

NAVIGATIONAL HAZARD: Any extension further than neighboring piers into the public right-of-way Sausalito/San Francisco Bay waters will create a navigational hazard at night and in frequently foggy conditions. Tour boats, commercial fishing boats, the herring fleet, routine water transport, and recreational vessels will be affected.

Fotsch contends that a LARGE LANDMARK ROCK OUTCROPPING "has been struck by boats, propellers, sailboat dagger boards, and hulls" and is a navigational hazard. Yet he proposes to build his pier, over this rock, extending sixty feet (60') further into the bay than neighboring piers! Partial solutions involving light or sound pollution are unacceptable.

One might ask how Fotsch observed the rock being struck by all of these things. The Fotsch house(s) are NOT on the waterfront but far above, and the rock cannot be seen except from the south-easternmost corner of his large outdoor deck or from his roof. [Please see attached photo submitted by Fotsch to the BCDC on 1/10/12 taken from above his garage roof at Alexander Ave. street level, in which his lot lines are misrepresented, and is the implication also that the two long barges on a diagonal, used for a few hours to remove old roofing material, may be part of the Moodys' pier?] The Moody family has lived on the shore since 1979, eighteen years longer than Fotsch has lived above us. This rock has been hit *once* by a friend's small motorboat (slightly scratching his hull) as he spun around in a flourish racing off after handing us a fresh-caught salmon on our float.

Further, THIS LARGE ROCK SUPPORTS DIVERSE SEA LIFE: Fishing and resting birds, harbor seals, an occasional sea lion, and in the last year river otters have been spotted twice, (once just last month!) and reported to Wildcare, the California Marine Mammal Center, and to "Otter Spotters".

MARINE AND SHORE WILDLIFE: Shoreline and bay-shore development, especially those requiring leases for greatly extended encroachment into the public Sausalito/San Francisco Bay should require a CEQA study. Our bay shore environment is a precious resource, rich with diverse marine life, plants and organisms, and bay-shore wildlife. River otters (*Lontra canadensis*) have been spotted twice (once this past month!) on the rocks in the area of the proposed pier; they will live only in a healthy aquatic habitat, of sufficient food, vegetation, and rock piles. Periwinkles and red crabs are abundant. Small black crabs scurry among the rocks. Docile bat rays feed on invertebrates in the intertidal zones during high tide. Sea sturgeon, a federally threatened species, forage in the mudflats in this area. Starfish are caught by seagulls. Herring are abundant, spawning multiple times in the shallows; their eggs cover the beach and rocks. Deer, foxes, coyotes, skunks, mice, owls, and a profusion of song birds and hummingbirds are here. (You should hear it in the spring!) When a young falcon flew into our house, the Marin Humane Society sent two officers with extension pole nets to get it out of a skylight and set it free. Crows and pigeons feed on the beach. Raccoons seek food in the shore rocks each night. Birds of the Western Flyway by the thousands rest just beyond the neighboring piers: Western grebes (mainly inshore birds), Least Sandpipers, Greater Scaup, and Scoters migrate through. Local sea birds, black crowned night herons, belted kingfishers, snowy egrets, cormorants, and pelicans fish here, inhabit this shore and depend on it for life. A male and female mallard arrive every spring to feed in the shallow waters here. In the thirty-five years we have lived here A resident Great Blue Heron makes daily appearances fishing from the rocks. A doe and her now spotless fawn are on the beach almost daily, and leave tracks in the sand before the tide washes them away. This special place deserves care!

HERRING FISHERY: The proposed pier is in the area used three months annually by the San Francisco Bay Herring Fishery to harvest herring and herring roe, contributing to California's economy and employment. Fishermen lay their nets just beyond the ends of the neighboring piers which extend the same distance into the S.F. Bay. Fotsch's proposed pier extends 60 feet beyond neighboring piers.

EELGRASS: Although not noticeably present earlier, eelgrass has become abundant only in the last few years. This is a strong indication of the returning health of the bay.

PUBLIC RIGHT OF WAY FOR WATER SPORTS: The requested lease and pier extension and lease is directly in the highly used public right-of-way for water sports and marine vessels from the large Allied Mariner to the smallest dinghy. Large outrigger, kayak, and small Bullship race in this location. Private vessels, sail, motor and fishing boats, kayaks, rowing sculls, canoes, catamarans, zodiacs, row boats, pedaled boats, and stand-up-paddle boards can be observed proceeding barely beyond the existing neighboring piers daily. Sea Trek describes their groups meeting "bat rays and leopard sharks while paddling among the shallow wetlands of this awesome estuary" and "getting to know the birds...harbor seals and all the other curious creatures who show up in our waterways". On days when the wind has come up, leaders shout, "It's less windy close to shore." and "Go inside THE ROCK". It could be postulated that this continuous public right-of way use has created prescriptive easement to the location Fotsch is trying to lease and build his extended pier and boat lift. Fishermen in small boats fish at the ends of the docks here.

SANDY BEACH: Deer and other shore and marine animals inhabit this beach and depend on it for life. The proposed pier crosses a public access sandy beach historically known as Fisherman's Beach, which has been in continuous use by the public since historic times. It is known to shore fishermen and their families who picnic on the beach, birders, shell, rock, and sea glass hunters who make jewelry for farmers' markets, people who wish to play with their dogs, sit on the sand or the rocks, relax or do yoga. Kids explore small tide-pools among the rocks, run, play ball or Frisbee, or splash and venture into the incoming tide. (Main access is by the Sausalito Sanitary District road.)

FUTURE CUMULATIVE IMPACTS: It's important to note that the proposed lease, if granted, will set a precedent for future large leases and pier projects encroaching into the San Francisco Bay.

IMPACT ON VIEWS and PRIVACY: It is important to realize that the Fotsch home(s), two massive buildings, are NOT on the waterfront, but far above, and will suffer no impact to their open water views. The proposed pier will not even be seen from the view windows inside the 2 Alexander residence(s). It will not in the least affect the view or the privacy of the Fotsch residences.

- The proposed pier will cause the Primary View Degradation of the 6 Alexander Avenue Moody home and its resident five family members. An extended lease places this imposing pier directly in the middle of the living room view of the Moody home at 6 Alexander Avenue.
- *View is the primary aesthetic quality of the Moody home and contributes the most substantially to its economic value.*
- The proposed pier will very adversely affect the privacy and noise levels of the Moody residence by looking directly into the Moody residence living room and sleeping areas.
- The greater the extension of lease and the longer, wider, higher the pier dimensions, the more negative the impacts on the Moody residence. The Moodys' property rights must also be observed.

The Moody home is by far the most highly negatively affected home of any neighboring home.

A previous neighbor at 8 Alexander, on the waterfront immediately adjacent to the north, objected to the Moodys' having a seasonal float extending further into their view of the open bay water when the Moodys were thinking of leasing public Sausalito/San Francisco Bay waters from Sausalito. The Moodys respected their neighbors wishes and did not pursue the lease, instead staying within the length of neighboring piers, as can be seen on plans and photos of the Moody pier.

Fotsch is not so inclined as to be considerate of his most highly impacted neighbors, whose home is below his two massive homes and directly on the waterfront at 6 Alexander Avenue. Instead, he has applied for an imposing pier completely out of scale with neighboring piers, projecting even further into bay waters by a large permanently placed unnecessary hydraulic boat lift, thereby extending his pier and lift sixty feet (60') further than neighboring piers into the public right-of way waters of the Sausalito/San Francisco Bay, two feet wider than necessary, and shown at an elevation that will be at or above the lower floor level of the 6 Alexander Avenue home, or possibly up to seven feet above the level shown on the application.

Please note: Charles D. Francis, City of Sausalito Administrative Services Director/Treasurer, told Janeane Moody that Fotsch sent him an email stating that the Moodys have "no objections" to the incomplete pier application or to whatever unknown size of the lease Fotsch is asking for to accommodate it:

- Is it reasonable to believe that the Moodys would give *carte blanche* to the submitted incomplete pier proposal with unclear, conflicting, and unknown dimensions, and other omissions, or to a lease of unknown dimensions to accommodate it?

In addition to the detrimental effect on the 6 Alexander property, large issues are at stake. It is surprising and alarming that the building of a private permanent pier structure and a private lease involving public right-of-way Sausalito/San Francisco Bay waters is considered so *non-controversial* that each can be approved by discretionary administrative decision in the City of Sausalito, thereby by-passing public Planning Commission or City Council Meetings. Public input is crucial.

These other important issues cannot be denied:

- A fragile coastline ecosystem will be affected.
- A lease and pier built into public right-of-way waters of the Sausalito/San Francisco Bay will directly affect public healthy recreational use by individuals, and environmental education recreational organizations such as Sea Trek.
- A site used by a sustainable State of California Herring Fishery, for the welfare of California residents, will be affected.

The San Francisco Bay is Sausalito's greatest natural treasure. It is essential to Sausalito's quality of life and economy. The bay is *at least* the equivalent of any other public property. The bay's public right-of-way for citizens, for the richly diverse marine and shore life and the benefits to the health and welfare of both, is of primary importance.

Sincerely,

Janeane Moody

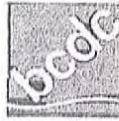
Retired teacher, Kent Middle School, Kentfield, CA

6 Alexander Avenue, Sausalito, CA 94965

<jandimoody@gmail.com>

[Some Photos and Exhibits may be sent separately.]

Oct. 10, 2013



Making San Francisco Bay Better

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AUG 18 2014
CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

October 10, 2013

Rick Pelchat
Mid-Cal Construction
2716 East Miner Avenue, Suite S
Stockton, California 95205

SUBJECT: Proposed Pile-Supported Pier
BCDC Permit Application No. M2004.013.01

Dear Mr. Pelchat:

Thank you for your revised application, received in this office on September 13, 2013, for constructing a pier at the residence of Dr. Edward Fotsch, 2 Alexander Avenue, in the City of Sausalito, Marin County. Our review of the application has determined that it is incomplete and additional information is needed. In addition, as discussed in this letter, the proposed work, as currently designed, may be inconsistent with several BCDC policies. Please address the following items, which are required to file a complete application:

1. **Fill and Shoreline Band Information.** Thank you for submitting new calculations for Boxes 2, 3, and 4 of the application form regarding fill in the Bay and within the shoreline band. Regarding fill in the Bay, your calculation for the total volume of solid fill to be placed in tidal and subtidal areas appears not to represent all elements of the project. In addition to the concrete footing that would be below mean high water (MHW) and the nine steel pilings, the frame and decking materials should also be included as fill. "Fill" means any material, including pilings or structures placed on pilings, and structures floating on the Bay surface, some or all of the time. Therefore, please provide a new value for the total volume of solid fill, which should include all elements of the proposed dock that are Bayward of MHW.
2. **Project Plans.** Thank you for providing a revised set of project plans, dated August 19 and 26, 2013, and which indicate the line of MHW and the Commission's Bay and 100-foot shoreline band jurisdictions. The datum used to establish elevations in the revised plans is not clearly indicated. This information was requested in an email to Justin Miller of Mid-Cal Construction, dated September 30, 2013. Please submit plans that include the datum that the elevations are based on, as well as the requested revisions described in 'Project Design and Construction', below.
3. **Processing Fee.** Your application appears to qualify for a nonmaterial amendment to an administrative permit. Therefore, please submit the \$300 application fee to enable the continued processing of the application. A permit application fee schedule is enclosed for your review.

4. **Proof of Adequate Property Interest.** Thank you for submitting a copy of the grant deed, demonstrating that the applicant has adequate legal interest in the property (APNs 065-303-20 and 065-303-05), as required by section 66605(g) of the McAteer-Petris Act. There appears to be inconsistencies between the property map you submitted and other documentation defining the property boundaries. The legal description for APN 065-303-05 defines the southerly property line as being adjacent to federal property and extending from Alexander Avenue for "194-feet, more or less, to San Francisco Bay at the line of 9-feet of water at low tide...." Whereas the map you submitted indicates nine-feet of water at low tide at a point approximately 160-feet from the property's beachside rock wall, your previously submitted materials appear to contradict this. Requests for authorization to construct a residential boat dock and supporting documentation dated January 5, 2012, March 15, 2012, June 18, 2012, and May 31, 2013, all show the property line landward of the current claim—and landward of the large offshore rock depicted in plans and photographs.

The 194-foot length more closely resembles the County Assessor's parcel map, and its terminus is labeled 'Original Lot Line Per 1 RM 3' on your current map. The property line in your current map represents an increase of approximately 120-linear-feet, for a total property length of approximately 314-feet. Further, a portion of the water area depicted in your map appears to be part of APN 065-303-07, property owned by the City of Sausalito. If the City owns property where your proposed project would be constructed, and if BCDC can approve the project, then the following options would be available to you: (1) purchase the property in question from the City; (2) secure a long-term lease from the City; or (3) collaborate with the City as a permit co-applicant. Please provide clarification for the applicant's assertion of property ownership that substantially exceeds the original property line, including documentation.

5. **Local Government Approval.** Please submit all the relevant documents that clearly indicate that the City of Sausalito has conducted Administrative Design Review for the proposed project, which we believe is a City discretionary approval. Your application for an amendment to a BCDC permit will be held as incomplete until we review documentation that all required local government discretionary approvals have been obtained, as well as the name and phone number of a City representative who we can discuss any questions we may have regarding the City's approval.
6. **Environmental Documentation.** Please provide environmental documentation, as required under the California Environmental Quality Act (CEQA), in the form of a categorical or statutory exemption, negative declaration, or other certified environmental impact document. Your local governmental planning department should be able to assist you in determining your obligations under CEQA, if any.
7. **Other Governmental Approvals.** Please provide a copy of the water quality certification or waiver thereof from the San Francisco Bay Regional Water Quality Control Board when it is available. If applicable to the proposed project, BCDC will also need to receive all "take" authorizations from the state resource agencies. Our regulations prohibit us from filing an application prior to receiving this documentation.

