



# STAFF REPORT

CITY COUNCIL OF THE CITY OF SAUSALITO

## AGENDA TITLE:

Plaza Viña del Mar Accessibility Improvements

## RECOMMENDED ACTIONS:

Adopt a Resolution of the City Council of the City of Sausalito Approving the Plans, Finding the Project Exempt from Further Design Review, Exempt from CEQA, and Authorizing the City Manager to Approve Amendment No. 2 to the Professional Services Agreement with Architerra MacRae Architects for Preparation of Construction Documents for Accessibility Improvements to Plaza Viña Del Mar.

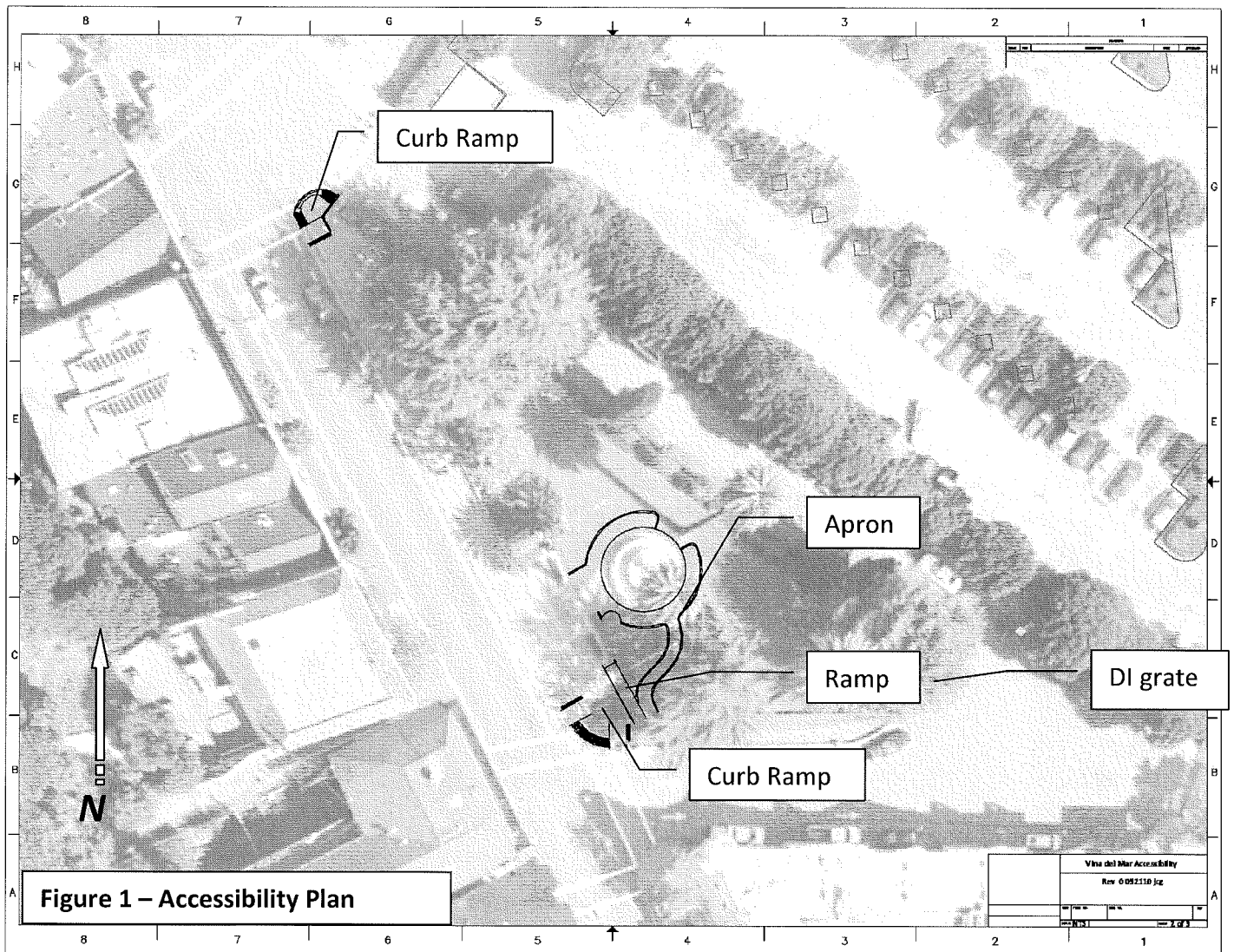
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## SUMMARY

On September 19, 2006 the City Council approved and authorized the Mayor to execute a settlement agreement in the matter of Lieber v. City of Sausalito (the "Settlement") regarding disability access from Parking Lot 2 to the fountain in Viña del Mar Park. The Settlement requires, among other things, construction of an ADA-compliant accessible route from the El Portal side of the Viña del Mar Park to the fountain, and a ramp from sidewalk grade up to the existing landing at the top of the steps. In the Staff Report recommending approval of the Settlement, it was noted that the City had the discretion to choose the most suitable material for the path, including compacted decomposed granite or brick. It was also noted that the appearance of the park from Bridgeway would remain essentially unchanged; however, the appearance of the park from the upper level was expected to be affected by the new path and ramp. In addition, the Settlement requires that the public restrooms at Lot 2 comply with ADA Guidelines.

Since the Settlement was approved, three distinct iterations of plans have been prepared and reviewed by the Sausalito Historic Landmarks Board ("HLB") with two of those having been reviewed by the Sausalito Planning Commission. Between January 11, 2010 and February 17, 2010, one public workshop and four HLB study sessions were held to vet the proposed improvements. During a joint public hearing with the Planning Commission on March 10, 2010, the HLB expressed support for the most recent design presented by Staff (the "Architerra Plan"). Public comment regarding inconsistencies between the Architerra Plan and the Downtown and Harbor Action Committee report recommendations were also expressed at the joint public hearing. The Planning Commission expressed reservations regarding the Architerra Plan. At the conclusion of the hearing, the Planning Commission and HLB, continued the consideration of the project to a date uncertain and directed staff to respond to the Commission and public comments. Staff has met with the members of the public that spoke at

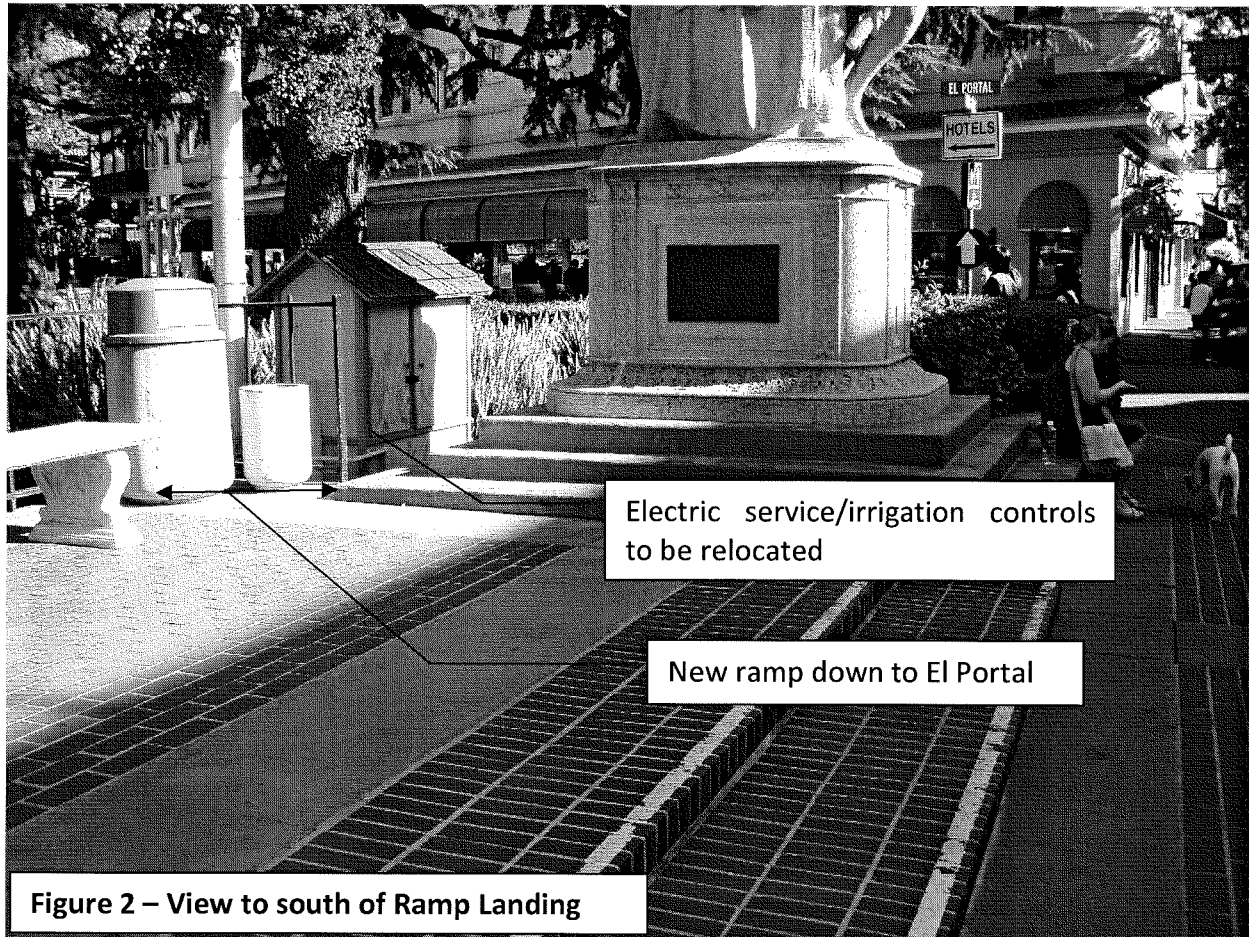
the meeting, reviewed comments by the Planning Commission pertaining to accessibility and coordinated with Architerra to improve the design for pedestrian and disabled-persons access.



As depicted in plan on Figure 1 above, the improvements proposed consist solely of: (a) modifications to the existing sidewalks at the corners of (i) Bridgeway and El Portal and (ii) Bridgeway and Tracy, (b) relocation of the existing electric service/irrigation control panel (shown on Figure 2 on the following page) and construction of a ramp connecting the sidewalk with the viewing platform, (c) construction of a dark brown, decomposed granite surfaced “apron” providing all-weather access to the fountain at grade, and (d) de-activation of a non-accessible drinking fountain and replacement of a drain inlet cover grate.

With these proposed improvements, and recognizing that a ramp or lift of some sort are required under the Settlement, Staff proposes a project that minimizes visual impact to an

extent that will not appreciably change the appearance of the area. On this basis, Staff has concluded that the project can be found exempt from Design Review under SMC § 10.54.13.



Under the Settlement, the City has no discretion as to whether to comply with the law requiring equitable access to the spaces that were the subject of the lawsuit. The only discretion provided to the City in the Settlement (other than permanent closure) is as follows:

“The City is free to choose another location for the paths and has the option of providing a lift to access the landing. The City is also free to choose the materials used to construct the path (e.g. brick, concrete, asphalt, or crushed stone). If crushed stone is chosen, it will be made of compacted decomposed granite and maintained for accessibility.

Plaintiff’s expert will review the proposed pathways for the limited purpose of approving the accessibility issues, but will otherwise have no say over the design or aesthetic issues. These paths will also eliminate other issues involving steps into the

Park and the inaccessibility of the existing brick path at the El Portal Street entrance”  
(letter from Ann Asiano, Esq. to Dana Whitson dated August 30, 2006)

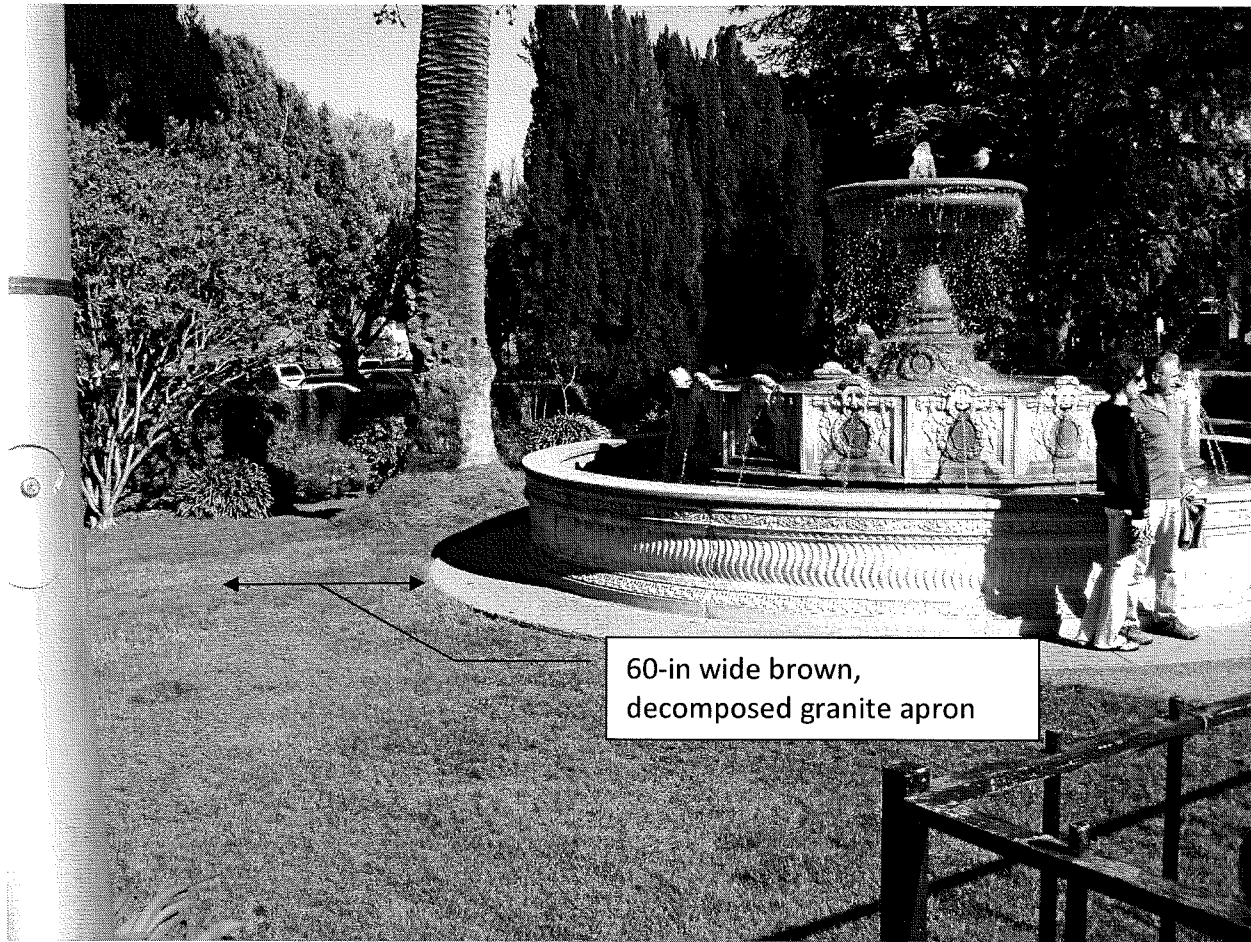


Figure 3 – View to east of Fountain Apron Area

Staff recommends that Council (1) take public comment, and (2) take action on the following sequence of steps:

- (1) Find that the project is exempt from further Design Review inasmuch as it represents a project for which there is an overriding need under state and federal law for timely provision of equitable access to the areas of Viña del Mar not currently accessible, the City expressly limited its discretion in the settlement, and the finding that the path location and material proposed will not appreciably change the appearance of the area (SMC § 10.54.13).

Alternatively,

- (A) Find as above specifically for the portion of the Architerra Plan as presented affecting the sidewalk and the ramp to the platform and direct that the fountain be temporarily closed to public access pending completion of additional vetting regarding access. While temporary closure could likely be accomplished by renting or purchasing temporary fence panels (less than \$1,000), permanent closure would require detailed design as well as the potential for a publicly-involved environmental review, design development process, and the Ordinance 1128 ballot process.
- (B) Direct the Planning Commission and HLB to limit their deliberations strictly to the paving material for the path inasmuch as the locations for, widths and slopes for the proposed facilities are either deemed the best possible or otherwise prescribed by state and federal supremacy.

Should Council wish to pursue the proposal to lower the Plaza's landing to street level, Staff recommends that the plan proposed be approved and that Council direct Staff to budget for initiation of a long term master plan project to change the Plaza, which could include demolition of some or all of the currently proposed project's elements following completion of a publicly-involved environmental review, design development process, and the Ordinance 1128 ballot process. These issues would also exist for the permanent closure of the fountain area concept.

Additional funds are necessary for Architerra's continued service. Architerra cannot accurately estimate the budget necessary to complete the scope of work without clear approval of a design. On this basis, Staff is requesting a budget augmentation in the not-to-exceed amount of \$10,000 (bringing Architerra's authorized total budget to \$24,360) in order to maintain momentum on completion of this priority project.

Staff recommends that the Council adopt the attached resolution:

- Approving the plans as presented by Staff,
- Finding the Architerra Plan exempt from further design review,

- Finding the project exempt from CEQA, and
- Authorizing the City Manager to amend the professional services agreement with Architerra for design services not to exceed \$10,000 without additional authorization.

## **BACKGROUND**

In 2005 the City was sued in the matter of Lieber v. City of Sausalito due to violations of Title II of the 1990 Americans with Disabilities Act (ADA)<sup>1</sup> because the City made improvements to the Plaza Viña del Mar without making necessary changes to provide disabled access. The plaintiff alleged (among other things) that the City engaged in the denial of civil rights by not providing public facilities to physically disabled persons.

On September 19, 2006, the City Council approved a settlement agreement (see **Attachment 2**) in the matter. As part of the settlement agreement, the City agreed to improve the accessibility to and around Viña del Mar Park. The improvements identified in the settlement agreement were:

- Create one additional accessible parking space which is van accessible and provide proper signage.
- Provide access to the fountain in Viña del Mar Park and the upper landing of the steps at the Bridgeway Street entrance.
- Provide accessible sidewalks and curb ramps from the intersection of Tracy Way and Bridgeway at the northern point of Viña del Mar Park to the accessible restrooms.
- Improve the existing public restrooms to comply with the California Building Code and the Americans with Disabilities Act Accessibility Guidelines.
- Provide one ADA compliant drinking fountain.

The Architerra Plan now before the City Council (see **Attachment 3**) will provide an accessible path to the fountain in Plaza Viña del Mar, an accessible ramp to the upper landing of the steps at the Bridgeway Street entrance and accessible curb ramps at both the intersection of Bridgeway and El Portal and at the northern point of the park at Bridgeway and Tracy Way.

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<sup>1</sup> The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. Title II requires city governments to ensure that all of their programs, services, and activities, when viewed in their entirety, are accessible to people with disabilities. Program access is intended to remove physical barriers to city services, programs, and activities, but it generally does not require that a city government make each facility, or each part of a facility, accessible.

These proposed improvements meet federal ADA requirements and fulfill the settlement agreement as the agreement relates specifically to Plaza Viña del Mar.

In October 2009, City staff directed Architerra MacRae Architects, the City's design consultant for this project, to revise their improvement drawings for Plaza Viña del Mar based upon a design jointly approved by the Design Review Board and HLB in November 1996. This approved design for modifications within the Plaza was prepared by Mr. Paul Leffingwell and others (see **Attachment 4**).

Since October 2009, City staff has met with the HLB at duly noticed public meetings on January 11, 2010, January 25, 2010, February 10, 2010, and February 17, 2010, to conduct study sessions regarding the proposed improvements to Plaza Viña Del Mar.

The City also hired an arborist, Mr. Ed Gurka, to prepare a report to provide direction on how to construct the proposed project in a way to minimize its impact on two palm trees and a deodar cedar adjacent to the proposed work (see **Attachment 5**).

On January 13, 2010, Staff hosted a public workshop for the proposed accessibility improvements. Comments received at the public workshop ranged from path location, impact to the existing trees, lowering the upper landing, and identifying which improvements are required for accessibility and which improvements are design enhancements.

In response to the HLB study sessions, public workshop and the arborist's report, revisions were made to the proposed project which are deemed to be within the scope of the project and which will not unduly further delay the court approved obligation to construct accessibility improvements at Plaza Viña del Mar.

On March 10, 2010, the Planning Commission and the HLB conducted a joint public hearing on the proposed accessibility improvements to the Park. The staff report included a memo prepared by Mary Wagner, City Attorney regarding the proposed improvements as they relate to Ordinance 1128 (see **Attachment 6**, Ordinance 1128 and **Attachment 7**, City Attorney Memo). Accessibility improvements related to ADA compliance supersede the City's jurisdiction due to the Federal Supremacy clause stated in Article VI of the Federal Constitution. If the scope of the project included design modifications to the Park that were not required to comply with ADA, then those modifications would be required to be approved by a vote of the electorate before installation.

During the public hearing, three comments were received asking the Planning Commission and the HLB to consider lowering the existing landing to the sidewalk elevation. A conceptual plan was also given to the Planning Commission and the HLB showing what the Park would look like with the lowered landing (see **Attachment 8**).

