

CLATSOP COUNTY

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Southwest Coastal Design Review / Citizen Advisory Committee Regular Meeting

Date: Wednesday, May 15, 2013

Time: 6:00 pm

Location: **NEW** Arch Cape Fire Hall, 79729 Highway 101, Arch Cape, Oregon

1. CALL MEETING TO ORDER (Vice Chair Lundy) (6:00 p.m.)
2. ROLL CALL (staff) (6:00 – 6:02 p.m.)
3. ELECTION OF OFFICERS (Vice Chair) (6:02 – 6:10 p.m.)
4. BUSINESS FROM THE PUBLIC (6:10 – 6:15 p.m.): This is an opportunity for anyone to give a brief presentation (**3 minutes or less**) to the Committee on any land use planning issue or county concern that is not on the agenda. (Chair)
5. CONSIDERATION OF MINUTES (6:15 – 6:18 p.m.):
 - Minutes of January 16, 2013, regular and work session (Chair) (*Attachment 1*)
6. ACTION ITEMS (6:18 – 7:00 p.m.):
 - Major Design Review: Application by Tevis E. Dooley III, on behalf of Ronald Schiffman, to convert an existing garage into an accessory dwelling unit (ADU), construct a garden shed and add a deck to the primary residence on property owned by Ronald Schiffman and Patricia Noonan, located at 32016 E. Shingle Mill Road, Arch Cape, Oregon, also known as T4N, R10W, Sec. 30CA, TL 2401. Staff: Julia Decker, Planner. (*Attachment 2*)
7. OTHER BUSINESS (7:30 – 8:00 p.m.):
 - a. Overview of Southwest Coastal Community Plan: Goal 1 Recommendations (V. Birkby) (*Attachment 3*)
 - b. Overview of Planning Director, county staff, and Southwest Coastal Citizens Advisory / Design Review Committee roles on land use matters (Hiller West, Community Development Director)
 - c. Open Discussion: Opportunity for the committee to discuss and invite testimony from outside agents regarding topics of interest
8. ADJOURN (8:00 p.m.)

The agenda and staff reports are available for review at www.co.clatsop.or.us. Click on Land Use Planning, then click on the Arch Cape link and scroll down to Design Review Hearings. The agenda packet is a PDF document.

NOTE TO MEMBERS: Please contact Community Development (503-325-8611) if you cannot attend the meeting.

ACCESSIBILITY: This meeting location is handicapped-accessible. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting. Please let us know at 503-325-8611, Community Development Department – Land Use Planning Division, if you will need any special accommodations to participate in this meeting.

Attachment 1

MINUTES
SOUTHWEST COASTAL CITIZEN ADVISORY / DESIGN REVIEW COMMITTEE
Regular and Work Sessions
January 16, 2013, 6:00 p.m.
New Arch Cape Fire Hall, 79729 Highway 101, Arch Cape, Oregon

Chairperson John Mersereau convened the meeting at 6:05 p.m.

Members present: Virginia Birkby; Richard D'Onofrio; Linda Eyerman; Tod Lundy; Mike Manzulli; John Mersereau; and Dan Seifer.

Clatsop County Commission Liaison: Commissioner Debra Birkby.

Member of the public present: Reba Owen.

Staff present: Scott Somers, County Manager; Jennifer Bunch, Senior Planner; and Julia Decker, County Planner, Clatsop County Community Development.

Business from the Public: Reba Owen, a Falcon Cove property owner, addressed the committee, saying although her property is in Falcon Cove and her family has owned property here since the 1940s, what she had to say affects Arch Cape as well. She displayed a photo of a “no parking, no trespassing” sign she said is displayed in two locations, including a county road and a beach access that are open to the public, and read from a prepared statement:

“Suppose you paid a quarter million dollars for your dream spot on the Oregon Coast, suppose you got all the permits to build, all the DEQ requirements, suppose you had that property for over 10 years, regularly paying taxes, until suddenly your neighbor decides to cause your land to be rezoned as wetlands, so that it was unbuildable, unsellable, and, in other words, worthless. And in doing this to you, your neighbor guarantees that he or she will have an unobstructed view corridor and total privacy – no one building anywhere near their own property, and all this being done under the guise of protecting the wetlands that aren’t even wetlands, or are wetlands that are already protected by the Shoreland Goals long-time current planning restrictions and a conservancy group.

“Suppose you went to the planning commission last month, as I did, and listened to the staff and the commission discuss which proposal would make it the most difficult for the victimized property owners to apply for compensation under Measure 49. The whole wetlands rezoning is another greedy, self-serving and just plain mean activity generated by a few people at Falcon Cove who will stand to benefit personally. This behavior to keep people out has been going on for years in Falcon Cove. This wetlands issue has nothing to do with the public good.

“Now I know some of you have worked on environmental things and are really dedicated to saving wetlands because I recognize your face from the Marine Reserve, but, and for those of you who are truly dedicated to saving wetlands, I hope you won’t let yourself be used to bring such hurt to property owners who love and cherish this area as you do.”

Chair Mersereau invited Ms. Owen to stay for the work session on the local wetlands inventory.

Additions to the Agenda: Committee member Dan Seifer requested an update regarding alleged illegal construction discussed in November.

Minutes:

Dan Seifer moved to approve the minutes (of November 14, 2012).

Mike Manzulli suggested a correction on page 4, saying he thought he used the word “inequality” rather than “inadequacy” in the last sentence of the first paragraph in the Arch Cape Local Wetland Inventory. Ms.

Decker stated she had listened to the phrase several times while doing the minutes specifically to determine what word he used, and it was “inadequacy.” Mr. Manzulli stated he meant to use “inequality” and asked that his meaning being clarified show his intent.

Dan Seifer moved to approve the minutes with the correction. No second. Motion died.

Mr. Manzulli noted there wasn't a correction if he actually used the wrong word. Instead, the clarification will be reflected in the minutes of tonight's meeting, which Mr. Manzulli found acceptable.

Mike Manzulli seconded [the (first) motion]. Motion approved unanimously.

Chair Mersereau recessed the regular meeting to the work session. (6:12 p.m.)

Arch Cape Local Wetland Inventory: At Chair Mersereau's request, Senior Planner Jennifer Bunch provided an update on the local wetlands inventory matter, stating the issue will go before the Board of County Commissioners next Wednesday, January 23, 2013. The matter is on the commissioners' agenda she said, to consider the request by the watershed council to adopt the wetland inventory. The planning commission recommended approval of Option 3, she explained, a safe harbor ordinance that would work like an overlay. The commission will see all of the options, she added, noting the entire packet, including her recent staff report, went online this afternoon.

Chair Mersereau commented he frequently is asked how the new inventory would be different from what has been used previously, and how will it change from what we do now?

Ms. Bunch explained the current procedure, in which staff uses the National Wetlands Inventory and the new Arch Cape Local Wetlands Inventory, which has been adopted by the state, to advise people seeking to develop if there are mapped wetlands on their property. If there are mapped wetlands, staff is required by statute (ORS 215.418) to notify the Department of State Lands that activity is proposed for property with mapped wetlands. Currently, the State of Oregon is the regulating agency for any activity within the wetland boundaries. The county's role, she continued, is to notify the state of any activity and to use the wetland overlays to determine any setbacks that are required. Any inquiries for removal or fill within wetlands are referred to the state as well.

Ms. Bunch explained how the Lake and Wetlands Zone in other parts of the county works. Because the Lake and Wetlands Zone is a county zoning designation, the county regulates activities there.

In response to a question from Chair Mersereau, Ms. Bunch said the new overlay is more detailed but does not come with any more restrictions or change the way the county operates.

Mr. Mersereau observed that in his years of experience on the SCCAC, the issue of setbacks from wetlands has not come up very often, though the issue may come up more often as vacant land becomes scarce. Commissioner Birkby recalled a few instances that mostly involved Arch Cape Creek.

Ms. Bunch continued, explaining that if the county adopts the wetlands inventory, it must also adopt development standards, which will be determined by the Board of Clatsop County Commissioners. The Planning Commission has recommended Option 3, with a “safe harbor approach” that includes adopting the inventory and a Lake and Wetland Inventory Overlay, identifying significant wetlands and leaving the base zone the same. With the overlay would come development restrictions within a buffer to the wetlands, as well as within the wetlands. As part of the rule, the state would also require the county to adopt a variance procedure that allows property deemed unbuildable by the overlay to be developed.

Dan Seifer summarized his understanding of the alternatives: One is to do nothing, in which case the county would continue to use the overlay as it has been, setback requirements would be specific to the zone, and permits from the state would still be necessary; a second alternative would be to not only adopt the wetlands inventory but also begin a rezoning procedure that would be very restrictive; and a third alternative, which is the one recommended by the Planning Commission, is to adopt the inventory as an overlay rather than as a zone with the variance procedure.

Virginia Birkby stated she felt comfortable with the idea of a variance procedure, but she said she had heard a report by staff of the Arch Cape Sewer District that a federal grant it has obtained will not permit water and sewer hook ups in wetlands and doesn't provide for a variance procedure.

Mr. Manzulli stated he understood the variance was for front and side property lines, and he wondered if the district would be able to serve wetlands in the rear yard by placing the house closer to the front. He thought development in the middle of a wetland area would not be possible.

Commissioner Birkby did not think DEQ allowed alternatives, such as septic systems, within the sewer district's borders.

Ms. Bunch stated the county's land use regulations cannot be dictated by an agreement the sewer district has entered into with another entity. Mr. Seifer noted the county should be aware the sewer district has constraints that require service be available in order to do development; however, he continued, he thought the conundrum already exists because the prohibition against providing service in wetlands exists and the wetland inventory has been adopted by the state, regardless of what the county does. He agreed with Mr. Manzulli's assessment that developing property with wetlands on it doesn't necessarily mean developing the wetlands if one can obtain variances to setbacks to avoid the wetlands and develop in the upland areas. He thought this, in fact, complied with the federal government's requirements to avoid developing in wetlands.

Ms. Bunch pointed out a variance could cover removal and fill in wetlands and Community Development cannot permit a dwelling without proof of a DEQ-approved sewage disposal system, such as a septic or community sewer system. She added the state, through the Department of State Lands, regulates fill in wetlands, and the county must receive copies of any state or federal permits necessary at the time a fill application is made and will not issue a permit without them. She clarified that the county issues grade and fill permits and enforces erosion control standards, but an applicant for a county fill permit for a wetland must already have the state and federal permits. Additionally, the state and federal government require consistency with county regulations before they will issue their permits.

Mr. Manzulli thought the state doesn't really look that the county's materials and the reason there have not been a lot of wetlands issues in Arch Cape is because people are going to the state first. He thought the local wetlands inventory would be a way to get the local involvement first, before people spend their funds and go the state. He said it could save community members money by having more local controls.

Chair Mersereau recognized Ms. Owen, who wished to speak. Ms. Owen stated the inventory was initiated by private citizens who stand to benefit personally and asserted many people in Falcon Cove whose property would be affected did not give permission to those performing the survey to enter their land, and she called in to question the qualifications of who actually performed the inventory. She also expressed dismay at how little involvement there has been in this process by people who will be affected the most. Ms. Bunch said the inventory identifies an accuracy up to 25 feet and said one could expect the boundaries to be more accurate on properties where the wetlands scientist had permission to enter rather than those where entry was denied. She noted this is not a delineation; the boundaries are not exact. Ms. Bunch stated throughout the process she has raised her concern about the generalized nature of the boundaries.

Mr. Manzulli stated Ms. Owen's accusations were false. The study, he said, was performed by Pacific Habitat Services, a licensed wetland expert in the state, and the inventory was accepted by the state. He listed the community groups involved in initiating the study, including the Arch Cape Community Club, the Arch Cape Sewer and Water District, the Cove Beach Sewer and Water District, and the Ecola Creek Watershed Council. He said notice of every meeting and had been provided to everyone with wetlands on their property.

Ms. Owen continued to disagree with Mr. Manzulli, noting none of the properties owned by members of the Falcon Cove Water District's Board are affected, but instead there are small islands of wetlands.

Mr. Seifer noted the wetlands survey is a map and an inventory, not a delineation, to be used unless a property owner challenges it and gets his/her own delineation. Ms. Bunch explained how a wetland delineation receives state approval. She noted the data was created by another entity and approved by the state, and the county cannot change the data.

In response to a question from Mr. Manzulli regarding the difference between the inventory overlay and an actual Lake and Wetlands Zone adopted by the county, Ms. Bunch explained the processes for adoption are different. She described the adoption of a zone as labor intensive and very costly, as it would be very specific and would evaluate conflicting and compatible uses for each significant wetland area. She said the boundaries would be more accurate.

Returning to Ms. Birkby's concern regarding the sewer district's inability to serve property in a wetland, Chair Mersereau commented the variance procedure for setbacks is entirely different than filling. Ms. Bunch stated a variance could only approve the least amount of variance necessary.

Ms. Birkby was concerned about moving forward based on assumptions regarding what type of variances would be allowed and the sewer district's requirements, and she saw an advantage for people who did not allow their properties to be surveyed, questioning the fairness of the process.

Mr. Manzulli stated the consultant used LiDAR (Light Detection and Ranging) and he doubted much was missed. Ms. Bunch noted even if wetlands are not mapped, the property owner is not relieved of the responsibility of contacting the state if wetlands exist on the property and complying with wetlands regulations.

County Manager Scott Somers clarified the variance procedure, which requires approval of the Planning Commission or the Hearings Officer and is not automatically granted by either. He noted an appeal process exists and variances could be denied.

Ms. Bunch commented the sewer district receives notice of all variance, conditional use and design review applications, to which the district may respond if the district cannot provide service to the property in question or has concerns. The ability to obtain service may play a role in whether or not a variance is approved, she thought.