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Mr. Rick Pelchat, representing Dr. Edward Fotsch
October 10, 2013
Page 4

measures if an impact hammer would be used. Furthermore, a revised design should avoid covering the large offshore rock, or demonstrate that such avoidance is not feasible.

rock
Eelgrass

The proposed project includes an eelgrass survey, to be conducted no earlier than 60 days before construction. The *San Francisco Bay Plan's* Subtidal Areas Policy 2 states:

Subtidal areas that are scarce in the Bay or have an abundance and diversity of fish, other aquatic organisms and wildlife (e.g., eelgrass beds, sandy deep water or underwater pinnacles) should be conserved. Filling, changes in use, and dredging projects in these areas should therefore be allowed only if: (a) there is no feasible alternative; and (b) the project provides substantial public benefits.

Please be advised that authorization from the Commission—if the project is approvable—would not be issued until after the results of an eelgrass survey, conducted by a qualified biologist during the eelgrass growing season (April to October), are provided and reviewed. The presence of eelgrass beds in the proposed construction area would require the applicant to: (1) demonstrate that both clauses of the policy cited above are true; (2) provide an alternative design that avoids eelgrass; or (3) demonstrate that no alternative design is possible and develop a suitable mitigation plan in accordance with BCDC's mitigation policies.

If you have any questions, please do not hesitate to contact me at 415-352-3620 or ianh@bccdc.ca.gov

Sincerely,



IAN HOWELL
Coastal Analyst

IH/ms

cc: Edward Fotsch, permit applicant
Arn Aarreberg, California Dept. of Fish and Wildlife
Xavier Fernandez, SF Bay Regional Water Quality Control Board
Heidi Scoble, City of Sausalito
Nancy Hornor, National Park Service -- Golden Gate National Recreation Area

Encl.

- (1) BCDC Permit Application Fee Schedule
- (2) Certification of Posting
- (3) Applicant's Project Plans, dated August 19 & 26, 2013
- (4) Applicant's Property Map
- (5) Marin County Assessor's Map
- (6) Marin County GIS Parcel Map
- (7) Legal Description of Property

Mr. Rick Pelchat, representing Dr. Edward Fotsch
October 10, 2013
Page 5

bcc: Ian & Janeane Moody, ianmoody@gmail.com

Attachment referred to on p. 2 of letter from
Janene Moody Edward Fotsch 8/13/14

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JAN 10 2012

SAN FRANCISCO BAY CONSERVATION
& DEVELOPMENT COMMISSION

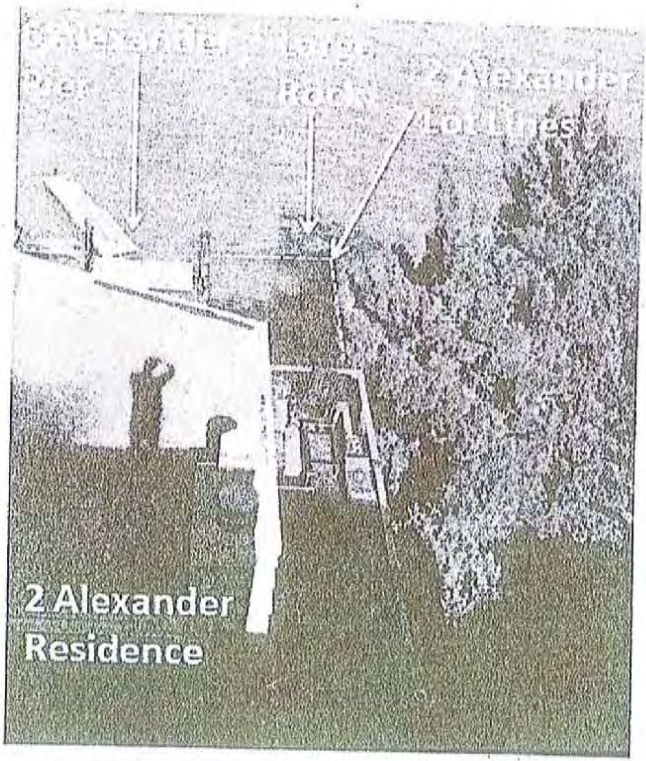
To: BCDC
From: Edward Fotsch
2 Alexander Ave, Sausalito CA

Re: Residential Pier

Dear BCDC Executive,

I live at 2 Alexander Avenue in Sausalito on a waterfront lot. I am interested in applying to build a pier on the eastern end of my property to improve access to the Bay for my family and boat.

Most of my neighbors to the north have piers including my immediate neighbor at 6 Alexander as per the embedded photo. Also of note is the fact that there is a large rock in the Bay at the end of my property line also shown in the photo. I mention this rock largely because it is currently a navigation hazard and would be more so after my pier is built.



The rock is nearly 20' in diameter at the widest. At low tide the rock is ~4' out of the water but at high tide it is ~2' below the waterline and cannot be seen- but can be (and has been) struck by boats, propellers, sail boat dagger boards and hulls, etc.

I have spoken to a soils engineer who confirms that I can use the existing rock as part of the foundation for the pier. I propose doing so AND installing a red (or other appropriately colored) navigation light on the end of the pier to mitigate both the current unsafe situation (at least when the rock is submerged and can damage boats) and the building of my pier. The attached plans provide greater detail.

Please consider my application and let me know if you have any questions. Best regards,

Edward Fotsch

Notes - Lot lines are not correct.
- 2 diagonal barge are not part of Moody's pier.
- Note where photo is taken from. Fotsch pier will not be visible from view windows in Fotsch home.

2 Alexander Avenue, Sausalito, CA 94965 415.332.8529 Fax 415.332.8530

Because it is germane to the pier application at 2 Alexander Avenue and the prescriptive easement of the 6 Alexander Property, three Directors on the City of Sausalito staff requested more information from me about the former Sausalito Corporate Lane. That information appears here.

SAUSALITO CORPORATE LANE on the SOUTHERN SAUSALITO BOUNDARY
as concerns 6 and 2 Alexander Avenue Properties, A Brief History

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COMMUNITY DEVELOPMENT

In 1979, Ian Moody purchased the southernmost waterfront lot in Sausalito, an empty lot with a public access sandy beach in front of it, at 6 Alexander Avenue in Sausalito. The City of Sausalito Corporate Strip lay between the southern border of this lot and the Fort Baker Open Space (now the G.G.N.R.A.) to the south of it. The premium price reflected the value of this lot because it was uniquely special: No future structure that might impair privacy or the view could be built in the Sausalito Corporate Strip or the Federal Open Space beyond. Designed by Kirk Hillman, the renowned architect of the Meadowood Resort in Napa, the architecture of the home is specifically designed so that the bedrooms, all large windows, and decks face the open bay water and San Francisco views, toward the sandy beach (in the front of the home and running into the GGNRA property), away from the neighbors (for the privacy and tranquility of both), and for the viewing enjoyment of the diverse native marine, beach, and parkland wildlife. In 1979, Ian Moody himself built this, his own home, beautifully situated and thoughtfully planned for view.

At that time there was a dilapidated exterior stair from the house at 2 Alexander to the beach, which crossed the south and west boundaries of the Moody property. After Moody began construction of his home, new owners, Richard and Janet Myers, bought the house at 2 Alexander Ave. They then sued the previous owner of the lot, Pina C. Giuli, and Moody for access to the beach via this stair. Before the pending action, brief discussion led to an agreement satisfactory to Myers, Moody, and the City of Sausalito.

Myers and Moody asked and were granted permission from the City of Sausalito to move the stairway completely to the southern boundary of the Sausalito Corporate Lane which had been deeded to the City of Sausalito by Louise Barr Woods, a deceased previous owner. The City of Sausalito approved the relocation of the stairway for the exclusive access of the 6 and 2 Alexander properties to the beach. As part of the agreement, Moody, at his expense and with his own labor, built the relocated wooden stairway and built wooden access paths to it for both the Myers and the Moodys in order to give both properties access to the beach. As part of the agreement, a pittosporum hedge for privacy from the stairs was planted by Moody. Maintenance of the lower section of that stairway, pruning of the privacy hedge, and irrigation and maintenance of the area adjacent to the Moody property has been performed continuously by Moody from July 1980 through the present. The entire stairway for the 2 and 6 Alexander properties' access to the beach portion of the lane, and the wooden access path to the 6 Alexander property, have never been moved.

This agreement was recorded by the County of Marin on July 21, 1980. The document included an initialed sketch of stairway relocation. Myers and Moody then enjoyed quiet stair access from both of their homes to the sandy beach in the Sausalito Corporate Lane property (a part of the beach historically known Fisherman's Beach), and Moody maintained the landscaped privacy area of the Sausalito Corporate Lane property, as agreed with Myers and the City of Sausalito.

In about 1984, Myers began an action against the City of Sausalito to quiet the title to the lane. This action was without resolution. At this time, Myers had also started paying taxes on the Sausalito Corporate Lane. Then, Myers sold his property to John Hickey. With a new attorney (paid for with some of his \$20,000,000 in illegally gotten gains) Hickey filed suit against Sausalito. The City of

Sausalito had indeed accepted the lane from Louise Barr Woods, the intent was clear, and the Sausalito Corporate Lane is recorded on many Marin County and Sausalito maps. [These maps are still given out today by Sausalito and Marin County.]

However, Hickey's attorney found that the City of Sausalito had been negligent by never finalizing the last step in recording it. No notice of this was given to the Moodys by the City of Sausalito. Sued by Hickey, Sausalito quit claimed the property to Hickey.

THIS WAS THE BEGINNING OF THE PROBLEMS THAT CONTINUE TO THIS DAY.

Moody's first knowledge that Sausalito had quit claimed the lane was when Hickey demanded that Moody cease using the stairway to the beach part of the lane, and stop maintaining the pittosporum privacy hedge and the lower lane landscaping, as Moody had done since 1979. Hickey also demanded that the Moodys remove the access walkway from their deck and block the access from their home to the stair. The Moodys refused. Hickey then began harassing the Moodys by shining spotlights all night on the Moody home, throwing lit cigarettes and matches onto their property, heavy shake shingle roof, wooden deck, cutting down all trees between the two houses, and ripping out the drip irrigation system on the Moodys' own property. On September 25, 1991, a superior court permanent injunction was filed against Hickey.

John Hickey disappeared a few years later, just before F.B.I. agents raided his home and tore up a section of flooring in 2 Alexander. Hickey was wanted by the S.E.C. (Securities and Exchange Commission). He was caught for theft of a rental car, turned over to the S.E.C., convicted of \$20 million securities and mail fraud, and imprisoned. [You can find this information on the internet.]

The property at 2 Alexander was confiscated and sold at auction to Ed and Linda Fotsch (Fotsch's first wife) in 1995. Ed Fotsch, taking possession of 2 Alexander, wrote a letter in December 1995 demanding that the Moodys cease using the stair to the beach and the landscaped part of the lane adjacent to 6 Alexander Avenue. Moody refused. Fotsch then asserted that Moody should stop using the stairs "because they were dangerous"; this though he allowed his four young children and his guests (cocktails in hand) to use them regularly. Fotsch then threatened to block off the stairs. Fotsch sent several letters attempting to intimidate Moody and his wife into cease use of the stairs of the "lane" which adjoined the south of Moodys' property. Moody's attorney, William S. Hochman, sent Fotsch two letters regarding the Moody property's prescriptive easement. Fotsch then backed off, and the Moodys have heard no more about it since then.

Moody has had continuous use and enjoyment of the stairs to the beach, and the landscaped part of the lane adjacent to the 6 Alexander Avenue property and has continued maintaining the adjacent privacy landscaped strip since the purchase of 6 Alexander Avenue in 1979 and for over 19 years (as of the date of this letter) since Ed and Linda Fotsch purchased 2 Alexander Avenue, many years beyond the period required to establish prescriptive easement.

In Fotsch's current application for a pier at 2 Alexander Avenue, the herein described 6 Alexander Avenue property's prescriptive easement in the location of the proposed pier is not acknowledged, accommodated, or shown.

In 2007, Fotsch's developed further problems with his use of the former Sausalito Corporate Lane with his adjacent neighbor immediately to the south, the GGNRA and, separately, with the Golden Gate Bridge Highway and Transportation District.

On October 10, 2007, the United States Department of the Interior, National Parks Service issued a letter to the City of Sausalito stating that Fotsch's project along their mutual border was determined "out of compliance with the NPS Conditions Letter; that "...substantial construction activity took place on NPS lands...NPS believes these Project defects were preventable had the boundary been properly surveyed, marked, and fenced off prior to construction in conformance with the NPS Conditions letter", and demanding the removal of any encroachments on NPS land. The knowledge of the National Park Service's position on any pier proposal, or intent to lease, is germane to these applications.

At the Alexander Avenue street level of the former Sausalito Corporate Lane, Fotsch, without permission, jack hammered off and compromised approximately three feet (3') of a Golden Gate Bridge Highway and Transportation District (GGBHTD), a publicly owned thick concrete wall and steel guard rail within the street right-of-way, to widen the entrance to his overbuilt (beyond building permit specifications) garage. He was required by GGBHTD to rectify and diminish the damage he caused.