Both the Planning Commission and the HLB continued the review of the Design Review Permit to a date uncertain. Attached are the minutes of the March 10, 2010 hearing (**Attachment 9**) On March 30, 2010 City staff met with and at the request of Mr. Michael Rex and Mr. Jacques Ullman. At this meeting, Mr. Rex and Mr. Ullman provided staff with their concepts for the proposed lowered landing and the curb ramps located at the intersections of Bridgeway – Tracy Way and El Portal – Tracy Way (see **Attachment 10**).

In response to the March 10, 2010 joint meeting and the March 30, 2010 meeting with Mr. Rex and Mr. Ullman, staff has asked Architerra MacRae Architects to evaluate widening the path adjacent to the fountain from four feet to five feet, to evaluate the feasibility of revising the curb ramps at Bridgeway-Tracy Way and El Portal-Tracy Way, to prepare drawings for utility relocation, final landscape plans and additional handrail details for HLB review and approval. The Architerra Plan now before the Council includes a five foot path adjacent to the fountain and revisions to the curb ramp at Bridgeway-Tracy Way.

Ultimately the accessibility improvements within the Plaza will include:

- An ADA ramp extending from the El Portal sidewalk to the upper landing. The ramp would be concrete with a black metal guiderails and handrails.
- A 60" wide path adjacent to the fountain. The path is composed of dark brown decomposed granite (DG) and a header.
- A 48" wide path extending from the El Portal sidewalk to the fountain. The path is composed of dark brown DG path and a header.
- The existing metal handrails on each side of existing stairs on east (water) side of the upper landing would be repainted.

#### *Relocation of Existing Facilities*

- The existing electrical and irrigation facilities located in the housing unit would be re-located – most likely to the easterly side of the flagpole.
- Other affected landscape irrigation facilities will be relocated (location will be determined in the field).
- Benches on the upper landing to be relocated westerly (towards Bridgeway) to provide an accessible landing at the top of the proposed ramp.
- Trash cans on the upper landing will be relocated.

#### *Improvements at Corner of Bridgeway/Tracy Way*

- A new ADA curb ramp would be installed as well as truncated domes, sidewalk, and cross walk striping.
- Installation of new stone seat wall to create a barrier to prevent pedestrians from walking into the intersection. The new wall will match the existing stone wall.
- Modification to the existing bricks and benches located at this corner to allow construction of the curb ramp.



*Improvements at Corner of El Portal/Tracy Way*

- The existing drinking fountain would be decommissioned by removing the bubbler.
- New storm water grate would be installed.

*Improvements at Corner of Bridgeway/El Portal*

- A new ADA curb ramp would be installed as well as truncated domes, sidewalk, and cross walk striping.

The proposal to lower the Plaza's landing to street level is beyond the scope of this currently proposed, narrowly focused, project to meet federal ADA requirements and which fulfills the City's obligations at the Plaza under the settlement agreement without undue further delay.

At its discretion, Council may chose to direct Staff to begin a long term master plan project to change the Plaza, which could include demolition of some or all of the currently proposed project's elements.

**ISSUES**

None identified. Staff recommends that the Council consider the proposed project exempt from the California Environmental Quality Act ("CEQA") in accordance with Section 15301 of the CEQA Guidelines ("...the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination)."

**FISCAL IMPACT**

To complete the design phase of this project including responding to comments and making revisions as applicable from the March 10, 2010 joint meeting and the March 30, 2010 meeting with Mr. Rex and Mr. Ullman, Architerra MacRae Architects is seeking an additional \$3,150,(see **Attachment 17**). Upon approval of the final design, Architerra MacRae Architects will propose adjustment with necessary back-up to produce final construction documents (see **Attachment 18**).

To this point, the City has been billed \$12,275.55 by Architerra MacRae Architects out of a total approved budget \$14,360.00. The amount billed so far includes work up to January 26, 2010. Additional funds have been expended by Architerra MacRae Architects but have not yet been invoiced to the City. As of May 25, 2010, \$186,064 was available and unencumbered in the adopted budget for this project overall. Staff is recommending the approval of an additional \$10,000 in budget to Architerra to facilitate immediate action in response to Council's direction.

**STAFF RECOMMENDATIONS**

Staff recommends that the City Council, as the Plaza Viña del Mar owner, provide direction to complete the design phase of the proposed project, to authorize additional funds for this work

and to direct staff to proceed to the project's construction phase. Should Council wish to pursue the proposal to lower the Plaza's landing to street level Staff recommends that Council direct Staff to budget for initiation of a long term master plan project to change the Plaza, which could include demolition of some or all of the currently proposed project's elements.

Staff recommends that Council (1) take public comment, and (2) take action on the following sequence of steps:

- (1) Find that the project is exempt from further Design Review inasmuch as it represents a project for which there is an overriding need under state and federal law for timely provision of equitable access to the areas of Viña del Mar not currently accessible, the City expressly limited its discretion in the settlement, and the finding that the path location and material proposed will not appreciably change the appearance of the area (SMC § 10.54.13).

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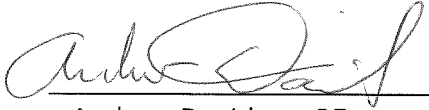
- (A) Find as above specifically for the portion of the Architerra Plan as presented affecting the sidewalk and the ramp to the platform and direct that the fountain be temporarily closed to public access pending completion of additional vetting regarding access. While temporary closure could likely be accomplished by renting or purchasing temporary fence panels (less than \$1,000), permanent closure would require detailed design as well as a publicly-involved environmental review, design development process, and the Ordinance 1128 ballot process.
- (B) Direct the Planning Commission and HLB to limit their deliberations strictly to the paving material for the path inasmuch as the locations for, widths and slopes for the proposed facilities are either deemed the best possible or otherwise prescribed by state and federal supremacy.

#### ATTACHMENTS

1. Resolution
2. Settlement Agreement and Release of Claims related to Lieber v. City of Sausalito.
3. 2010 Proposed Site Plan-Viña Del Mar prepared by Architerra-MacRae Architects, dated 4-14-10.
4. 1996 Leffingwell Plan, dated approved November 11, 1996.
5. Arborist Report by Mr. Ed Gurka, Consulting Arborist.
6. Ordinance No. 1128
7. Memo from the City Attorney regarding Compliance with ADA requirements at Plaza Viña Del Mar, date-stamped February 11, 2010.
8. Conceptual alternative accessibility plan prepared by Michael Rex, date-stamped March 10, 2010.
9. March 10, 2010 Hearing Minutes
10. Conceptual alternative curb ramp designs
11. Letter from Jacques Ullman, date-stamped May 26, 2010
12. Letter from Seth Hodgson, dated April 15, 2010
13. Letter from Paul Leffingwell, date-stamped March 5, 2010.
14. Letter from Mary Ann Sears, date-stamped February 17, 2010.
15. Email from Adam Krivatsy, date-stamped January 15, 2010.

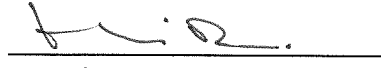
16. Email from Jacques Ullman, date-stamped January 14, 2010.
17. Architerra MacRae Architects Viña del Mar Park ADA Add Services request
18. Email from Architerra MacRae Architects discussing construction documents

PREPARED BY:



Andrew Davidson, PE  
Staff Engineer

PREPARED BY:



Heidi Burns, AICP  
Associate Planner

REVIEWED BY:



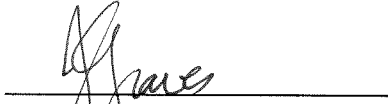
Todd Teachout, PE  
City Engineer

REVIEWED BY:



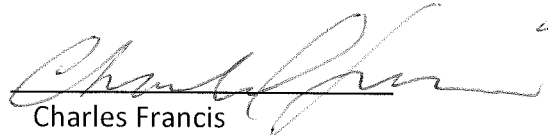
Jonathon Goldman, PE  
Director of Public Works

REVIEWED BY:



Jeremy Graves, AICP  
Community Development Director

REVIEWED BY:



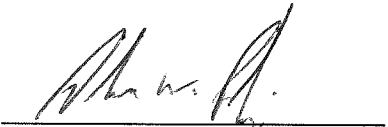
Charles Francis  
Administrative Services Manager/Treasurer

REVIEWED BY:



Mary Anne Wagner, Esq.  
City Attorney

SUBMITTED BY:



Adam W. Politzer  
City Manager



RESOLUTION \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO  
APPROVING THE PLANS FOR ACCESSIBILITY IMPROVEMENTS TO VINA DEL  
MAR PLAZA, FINDING SAID PLANS EXEMPT FROM FURTHER DESIGN REVIEW,  
EXEMPT FROM CEQA, AND APPROVING AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE PROFESSIONAL  
SERVICES AGREEMENT WITH ARCHITERRA-MCRAE FOR VINA DEL MAR  
ACCESSIBILITY PROJECT**

**WHEREAS**, with action during its regular meeting of September 19, 2006 the City Council of the City of Sausalito approved a settlement agreement (the "Settlement") to install public improvements to eliminate accessibility barriers at **Viña Del Mar Park, Lot 2 (including bathrooms) and the route between the Parking Lot and the Park**; and

**WHEREAS**, effective January 29, 2007 the City the City hired Architerra-MacRae to prepare plans for said public improvements; and

**WHEREAS**, the scope of Architerra-MacRae's services was limited to the Viña Del Mar Park accessibility improvements in Amendment No. 1 to its professional services agreement with the City approved with Resolution No. 5022 adopted April 21, 2009; and

**WHEREAS**, the plans have been publicly reviewed during numerous public meetings dating back to 1996 (prior to the Settlement) including regular Planning Commission of the City of Sausalito and Sausalito Historic Landmarks Board meetings; and

**WHEREAS**, Staff and Architerra-MacRae have diligently responded to comments received from the public, as well as the Planning Commission and the Historic Landmarks Board to produce a plan attached hereto and incorporated hereunder as Exhibit "A" that will result in the required accessibility improvements with no appreciable change in visual appearance within the discretion afforded by the Settlement, state and federal law; and

**WHEREAS**, Staff recommends that the City Council find that further Design Review is not required inasmuch as implementation of said plan will not appreciably change the appearance of the area as provided for under Sausalito Municipal Code Section 10.54.13; and

**WHEREAS**, the City Attorney issued a written opinion dated February 10, 2010 that the contemplated public improvements for provision of access for persons with disabilities under federal and state laws pre-empts the local authority promulgated under Ordinance 1128 adopted December 18, 1997; and

**WHEREAS**, Staff has concluded that the implementation of said plan is categorically exempt from the California Environmental Quality Act under section 15301 inasmuch as it consists solely of minor alteration to existing public structures involving negligible or no expansion of use beyond that existing at this time; and

**WHEREAS**, Architerra-MacRae has exhausted the budget approved with Amendment No. 1 to its professional services agreement with the City with Resolution No. 5022 adopted April 21, 2009 and estimates that costs to complete preparation of construction documents is \$10,000.

**NOW, THEREFORE, the City Council of the City of Sausalito does hereby resolve as follows:**

1. The accessibility improvement project plan prepared by Architerra-MacRae as described more particularly in Exhibit "A" attached hereto and incorporated herein by reference are approved.
2. The project is exempt from further Design Review.
3. Amendment No. 2 to the City's Professional Services Agreement with Architerra MacRae which is attached hereto as Exhibit "B" is approved..
3. The City Manager is authorized to execute said Amendment No. 2 to the Professional Services Agreement with Architerra-MacRae for an amount not to exceed \$10,000 without further authorization.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on this 1<sup>st</sup> day of June, 2010, by the following vote:

AYES: Councilmembers:  
NOES: Councilmembers:  
ABSTAIN: Councilmembers:

\_\_\_\_\_  
Mayor, City of Sausalito

ATTEST:

\_\_\_\_\_  
City Clerk



This **SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**, (this "Amendment") is made and entered into this \_\_\_ day of June, 2010, by and between the **CITY OF SAUSALITO**, a municipal corporation (hereinafter "City") and **ARCHITERRA, LLP dba ARCHITERRA-MACRAE ARCHITECTS, INC.** (hereinafter "Consultant").

### RECITALS

The following Recitals are a substantive part of this Agreement:

- A. City and Consultant entered into a Professional/Consulting Services Agreement dated as of 29<sup>TH</sup> day of January, 2007 (the "Agreement"). Pursuant to the Agreement, the Consultant provides the City with certain services related to the design of accessibility improvements at Vina Del Mar Park, Lot 2, Lot 2 Bathrooms, Yee Tock Chee Park and sidewalk accessible path between these places.
- B. The scope of Consultant's services was limited to the Viña Del Mar Park accessibility improvements and the budget augmented by Amendment No. 1 to Agreement with the City approved with Resolution No. 5022 adopted April 21, 2009.
- C. As a result of unforeseen demand for revisions and meeting support, the budget for professional services has been exhausted and requires Budget Augmentation for completion of the services required under the Agreement.
- D. City and Consultant desire to enter into this Amendment to include the provision of such services.

In consideration of the mutual promises contained herein, the parties hereto agree as follows:

#### **Section 1. Scope of Work**

Section 1 of the Agreement is hereby amended to provide additional conceptual design services and meeting support in addition to the scope identified in Exhibit A of the Agreement.

#### **Section 2. Schedule**

Section 2 of the Agreement is amended to extend the Schedule until improvement construction is substantially completed.

#### **Section 3. Compensation.**

Section 3 of the Agreement is amended to provide that in consideration of the additional Work to be performed by the Consultant as set forth in Section 1 of this Amendment Consultant shall

be compensated in an amount not to exceed \$24,360 [total] (\$14,360 originally, \$10,000 for amendment No. 2 without additional authorization.

**Section 4. Effect on Agreement.**

Except as expressly set forth herein, the terms and conditions of the Agreement shall remain in full force and effect. In the event of any inconsistency between the Agreement and this Amendment, the terms of this Amendment shall control.

**Section 5. Entire Agreement; Conflicts.**

This Amendment No. 2 together with Amendment No. 1 and the Agreement contain the entire agreement between the parties with respect to the subject matter hereof. Except as otherwise specified herein, no prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Amendment and the Agreement shall not be modified or altered except in writing signed by both parties.

**In Witness Whereof**, City and Consultant have executed this Amendment as of the date first written above.

City of Sausalito

Consultant

\_\_\_\_\_  
By: Adam W. Politzer  
Its: City Manager

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Mary Anne Wagner  
City Attorney

SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and General Release is entered to further memorialize the On-The-Record Settlement reached by the parties at the Settlement Conference before the Honorable Edward M. Chen held on August 15, 2006.

This settlement is between plaintiff ELLEN LIEBER, on behalf of herself and all her heirs, agents, assigns, attorneys, and all other successors-in-interest (hereinafter jointly and collectively designated "RELEASORS"), and the CITY OF SAUSALITO; and for each, their predecessors, successors, assigns, officers, directors, landlords, employees, attorneys, agents, insurers, owners, shareholders, parent companies, and subsidiaries (hereinafter collectively referred to as "RELEASEES");

WHEREAS, RELEASEES are the controlling governmental entity, owners, operators, lessors and/or lessees of the "Subject Public Facilities" (which includes the subject park and its surrounding public facilities, its public sidewalks, the below specified public parking facilities and restrooms facilities, which are nearby, and the connecting paths of travel from such facilities back to the main park entrance site), which comprises the "Plaza Vina del Mar" located on Bridgeway in downtown Sausalito.

WHEREAS, RELEASORS filed a lawsuit against RELEASEES in the case of Lieber v. City of Sausalito, U.S. District Court for the Northern District of California, Case No. C05-04421 MJJ (hereinafter referred to as the "Action"), alleging that RELEASEES engaged in the denial of civil rights and public facilities to physically disabled persons, and also negligently caused plaintiff bodily injury;

WHEREAS, RELEASEES have denied and do deny all of the allegations and claims made by RELEASORS and deny that they were negligent or that they have violated any laws, federal, state, or local, pertaining to disability access;

WHEREAS, RELEASORS and RELEASEES desire to settle all claims or causes of action RELEASORS may have as to the Subject Public Facilities;

NOW, THEREFORE, in consideration of the agreements and mutual covenants herein provided and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, RELEASORS agree as follows:

1. **Payment.** RELEASEES shall pay to RELEASORS a total sum of \$55,000 in full and final release of plaintiff's and RELEASORS' claims including any all claims for bodily injury, personal injury and Civil Rights violation or other damages, and including all claims in relation to the Subject Public Facilities. Of this amount, the RELEASEES and RELEASORS have separately negotiated and agreed that the sum of \$13,500 shall be attributable to RELEASORS' alleged damages, and separately negotiated and agreed that that the sum of \$41,500 shall be attributable to attorney fees, litigation expenses and costs. Plaintiff acknowledges that plaintiff counsel's claim for attorney's fees, litigation expenses and costs, and the settlement thereof, is, and has been at all points in this litigation, plaintiff counsel's separate property. The amounts set forth above fully release plaintiff's claims for costs of suit and litigation expense (including expert costs), and plaintiff's claims for attorney's fees in relation to the Subject Public Facilities. The combined total releases the RELEASORS' claims, including all claims for attorney's fees and expenses, and any other claim allegedly resulting from the facts specified in the above referenced lawsuit, or related to the Subject Public Facilities.

2. **Injunctive Relief.** Releasees shall perform the remediations listed in the subheadings of this paragraph. Where the words "compliant," "complying," or "compliance" are used, such terms shall refer to literal compliance with the most current requirements for new construction/alteration standards under the Americans With Disabilities Act Accessibility Guidelines, or, where more stringent, with the new construction standards of California's Title 24 Accessibility Regulations.

a. The injunctive relief issues that are detailed below refer to a report that was drafted by defendant's expert, Kim R. Blackseth, on August 10, 2006, which is attached hereto at **Exhibit 1**. Reference is also made to an accessibility report that was drafted by Plaintiffs expert,

Karl Danz, which was included as Exhibit No. 1 in Plaintiffs Settlement Conference Statement.

b. Pursuant to the report of Mr. Blackseth, the parties will perform the following work, and pursuant to the clarifications set forth below:

1. **Accessible Parking:** The City has agreed to create a total of two (2) accessible parking spaces, one of which is van accessible. It was also agreed that the proper signage be provided for this spot, and that there will be an accessible pathway to this spot. All work is to comply with the California Building Code ("CBC") and the Americans with Disabilities Act Accessibility Guidelines ("ADAAG"). (See Item No 1 in Mr. Blackseth's report and page 4 of Danz' report). The City has agreed to complete this work within ninety (90) days of the City Council's ratification.

2. **Pathways in Park** The City has agreed to provide access to the fountain in the Park and the upper landing of the steps at the Bridgeway Street entrance. Plaintiff's expert has proposed a path from the El Portal street entrance that leads to the fountain, and a path that splits off from this one and ramps up to the landing. However, the City is free to choose another location for an accessible path or paths and has the option of providing a lift or other means of vertical access to the landing and fountain. The City is also free to choose the materials used to construct the path (e.g. brick, concrete, asphalt, or crushed stone). If crushed stone is chosen, it will be made of compacted decomposed granite and maintained for accessibility. Plaintiff's expert will review the proposed pathways for the limited purpose of approving the accessibility issues, but will otherwise have no say over the design or aesthetic issues. These paths will also eliminate other issues involving steps into the Park and the inaccessibility of the existing brick path at the El Portal Street entrance. (See Items No. 2, 3, and 5 in Mr. Blackseth's report, and pages 7-9, and 11 of Danz' report). The City has agreed to submit this plan for approval within four (4) months of the City Council's ratification, and to complete construction within ten (10) months of approval.

3. **Stairs.** Addressed in item No. 2, above.

4. **Sidewalks.** The City has agreed that accessible sidewalks and curb

ramps will be provided from the intersection of Tracey and Bridgeway Streets at the northern point of the Park to the accessible restrooms. (See subsection 6, below, Public Restrooms). The experts have estimated that this portion of the sidewalk is about 100 linear feet ("LF") and has 2-3 curb ramps. The City has agreed to complete this work within two (2) years of the City Council's ratification. The City has also agreed to address the issue of public sidewalks and related curb cuts on the City's new Self Evaluation and Transition Plan. In addition, the City has agreed to give a high priority to providing accessible sidewalks near the Park and in the downtown area. Furthermore, the City has agreed to seek input from disabled persons regarding the priority of accessibility projects. (See Items No. 4 and 7 in Mr. Blackseth's report, and page 10, and 28-31 ~ - of Mr. Danz' report).

5. **Brick Path.** Included in item No. 2, above.

6. **Public Restrooms.** The City has agreed to either provide a new unisex bathroom or improve the existing public restrooms to comply with the CBC and the ADAAG. If a new restroom is provided, the City will provide signage directing disabled persons from the existing restroom. In addition, the City has agreed to maintain its seasonal temporary restroom, until an accessible restroom is provided. (See Item No. 6 in Mr. Blackseth's Report, and pages 13-28 of Danz report). The City has agreed to submit this plan for approval within four (4) months of the City Council's ratification, and to complete construction within ten (10) months of approval.

7. **Curb Ramp.** Included in item No. 4, above.

8. **Telephones.** The City has agreed that it will either have the telephones removed or that they will be replaced with accessible ones. The City agreed to complete this work within ninety (90) days of the City Council's ratification. (See Item No 8 in Mr. Blackseth's report and page 32 of Danz report).

9. **Drinking Fountains.** The City has agreed to have one (1) compliant drinking fountain and a sign directing users from other inaccessible drinking fountains. The City has agreed to complete this work within ninety (90) days of the City Council's ratification. (See Item No

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9 in Mr. Blackseth's report and pages 34-35 of Danz' report).

