

**CALIFORNIA COASTAL COMMISSION**

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**Coastal Commission Actions & Dates**  
Hearing Opened & Continued: 4/14/99  
Substantial Issue Found: 3/16/00  
De Novo Hearing date: 3/7/2002

## **APPEAL STAFF REPORT DE NOVO HEARING**

**Appeal number** ..... A-3-SLO-99-019, La Playa San Simeon Homeowners Assn., et al  
**Applicants** ..... La Playa San Simeon Homeowners Assn., et al  
**Appellants** ..... Commissioners Tuttle and Nava  
**Local government** ..... San Luis Obispo County  
**Local decision** ..... Approved with conditions (February 5, 1999)  
**Project location** ..... 9221 through 9227, 9229, 9231 Balboa Avenue (west side of Balboa Avenue – North Coast Planning Area), San Simeon (San Luis Obispo County) (APN(s) 013-403-06, 013-403-12, 013-403-24)  
**Project description** ..... Construction of rip-rap revetment to protect three existing condominium structures, requiring access to the beach for the construction; removal and replacement of existing stairway to the beach.  
**File documents** ..... San Luis Obispo County Certified Local Coastal Program (LCP); Final Local Action Notice 3-SLO-99-018 and attached materials; geologic bluff studies: Mark Johnsson Field Review, Senior Geologist California Coastal Commission, May 1<sup>st</sup>, 2000; Earth Systems Consultants, March 19, 1998; Pacific Geoscience, Inc., October 3, 1986. Coastal Commission permit files 4-84-284, 4-86-236, 4-85-175, 418-28, 42-2, 125-29.

**Staff recommendation . Denial**

**Staff Note:** On March 16, 2000, the Commission found that the Appeal raised a substantial issue with respect to this project's conformance with the certified San Luis Obispo County LCP and took jurisdiction over the coastal development permit for the proposed project (A-3-SLO-99-019). At that time the Commission voted to continue the de novo hearing to a later date.

The continuance was requested by Commissioners in order to have a site review performed by the staff geologist. The purpose of this request was to evaluate the site's rate of bluff retreat and to evaluate the



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March 2002 Meeting in Monterey

Staff: J.Bishop Approved by: *(Signature)* 2/14/02

A-3-SLO-99-019 La Playa San Simeon Homeowners Assn., et al rip-rap stfrpt.doc

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necessity of the proposed rip-rap revetment. Mark Johnsson, Commission's staff Geologist visited the site on April 24th, 2000 to review the project. Dr. Johnsson concluded that the erosion rates used in the analysis of this project were accurate and rein concluded that the proposed rip-rap is unnecessary at this time. On Friday, February 8<sup>th</sup>, 2002 staff again visited the site. Based on the information gathered at this most recent site review, it appears that the bluff conditions are substantially the same. Further discussion of this most recent geologic evaluation and field review can be found in *Section 6.1-Geologic Conditions and Hazards* findings of this report.

Continuance also was due in part to a lack of information regarding the permit history of pre-existing development on the beach, including the rock rip-rap located seaward of the San Simeon Community Wastewater Treatment Plant, existing wooden access stairways, and sandbags located on the bluff face in the vicinity of the project site. Since the March 2000 Commission hearing, staff has conducted research into the permit history (if any) of the pre-existing development on the beach. At this time, it is unknown whether these pre-existing structures have been built with the benefit of a Coastal Development Permit. Subsequently, an enforcement case has been opened and possible violations will be handled through the Commission's Enforcement Program. Finally, recent site visits have led to the discovery of concrete and rebar debris on the beach in front of the project site. This debris may be a result of slumping fill material from the site and presents a public safety, access, and visual impact on the beach fronting the project. This situation has been reported to the Enforcement Program of the Commission and is being investigated for possible enforcement action.

**Summary of staff recommendation:** The Commission found that a substantial issue exists with respect to this project's conformance with the certified San Luis Obispo County Local Coastal Program (LCP) and took jurisdiction over the coastal development permit for the proposed project on March 16, 2000. This is the de novo coastal development permit hearing for the proposed development subject to appeal number A-3-SLO-99-019. Staff recommends that the Commission **deny** the coastal development permit for this proposed development as detailed in this staff report.