Now, in this same former Sausalito Corporate Lane, Fotsch has submitted a pier application and is asking for a lease sixty feet (60') beyond his own property limits for its construction. The pier, lease, and property dimensions which extend into the San Francisco Bay and other drawings are incomplete and inconsistent, all to the benefit of Fotsch. These affect the pier application, the proposed lease of public right-of-way waters in the City of Sausalito/San Francisco Bay, and the public access beach.

Further, the knowledge of the National Park Service's position, any conditions, setbacks, and/or other requirements on this pier construction, or lease of bay waters, is germane to the 2 Alexander Avenue pier and lease applications. They share a border which Fotsch has previously over-run. Several documents substantiating this information can be found on the internet by looking up:

Fotsch 2 Alexander Ave., Sausalito City Council Meetings, Nov. 5, 2003. [PDF} Agenda Item 3 ' Sausalito Planning. [Please note letters from Michael Rex, Architect, the National Park Service, and the Golden Gate Bridge Highway and Transportation District.]

I also have other documents and photos to substantiate what is set forth in this account of the Sausalito Corporate Lane.

Sincerely,
Janeane Moody
Retired teacher, Kent Middle School, Kentfield, CA
6 Alexander Avenue
Sausalito, CA 94965



United States Department of the Interior
NATIONAL PARK SERVICE
Golden Gate National Recreation Area
Fort Mason, San Francisco, California 94123

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IN REPLY REFER TO:
D18 (GOGA-BMD)

October 10, 2007

Sierra Russell, Associate Planner
City of Sausalito Community Development Department
420 Litho Street
Sausalito, CA. 94965

Re: Variance 2 Alexander Avenue, Sausalito

Dear Ms. Russell:

The National Park Service (NPS) is writing regarding the request from the City of Sausalito (City) for comment to the proposed modification of the variance adopted by the City Planning Commission in Resolution 2003-51 dated November 5, 2003 (Variance). In March 2003, NPS issued a letter conditionally supporting a request from Dr. Edward Fotsch, the resident at 2 Alexander Avenue, to a proposed variance from the City building code to permit a one foot setback from our mutual property line for a stairway and garage remodel project (Project). In August 2007, NPS was notified by the City of a proposed Variance modification to approve the Project as-built within the one foot setback. At your request, NPS has reviewed the Project record including the as-built site conditions for conformance with the NPS letter conditionally supporting the Variance dated March 11, 2003 (NPS Conditions Letter).

NPS has determined that the Project is out of compliance with the NPS Conditions Letter. The Project was constructed without the installation of a temporary fence placed along the surveyed property boundary line resulting in Project construction within the one foot minimum setback. As a result, substantial construction activity took place on NPS lands, including project staging and the construction of a temporary stairway. Based upon the recently placed survey line located two feet away from the property boundary, it appears that a concrete planter and the stairway's underground footings may be encroaching onto NPS land. NPS has contacted Dr. Fotsch to schedule a walkthrough with his surveyor and contractor later this month to jointly inspect the boundary and verify a possible encroachment onto federal land. NPS believes these Project defects were preventable had the boundary been properly surveyed, marked, and fenced off prior to construction in conformance with the NPS Conditions Letter.

Consequently, NPS requests that the City not grant the requested modification to the Variance until these defects are brought into conformance with the NPS Conditions Letter including: (a) verification and removal of any encroachments on NPS land, (b) the removal of Project construction debris, temporary stairs and the restoration of disturbed surfaces on NPS property including installation of erosion control measures, and (c) the construction of a continuous permanent fence or equivalent ground level boundary marker along the surveyed boundary with the GGNRA. Upon completion of these


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corrections, NPS would support a modification of the Variance for Project construction up to the property boundary line. NPS has no objection to the City lifting the Project construction hold for work outside the minimum one foot setback from the property line set forth in the Variance.

The NPS works diligently to manage the resources of the Golden Gate National Recreation Area in accordance with our mission. The NPS values productive communications and relations with our partners and stakeholders. We have a good working relationship with our neighbor Dr. Fotsch and will cooperate to resolve our concerns in a timely manner. If you have any questions regarding this communication, please contact me at (415) 561-4971.

Thank you for your consideration in this matter.

Respectfully,



Paul Batlan
Realty Specialist

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AUG 18 2016

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT

MICHAEL REX ASSOCIATES
ARCHITECTURE & DESIGN
1750 BRIDGEWAY
SUITE 211
SAUSALITO
CALIFORNIA 94965
T 415 331-1400
F 415 331-5463

October 3, 2007

Members of the Planning Commission
City of Sausalito
420 Litch Street
Sausalito, CA 94965

RE: 2 ALEXANDER AVENUE - FOTSCHI RESIDENCE
VARIANCE APPLICATION #VAM/DRM 07-002 -NEIGHBOR CONCERNS

Dear Commissioners:

As the Architect representing Ian and Jan Moody, homeowners of 6 Alexander directly downhill of the project site, we write in response to the latest Design Review and Variance application for 2 Alexander in which the Fotsches seek once again to obtain City approval after construction has been put in place which does not conform to approved plans.

Incomplete Application:

Following our review of the application, we conclude that it is incomplete and lacks essential information necessary for proper Project review. Important information that is missing includes:

1. The survey provided does not show the constructed features so their actual relationship to the property boundaries is impossible to determine. This was the purpose for requiring a new survey in the first place. Without the built features shown on the survey, there is no way the City, or anyone else, can determine the extent the work encroaches into the required setback.
2. The surveyor's new stakes do not show the property corners, but instead have been offset two feet to the south of the southern property line, which is misleading, giving the impression that the construction is setback from the parcel boundary. There is no reason that stakes can't be placed at the property corners.
3. There are no drainage plans submitted, even though the August 27, 2007 letter from Planner, Sierra Russell, said the City would require them, like it does for all other Design Review submittals.
4. There are no grading plans submitted, even though the July 26, 2007 letter from Planning Director, Paul Kermoyan said the city would require them, like they do for all other Design Review submittals.
5. There has been no assessment of the structural integrity of the site's numerous retaining walls, a requirement of the conditions in Resolution No. 4907 and necessary to insure safety.

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6. The 9/11/07 letter from Project engineer, Mohammad Saaber offers no calculations or other evidence with which to evaluate or confirm the structural integrity of enlarged building. The letter does not address the retaining walls.
7. There is no Geotech report to evaluate the integrity of the fill, foundation systems and retaining walls constructed on the site without permit or for supporting structures larger than approved even though in Sierra Russell's August 27, 2007 letter, she encouraged the applicant to submit such a report and notes that such a report must be submitted prior to final project approval, as required by Condition 12 of Resolution No. 4907. Such Geotech reports are typically required as part of all Design Review applications for new work. Certainly, such a report can and should be submitted for work already constructed.
8. The Applicant has not submitted written findings necessary to grant a variance, a requirement of all variance applications.
9. There has been no written response as yet from the National Park Service in regard to the Applicant's lack of conformance to NPS conditions for Park Service's support of the sideyard variance. Knowledge of the NPS's position on this matter is germane to your consideration of this application.
10. The Site Plan submitted with the Variance application appears to be inaccurate, showing retaining walls and grade beams within the property lines. Even Dr. Fotsch's own letter dated September 22, 2007 admits in item 6. that a planter (actually a structural concrete grade beam) encroaches onto GGNRA property by 4". Site observations and structural details shown on construction documents reveal that additional grade beams and retaining walls encroach onto GGNRA property. A proper survey that shows site features in relationship to the parcel boundaries would confirm such encroachments and is the reason why the City must insist that a complete survey must be submitted before the application can be heard.
11. The applicant's 8/8/07 request letter doesn't ask for the City's approval of the increased building mass, but only for the addition of an interior bathroom. Since the three-story building is 16" wider and 7" deeper and adds additional Floor Area and Building Coverage, this seems like a serious oversight.

Improper Hearing Notice: The public notice for the Design Review portion of the application gives the impression that only an interior bathroom is being considered. The excess building mass & bulk should be included in the notice as part of Design Review hearing.

Flawed Process: Rather than requiring a new Design Review and Variance application to address the non-conforming construction and sideyard encroachments, we contend that the Moody's previous appeal should be reopened, because given the new information that has come to light since the appeal hearings, it is possible the Planning Commission and the City Council might have taken a different position on the matter.

New Information: Since the current application has been filed, we have discovered that a publicly owned concrete and steel guardrail within the street right-of-way has been cut back and potentially compromised. We question if this work was done with a permit.

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The cut exposes the steel reinforcing bars to weather, which could rust, expand and cause the concrete to crack and spall. This unpermitted work should be added to the approval process.

Letter from Dr. Fetsch dated 9/22/07: We reviewed Dr. Fetsch's letter submitted to support his application and offer the following observations:

- Item 2: The approved plans show a minimum 18" setback between the stairways and the southern property line, not 12"
- Item 4: The narrowing of the lot from east to west does not justify the expansion of the three-story garage structure and the encroachment of the structure into the sideyard beyond the 3'-6" variance already approved. An error by the builder is also an insufficient reason to justify non-conforming construction.
- Item 5: The new survey submitted as part of the application does not show the stairways or any other feature constructed on the site.
- Item 5a: Placing survey points 2 feet from the property line is misleading and should be reset to mark the actual southern property line and the southwest parcel corner.
- Item 6: The decorative planter is actually a structural grade beam. Site observations and a proper survey that illustrates what is built relative to the southern property line, combined with an inspection of the structural plans, will reveal that additional grade beams and retaining walls encroach into the required sideyard setback and even onto GGNRA lands.
- Item 7: There have been no plans submitted to demonstrate how drainage from the garage and stairs will be directed away from Park Service property or from the Moody property below.
- Item 8: Because the stairway is built right up to the Park Service property, there is no room to construct a fence between the Project parcel and GGNRA lands as required by the Park Service.
- Last Paragraph: According to the City's measurements noted in Paul Kermoyan's letter of July 26, 2007, the additional sideyard encroachment at the stairways is 12", not 10". This 12" deviation is only part of the problem. The fact that a three-story structure has been constructed which is 16" wider and 7" deeper than approved, and adds additional Floor Area, and Building Coverage, building mass, is a significant issue that the Planning Commission needs to consider as well.

Variance Findings: The findings necessary to grant a variance cannot be made.

- o There are no unusual site conditions that cause a need for relief from the City's zoning standards.
- o There is no hardship to justify additional encroachment into the southern sideyard setback. The applicant has already received one variance to encroach based on questionable findings. The hardship to remove the additional encroachment is a self-imposed hardship caused by either careless construction, or worse, deliberate intent.

Because the necessary findings cannot be made, the Variance application must be denied.

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Consequence for Building Structures that Deviate from Approved Plans: Except for minor deviations that don't impact others, there should be some consequence when property owners fail to construct improvements that don't conform to approved plans. Building a three-story building that is wider and deeper than approved, resulting in a significantly more massive structure, is not insignificant deviation. Encroaching further into a setback, even onto adjacent property, beyond a variance already granted, is not an insignificant matter.

In the past, the City has required property owners to rebuild so structures conform to approved plans. The City has done so not necessarily to be punitive, but to honor the public's right to expect that what they see with story poles and what the City approves is what is in fact, built. To do otherwise, undermines the plan approval process and encourages property owners to build larger in the hopes that no one will notice, or if they do, the City will bless the deviation so they get away with it. The Commission needs to send a clear message with this application that such an approach is unacceptable.

Criteria to Judge this Application: Staff has suggested that the deviations can be considered minor, and therefore should be acceptable. The applicant has explained that the errors were oversights and honest mistakes. We suggest that the size of the deviation from the approved plans and the reason for the errors are not the paramount criteria to use when evaluating this application. The most important criteria to consider should be:

1. Is it credible that a building could be constructed 16" wider and 7" deeper as an "honest mistake," particularly given this Project's long history of building components without a permit? (The Garage structure would also have been higher than approved, but fortunately, Staff caught in Plan Check that the building permit plans didn't match the Design Review approved plans.)
2. Is it credible that foundation systems, retaining walls, stairways and planters could be constructed that encroach 12" or more into sideyards and even onto adjacent property, when the Park Service instructed the applicant to first construct a fence to define the property limits before building to insure just such an event wouldn't happen?
3. Whatever the excuse, it is the Applicant's responsibility to build in conformance with the approved plans.
4. In this case, the deviations have a direct and significant impact on the Moodys, who forevermore, will look up to a more massive structure and enjoy less late afternoon sunlight, should the City bless the Applicant's mistakes.
5. The public's right to expect a fair and proper plan approval process is compromised and the "build it now, and ask questions later" approach to construction in Sausalito is encouraged.

Request: We ask that you continue this hearing to a later date, following the submittal of the items noted above that are required for the application to be fully complete and properly reviewed. If you choose to hear and vote on this application now, for all the good reasons stated above, we ask the following:

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1. Deny the Variance and require that the stairways and other structures on the southern side of the Fotsch garage be reconstructed to conform to the previously approved plans.
2. Insist that the public's concrete wall within the street right-of-way be repaired.
3. Require that the plans filed for a Building Permit be withdrawn so they can be revised to reflect your decisions.
4. Require that before Staff accepts the Building Permit application, the plans include fire sprinkler plans, a geotech report prepared by a licensed Civil Engineer, Structural calculations for the new structural work prepared by a licensed Civil or Structural Engineer, grading and drainage plans prepared by a licensed Civil Engineer. A full survey that notes parcel boundaries and site features prepared by a licensed Surveyor, as well as a Site Plan that conforms to the new survey.

Conclusion: I thank you for considering this point of view and the Moody's needs when reviewing this application.