In response to a question from Ms. Owen, Ms. Bunch explained existing homes determined to be within wetlands by the new inventory would be considered legal non-conforming structure and, if destroyed by means other than the owner's intent, could be replaced within one year; if more than a year elapses, the current code must be met. Properties currently undeveloped would be considered vested if the owners have obtained their permits already, she added.

Those present discussed the potential for Measure 49 claims by impacted property owners. Ms. Bunch stated a Measure 49 claim could be brought by a property owner based on land use regulations enacted that deny or restrict the use of the property or reduce its value. Mr. Somers remarked the liability would be on the government entity adopting the regulations, and if the county adopted standards that reduced use or value, the Measure 49 liability would be the county's. Mr. Manzulli thought this was the reason County Counsel had recommended Option 3, the overlay, and Mr. Manzulli said a Measure 49 "loophole" would allow the county to decide not to apply a rule to current owners but only to subsequent owners.

Mr. Somers emphasized his concern about potential Measure 49 liability to the county should the county enact regulations that restrict use or reduce value.

Ms. Bunch remarked county counsel had not reviewed the options specifically but had responded to her questions in general. She read an opinion by County Counsel Ed Trompke:

"Under Measure 49, a regulation adopted after December 2007 can result in a claim if a number of prerequisites are satisfied. In that event, the local government may either pay compensation for the reduced values, allow the use of the property to the extent necessary to offset the reduced value. The claim has satisfied all of the following conditions: 1) All owners must file the claim; 2) the use must be restricted by the new regulation; 3) the regulation must have reduced the property's value; 4) the new regulation must not have been required by federal law, a nuisance regulation or to be a pornography regulation, all as originally defined in Measure 37; 5) the highest and best use of the property must have been residential at the time the regulation was adopted; and 6) the claim must be filed within five years of the adoption of the new regulation. So the answer is 'maybe a new claim

could arise.’ A claimant has five years, must prove the highest and best use, and a loss of value by an appraisal that assigns the loss to the new regulation, all of which pretty difficult but not impossible. Finally, a variance for the process is probably a good solution because it will give the owner an avenue to obtain use and make proof of loss of value very difficult to link to the regulation. In addition the variance may allow the residential use as stated above to the extent necessary to offset the reduced value. In the alternative, the ordinance could allow a payment to the owner instead.”

In response to a question from Mr. Somers regarding whether denial of a variance would open the door to a Measure 49 claim toward the county, Mr. Manzulli said it would, but the owner would have to show a devaluation of the property. Mr. Manzulli noted the inventory did not change the location of the wetlands and thought a number of people had overpaid for wetland properties that cannot be served by the service district. He saw an argument to be made that if the lot couldn’t be served, it wasn’t worth very much anyway. He thought it possible the devaluation for many of the lots wouldn’t be much and said he personally didn’t feel Measure 49 was a good reason “not to do the right thing.”

In response to a question from Chair Mersereau, Ms. Bunch said the inventory would qualify as a new regulation, and she reminded those present the inventory included Cove Beach as well, which is not served by a sewer district.

At this time, Ms. Bunch and Ms. Decker distributed maps showing the Arch Cape Rural Community Overlay within the Southwest Coastal Planning Area. The group briefly discussed the area the SCCAC serves, which is much smaller than the Southwest Coastal Planning Area.

Committee member Linda Eyerman clarified that if the inventory was not adopted, it didn’t mean she could build in wetlands: The inventory only identifies wetlands, it doesn’t create them, and it gives her a local procedure to follow if she needs one. Ms. Bunch stated this was correct.

Ms. Bunch mentioned the change in political climate over the past 40 years, noting that government entities could no longer change zoning and use regulations without compensating land owners who are harmed financially.

In response to a question from Mr. Seifer, Ms. Bunch said the original staff recommendation was and continues to be to take no action. She said if the board prefers to act, staff recommends Option 3, the overlay, which is the option the Planning Commission recommended.

At this point the committee informally moved out of work session.

Dan Seifer moved and Richard D’Onofrio seconded that, “this committee recommend to the county commissioners that it adopt the identified Option 3 and mandate staff to create regulations to regulate development in wetland areas as identified on the local wetland inventory.”

Committee member Tod Lundy said he would abstain, as he owns wetland property. Ms. Bunch stated she had spoken with County Counsel regarding whether committee members, planning commissioners and board members with wetland properties could participate in making recommendations, and counsel had stated that when no decision is being made, only a recommendation, there is no conflict of interest. Mr. Lundy chose to participate in the vote.

Ms. Birkby asked if Mr. Seifer would consider an amendment to his motion clarifying the recommendation included creation of a variance procedure. The committee discussed whether the amendment was necessary, given the language of Option 3. Ms. Bunch stated the term “variance” is defined, and she explained the procedure staff would follow, assuming the board wished to pursue the matter, which would mean starting over in a new public process. She envisioned coming to the committee again for new public input.

Mr. Seifer amended his motion to say “commence the preparation of regulations in consultation with all appropriate bodies.”

Ms. Bunch stated staff would return to the committee if the county chose to pursue adoption, and committee members would have an opportunity to comment.

Motion approved unanimously.

Recovered Cannons from the SS Shark: Mr. Seifer reported Dale Mosby had attended a meeting in early January regarding the US Navy's requirements for display of the recovered cannons are onerous. Mr. Seifer asked the committee to go on record as supporting Mr. Mosby's efforts and said Mr. Mosby has resolutions from the fire department and water and sewer districts.

Ms. Decker distributed a memo/staff report regarding appointments of Clatsop County representation, ~~which are made only by the Board of Clatsop County Commissioners.~~ Mr. Seifer clarified he was not requesting a county representative be appointed; he only wished to recognize Mr. Mosby for his efforts on the community's behalf regarding the cannons. As there seemed to be no problem with the committee simply thanking Mr. Mosby for his work and endorsing his participation on the committee, whether by letter or by resolution, the committee continued.

Dan Seifer moved and John Mersereau seconded adoption of the resolution. Motion approved unanimously.

The committee members and Commissioner Birkby briefly discussed the status of the cannons, the various possibilities for their display, and a few revisions to the draft resolution (attachment 3 of the original agenda packet) prepared by Mr. Seifer. Mr. Seifer will prepare a final draft of the resolution for Chair Mersereau's signature.

Tree Ordinance: The committee agreed to table the discussion about a tree ordinance until after the local wetland inventory issue is resolved and after the Community Development Department bulletin to Arch Cape property owners. In response to a question from Mr. Manzulli, Ms. Decker said she wanted to time the bulletin so that it came out just prior to the short term rental renewals in April.

The group briefly discussed the boundaries of the Rural Community Overlay, which requires design review, and the boundaries of the Southwest Coastal Planning Area, which is much larger and includes a number of different types of zoning. The committee members agreed it would be awkward for people outside the design review boundaries to sit on the design review committee and acknowledged the committee, as currently constituted, does not represent the entire southwest coastal area.

Goal 1 Discussion: Ms. Birkby asked committee members to read Goal 1 goals and policies for discussion at the next meeting. Ms. Decker will scan and send the material via email to committee members, as the pages are not numbered, to make sure everyone is reading the correct material.

Alleged Illegal Construction Update: Ms. Decker reported a county building inspector had looked at the residence at 80066 Pacific Road from all sides and did not see signs of new construction. Mr. D'Onofrio shared an email he had received from County Code Compliance Specialist Bart Catching, which stated the same information, and Mr. D'Onofrio reported the man doing the work had read the minutes of the committee's last meeting on the Internet and contacted him to explain he was not adding or expanding, only re-siding, which did not require permits.

As the meeting was about to be adjourned, Commissioner Birkby and the committee thanked John Mersereau, whose term was ending, for his years of service and applauded him, noting both he and his expertise would be missed.

Meeting adjourned at 8:03 p.m.

Attachment 2

Clatsop County
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STAFF REPORT

Staff Report Date: May 8, 2013

Hearing Date: May 15, 2013

Hearing Body: Southwest Coastal Design Review / Citizen Advisory Committee

Request: Convert a garage to an accessory dwelling unit, construct a garden shed and add a deck to the primary residence. Requires Major Design Review, per Land and Water Development and Use Ordinance #80-14, Section 4.102 (2)

Applicant: Tevis E. Dooley III
31972 E. Ocean Lane
Arch Cape, OR 97102

Owners: Ron Schiffman and Patricia Noonan
32016 E. Shingle Mill Road
Arch Cape, OR 97102

Property Description: T4N, R10W, Sec. 30CA, TL 2401

Zoning: AC – RCR (Arch Cape – Rural Community Residential)
/RCO – (Rural Community Overlay)

Property Location: 32016 E. Shingle Mill Road, Arch Cape, Oregon 97102

Property Size: 0.23 ac. (10,019 sq. ft.)

Staff Reviewer: Julia Decker, Planner

Exhibits: 1 – Application
2 – Area Maps
3 – Public Comment
4 – Public Notice – *mailed and emailed*

Comments Received: One: Amber M. Johnson, Habitat Conservation Biologist, ODFW, North Coast Watershed District

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LAND AND WATER DEVELOPMENT AND USE ORDINANCE #80-14
SECTION 4.120 ARCH CAPE NON-CONFORMING USES AND STRUCTURES
Section 4.122 Definitions.

ALTERATION. A change to a structure, not involving enlargement of the external dimensions of the structure (i.e. addition or relocation of windows, replacement of siding, etc).

EXPANSION. Any increase in any external dimension of a Non-Conforming Structure.

LEGAL NON-CONFORMING STRUCTURE. A building or structure that does not conform to one or more standards of the zoning district in which it is located, but which legally existed at the time the applicable section(s) of the zoning district became effective.

STAFF FINDING: The single family dwelling does not meet the front and east side yard setbacks of the AC-RCR Zone. Likewise, the detached garage proposed for conversion to an accessory dwelling unit does not meet the eastern property line 20-foot side yard setback, required for the street-side of a corner lot, nor does it meet the 50-foot setback from Arch Cape Creek to the south.

Clatsop County Assessor's records indicate the single family dwelling and detached garage were constructed in 1950, prior to the effective date of adoption of Clatsop County's Land and Water Development and Use Ordinance #80-14 (September 30, 1980) and of the AC-RCR Zone (October 10, 2003). The garage and its attached lean-to are documented in Assessment and Taxation records dated October 6, 1971. A photograph in the Assessor's records dated September 29, 1971, shows the house as well as the garage, including the roofline, in its current configuration.

The house and garage with lean-to, built prior to the adoption of the zoning ordinance, legally existed at the time the applicable sections of the zoning ordinance became effective.

The single family dwelling and the garage/lean-to are considered legal non-conforming structures.

Section 4.123 Continuance.

(2) A Legal Non-Conforming Structure may continue within the building dimensions (height, width and length) in existence on the date that the structure became non-conforming.

Section 4.124 Alteration.

(1) Through Type I procedures alterations shall be permitted to a non-conforming structure, or to a structure devoted to a non-conforming use. Alteration of any such use shall be permitted when necessary to comply with any lawful requirement for alteration in the use. Except as provided in ORS 215.215, a county shall not place conditions upon the continuation or alteration of a use described under this subsection when necessary to comply with state or local health or safety requirements, or to maintain in good repair the existing structures associated with the use. A change of ownership or occupancy shall be permitted.

(2) If in a three-year period, alterations to a Non-conforming structure, or to a structure devoted to a Non-conforming use exceeds 75% of the market value of the structure, as indicated by the records of the County Assessor, the structure shall be brought into conformance with the requirements of the Ordinance.

STAFF FINDING: As stated in Section 4.123 above, a legal non-conforming structure may continue within its building dimensions in existence on the date it became non-conforming. Any increase in height, width and/or length would be considered an expansion.

Section 4.124 Alteration (1) and (2) applies to non-conforming structures specifically and limits alterations to non-conforming structures to 75% of market value within a three-year period before requiring the structure be brought into compliance; legal non-conforming structures are not mentioned. Nowhere in any part of Section 4.120 Arch Cape Non-conforming Uses and Structures, of which Section 4.124 is a subsection, is a financial restriction limiting the value of alterations to legal non-conforming structures. Therefore, it is reasonable to assume Section 4.124 does not apply to legal non-conforming structures and no requirement exists to bring legal non-conforming structures into compliance after a specific financial level in alterations is reached within a specific period of time.

The application for conversion of the garage demonstrates the conversion would occur within the current footprint of the garage. The roofline would be changed, moving four feet southward to be centered over the entire structure; however, the peak would be lowered, resulting in a net loss of height and a reduction of volume. The change in roofline, which is necessary to adjust the south wall height to make habitable living space in the area of the current lean-to, would not increase the dimensions (height, width or length) of the structure and the volume enclosed by the structure would be decreased marginally.

The conversion would not increase the dimension (height, width or length) and decreases the volume enclosed by the structure; the alteration is not an expansion of the structure. The structure may be permitted to continue and may be altered from one legal use to another.

Section 1.030 Definitions

DWELLING UNIT, ACCESSORY (ADU) – For the purposes of clarity, a single-family dwelling with an accessory dwelling unit (ADU), as defined herein, located within one of the rural community zones shall not be considered a duplex or multiple-family dwelling. In addition to other standards of this code, ADUs shall comply with the following development standards:

(1) ADUs shall be allowed only on lots or parcels serviced by a State approved Sanitary Sewer.

Applicant: "Lot is within and serviced by AC Service District."

(2) ADUs shall be allowed only in conjunction with parcels containing one single-family dwelling (the "primary dwelling"). A maximum of one ADU or Guesthouse (see "Guesthouse") is permitted per lot or parcel. ADUs shall not be permitted in conjunction with a duplex or multi-family dwelling.