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### 1. Staff Report Summary

The Applicants propose to construct a bluff protective structure to protect three existing condominiums on blufftop lots located on the west side of Balboa Avenue in the community of San Simeon Acres, San Luis Obispo County (North Coast Planning Area). The proposed revetment would be approximately 120 feet in length, with a minimum width of 5 feet to a maximum width of 10 feet seaward of the toe of the



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bluff, covering approximately 960 square feet of a lateral public accessway already accepted by the County of San Luis Obispo.

On March 16, 2000, the Commission found a substantial issue in terms of the project's conformance with the certified LCP, thereby taking jurisdiction over the CDP for the proposed development, and voted to continue the de novo hearing to a later date.

### **1.1 Shoreline Structures**

The LCP limits the construction of shoreline structures to projects "necessary for protection an existing development". Commission staff, including the Commission's Senior Coastal Engineer and staff Geologist have reviewed the geotechnical analysis provided by the Applicants in support of the proposed project and have determined that the existing blufftop condominiums at the site are not significantly threatened as required by the LCP to allow for shoreline armoring and therefore that such armoring is unnecessary. The most seaward part of any principal structure is 16 feet from the bluff edge at this location and is not currently threatened by shoreline erosion. Although wave run-up during storm surge conditions can result in some storm attack at the base of the bluff, and although some scour is likely at the end of the existing revetment to the north of the site, such conditions do not create an *imminent* threat. Shoreline protection at this location, therefore, is inconsistent with the LCP.

Even were an existing structure in danger at this location, the LCP requires that "non-structural methods of protection (artificial sand nourishment or replacement) have been proven to be impractical or infeasible." In this case, the Commission's Senior Coastal Engineer has evaluated the project and determined that "drainage controls, an upper bluff retaining wall, sand replenishment, or maintenance programs" are reasonable engineering solutions that may address upper bluff issues at this site without requiring a shoreline structure. In other words, engineering alternatives are feasible, as is the "no project" alternative based on the lack of significant erosional danger to existing structures at this location; these less damaging alternatives have not been pursued. This is inconsistent with the LCP.

### **1.2 Public Access & Recreation**

According to Public Resource Code Section 30604(c) appealed projects located between the first public road and the sea must also be consistent with Coastal Act public access and recreation policies, as well as the certified LCP. The appellants contend that the proposed revetment would interfere with public access and recreation by covering up a significant area of the beach, and would be placed on top of an existing lateral access easement traversing at least two of the subject parcels. Additionally, the proposed development would replace existing private vertical access stairs located at the northernmost boundary of the site. The development of this site with a revetment that serves no public purpose, that is not



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necessary to protect an existing structure significantly threatened, that would unnecessarily degrade the adjacent beach recreational area, and that would displace other LCP-described priority uses, is inconsistent with the LCP and the Coastal Act.

The LCP and Coastal Act require protection of existing accessways. The proposed revetment would block an existing public lateral access easement. The County's previously required access mitigation for this impact was ambiguous and it is unclear if this accessway would be adequately protected. Were the revetment to be otherwise approvable (which it is not), both the lateral access easement and vertical access stairway required by the County and/or the Applicant's alternative access mitigation would need to be better defined (including both any legal instrument(s) and the proposed physical stairway replacement) in order to be found consistent with the LCP and the Coastal Act.

### **1.3 Visual Resources**

The LCP requires protection of existing visual access at this location. With the exception of the existing rip-rap, put in place to prevent further undermining of an existing San Simeon community Services District waterline/sewerline support structure (the status of the original coastal development permit for this rock is unknown at this time; however, additional rip-rap was approved by the County in 1995 pursuant to an emergency permit), a few wooden access stairways, and approximately 100 sandbags, the surrounding bluff face is free of protective structures. The proposed revetment would add a "hard" structure to the existing bluff face replacing relatively pristine ocean and bluff vistas at this location with an artificial rock pile. Travelers along this stretch of beach would no longer see a meandering coastal bluff altered only at its end by unsightly rock, but rather would see a large revetment in front of the previously unadorned bluff. This would negatively redefine the scenic corridor, reframe the ocean vista at this location, and upset the general viewshed of the open beach at this location. The Applicant's alternative proposal (concrete retaining wall) could act to alleviate some visual concerns if the proposed project were otherwise approvable. However, a vertical seawall also contains visual impacts, even if mitigated to the greatest extent feasible by colorizing and texturizing its surface. These negative viewshed impacts are inconsistent with the LCP.