Sincerely,

Michael Rex, Architect

Copy: Ian and Jan Moody
Ken Downs, Attorney

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Re: BCDC Permit Application No. M2004.013.01
Herring fishermen use these S.F. Bay waters
every year for approximately 3 months.

RECEIVED

AUG 18 2014

SAUSALITO
DEVELOPMENT



Dock at 8 Alexander Ave.
Sausalito



Dock at 6 Alexander Ave.
Sausalito

Note flags marking where nets are laid for herring.
Herring boats fishing at 6 and 8 Alexander Ave.
piers of same length. Proposed pier is 60 feet
further into S.F. Bay.

Re:

Herring fishing season is approximately 3 months every year.

RECEIVED

AUG 18 2014

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT



Herring boats at ends of docks at 6 and 8 Alexander Ave. Piers extend some distance into A.S. Bay, as do neighboring piers. Proposed 2 Alexander pier extends 60' more.

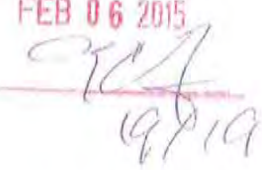
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Edward J Fotsch, MD
2 Alexander Avenue
Sausalito California 94965

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30 January, 2015

Jonathon Goldman
City Engineer, City of Sausalito
420 Litho Street
Sausalito CA, 94965

FEB 06 2015


Re: 2 Alexander Ave Pier Application

Jonathon, Thank you for your letter of 23 October, 2014 outlining the remaining open issues related to our pier application at 2 Alexander Ave. I apologize for the delay in responding but the request for a new recorded survey combined with the wet December weather pushed out the survey and this response, which I now believe addresses all outstanding issues from your letter as follows:

1. Recorded Survey and Property Lines: Enclosed please find the recently completed survey from Ray Carlson and Associates along with topo map. The length of the southerly property line and location of the property line to the east are noted and consistent with the updated pier plans also enclosed. The survey has been submitted to the county for recording.
2. BCDC Regulatory Band: The BCDC regulatory band on the attached plans is noted to be 100' wide rather than 25. The BCDC application is in-fact in progress and the required BCDC posting has been in place on the 2 Alexander garage for some time.
3. Pier Height vs Current FEMA BFE: The lowest horizontal member of the proposed pier is above +10 while the current FEMA BFE is +9.
4. Sewer District: Enclosed is the approval letter from the Marin City Sanitary District. I would note that outreach to them was done as a courtesy in that they have a limited lease over a portion of our property with NO rights beyond the ability to maintain their pipe. That having been said, we have a very cordial relationship with the sewer district and will work with them during construction as outlined in their letter.
5. Other Approvals: The Army Corp of Engineers has approved the pier as per the enclosed letter of 26 November 2014. Applications were begun with BCDC and the SF Bay Region Water Control Board over a year ago. Interestingly these groups have asked for documentation of approval from the City of Sausalito- while the City has asked for their approvals. I assume that the City can now move forward with an approval subject to final BCDC and Water Board approvals- and vice versa.

I've also attached the letters of support from my neighbors for your files. Please let me know if there are any other outstanding issues as we hope to build the pier this spring. Thanks and best regards,


Edward Fotsch, MD
enclosures

Email: ed@fotsch.com Office: 415.332.8599 Fax: 415.332.8530

EXHIBIT G



CITY OF SAUSALITO

Ray Withy, Mayor

Adam Politzer, City Manager
420 Lillo Street, Sausalito, California 94965
Telephone: 415-289-1100 • WWW.CITYOFSAUSALITO.CA.US

2/19

October 23, 2014

Dr. Edward Fotsch
2 Alexander Avenue
Sausalito, California 94965-2512

SUBJECT: Notice of Incomplete Application for 2 Alexander Avenue Pier (ADR/VA 13-310)

Dear Dr. Fotsch:

Thank you for your letter to Calvin Chan dated August 28, 2014. As indicated in the City's Notice of Incomplete letter dated April 25, 2014, the plans are required to accurately depict the property boundaries. The most recent submittal, (plans dated August 27, 2014), labels the southerly property with a length of 193.47 feet, which does not match the scaled length on the drawing. In addition, the easterly property line has not been properly located. The 1988 survey by Ray Carlson & Associates, Inc. does not adequately establish the location of the easterly property line for the following reasons:

1. Although the 1988 survey was used for purposes of settling the court case between the City of Sausalito and Mr. Hickey, the survey was not recorded with Marin County.
2. A stipulation from the court case stated, "(t)he parties agree that, even if the Effective Date occurs, the extent to which that portion of the Parcel which is bayward of the bayward boundary of said rock and concrete walls is subject to the public trust easement for commerce, navigation and fisheries and the precise location of the waterward deed boundary of the Parcel remain open questions not resolved in the Action." (Stipulation in Hickey v. the Louise Barr Woods estate, *et al.*, January 1991, Agreement paragraph 5, p. 4 marked as Exhibit B, DN 95-022935). The Judgment entered in the case on May 6, 1991 also states that, "... the precise location of the bayward deed boundary of the Bayward Portion, are open questions that are not adjudicated in this action." (Judgment on Stipulation and Default paragraph 6.) The location of the easterly property line was not determined from the court case; therefore the survey cannot be relied on as definitively establishing the easterly property line.

A current boundary survey is required. This requirement is consistent with the requirement from the San Francisco Bay Conservation and Development Commission (BCDC) in its letter dated September 18, 2014 to Mr. Rick Pelchat of Mid-Cal Construction regarding this project. A current boundary survey and site plan with topography will provide updated information regarding the site (post-1988 improvements to the property, changes in topography,

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location/existence of monuments and benchmarks, etc.) and resolve the ambiguity regarding the location of the easterly property line. The City Attorney is also contacting the State Lands Commission for assistance on this matter. In addition, to the extent that there are any easements for public access, private access, public or private utilities or other encumbrances to land use; the survey must include these features.

Additional incomplete items include:

1. The BCDC's regulatory shoreline band jurisdiction is 100-feet wide¹, not the 25 feet 8 inches shown on the drawing dated August 27, 2014.
2. Unless a variance is granted by the Sausalito City Council, the lowest horizontal member of the pile-supported pier is required to be elevated to or above the Base Flood Elevation ("BFE") current and effective at the time your building permit application is complete. I apologize for the confusion, but as of the date of this letter, the BFE at the project site is +9 feet (NAVD88) made current and effective by Federal Emergency Management Agency ("FEMA") on May 4, 2009. As indicated in Section 8.48.051.C.2 of the Sausalito Municipal Code, non-residential structures, including the proposed pile-supported pier located in the "VE" high-velocity coastal zone, are regulated under the City's floodplain ordinance. As you are aware, FEMA has issued a preliminary revision to the Flood Insurance Rate Map ("FIRM") panel for the area in which you have proposed to construct the dock. The preliminary BFE for the VE at that location is +15 feet (NAVD88) and as of a presentation delivered to the Sausalito City Council by Kathleen Schaefer of FEMA last Tuesday evening, the preliminary FIRM is expected at this point to become effective in September, 2015.
3. Please provide a copy of the Sausalito Marin City Sanitary District's document approving of the plans.
4. Necessary permits shall be obtained from other jurisdictions as required. This may include but not be limited to SF Bay Regional Water Control Board (401 Permit), the Army Corps of Engineers (Nationwide Permit), and BCDC Permit. Please provide copies of the approved permit/exemption letter from SF Bay Regional Water Quality Control Board, Army Corps of Engineers and other regulatory agencies.

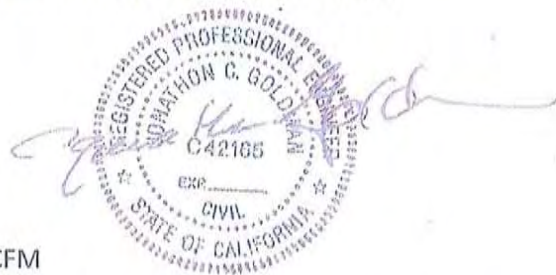
¹ As listed on the BCDC's website, the BCDC's shoreline band of jurisdiction is "The first 100 feet inland from the shoreline around San Francisco Bay". [<http://www.bcdc.ca.gov/permits/faqs.shtml>]

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Dr. Edward Fotsch
October 23, 2014
Page 2

If you have any questions, please do not hesitate to contact me by email jgoldman@ci.sausalito.ca.us, or by phone (415)289-4176.

Sincerely,
City of Sausalito



Jonathon Goldman, PE CFM
Director of Public Works, City Engineer and ADA Coordinator
California Civil Engineer: C042165
Sealed: 23OCT14
Expires: 31MAR16

CC: File - I:\CDD\PROJECTS - ADDRESS\A\Alexander 2\ADR-VA 13-310\Public Works\Draft ADR-VA 13-310 2 Alexander Pier Edward Fotsch Letter JCG.docx



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398

6/19

NOV 26 2014

Regulatory Division

Subject: File Number 2013-00244N

Ed Fotsch, M.D.
#2 Alexander Avenue
Sausalito, California 94965

Dear Dr. Fotsch:

This correspondence is in reference to your submittal of May 31, 2013 concerning Department of the Army (DA) authorization to construct a new dock at your residence located at 2 Alexander Avenue in Sausalito, California. The dock will be constructed in San Francisco Bay at your residence identified by APN #065-303-05.

Work within U.S. Army Corps of Engineers' (Corps) jurisdiction would include construction of a 1,116 square-foot pier, installation of nine 12-inch diameter steel piles and two new concrete footings. Dimensions of the concrete footings are 30 by 66 by 96 inches and 36 by 36 by 96 inches. Piling will be installed with an impact hammer with certified cushion. Work will require placement of less than one cubic yard of fill within about one square foot of San Francisco Bay. All work shall be completed in accordance with the plans and drawings titled, "EDWARD FOTSCH PIER APN 065-303-05 & 065-303-20 2 Alexander Avenue Sausalito, Ca. 94965" dated August 19, 2013, last revised October 7, 2014 prepared by Mid-Cal Construction Inc. consisting of one sheet enclosed with this document.

Section 404 of the Clean Water Act (CWA) generally regulates the discharge of dredged or fill material below the plane of ordinary high water in non-tidal waters of the United States, below the high tide line in tidal waters of the United States, and within the lateral extent of wetlands adjacent to these waters. Section 10 of the Rivers and Harbors Act generally regulates construction of structures and work, including excavation, dredging, and discharges of dredged or fill material, occurring below the plane of mean high water in tidal waters of the United States; in former diked baylands currently below mean high water; outside the limits of mean high water but affecting the navigable capacity of tidal waters; or below the plane of ordinary high water in non-tidal waters designated as navigable waters of the United States. Navigable waters of the United States generally include all waters subject to the ebb and flow of the tide; and/or all waters presently used, or have been used in the past, or may be susceptible for future use to transport interstate or foreign commerce. A Preliminary Jurisdictional Determination (JD) has been completed for your site. Preliminary JDs are written indications that there may be waters of the U.S. on a parcel or indications of the approximate location(s) of waters of the U.S. on a parcel. Preliminary JDs are advisory in nature and may not be appealed.

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Based on a review of the information in your submittal and the current condition of the site as verified during a field investigation on July 12, 2013, the project qualifies for authorization under Department of the Army Nationwide Permit 3 (NWP) for Maintenance 77 Fed. Reg. 10,184 February 21, 2012 (enclosure 1) pursuant to Section 404 of the CWA of 1972 as amended (33 U.S.C. § 1344 *et seq.*) and Section 10 of the Rivers and Harbors Act (RHA) of 1899, as amended (33 U.S.C. § 403 *et seq.*). The project must be in compliance with the terms of the NWP, the general conditions of the Nationwide Permit Program, and the San Francisco District regional conditions cited in enclosure 2. You must also be in compliance with any special conditions specified in this letter for the NWP authorization to remain valid. Non-compliance with any term or condition could result in the revocation of the NWP authorization for your project, thereby requiring you to obtain an Individual Permit from the Corps. This NWP authorization does not obviate the need to obtain other State or local approvals required by law.

This verification will remain valid until March 18, 2017, unless the NWP authorization is modified, suspended, or revoked. Activities which have commenced (i.e., are under construction) or are under contract to commence in reliance upon a NWP will remain authorized provided the activity is completed within 12 months of the date of a NWP's expiration, modification, or revocation, unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 C.F.R. § 330.4(e) and 33 C.F.R. §§ 330.5 (c) or (d). This verification will remain valid if, during the time period between now and March 18, 2017, the activity complies with any subsequent modification of the NWP authorization. The Chief of Engineers will periodically review NWPs and their conditions and will decide to modify, reissue, or revoke the permits. If a NWP is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. It is incumbent upon you to remain informed of any changes to the NWPs. Changes to the NWPs would be announced by Public Notice posted on our website (<http://www.spn.usace.army.mil/Missions/RegulatoryPublicNotices.aspx>). Upon completion of the project and all associated mitigation requirements, you shall sign and return the Certification of Compliance, enclosure 3 verifying that you have complied with the terms and conditions of the permit.

This authorization will not be effective until you have obtained a Section 401 water quality certification from the San Francisco Bay Regional Water Quality Control Board (RWQCB). If the RWQCB fails to act on a valid request for certification within two months after receipt of a complete application, the Corps will presume a waiver of water quality certification has been obtained. You shall submit a copy of the certification to the Corps prior to the commencement of work.

This authorization will not be effective until you have obtained a concurrence from the San Francisco Bay Conservation and Development Commission that your project will comply with California's Coastal Zone Management Act. If the Commission fails to act on a valid request for concurrence with your certification within six months after receipt, the Corps will presume a

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concurrence has been obtained. You shall submit a copy of the concurrence to the Corps prior to the commencement of work.