**10. Dog Pet Station.** The City has agreed that the dog/pet station will be relocated to an accessible area. The City has agreed to complete this work within ninety (90) days of the City Council's ratification. (See Item No 10 in Mr. Blackseth's report and page 35 of Danz' report).

**11. Re-Stripe Crosswalk.** The City has agreed to re-stripe the cross walk at Tracey Way and El Portal Street so that the grating is not within the path of travel. The City has agreed to complete this work within ninety (90) days of the City Council's ratification. (See Item No 11 in Mr. Blackseth's report and page 37 of Mr. Danz' report),

**c. Force Majeure.** All deadlines are subject to extension based upon good faith delays and interruptions caused by inclement weather, contractor unavailability, and other causes under the Doctrine of Force Majeure, as well as temporary funding delays of no greater than one year in total for any given remediation listed above.

**d. Closure as Option; Compliance as Option for Closed Facilities.** Releasees retain the right to elect not to perform any particular access remediation or obligation, including those specified in the above provisions of paragraph 2, through complete closure from public use of the particular area or portion of the facility. Releasees additionally retain the right to re-open any facilities it has closed from public use pursuant to the terms of this agreement if Releasees have first modified such facilities to full disabled accessibility pursuant to the then current Title 24 and ADAAG new construction requirements.

**3. Dispute Resolution.**

**a.** Should RELEASORS in the future become aware of any failure to comply with the injunctive relief provisions set forth herein, RELEASORS shall, prior to filing suit, provide notice to RELEASEES through the City Manager's office, and also through their counsel of record,

////

who is identified as follows:

GREGORY MACDONALD, ESQ.  
BRADLEY, CURLEY, ASIANO, BARRABEE  
& CRAWFORD, P.C.  
1100 Larkspur Landing Circle, Suite 200  
Larkspur, California 94939  
Telephone: (415) 464-8888  
Facsimile: (415) 464-8887

b. RELEASEES shall have ninety (90) days, following receipt of the notification described in paragraph (a) above, to undertake to correct the alleged violation and/or respond to RELEASORS' allegations. Any response made by RELEASEES shall be in writing, addressed to RELEASORS' counsel, Tim Thimesch of the Thimesch Law Offices at 158 Hilltop Crescent, Walnut Creek, CA 94597, or, if he has moved, his then current address as registered with the State Bar of California.

c. All parties shall ensure that the notices and responses made under this paragraph are sent to the current addresses for each counsel. Contacting the State Bar of California for this information shall be considered sufficient under this paragraph.

d. Following RELEASORS' receipt of RELEASEES response, if any, to an alleged violation, RELEASORS' and RELEASEES shall negotiate for no more than sixty (60) days to resolve their differences. Counsel for RELEASORS and RELEASEES may extend the time period for such negotiation by written agreement. RELEASOR'S attorney Tim Thimesch agrees to contribute pro bono up to five hours in any given calendar year toward these informal negotiation efforts.

e. If the parties are unable to resolve their differences, RELEASEE may move to enforce this agreement through a motion to the Court. Any corresponding motion for attorney fees, litigation expenses or costs shall be made pursuant to traditional prevailing party standards under the applicable civil rights statutes.

4. **Releases.** In consideration of the foregoing, RELEASORS (including for this purpose plaintiff's undersigned counsel with respect to claims for attorney fees and related expenses)



hereby release, remise, acquit and discharge, for themselves, their executors, administrators, agents and assigns, RELEASEES from any and all claims, demands, causes of action, obligations, damages, suits, debts, payments owed, expenses, attorneys' fees, costs, expert costs, and any other litigation expenses, accounts, covenants, controversies, agreements, promises, judgments, injunctive claims, charges and liabilities of any nature whatsoever, both known and unknown, suspected or unsuspected, in law or in equity, and, particularly, without limiting the generality of the foregoing, all matters relating to or arising out of RELEASORS' use of the subject premises and/or the other businesses located at the Subject Public Facilities, and RELEASEES' alleged negligence, fraud, and violations of the Americans With Disabilities Act of 1990, California Civil Code Sections 54, 54.1 and 55 and California Health and Safety Code Sections 19955, et seq., or regulations promulgated thereunder, and further, including, but not limited to, all matters and claims related, whether raised or not, in Lieber v. City of Sausalito, U.S. District Court for the Northern District of California, Case No. C05-04421 MJJ.

5. **Section 1542 Waiver.** As a further consideration and inducement for this Settlement Agreement and General Release, RELEASORS hereby waive all rights under Section 1542 of the Civil Code of California or any analogous state, local, or federal law, statute, rule, order or regulation: California Civil Code Section reads as follows:

**“CERTAIN CLAIMS NOT AFFECTED BY GENERAL RELEASE - - A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which, if known by him or her, must have materially affected his or her settlement with the debtor.”**

Understanding the language of Civil Code Section 1542 and being fully aware of the legal effect of the Statute, RELEASORS nevertheless expressly and specifically waive any and all rights or

remedies provided by Civil Code Section 1542, or any analogous state, local or federal law, statute, rule or order or regulation.

6. **No Admission of Liability.** It is further understood and agreed that this settlement is the compromise of a disputed claim, and that the payment is not to be construed as an admission of liability on the part of RELEASEES and all others, by whom liability is expressly denied.

7. **Joint Drafting.** This Settlement Agreement and General Release is the product of negotiation by and among the parties hereto and their respective attorneys, and, therefore, this Settlement Agreement and General Release shall not be deemed to have been prepared or drafted by one party or another, or its attorneys, and will be construed accordingly.

8. **Choice of Law.** This Settlement Agreement and General Release shall be interpreted in accordance with and in all respects governed by the laws of the State of California.

9. **Knowing and Voluntary Consent.** RELEASORS have carefully read this Settlement Agreement and General Release and know what is in it and sign it freely and voluntarily upon the advice of their attorneys.

10. **Consent to Jurisdiction.** In further consideration of this agreement. RELEASORS authorize the administrative dismissal, with prejudice, of the Complaint filed in the action Lieber v. City of Sausalito, U.S. District Court for the Northern District of California, Case No. C05-04421 MJJ, with each party holding the limited right to set aside the dismissal upon failure of consideration. This agreement is enforceable, and the parties agree that the Court will maintain jurisdiction to interpret and enforce this agreement.

11. **Timing of Monetary Relief.** Pursuant to the foregoing settlement, Releasees shall deliver the consideration in a single draft in the amount of \$55,000, which shall be transmitted by personal delivery, federal express priority next day, or other similar trackable means (but not "Airborne Express"), so as to be placed in plaintiff counsel's hands by September 26, 2006, the "due date." The draft shall be made out to "Tim Thimesch, In Trust," and shall be delivered to Thimesch Law Offices, 158 Hilltop Crescent, Walnut Creek, California 94597-3452. If

overnight mail is utilized, releasees shall provide plaintiff's counsel with a tracking number on the date the package is delivered to the shipper. Plaintiff counsel's tax I.D. is 94-3408764. Releasees may charge the delivery to plaintiff counsel's Federal Express number, 1591-1075-3, or Golden State Overnight number, 34305.

**12. Timing of Dismissal.** Within ten (10) court days of the receipt by plaintiffs' counsel of the payment specified in paragraph 11 above, RELEASORS' counsel will prepare, sign, and electronically transmit to RELEASEES' counsel a stipulated dismissal with prejudice of all causes of action in the action Lieber v. City of Sausalito, U.S. District Court for the Northern District of California, Case No. C05-04421 MJJ. The Request for Dismissal shall be submitted to defense counsel for approval as to form, and shall contain a request for continuing jurisdiction of the Court to interpret and enforce the Settlement Agreement along with a request for transfer of the matter to Edward M. Chen for all remaining purposes.

**13. Acknowledgement.** RELEASORS affirm that the only consideration for their execution of this Settlement Agreement and General Release are the terms stated above; that no other promise or agreement of any kind has been made to or with them by any person or entity whatsoever to cause them to execute this Settlement Agreement and General Release; that they are competent to execute this Settlement Agreement and General Release; that their agreement to execute this Settlement Agreement and General Release has not been obtained by any duress; and that they fully understand the meaning and intent of this document which is that it constitutes a complete Settlement Agreement and General Release.

**14. Taxes.** RELEASORS further acknowledge and agree that they shall pay any local, state or federal income taxes, penalties, fines or assessments, if any, incurred as a result of any payment of monies under this agreement.

**15. Indemnity.** RELEASORS further represent that there are not liens against this settlement, and agree to indemnify RELEASEES against all such claims.

**16. Authority to Execute.** RELEASORS further agree that this agreement shall be

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binding upon them, and their heirs, legal representatives and assignees. RELEASORS warrant that they have not assigned any portion of their claim against RELEASEES to any person or entity and further warrant that no person, including relatives, has any right to RELEASORS' claims against RELEASEES. This agreement shall inure to the benefit of RELEASEES and their affiliates, officers, directors, employees, agents, legal representatives, successors, predecessors and assignees.


17. **Severability.** In the event that a portion or portions of this agreement are adjudicated to be invalid, such portions which are not invalid shall remain in full force and effect.

18. **No Recoupment.** This Settlement Agreement and General Release shall not act as a recoupment.

19. **Mutual Release of Attorneys' Fees.** Except as otherwise specifically provided herein, RELEASORS and RELEASEES agree to bear their own attorneys' fees and costs in connection with the Action and this Settlement Agreement and General Release.

20. **Counterparts.** This Settlement Agreement and General Release may be signed in faxed counterparts, which shall be deemed to be as effective as original signatures.

21. **Entire Agreement.** This Settlement Agreement and General Release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this Settlement Agreement and General Release are contractual and not a mere recital.

DATED: September 25, 2006   
ELLEN LIEBER, individually on behalf of herself and all her heirs, assigns, etc., "RELEASORS"

DATED: \_\_\_\_\_

\_\_\_\_\_  
CITY OF SAUSALITO

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title:

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APPROVED AS TO FORM:

Dated: September 25, 2006



\_\_\_\_\_  
TIMOTHY S. THIMESCH  
Attorneys for RELEASORS

Dated: 9-26-06



\_\_\_\_\_  
GREGORY M. MACDONALD, ESQ.  
Attorneys for RELEASEE CITY OF SAUSALITO

310 17<sup>th</sup> St  
Oakland, CA 94612  
415-382-2532  
415-382-2538 fax  
kimblackseth@mac.com

## Kim R. Blackseth, Interests, Inc

August 10, 2006

Karl Danz  
ADA Compliance Consulting  
5371 Vine Hill Rd  
Sebastopol, CA 95472

Re: Lieber v. City Sausalito

Dear Mr. Danz:

Thank you for meeting today to discuss the proposed injunctive relief issues to resolve the subject action. As we discussed, we (you and I) would recommend the following to our respective clients:

*Note: The below uses page numbers in my copy of your report. The copy you showed me in our meeting had slightly different page numbers.*

1. We agree two (2) accessible parking spaces that comply with the California Building Code (CBC) and ADAAG are required. We agree to recommend they be installed in the lot described on page 4 of your report.
2. We agreed a new path of travel could be easily provided that would provide access to the fountain and upper landing (your report pg 7-8). This new path would be on grade, less than 5% slope and as generally shown on page 38 of your report. This path will mitigate a number of other issues in your report, which are addressed as they come up below.
3. The stairs discussed on page 9 on your report are moot due to the new path agreed to in #2, above. We agree no further action is required;
4. On page 10, your report discusses cross slope on existing public sidewalks. We agreed to recommend that the issue of public sidewalks and related curb cuts be addressed in the City's new Self Evaluation and Transition Plan and this park/downtown area be given a high priority.

Professional services and strategies for disabled access.

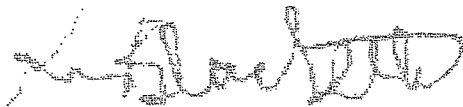


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5. On page 11 a brick path is discussed. We agreed this is moot as long as the path in #2 above is provided. No action required;
6. The public restrooms are on pages 13-28 of your report. We agree that these unique City restrooms are required to be CBC/ADAAG compliant. I agreed to recommend that the City renovate these restrooms in a timely fashion to resolve this issue. We propose two altered restrooms that comply w/CBC/ADAAG be provided.
7. The curb ramp on pages 28-31 will be part of the SE and Transition Plan, as in #4 above. No other action at this time.
8. The public telephones on page 32 are recommended to be removed or provided in a compliant state.
9. We agree to recommend one compliant drinking fountain and sign from the second fountain to the nearby accessible device. (pages 34-35);
10. The dog pet station (page 35) is recommended to be relocated to an area with an accessible level landing.
11. Restripe the cross walk to eliminate the grating in the accessible route (page 37);

The above constitutes the entire list injunctive relief items we agreed to recommend to our respective clients in the Lieber v. City of Sausalito matter. Please let me know if there is any issue with the above list. Thank you for your courtesy and professionalism in this matter.

Yours truly,



Kim R. Blackseth, ICBO, ACD

*California State Building Standards Commissioner  
International Conference of Building Officials # 1085694-12  
Academy Certified Diplomat  
ICC Certified Accessibility Inspector/Plans Examiner #20112*

*Member of the Western Region Master Builders Association  
California General Building Contractor # 363311, since 1978  
Member of the Marin Builders Exchange*

CHECK NO. 10907

California Bank Trust

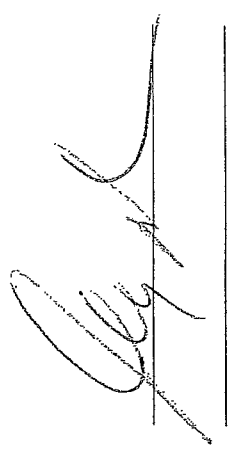
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George Hills Company, Inc.  
Claims Administrators for B.C.J.P.I.A.  
11060 White Rock Road  
Rancho Cordova, CA 956706129  
(916)859-4837

Sacramento Main  
1331 Broadway  
Sacramento, CA 95818

DATE 09/12/2006 AMOUNT \*\*\*\*\*\$55,000.00  
NOT VALID AFTER 90 DAYS FROM DATE

Pay Fifty Five Thousand Dollars And 00/100



TO THE ORDER OF Timothy S. Thimesch in trust for  
Ellen Lieber  
C/O Greg MacDonald ESQ  
1100 Larkspur Landing Circle, # 200  
Larkspur, CA 94939

⑈ ⑆0907⑈ ⑆⑆2⑆002042⑆ ⑆03003989⑆⑈

Payee: Timothy S. Thimesch in trust IRS/ISSN:030539532 Check Number: 10907 Check Date: 09/12/2006

Claim Number: 90098 Claimant Name: LIEBER, ELLEN Payment Transaction: Claim Payment  
Incident Date: 02/02/2005 Invoice Recvd. Date: Amount: 55,000.00  
From: Through: GHC Number: 90098 Claimant Type: OPI  
Adjuster: Diane Caravello-17 Client: CITY OF SAUSALITO(BCJPIA)-510 Invoice #:

Check Comment:

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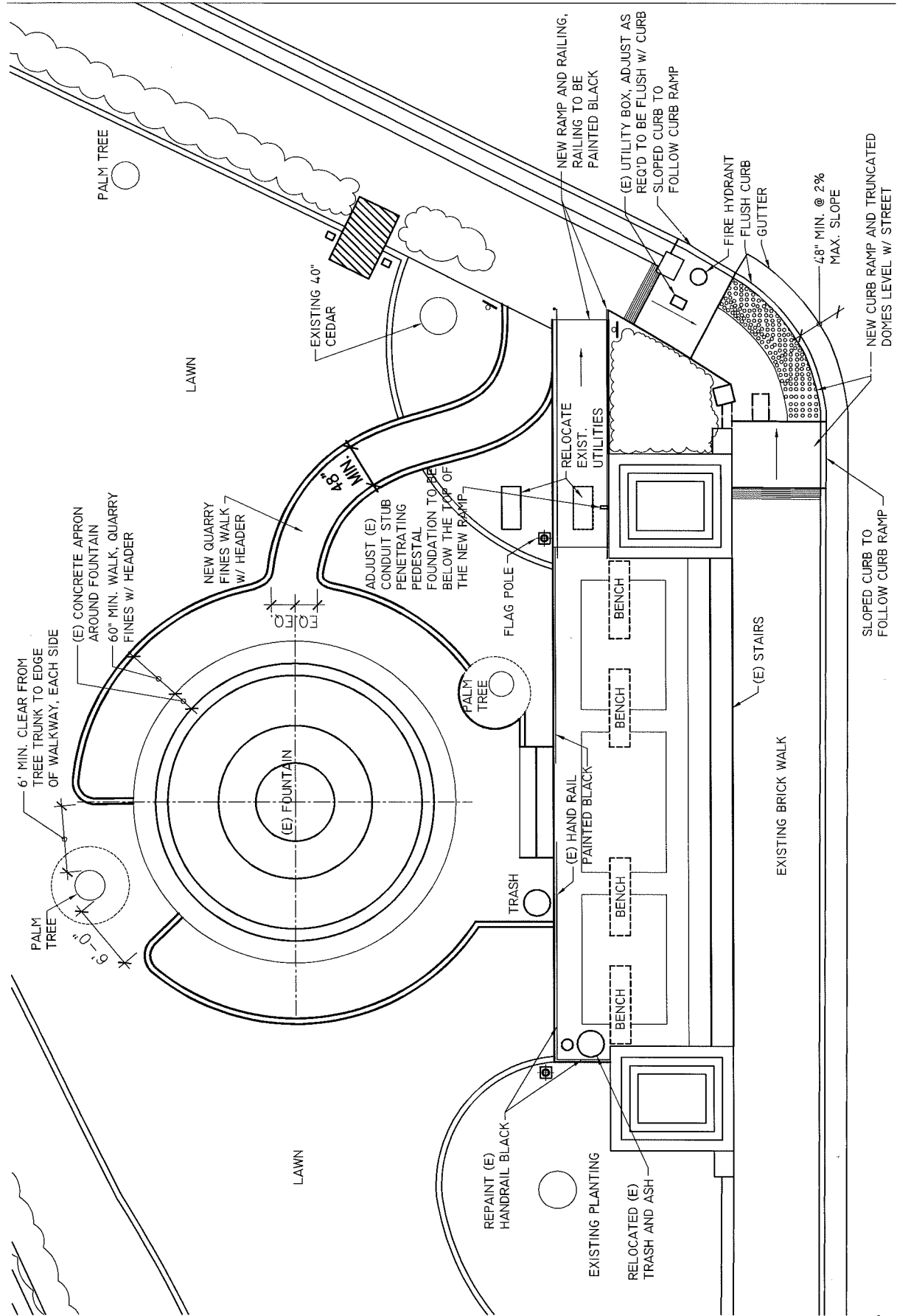




PROPOSED SITE PLAN - VINA DEL MAR  
 ADA TRANSITION PLAN UPDATE  
 420 LITHO ST., SAUSALITO, CA  
 CITY OF SAUSALITO

SCALE: 1/8" = 1'-0"  
 DATE: 04/22/10  
 NETWORKS

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Attachment 3

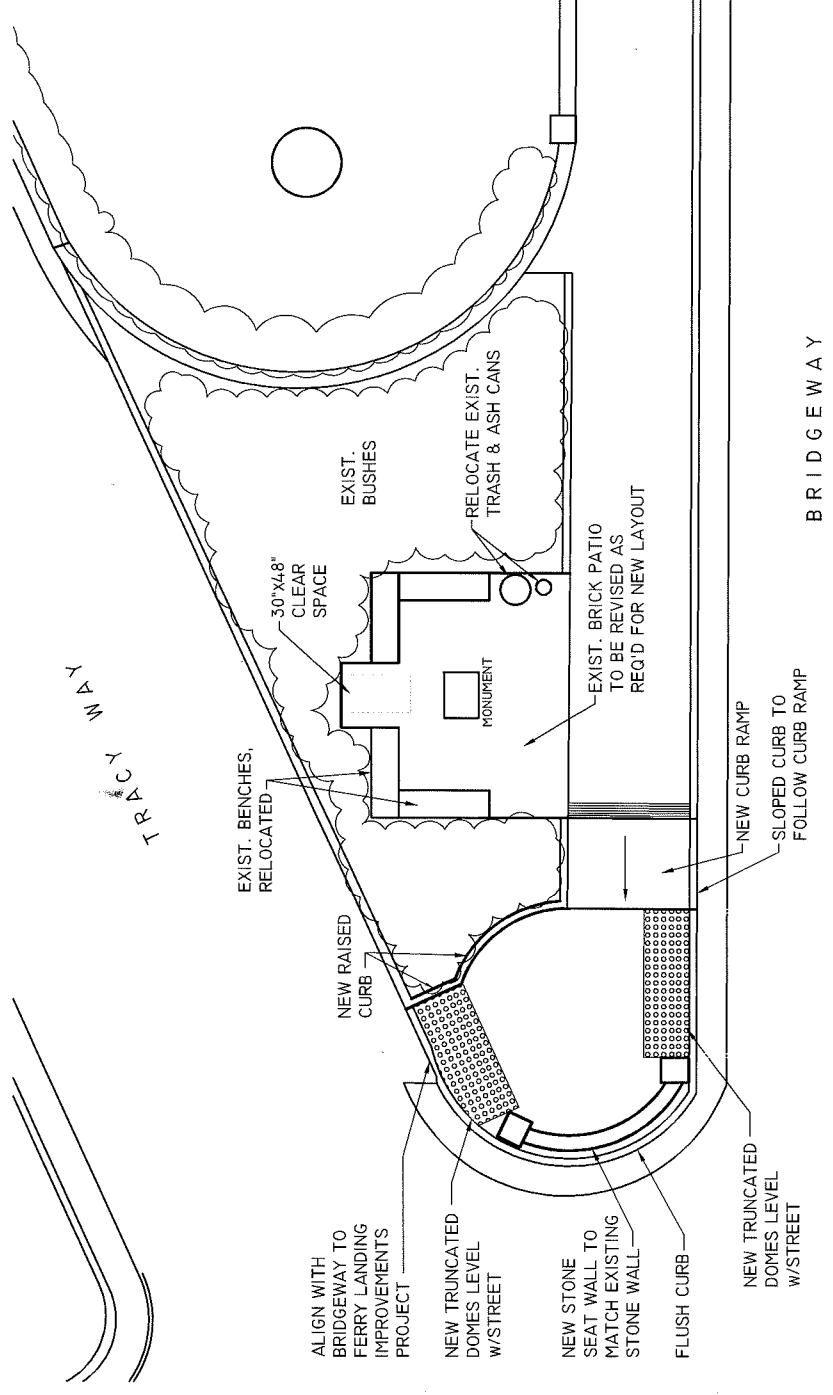
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33B