Applicant: "Lot has one single family residence and this would be the only ADU."

(3) ADUs shall comply with maximum lot coverage and setback requirements applicable to the parcel containing the primary dwelling.

Applicant: "Proposed ADU would comply with maximum lot coverage and setbacks applicable to the parcel containing the primary property."

(4) The ADU may be created through conversion of an existing structure, or construction of a new structure that is either attached to the primary dwelling or detached.

Applicant: "The ADU would be created through converting an existing, Legal Non-Conforming Structure which is detached from the primary dwelling."

(5) The maximum gross habitable floor area (GHFA) of the ADU shall not exceed 75 percent of the GHFA of the main floor of the primary dwelling on the lot, or 900 square feet, whichever is less. The floor area of any garage shall not be included in the total GHFA.

Applicant: "The maximum GHFA, of the ADU would be 672 sq. ft. The GHFA of the main dwelling is 1530 sq. ft. The maximum allowable in this case would be 900 sq. ft."

(6) Only one entrance may be located on the front of the existing dwelling unless the existing dwelling contained more than one entrance before the addition of the ADU.

Applicant: "Only one entrance exists on the front of the main dwelling."

(7) In order to maintain a consistent architectural character, Accessory dwellings shall be constructed with similar building materials, architectural design and colors that generally match those used on the primary dwelling, except where the approving hearing body requires different materials and/or detailing to promote compatibility with single family dwellings on abutting lots.

Applicant: "The ADU would match the style and materials of the existing structures."

(8) A parcel containing a primary dwelling unit and an ADU shall provide a minimum of three off-street parking spaces designed in accordance with County Standards Document S2.202§1.

Applicant: "See attached Plot Plan for design three off-street parking spaces."

STAFF FINDING: Staff concurs with the applicant. The Accessory Dwelling Unit (ADU) is within the AC-RCR Zone and is served by a state-approved sanitary sewer provided by the Arch Cape Service District.

The primary and only other use on the lot is the single family residence. Although the garage does not meet setbacks, the conversion is permissible because the garage is a legal non-conforming structure and would continue within the same dimensions, under 4.123 (2), above. An ADU may be created through the conversion of an existing structure (Section 1.030 Definitions, DWELLING UNIT, ACCESSORY [ADU], [4], above.)

The GHFA of the primary dwelling is 1,530 square feet. Seventy-five percent of that figure is 1,147 square feet. The ADU can be either 75% of the primary dwelling's GHFA or 900 square feet, whichever is less. The ADU being proposed is 672 square feet and meets the requirement in (5) above.

The primary dwelling has only one front entrance. The plans are designed to create accessory structures in keeping with the design of the primary dwelling, and conditions of approval will ensure this occurs, just conditions of approval will ensure the three off-street parking spaces depicted on the plot plan are constructed. The three off-street parking spaces are proposed for the 20-foot setback area along E. Shingle Mill. Because S2.202 (3) states parking spaces shall not be in the front yard setback, the applicant will need to apply for and obtain a variance to S2.2.2 (3). The Southwest Coastal Citizens Advisory / Design Review Committee would review the variance request at a future meeting.

Staff concurs with applicant; these criteria are met, or can be met through conditions of approval, including the successful application for a variance to S2.202 (3).

LWDUO #80-14, Standards Section 4.103. Criteria for Design Review Evaluation.

1. Relation of Structures to Site: The location, height, bulk, shape, and arrangement of structures shall be in scale and compatible with the surroundings.

Applicant: A) Conversion of a legally non-conforming structure into an ADU: "We proposed to convert a Legally Nonconforming Auxiliary Structure into an Auxiliary Dwelling Unit. It is a single story structure on a slab comprised of a 20'x24' garage space and a 8'x24' area divided into cool storage and wood storage. The total area of the footprint is 672 sq. ft. This would remain unchanged.

"The structure has a straight gable roof which is centered over the garage portion of the footprint and runs east/west. The peak is 12'-7" above grade. The north wall is 7'-6" from grade to top plate. The south wall is 6'-6" to top plate. We propose to raise the south wall to match the north wall, shift the peak 4' to the south, thereby centering it over the whole footprint, and lowering it so it is 10'-11" above grade. These changes will result in no increase in volume to that part of the structure which is encroaching on the setbacks. Please see the attached drawings on pages, 1, and 1-1, showing calculations for volumes and the altered roof profiles.

The structure is and would continue to be well matched to the main dwelling; similarly oriented, modest in scale, covered with matching siding and its new doors and windows would reflect those on the house. It has worked with this property for at least 40 years and what we propose would not change but only enhance it."

B) Add two patio doors to the west side of the main dwelling and a wooden deck: "In addition, we would include in this application a plan to extend the existing deck which is on the south side of the main dwelling, along the width of the main dwelling's west side, and place two new patio sliding doors in the west wall to access the deck. The deck would be apx 30 inches high, so there would be no railing. The patio doors would replace existing windows."

C) Add a garden/storage shed: "We would like to build a garden/storage shed, 12' x 16'. It would be built with materials compatible with the rest of the property."

STAFF FINDING: The proposed new garden storage shed, at 192 square feet, would be located toward the front of the west side yard, between the main dwelling and the family's established blueberry garden. It would meet all setbacks, including the 50-foot riparian setback to the south and the 20-foot front yard setback.

The new deck, at 30 inches or less in height, meets the county's definition of a patio. It would run north-south along the west side of the house and connect with the existing deck. At 30 inches or less in height, it is exempt from meeting setbacks (Clatsop County Standards Document S3.010 (3)), and is not required by Building Codes to have a railing, which lowers its profile and visual impact. The new "deck" will be 8 feet by 48 feet, or 384 square feet in size.

The "deck" and garden shed together will constitute an additional 576 square feet of lot coverage. The foot print of the main dwelling is 1,512 square feet, existing east side deck, south deck and north exterior

stairs are a combined 554.5 square feet, and the existing garage/lean-to, before and after conversion, has a footprint of 672 square feet.

Total lot coverage before the addition of the new deck and garden/storage shed is 2,738.5 square feet. The patio/deck and garden/storage shed additions would increase the lot coverage to 3,314.5 square feet.

The lot is 10,019 square feet. Total lot coverage before the additions is 27.3%. The additions would bring lot coverage to 33.1%. Maximum lot coverage in the AC-RCR Zone is 40%. The additions would not increase the total lot coverage above the maximum permitted in the zone.

The roof of the garage/lean-to would be lowered to accommodate the change in roofline and pitch without increasing its dimension. Lowering the roof decreases its visual impact and the bulk of the building.

The siding and new doors and windows on the conversion and the new garden/storage shed would be designed to match the existing single family dwelling, making the new construction blend with the existing home.

The arrangement of the new structures and the design of the conversion will not dramatically change the visual impact of the uses on the lot. Arrangement of structures will not increase impact on the riparian setback area, as the patio/deck will not exceed 30 inches, and the roof of the garage/lean-to conversion will be lowered. The application meets the above criterion.

2. Protection of Ocean Views: Shall be preserved through the confines of this ordinance section 3.068.

Applicant: A) Conversion of a legally non-conforming structure into an ADU: "The structure we propose to convert sits to the south of the main house, which is 1900 sq. ft., two story and the only other structure on the property. It is not visible from the house across Shingle Mill Rd., to the north. To the south we have Arch Cape Creek and undeveloped woods. To the west are undeveloped lots. To the east, across 2nd St., is the Borkan residence. The view from their house, which is fifty feet away, would be virtually unchanged, even with the ridge shifted to the south. One could argue that it provides them with a slightly larger view."

B: Add two patio doors to the west side of the main dwelling and a wooden deck: "The deck would have no impact on views. Being only 30" high, there would be no railing to consider in this regard."

C: Add a garden/storage shed: "The garden/storage shed would be oriented with its long axis east/west, and its north side would be aligned with the 20' set back from Shingle Mill Road. It would have a shed roof, pitched to the north with a single downspout to carry roof drain into the swale between it and the road. Its highest point would be 10' above grade. We do not feel this would have any impact on neighboring views."

STAFF FINDING: As stated in Section 4.123 above, a legal non-conforming structure may continue within its building dimensions in existence on the date it became non-conforming. Any increase in height, width and/or length would be considered an expansion. Section 3.068 includes the development and use standards for the AC-RCR Zone, and any development that conforms to the standards and uses may be assumed to meet 2. Protection of Ocean Views, above. The subject property is located in a wooded area more than 1,300 linear feet east of Highway 101 and more than 1,850 linear feet from the ocean. None

of the structures exceed the height of the trees on neighboring lots, so ocean views would not be impacted.

The conversion, deck addition and new garden/storage shed would not impact ocean views.

3. Preservation of Landscape: The landscape shall be preserved in its natural state to the maximum extent possible by minimizing tree, vegetation and soils removal. Cut and fill construction methods are discouraged. Roads and driveways should follow slope contours in a manner that prevents erosion and rapid discharge into natural drainages. Disturbed areas shall be re-vegetated with native species.

Applicant: A) Conversion of a legally non-conforming structure into an ADU: "There would be virtually no impact on the existing landscape. No trees would be removed, there is concrete on two sides of the garage, lawn on the third side and invasive ground cover on the fourth. The property is level, and the roof drains are already in place. There will be no change in the amount or flow direction of captured water from roof and walks. There would be no erosion issued or impacts on neighboring properties."

B) Add two patio doors to the west side of the main dwelling and a wooden deck: "A rosebush would be removed and replanted. The area to be covered is presently lawn and probably would still thrive."

C) Add a garden/storage shed: "The shed would be placed over existing lawn."

STAFF FINDING: No change is planned for the garage/lean-to footprint. No cut-and-fill construction is proposed. The only vegetation removal would be lawn for the shed. Grass under the patio/deck may diminish with lack of light, but no soil is slated for removal. The rosebush will be replanted. The concept was designed to preserve existing trees and mature blueberry bushes. A condition that areas disturbed by construction activities shall be re-vegetated will be included in the recommended conditions of approval.

This criterion can be met through a condition of approval.

4. Utility Service: All new service lines shall be placed underground.

Applicant: A) Conversion of a legally non-conforming structure into an ADU: "A new auxiliary power panel was recently installed in the garage by underground feed, sufficient for the proposed needs. Water feed is 8' away, in house. Sewer would join the main trunk line of the residence of the residence at the nearest point proper fall allows."

B) Add two patio doors to the west side of the main dwelling and a wooden deck: "NA"

C) Add a garden/storage shed: "One electrical circuit would be run underground to supply the shed with light and power."

STAFF FINDING: The current power panel for the garage is underground already and does not need to be upgraded. Water and sewer lines, of course, are typically installed underground.

A condition of approval will ensure this criterion is met.

5. Exterior lighting shall be of a “full cut-off” design: Glare shall be directed away from neighboring property or shielded in a manner not to cause offense (i.e. Full Cut-off Fixtures).

Applicant: “All exterior lighting would be full cut-off design.”

STAFF FINDING: A condition of approval will ensure this criterion is met.

6. Buffering and Screening: In commercial zones, storage, loading, parking, service and similar accessory facilities shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.

Applicant: “NA.”

STAFF FINDING: Staff concurs with applicant; this criterion is not applicable.

7. Vehicle Circulation and Parking: The location of access points to the site, the interior circulation pattern and the arrangement of parking in commercially zoned areas shall be designed to maximize safety and convenience and to be compatible with proposed and adjacent buildings. The number of vehicular access points shall be minimized.

Applicant: “Three off street parking spaces are provided for as per the plot plan.”

STAFF FINDING: Although this standard applies to commercially-zoned areas, it is worth noting the ADU standards call for an additional parking space to be added to the two required in residential zones. The applicant’s plot plan shows three spaces, as required. However, as stated previously, a variance will be necessary for the parking spaces to be located within the front yard setback. The variance will be a separate application.

The zoning is not commercial; this criterion is not applicable.

8. Signs: The size, location, design, material and lighting of all exterior signs shall not detract from the design of proposed or existing buildings, structures or landscaping and shall not obstruct scenic views from adjacent properties.

Applicant: “NA”

STAFF FINDING: Staff concurs with applicant; this criterion is not applicable.

9. Surface Water Drainage: Special attention shall be given to proper surface water drainage from the site so that it will not adversely affect adjacent properties or the natural or public storm drainage system.

Applicant: A) Conversion of a legally non-conforming structure into an ADU: “As noted in 3-, above, the drainage from both roof and surrounding surfaces would be unchanged.”

B) Add two patio doors to the west side of the main dwelling and a wooden deck: “NA”

C) Add a garden/storage shed: “There would be single downspout on the northwest corner of the shed

and it would drain to the north, into the swale which conveys surface water west then south to the creek.”

STAFF FINDING: The amount of lot coverage will increase about 5.8%, due mostly to the new deck/patio addition, through which rainwater can pass to the grass below and be absorbed as it always has. The new garden/storage shed would be guttered and the water conveyed appropriately to a green swale. The garage conversion would not change the lot coverage or increase impermeable ground cover.

Should the area under the new deck/patio require it, additional, low-growing ground cover appropriate to a semi-shaded environment could be planted to assist with water absorption; however, the no increased accumulation of water seems likely. A condition of approval will be recommended that the garage conversion be guttered, like the new shed, and tied into the existing drainage system.

The above criterion can be met through a condition of approval.

10. In addition to compliance with the criteria as determined by the hearing body and with the requirements of sections 1.040 and 1.050, the applicant must accept those conditions listed in Section 5.025 that the hearing body finds are appropriate to obtain compliance with the criteria. All permit criteria and conditions must be satisfied prior to final building approval and occupancy.