General Condition 18 stipulates that project authorization under a NWP does not allow for the incidental take of any federally-listed species in the absence of a biological opinion with incidental take provisions. As the principal federal lead agency for this project, the Corps determined that the project would fit within the National Marine Fisheries Service (NMFS) Not Likely to Adversely Affect (NLAA) and Over Water Structure (OWS) Programmatic consultations issued August 13, 2013 and October 11, 2011 respectively, to address project related impacts to listed species, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended 16 U.S.C. § 1531 *et seq.* By electronic mail dated October 9, 2014 NMFS concurred with the determination that the project was not likely to adversely affect steelhead and designated critical habitat for this species.

In order to ensure compliance with this NWP authorization, the following special conditions shall be implemented:

1. All standard Best Management Practices shall be implemented to prevent the movement of sediment downstream. No debris, soil, silt, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the waterways. Decking shall be cut to size offsite.
2. Construction will take place during the preferred work timing of June 15 through October 15.
3. Two eelgrass surveys are required during the same season as construction of the dock. One survey shall be done prior to construction and the second following the installation. Survey results including maps and information shall be submitted to the Corps and will be the basis for eelgrass mitigation.
4. NMFS concurrence was premised, in part, on project timing restrictions outlined in Item #2. These work restrictions and the mandatory eelgrass survey are incorporated as a special condition to the NWP authorization for your project to ensure unauthorized incidental take of species and loss of critical habitat does not occur.

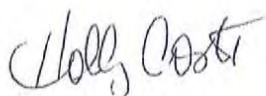
You may refer any questions on this matter to Roberta Morganstern of my Regulatory staff by telephone at 415-503-6782 or by e-mail at Roberta.A.Morganstern@usace.army.mil. All correspondence should be addressed to the Regulatory Division North Branch referencing the file number at the head of this letter.

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The San Francisco District is committed to improving service to our customers. My Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner, while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website: <http://www.spn.usace.army.mil/Missions/Regulatory.aspx>

Sincerely,



Jane M. Hicks
Chief, Regulatory Division

Enclosures

Copies Furnished **electronically**:

Applicant: ed.fotsch@pdr.net

Contractor: justin@id-calconstruction.com

NMFS: autumn.cleave@noaa.gov

SFB Regional Water Quality Control Board: Jennifer.Gagnon@waterboards.ca.gov

CDFW: aaarreberg@dfg.ca.gov

BCDC: bobb@bcdca.gov

9/19



SAUSALITO-MARIN CITY SANITARY DISTRICT

#1 EAST ROAD • SAUSALITO, CALIFORNIA 94965
OFFICE 415.332.0244 • PLANT 415.332.0240 • FAX 415.332.0453

General Manager
Craig Justice

Directors
Dan Rheiner, *President*
William Ring, *Vice President*
Ann Arnott
Don Beers
James DeLano

May 27, 2014

Owner: Edward Fotsch
2 Alexander Avenue
Sausalito, CA 94965
415-332-8529
ed.fotsch@pdr.net

**SUBJECT: PROPOSED PIER CONSTRUCTION OVER SEWER FORCE
MAIN
2 ALEXANDER AVENUE - APN 065-303-05/20**

Dear Mr. Fotsch,

I have inspected project plans dated 05/18/14 for the proposed construction of a new private pier located off 2 Alexander Ave. As discussed on site, this pier would cross over a Sanitary Sewer Force Main (SSFM) constructed in the 1950's. This force main continues to serve 19 homes and remains under low pressure. Consequently, the District requires that you meet the following conditions of approval during construction as well as during subsequent maintenance of the pier.

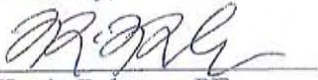
1. All excavation, including footings, forms, staking, etc., shall remain a minimum of 36" from the SSFM. In addition, do not remove large boulders that may impact bedding within 36" of the SSFM.
2. Project plans show a footing depth of approximately 2'-2" deep. If excavation is to exceed 3' in depth at any location within 6' of the SSFM, the District shall be contacted for inspection and approval prior to performing associated work.
3. No heavy equipment (such as excavators) shall be operated within 10' of the SSFM. Any excavation within 10' of the SSFM shall be hand dug.
4. No tools, construction materials, or excavation debris are to contact the SSFM during project construction or subsequent maintenance of the pier.
5. No piers may be impact driven within 50' of the SSFM. Embedded piers within 50' of the SSFM shall be drilled to minimize vibration and disturbance.

Please provide a construction schedule to the District prior to beginning work, and notify the District once work has been completed.

10/19

Thank you for contacting me about your planned pier. I wish you luck with obtaining permits and constructing your project.

Sincerely,



Kevin Rahman, PE
Associate Engineer
415-331-4714
Kevin@SMCSD.net

11/19

To: Dr. Edward Fotsch
2 Alexander Ave.
Sausalito, CA 94965

July 11 2014

From: Dr. Robert C Johnson
22 Alexander Ave.
Sausalito, CA 94965
Tel.415 331 2020
Cell 415 518 8822

Dear Ed,

I am writing this letter in support of your efforts to put in a fixed pier and float for use at your residence at 2 Alexander Ave. in Sausalito. This letter can be shared with anyone to whom it may concern.

You are asking for a variance to be able to allow you to extend the pier and float in to the bay beyond the usual property limits. This variance for extension into the bay is necessary to achieve sufficient water depth for the use of your pier. You also have plans for an addition at the East end of your pier for a float that could be raised to pier level or left floating at tide level allowing access to to your pier. This issue will be resolved through several agencies and public opinion along the way. If a variance is allowed I have no objection to your plans for the pier and float.

I will address other issues that have risen and others to consider. As you know I have an existing pier , float and gang plank that has functioned well at my residence for demolition and construction projects along with removal of and delivery of materials. My fixed pier is 10 feet wide. I do not know what is allowed at this time but I would suggest a pier width that allows for its use as I have. I elected to put a railing on one side of my pier. This might not be necessary with sufficient pier width and would eliminate any possible view concerns that a railing might raise.

My float is 8 feet wide and 40 feet long and rises and lowers with the tide level. The float is secured with one steel pile at its East end and two at its West end. The East and West orientation is impotent as my pier and float have been able to withstand significant wave action produced by very active storms without sustaining damage for the past 15 years. Your plans call for the same East West orientation of your float.

A concern has bee raised that a float that could be raised to the pier level would make it possible for one to then have a boat resting at pier level and if the boat would be of any size it could impinge on views. You have told me that it is not your intent to have a boat stored on or brought up to pier level. I find that my float that can not be raised above tide level has worked well for a boat or a barge to be able to be tied up for use or pleasure.

Good luck with your plans. I know what is involved. I must say that in general I found the agencies I dealt with were very helpful.

Bob

12/19

From: Frederic Seegal [mailto:fseegal@pjsc.com]
Sent: Monday, June 23, 2014 4:53 AM
To: Ed Fotsch
Subject:

Dear Ed, Thanks so much for sharing your proposed dock plans for 2 alexander. As you know I have just moved into 8 alexander and am familiarizing myself with the local issues. I am supportive of your proposed plans as I have now seen what the shore looks like at low tide. However this approval is also based on the assumption that the final construction will have a pier height no higher than any of the neighboring docks, including mine. I also assume that the boat lift will also meet that test as well. Regards Fred

Frederic M. Seegal, Vice Chairman
PETER J. SOLOMON COMPANY
1345 Avenue of the Americas, 31st Floor
New York, NY 10105
O: 212-508-1626 | Web: www.pjsolomon.com
Bio: <http://www.pjsolomon.com/app-our-people/seegal-frederic-m>

Assistant's E: amarkantonis@pjsolomon.com | O: 212-508-1611

13/19

From: Ed Fotsch
Sent: Wednesday, July 02, 2014 9:00 AM
To: 'Ian Moody'
Subject: RE: Dock follow up-

Thanks Ian, Happy to meet. A few things that are not clear from the plans but relate to your very reasonable comments/concerns below:

- The dock is proposed as 6' wide in an effort to *avoid* handrails. We know that handrails can block the views so we're trying to eliminate them. Likely we could live with a 5' wide dock and still have no handrails. As you likely know most of the piers immediately north of us are wide and only 2 have handrails.
- The boat lift mechanism is designed to raise and lower the decking on the end of the pier. We're trying to avoid having a sloped gangway down to a floating pier but still have access to the water to launch kayaks, etc. So the lift will have decking permanently secured to it. I agree that storing a boat at the end of the pier in that location would be unsightly. I know that Dale is actually thinking to use his mechanism as a boat lift. But his location likely has less of a view impact.
- The length we can review but I can assure you that we don't want to go out any further than necessary to clear that rock. Each extra foot just adds costs and gets us little.

I am also concerned about the new proposed FEMA map and how it could impact all the properties along the water. If time permits we might discuss that as well.

Do you have time to meet during the day on Sunday? Thanks ef

From: Ian Moody [<mailto:ianrmoody@gmail.com>]
Sent: Tuesday, July 01, 2014 9:25 AM
To: Ed Fotsch
Subject: Re: Dock follow up-

Ed,

At the meeting I repeated my support for your right to build a dock, "similar to your neighbors". I also said that I would like the main length of dock to be 4' wide, and handrails (which I am sure will be required) be of pipe and stainless steel wire for to minimize view impact.

I stated that I do have some concerns regarding the boat hoist being the storage area for a boat of how large, with a protective canvas cover, that will impact our view.

Also, I am concerned with the overall length of the proposed dock. I agree that you need to go to just beyond the rock, but the plans seem to show it going much further than that.

I would like to meet with you to go over your proposal.

Thanks,

Ian

14/19

On Mon, Jun 30, 2014 at 3:29 PM, Ed Fotsch <ed@fotsch.com> wrote:

Ian, I understand that you came to the deferred City planning meeting last week and expressed concerns and displeasure with regards to our dock application. Frankly this is a bit disappointing in that we provided you, at your request, the dock plans over a year ago and offered to meet to discuss. We heard nothing back from you. As noted below you said:

1. You 'wanted to go over our plans' with us
2. You 'support our right to have a dock.' As you know most of the homes along the water in our neighborhood have a dock- including you.

We sent the drawings a year ago and never heard a word back. The plans haven't much changed. If you had reasonable concerns it would have been nice if you had taken the time to mention them as per your note. Frankly aside from deciding that my family has no right to have a dock it's hard to understand the issue(s). We've purposefully left off a handrail so as to minimize view impact. And the dock extends out only far enough to get to open water and not end up terminating in a rock. If you have a suggestion as to how we can modify the plans and still have a useable dock it please let me know.

Edward Fotsch, M.D.

"Honor is a gift man gives himself"
tel [415.332.8599](tel:415.332.8599) | fax [415.332.8530](tel:415.332.8530)

From: Fotsch, Ed
Sent: Monday, June 03, 2013 9:25 AM
To: Ian Moody
Subject: RE: FW: your call

Ian, After months of delay we appear to have a dock application. The drawings are attached. Some of the delay has related to:

1. *Designing around the large rock toward the end of our property in the Bay- 'not much point in having a dock that ends in a rock*
2. *Rails- Apparently there is a push to have handrails on piers but as far as I'm concerned that only adds to cost, maintenance and view obstruction. With a 6' wide dock I don't think hand rails are necessary*
3. *I'm trying to avoid a float/gangway and hopefully the hoist at the end of the pier will accomplish water access without a float*

15/19

It appears that the permitting process will still take a while and assuming we get through that construction may not be this year. At any rate, that is the status. Let me know if you have any questions. ef

Edward Fotsch, M.D.

Attached PDF (reduced to fit page width)



AERIAL VIEW SIMULATION scale 1" = 60'



LOCATION MAP



PLOT PLAN scale 1" = 30'

SIDE PROFILE scale 1" = 30'

General Notes

1. The site is located on the east side of the road.
2. The site is located on the east side of the road.
3. The site is located on the east side of the road.

Project Description

- 1. Construction of a new building.
- 2. Construction of a new building.
- 3. Construction of a new building.

Site Data

Site Area: 10,000 sq. ft.

Site Address: 1234 Main St., Anytown, CA 90001

Site Owner: John Doe

Site Contact: Jane Doe

Site Phone: (555) 123-4567

Site Fax: (555) 123-4567

Site Email: jane.doe@anytown.com

From: Ian Moody [mailto:ianmoody@gmail.com]
Sent: Wednesday, August 01, 2012 7:49 AM
To: Fotsch, Ed
Cc: janeane moody
Subject: Re: FW: your call

Ed,

I would like to go over your plans with you to ensure that I understand the total scope and nature of the project and it's impact on us.

16/19

I fully support your right and desire to build a dock.

Thanks,

Ian

On Tue, Jul 31, 2012 at 4:39 PM, Fotsch, Ed <ed.fotsch@pdr.net> wrote:

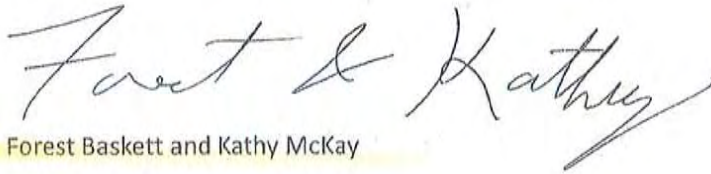
17/19

June 18, 2014

Ed,

We've reviewed your plans for a pier in front of your home at 2 Alexander dated May 8, 2014 (File: FotschPier5814 Design and Specs May 2014.) We are supportive of your pier plan and hope that you can get approvals quickly. We know that you and your family will enjoy having a pier. We use ours often and it's nice to have friends able to come by in boats and kayaks. We also believe that by covering the large rock in front of your house with the pier you will be removing a navigation hazard for boats since that rock is often submerged at high tide.