**MACRAE ARCHITECTS**  
 ARCHITECTS  
 PLANNING & DESIGN  
 PROJECT MANAGEMENT  
 825 GRAVISEN HWY., N.  
 SAN ANTONIO, CA 78247  
 TEL: 707-822-0849  
 FAX: 707-822-0842

**CITY OF SAUSALTO**  
 420 ULTRA ST., SAUSALTO, CA  
**ADA TRANSITION PLAN UPDATE**  
**PROPOSED SITE PLAN - VINA DEL MAR**

SCALE: 1/8" = 1'-0"  
 PREPARED BY: [Name]  
 DATE: 04/14/10  
 REVISIONS:

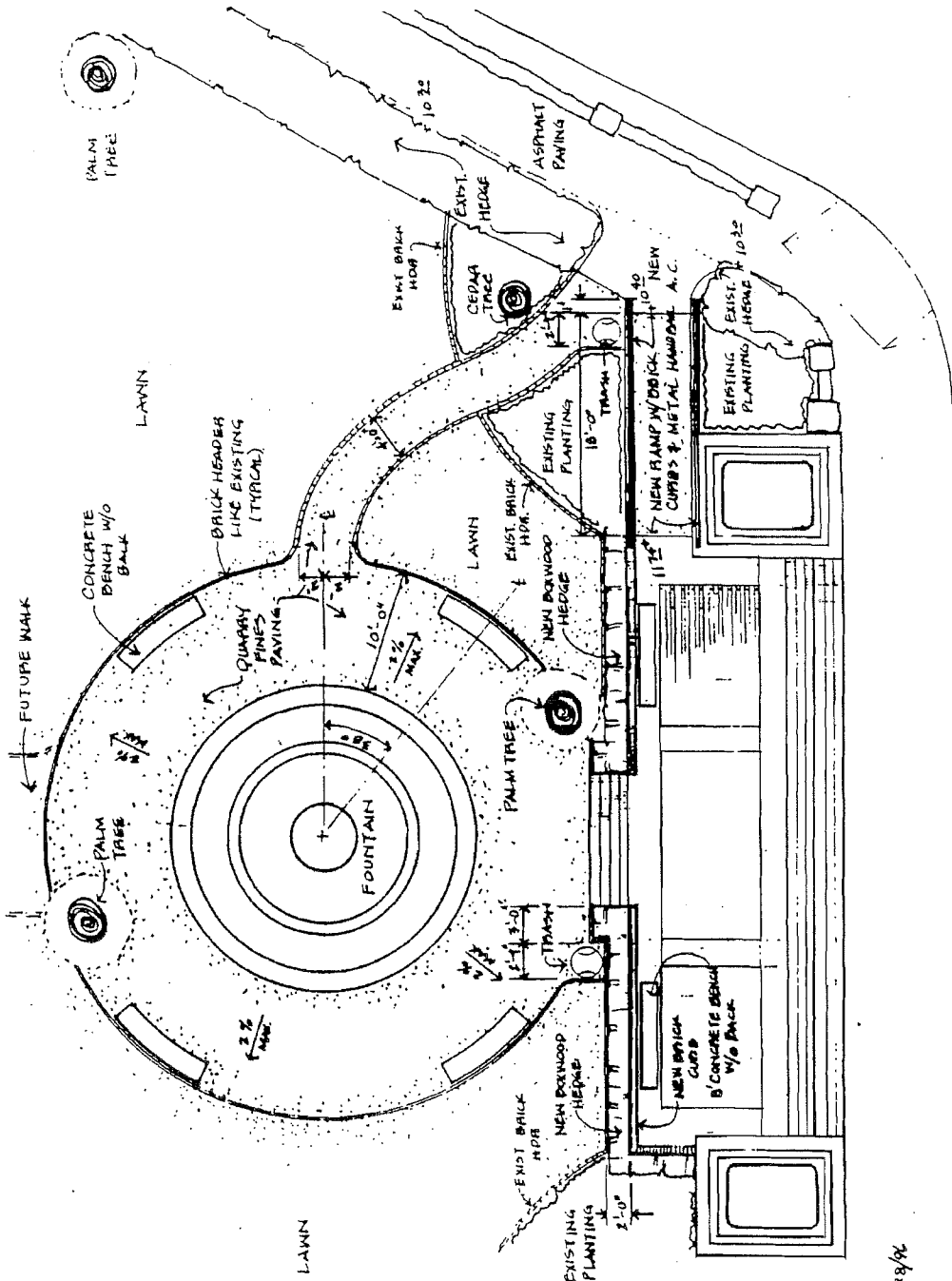
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**PROPOSED SITE PLAN - ALT. 1**

SCALE: 1/8" = 1'-0"

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Landscape Architecture  
**Leffingwell Associate**  
 CA License No. 1148  
 413 Litho Street  
 Sausalito, CA 94965

VINA DEL MAR  
 MODIFICATIONS  
 SCALE: 1/8" = 1'-0"  
 10-24-74

BAIDENWAY BLVD.

DRB APPROVED PLANS

APPROVED 11/24/96  
 YES (100)  
 COMMENTS: see submitted plan (100)  
 2/6/90 Kenneth A. Allen 10/28/96  
 Leffingwell

Attachment 4

6B  
 35



RECEIVED

FEB 16 2010



Ed Gurka, Consulting Arborist  
Member, American Society of Consulting Arborists

SAUSALITO  
COMMUNITY DEVELOPMENT

February 8, 2010

**ASSIGNMENT:**

I received a call from Andrew Davidson, City of Sausalito, Staff Engineer, and Manager of a project for an ADA access path to Vina Del Mar Park in the business district of Sausalito. The proposed pathway in the park would pass within the root zone of trees in the park and questions on the impact to the trees are considered as a component of the project. A comprehensive December 1996 Arboriculture Report commissioned by The City of Sausalito when the park opened to the public, included all trees within the park. As the years have passed, an update for specific trees affected by the ADA pathway is necessary.

I agreed to provide arboricultural information based on Andrew Davidson's proposal for the project. They are stated in his request and are as follows:

- Review of applicable sections of the 1996 Kenneth Allen Arboriculture Report.
- Provide recommendations for construction to reduce impact on the affected trees within the area of the pathway.
- Prepare a report summarizing findings and recommendations for the proposed project.

The report format will include the required topics as sections and identify specific trees impacted by the proposed pathway. This report will describe two pathway proposals and provide arboricultural information for a decision that will proceed with the project.

**ASSUMPTIONS and LIMITATIONS:**

All observations were made from the ground for each tree. The report focused on the impact to roots of affected trees. Aerial equipment was not available to inspect the Palm crowns. It is recommended that upper crown inspection be performed during scheduled pruning when aerial equipment is available for pruning the trees. Testing of tree trunks did not include invasive drilling or outer bark removal. Trunk decay was limited to visual inspection. Root decay was not suspected when probing root areas of the pathway. Soil probing was used to determine the location of primary tree roots

**OBSERVATIONS and DISCUSSIONS:**

A meeting with Andrew Davidson took place on January 25, 2010, at 10:00AM. At this meeting, he presented an information packet to assist with preparation of the arborist report. The meeting specifics of the project were discussed and clarified. I then made a site visit to the location, Vina Del Mar Park, to collect information for the report. Based on the meeting with Mr. Davidson, and the subsequent site visit, three trees are within very close proximity to both of the proposed pathway locations. Two additional site visits were necessary to collect information before preparing this report. The trees within close proximity to the proposed pathway locations are as follows:

***Cedrus deodara*, Deodar Cedar**

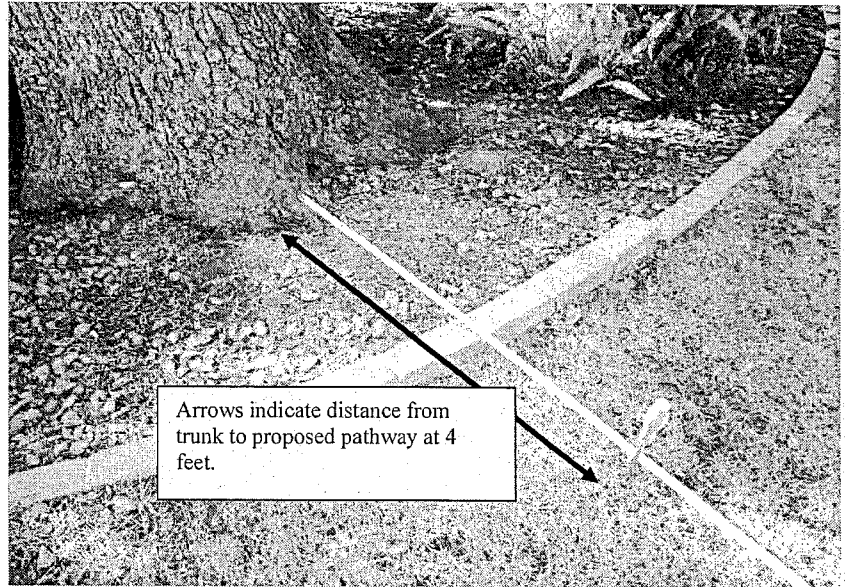
The tree is located just inside the park where Bridgeway and El Portal streets meet. This is the southeast corner of the park. The Circumference at Breast Height (CBH) measured with a circumference /diameter tape measured and equaled 10.4 feet.

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Attached 5

The tree is approximately 65 feet in height. The Sausalito Tree Ordinance defines this tree as a "Heritage Tree" because of the trunk circumference, and in addition is a "Protected Tree" because it has heritage status, and is located on City property.

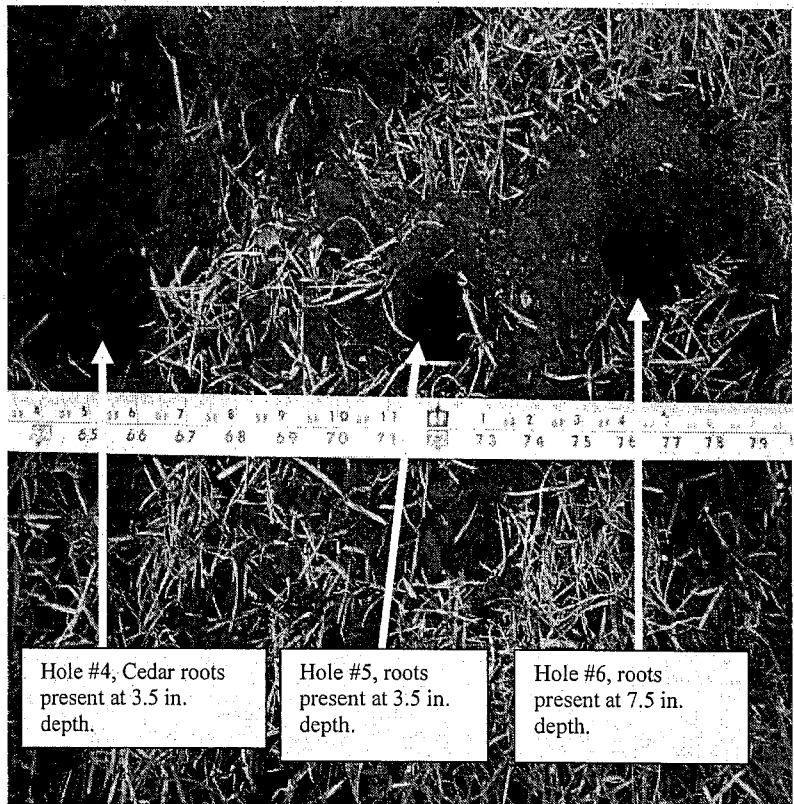
One proposal is for the pathway to pass within ten feet to the south of the Cedar trunk. This is in the same location as an ADA accessible ramp for access to the Vina Del Mar Park Plaza. In the second proposal, the pathway for access to the park and fountain would pass within four feet to the north of the Cedar trunk. These two proposed pathways for access to the park and fountain will pass within ten feet of the trunk on either side of the tree. A choice for the pathway location is required for the project to proceed. The root zone, within ten feet of the trunk, is considered a critical area because it is where buttress roots are closest to the soil surface. The impact is considered an alteration by the Sausalito Tree Ordinance and requires identifying what the best methods are to accomplish the project and reduce a negative impact to the health of the tree.



In one of the proposed ADA pathways, the pathway would pass to the north of the Cedar tree beginning at an existing opening and gap in the privet hedge on the El Portal side of the park. To determine the impact to the Cedar's root system in this area a series of 14-2 inch boreholes were drilled to locate buttress roots beneath the soil surface closest to the trunk. The boreholes extended from the end of an existing brick threshold to a length of 70 inches in a straight-line direction towards the fountain.

The first group of three boreholes was made to a depth of 7, 8, and 10 inches spaced at one-foot intervals. The test holes did not produce any cedar roots.

The next group of three boreholes was made and produced the following results. Hole #4 drilled to a depth of 3.5 inches revealed cedar tree roots. At hole #5 roots were found at 3.5 inches and at hole #6, roots were found at 7.5 inches, (see photograph to the right.)



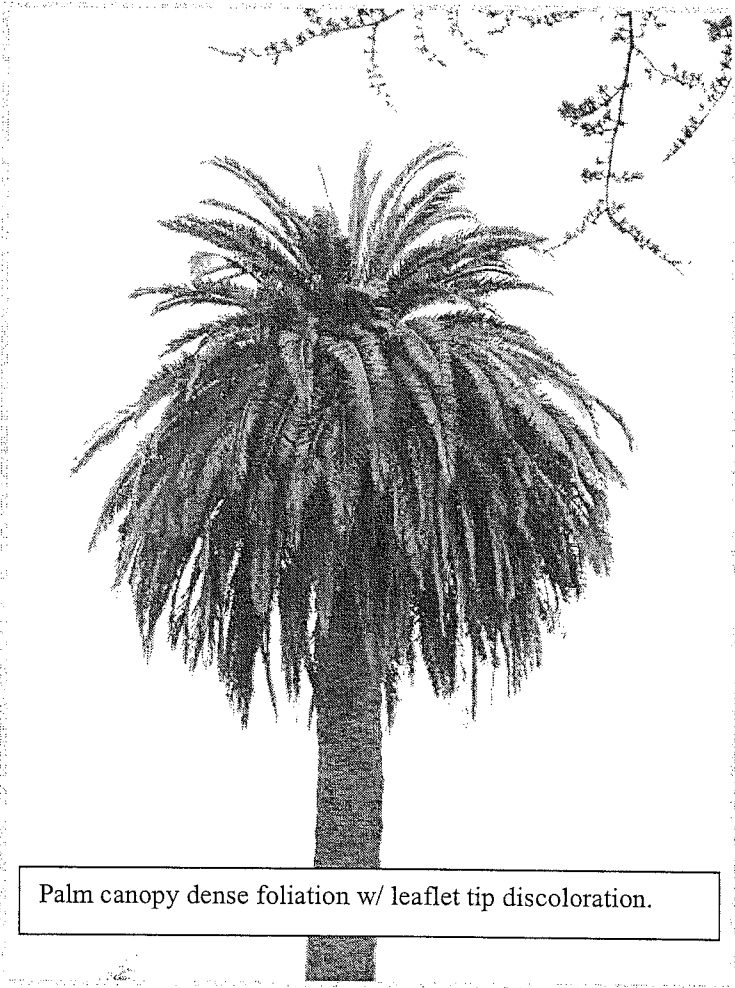
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In each of the proposals, the ADA ramp access to the Plaza is located in the same place. The ramp would be just outside of the drip line of the Cedar tree further reducing impact on the Cedar tree's roots.

In the second proposal, illustrated by a plan drawing prepared by Architerra MaCrae Architects, pathway access to the fountain would follow along side the ramp to Vina Del Mar Plaza. It is here that the pathway would be on the south side of the Cedar tree between Bridgeway and the tree. The pathway would follow the plaza ramp at its beginning and turn toward the fountain just beyond a brick landscape border that separates the park lawn from the Cedar tree. At the closest point where the pathway would pass by the Cedar trunk, eleven boreholes were drilled to determine if buttress roots were growing within the area of the pathway. The boreholes were spaced at one-foot intervals and in a straight line. They were drilled to a depth of 8 inches where the proposed pathway would be placed. At this depth one of the Cedar's buttress roots were encountered in the eleven borehole locations. Though the boreholes cannot be a definite indicator of buttress roots being present throughout the test path it is a good indicator for-root location. Buttress roots at the trunk attachment point on this side of the tree were fewer in number than on the north side of the trunk. This indicates fewer buttress roots will be encountered on the south side of the Cedar tree.

***Phoenix canariensis*, Canary Island Date Palm #1**

This Palm is located at the south side of the park between the fountain and Vina Del Mar Plaza immediately to the right of the plaza entrance to the park. The Circumference at Breast Height (CBH) measured 9.3 feet. The Palm has a CBH of nine times the size of a Heritage Tree description. Height measurement was made with a Brunton Clino Master and measured 65.6 feet. The Phoenix Palm is defined as a "Heritage Tree" and "Protected Tree" when applying CBH to the Sausalito Tree Ordinance description of these terms. **Ordinance NO. 1114, paragraph 11.12.020 DEFINITIONS.** In addition, the Palm trees in this park are symbolic of Vina Del Mar Park and its features. They have historic value in addition to their appraised value and every effort to protect them must be made.



Palm canopy dense foliage w/ leaflet tip discoloration.

***Phoenix canariensis*, Canary Island Date Palm #2**

The tree is located to the north behind the park fountain and Tracy Way. The tree is 5 feet from the lowest pool of the fountain rim and directly against the concrete pathway. CBH measured at 9.3 feet and height is 65.6 feet. Based on the trunk's CBH, and height, this is a mature Canary Island Date Palm tree and similar to the other Canary Island Date Palm. The trunk base and root mass appeared in good condition. Old puncture wounds along the vertical length of the

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trunk appeared to be from unauthorized climbing equipment used to ascend the tree. The canopy has a normal amount of foliage. Palm literature indicates Phoenix canariensis canopy cover on average have fifty fronds and visual inspection indicated a full canopy. Canopy cover is an indicator of a plant's vigor.

A slight discoloration on leaflet tips was noticed that could be related to a nutrient deficiency or salt spray damage. The Palm tree is near the bay and salt-water wind spray from the bay can accumulate on leaflet tips to cause this discoloration. Nutrient deficiency can be corrected with specifically formulated Palm fertilizers. Salt spray from the bay's waters generated by winds is uncontrolled because it is a climatic condition. Shredded frond tips is very likely wind damage and not critical to the tree health. Soil testing for nutrient deficiency specifically, magnesium and potassium would determine if a nutrient deficiency exists and how to correct the deficiency, see photograph on page 3.

### **TESTING AND ANALYSIS:**

Testing and analysis of Palm tree diseases are referred to in the recommendations section of this report. The work can be performed by a certified arborist during scheduled pruning work.

### **RECOMMENDATIONS:**

#### **Root Protection Zone and General Requirements:**

This report has established the high value of Vina Del Mar Park trees described in the Appraisal section of this report. They are all Heritage Trees defined in the Sausalito Tree Ordinance. Any damage resulting from construction work is the responsibility of the contractor. Any damage to Phoenix palm trees is irreversible. Trunk wounding does not heal and the wound would be a permanent exposure to pathogens and pests that could affect the trees' health. General protection measures cited in the Sausalito Tree Ordinance and arboriculture literature are necessary for tree protection during construction work.

A protection fencing to prevent damage to trees during construction is necessary. Protection fencing shall surround each tree described in this report by a minimum distance of four feet from the trunk. Where protection fencing is not possible as with Palm #1 modification procedures described under Construction Protection Requirements of this report are recommended. The fencing and modified trunk protection for protected trees must be in place before the beginning of the construction project and not removed until project completion. No work or construction materials shall be within this critical protection area. There shall not be any open flames or dumping of construction spoils within the park. **Excavation for the pathway within the root zone of trees, the outer canopy of the trees as projected on the ground beneath the canopy, shall be performed by hand digging or with the use of pneumatic air tools that remove soil with compressed air.** If roots are encountered from protected trees, roots that are greater than one inch shall not be removed unless determined by the on site certified arborist to be acceptable. Any root pruning to protected trees shall be performed by a certified arborist, and documentation of the work shall be presented to City of Sausalito staff engineer when completed. Roots smaller than one inch that require removal shall be performed by a certified arborist using sharp sterilized pruning tools. During pathway excavation, any exposed roots shall be covered with mulch and kept moist until installation of permanent pathway materials. Any excavated soil beyond the pathway area shall be backfilled with clean top soil to the existing surrounding grade. In the event that roots cannot be removed because of their size, the pathway shall be bridged over the root system and allowance for root expansion included in the pathway design. The sides of the elevated can be sloped in a gradual transition to the existing grade provided soil is kept clear of the trunk and root flare of protected trees. The area of soil slope shall not be within 12 inches of any tree trunk or root flare where roots are attached to the trunk.