### **1.4 Conclusion**

In sum, there is not a significantly threatened structure at this location. Even if such a case were clearly established, it is not clear that the proposed project would be the least environmentally damaging feasible solution to protect such a threatened existing structure. Even if it could then be demonstrated that the proposed revetment were the least environmentally damaging feasible solution, the impacts on public access and visual resources are considerable.



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**The project is inconsistent with the Coastal Act and certified LCP, unnecessarily impacts coastal resources, and staff is recommending denial.**

Finally, to restore coastal resources at the site, and in the interest of the public, if the rip-rap and sandbags located on or near this site are lacking permits, they must be removed and the site restored to its pre-violation status as soon as possible. Since removal and restoration constitute "development," any such activities will require CDPs; one for work on the beach (in the Commission's CDP permitting jurisdiction) and an appealable CDP for that portion in the County's CDP jurisdiction above the toe of the bluff. In any event, removal and restoration will be handled through separate enforcement action.

### **2. Local Government Action**

On February 5, 1999, the San Luis Obispo County Administrative Hearing Officer conditionally approved the project as D970319P; this action was not appealed to the San Luis Obispo County Board of Supervisors. Notice of this San Luis Obispo County final local action was received in the Commission's Central Coast District Office on February 24, 1999. See Exhibit A for the County's staff report, findings and conditions on the project. The Commission's ten-working day appeal period for this action began on February 25, 1999 and concluded at 5:00 P.M. on March 10, 1999. Valid appeals by Commissioners Tuttle and Nava were received during the appeal period.

### **3. Procedural History (Post-County Action)**

On April 14, 1999, the Commission opened and continued the substantial issue hearing on the appeal because the County had not delivered the Administrative Record on the County's decision to the Commission's Central Coast District office in time for Commission staff to prepare a staff report with a full analysis and recommendation for the Commission's April meeting. The applicant waived the 49 day hearing requirement on March 29, 1999. On March 16, 2000, the Commission found that the Appeal raised a substantial issue with respect to this project's conformance with the certified San Luis Obispo County LCP and took jurisdiction over the coastal development permit for the proposed project (A-3-SLO-99-019). At that time the Commission voted to continue the de novo hearing to a later date. The continuance was requested by Commissioners in order to have a site review performed by the staff geologist to evaluate the current and anticipated rate of bluff retreat. Continuance also was due in part to a lack of information regarding the permit history of pre-existing development on the beach, including the rock rip-rap located seaward of the San Simeon Community Wastewater Treatment Plant, existing wooden access stairways, and sandbags located on the bluff face in the vicinity of the project site. Further discussion of this most recent geologic evaluation can be found in *Section 6.1-Geologic Conditions and Hazards* of this report. Since the March 2000 Commission hearing, staff has researched



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the permit history of the existing development on the beach. At this time, it is not clear whether the existing development on the beach was built with the benefit of a Coastal Development Permit. The Commission's Enforcement Program has subsequently opened a potential violation case file.

### 4. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **deny** a coastal development permit for the proposed development.

***Motion.** I move that the Commission approve Coastal Development Permit Number A-3-SLO-99-019 for the developments proposed by the Applicant.*

***Staff Recommendation of Denial.** Staff recommends a **no** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.*

***Resolution To Deny The Permit.** The Commission hereby denies a coastal development permit for the proposed development on the grounds that the project will not conform with the policies of the San Luis Obispo County Local Coastal Program, and that it is located between the sea and the first public road nearest the shoreline and it will not conform with the access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse effects of the development on the environment.*

### Recommended Findings and Declarations

The Commission finds and declares as follows:

### 5. Project Description & Background

The proposed project involves the placement of rock rip-rap seaward of Balboa Avenue on the beach and bluffs of San Simeon Acres in San Luis Obispo County. The rip-rap revetment would be approximately 120 feet in length, range in height from 15.2 feet to 20 feet, and have a minimum width of 5 feet to a maximum width of 10 feet seaward of the toe of the bluff. The size of rip-rap to be used ranges from ¼ - to 5 ton rock with at least 50 percent of the rock at a size 3 tons or greater. To provide support for the structure and to minimize the potential for scouring underneath the structure, a 5-foot "key" would be



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excavated to a minimum depth of 2 feet into firm bedrock. The largest rock would be placed in the key, at the base and on the face of the structure. The face of the rip-rap structure would slope at a maximum of 1.5:1 (horizontal to vertical dimension) (see Exhibit D, Project Plans).