Good luck,

A handwritten signature in cursive script that reads "Forest & Kathy". The signature is written in black ink and is positioned above the printed names.

Forest Baskett and Kathy McKay

24 Alexander Ave

Sausalito

18/19



AERIAL VIEW SIMULATION scale 1" = 30'



LOCATION MAP

Drawing Index
 P1 - Title page, location map, simulated aerial photo, plan view, profile view.
 P2 - Project details and job site photos.

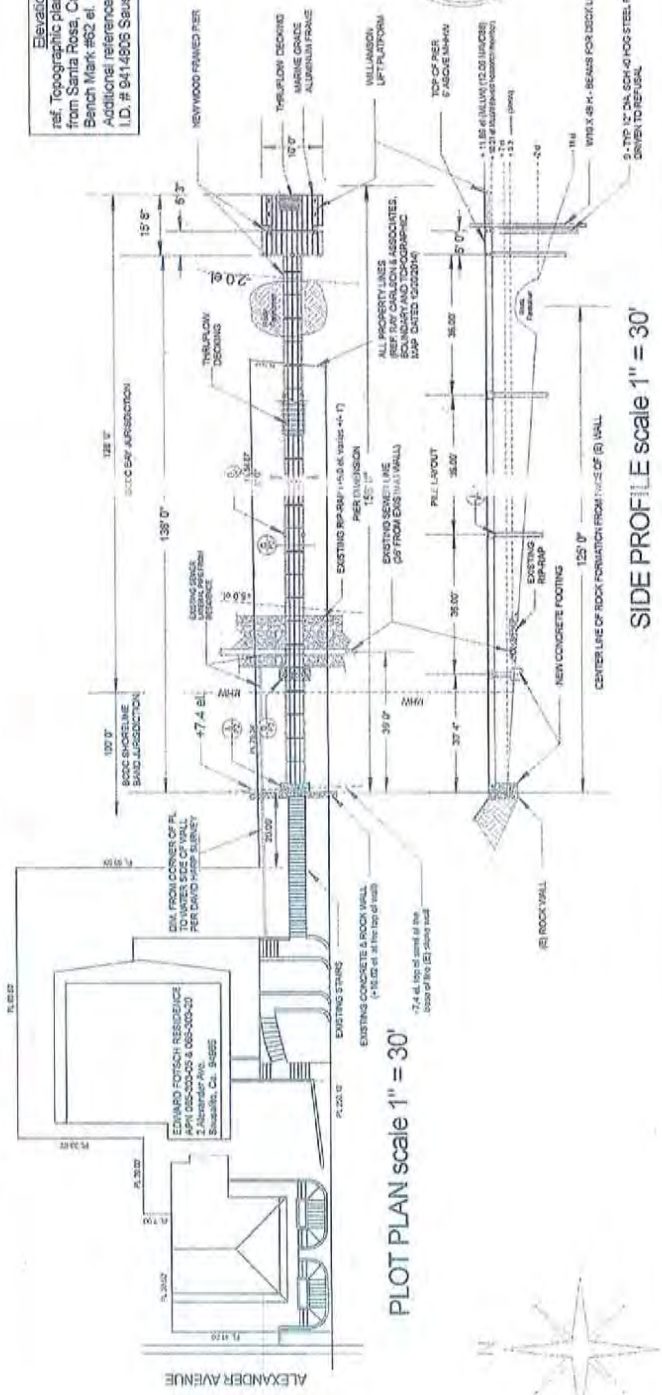
Project Description
 1. Construct and install a new 1,116 sq. ft. residential pier.
 2. Drive 9 - 12" bag steel piles
 3. Install 2 - concrete footings
 4. Pier constructed with PT Gal-Lam beams & Cedar wood frame and ThruFlow decking-Reinforced Polypropylene
 5. Install utilities to end of Pier

Project Name
 EDWARD FOTSCH PIER
 APN 085-303.05 & 085-303-20
 2 Alexander Ave.
 Sausalito, Ca. 94965
 phone# 415-332-8829
 e-mail ed.fotsch@cof.net
 * Both lots merged per City requirement

Contractor & Assn
 MID-CAL CONSTRUCTION INC.
 2716 E. Miner Ave., Suite S
 Stockton, Ca. 95205
 phone # 209-832-4400
 fax # 209-855-9022

Sheet No	Date	Scale	Rev.
PT 012	09/19/13	1/8" = 1'-0"	000015
Scale	1/8" = 1'-0"		
Rev.	000015		

Elevation Information
 ref. Topographic plans by Ray Carlson & Assn from Santa Rosa, Ca. ref. City of Sausalito Bench Mark #632 el. 112.06 Sausalito Datum
 Additional reference NOAA Tide Station I.D. # 8414606 Sausalito, S. F. Bay



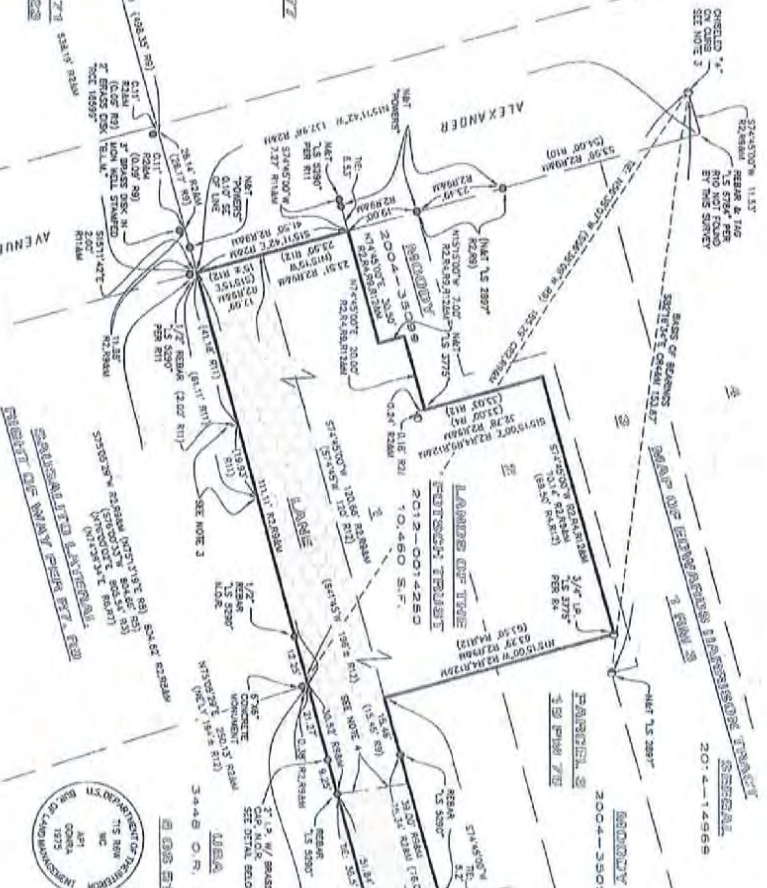
19/1/16
A

REFERENCES

- R1 MAP OF EDWARDS MARISSON TRACT, 1 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER MAP RECORDED IN RECORD BOOK 2027-201-4210, OFFICE OF THE COUNTY CLERK, SAUSALITO, CALIFORNIA, 1985.
- R2 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R3 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R4 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R5 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R6 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R7 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R8 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R9 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R10 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R11 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R12 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.
- R13 "SERVEY OF THE COUNTY TO CITY OF SAUSALITO, 2 BY J. JAMES EDWARDS, SURVEYOR AND TOPOGRAHER, 1985.

LEGEND

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NOTE

1. ALL DISTANCES AND DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. ALL TIES ARE AT RIGHT ANGLES UNLESS OTHERWISE NOTED.
3. MONUMENT DESTROYED BY CONSTRUCTION ACTIVITIES.
4. APPROXIMATE LOCATION OF ROCK AND CONCRETE MARKS ARE SHOWN ON EXHIBIT "A", SHEET 2027-201-4210.

BASIS OF BEARINGS

BEARING SIGHTS CALCULATED BETWEEN FOUND MONUMENTS AS SHOWN ON THIS MAP. MAP TIED TO BOOK 20 OF PUBLIC MAPS AT PAGE 78, WARDEN COUNTY RECORDS.

COUNTY SURVEYOR'S STATEMENT

I, _____, COUNTY SURVEYOR, DO HEREBY CERTIFY THAT THIS MAP WAS EXAMINED IN ACCORDANCE WITH SECTION 8396 OF THE PROFESSIONAL LAND SURVEYORS ACT AND IS CORRECT AND ACCURATE.

DATED: _____

RECORD OF SURVEY

OF THE LANDS OF THE EDWARDS AND MARISSON TRACT AS RECORDED IN MAP 2027-201-4210, OFFICE OF THE COUNTY CLERK, SAUSALITO, CALIFORNIA, 1985. ALSO RECORDED IN RECORD BOOK 2027-201-4210, OFFICE OF THE COUNTY CLERK, SAUSALITO, CALIFORNIA, 1985.

SAUSALITO, CALIFORNIA

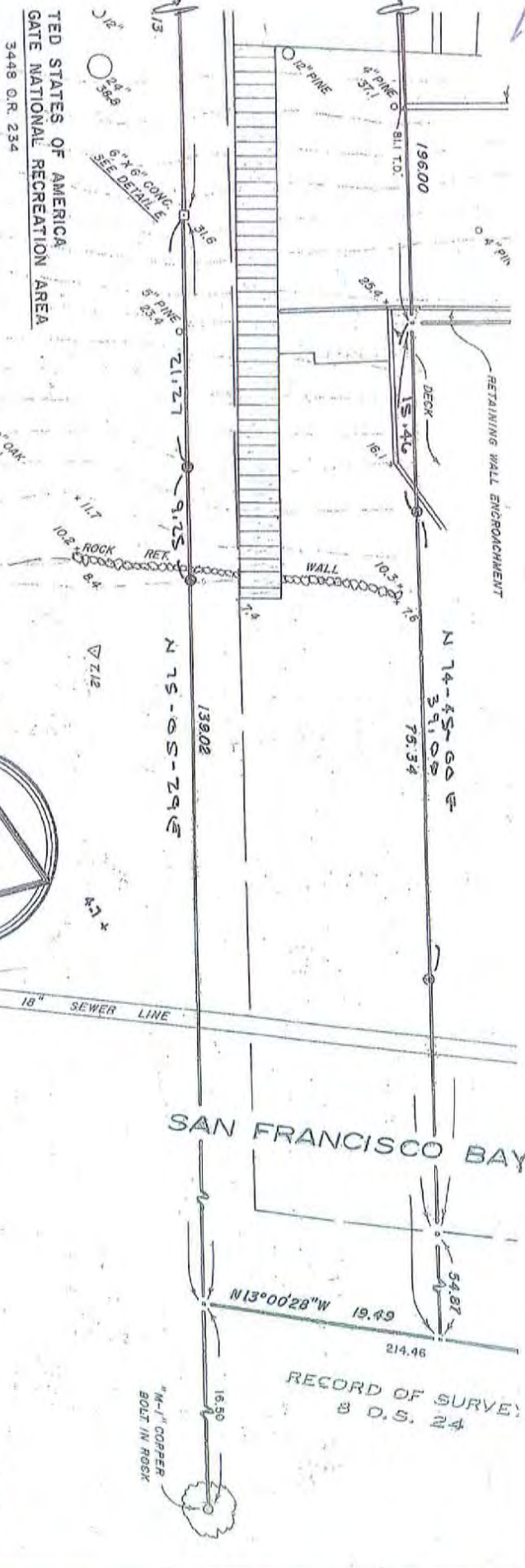
CITY OF SAUSALITO STATE OF CALIFORNIA

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APR 08/15-03/16 - 50 February 5, 2015 SHEET NO. 1 OF 1 JOB NO. 2014-114

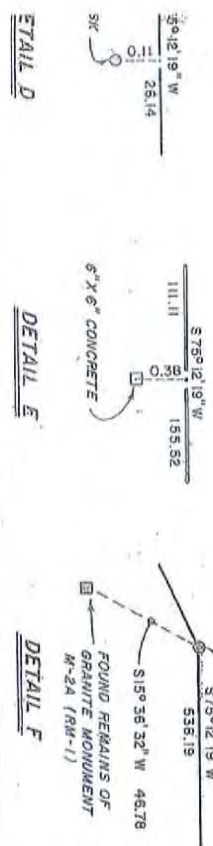
CHECK PRINT - SUBJECT TO CHANGE - 22/16

19/19
B



TED STATES OF AMERICA
GATE NATIONAL RECREATION AREA
3448 O.R. 234

NOTE: BOUNDARY DATA SHOWN HEREON IS
TAKEN FROM THE RECORDS OF SURVEY
FILED IN BOOK 2015 OF MAPS AT PAGE
MARBIN COUNTY RECORDS



REVISED 1-26-1990

CITY OF MARIN
CITY OF SAUSALITO
STATE OF CALIFORNIA

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SHEET NO. 1 OF 1, JOB NO. 2014-104

OF THE LANDS OF THE EDWARD AND DEBRA FOTSCHE TRUST AS DESCRIBED IN THAT DEED
RECORDED UNDER DOCUMENT NUMBER 2012-0014250, OFFICIAL RECORDS OF MARIN COUNTY, ALSO
BEING PORTIONS OF LOTS 1, 2 AND 3 AND THAT LANE ADJACENT TO LOT 1 AS SHOWN AND
DELIMITED ON THAT MAP ENTITLED "MAP OF EDWARDS HARRISON TRACT" FILED IN RECORD MAP
BOOK 1 AT PAGE 3, MARIN COUNTY RECORDS.