LOB  
40



It is very important to monitor irrigation in the park. When testing for root location, the top layer of soil is not more than 12 inches. Just below the top soil layer, a hardpan surface is very difficult to penetrate. All tree roots are located within this top layer of soil. Since water will not percolate below the hardpan layer, it is where excess water will accumulate and this accumulation creates anaerobic conditions that promote diseases. Irrigation programming can be controlled with programming of irrigation controllers and sprinkler systems that provide matched precipitation rates for even distribution of moisture. The controlled use of water conservation for irrigation is a benefit for the community and plant health.

A designated area for storage of material away from park plants shall be made by the project certified arborist. No mixing, dumping, or storage of construction material shall take place within the park.

Placement of park utility electrical and irrigation panels must be considered before project approval. Utility panels should not be placed in root protection zones of the park trees.

Consideration for plant material that is displaced can be relocated to other areas within the park.

#### **Phoenix Canariensis Construction Protection Requirements:**

Root zones of each of the two Palm trees must be protected and a buffer area established to separate the pathway from the Palms. Any wounding to the Palm trunks or root flair cannot be corrected. Trunk wounding from construction accidents will be permanent and is a source for disease pathogens that will lead to irreversible decline. This report recognizes the different settings of the two affected Palm trees in the construction zone for this pathway. Therefore, each Palm tree protection requirement is discussed separately when the differences apply.

The tree construction plan for Palm tree #1 shall have a thick layer of straw and jute to contain the padding wrap on the lower trunk. This shall be in place before any work begins and not removed until all construction work is completed to prevent construction injury. The padding shall be designed to withstand accidental impact of any construction work necessary for the project. Since the least amount of root mass disturbance for the palm tree is necessary, special care for the removal of the existing asphalt surface that traverses from the plaza stairs to the fountain is necessary. Once the asphalt is removed, the certified arborist assigned to the project can determine the limits of the new pathway excavation depth. It shall be no greater than 4 inches below existing preconstruction grade. The outermost portion of the pathway border shall not be within twenty-four (24) inches of the trunk. This report estimates that root mass encroachment using the limits described would impact the root mass by approximately eight (8%) percent.

A perimeter fence shall be setup at a radial distance of four (4) feet from the trunk of Palm tree #2. The fencing shall not be removed during the construction and must remain in place until the completion of the project. Excavation work for the pathway located behind the fountain, between the fountain and Tracy Way, shall end on both sides of the Palm tree at a six-foot distance measured away from the Palm trunk. This buffer area between the pathway and the Palm trunk is required to protect the root mass, and to prevent destabilization of the tree.

Absolutely no work or material storage within the protection area of either tree is allowed during construction.

The modification of the pathway to accommodate ADA access will require additional maintenance especially to trees within the pathway. The pathway and trees will require a maintenance program. Keeping pathway material separate from turf, plants, adjusting, and reconfiguring irrigation to separate the pathway from plant

material is necessary. Palm tree pruning will be necessary to reduce the occasional shedding of palm leaf blades. Specific methods for palm pruning are recommended in the Winter 2009 issue of Western Arborist an International Society of Arboriculture publication and available to ISA Certified Arborists.

#### **SUMMARY:**

Communities recognize the importance of trees. They contribute to the enjoyment and well-being of their communities. The trees in Vina Del Mar Park contribute to the park's environment and character. Protecting their health and condition is important to preserving the beauty and enjoyment this park. The report describes the two proposals and the impact each would have on the trees. The pathway and ramp placement on the south side of the Cedar tree as proposed in the MaCrae Architects drawing would appear to have the least impact from my testing for root locations. Since plant material would have to be cleared for ramp access to the plaza, placement of the pathway surface beside the ramp would limit the construction to the same location of the park.

Separating the pathway from the ramp and placing each on either side of the Cedar tree would require bridging the pathway over tree roots. The impact on the tree would be greater because the root system would be affected in two separate locations instead of just one. A plan to bridge the roots would be necessary because there are more buttress roots on this side of the tree. Multiple entry points would divide the park into sections created by the pathway and ramp. This would require sprinkler system modifications and increase maintenance practices. The requirement for a site arborist to implement the tree protection plan described in this report and the Sausalito Tree Ordinance must be part of the project to complete the project successfully.

#### **REFERENCES:**

- Sausalito Tree Ordinance 1114, 11.12.020, Definitions, 11.12.030 Protected Trees, C, Conditions of Approval for Protected Trees During Construction.
- Trees and Development, A technical Guide to Preservation of Trees During Land Development, Nelda Matheny, and James Clark.
- Guide for Plant Appraisal, International Society of Arboriculture.
- Western Arborist, International Society of Arboriculture,
  - Palms in the Landscape-part 2, Donald Hodel,
  - Palms in the Landscape-part 3, Donald Hodel
  - Palm Diseases and their Management,-part 2, Donald Hodel
  - Palm Diseases and their Management-Part 3, Donald Hodel
  - Pruning Palms, Donald Hodel

**TREE APPRAISALS**

608  
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Cedrus deodara

**Tree Appraisal Trunk formula Method 9 edition**

- 1 **Species:** Cedrus deodara , Deodar Cedar
  - 2 **Condition:** 80%
  - 3 **Trunk Circumference:** 124.8in. Diameter: 40 in.
  - 4 **Location: %= [ Site: 95% % + Contribution 90% % + Placement 90%**  
 sub total: 275% % div.by 3 92% % total
- Regional Plant Appraisal Committee and/or Appraiser-Developed or Modified Information.
- 5 **Species Rating** 70%
  - 6 **Replacement Tree Size (diameter)** 3.50 2.75 inch dia of tree  
 (Trunk Area) 12.56 in.sq./cm.sq.TAr
  - 7 **Replacement Tree Cost:** \$900.00  
 (see regional information to use cost selected)
  - 8 **Installation Cost:** \$ \$1,800.00
  - 9 **Installation Tree Cost line (12+14)** \$2,700.00
  - 10 **Unit Tree Cost:** \$ \$56.50 per in. sq./cm.sq.  
 (see regional information to use cost selected)  
 Calculations by Apprasier using Field and Regional Information
  - 11 **Appraised Trunk Area:**  
 (TAa or ATa; use tables 4.4-4.7)  
 or Cir. sq.(line 5 trunk circumference) 1600 x 0.08 1256 in. sq.  
 or dia. sq. (line 5 trunk diameter) 1600 x 0.785 1256 in. sq.
  - 12 **Appraised Tree Trunk Increase (TA incr) =**  
 TAa or ATAA 1256 in.sq.cir.Tar (minus) 2.75 (F10) = 1253 in.sq.
  - 13 **Basic Tree Cost=Taincr (J24)** 1238 in.sq. X Unit Tree Cost (D16) \$56.50 per in.sq.  
 (plus) Installed Tree Cost (E15) \$2,700.00 (equals) \$72,647
  - 14a **Appraised Value = Basic Tree Cost (E16)** \$72,647 X species rating 70% X condition ( 80%  
 X Location (F7) 92% \$37,428
- If the Appraised Value is \$5000 or more, round it to the nearest \$100; if it is less, round to the nearest \$10.
- 14b **Appraised Value =** \$37,428

GB  
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Palm Tree #1

**Tree Appraisal Trunk formula Method 9 edition**

- 1 **Species:** Pheonix Canariensis , Canary Island Date Palm
- 2 **Condition:** 80%
- 3 **Trunk Circumference:** 115 Diameter: 37 in.
- 4 **Location: %= [ Site:** 95% % + **Contribution:** 90% % + **Placement:** 75%  
 sub total: 260% % div.by 3 87% total
- Regional Plant Appraisal Committee and/or Appraiser-Developed or Modified Information.
- 5 **Species Rating** 70%
- 6 **Replacement Tree Size (diameter)** 3.50 inch dia of tree  
 (Trunk Area) 13.00 in.sq<sup>2</sup> TAr
- 7 **Replacement Tree Cost:** \$900.00  
 (see regional information to use cost selected)
- 8 **Installation Cost:** \$ \$1,800.00
- 9 **Installation Tree Cost line (12+14)** \$2,700.00
- 10 **Unit Tree Cost:** \$ \$56.50 per in. sq./cm.sq.  
 (see regional information to use cost selected)  
 Calculations by Apprasier using Field and Regional Information
- 11 **Appraised Trunk Area:**  
 (TAa or ATa; use tables 4.4-4.7)  
 or Cir. sq.(line 5 trunk circumference) \_\_\_\_\_ x 0.08 \_\_\_\_\_ in. sq.  
 or dia. sq. (line 5 trunk diameter) 1369 x 0.785 1076 in. sq.
- 12 **Appraised Tree Trunk Increase (TA incr) =**  
 TAa or ATaA 1076 in.sq.cir.Tar (minus) F-10 3.50 = 1071 in.sq.
- 13 **Basic Tree Cost=Taincr (J24)** 1071 in.sq. x **Unit Tree Cost (D16)** \$56.50 per in.sq.  
 (plus) Installed Tree Cost (E15) \$2,700.00 (equals) \$63,212
- 14a **Appraised Value = Basic Tree Cost (E16)** \$63,212  
 X Location (F7) 92% \$32,567  
 X species rating 70% X condition ( 80%)
- If the Appraised Value is \$5000 or more, round it to the nearest \$100; if it is less, round to the nearest \$10.
- 14b **Appraised Value =** \$32,567

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Palm Tree #2

**Tree Appraisal Trunk formula Method 9 edition**

- 1 **Species:** *Pheonix Canariensis*, Canary Island Date Palm
  - 2 **Condition:** 30%
  - 3 **Trunk Circumference:** 112.8in. Diameter: 36 in.
  - 4 **Location: %= [ Site:** 95% **+ Contribution:** 90% **+ Placement:** 90%  
 sub total: 275% div.by 3 92% total
- Regional Plant Appraisal Committee and/or Appraiser-Developed or Modified Information.
- 5 **Species Rating** 70%
  - 6 **Replacement Tree Size (diameter)** 3.50 2.75 inch dia of tree  
 (Trunk Area) 12.56 in.sq./cm.sq.TAr
  - 7 **Replacement Tree Cost:** \$900.00  
 (see regional information to use cost selected)
  - 8 **Installation Cost:** \$ \$1,800.00
  - 9 **Installation Tree Cost line (12+14)** \$2,700.00
  - 10 **Unit Tree Cost:** \$ \$56.50 per in. sq./cm.sq.  
 (see regional information to use cost selected)  
 Calculations by Apprasier using Field and Regional Information
  - 11 **Appraised Trunk Area:**  
 (TAa or ATa; use tables 4.4-4.7)  
 or Cir. sq.(line 5 trunk circumference) \_\_\_\_\_ x 0.08 \_\_\_\_\_ in. sq.  
 or dia. sq. (line 5 trunk diameter) 1296 x 0.785 1017 in. sq.
  - 12 **Appraised Tree Trunk Increase (TA incr) =**  
 TAa or ATaA 1017 in.sq.cir.Tar (minus) 3.50 (E10) = 1014 in.sq.
  - 13 **Basic Tree Cost=Taincr (J24)** 1014 in.sq. X Unit Tree Cost (D16) \$56.50 per in.sq.  
 (plus) Installed Tree Cost (E15) \$2,700.00 (equals) \$59,991  
 X species rating
  - 14 **Appraised Value = Basic Tree Cost (E16)** \$59,991 X condition ( 30%  
 X Location (F7) 92% \$30,907
- If the Appraised Value is \$5000 or more, round it to the nearest \$100; if it is less, round to the nearest \$10.  
**Appraised Value =** \$30,907

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ORDINANCE NO. 1128

AN INITIATIVE ORDINANCE ADOPTED BY THE CITY COUNCIL  
OF THE CITY OF SAUSALITO REGULATING  
THE SALE, LEASE, OR DISPOSITION OF PLAZA VINA DEL MAR,  
GABRIELSON PARK, THE MARTIN LUTHER KING SITE  
OR PARKING LOTS 1, 2, 3 AND 4

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The City Council of the City of Sausalito does ordain as follows:

Section 1: The City of Sausalito shall retain ownership of municipal parking lots 1, 2, 3 and 4 and shall not sell, lease, or otherwise dispose of such parking lots without voter approval. Such parking lots shall not be used for purposes other than public parking lot uses without voter approval.

Section 2: The City of Sausalito shall retain ownership of Gabrielson Park and Plaza Vina Del Mar and shall not sell, lease, or otherwise dispose of such parks without voter approval. Such areas shall not be used for any purpose other as than public parks without voter approval. Such areas shall not be changed from their presently existing condition with the exception of minor maintenance and upkeep necessary to maintain such areas in their presently existing condition without voter approval.

Section 3: The City shall retain ownership of the Martin Luther King property and shall not sell, lease, or otherwise dispose of such property without voter approval. No part of the Martin Luther King property shall be used for purposes other than park and recreation purposes without voter approval; provided, however, that the land area of said property currently devoted to commercial use may continue in such use on a temporary basis. Without voter approval, there shall be no increase in the land area of said site, or the floor area situated thereon, which is devoted to commercial use.

Section 4: As used in this Ordinance, the term "voter approval" shall mean approval by a majority of the City voters voting at a City election.

Section 5: In order to implement the requirements set forth in Sections 1, 2, 3 and 4 of this Ordinance, the Sausalito General Plan, adopted on September 19, 1995 by Sausalito City Council Resolution No. 4313, is hereby amended as follows:

- (a) Program LU-4.7.5, reading as follows, is added to the General Plan: "Program LU-4.7.5. Municipal Parking Lots. The City shall retain ownership of municipal parking lots 1, 2, 3 and 4 and shall not sell, lease, or otherwise dispose of such parking lots without voter approval. Such parking lots shall not be used for purposes other than public parking lot uses without voter approval."

- (b) Program LU-5.1.2, reading as follows, is added to the General Plan: “Program LU-5.1.2. Municipal Parks. The City shall retain ownership of Gabrielson Park and Plaza Vina Del Mar and shall not sell, lease, or otherwise dispose of such parks without voter approval. Such areas shall not be used for any purpose other as than public parks without voter approval. Such areas shall not be changed from their presently existing condition with the exception of minor maintenance and upkeep necessary to maintain such areas in their presently existing condition without voter approval.”
- (c) Program LU-5.3.1 of the General Plan is amended to read as follows: “Program LU-5.3.1. MLK Solvency. Examine new financing and develop possibilities to insure solvency and a reasonable debt retirement schedule on the MLK property; provided, however, that the City shall retain ownership of the Martin Luther King property and shall not sell, lease, or otherwise dispose of such property without voter approval. No part of the Martin Luther King property shall be used for purposes other than park and recreation purposes without voter approval; provided, however, that the land area of said property currently devoted to commercial purposes may continue in such use on a temporary basis. Without voter approval there shall be no increase in the land area of said site, or the floor area situated thereon, which is devoted to commercial use.”
- (d) The last sentence of the last paragraph, found on page 2-25 of the General Plan, is amended to read as follows: “The old Martin Luther King School site may have commercial uses as a temporary condition (without any increase in land area or floor area devoted to commercial use) until the City is able to finance its permanent use as a public recreation facility.”
- (e) The following sentence is added at the end of the third full paragraph appearing on page 2-42 of the General Plan: “The Master Plan for the Downtown waterfront area shall be subject to the limitations contained in Program LU-4.7.5, Program LU-5.1.2 and Program LU-5.3.1.”
- (f) The first full paragraph on page 2-43 of the General Plan is amended to read as follows: “The Plan envisions the MLK property as a park and recreational area for residents. It recognizes that in order for maximum usage as a public park to be accomplished, some reassessment of the current financing mechanism and, subject to the limitations contained in Program LU-5.3.1, possible changes to the commercial uses now permitted on the site may be needed.”
- (g) Policy CP-2.2 of the General Plan is amended to read as follows: “Policy CP-2.2. Commercial Parking. Limit the land area for parking on City owned lots in the Downtown area to the 1990 level; provided, however, that the land area now occupied by Municipal Parking Lots 1, 2, 3 and 4 shall not be used for purposes other than public parking lot uses without voter approval.”
- (h) The first sentence of the first full paragraph on page 5-16 of the General Plan is amended to read as follows: “Based on the policies of the General Plan, the amount of public land area provided in the Downtown for public parking would not be increased in any amount or decreased by greater than five percent from the existing level.”

Section 6: Any provisions of the Sausalito General Plan, adopted by the City Council on September 19, 1995 by Resolution No. 4313, which are inconsistent with the provisions of this



Ordinance are hereby rescinded and stricken from the General Plan. Unless approved by the voters of the City of Sausalito, the amendment made to the Sausalito General Plan by Section 5 of this Ordinance shall not hereafter be further amended or repealed, nor shall any subsequent general plan be adopted by the City of Sausalito which does not include the provisions set forth in Section 5 of this Ordinance.

Section 7: If the title, or any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held by a court of competent jurisdiction to be invalid or unconstitutional such decision shall not affect the validity of the remaining portions of this Ordinance and the City Council declares that it would have adopted this Ordinance and its title and each section, subsection, sentence, clause and phrase hereof irrespective of the fact that the title or any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 8: This Ordinance shall go into effect 30 days after the date of its adoption and within 15 days after its adoption shall be published in a newspaper of general circulation, published and circulated in the City of Sausalito.

The foregoing Ordinance was duly and regularly introduced at a meeting of the Sausalito City Council held in said City on the 16<sup>th</sup> day of December, 1997, and thereafter adopted at a meeting of the City Council held in said City of the 18<sup>th</sup> day of December, 1997, by the following vote, to wit:

AYES: COUNCILMEMBERS: Belser, Miskel, Ziegler, Mayor Albritton

NOES: COUNCILMEMBERS: Stratigos

ABSENT: COUNCILMEMBERS: None

/s/ Paul Albritton  
MAYOR OF THE CITY OF SAUSALITO

ATTEST:

/s/ Dale Vaughn  
DEPUTY CITY CLERK

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# MEMORANDUM

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FEB 11 2010

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

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

---

## BACKGROUND AND QUESTION PRESENTED

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

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

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

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

## SHORT ANSWER

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

**ANALYSIS**

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

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

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

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

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

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

Memorandum Re: Compliance with ADA Requirements

February 9, 2010

Page 3

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

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

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

#### CONCLUSION

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

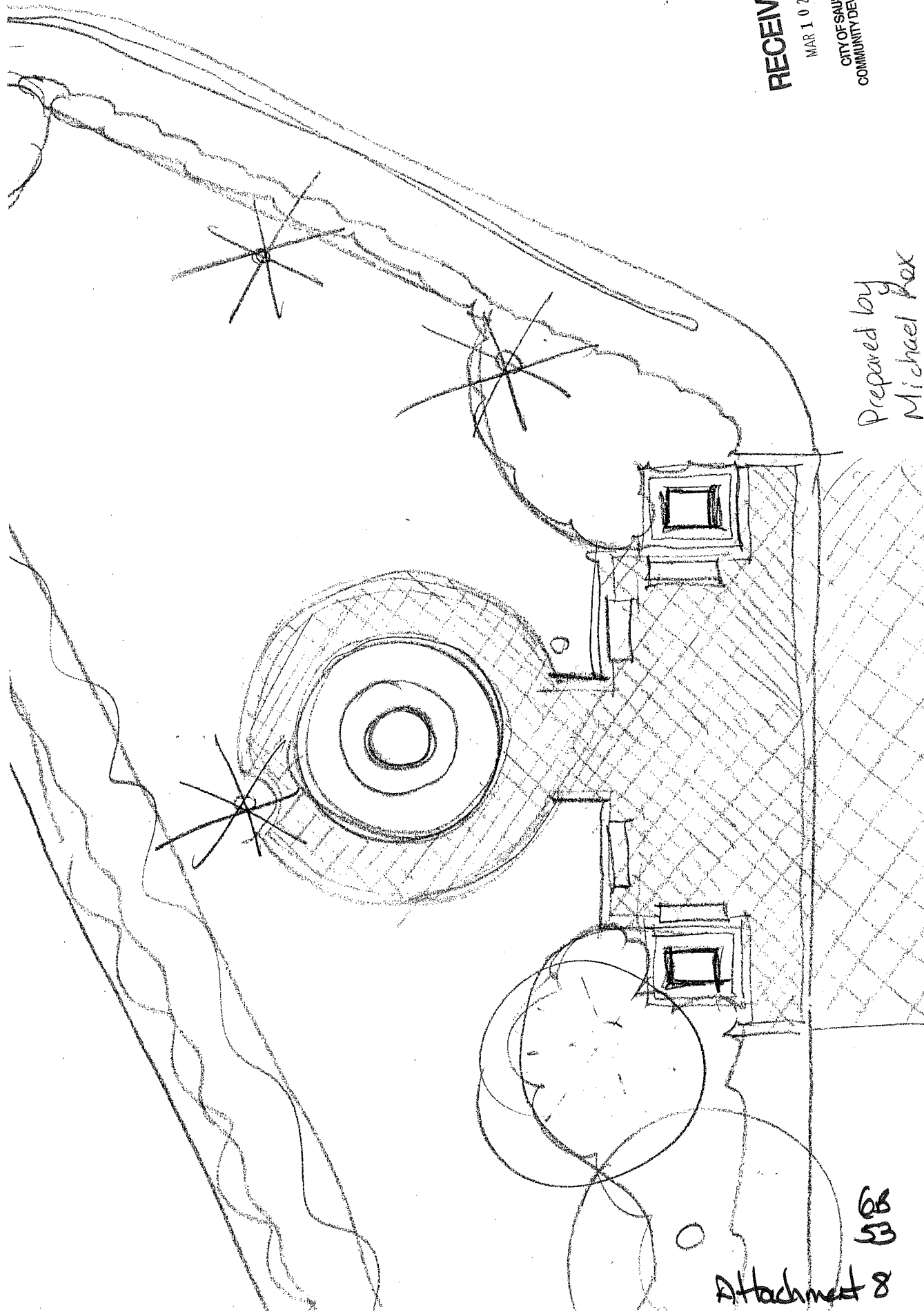


RECEIVED

MAR 10 2010

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Prepared by  
Michael Pax



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Attachment 8





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**SAUSALITO PLANNING COMMISSION**  
**Wednesday, March 10, 2010**  
**Approved Minutes**  
**\*\*EXCERPT\*\***

**Call to Order—Joint Meeting with Historic Landmarks Board**

Chair Keller called the meeting to order at 6:30 p.m. in the Council Chamber of City Hall, 420 Litho Street, Sausalito.