COMMENTS RECEIVED:

Amber M. Johnson, Oregon Department of Fish and Wildlife Habitat Conservation Biologist, provided comment, stating the new garden/storage shed should be located outside the riparian setback for Arch Cape Creek.

STAFF RESPONSE: The new shed will not be located within the riparian setback. Staff contacted Ms. Johnson, who stated she had no other concerns.

...

Overall Conclusion:

Staff finds the proposed project meets or could meet all applicable criteria in LWDUO #80-14, Section 4.103, Criteria for Design Review Evaluation. Staff recommends the committee either: **1)** recommend approval of the window/door replacement and patio/deck addition on the primary dwelling and the new garden/storage shed, subject to the following conditions, while tabling the garage conversion recommendation until the variance application is reviewed; or **2)** recommend approval of this Major Design Review request, subject to the following conditions and contingent on the applicant successfully obtaining a variance to front yard setbacks for the parking related to the conversion of the garage to an accessory dwelling unit:

1. Construction shall occur as shown on the plans received with the application and on file in the Clatsop County Community Development Department. The Community Development Director may approve minor modifications of these plans if they are requested prior to construction of the minor modification.
2. The road, if damaged during construction, shall be returned to its previous condition or better before final inspection of the improvement.

3. The property owner shall obtain all required development and building permits and approvals prior to construction.
4. Design Review approvals are effective for a period of one (1) year from the date of approval of this document.
5. Development shall comply with all state, federal and local regulations and laws.
6. All construction activities shall follow the Design and Operation Standards and Requirements under Standards Section S2.504. The erosion control plan submitted with this application is adequate when applying for a development/building permit.
7. Approval for the conversion of the garage to an accessory dwelling unit is contingent on obtaining a variance to the 20-foot front yard setback of E. Shingle Mill Road, per Clatsop County Standards Document S2.202 (3), for the required parking. The variance is not necessary for the new deck/patio and sliding doors.
8. Water drainage for the garage conversion's roof shall be directed to the existing drainage system via gutters or other appropriate means, and the drainage plan shall be included on building permit drawings.
9. Natural vegetation shall be retained to the maximum extent possible. Re-vegetation, i.e. reseeding of grass, etc., of any areas disturbed during construction shall be completed within 30 days of completion of construction, or as soon as possible, weather permitting.
10. New exterior lighting shall be full cut-off design, and lighting shall be shielded from neighboring properties and the night sky.
11. A twenty-five (25) foot buffer of native, non-invasive vegetation combined with proper removal of noxious weeds shall be maintained along Arch Cape Creek.
12. The ADU shall conform to the dimensions of the current garage/lean-to footprint.
13. The garage/ADU conversion and the new garden/storage shed shall match the style and materials of the primary residence.

Exhibit 1



Receipt

This is not a Permit

Clatsop County Planning and Development
800 Exchange St Ste 100
Astoria, OR 97103

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

For Department Use Only

Permit #: 20130118
Permit Type: Type II
Entry Date: 4/9/2013
Entered By: Julia Decker
Assigned To:
Permit Status: Pending

Permit Timeline

User	Status	Date
Julia Decker	Entered	04/09/2013
Julia Decker	Deemed Comple	04/25/2013

Proposed Use

Proposed Use: Design Review

Description: Desgin Review application, major

Zone: AC-RCR

Overlay District: RCO

Owner/Project Location

Owner: Name: Schiffman Ronald P & Noonan Patricia

Ph. #: (503) 436-2229

Address: 32016 E Shingle Mill Ln

Cell: () -

City, State, Zip: Arch Cape, OR 97102-0167

Fax: () -

Situs Address: 32016 E Shingle Mill Ln T R S Q S Qq S Taxlot

City: Arch Cape State: OREGON 4 10 30 C A 02401

Applicant/Agent

Applicant: Name: Tevis Dooley III
Address: 31972 E. Ocean Lane
City, State, Zip: Arch Cape, OR 97102

Ph. #: (503) 436-1361

Cell: () -

Fax: () -

Ph. #: () -

Cell: () -

Fax: () -

Fees

Fee Type:

Planning/Development

Permit Fee Total:

\$711.00

Total: \$711.00

Receipt

Payor Name:

Tevis Dooley III

Pymnt Type

Credit Card

Check

Pymnt Date

04/25/2013

Pymnt Amount:

\$711.00

Balance Due: \$0.00

Signatures

1. For Commercial and industrial uses, include parking and loading plan, sign plan and erosion control plan.
2. For residential and other uses, include an erosion control plan.
3. Review attached applicant's statement and sign below.

I have read and understand the attached APPLICANT'S STATEMENT and agree to abide by the terms thereof.

Applicant Signature: _____ Date: _____

Owner Signature: _____ Date: _____

Agent Signature: _____ Date: _____



**APPLICATION FOR
DESIGN REVIEW**

Fee: Major Construction - \$711.00 (see attached page for explanation)

Minor Construction - \$554.00 (see attached page for explanation)

RECEIVED
Clatsop County

APR 22 2013

APPLICANT: TEVIS E. DOOLEY III

Land Use Planning Phone: 503-436-1361

Address: 31972 E. OCEAN LN.
ARCH CAPE, 97102

OWNER: RON SCHIFFMAN

Phone: 503-436-2229

Address 32016 E. SHINGLE MILL RD.
ARCH CAPE, 97102

AGENT: _____ Phone: _____

Address: _____

Proposed Development: 1) CONVERT EXISTING AUXILIARY STRUCTURE TO AN A.D.U. 2) ADD 30" H. WOOD DECK AND TWO (2) PATIO DOORS IN WEST WALL OF MAIN DWELLING

Present Zoning: AC-RCR Overlay District: /RCO

Lot Size: 0.23 AC. = 10,019 ☒

Property Description: 4 10 30 02401
Township Range Section Tax lot(s)

Property Location: 32016 SHINGLE MILL RD., ARCH CAPE

General description of the property:

Existing Use: SINGLE FAMILY RESIDENCE

Topography: FLAT

General description of adjoining property:

Existing Uses: N. SHINGLE MILL RD - E. 2ND ST. - S. A.C. CREEK - W. UNDEVELOPED

Topography: VIRTUALLY FLAT, SOME HEIRLOOM TREES, ESTABLISHED LAND-SCAPES, WOODED AT THE CREEK AND BEYOND TO SOUTH.

Transportation and Development Services – Land Use Planning Division

800 Exchange, Suite 100 ■ Astoria, Oregon 97103 ■ (503) 325-8611 ■ FAX 503-338-3606

Time Limit on Approval. Site design review approvals shall be void after one (1) year unless a building permit has been issued and substantial construction has taken place per the International Building Code.

The information contained in this application is in all respects true, complete, and correct to the best of my knowledge and I am aware of the additional costs that may accrue and agree to pay them as required above.

Applicant's Signature: [Signature] Date: 2/28/13
Owner's Signature: [Signature] Date: 2/28/13

The following is from the Clatsop County Land and Water Development and Use Ordinance #80-14:

Section 4.100. Rural Community Overlay District (/RCO).

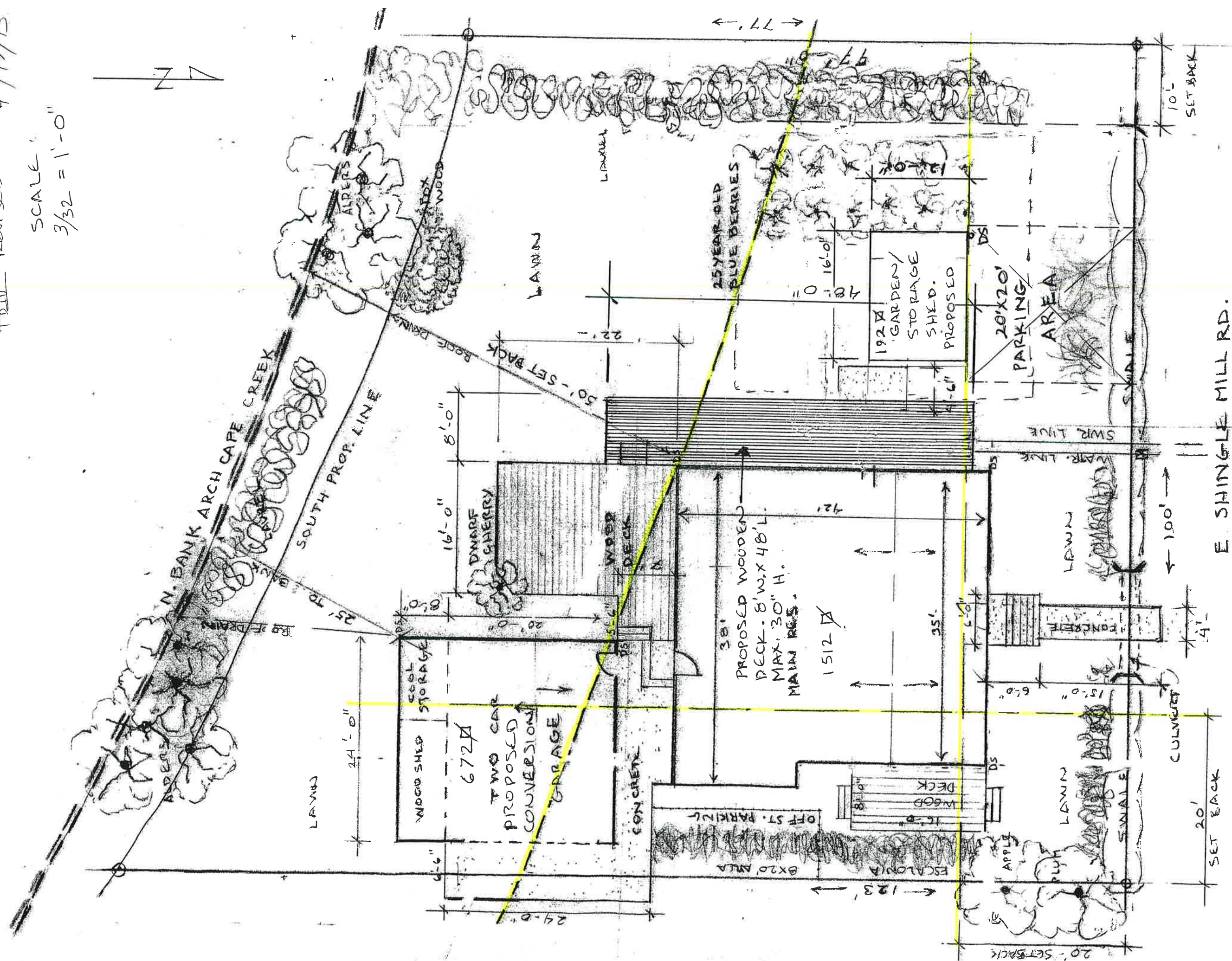
Section 4.101. Purpose. This section provides for the comprehensive review of proposed developments within the Arch Cape Rural Community Overlay District. The intent of the overlay is to ensure development occurs in a manner that preserves scenic views and promotes attractive development within the boundaries of the rural community. In addition the Arch Cape Rural Community Overlay District outlines procedures and criteria for developments that require variances or are of a nonconforming nature.

Section 4.102. Types of Review. All development which is situated within the /RCO District Boundary that falls under the thresholds in this section shall be subject to the Criteria for Design Review Evaluation, Section 4.103 and Article 2, Procedures for Land Use Applications.

1. The following types of projects shall require review according to the Type II procedure, Section 2.020. For purposes of these types of Major projects, review by the Design Review Advisory Committee as described in Section 4.108, is required.
 - (A) Any new residential development proposing to construct a dwelling as described in Section 1.030 (Dwelling Types).
 - (B) Any new commercial development proposing to construct structures devoted to a commercial use.
 - (C) Any new commercial development creating additional cumulative square footage.
 - (D) Any new residential development creating additional cumulative square footage.
 - (E) Accessory buildings in residential zones.

TRIV REMSD 4/19/13

SCALE: $3/32 = 1'-0"$



SCHIFFMAN RESIDENCE 32016 E. SHINGLE MILL LN., ARCH CAPE.
RE-MODEL, CONVERTING EXISTING GARAGE/STORAGE TO A.D.U. AND
ADDING WOOD DECK ALONG WEST SIDE OF MAIN DWELLING.

TEVIS E. DOOLEY III CONTRACTOR, 31972 E. OCEAN LN. A.C. 97102
503-436-1361 CCB# 49512

rec'd
5-3-13

The application for this developmental permit includes these main aspects:

A - Conversion of a Legally Nonconforming Structure into an ADU.

B - Add two patio doors to the west side of the main dwelling and a wooden deck.

C - Add a garden/storage shed.

1- Relation of structure to site

A- We propose to convert a Legally Nonconforming Auxiliary Structure into an Auxiliary Dwelling Unit. It is a single story structure on a slab comprised of a 20' x 24' garage space and a 8' x 24' area divided into cool storage and wood storage. The total area of the footprint is 672 sq. ft. This would remain unchanged.

(begin amendment)

The structure has a straight gable roof which is centered over the garage portion of the footprint and runs east/west. The peak is 12'-7" above grade. The north wall is 7'-6" from grade to top plate. The south wall is 6'-6" to top plate. We propose to raise the south wall to match the north wall, shift the peak 4' to the south, thereby centering it over the whole footprint, and lowering it so it is 10'-11" above grade. These changes will result in no increase in volume to that part of the structure which is encroaching on the setbacks. Please see the attached drawings on pages, 1, and 1-1, showing calculations for volumes and the altered roof profiles.

