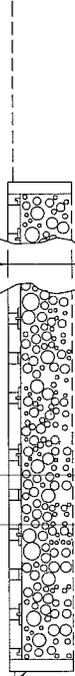
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CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

COMPOSITE
HEADER

48" PATH



EXISTING
GRADE

5" ± PATH SECTION:

- BROWN PATH MIX
- GRAVELPAVE2 OR APPROVED EQUAL
- PERMEABLE BASE
- WEED CONTROL FABRIC

PATH SECTION

NOT TO SCALE

BACKFILL WITH TOPSOIL,
MATCH EXISTING
LANDSCAPING, TYP.

SLOPE TOPSOIL GRADUALLY, 10H±:1V,
CONFORM TO EXISTING GRADE

COMPOSITE
HEADER

PATH →

EXISTING
GRADE

EXISTING ROOT TO
BE PROTECTED

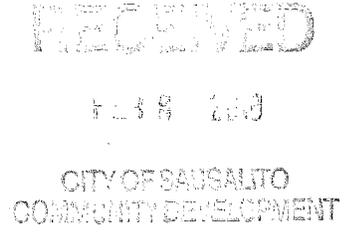
5" ± PATH SECTION:

- BROWN PATH MIX
- GRAVELPAVE2 OR APPROVED EQUAL
- PERMEABLE BASE
- WEED CONTROL FABRIC

CLEARANCE PER
ARBORIST RECOMMENDATION

PATH SECTION AT PROTECTED ROOT

NOT TO SCALE



ADJUST TOPSOIL SLOPE.
 PROVIDE 12" MINIMUM CLEAR
 TO BASE OF EXISTING CEDAR

BACKFILL WITH TOPSOIL,
 MATCH EXISTING
 LANDSCAPING, TYP.

COMPOSITE
 HEADER

EXISTING
 CEDAR

PATH

EXISTING
 GRADE

EXISTING ROOT TO
 BE PROTECTED

5" ± PATH SECTION:

- BROWN PATH MIX
- GRAVELPAVE2 OR
- APPROVED EQUAL
- PERMEABLE BASE
- WEED CONTROL FABRIC

CLEARANCE PER
 ARBORIST RECOMMENDATION

PATH SECTION ABOVE PROTECTED ROOT
 ADJACENT TO EXISTING CEDAR TREE

NOT TO SCALE

CITY OF SAUSALITO
 COMMUNITY DEVELOPMENT

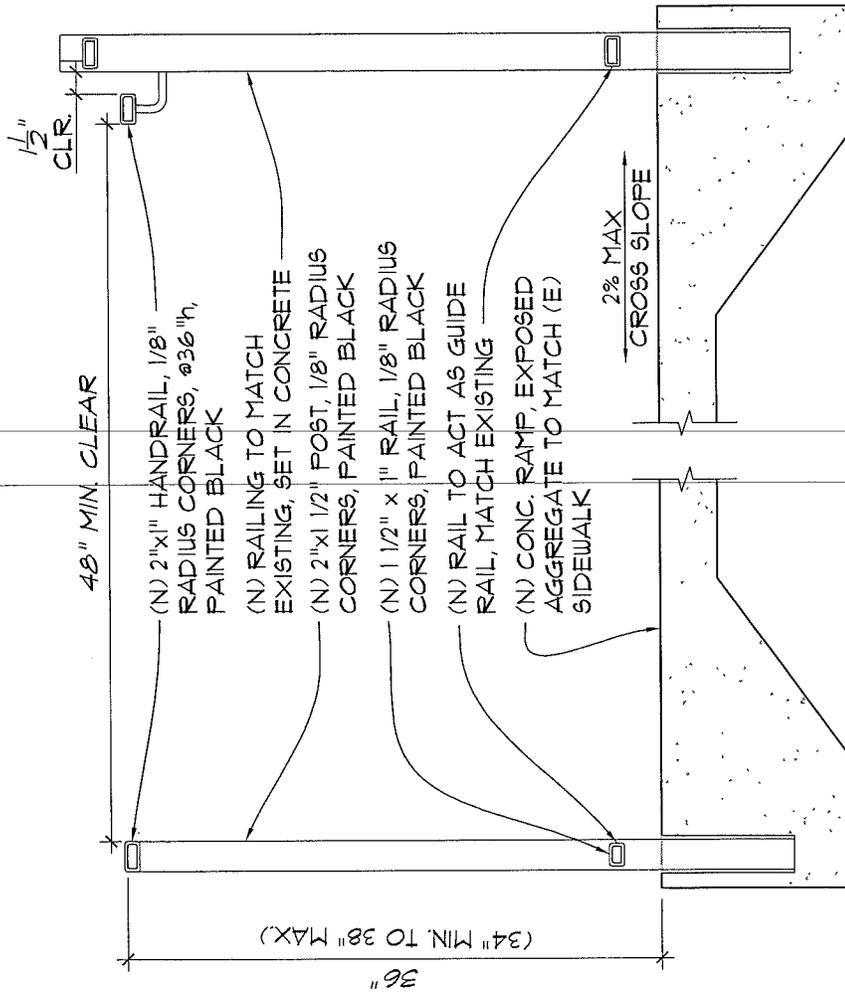
FEB 8 2010

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CITY OF SAUSALITO
CONSTRUCTION DEPARTMENT



RAMP SECTION

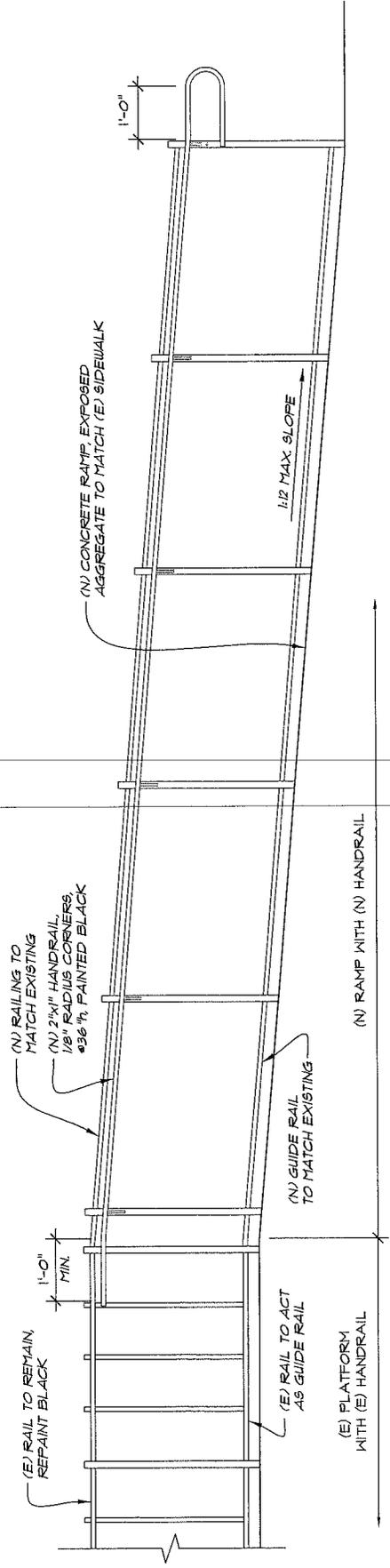
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Exhibit E
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CITY OF SAUSALITO
COMMUNITY DEVELOPMENT