Planning Commission:

Present: Chair Bill Keller, Commissioner Joan Cox, Commissioner Stafford Keegin, Commissioner Bill Werner

Absent: Vice Chair Stan Bair

Historic Landmarks Board:

Present: Chair Thomas Theodores, Board Member Denina Frederickson, Board Member Vicki Nichols, Board Member Morgan Pierce, Board Member Brad Paul (arrived at 6:45)

Absent: None

Staff:

Community Development Director Jeremy Graves  
Associate Planner Heidi Burns, Associate Planner Lilly Schinsing,  
Assistant Planner Alison Thornberry, City Attorney Mary Wagner

**Public Hearings**

**1. DR 10-029, Design Review Permit, City of Sausalito, Plaza Vina Del Mar.**

Design Review Permit to allow accessibility improvements at Vina Del Mar Park located at the intersection of Bridgeway with El Portal and Tracy Way (APN 065-074-01).

The public hearing was opened. Associate Planner Burns presented the Staff Report.

Commission questions to staff:

- Why was it suggested to run the 48-inch walkway directly across as opposed to cutting through, which necessitates removing bushes in the planter area? *Staff responded the consulting arborist determined the suggested path is needed to avoid the taproots of the cedar tree and moving the path to the east would affect the root system of the palm tree.*

Staff Engineer Andy Davidson made a presentation on the project.

Gary Waters of Architerra Macrae Architects, the City's design consultant, made a presentation on the project.

Commission question to Mr. Waters:

- Would the decomposed granite be conducive to ADA access and could it be messy? *Mr. Waters responded the path is ADA compliant. They propose to use "Gravel Pave," which is specifically designed to hold decomposed granite in place, accept heavy traffic loads, and provide an acceptable surface for wheelchair and walker use by providing a stable and firm surface. The Gravel Pave material is about 1 inch thick; a series of heavy-duty interconnected plastic rings in a roll. It is rolled out onto a compacted base, secured to the base, and filled with gravel. The gravel is held well by the ring system, but it is still loose to allow water and air to penetrate, so it is possible some loose gravel could come out.*
- How are you avoiding the ADA or the California Building Code requirement for the handrails on the stairs? *Mr. Waters responded the stairs are not ADA compliant but are not being addressed at this point because they are not part of the Settlement Agreement. From a Building Code point of view the California Building Code (CBC) states when specific access improvement projects are done, the scope of work can be limited to the actual proposed access improvement without triggering other access work. From an ADA point of view this is an existing facility separate from other major improvements that would involve working on the stairs. The City is obligated to provide program access to the park, so the agreement in the Settlement Agreement is that by providing the ramp up to the platform and the walkway around the fountain the City has met its obligations for program access to the park so upgrades to the stair railings are not required at this point.*
- Why does the walkway around the fountain narrow to less than 4 feet at the westerly palm tree? *Mr. Waters responded it narrows to less than 4 feet, but the overall walkway width is sufficient. There is close to 6-6.5 feet of walkway width around the fountain. There is a provision in the Code that says when encountering an impediment that restricts the pathway width it can be restricted for a certain distance; they are close to complying with that even in the Gravel Paved area. The path around the fountain comes to a dead end and they need a sufficient space for wheelchairs and walkers to turn around. Instead of creating a bump out they maintained the 48 inches all the way around.*

Commission question to staff:

- Do the terms of the Settlement Agreement specifically say access to the fountain has to be provided? *Staff responded yes, the City has agreed to provide access to the fountain in the upper landing of the steps at the Bridgeway Street entrance.*

Historic Landmarks Board (HLB) questions to Mr. Waters:

- The HLB desired to minimize the look of the railings on the ramps. Does the term "nosings" refer to the loop at the end of the railings, and are they required? *Mr. Waters responded the Code requires a 12-inch minimum extension that runs parallel to the ground beyond the run of the ramp into the landing before returning.*
- Are the vertical bars of the railing for structural purposes and is that the minimum distance allowed? *Mr. Waters responded the vertical bars are at the*

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1           *minimum distance to provide structural support for the railing and match the*  
2           *verticals on the existing rails at the platform.*

3  
4 Ed Gurka, the City's consulting arborist made a presentation.

5  
6 Commission questions and comments to Mr. Gurka:

- 7           • If the pathway were to be put in on the east side of the cedar tree, at what  
8           distance from that tree would you feel most comfortable? *Mr. Gurka*  
9           *responded the further the better as the cedar's roots go out 30 feet.*
- 10          • Will the cedar's root system go deeper the further out it goes from the tree, or  
11          will it remain 5-6 inches below the surface? *Mr. Gurka responded the roots will*  
12          *be within the top 12-18 inches of soil, but the tree roots are smaller at greater*  
13          *distances from the trunk. Within 4 feet of the tree are the buttress roots, but at*  
14          *30 feet out there are only secondary roots, if anything.*
- 15          • The plan calls for building right up against the westerly palm tree. *Mr. Gurka*  
16          *responded the root ball for palm trees goes out only 2 feet out from the trunk.*  
17          *It is probable that 8-10 percent of the roots will be cut to install the pathway,*  
18          *but the roots will regenerate.*

19  
20  
21 The public comment period was opened.

22  
23 Peter Van Meter, 4 Cloudview Circle, indicated the following:

- 24          • The consensus at the January 2010 workshop was it may be feasible to lower  
25          the platform, which has no historical significance because it was rebuilt in the  
26          1980s, to provide access to the fountain directly from Bridgeway. Staff was to  
27          have investigated that possibility and reported at tonight's meeting. He would  
28          like to hear staff's additional study. *Staff responded the platform is considered*  
29          *an historic element and to review the feasibility of lowering it they would need*  
30          *to hire an architectural historian to prepare an evaluation. It would also be*  
31          *subject to further CEQA review. In addition lowering the platform might be a*  
32          *major design change and subject to the voter approval requirement of*  
33          *Ordinance No. 1128. Staff is looking at the least amount of work needed to*  
34          *comply with the terms of the Settlement Agreement.*
- 35          • Staff concludes the Settlement Agreement trumps Ordinance No. 1128, but  
36          citizens may challenge that opinion.

37  
38 Michael Rex indicated the following:

- 39          • He attended the January 2010 workshop and does not see a reason for dead  
40          ends on the fountain pathway. People will not turn around but will squeeze  
41          along the concrete or tread over the lawn. If the path goes along each side of  
42          the westerly palm tree, it could do the same on the east end.
- 43          • Lowering the platform would make the fountain more a part of the streetscape,  
44          negate the need for ramps, provide no impact on the trees, and would be more  
45          ADA compliant. The intent of the ADA is to remove barriers seamlessly so  
46          people in wheelchairs are not treated separately. The direction to do the  
47          minimum needed to meet the Settlement Agreement is driven by fear of cost  
48          over process.

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1 Jacques Ullman, 423A Litho Street, indicated the following:

- 2 • He attended the January 2010 workshop and is disappointed at the lack of
- 3 response to the majority of opinions expressed there, mostly related to the
- 4 steps.
- 5 • When concentrating on design only it is obvious the platform should be
- 6 lowered. It would eliminate all the problems of tree impact, gravel, et cetera
- 7 and eliminate the ugly railings.
- 8 • There should be a better flow around the corner on the northern end, which is
- 9 an awkward corner. It will be congested and people will bump against each
- 10 other.
- 11 • In response to Mary Ann Sears' suggestion that people are damaging the
- 12 fountain by walking and sitting on it, a solution could be to remove the platform
- 13 and erect a stonewall similar to the others with a gate in the middle. People
- 14 could sit on the wall with the fountain in the background and the gate could be
- 15 opened for special events.
- 16

17 The public comment period was closed.

18 Commission questions to staff:

- 19 • Is there a time limit on the Settlement Agreement? *Staff responded the time*
- 20 *limit has expired. The improvements were to have been completed within two*
- 21 *years of the approval of the agreement in 2006, which is one of the reasons the*
- 22 *plans are limited to the accessibility issues.*
- 23 • Is staff convinced if the platform were to be removed that it would fall under
- 24 Ordinance No. 1128? *Staff responded they are not convinced, but they do*
- 25 *have historic photographs showing the platform. Removing the platform is a*
- 26 *larger design change than the current project.*
- 27 • Is there a design that is part of the Settlement Agreement and does the
- 28 agreement require compartment with the concept of those designs? *Staff*
- 29 *responded the plaintiff's expert submitted suggestions, but the City is free to*
- 30 *choose another manner of providing accessibility. If the City does something*
- 31 *different then the plaintiff's expert will review the proposed pathways for the*
- 32 *limited purpose of approving the accessibility issue, but will otherwise have no*
- 33 *say over the design or aesthetic issues.*
- 34
- 35
- 36

37 Historic Landmarks Board comments:

- 38 • The HLB has looked at this project as a very limited ADA issue. Any other
- 39 design should be voted on by the citizens and has to be clearly vetted to
- 40 determine if the platform is historic.
- 41 • The platform is historic. There are literature and photographs showing it used
- 42 as a reviewing stand. It was remodeled in the 1980s, but HLB believes it can
- 43 be considered historic.
- 44 • The HLB agrees with the proposed project, but would like to review:
  - 45 ○ Structures that house the relocated utilities;
  - 46 ○ The final landscape plan; and
  - 47 ○ The handrails.
  - 48
  - 49

50 Commission comments:

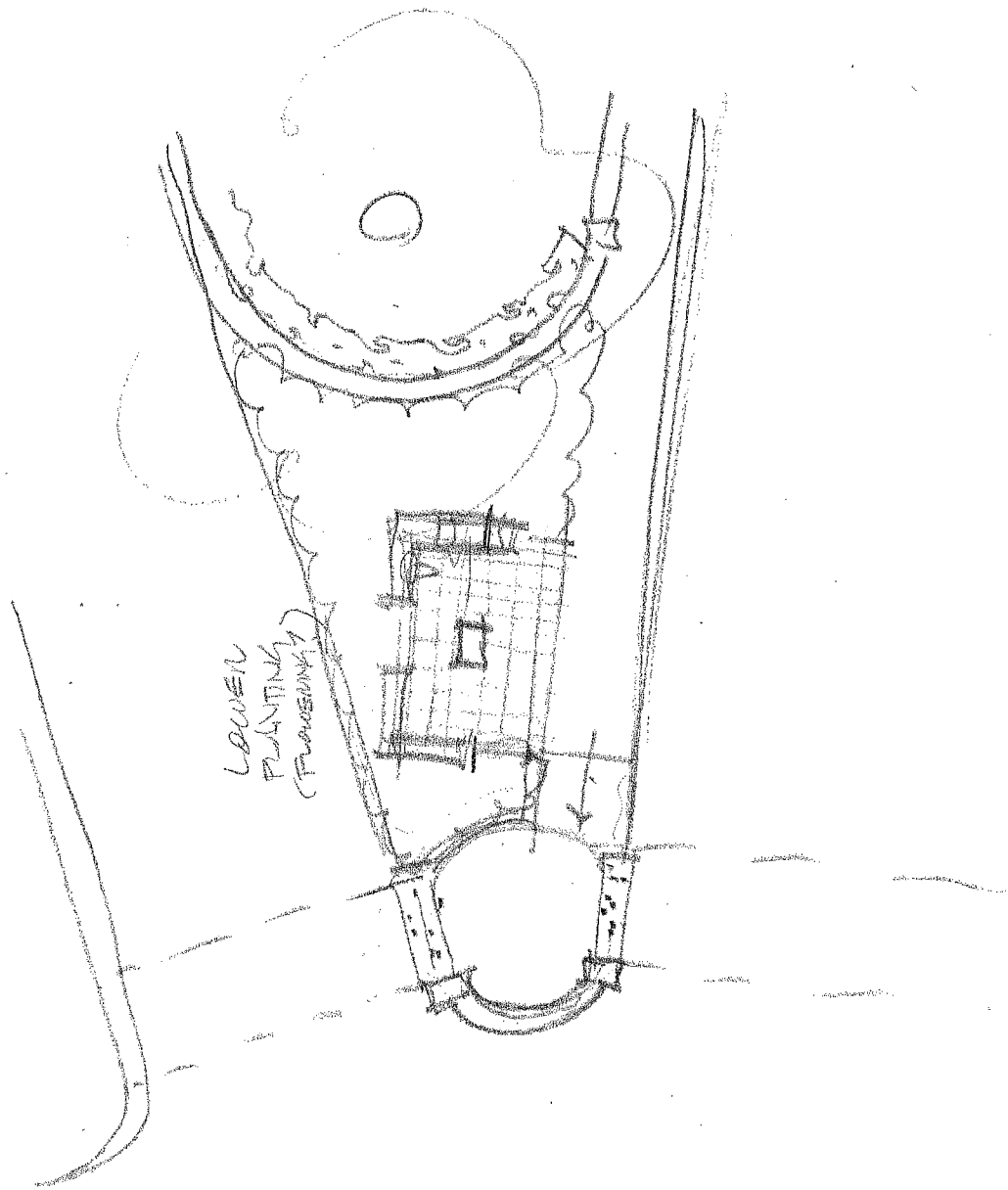
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- The suggestion to remove the platform is good, but there should be a near-term solution to satisfy the plaintiff and ADA concerns.
- The pathway solution could turn into a major thoroughfare with gravel scattered everywhere. The pathway could be improved if it were moved further east away from the cedar tree.
- This plan is a banal, expedient degradation of the quality of the park in order to satisfy the terms of the Settlement Agreement. The proposed railings give no thought to the elegance of a handrail. The solutions are partial and compromised in terms of the access around the fountain that leave out both the state and ADA accessibility requirements and leave the City open to more lawsuits.
- A temporary bandstand/viewing platform could easily be erected when needed if the platform were removed.
- The proposed plan is not in the interest of the City, the quality of the space, or its historical significance.
- The current design is far more abusive to the site than removing the platform would be, which is the obvious and best approach in terms of the overall design of the site and platform/fountain area. The City would be remiss if it did not explore and understand that option.
- There is a lack of design cohesion due to the overriding interest in fulfilling the requirements of the Settlement Agreement.
- A path around the fountain should go all the way around and not dead end.
- We need to review a copy of the Settlement Agreement.

**Planning Commission Chair Keller moved and Commissioner Cox seconded a motion to continue the public hearing for Plaza Vina Del Mar Accessibility Improvements to a date uncertain. The motion passed 4-0.**

**Historic Landmarks Board Chair Theodores moved and Board Member Pierce seconded a motion to continue the public hearing for Plaza Vina Del Mar Accessibility Improvements to a date uncertain. The motion passed 5-0.**

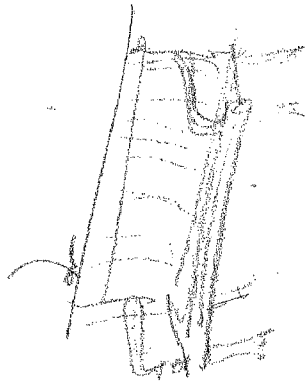




LOWER  
PLANTING  
(FLOWERING)

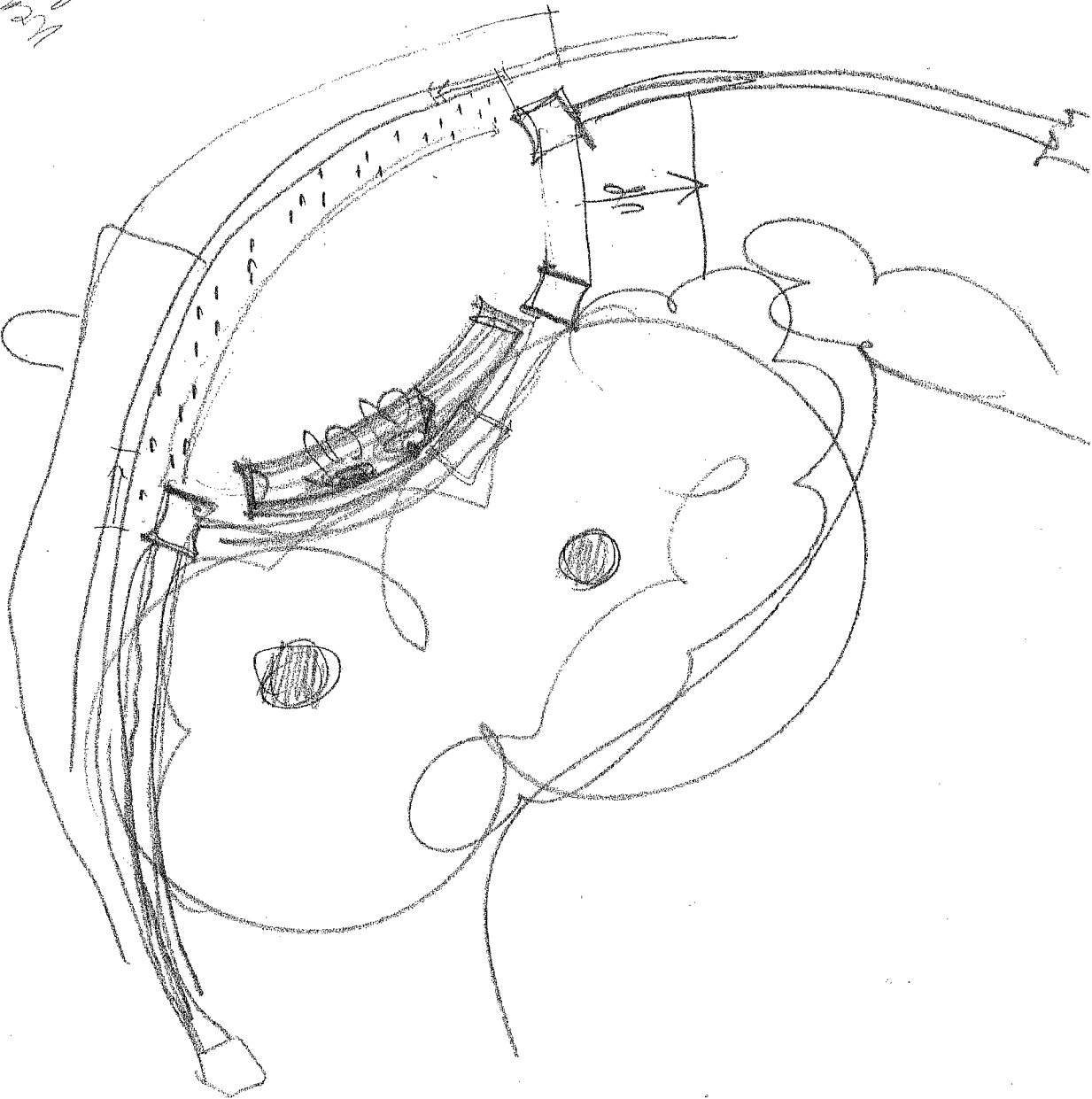
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Attachment 10



End slopes on vasp.  
Bendless?

Use flow  
bank



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May 25, 2010

City Council  
City of Sausalito

Re: Plaza Vina del Mar

RECEIVED

MAY 26 2010

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Plaza Vina del Mar is about to be altered to meet handicapped accessibility requirements. This park is at the heart of downtown Sausalito and it is vitally important that this access be provided in the least invasive manner possible. I believe that two issues may be deterring us from arriving at the best solution.

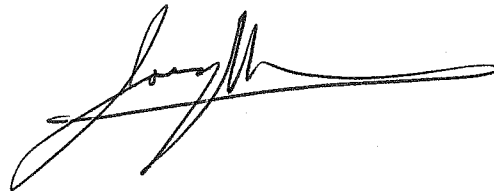
First, there is a prevalent misunderstanding that a solution that involves lowering the surface between the elephant statues would lead to extensive new pavement within the Park. This solution does not add one square inch of pavement and does not alter one blade of grass or leaf of existing vegetation. The existing path around the fountain could be left exactly as it is if accessibility obligations don't require it to be widened. That is a separate issue.