(end amendment)

This structure is and would continue to be well matched to the main dwelling; similarly oriented, modest in scale, covered with matching siding and its new doors and windows would reflect those on the house. It has worked with this property for at least forty years and what we propose would not change but only enhance it.

B- In addition, we would include in this application a plan to extend the existing deck which is on the south side of the main dwelling, along the length of the main dwelling's west side, and place two new patio sliding doors in the west wall to access the deck. The deck would be apx. 30" high so there would be no railing. The patio doors would replace existing windows.

C- We would like to build a garden/storage shed, 12' x 16'. It would be built with materials compatible with the rest of the property.

2- Views

A- The structure we propose to convert sits to the south of the main house, which is 1900 sq. ft., two story and the only other structure on the property. It is not visible from the house across Shingle

Mill Rd., to the north. To the south we have Arch Cape Creek and undeveloped woods. To the west are undeveloped lots. To the east, across 2nd St., is the Borkan residence. The view from their house, which is fifty feet away, would be virtually unchanged, even with the ridge shifted to the south. One could argue that it provides them with a slightly larger view.

B- The deck would have no impact on views. Being only 30" high, there would be no railing to consider in this regard

C- The garden/storage shed would be oriented with its long axis east/west, and it's north side would be aligned with the 20' set back from Shingle Mill Road. It would have a shed roof, pitched to the north with a single downspout to carry roof drain into the swale between it and the road. Its highest point would be 10' above grade. We do not feel this would have any impact on neighboring views.

3- Landscape

A- There would be virtually no impact on the existing landscape. No trees would be removed, there is concrete on two sides of the garage, lawn on a third and invasive ground cover on the fourth. The property is level, and roof drains are already in place. There will be no change in the amount or flow direction of captured water from roofs and walks. There would be no erosion issues or impacts on neighboring properties.

B- A rose bush would be removed and replanted. The area to be covered is presently lawn and would probably still thrive.

C-. The shed would be placed over existing lawn.

4-Utilities

A- A new auxiliary power panel was recently installed in the garage by underground feed, sufficient for the proposed needs. Water feed is 8' away, in house. Sewer would join the main trunk line of the residence at the nearest point proper fall allows.

B- NA

C- One electrical circuit would be run underground to supply the shed with light and power.

5- Lighting

All exterior lighting would be full cut-off design.

6- NA

7- Vehicle patterns

Three off street parking spaces are provided for as per the plot plan.

8- NA

9- Surface water drainage

A- As noted in 3-, above, the drainage from both roof and surrounding surfaces would be unchanged.

B- NA

C- There would be a single downspout on the north west corner of shed and it would drain to the north, into the swale which conveys surface water west then south to the creek.

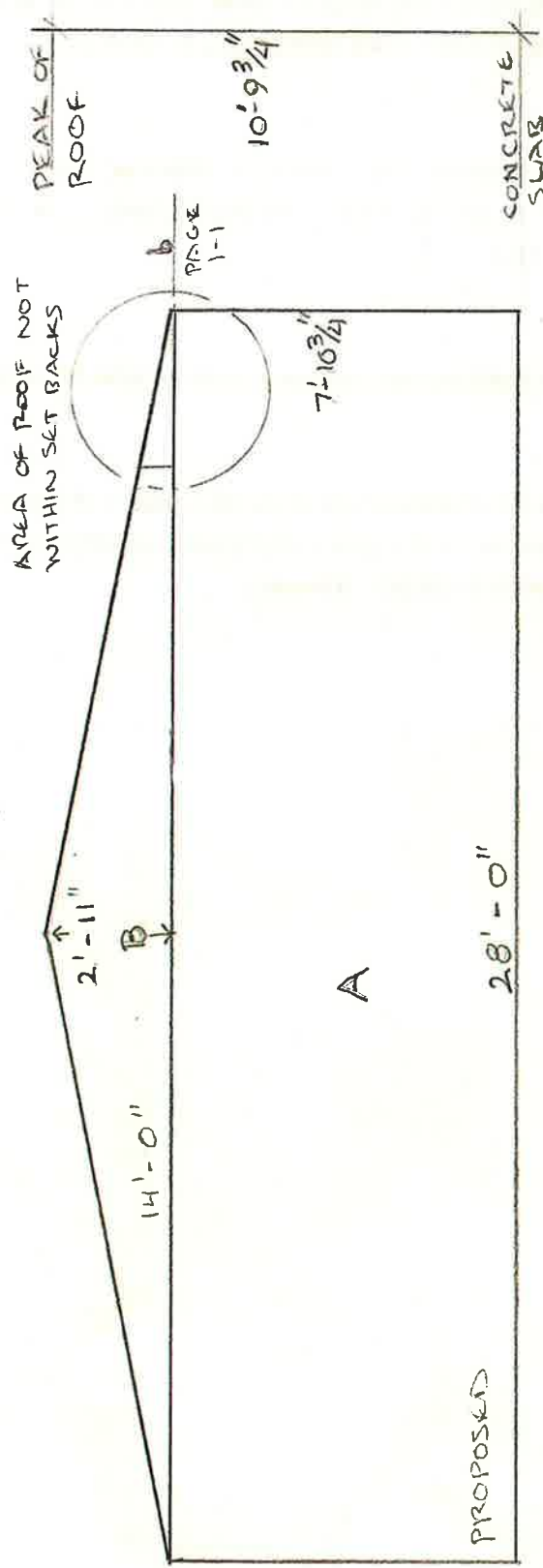
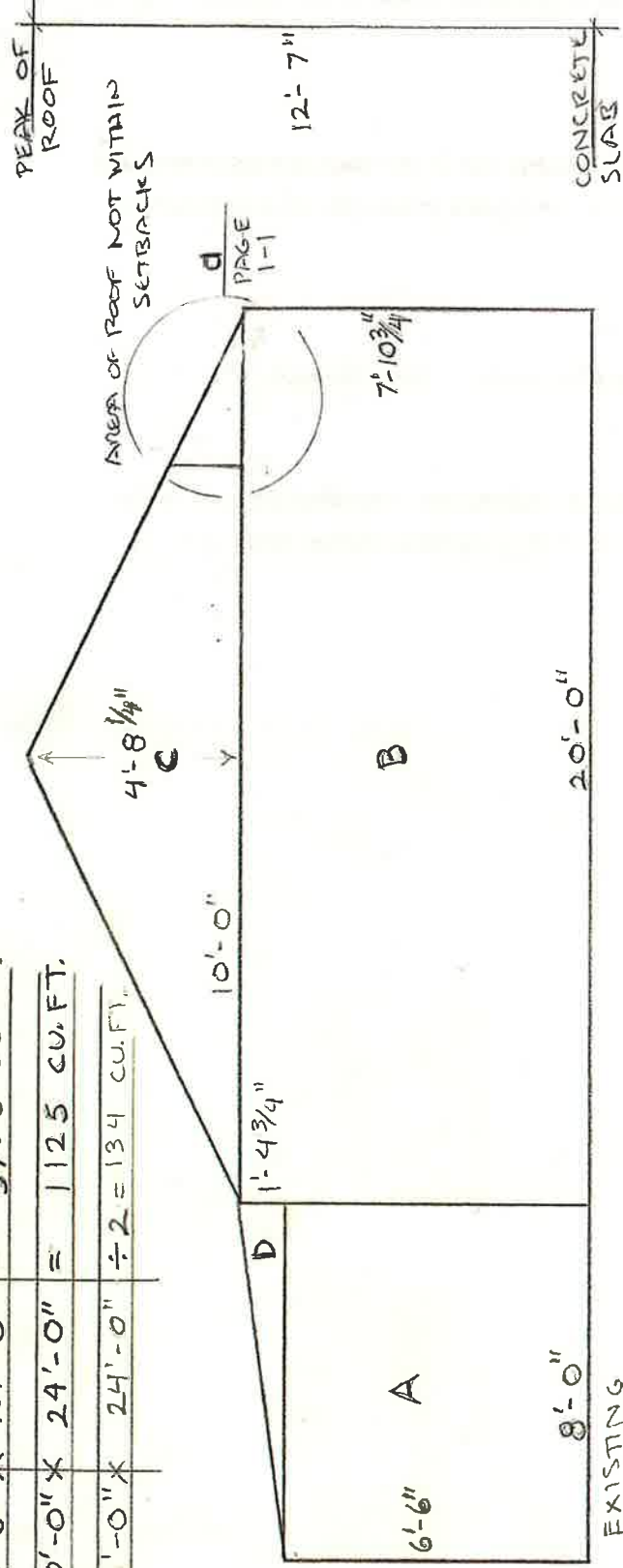
**Schiffman Application ADU, Arch Cape DRB
Criteria**

- (1) Lot is within and serviced by AC Service District**
- (2) Lot has one single family residence and this would be the only ADU.**
- (3) Proposed ADU would comply with maximum lot coverage and setbacks applicable to the parcel containing the primary dwelling.**
- (4) The ADU would be created through converting an existing, Legal Non-Conforming Structure which is detached from the primary dwelling.**
- (5) The maximum GHFA, of the ADU would be 672 sq. ft. The GHFA of the main dwelling is 1530 sq. ft. The maximum allowable amount in this case would be 900 sq. ft.**
- (6) Only one entrance exists on the front of the main dwelling.**
- (7) The ADU would match the style and materials of the existing structures.**
- (8) See the attached Plot Plan for design providing three off-street parking spaces**

HT.	W.	L.	
A	6'-6"	8'-0"	24'-0" = 1248 CU. FT.
B	7'-10 ³ / ₄ "	20'-0"	24'-0" = 3790 CU. FT.
C	4'-8 ¹ / ₄ "	10'-0"	24'-0" = 1125 CU. FT.
D	1'-4 ³ / ₄ "	8'-0"	24'-0" ÷ 2 = 134 CU. FT.

TOTAL
REVISION
4/24/13

TOTAL VOLUME AND PROFILE OF EX. STRUCTURE
A+B+C+D = 6297 CU. FT.



HT.	W.	L.	
A	7'-10 ³ / ₄ "	28'-0"	24'-0" = 5306 CU. FT.
B	2'-11"	14'-0"	24'-0" = 980 CU. FT.

TOTAL VOLUME AND PROFILE OF
PROPOSED STRUCTURE

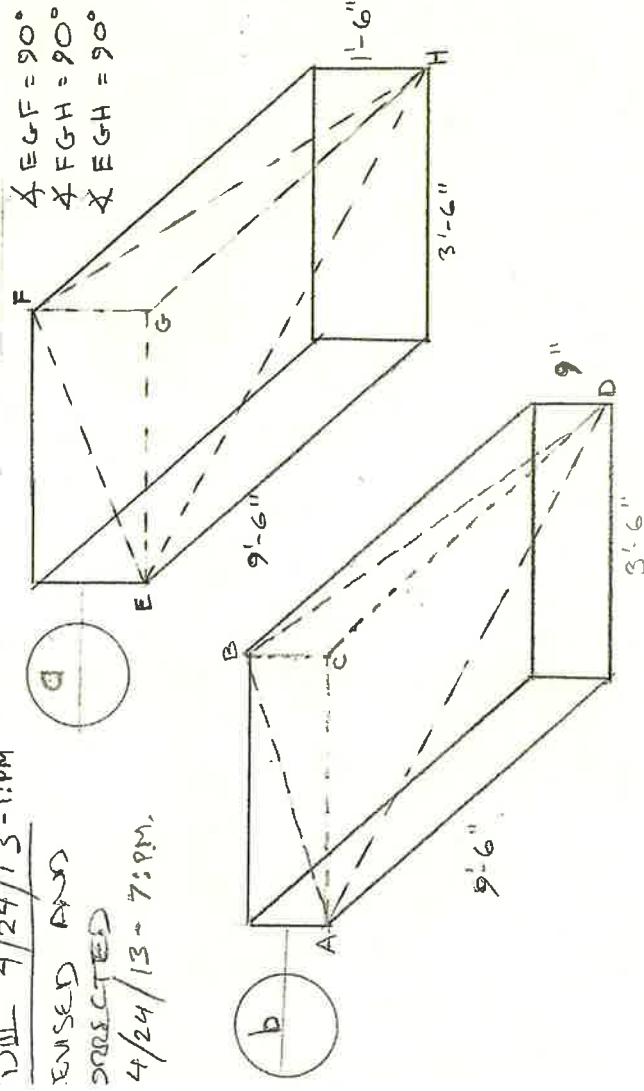
A+B = 6286 CU. FT.

PAGE
1 OF 8

DUE 4/24/13 - 1:15 PM

USED AND
CORRECTED

4/24/13 - 7:00 PM



9'-6" x 3'-6" x 1'-6" = 49.88 CU. FT. = VOLUME OF
SOLID RECTILINEAR SHAPE SHOWN TRUN-
CATED BY THE TRIANGULAR SOLID
DESCRIBED BY POINTS E, F, G, H, WHICH
DESCRIBED SOLID COMPRISES 25% OF THE
VOLUME OF THE RECTANGULAR SOLID.
49.88 x .25 = 12.47 CU. FT.

12.47 CU. FT. IS THAT AMOUNT OF THE VOLUME
OF THE EXISTING STRUCTURE, NOT WITHIN
ANY SET BACKS, OF WHICH A PORTION, (DE-
PICTED AT BELOW) SHIFTS TO THE VOLUME
OF THE STRUCTURE WITHIN THE SETBACKS, WHEN
THE PROPOSED ROOF LINE IS APPLIED.