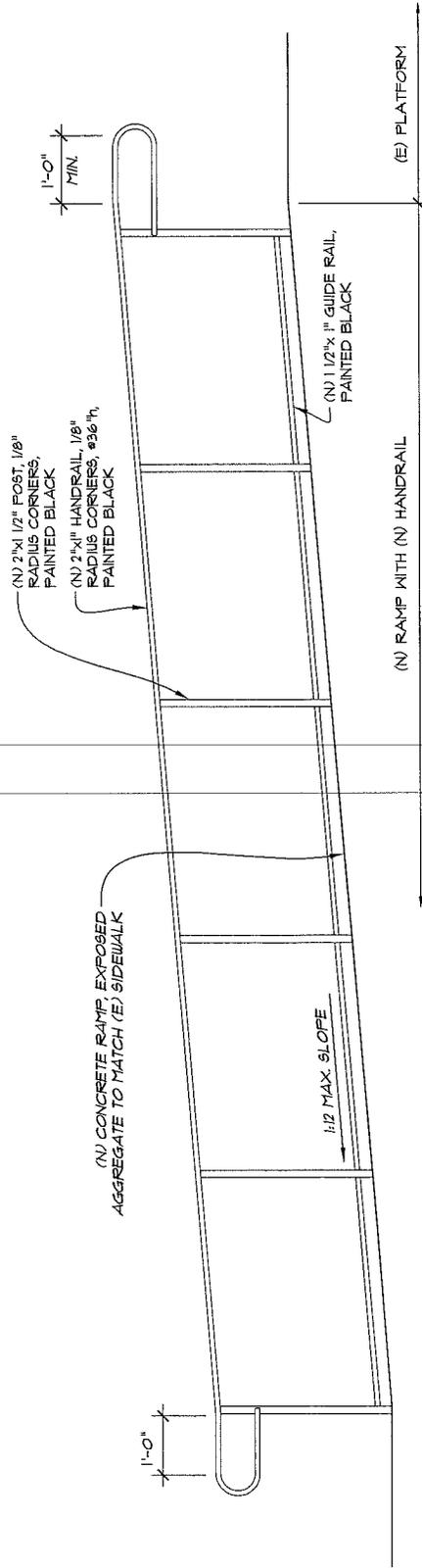
RAMP ELEVATION - EAST

NOT FOR CONSTRUCTION, NOT TO SCALE
02/25/10

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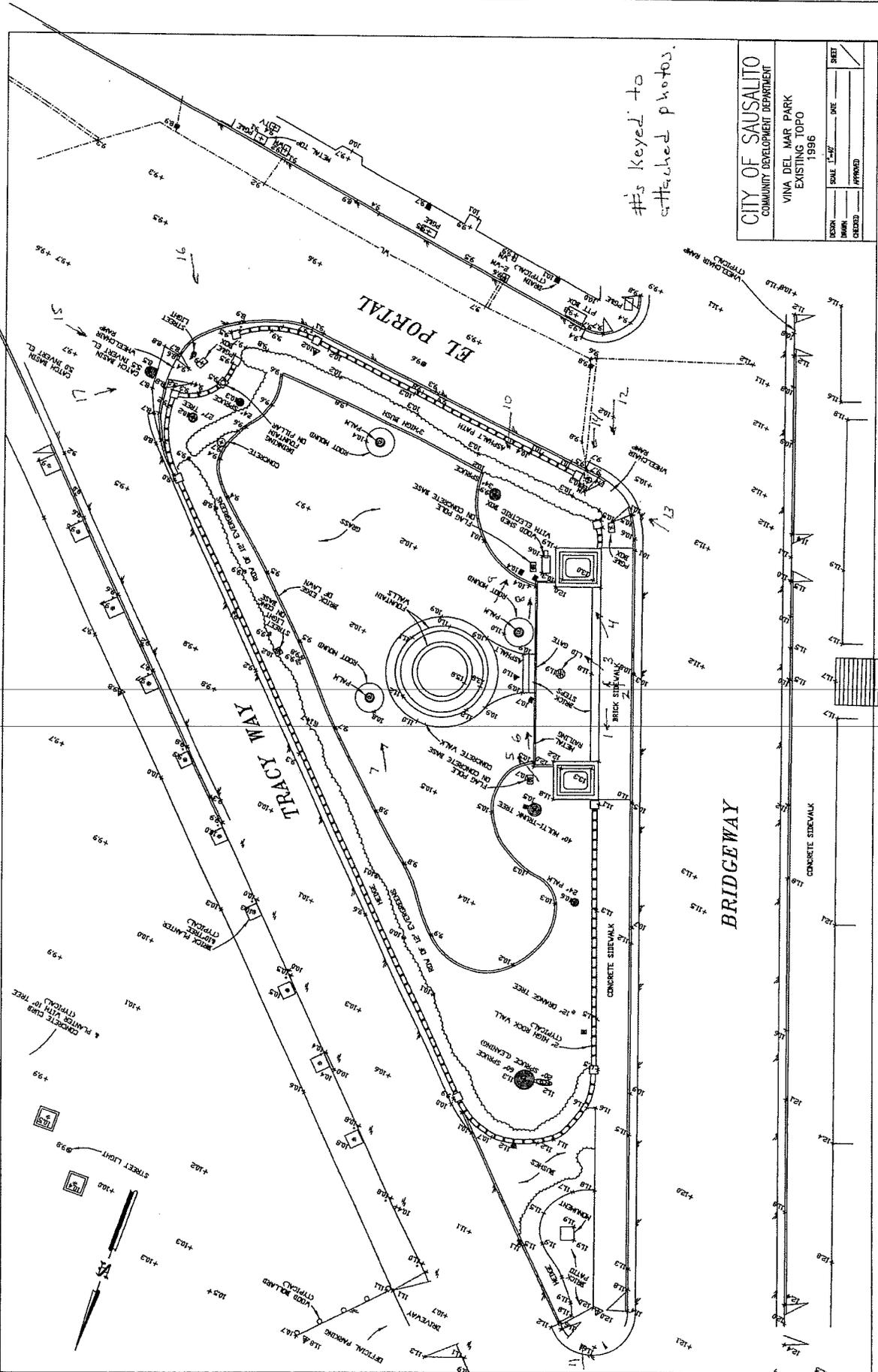
CITY OF SAUSALITO
COMMUNITY DEVELOPMENT