### **5.1 Regional Setting**

San Luis Obispo County is a rural county along California's scenic Central Coast, with roughly 100 miles of shoreline and a wealth of significant natural resources and agricultural lands. Urban development in the unincorporated area of the County's coastal zone is concentrated in the communities of San Simeon Acres (the area subject to this de novo review), Cambria, Cayucos, South Bay – Los Osos, Avila Beach and Oceano.

San Luis Obispo County's coastal setting make the area a desirable place to both live and visit. As a result, San Luis Obispo County has experienced significant growth since final certification of the LCP in 1988. According to figures developed by the Department of Finance (DOF), the county had a population of 204,448 at the time of LCP certification. By 2000 the population had grown to 245,025, an increase of almost 20 percent. This growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services but also the need for parks and recreational areas. For coastal counties such as San Luis Obispo where the vast majority of residents live within a half-hour of the coast, coastal recreational resources are seen as a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational systems such as that found in San Simeon Acres.

San Simeon Acres is part of a larger North Coast area including the town of Cambria and large rural grazing landholdings of the Hearst Ranch. The North coast area is home to some of the best recreational beaches in California. North Coast area beaches are generally the first beaches accessed by visitors coming from the north of San Simeon. With Highway 1 providing the primary access point from the north (including Monterey Bay and Big Sur) into the North Coast area, San Simeon Village, Hearst Memorial State Beach, San Simeon Acres, and Cambria are some of the first coastal areas that visitors encounter. As such, the San Simeon Acres beach area is an important coastal access asset for not only San Luis Obispo County, but also the entire central and northern California region.

See Exhibit C for regional location maps.

### **5.2 North Coast Area**

The North Coast Area extends from the Monterey/San Luis Obispo County line on the north to Point Estero on the south. It is rural, landscape, and forms a natural extension of the Big Sur coastline. The forested Santa Lucia Mountains form the backdrop and numerous perennial streams flow across narrow,



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grassy marine terraces. The shoreline is predominantly rocky with prominent headlands at Ragged Point, Point Sierra Nevada, and Piedras Blancas. Highway 1 parallels the shoreline and runs through the large rural grazing landholdings of the Hearst Ranch, south to the gradually broadening coastal terrace and small communities at San Simeon Acres and Cambria. Small-scale tourist facilities are located along Highway 1, along with the Hearst Castle, a State Park and a major visitor destination.

### **5.3 Project Location**

The proposed project is located on the bluffs and beach fronting the seaward end of Balboa Ave. The beach at this location is known locally as San Simeon Acres, approximately 3 miles south from Hearst Castle. Originally part of the old Rancho San Simeon, the community of San Simeon Acres lies along the Pacific Ocean overlooking San Simeon Bay. San Simeon is a small commercial village developed to provide tourist/recreation services along the central coast. There are 706 visitor-serving hotel and motel rooms currently in San Simeon Acres. Because of the large number of second homes and resulting high vacancy rates, the actual permanent population of San Simeon Acres is difficult to estimate. According to the 1990 U.S. census, San Simeon Acres had a permanent population of 128. Recent County estimates place the current population at approximately 248 and list a total of 330 dwellings.

This narrow beach is defined on its inland edge by relatively low coastal bluffs (approximately 15 feet high). The toe of the bluff is fronted by beach deposits, which also surround isolated scattered outcrops of resistant bedrock. The bluff face exposes three different soil units: topsoil, terrace deposits, and artificial fill. These units overlie dense sandstone of the Franciscan Formation. The northern portion of this site is bound by the east-west trending Arroyo Del Padre Juan Creek and the San Simeon Acres Community Service District wastewater treatment plant. To protect the wastewater plant from creek and sea wave erosion, the County of San Luis Obispo constructed a rip-rap bank/bluff protection structure at the site. The southern portion of this coastal area is currently undeveloped.