**BOUNDARY AND
TOPOGRAPHIC MAP**

**PIER DESIGN REVIEW LETTER FOR MEETING AUGUST 11, 2015
CONCERNS REGARDING PROPOSED PIER CONSTRUCTION
2 ALEXANDER AVENUE, SAUSALITO, CA 94965
SAUSALITO APPLICATION ADR-VA 13-310**

RECEIVED

AUG - 4 2015

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT

Calvin Chan, Associated Planner
and
Danny Castro, Community Development Director/Building Department (and
The Zoning Administrator?)

Dear Mr. Castro and Mr. Chan,

We are Ian and Janeane Moody, who have resided at 6 Alexander Avenue since 1979, 36 years.

We received the Notice of Zoning Administrator Public Hearing on August 3 in yesterday's late afternoon mail, and a letter is due by noon today, 8/4/2015, if it is to be included in the staff report about this issue.

We have asked our immediate neighbor Ed Fotsch for a full size copy of the latest plans, both architectural and engineering, to review, but received instead a small 2 page aerial view simulation and a page of isolated details and five small photos of part of the physical area.

As we are the neighbors most severely affected by this project, we must have the full size plans and sufficient time to review them to be able to see what their impact will be on our lives and property.

There should be an access for the Fotsch property from the proposed pier to the Fisherman's Beach (a public access beach) shown on the plans, and we have an longstanding easement to that beach which needs to be acknowledged and provided for.

There are many other issues involving this pier. Since we have so little time for a response that will be considered for the Staff Report, I am attaching a letter I wrote for the last Design Review Meeting held by Jeremy Graves about this proposed pier. This issues are the same. Please include this page and the letter attached to be considered for the staff report. [Please see pages that follow.]

We will write again as there are more issues, but for now, this is all we have time for.

Sincerely,

Janeane Moody

EXHIBIT H

**PIER DESIGN REVIEW MEETING LETTER
CONCERNS REGARDING PROPOSED PIER CONSTRUCTION
at 2 ALEXANDER AVENUE, SAUSALITO, CA, 94965
Sausalito Application ADR/VA 13-310
BCDC Permit Application No. M2004.013.01**

INCOMPLETE APPLICATION: We would like to know why this application is being considered at an Administrative Design Review Hearing (6/26/2014) when it has been deemed incomplete by both the City of Sausalito and the B.C.D.C., and not one incomplete or inaccurate item has been rectified in writing before public review. The public and affected neighbors need and deserve to know exactly what the proposal is, free of misleading inconsistencies, errors, and omissions. Plans and legal descriptions of the property are inconsistent. The City Engineering Department pointed out multiple flaws. Yet the public is asked to put time and effort into studying, commenting on, and attending a meeting about an unclear and incomplete proposal.

HEARING VENUE CONCERNS: We are requesting that the Community Development Director determine that this project warrants Planning Commission review and approval. It is surprising, unfathomable, and frankly outrageous, that the building of a permanent pier structure into the San Francisco Bay is considered to be so non-controversial that it can be approved administratively. The bay itself should be at the least equivalent to any other public property.

- **The San Francisco Bay is Sausalito's greatest natural treasure. It is central to Sausalito's quality of life, and economy.**
- **Inappropriate shoreline and bay-shore development and extended encroachment into the San Francisco Bay must be avoided. The public right of way for the incredible diversity of marine life and persons who use the San Francisco Bay, and its benefits to the health and welfare of both, is of primary importance.**
- **This involves the Sausalito's vision for this section of the Sausalito waterfront.**
- **Public input is crucial.**

Clearly this proposal meets the minimum threshold of being heard by the City Council or Planning Commission, scheduled enough in advance and an evening time when sufficient members of the Sausalito public, and representatives from involved agencies may attend.

Further, and more importantly are **FUTURE CUMULATIVE IMPACTS:** Approving this project will set a precedent, precipitate more piers, new and remodeled to extend further into the San Francisco Bay, more hydraulic lifts, more yachts stored on the ends of large platforms at the ends of docks to degrade the view of open water, and more detrimental effects on the San Francisco Bay ecology. This application concerns far more than the addition of one homeowner's pier. **This pier is not a low impact project.**

NAVIGATIONAL HAZARD IN A PUBLIC RIGHT OF WAY: This exceedingly long pier presents a navigational hazard at night and in frequently foggy conditions. Tour boats, commercial fishing boats, the herring fleet, and routine water transport will be affected. Private vessels, sail, motor, and fishing boats, kayaks, outriggers, canoes, rowing sculls, catamarans, zodiacs, dinghies, and stand-up-paddle boards can be observed proceeding barely beyond the existing neighboring piers daily. Kayak, outrigger, and Bullship races also use the same area. Sea Trek classes for kayaks, rowing sculls, and stand-up-paddle boards advertise staying close to shore, and are observed just beyond the existing neighboring piers on a regular basis. Tour boats, commercial fishing boats, the herring fleet, and routine water transport will be affected. How will the hazard of this exceedingly long pier be addressed?

Solutions causing light or sound pollution are unacceptable.

LACK OF TRANSPARENCY IN DECISION MAKING THAT AFFECTS THE SAUSALITO PUBLIC AND USERS OF THE BAY: Notice was mailed to some immediate neighbors one week before the hearing on June 26, 2014. Public meetings with scheduled issues are listed on the Sausalito website, but Administrative Design Review Hearing issues affecting the public, but called discretionary, are not to be found there. **The impacted public has no way to know that issues affecting them are being decided.** This lack of transparency has created many problems in the past and will continue to do so if there is no rectification by the City of Sausalito.

DESIGN REVIEW PROCEDURES: We are familiar with the CHAPTER 10.54.060. B.11 DESIGN REVIEW PROCEDURES, and note that: Application for building permits for “any pier or dock” in this zoning district fall under applicability for an Administrative Design Review. Our concern is that this proposed pier is not just “any pier”. Again, this pier is not a low impact project.

PROPOSED PIER IS COMPLETELY OUT OF SCALE WITH NEIGHBORING PIERS:

The proposed pier extends farther into the San Francisco Bay than other neighboring piers. The proposed project is not consistent with the general scale of piers in the neighboring district.

PROPOSED WIDTH, 6 feet, is excessive. Access to a boat from a pier is adequately permitted by a 4 foot width, as demonstrated the use of other piers in the vicinity. Beyond 4 feet, the pier becomes a deck for storage, seating, etc.

PROPOSED LENGTH: The longest pier of neighboring houses is approximately 100'. The proposed pier extends approximately 160 feet into the bay (including the boat lift) which is completely out of scale with other neighboring piers.

PROPOSED HEIGHT: The proposed ten foot (10') height of the pier has no point of reference, such as the mean high water line. Height shown does not include handrails, which may be required on new piers by code or insurance requirements. Piers are considered fill. The height is (10') ten feet. FEMA laws may require that the pier be built up to six feet (6') higher than is proposed, not including hand rails. Issues of flooding, sea level rise, storm surge, and seiche are involved. [More time is required for us to contact FEMA regarding these heights.]

DEGRADATION OF VIEW: The excessive length and width of the proposed pier substantially degrades the existing sweeping view of open water of the immediately adjacent neighboring home and negatively affects the view from other neighboring homes. A scenic resource, consisting of a large rock outcropping (that resembles a giant sea turtle twice at day at certain tide levels) would be covered or destroyed by this pier. [This rock has considerable significance for wildlife, which will be addressed later in this document.]

PRIMARY VIEW DEGRADATION:

The proposed pier is not designed to minimize degradation of views from the adjacent private property. The deleterious effect is greatly exacerbated by the extensive length, unnecessary width for persons using the pier, and proposed large end platform designed to accommodate a boat large enough to require a hydraulic boat lift.

PRIVACY OF SLEEPING AREAS AND LIVING ROOM OF THE IMMEDIATELY

ADJACENT HOME IS SEVERELY COMPROMISED: These impacts can and should be confirmed by a visit to the primarily affected adjacent home. The proposed pier appears to be planned for the same floor level as the living room and three sleeping areas in the immediately adjacent home, allowing direct view into both.

SOUND POLLUTION WILL BE AUGMENTED FOR THE INTERIOR OF THE

IMMEDIATELY ADJACENT HOME: This is a serious concern. This project will greatly augment sound pollution in the interior of the adjacent home. Increased use of the stairs continuing on to the extremely long pier will be greatly augmented. There are times now when residents of the adjacent home cannot hear guest or resident conversations, DVD s, music, or television programs in their own living room (even by greatly increasing volume) because of the excessive noise from 2 Alexander residents in the area of the proposed pier. Sleep is difficult when late night teenage parties are held by 2 Alexander residents on the beach with accompanying noisy trips up and down the stairs; this will be worsened by the additional use of the extremely long pier. (We have lived here since 1979. Noise was never a problem with any previous residents of 2 Alexander.)

SAUSALITO CORPORATE STRIP (or LANE) HISTORY RELATING TO PRIVACY AND

NOISE CONCERNS: We will submit a brief history of the Sausalito Corporate Strip (or lane) to the City, explaining that an outdoor dining deck, and large windows, and bedroom placement were all built facing the Sausalito Corporate strip (lane) to insure quiet, uncompromised view, and privacy between neighbors, because nothing could be built there. No large windows or bedrooms were built on the opposite side of the house (see enclosed photos). Sausalito accepted the gift of the lane but, although the intent was clear, Sausalito negligently did not take the final step in its recording. This has been the source of endless problems ,including the currently proposed pier, for the residents of 6 Alexander Ave.

PUBLIC ACCESS BEACH:

The impact of a larger than necessary new structure restricting the use of the access beach right of way should be taken into account.

The stretch of beach here is known to people who wish to relax, do yoga, or enjoy the view by sitting on the sand or the rocks. It is known to birders, shore fishermen and their families who come to spend the day and picnic, other families picnicking; and to shell, rock, and sea glass hunters who make jewelry for farmers' markets. Kids explore small tide pools among the rocks, run, play ball and Frisbee, and have birthday parties. Locals play with their dogs.

It is a sandy beach habitat for sea birds, shore birds, song birds, deer, raccoons, foxes, skunks, and coyotes, as well as a major herring spawning ground.

(A photo of this beach, and a copy of the "City of Sausalito Public Streets and Walkways" showing the Tidal Gauge Beach is attached to this document.) [This will have to be sent later.]

WILDLIFE CONCERNS

ENVIRONMENTAL ISSUES EXIST THAT REQUIRE AN INITIAL STUDY FOR A CEQA REVIEW OR AND ENVIRONMENTAL IMPACT STUDY:

NATIVE SPECIES OF MARINE ORGANISMS, BOTH PLANTS AND WILDLIFE, ARE HIGHLY PRESENT:

SEA MAMMALS: Harbor seals, sea lions, and river otters rest on the large rock outcropping which this pier proposal intends to cover.

Yes, river otters! (*Lontra canadiensis*) A few months ago in 2013 we sighted and reported to the Marine Mammal Center and Wildcare in San Rafael, two otters playing and fishing around the large rocks in front of the proposed pier site. One was spotted just last week by our sharp eyed six year old grandson, we got the binoculars to make sure it was an otter. It was! After long absence, they are returning to the S.F. Bay and more than 750 otter sightings have been reported in the S.F. Bay as of March 2014. [Supporting documentation attached.]

Otters are more active at night. They prefer rock piles and outcroppings, sufficient vegetation (we have lots of eel grass) and avoid areas of degraded aquatic habitat.

BIRDS: Majestic Great Blue Herons are seen man times daily fishing from the rocks in the area directly in front of the project area since 1979 (as long as the Moodys have lived here). Other sea birds are: snowy egrets, pelicans (brown and white), cormorants, night herons, seagulls, grebes, scoters, mallards, Canada geese, Greater Scaups, and others.

Many species of land-based bird and songbirds also feed from the beach.

MARINE LIFE: We are located in a designated herring fishery. Herring spawn all over the rocks and beach at the proposed site. A federally threatened sea sturgeon forages in the shallows and flats of this part of the Bay. Red crabs, starfish, periwinkles, and many other forms of marine life are present here. [I need more time to list them all.]

COVERAGE OF A LARGE ROCK USED EXTENSIVELY BY WILDLIFE

The proposed pier would cover a large rock which is apparent at all but the highest tides. This rock is used by pelicans, cormorants, local great blue heron, and other local seabirds, and those of the Western flyway. Harbor seals haul out onto it (as well as an occasional small sea lion) throughout the year. At medium high tides, the rock itself resembles a giant sea turtle. [Our grandsons and we derive much pleasure from seeing the ongoing show of wildlife that use this rock.]

MIGRATING WILDLIFE CORRIDOR - WESTERN FLYWAY MIGRATING BIRDS: This area is a critical area for resting and feeding of Western Flyway migrating birds. At times the bay right in front of the neighboring piers is nearly covered by migrating birds as can be seen on the Sausalito Webcam.

CLEAN WATER ACT: This area is protected by the Clean Water Act. The R.W.Q.C.B. (Regional Water Quality Control Board) is involved in areas like this one.

CONSTRUCTION CONCERNS:

A SURVEY SHOULD BE REQUIRED:

A property survey with the proposed pier and adjacent structures shown is needed to assure that the proposed plans, placement of the pier, and actual construction match completely.