✓ $\angle ACB = 90^\circ$

✓ $\angle CAD = 90^\circ$

✓ $\angle BCD = 90^\circ$

9'-6" x 3'-6" x 9" = 24.94 CU. FT. = VOLUME OF SOLID RECTILINEAR
SHAPE SHOWN TRUNCATED BY THE TRIANGULAR SOLID DESCRIBED BY
POINTS A, B, C, D, WHICH DESCRIBED SOLID COMPRISES 25% OF
THE VOLUME OF THE RECTANGULAR SOLID.

$$24.94 \times .25 = 6.24 \text{ CU. FT.}$$

6.24 CU. FT. IS THE VOLUME OF THAT AREA NOT WITHIN THE SETBACKS
THAT IS LEFT AFTER THE PROPOSED ROOF LINE IS APPLIED.

12.47 - 6.24 = 6.23 CU. FT. → THE TOTAL AMOUNT THAT SHIFTS
TO THE VOLUME OF THE STRUCTURE WITHIN THE SETBACKS AFTER
THE PROPOSED ROOF LINE IS APPLIED. THIS REPRESENTS APPROXIMATELY

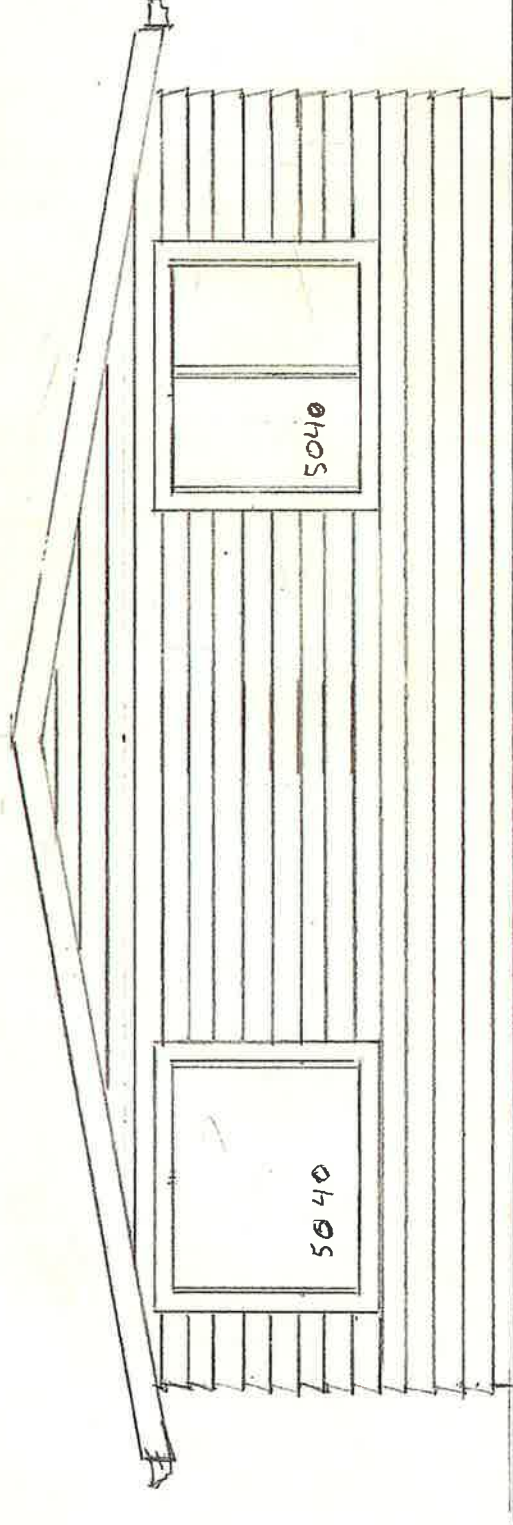
.001 % OF THE TOTAL VOLUME OF THE EXISTING STRUCTURE

WITH THE PROPOSED ROOF LINE APPLIED, THE TOTAL VOLUME DECREASES
BY 11 CU. FT. = .0017 % OF EXISTING.

PAGE

1-1 OF 8

~~TDIP~~ 4/19/13
PAGE 2 OF 8
REVISED 5/3/13



EAST ELEVATION / W. PROPOSED ROOF LINE (B) ABOVE

$\frac{1}{4}'' = 1'-0''$

SCHIFFMAN RES. 32016 E. SHINGLE HILL LN.

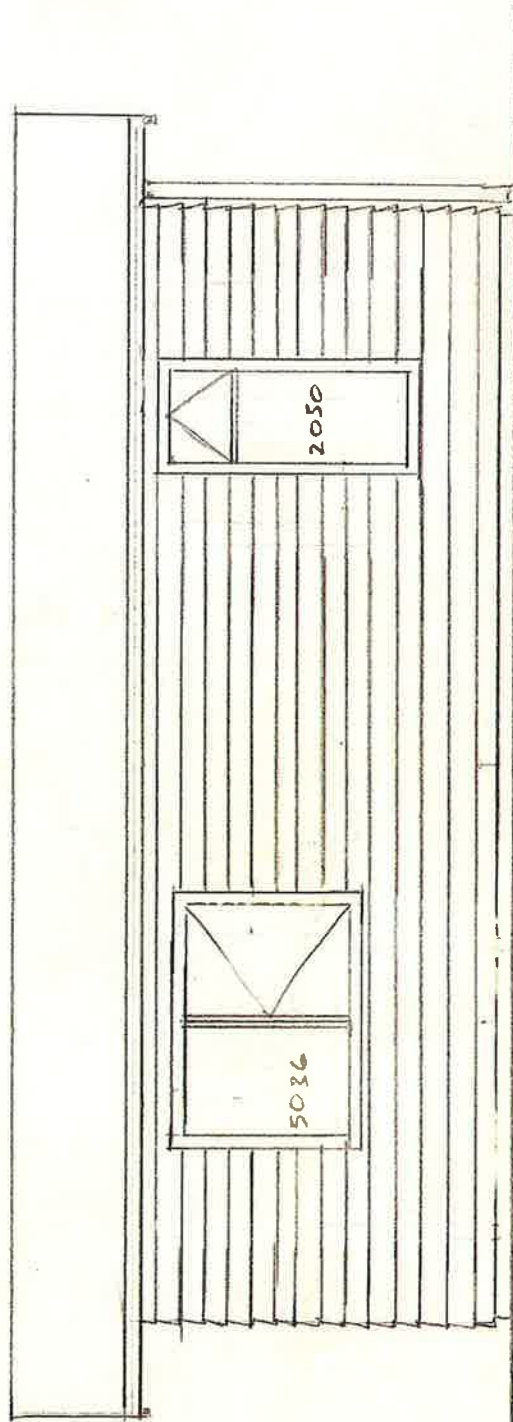
TEVIN DOOLEY 4/

SCHIFFMAN RESIDENCE

TEVIS DOOLEY 4/19/13

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REVISED 5/3/13

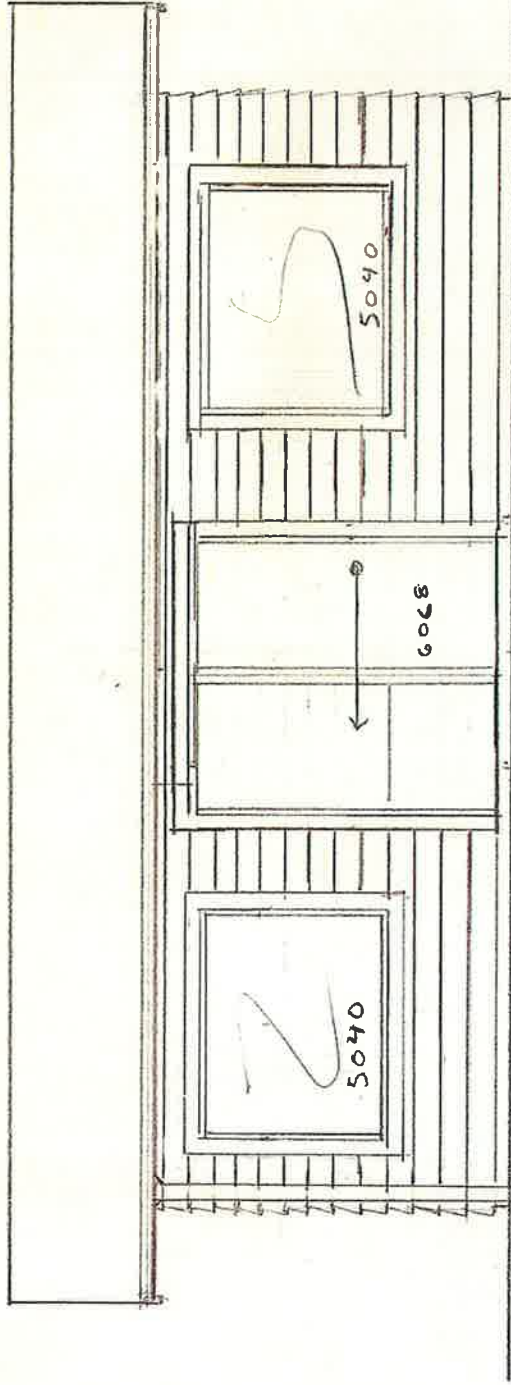


24'-0"

NORTH ELEVATION

1/4" = 1'-0"

T.D.H. 4/19/13
PAGE 4 OF 8
REVISED 5/3/13

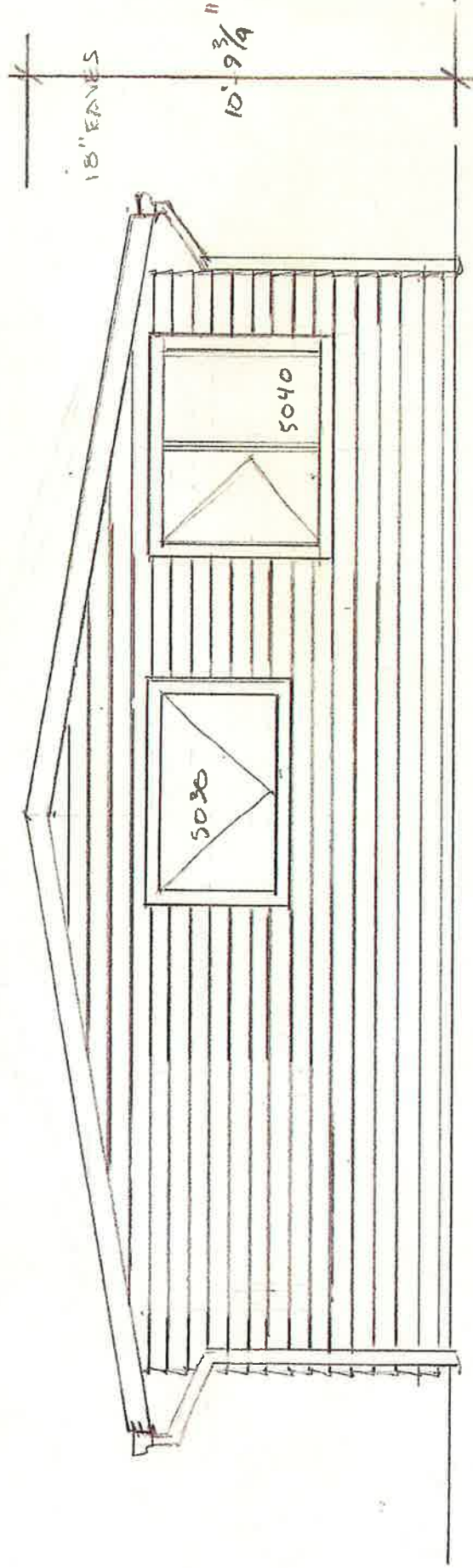


SOUTH ELEVATION

$\frac{1}{4}'' = 1'-0''$

SCHIFFMAN RESIDENCE

TEVIS DOOLEY 4/19/13
PAGE - 5 of 8

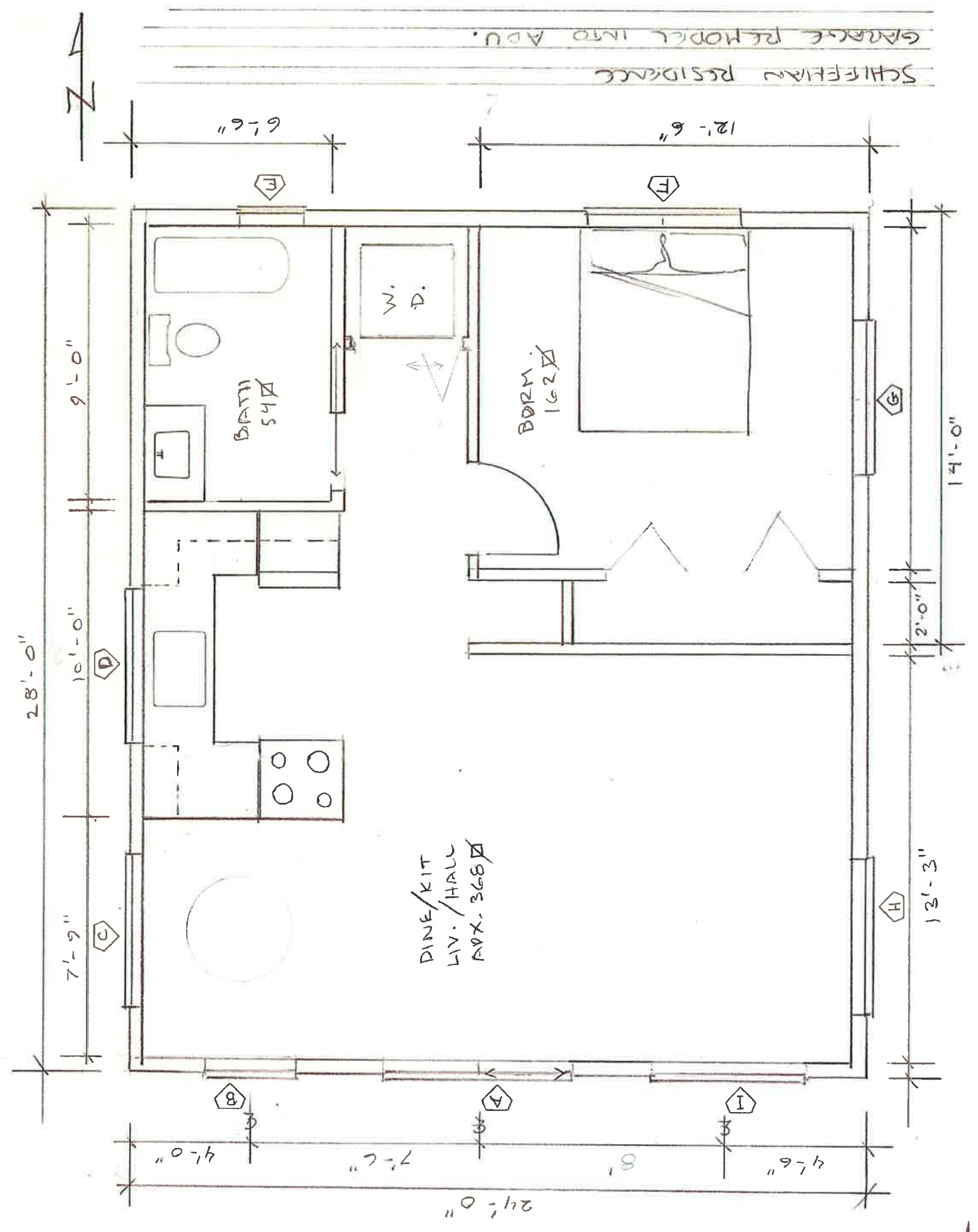


28' - 0"