### **5.4 Project Description**

The applicants propose to construct a rock revetment to protect the three existing blufftop condominium developments. The project is located on the seaward side of Balboa Avenue, in the community of San Simeon, San Luis Obispo County (9227 Balboa (APN 013-403-12) is a one-story, four-unit development, and 9229 Balboa (APN 013-403-006) and 9231 Balboa (APN 013-403-024) are two-story, five-unit condominiums). Location maps are attached as Exhibit C.

The applicants are proposing to place rip-rap along the bluff face, extending from the existing stairway located at 9227 Balboa (APN 013-403-12) to the northern portion of 9231 Balboa (APN 013-403-24), where the proposed rock will tie in with the existing rock located seaward of the San Simeon Acres



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Community Services District wastewater treatment plant (Project plans are attached as Exhibit D). The proposed revetment would be approximately 120 feet in length, with a minimum width of 5 feet to a maximum width of 10 feet seaward of the toe of the bluff (according to submitted project plans, the majority of the revetment will be located a distance of approximately 8 to 9 feet seaward of the toe of the bluff).

The existing stairway used for private access to the beach is located between 9229 and 9231 Balboa would be removed during construction activities and reconstructed to extend past the proposed revetment. In addition, an improved temporary accessway for construction equipment is proposed from Cliff Avenue, approximately 600 feet north of the project site, in order to perform the necessary work on the beach. The beach in this area is characterized by low bluffs, approximately 15 feet in height, which are mostly unarmored, except for an existing rip-rap revetment located along the bluff face, north of the project site, in front of the wastewater treatment plant. See Exhibit D for proposed project plans.

### 6. Coastal Development Permit Determination

When the Commission found a substantial issue in terms of the project's conformance with the certified LCP on March 16, 2000, the Commission took jurisdiction over the CDP for the proposed project. The standard of review for this CDP determination is the County LCP and the Coastal Act's access and recreation policies.

#### 6.1 Geologic Conditions and Hazards

##### 6.1.1 LCP Policies

The County-approved rip-rap revetment is inconsistent with the following LCP requirements regarding construction of shoreline protective devices for existing development.

**Hazards Policy 4: Limitations on the Construction of Shoreline Structures.**

*Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for:*

- a. protection of existing development...;*
- b. public beaches and recreation areas in danger of erosion;*
- c. existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible.*

*...Where shoreline structures are necessary to serve the above, siting shall not preclude public access to and along the shore and shall be sited to minimize the visual impacts,*



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*erosive impacts on adjacent, unprotected property, encroachment onto the beach and to provide public overlooks where feasible and safe. The area seaward of the protective devices shall be dedicated for lateral public access.*

### **CZLUO Section 23.05.090 – Shoreline Structures.**

**c. Required Findings.** *In order to approve a land use permit for a shoreline structure, the...applicable review body shall first find that that the structure is designed and sited to:*

- (1) Eliminate or mitigate adverse impacts on the local shoreline sand supply as determined by a registered civil engineer or other qualified professional; and*
- (2) Not preclude public access to and along the coast where an accessway is consistent with provisions of section 23.04.420; and*
- (3) Be visually compatible with adjacent structures and natural features to the maximum extent feasible; and*
- (4) Minimize erosion impacts on adjacent properties that may be caused by the structure; and...*
- (5) Not adversely impact fish and wildlife; and*
- (6) That non-structural methods of protection (artificial sand nourishment or replacement) have been proven to be impractical or infeasible.*

Under the LCP in this case, clearly the first and most important test of this policy is to determine whether or not the proposed development is “necessary” to protect existing development.

### **6.1.2 Defining the Threat to the Existing Structure**

San Luis Obispo County LCP Hazards Policy 4 limits the construction of shoreline structures to those *necessary* to protect existing development, beaches and recreation areas in danger of erosion, or for the protection of existing public roadway facilities to public beaches and recreation areas where no alternative routes are feasible. In this case, the applicants have requested that the rip-rap revetment be constructed to protect the three existing condominium developments.