RAMP ELEVATION - WEST

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07/25/10

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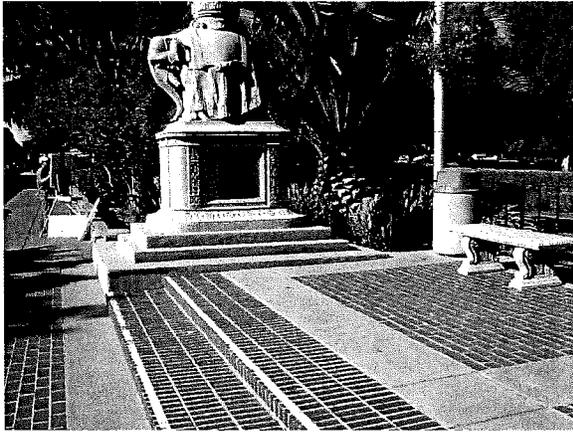


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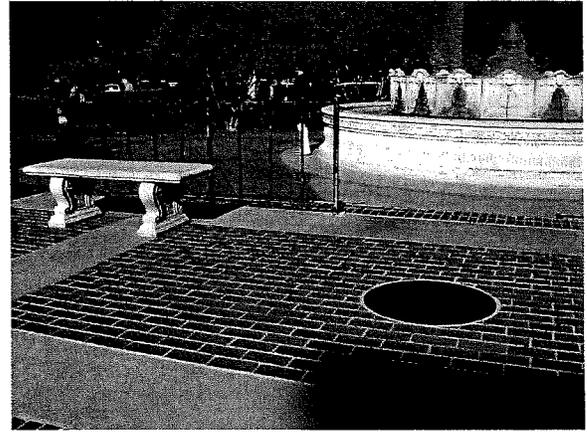
CITY OF SAUSALITO COMMUNITY DEVELOPMENT DEPARTMENT	
VINA DEL MAR PARK EXISTING TOPO 1996	
DESIGN	SCALE 1"=20'
DRAWN	DATE
CHECKED	APPROVED
SHEET	

Exhibit F
(6 pages)

Vina del Mar Accessibility Project
Joint Planning Commission – HLB Meeting 3-10-10



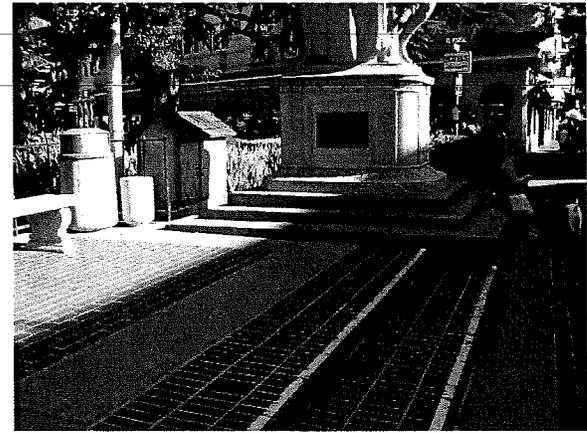
Picture 1



Picture 2



Picture 3

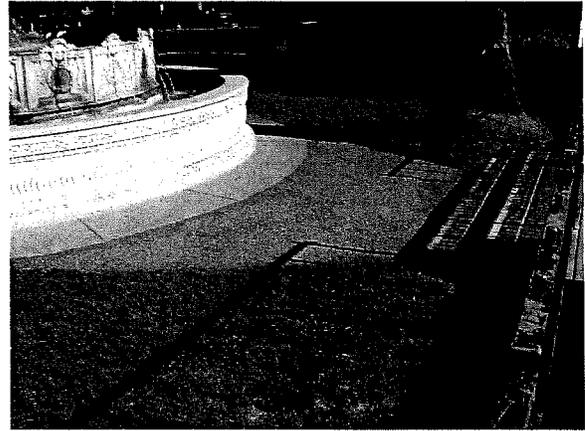


Picture 4

Vina del Mar Accessibility Project
Joint Planning Commission – HLB Meeting 3-10-10