WEST ELEVATION

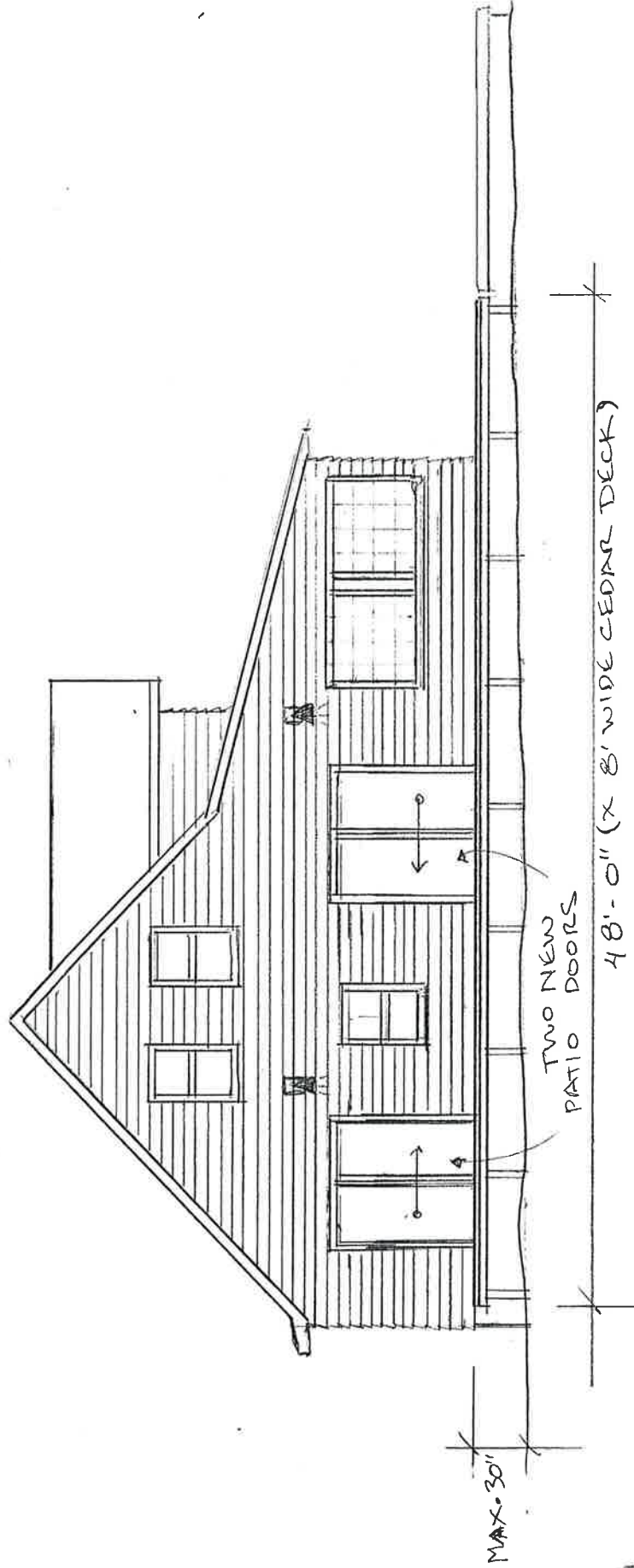
$\frac{1}{4}" = 1' - 0"$

SCALE 1/4" = 1'-0"



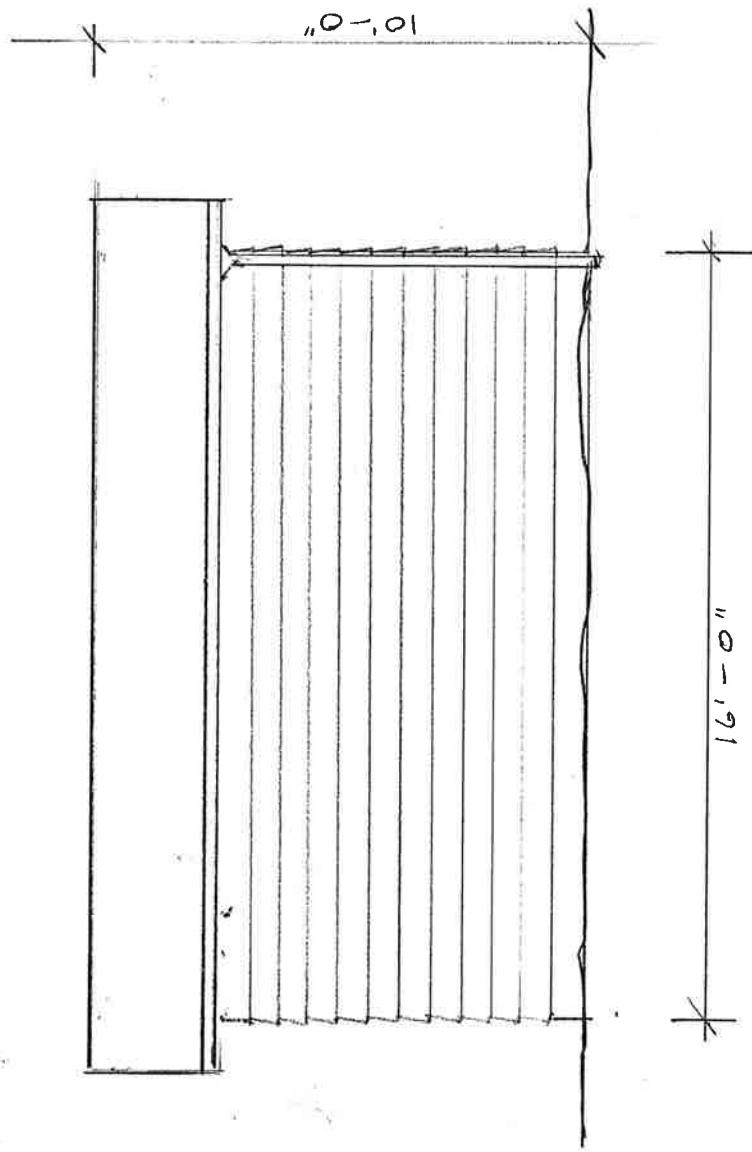
TITLE 4/19/13

PAGE 6 OF 8



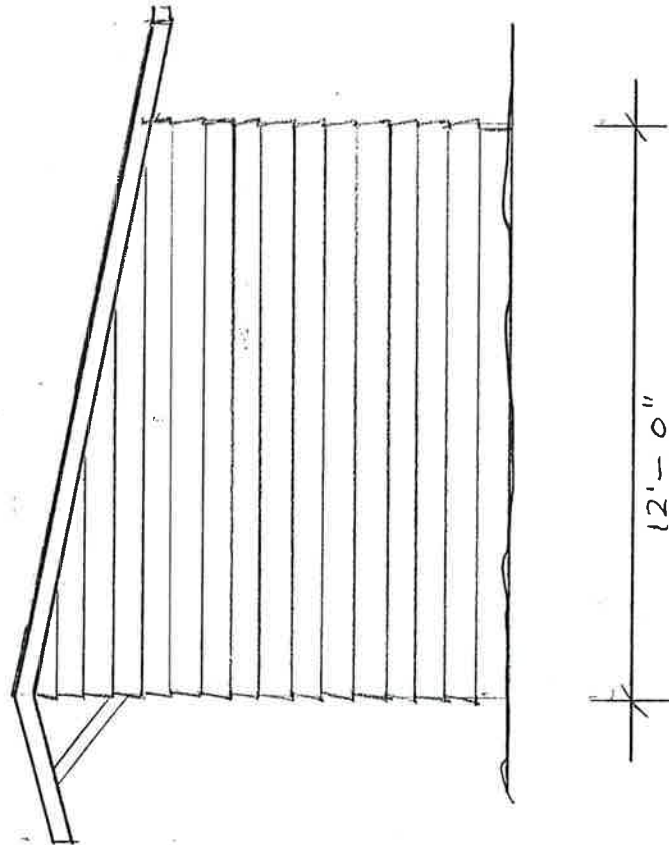
WEST ELEVATION MAIN DWELLING.

SCALE $\frac{1}{8}'' = 1'-0''$

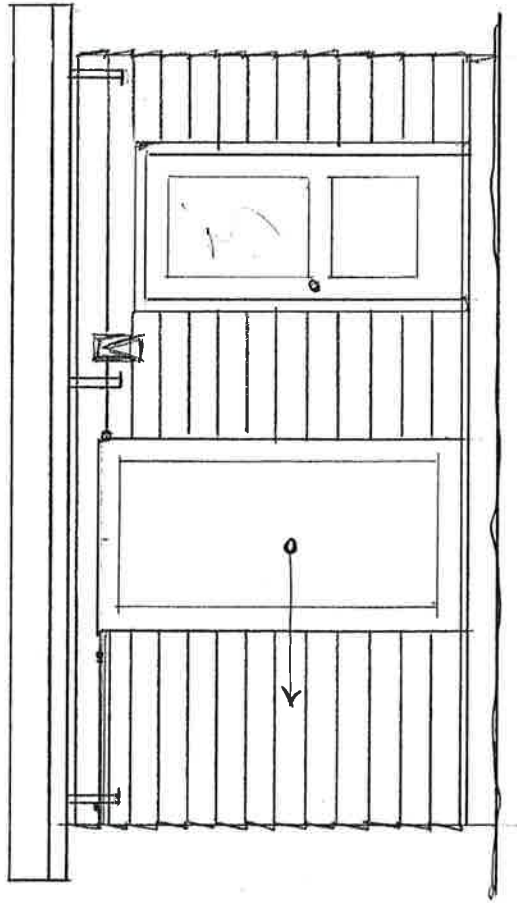


NORTH ELEVATION - GARDEN/STORAGE SHED

1/4" = 1'-0"



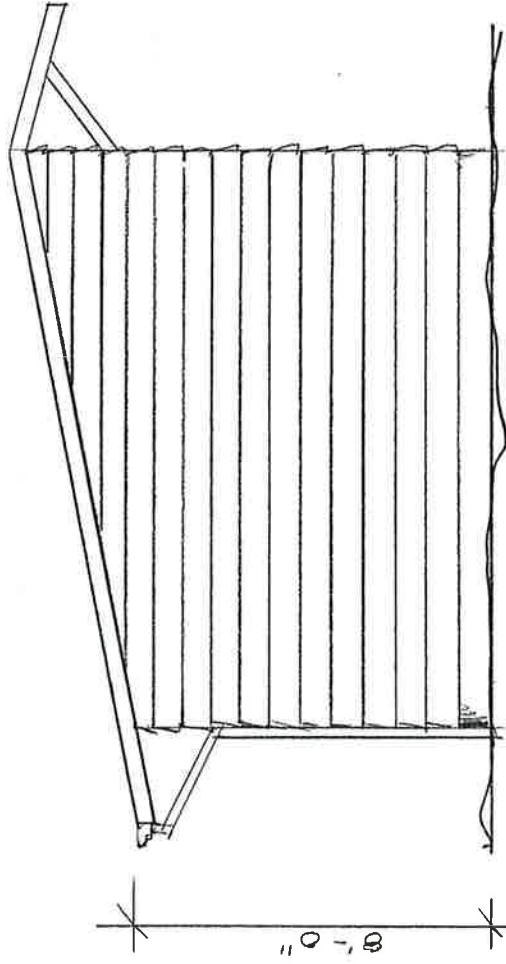
EAST ELEVATION



16'-0"

SOUTH ELEVATION
GARDEN/STORAGE SHED

1/4" = 1'-0"



12'-0"

WEST ELEVATION











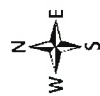
Exhibit 2

TL 2401 Area Aerial



Clatsop County Webmaps

Disclaimer: This map was produced using Clatsop County GIS data. The GIS data is maintained by the County to support its governmental activities. This map should not be used for survey or engineering purposes. The County is not responsible for map errors, omissions, misuse or misinterpretation. Photos may not align with taxlots.