To show that the condominiums are in danger from erosion, there would need to be an *imminent* threat to these structures. While each case is evaluated based upon its own merits, the Commission has generally interpreted “imminent” to mean that a structure would be imperiled in the next two or three storm cycles (generally, the next few years). The Commission must always consider the specifics of each individual project, but has found that accessory structures (patios, decks, stairways, etc.) are not required to be protected, or can be protected from erosion by relocation or other means that do not require shoreline armoring. In their correspondence (attached as Exhibit N), one of the applicants refers



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to the condominium building at 9229 Balboa as being located approximately 13 feet from the edge of the bluff. However, based on submitted project plans, this measurement was taken from the edge of the patio, and not the actual condominium building. Based on the understanding that blufftop setback measurements exclude such accessory structures, this condominium is actually located approximately 16 feet from the top of the bluff, and represents the primary structure located closest to the blufftop.

The applicants have submitted a geotechnical report that documents the geologic structure and recent history of the bluffs in the project area (Earth Systems Consultants, March 19, 1998). Bluff retreat rates can be difficult to accurately measure. In this case, the most recent bluff retreat rate was estimated from the total amount of bluff lost since 1957 (measured from a Caltrans air photograph) and averaging that amount over the 41-year period. This study, in conjunction with consideration of present soil composition, slope angle, and potential for slumping, resulted in an average bluff retreat rate of 5 to 6 inches per year. The geotechnical report states in relevant part:

*The results of two measurements indicated that there was approximately 16 feet of bluff retreat between 1957 and 1998, or an average bluff retreat rate of almost 5 inches per year. It was also concluded that the fill soils would retreat at a slightly faster rate of 6 inches per year due to their loose, uncompacted condition.*

Along much of the California coast, erosion and bluff retreat result from a combination of processes. Especially important are wave erosion, groundwater, and surface drainage. The geotechnical report does not provide any detailed discussion concerning the various conditions that contributed to this historic retreat. However, since the retreat from 1957 to 1998 totaled 16 feet and during a portion of this 41 year period, from 1989 to 1999, the bluff eroded 13 feet, it appears that 80% of the 16 feet of retreat for the 1957 to 1998 time period has occurred since 1989. Based on these figures, bluff erosion for the 32 year period between 1957 and 1989 averaged approximately 1.5 inches a year, while the erosion rate for the 10 year period between 1989 and 1999 averages 1.6 feet a year – a ten fold increase. In addition, the applicants' civil engineer submitted a letter, dated December 29, 1999 (attached as Exhibit L), subsequent to the geotechnical report, which asserts the following:

*We have determined, based on a record development plan and recent field measurements, that there has been approximately 13 feet of bluff erosion since 1989, a short term bluff retreat rate in excess of over one foot per year.*

No supporting data has been submitted to support this claim that the bluff has experienced a short-term increase in retreat rate, which contradicts an original geotechnical report prepared for the condominiums. Bluff retreat is typically episodic, with periods of rapid retreat interspersed with periods of lower erosion. Staff observations of the site over the past two years have indicated that the rapid erosion indicated for the 1989-1999 period (which may have occurred over a shorter time span than the 10 years



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bracketed by that interval) has not continued to the present. It thus seems likely that a period of accelerated erosion, perhaps related to the 1997-1998 El Nino, occurred at the site and lead to an alarming amount of bluff retreat, but that this retreat has since abated to a large degree.

A comparison of the three condominium's original blufftop setbacks with existing blufftop setbacks does reveal that recent bluff retreat (over the last twenty years) has exceeded the estimated retreat rates used to establish the original blufftop setbacks at the time of coastal development permit approval of the condominiums. The table below outlines these varying bluff retreat rates and building setbacks.

Property	Year of Project Approval/ Completion	Original Building Setback	Original Estimated (Long-Term) Bluff Retreat Rate	Current Building Setback (based on submitted plans)	Recent Bluff Retreat Rate <sup>2</sup>
9227 Balboa	1980/1985 <sup>1</sup>	25'	3-6 in./year	17'	5 in./year
9229 Balboa	1986/1989	27'	4 in./year	16'	9 in./year
9231 Balboa	1977/1984	23'	unknown	23'	0 ft./year <sup>3</sup>

<sup>1</sup> Exact year not known; however, was completed between 1981 and 1985.