Picture 5



Picture 6

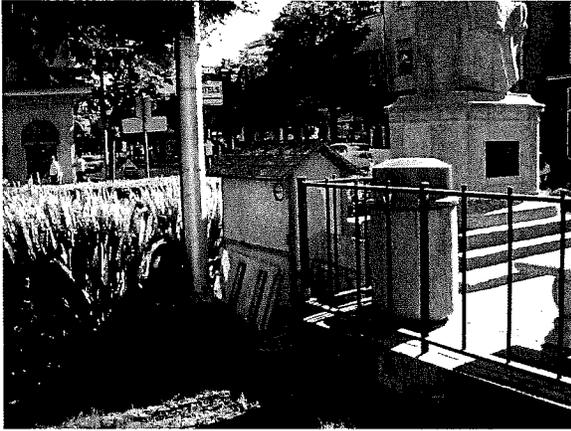


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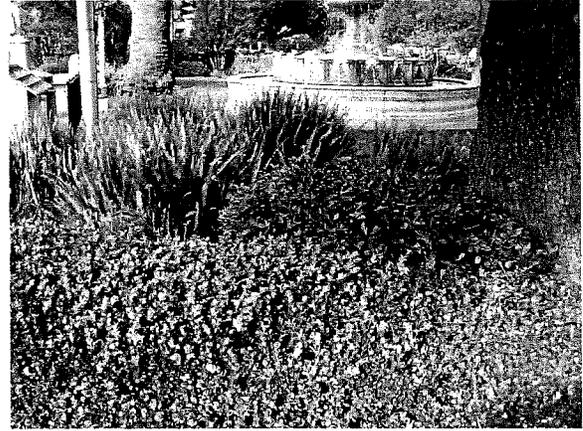


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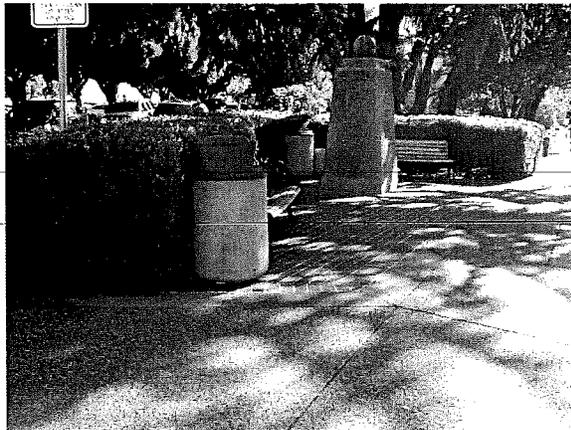
Vina del Mar Accessibility Project
Joint Planning Commission – HLB Meeting 3-10-10



Picture 9



Picture 10



Picture 11



Picture 12

Vina del Mar Accessibility Project
Joint Planning Commission – HLB Meeting 3-10-10



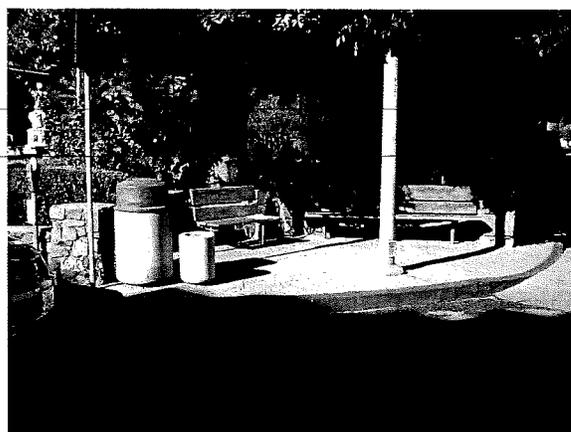
Picture 13



Picture 14



Picture 15



Picture 16

Vina del Mar Accessibility Project
Joint Planning Commission – HLB Meeting 3-10-10



Picture 17