[This will need monitoring, as past construction by the owner of 2 Alexander has encroached on the Golden Gate Recreation Area (GGNRA), the Golden Gate Bridge District Viaduct, and the neighboring adjacent property. All overbuilding encroachments were called "mistakes" by the owner of 2 Alexander Avenue. It is a difficult process to have encroaching structures removed once built.]

STORY POLES SHOULD BE ERECTED on land and in the bay, to show the full extent of the project.

REFERENCE TO THE EXISTING PROSCRIPTIVE EASEMENT IS MISSING FROM THE PROPOSAL: Preservation of the existing 6 Alexander Avenue prescriptive easement is not shown or described. This 6 Alexander Avenue access to the beach is not shown or described. Nor is any affected privacy landscaping shown.

SAFETY MEASURES SHOULD BE REQUIRED: This is being constructed in a residential neighborhood which includes children, other citizens, and wildlife. Safety measures should be carefully designed and failure to follow them should be stringently enforced. What safety measures are being proposed? The beach on public and private land should not be restricted from public and residential use because of this project.

What safety devices, such as a locked gate and inaccessibility, will be employed to keep children from being endangered by going out on the pier? None are shown.

CONSTRUCTION DEBRIS AND MATERIALS: My understanding is that the Army Corps of Engineers requires the hourly removal of construction debris from the beach and water to avoid impairment of the tidal environment. [I will check this out.]

Where will construction materials be stored, and construction and worker debris be disposed of?

PARKING: Where will construction and delivery personnel park?

This is no small matter and was a most serious problem for more than fourteen years of Fotsch construction in the past. When we tried to get out of or enter our own garage or driveway we were often blocked, and subjected to ugly verbal attacks numerous times by Fotsch's construction personnel. Further, demolition materials from his projects were dumped on our driveway, trash from workers' food was on our driveway, and the red no parking zone to the south (necessary to allow the adequate vision to safely enter leave our driveway) was filled with construction related vehicles, building materials, debris boxes, cement mixers, and chunks of the Golden Gate Bridge Viaduct cement wall (demolished without permission for Fotsch to widen his driveway). Specifications for parking are more critical today, as anyone familiar with the hazards associated with the recent enormous increase of bicycles and tour buses using the south Alexander entrance to Sausalito can attest.]

[Prepared 6/26/2014 by Janeane Moody]

blank

Edward J Fotsch, MD
2 Alexander Avenue
Sausalito California 94965

RECEIVED

AUG - 5 2015

CITY OF SAUSALITO
COMMUNITY DEVELOPMENT DEPT

5 August, 2015

Calvin Chan
Associate Planner
City of Sausalito
420 Litho Street
Sausalito, CA 94965

Via email and U.S. mail

Dear Mr. Chan, Thank you for forwarding Ms. Moody's very long letter of 4 August, 2015. I will address the issues from her missive in order of appearance as follows:

1. The Moody's asked for a full sized copy of our pier plans and were provided a full sized copy. We also provided the plans as a PDF on several occasions via email going back over a year. The definition of 'full sized' means that it correlates to the scale legend on the plans to wit: 1" = 30'. I offered to provide an enlarged set of plans to the Moody's as per the email I forwarded to you on 4 August. We have had no reply.
2. Our pier does not obstruct any existing public access to the beach. To the extent that non-local residents use the beach it is relatively rare and they access it from Park Service property to the south of our neighborhood.

From the previous Moody Letter

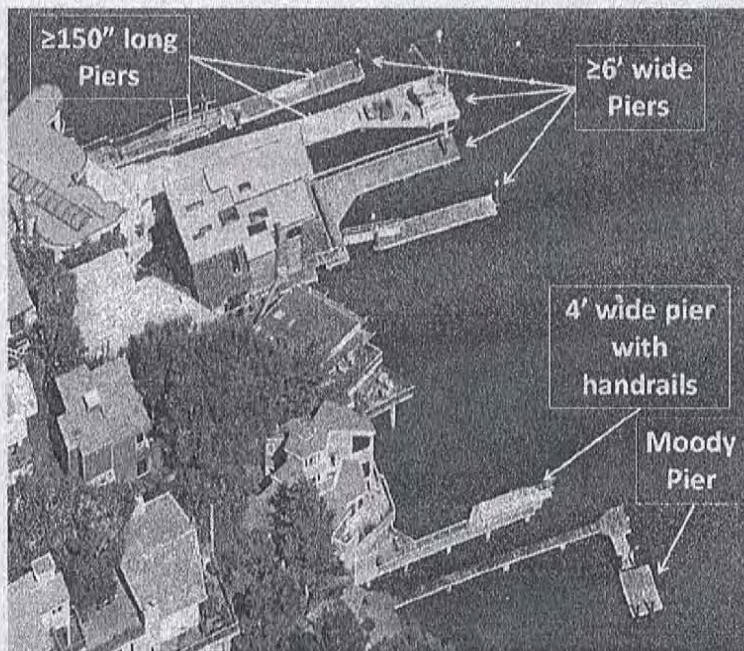
3. "Incomplete Application" Our pier application has been deemed complete by the Army Corp of Engineers- who have approved it, BCDC, who asked for a few changes which were made months ago, and the City of Sausalito.
4. "Hearing Review Concerns" The City of Sausalito Administrative Review process was established for exactly this type of application, which is why the city staff has placed it on the agenda. The two pier applications before you are for the only two homes in our neighborhood without piers- hardly an unusual or unexpected request.
5. "Future Cumulative Impacts" Mrs. Moody's speculations about massive development in our neighborhood is simply baseless conjecture. The fact is that all lots in our neighborhood are fully built out, and all waterfront homes have existing piers aside from Mr. Dillard's and our home. The Sausalito zoning and building codes control development as the planning staff well knows.
6. "Navigational Hazard" Our pier was designed to extend over the large rock in the Bay that is an existing navigational hazard because it sits just below the waterline at high tide. Our pier will largely eliminate this existing hazard as the BCDC staff have opined. The pier is designed to be only long enough to get to open water- just beyond the rock. Any pier in the water, including the Moody pier, can be said to block 'navigational waters.' BCDC and the Army Corp takes these issues into account when they approve the piers- including the Moody's pier.
7. "Lack of Neighborhood Transparency" The public noticing process for this hearing I assume was completed as per the code. We have previously submitted letters of support from our neighbors.

Email: ed@fotsch.com Office: 415.332.8599 Fax: 415.332.8530

EXHIBIT I

8. "Design Review Procedures" Mrs. Moody's conjecture that 'this is not just any pier' as relates to the zoning code seems to get to the meat of the matter as relates to her letter. The simple facts are that every waterfront home in our neighborhood has a pier save the Dillard home and ours. Many are larger than the piers being proposed by Mr Dillard and us. Some are longer. Some have handrails that obstruct neighbor's views. Others have had leases granted by the City. Some have included illegal construction resulting in BCDC fines- 'see Moody pier file circa Oct. 1988. But none have been singled out in the arbitrary and capricious manner suggested in Mrs. Moody's letter- none!

9. "Proposed Width" The proposed width of the was reduced from 6' to the request of BCDC. Further reduction in would necessitate the construction of handrails that would neighbor views as we explained to the Moody's in-person and email on multiple occasions. Several piers in the neighborhood are far wider- >12' as per the enclosed image.



pier
5' at
width
block
have
via
other

10. Proposed height of pier at 10' is as per the current FEMA requirements. The reference to 10' is standard nomenclature for tide heights as Mr. Moody certainly knows as a 'marine builder'.

11. "Degradation in View" Our pier was designed to minimize view impacts by:
- Limiting the length to that needed to reach navigable water
 - Eliminating handrails
 - Eliminating gangplanks and floats as are common on other neighborhood piers including the Moody's

Every pier in our neighborhood has some modest impact on the other neighbors- including the Moody's pier. We have made every effort to mitigate this impact- and have shared those efforts in detail for the past year with the Moody's.

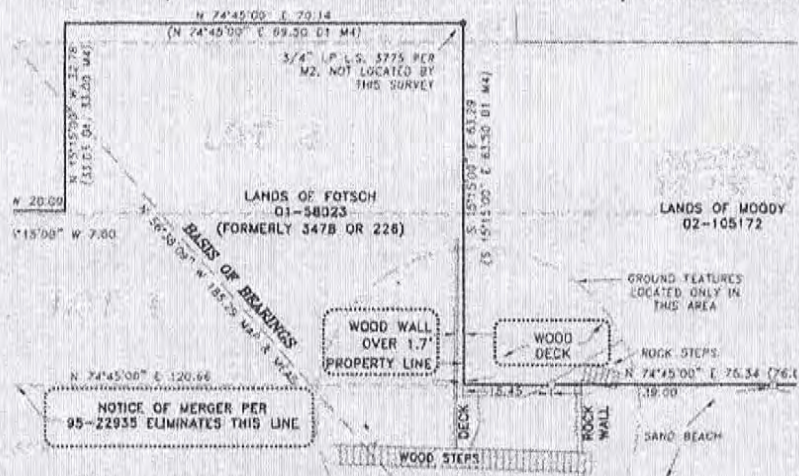
12. "Sound Pollution" While we no longer have teenagers living in our home the issue appears to have little to do with our pier and design. Sadly our kids are grown and largely gone. The Moody's on the other hand appear to have their grandchildren living with them. Kids make noise- and we don't use city zoning, building or other processes to complain about kid noise in the neighborhood.

As for the insinuation that the Moody's had no issues with previous owners of our home, a quick review of their building and zoning files in the city will demonstrate a litany of tit-for-tat complains, frenzied allegations, legal maneuvering and general angst between the Moody's and neighbors. We are not interested in furthering this track record.

On the specific matter of 'noise pollution' please note- piers with floats create ongoing noise as the wave action rattles the hardware, and floats bang against the pilings. Our pier was designed with a lift which eliminates this issue.

13. "Sausalito Corporate Strip" Our lot and its boundaries and easements are a matter of public record. The lot was recently surveyed with a copy of the survey line provided to the city. The referenced 'corporate strip' was quit claimed to a previous owner of 2 Alexander in exchange for cash paid to the City of Sausalito in the 1990s. The city required that this land be merged with the primary lot at 2 Alexander which occurred under a previous owner in 1997. It is unclear why this would be material to a pier application.

Interestingly however, much of adjacent construction to their referenced by Mrs. Moody's letter including the "outdoor dining was built through side yard setback in the west and southerly direction



the home deck" the both and

on to the property at 2 Alexander- see embedded image from 1997 Recorded Survey. There is no building permit on file for this deck or these improvements- nor could there have been since the construction violates the Sausalito building and zoning codes. But again, I fail to see how this issue or this undocumented construction is material to our pier permit.

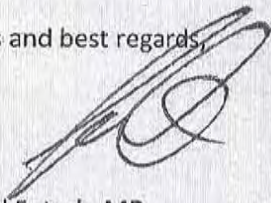
14. "Public Access Beach" There is limited public access to the beach between our neighborhood and the sewer treatment plant to the south. Our pier will have no impact on public access aside from any nominal impact created by any of the existing piers- including the Moody's pier.
15. "Environmental/Species/Sea Mammals/Wildlife" Both CA and US Fish and Game must sign off on the final permit plans. Both have done preliminary reviews and found no issues; including no Eel Grass. Our pier will have no impact on these issues aside from any nominal impact created by any of the existing piers- including the Moody's pier.
16. "Clean Water Act" A separate application for approval has been submitted and changes to the plans were made last year to address related comments. This is not a city planning function- but it is part of the approval process.
17. "Survey" A survey was completed and recorded earlier this year. Property lines have been marked on site. A copy of the recorded survey is on file with the city.

18. "Prescriptive Easement" If the Moody's have a 'prescriptive', or any other easement associated with 2 Alexander, they need nothing from us to confirm same.
19. "Story Poles" The stairs to the pier already exists. The design and design details- including materials, engineering, decking specs etc. have been submitted to the city. A separate copy was provide to the Moody's. The height of the pier has been show in relation to the existing rock wall that runs along the shore and is easily located (referenced in the plans.) The Moody's have been provided a height survey that locates the top of our pier in relationship to their existing pier and first floor.
20. "Safety Measures and Construction Materials" We will of course comply with all relevant safety and construction parameters. The construction time frame will be relatively short- certainly far shorter than the residential construction currently underway- which we strongly support- at the waterfront home of the Seegal's which is on the other side of the Moody residence.
21. "Parking" The contractor will be instructed as to where to park any necessary construction vehicles. Fortunately we have off-street parking for 3 cars/trucks. My understanding however is that most of the construction will occur on the water side as is typical for pier construction. As all our neighbors are aware, we have a lot of construction already in the neighborhood. And the contractors and subcontractors manage to find parking- including those who work at the Moody's home.

Summing this all up, we simply wish to have a pier and access to the Bay just as all others in our neighborhood enjoy. Mr. Moody has written via email that he 'supports our right to have a pier.' Mrs. Moody on the other hand seems to wish to deny our family the same right to a pier that she enjoys. I must admit that I find the sense of entitlement in her letter to be profound to wit: "I got mine but you can't have yours."

The simple truth is that the Moody's have protested every improvement we have made to our property- from our rebuilt garage to additional bedrooms for our kids- back when they were at home. Their history of neighborhood conflict need no further discussion and is quite well documented in their city file. We have no interest in participating in those activities. We simply wish to be held to the same standard as every other home in our neighborhood regarding our application process- including the Moody's- and complete our pier, and enjoy the quiet enjoyment of our home.

Thanks and best regards,



Edward Fotsch, MD