Second, there needs to be a better understanding of the historical landmark status of the Park. What documents actually exist? Who at the State level has been contacted? Has there been a discussion with the authorities regarding what solution would be least invasive to the Park as a whole?

I sincerely hope that the unfortunate misconception that the lowered pavement solution is part of some conspiracy to make major changes to the downtown is not prejudicing the process of arriving at the best solution. And I also hope that we have all the facts straight regarding the historical landmark issues. Logic would lead me to believe that the entire park is a landmark and that the intelligent solution would be the one that disturbs it the least.

I am attaching a sketch proposal for lowering the surface between the elephant statues. It is only a concept and would obviously require more study. I also attach a photo looking at the area where the proposed ramp and path to the fountain would begin and ask you to consider the visual impact that this would have.

Best regards,



Jacques Ullman

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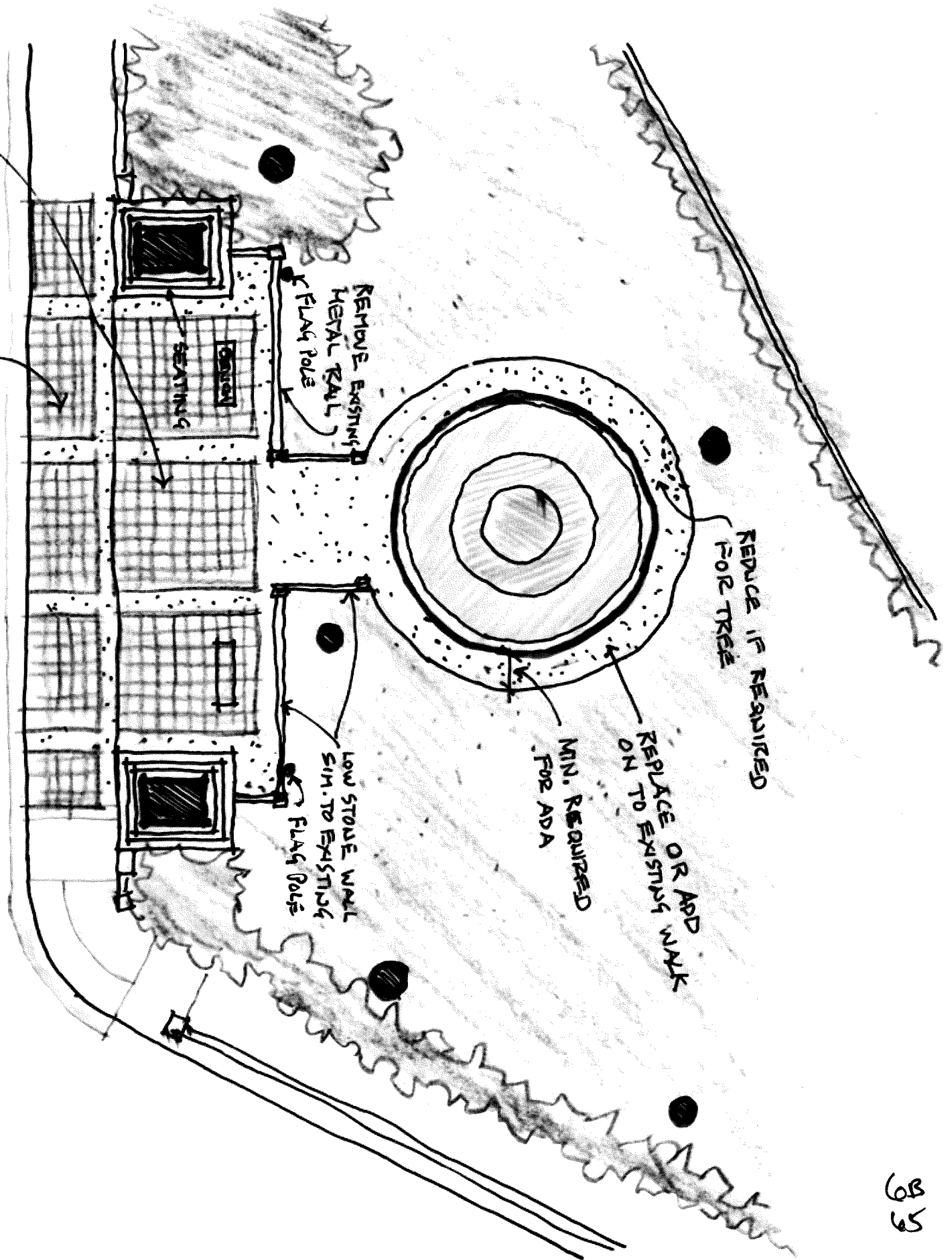
J A C Q U E S U L L M A N      •      A R C H I T E C T  
423A LITHO ST., SAUSALITO, CA 94965      •      PH: (415) 331-0146      •      jacquesullman@sbcglobal.net

Attachment II

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LOWER EXISTING PLATFORM TO SIDEWALK LEVEL  
PAVE W/BRICK SIM. TO EXISTING  
PLAZA VINA DEL MAR





RECEIVED

MAY - 7 2010

The Honorable Mayor Leone, Members of the City Council  
City of Sausalito  
420 Litho Street  
Sausalito, CA 94965

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

April 15, 2010

Dear Mayor Leone, Councilmembers:

For nearly all of its existence, Plaza Vina del Mar ("Plaza") has been historically a viewing garden. Until the 1960s, Sausalito had no park facilities. As our town grew, the need for recreation space became obvious. Because of its close proximity to old City Hall just across the street, the City Council allowed regular public access to the Plaza in the late 1950s. The Plaza remained open to the public for approximately eight years until 1967 when the City Council ordered it closed after years of neglect, overuse and vandalism.

A contributing factor to the decline of the Plaza was in-part due to the popularity of newly built parks and recreation facilities around Sausalito in the early 1960s:

*Princess Park, 1961 (Later expanded and re-dedicated as Yee Tock Chee Park, 1977)*  
*Cazneau Playground, 1962*  
*Harrison Park/Playground, 1962*  
*Cloudview Park/Playground, 1963*  
*Tiffany Park, 1963*  
*Langendorf Playground, 1964*  
*Gabrielson Park, 1964 (officially dedicated in 1968)*

After receiving a report from the Public Works department outlining the exploding expenses of maintaining the Plaza for public access, the City Council formally closed the site in 1968. The report detailed the hours accumulated in the Plaza as 36.76% of the total hours worked in all city parks while only being 6.38% of the total area maintained. The report also outlined the cost was nearly \$7,200 per year (\$45,000 in 2010 dollars) in staff salary, which did not include landscaping or materials used for routine maintenance.

From 1968 thru the mid-1970s, the city did the bare minimum to maintain the Plaza. The plantings became overgrown and a six-foot tall chain-link fence was constructed across the Bridgeway entrance to prevent anyone from entering the site. A large equipment enclosure housing the fountain mechanicals was built on the central stair platform and the beautiful fountain, placed there 60 years prior had fallen into disrepair.

A fundraising drive was commenced in 1975 by the Bicentennial Committee, led by Jack Tracy and Mary Ann Sears, with a goal to raise the \$16,000 necessary to recast the historic fountain. An additional \$10,000 was appropriated by the Parks and Recreation Commission for further renovations to include the front entrance steps, relocation of the World War I Memorial, and landscaping upgrades. When seeking approval for these improvements, the City Council determined

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Attachment 12

the Plaza would remain closed since the public was adequately served by the two downtown parks – Gabrielson and Yee Tock Chee. After three long years, the restoration was completed and the fountain and Plaza were re-dedicated at a ceremony held February 25, 1978.

For nearly 30 years, the Plaza remained closed until December 12, 1996 when it was once again opened to the public. As a condition of opening, the City Council stated it was to be on a 6-month trial basis, however it was never recalled for further discussion and the Plaza has remained open.

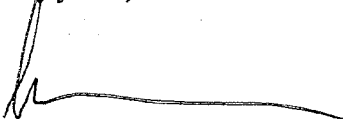
The Plaza has been in a steady state of decline since opening to the public. The palm trees have not been cleaned since 1996, their dead fronds obscure the trees from the ground and pose a risk to the public from falling debris. During the winter months due to poor soil conditions, the lawn becomes soggy and damaged. Most plant material added during the 1977 restoration and in 1996 have since died or have been removed, leaving the remaining shrubs appearing overgrown and unhealthy.

The simple truth is Plaza Vina del Mar offers no recreational benefit to the citizens of Sausalito or our visitors. There are no benches or picnic tables inside; no playground; no bocce, tennis or basketball courts – nor will any of these things ever be built due to the size and historic nature of the site. One cannot hold a nominal size event inside the garden due to the entire lawn being less than 4,000 square feet of total area, with only one haphazard point of entry.

Sausalito cannot afford to keep the Plaza open to the public any longer. The garden's centerpiece – it's fountain, has become extremely expensive to maintain because of direct contact by the public. During the 2004 restoration, a total of \$88,000 was spent, of which approximately \$70,000 was specifically for repairing the fountain. If you account for those seven years (1997-2004) of the public directly accessing the Plaza, the average cost of maintaining the fountain is the equivalent of approximately \$10,000 per year.

Our gracious residents have donated money and their resources for well over 100 years to keep this garden beautiful, and have been repaid by continued damage and neglect of historic features and disregard for regular maintenance and upkeep. We need to respect our past by maintaining the Plaza as a viewing garden and close it to the public permanently. Doing so would greatly reduce the costs of upkeep and resources could be focused on maintaining the historic plantings and beautifying the site, and once again giving our city something we can be proud of.

Sincerely yours,



Seth Hodgson

30 Edwards Avenue  
Sausalito, CA 94965  
business: 415.251.5958 home: 415.332.1864  
email: seth@jexos.com

Attachment: "Plaza Vina del Mar – Points of Significance"

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## Plaza Vina del Mar Points of Significance

The site of Plaza Vina del Mar garden is most notably remembered for being a cesspool that spanned the entire area between the large depot building (site of the ferry landing) and Bridgeway. In 1902, upon his re-election to the Board of Trustees (Town Council) and subsequent appointment as Mayor, Jacques Thomas began a campaign to encourage the North Shore Railroad Company to do away with this blight, colorfully dubbed "The Pond" by locals. Ultimately feeling the political arm twisting by Thomas and others who joined the cause, the North Shore ultimately filled "The Pond" in 1903.

### Plaza Site - 1904

The Plaza site was formally gifted by the North Shore to the Town of Sausalito on January 5, 1904, with the following stipulation:

*"The above described premises shall be kept and maintained ... as a public garden or grass plot and shall never be used in any other way or for any other purpose, and this conveyance is made ... upon express condition that if said premises shall not be kept and maintained ... or shall at anytime be used in any other way or for any other purpose than as above specified, then in either of said events all right, title and interest hereby granted ... shall be forfeited and terminated."*

### Canary Island Date Palms – 1909

The three stately Canary Island Date Palms were gifted by Edward Bosqui to the Town of Sausalito for the 1909 Admission Day celebrations. These trees, along with many other shrubs planted were likely from Bosqui's private estate in Ross, which during that period of time was subdivided into building lots. The donation of these palms corresponds with Bosqui selling the remainder of his Ross estate and moving to San Francisco in 1909.

Edward Bosqui (1832-1917) was born in Montreal Canada and arrived in San Francisco in 1850. He was an Agent and Secretary to General John Fremont and later went into banking. In 1869, Bosqui was one of nineteen business partners who formed the Sausalito Land and Ferry Company. Bosqui was also father-in-law of Archibald Treat, President of the Sausalito Municipal Improvement Club – an organization founded for the betterment of Sausalito, including the banishment of pool halls, better control of liquor licenses, beautification, and quality of life for the citizenry – a cause for which Bosqui was a long time supporter.

### Stone Wall and Memorial Drinking Fountain - 1912

The low stone wall that surrounds the plaza was commissioned and built by the Sausalito Municipal Improvement Club in 1912, and was constructed of "blue stone" quarried from Point San Pedro (now the San Rafael Quarry owned by Dutra) and capped with a smooth mortar top, making it appropriate for sitting. On the corner of El Portal and Tracy Way is a recessed "mini plaza" where a drinking fountain in dedication to the memory of the Plaza's founder Jacques Thomas, was constructed atop a wall pillar. This wall and drinking fountain was paid for entirely by private donations.

Jacques Thomas (1853-1912) was a native of Bischwiller, Alsace (today a French Provence). A 31 year resident of Sausalito, he served for 15 years on the Sausalito School Board. In 1898, Thomas was

encouraged to run for the Town Board of Trustees (City Council) on a progressive platform, and because of his popularity was elected by a large margin, serving as President of the Board (Mayor) consecutively from 1902 until his retirement in 1910. Because of Thomas' many years of dedicated service, and the creation and upkeep of the Town Plaza, he was unanimously appointed as the Sausalito's first Park Commissioner upon his retirement from the Board of Trustees, a position which he held until death.

#### Elephant Flagpoles (Lamps) and Italian Fountain - 1916

The elephants statues were designed by the New York firm of McKim, Mead and White and constructed for the 1915 Panama Pacific International Exposition (PPIE) in San Francisco. Originally graced with 100-foot flagpoles, they were located in the grand Court of the Universe, the central area connecting all the smaller expositions and where all the grand ceremonies were held.

The Italian fountain was designed by San Francisco architect (and Sausalito resident) William Faville of Bliss and Faville, and was also constructed for the PPIE. The fountain originally graced the halfdome of the Palace of Education building, which faced directly towards the lagoon of the Palace of Fine Arts. Fabrication was said to have cost \$7,000 (\$150,000 in 2010 dollars) and books and newspaper accounts make reference to it as "the most beautiful of all fountains at the exposition."

Upon the closure of the PPIE in December 1915, Faville made arrangements to purchase the elephants and fountain. Through private subscription and money of his own, Faville was successful in securing the elephants and fountain from the exposition company, and having them delivered by lighter (freighter) to a wharf near Horizons restaurant in April 1916.

In 1926 the flagpoles were removed from the elephant bases due to safety after years of winds had stressed the bases to the point of cracking. While cleaning the elephants in 1935, a city worker was injured when the head of the southern elephant crashed to the ground. William Faville once again came to assist the citizens of Sausalito. With his own money, he had both elephants recast and added the candelabra lamps made of bronze, which he designed. He also paid to have the fountain repaired, a new pump added, and the plumbing completely replaced.

#### Historical Designation – 1976/1981

Plaza Vina del Mar is one of five California Points of Historical Interest in Marin County (MRN002), and was designated as such on April 4, 1976. When approving the designation, the entire site was designated as P476, with the elephants, stairway platform and fountain as a separate designation as P477. As a Point of Historical Interest, a California State plaque can be placed on the site and location signs can be placed on the highway by Caltrans to notify passersby of our historical site. Unfortunately neither have been erected, quite possibly because of past fear of increased traffic into Sausalito.

Upon the formation of Sausalito's Downtown Historic District in 1981, Plaza Vina del Mar was found to be a contributor to the historic district, and because of it's designation as a California Point of Historical Interest, it was deemed automatically eligible for both California Register and the National Register of Historical Places. Unfortunately there have been no attempts by the City of Sausalito to recognize or seek either of these distinguished designations.

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Landscape Architecture  
Land Planning and Urban Design

**Leffingwell Associates**

413 Litho Street  
Sausalito, CA 94965  
TEL (415) 332-5354  
FAX (415) 332-3629

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MAR 5 2010

March 4, 2010

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

Sausalito Planning Commission  
c/o Heidi Burns, Associate Planner  
420 Litho Street  
Sausalito, CA 94965

RE: Design Review of Plaza Vina del Mar Accessibility Improvements

Dear Planning Commissioners:

In 1996 I was one of the design professionals who donated their time to develop possible ideas for changes to the central downtown area. There was much discussion about Plaza Vina del Mar and how it impacted the downtown. The need to make it accessible became a possible vehicle to change the plaza beyond what I believed was necessary and, in my opinion, could damage a very important element at the center of town. Plaza Vina del Mar was a gift to Sausalito and is a historic and beloved place. It was always intended to be a passive and mainly a view park. I felt that there were ways to create the access required with as little visual and physical impact as possible. This is why I developed the plan on which the work before you is based. As I review this plan 13 plus years later, I still think it is in general the appropriate and the least imposing solution to the access problem. There are a few things inside the plaza that I would change now with my additional years of experience. Below I will list and discuss these items:

Inside the Plaza

1. I think a different paving material than the quarry fines paving could be more fitting and harmonious with the existing brick used on the raised podium between the elephants. Around the fountain, a horizontal concrete apron of about 29-inches wide exists. My understanding is that for accessibility

Paul A. Leffingwell - California License No. 1148

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Attachment 13

purposes a 48-inch wide accessible surface is required. In respect to the adjacent palm trees, it seems a band of brick (matching the existing brick) approximately 20-inches wide placed on a sand base would be equally as positive for the palm trees and relate better to the existing paving materials than a 20-inch wide band of a material that has no relation to anything in the area. If done properly, it could look like it was a part of the original design. This then would reduce the paved area required surrounding the fountain, as shown on the proposal before you, by approximately 29-inches and allow more lawn resulting in a more balanced visual solution. Quarry fines are easily tracked as the particles lodge in shoe soles. Usually to minimize this, a stabilizer is added to the quarry fines making them less permeable to water and air. Brick placed on sand would be at least as permeable and beneficial to the tree roots. The access walk from the El Portal sidewalk to the fountain and any walk required from steps off the raised podium should also be brick on a sand base as well.

2. The header material shown, on our original plan, to retain the edge of the quarry fines was shown as brick. On the proposed plan before you this appears to be the same, if the quarry fines are not used and brick on a sand base is used as suggested above, I suggest using a 1/4-inch thick steel header to retain the brick because visually the header would disappear but still be there to retain the brick. This header material is common on the market.
3. It is very important to respect the large trees and particularly the palm trees. These trees are growing in approximately 18 inches of soil with little if any drainage. This is a very minimal growing condition. I think a recognized tree specialist should be retained during construction to advise on how to protect the trees. These trees would not be replaceable.
4. Relocated existing utilities should be screened or placed where they are out of sight. They are not a positive sculptural element.

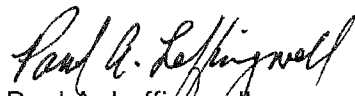
Outside the Plaza:

1. The wall at the Bridgeway/Tracy Way/Anchor intersection solves the pedestrian traffic problem well. I suggest that the materials used for this wall be as close in character and color as possible to the stone in the existing walls at the plaza. Although, the plaza walls were not very well crafted, I think it important that the new wall should appear, as much as possible, as if it was constructed at the same time and is part of the plaza.

2. At the corners outside the plaza, there still appear to be small areas between the paving, walls and curbs that are not labeled on the drawing. They should not be planted. These spaces are very small leftover areas. It would be difficult to establish and maintain appropriate plantings in these areas. Planting would likely get trampled or die. An appropriate paving solution would be far more successful.

I hope you will consider my concerns.

Sincerely,

  
Paul A. Leffingwell



HEIDI

RECEIVED

February 15, 2010

FEB 17 2010

CITY OF SAUSALITO  
COMMUNITY DEVELOPMENT

TO: Historic Landmarks Board

FROM: Mary Ann Sears *MAS*

RE: Vina del Mar Park

Vina del Mar Park is a very special place, beloved by Sausalito's residents, visitors, and business community. It is only Marin County's second Point of Historical Interest. We must be very careful not to harm this fragile park or destroy its historical significance.

BACKGROUND

Following is an account of my involvement with Vina del Mar Park: Jack Tracy asked me to be on the 1776 Bicentennial Committee in the early 1970s. I had just finished a term on the Parks and Recreation Commission and when I left the remaining members gave me Vina del mar Park as a joke because I had talked so much about its poor condition. I don't know if you remember, or you may not have lived here then, but the small plaza between the elephants was considerably higher than it is now - it housed the electrical, etc., workings for the fountain - and the war memorial was in the center of that small plaza between the elephants. You could not see the fountain walking or driving by. The fountain was literally falling apart. I took the Parks and Recreation commissioners' gift seriously and lined up Don Olsen, architect, Paul Leffingwell, landscape architect, and an engineer from Mill Valley whose name I have forgotten - all pro bono - to develop a plan to restore the Park. The plans were accepted by the City Council. The only problem was money.

Jack promised me that in addition to establishing a Historical Society, our other goal as members of the 1776 Bicentennial Committee would be to

Vina del Mar Park  
Mary Ann Sears to Historical Landmarks Board

February 15, 2010  
Page 1 of 4

*6B  
75*

*Attachment 14*

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raise the money for the Park restoration. We established the Historic District and it took us three years to save the money for restoration.

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We got Kenneth Allen, consulting arborist to draw up a report on the condition of the trees in the Park. Later, in 1996, the report was amplified by Kenneth at the request of the City Council and the HLB.

Under the Bicentennial Committee's oversight the fountain was completely recast; the elephants were cleaned and sealed; the plaza between the elephants was lowered and the workings for the fountain were moved elsewhere; and the war memorial was moved to a new setting at the north end of the park. That is the Park as you see it today.

In 2003-2005, I served a term on the HLB. We replaced the modern benches between the elephants with historic benches in keeping with the age of the Park. Note the 1916 photo of the original Park benches [Attachment A]. The County of Marin paid for the new benches.