2009 Aerial Area Map

Exhibit 3

Julia Decker

From: Amber M Johnson <amber.m.johnson@state.or.us>
Sent: Thursday, May 02, 2013 1:00 PM
To: Julia Decker
Subject: Property owned by Shiffman and Noonan

Hello Julia,

ODFW has reviewed the public notice application for the conversion of a garage to an accessory dwelling unit, construction of a garden shed and deck. Because the map does not identify where on the property the new shed will be located, ODFW recommends ensuring the new building not be built within the Arch Cape Creek riparian setback as defined within Clatsop County Standards Document Ordinance 80-14. Section 4.500 describes requirements to meet the protection of riparian vegetation.

Thank you,

Amber Johnson
Habitat Conservation Biologist
ODFW-North Coast Watershed District
4907 Third St.
Tillamook, OR 97141
t: (503) 842-2741 ext. 252
f: (503) 842-8385

Exhibit 4



CERTIFICATE OF MAILING

I hereby certify that I served a copy of the attached **Public Notice** for a Major Design Review application submitted by Tevis Dooley III on behalf of Ronald P. Schiffman, to those listed on the attached pages with postage paid and deposited in the post office of Astoria, Oregon (as well as those sent via e-mail as indicated) on said day.

Date: April 25, 2013

Clancie Adams, Staff Assistant
Clatsop County, Oregon

Clatsop County
Community Development
800 Exchange Street, Suite 100,
Astoria, OR 97103

ph: 503-325-8611
fx: 503-338-3606
em: comdev@co.clatsop.or.us
www.co.clatsop.or.us



PUBLIC NOTICE FOR AN APPLICATION BEFORE THE COMMUNITY DEVELOPMENT DIRECTOR

In the matter of a Major Design Review application submitted by Tevis Dooley III on behalf of Ronald P. Schiffman convert a garage to an accessory dwelling unit, construct a garden shed and add a deck to the primary residence, on property owned by Ronald P. Schiffman and Patricia Noonan, located at 32016 E. Shingle Mill Road, in Arch Cape, Oregon. The legal description of the parcel is T4N, R10W, Sec. 30CA, TL 2401.

*(For a map see **Page 2** of this notice)*

APRX. DATE OF DECISION:	May 17, 2013
COMMENT PERIOD:	April 26, 2013, to noon, May 16, 2013
DESIGN REVIEW HEARING:	May 15, 2013, 6 pm, New Arch Cape Fire Hall, 79729 Highway 101, Arch Cape, Oregon
SEND COMMENTS TO:	Clatsop County Community Development, 800 Exchange Street, Suite 100, Astoria, Oregon 97103
CONTACT PERSON:	Julia Decker, Clatsop County Planner

You are receiving this notice because you either own property within 250 feet of the property that serves as the subject of the land use application described in this letter or you are considered to be an affected state or federal agency, local government, or special district. A vicinity map for the subject property may be found on page 2.

NOTICE IS HEREBY GIVEN that Clatsop County's Community Development Department has received the land use application described in this letter. Pursuant to section 4.100 of the Clatsop County Land Water Development and Use Ordinance, a **Public Hearing is scheduled before the Design Review Committee on Wednesday, May 15, 2013.** Pursuant to Section 2.020 of the Clatsop County Land and Water Development and Use Ordinance (LWDUO), the Department Director is tentatively scheduled to render a decision based on evidence and testimony on Friday, May 17, 2013, at the Public Service Building, 800 Exchange St., Suite 100, Astoria, OR 97103.

All interested persons are invited to submit testimony and evidence in writing by addressing a letter to the Clatsop County Community Development Director, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to [503-338-3606](tel:503-338-3606) or via email to jdecker@co.clatsop.or.us. Written comments must be received in this office no later than **noon on Thursday, May 16, 2013**, in order to be considered by the Director and in the decision.

NOTE: Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

The following criteria from the Clatsop County Land and Water Development and Use Ordinance (LWDUO) apply to the request:

§ 1.010-1.050 (Definitions), 2.020 (Type II Procedure), 2.110 (Mailed Notice of a Public Hearing), 2.120 (Procedure for Mailed Notice), 2.230-2.260 (Request for Review / Appeal et al), 3.060 (Arch Cape Rural Community Residential Zone), 4.100 (Rural Community Overlay District [/RCO]), 4.120 (Non-conforming Uses and Structures), and Clatsop County's Standards Document Chapters 1-4.



In addition, the following elements of the Clatsop County Comprehensive Plan apply to the request: Goal 1 (Citizen Involvement); Goal 2 (Land Use Planning); Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces); Goal 6 (Air, Water and Land Resources Quality); Goal 8 (Recreational Needs); Goal 9 (Economy); Goal 10 (Housing); Goal 11 (Public Facilities and Services); Goal 12 (Transportation); and the Southwest Coastal Community Plan.

These documents are available for review at the Clatsop County Community Development Department office, 800 Exchange Street, Suite 100, Astoria, Oregon, and online at the county's website, www.co.clatsop.or.us.

A copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at the Community Development Department Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost.

If you have questions about this land use matter or need more information, please contact Julia Decker, Clatsop County Planner, at (503) 325-8611, or via email at jdecker@co.clatsop.or.us.

Notice to Mortgagee, Lien Holder, Vendor or Seller: ORS Chapter 215 requires that if you receive this notice it must promptly be forwarded to the purchaser.

Date Mailed: April 25, 2013

Owner	Owner/line1	Mailing Address	City	State	Zip
Clatsop Soil/Water Cons. District	Via Email	750 Commercial, Rm 207	Astoria	OR	97103 clatsopswcd@inet.com
Clatsop Soil/Water Cons. District	Via Email	750 Commercial, Rm 207	Astoria	OR	97103 clatsopswcd@inet.com
Seifer	Daniel	79916 W. Cannon Road	Arch Cape	OR	97102 daniel.j.seifer@gmail.com
Commissioner Debra Birkby	Via Email	79829 Gelinsky Road	Arch Cape	OR	97102 DBIRKBY@co.clatsop.or.us
North Coast Watershed Association	Linda	750 Commercial St Rm 205	Astoria	OR	97103 ljones@columbiaestuary.org
Eyerman	Michael	3630 NE Merges Dr.	Portland	OR	97212 linda@gaylordeyerman.com
Manzulli	Linda	80285 Woodland Heights Road	Arch Cape	OR	97102 manzullil@gmail.com
Murray	DLCD - Oregon Coast	79836 Gelinsky Road	Arch Cape	OR	97102 murraylapp@charter.net
Patrick Wingard	DLCD - Oregon Coast	4301 Third Street, Room 206	Tillamook	OR	97141 patrick.wingard@state.or.us
Ron Ash	Via Email	1100 Olney Avenue	Astoria	OR	97103 rash@co.clatsop.or.us
CREST	Richard	750 Commercial St Rm 205	Astoria	OR	97103 rcrater@columbiaestuary.org
D'Onofrio	Theodore	P.O. Box 1327	Cannon Beach	OR	97110 rcdonofrio@msn.com
Lundy	Virginia	1193 10th Street	Astoria	OR	97103 TalktoTod@gmail.com
ACS	Akeson Scott Darrow	32065 E Shingle Mill Ln	Arch Cape	OR	97102 thomasmerrill@gmail.com
Birkby	BORKAN LAYTON W	79829 Gelinsky Road	Arch Cape	OR	97102 vbirkby@charter.net
AKESON STEINER 2006 FAM TRUST		148 Kipling Dr	Mill Valley	CA	94941-1575
BORKAN EUGENE L		1804 NW 34th Ave	Portland	OR	97210-1207
CAMPBELL KENNETH R/JOANNE M		P.O. Box 271	Cannon Beach	OR	97110-0271
CARY THEODORE M		P.O. Box 1004	Cannon Beach	OR	97110-1004
Dept of Fish and Wildlife	Ehler Rev Inter Vivos Trust	4907 3rd Street	Tillamook	OR	97141
EHILER JESSE AUTRY / EHILER S HEIDI	Ehler Rev Inter Vivos Trust / Jesse Ehler Trustee	24911 Nellie Gail Rd	Laguna Hills	CA	92653-5821
EHILER JESSE AUTRY / EHILER S HEIDI		P.O. Box 11	Seaside	OR	97138-0011
GARDNER TIMOTHY H		32001 E Shingle Mill Ln	Arch Cape	OR	97102-0168
HENRY DEBRA J		32009 E Shingle Mill Ln	Arch Cape	OR	97102-0168
MCLEAN MALCOLM JOHN/DIANNE L		7220 SW 140th Ave	Beaverton	OR	97008-8656
MERSEREAU JOHN G/DEBORAH		32042 E Shingle Mill Ln	Arch Cape	OR	97102-0168
Mike Balzer, Chief	Cannon Beach Rural Fire Protection District	P.O. Box 24	Cannon Beach	OR	97110
NANCE ELIZABETH M TRUSTEE	NANCE REVOCABLE LIVING TRUST	3548 SE Franklin St	Portland	OR	97202-1829
SCHIFFMAN RONALD P	NOONAN PATRICIA	32016 E Shingle Mill Ln	Arch Cape	OR	97102-0167
SIMMONS PHILIP	SIMMONS BUFFY	79805 Fire Rock Rd	Arch Cape	OR	97102-0127
SMITH KATHLEEN S	SCHAEFFER DARCY L	79800 3rd Rd	Arch Cape	OR	97219 5173
SZAMBELAN STEVE		P.O. 663	Beavercreek	OR	97004-0663
Tevis E. Dooley III		31972 E. Ocean Lane	Arch Cape	OR	97102
US Fish & Wildlife		911 NE 11th	Portland	OR	97232
WOLF MATTHEW GREY		744 Judith Ct	Saint Helens	OR	97051-2975

4/23/2013

Attachment 3

2. Excavations in sedimentary highland (Toms) should be properly engineered to assure against slope failure (see Appendix D).
3. Proposed projects involving modifications of established drainage patterns should be evaluated in terms of potential for altering land stability.
4. Loss of ground cover for moderately to steeply sloping lands may cause erosion problems by increasing runoff velocity and land slippage. Vegetative cover for moderately to steeply sloping areas shall be maintained.

1) Southwest Coastal CAC Coastal and Stream Shorelands Goal: To conserve, protect, and where appropriate, develop the coastal and stream shorelands in the Southwest Coastal area. The following policies are in addition to those found in the Estuarine Resources and Coastal Shorelands Element.

Coastal and Stream Shorelands Policies

1. Grading, excavation or filling in the vicinity of the streams shall be carefully controlled in order to prevent sedimentation of the water. Filling of lands shall be prohibited within stream buffers.
2. In order to provide the greatest view potential for properties throughout the Rural Lands* and Rural Service Area, the Design Review Committee shall review the effects of new building plans on adjacent property in the RSA. The building height shall be limited to 26 feet through the Community Plan area, with ocean front property limited to 18 feet subject to variances approved by the County Planning Commission.
3. A buffer shall be provided along either side of Arch Cape Creek, Asbury Creek and other creeks and drainage ways critical to local water supply and erosion control in order to protect riparian vegetation, prevent loss of property due to erosion, and protect the aesthetic value of the streams. Buffers shall generally be 25 feet wide, measured perpendicular to the normal streambank unless the size of lot and natural topography would create a hardship. The Advisory Design Review Committee may review the building permit and recommend to the Planning Commission a variance based upon the individual situation, but in no event shall an impediment or alteration be permitted in a natural drainage way.
4. Gravel removal from the streams shall be prohibited.
5. Placement of riprap or other shoreline protection on coastal beaches or stream shorelands shall only be permitted for lots where the protection is necessary to prevent an erosion hazard and only where development existing on January 1, 1977.
6. Development in the vicinity of Arch Cape Creek shall be designed in a manner that is compatible with the beauty of the area. Controls on the removal of vegetation or

filling or alteration of the shoreline shall be included in the Zoning Ordinance.

7. Open space or neighborhood park sites should be encouraged as part of subdivisions or planned developments.
8. Activities of the State Parks Division, which pertain to the Southwest Coastal planning area, shall be reviewed by the Citizen Advisory Committee through the Department of Community Development to insure their compatibility with the community.
9. Emergency vehicles shall have access to the beach at all times. All other vehicles shall be prohibited from beach access south of Hug Point to the County line. The County supports the vehicle restrictions on the beach north of Hug Point.

Recommendation

1. Access points to the beach and streams should be provided for at the ends of platted and vacated streets, and shall not be unnecessarily impeded by shoreline protection, flood protection, and other structures. Access to the beach where possible should be made passable for the elderly or other persons with limited mobility. Further work needs to be done on who would maintain these access points.
2. It is recommended that horse traffic on the beach at Arch Cape should not be allowed by the Department of Transportation.
3. Mapping of the drainage systems in the planning area is necessary and should be considered as a future project when funds become available.

Headlands and Points Policies

1. The Arch Cape headland represents an important scenic landmark for the community, the region and the State. Although the upper portions of the headland lie within the boundaries of Oswald West State Park, the lower area abutting Arch Cape creek east of Highway 101 is not part of the area inventoried as a headland. It is privately owned and may be developed in the future. Development in this area shall be carefully controlled to insure that it is compatible with the headland. This may be accomplished by the maintenance of existing trees and natural vegetation, the requirements of the use of natural building materials such as cedar and stone, and the maintenance of low profile structures. As previously mentioned, buffers should be required adjacent to the Oregon Coast Trail, and the Arch Cape Creek. In addition, see Rural Service Area policy number 7*.

Coast Range Foothills, Basaltic Highlands, Sedimentary Uplands Policies

1. These landscape units are resource units and should be reserved primarily for timber production, wildlife habitat, recreation and mineral resources.