#### LANDSCAPING AND MAINTENANCE

More remains to be done. The Park needs remedial care. Kenneth Allen's amplified report outlines the problems. The watering system is inadequate and needs to be reconfigured and parts replaced. Some areas of the Park are under-watered and some over-watered. This is very harmful to the trees. Underneath the 12" to 18" of topsoil, the soil is heavy with clay. When irrigated the water collects on the top of the clay, it does not percolate through. That and the annuals planted between the lawn and the Irish Yew trees is probably what is causing the death of the yew trees, since the annuals require a lot of water. The tree roots are not growing through the clay but instead are growing horizontally - tree roots are pervasive throughout the Park. *This means that construction work could be very harmful to the trees.*

Additionally the turf needs to be replaced with drought tolerant turf, thus reducing the need for applied water. These two replacements - the

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watering system and drought tolerant turf – are *the two most important required changes*.

It would also be wise to enlarge the area for plantings that require less water so that less turf is required. Other Park plantings should be compatible in water needs to adjacent trees so that watering the plants does not harm the trees. The ferns and other water loving plants should be replaced.

On page 98 Allen's report contains a handicapped access plan [Attachment B] prepared by Paul Leffingwell and reviewed by Kenneth Allen. This plan was submitted to and approved by the City Council. Did the architect of the new handicapped access plan consult Allen's arboricultural report as required so that the trees in the Park are not harmed? Have the Planning Commission and HLB members read Allen's report? Why was a new access plan necessary when Leffingwell's approved plan was available?

#### ROCK WALLS

The rock walls around Vina del Mar Park define the park. They should be completely exposed and not removed. After the fountain they are of *the* greatest importance.

The new access plan calls for the removal of approximately one-half of the historic curved rock wall adjacent to the Park drinking fountain. This is a 1913–1916 rock wall dedicated to Jacques Cornet, an eight year Mayor and City Councilman of Sausalito who died in 1913. Thus, the plan calls for destroying part of the historical significance of the Park. Instead remove the benches at that location; they detract from the rock wall. Put a handicapped fountain if necessary at the adjacent ferry terminal. See attached photo of wall [Attachment C] before benches were added.



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## BENCHES

The new access plan also calls for the removal of one of the benches between the elephants. Consider instead moving the benches forward toward Bridgeway and thus saving them all.

## PUBLIC ACCESS

With the public in the Park, the City should make sure that the hazardous conditions listed in Kenneth Allen's report have been corrected and that necessary tree maintenance is done yearly. This report puts the City "on notice" of dangers. If an accident happens, the City could face a costly lawsuit.

The cost of opening the park to the public has been considerable. In 2004-2005 the City spent approximately \$80,000 on fountain repair and restoring the elephants. The fountain damage was caused by its unstable foundation, probably due to water collecting above the clay in the ground. People sitting on the fountain (some even riding bicycles around its rim) harm the fountain. So future fountain repairs are inevitable. The question is: Can the fountain be saved and can Sausalito afford to save it? Other costs are:

- Cost of handicapped access?
- Cost of maintaining water quality in the fountain?
- Cost of undergrounding electrical lines?
- Cost of annual tree pruning?

I believe that Sausalito should close the Park. We cannot afford to keep it open. And keeping it open may destroy the fountain and the entire Park. Please see the two attached articles from the MarinScope [Attachments D and E] concerning the different uses served by Vina del Mar Park and our parks generally and a letter from David Hodgson [Attachment F] dated 4/24/97 concerning abuses to and the fragility of the Park.

1716

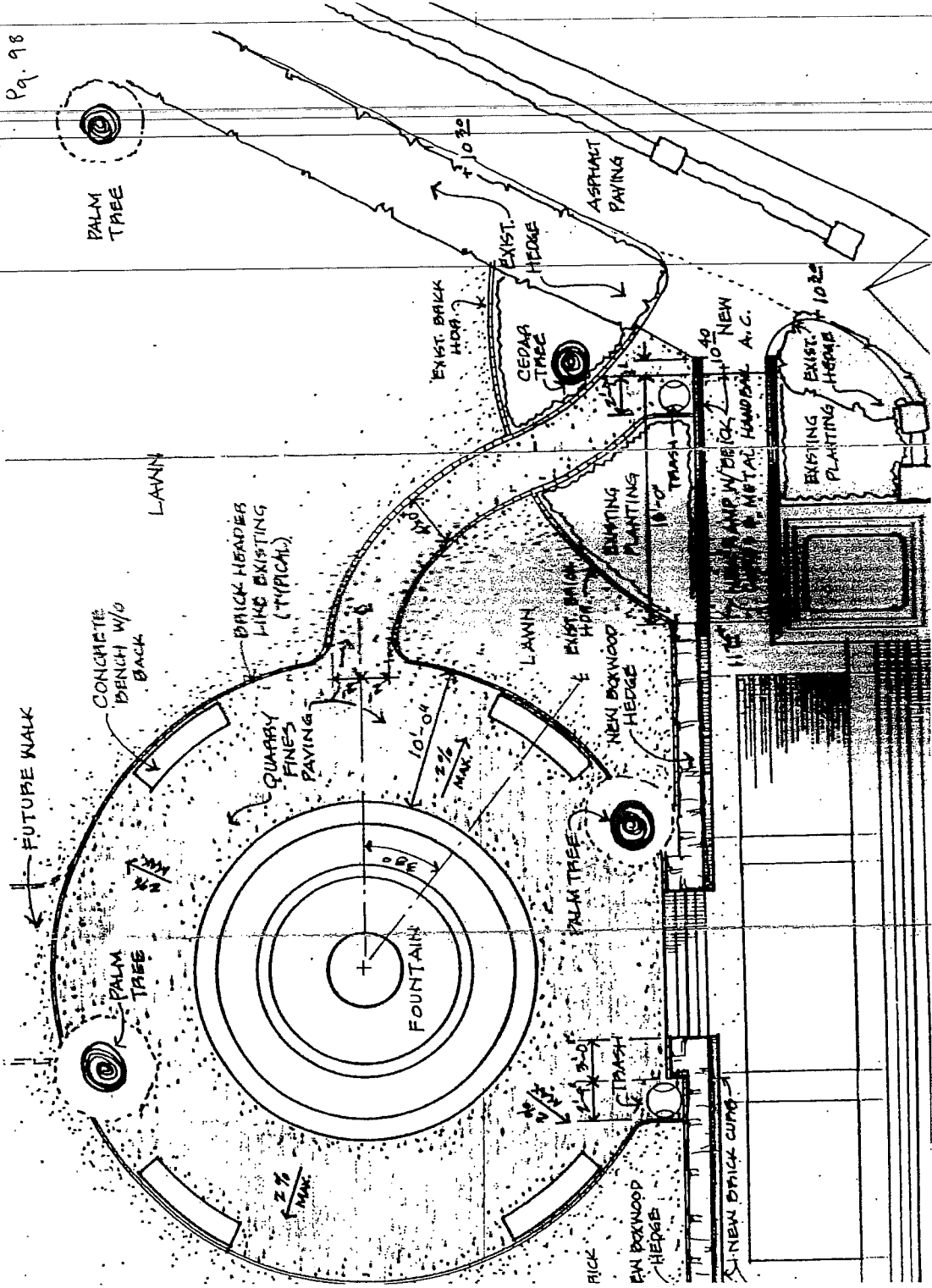
1916



Attachment A

original document

6B  
79



Attachment B



1819

Attachment C

603  
81

# Vina Del Mar Park Redesign Approved

The City Council last Tuesday gave conceptual approval to a redesign of Vina Del Mar Park proposed by the Parks and Recreation Commission and based on drawings by landscape architect and Sausalito resident Paul Leffingwell.

If all goes well with present plans, new planting will begin this spring barring Water District restrictions. The Public Works Department was authorized to begin work on several aspects of the plan that can be done by city gardening and park maintenance staff. Public Works was also instructed to try to include the \$13,000 cost of the project in its next year's budget.

The funding would include a new landscape design, new and different plantings, shifting or eliminating of some hedges and bushes, pruning of trees, and sim-

ilar changes. It would also cover relocation of the park fountains pump vault, which is situated under the central steps of the park where a redwood platform now covers the protruding facility. According to Parks and Recreation Chairman Tom Rogers, the plan is to lower the top of the vault to the level of the park steps.

Rogers said the redesign plan assumes that the tiny Vina Del Mar Park will remain closed to the public, since the public seems to be adequately serviced by two walk-in parks in other parts of the downtown area and Vina Del Mar during most of its existence maintained as a visual amenity rather than a functioning park, is regarded as too fragile to survive daily use by visitors to Sausalito.

The Council voted 4 to 1 to move ahead on the park plan and thus complete Vina Del Mar's ren-

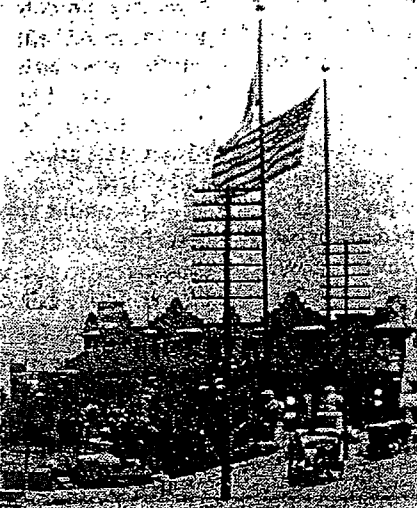
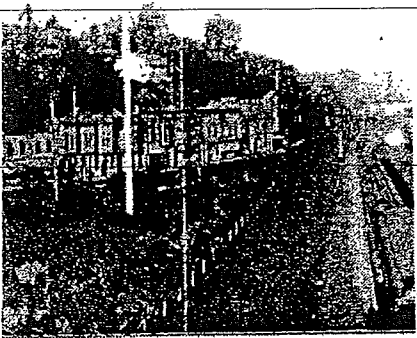
ovation, begun with the restoration of its historic 1915 fountain as part of the city's Bicentennial celebration. That project was financed with private donations and local fund raising efforts.

Councilwoman Violeta Autumn voted against the redesign proposal, apparently because of a reason she has stated in the past — her belief that city monies should be spent on projects and services for residents and not on an area which has become primarily a tourist amenity.

Councilman Buddy De Bruyn went along with the majority vote on condition that the Sausalito war memorial traditionally located at the entrance to the park not be removed to the Civic Center grounds, as some have proposed but be relocated at the north tip of the downtown park.

*Close the Park*

Attachment D



visual amenity to that time, was opened to the public. With Sausalito back to its pre-war size and not yet "discovered" by the rest of the world, this arrangement worked well for almost two decades.

Local families and their children, recognizing the fragility of this special place, played and picnicked there with care and respect. But by the mid-1960s, as visitors poured into Sausalito and greater permissiveness came into vogue, the park couldn't cope. Its plantings turned brown and died. The water in its fountain was often turned off — victim of too much close-up attention. One longtime resident who arrived in those years recalls her first impression: "What I remember most about the park was the litter."

In 1967, the park was closed to the public. But by the 1970s, with lush new plantings taking root and maturing, it was showing signs of life. For one thing, it had a new name. In 1971, it became Vina del Mar Plaza, in tribute to Sausalito's first sister city, Vina del Mar, Chile. Then in 1976-77, as the town celebrated the country's Bicentennial, a citizens group collected enough funds, from residents and corporate friends of Sausalito, to completely restore the fountain and elephants.

The Bicentennial Committee launched its "Save Our Fountain" campaign in early 1976 with the goal of raising \$16,000, the sum needed to meet the bid of the chosen contractor, Western Art Stone Company of Brisbane. Western Art Stone, which had done extensive restoration work at UC Berkeley, agreed to hold its

supported the work, however, on the grounds that "Sausalito should take pride in its appearance."

In 1977, the city's World War I memorial, which had previously stood at the Bridgeway entrance, obscuring the fountain, was rededicated at a spot on the park's north side.

Today, with the proposal of the Downtown Planning Forum on the table, Vina del Mar Plaza may be at another crossroads. Those who oppose opening the park to the public offer the following arguments:

- As has been demonstrated in the past, Vina del Mar Plaza is too vulnerable to withstand the wear and tear of foot traffic, particularly on summer weekends. What's more, it will be impossible to confine strollers to the footpaths. If you can't enforce barbecue pit rules at Dunphy Park, how can you prevent lunching on the grass in the downtown plaza?

- Different parks have different functions. The pleasures offered by Vina del Mar are different from those provided by the City Hall Playground. You don't picnic on the MLK tennis courts. By the same token, you don't play tennis at Valley Street Beach.

- Implementing the Vina del Mar segment of the Downtown Master Plan ahead of the proposed El Portal Plaza, perhaps by many years, would concentrate all plaza use on one small facility which is clearly incapable of supporting it.

On the other hand, those who wish to give residents and visitors a more close-up and personal experience with the fountain make these points:

*Close the Park*

Attachment E

6B  
83

4/24/97

TO: City Council Members

FROM: Dave Hodgson HLB

Council member, on Tue. 4/13 a meeting was held in Plaza Vina Del Mar at the request of Julie Fox Warren of Park & Rec. I was invited to represent HLB and Ed Gurka our city arborist attended to discuss current and future maintenance plans. Enclosed is a report prepared by Julie that outlines our meeting. Most of what we found will be addressed through regular plaza maintenance and the proposed improvements. Two issues came to light that I feel the council should be aware of.

The first is the fountain is being abused. We have people wading in the fountain on warm days and Ed Gurka recently had to fish out a three year old who had fallen in. This is definitely a liability for the city. It looks like the fountain was originally placed directly on the ground without a foundation, daily we have people sitting and standing on the fountain which is causing it to crack at the grout joints and leak, which city staff is repairing with silicone. This is extremely unattractive and takes away from it's historic presence and value. Just this week Alberto Pinto had to chase a bicyclist out of the plaza who was riding his mountain bike on the rim of the fountain!

The second is the removal of the fence at the entrance. This fence is proposed to be replaced with a Boxwood hedge. This will not be possible in one area where the current Date Palm's rootball has grown up to the concrete at the back of the patio between the elephants. Without a barrier, this area will be used as a step to the new walk around the fountain which could create a fall or trip hazard as well as damaging the rootball of the palm. The enclosed report has some suggestions to remedy these problems. These ideas may not be the only answer to these problems but as the city is self-insured I feel these issues should be addressed in the current plaza modifications. If you have any questions please feel free to give me a call at 332-1864 or you may wish to contact the others that have contributed to this report, I have included their phone numbers below.

Sincerely,

Dave Hodgson

*Close the Park*

Julie Fox Warren 331-1570  
Alberto Pinto 331-0588  
Ed Gurka 289-4113 Ext. 985

Attachment F

65  
84

## Heidi Burns

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**From:** Adam Krivatsy [akrivatsy@gmail.com]  
**Sent:** Friday, January 15, 2010 1:36 PM  
**To:** Heidi Burns  
**Cc:** Michael Rex; jacquesullman@sbcglobal.net  
**Subject:** Plaza Vina del Mar

Hello Heidi!

My heartfelt thanks for inviting us to a workshop for discussing handicap access to the "plaza" and the fountain. Your presentation was excellent; it informed participants of the objective, the project history and the proposed approach to providing the desired ADA access. Your plans projected on the screen were especially helpful; they clearly illustrated the overall concept and the various details.

I was able to stay only until 8:00 p.m., but I left the Council Chambers feeling well informed. After giving the City's objective and your constraints much thought, I am now convinced that the City must address the needed ADA access in a simpler, more straightforward way than the solution presented at the workshop. My rationale:

1. Plaza Vina del Mar is a small urban space that has its strength in its simplicity. This simplicity should not be lost.
2. The two proposed ramps seem to clutter up the Plaza, compromising the Plaza's cherished clear design concept.

I am especially gratified by the thoroughness of Andy's work. Through his site analysis it became evident that the grade elevation of the raised "band stand" platform facing Bridgeway does not have to be as high as it is; it could be lowered to sidewalk level. This would eliminate the need for two ADA ramps and could open up opportunities for a simple, straightforward design solution.

Wednesday evening participants observed that if ADA access to the Plaza could be assured by lowering the podium, that might be as "legitimate" a solution as building the two 48" wide ramps. This might be a very important point in seeking a better solution.

I urge the City to refrain from implementing a plan for merely legal reasons; a plan that would be detrimental to the visual appeal of Sausalito's downtown environment and that would deface a handsome landmark in our community.

I recommend that the City seek ADA access to Vina del Mar Plaza through a simple, straightforward design concept.

To people who may wonder what qualifies me to offer these suggestions I can only say that I have been a licensed architect since 1966 and I taught Urban Design at the Polytechnical University of Budapest, at Columbia University's School of Architecture, at Cal Poly Pomona and at Cal Poly San Luis Obispo.



Thank you for reading this.

Adam Krivatsy  
840 Olima St.

6B  
86

## Heidi Burns

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**From:** Jacques Ullman [jacquesullman@sbcglobal.net]  
**Sent:** Thursday, January 14, 2010 7:26 PM  
**To:** Andrew Davidson  
**Cc:** Heidi Burns; PAUL LEFFINGWELL; Michael Rex; Peter Van Meter; Vicki Nichols; Pat Zuch  
**Subject:** Plaza Vina Del Mar

Dear Andy: Thank you for running a very constructive work shop yesterday evening. I also appreciate your having taken the time to crawl into the vault space below the steps and thus be able to report to us that aside from some electrical conduits that would have to be moved there do not appear to be any major technical obstacles to lowering the ceiling. There seemed to be a consensus that the areas around the three street intersections should be designed for a more open, free flow of pedestrian traffic. The constraining issue is concern over State & City regulations regarding making changes to existing conditions. It appears that changes that relate to ADA issues may not require a vote and, to expedite the process, changes not related to ADA have been avoided. Removing the steps above the vault between Bridgeway and the fountain would, in fact, be part of the ADA solution and thus should be considered as a viable possible solution. I believe that this is the ADA solution that would cause the least disruption to the park and least threat to current vegetation. The quiet and serene feeling that the area within the stone walls has is treasured by many Sausalito residents. If the steps were removed this feeling might be somewhat compromised and so to mitigate that potential concern I suggest that the hedge currently proposed on either side of the gate be maintained or replaced with a low stone wall similar to the ones existing. Currently the area of Bridgeway sidewalk in-front of the steps gets congested and is awkward. With the removal of the steps pedestrian flow into the area above the vault would be fluid and this congestion would be eliminated.

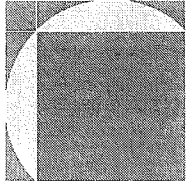
Regarding changes at the three street intersections that are not directly related to ADA issues I suggest that they be incorporated into the design at this time so that any first phase work be compatible with future plans. There are changes currently being considered at the ferry landing and the adjacent parking area. Those studies must be co-ordinated with the Plaza Vina Del Mar studies. Ideally they should be done by the same design professional because they are very inter related; both affecting pedestrian traffic between the ferry landing and downtown. If changes were to necessitate a vote it would make sense to combine all changes in the area into one process.

So while I appreciate the restraints that State & City ordinances present I think we can do better than the current plan and should also include in the plan a more long range solution to the circulation problems even if it can not all be done at the same time.

I hope that it is not too late to have these remarks included in the record of the work shop. Best regards, Jacques Ullman

Jacques Ullman • Architect 423A Litho St., Sausalito CA 94965 (415)  
331-0146 [jacquesullman@sbcglobal.net](mailto:jacquesullman@sbcglobal.net)





**ARCHITERRA  
MACRAE ARCHITECTS**  
PLANNING • DESIGN  
PROJECT MANAGEMENT

Gary K Waters, AIA Partner  
Xavier Orozco, AIA Partner

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[www.architerramacrae.com](http://www.architerramacrae.com)

April 22, 2010

Andrew Davidson, Staff Engineer  
City of Sausalito  
420 Litho Street  
Sausalito, California 94965

RE: Vina Del Mar Park ADA Add Services

Dear Andrew,

The following is our request for additional services based on requested changes to the scope of work for ADA barrier removal at Vina Del Mar Park.

**Additional Services**

We will provide the requested additional services as follows:

Hourly not to exceed \$1,000 for the following items,

1. Review and possibly update the plans to include their suggestions at the north corner and the south east corner if you feel they are possible to construct and comply with accessibility.
2. Widen the path adjacent to the fountain to 60 inches
3. preliminary landscape plan (HLB)
4. handrail detail (HLB)

Hourly not to exceed \$1,650 (this includes electrical engineering to evaluate the existing electrical panel and conductors for relocation at cost plus 10%),

5. utility enclosure (HLB)

Hourly not to exceed \$500

6. attend City Council meeting on April 20

I hope the above meets with your approval. Please call me should have any questions or concerns

Sincerely,



Gary Waters

6B  
89

Attachment 17



**From:** Gary Waters  
**To:** Andrew Davidson;  
**Subject:** Add Services Vina Del Mar  
**Date:** Thursday, April 22, 2010 12:35:55 PM

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Hi Andrew,

Thank you for the conversation regarding additional services to take the Vina Del Mar Park project through construction documents. As we discussed, it is difficult at this time to provide you with a fixed fee add services number as we do not have a final approved design concept yet. My preference and request is that we finalize the design phase and have clear direction from the City as to the final design solution. At that time we can revisit the fee issue and agree upon an appropriate adjustment with the necessary back-up. The add service request I sent via e-mail earlier today is intended to complete the design phase.

Thank you,

**Gary Waters, AIA**

Architerra MacRae Architects  
825 Gravenstein Hwy North, Ste 6  
Sebastopol, CA 95472

(707) 823-0849 o

(707) 823-0844 f

(707) 479-3872 c

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Attachment 18