<sup>2</sup> Calculation: (Original Building Setback - Current Building Setback) ÷ (Present Year - Year of Project Approval).

It should be noted that the estimated recent bluff retreat rates shown in the table above are representative of a fairly short period of time and may not be as accurate as estimates made over a much longer time span.

At the March 16, 2000 hearing, the Commission requested that an updated geotechnical evaluation be conducted. In this case, a further analysis of the potential factors contributing to an accelerated rate of erosion and an assessment of whether the bluff will continue to retreat at an increased rate in the future was performed. Staff Geologist Mark Johnsson visited the site in March of 2000 and re-confirmed the erosion rates and bluff setback data presented in this analysis (See Exhibit O). Furthermore, the report attributes much of the erosion and episodic slumping to "surficial erosion and groundwater processes," rather than wave run-up and marine scouring. As shown in the bluff study, the bluff is located well above the highest high tide line. Even the maximum wave run-up height calculated in the study (wave height of three feet, period of five seconds) only reaches an elevation of 14.2 feet, impinging on only the lowest 2.5 feet of the bluff. Thus, it appears that much of the bluff erosion appears to be related to groundwater processes within the fill and at the fill/terrace border, not wave action.

Given both the retreat rates quoted above, the current distance of the condominiums from the bluff edge, and the analysis of the mechanisms of bluff erosion and retreat, Dr. Johnsson does not recommend an artificial revetment at this time. He states:



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*"The structures at Balboa Avenue do not appear to be in imminent danger from erosion, and the erosion that is occurring seems to be related principally to groundwater processes. Except from buttressing the toe of the slope, a revetment would have limited effect in slowing retreat of the part of the bluff on which is exposed artificial fill. Those portions of the slope in which terrace deposits are exposed are not undergoing retreat rates that will threaten the structures for at least the next 20 years."*

Due to the amount of time that has elapsed since the last geotechnical evaluation, a follow-up site visit was performed by Commission staff on February 8<sup>th</sup>, 2002. The purpose of the site visit was to evaluate the current condition of the bluff and to observe any significant changes that may have occurred since the last field review was conducted. Existing conditions were observed from the beach as well as from the top of the bluff. Generally, it appears that the bluff condition is substantially the same.

First, the bluff was observed from the beach in order to document any episodic slumping or new bluff failures. Slumping was observed in two areas, principally in front of 9229 Balboa Avenue. In this general vicinity only one large piece of concrete was dislodged and had fallen onto the beach. This occurred approximately 2.5 feet up from the toe of the bluff, in an area overgrown with iceplant. Clearly, this concrete piece was part of the exposed artificial fill documented in previously cited bluff studies. A comparison of photos taken from the previous site visit reveals that bluff slumping in this area has not changed dramatically.

Secondly, measurements were taken from atop the bluff in order to observe any changes to the distance that the condominiums are setback from the top of the bluff. Measurements were taken from six (6) locations that coincided with the 1998 Topographic Survey performed by North Coast Engineering. At each location, the setbacks appear not to have changed. It should be noted that these measurements were not meant to be exact, but only used as a reference to show if dramatic changes had since occurred. Based on the current information gathered by Commission staff, the bluff appears to be in substantially the same condition. Although some areas continue to erode sporadically, the condominiums still do not appear imminently threatened.

Based on the table above, combined with the most recent geotechnical analysis, and assuming that the retreat rate of the bluff in this area currently ranges from 5 to 9 inches per year, the structure located at 9227 Balboa will not be undermined for approximately 23 to 40 years. Although the structures might be threatened before foundation elements are actually undermined, the bluff is not likely, based on the data presented above, to encroach within a 6-foot buffer zone for at least 15 to 26 years. Therefore, the structure is not considered to be in imminent danger. The condominium building located at 9229 Balboa will not be undermined for at least another 21 years. Again, with the consideration of a six-foot buffer, this structure would not be threatened for at least 13 years, and therefore, is not considered to be in imminent danger. Finally, the third parcel, located at 9231 Balboa, has shown no sign of bluff retreat in



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recent years and this property still has its full setback. The property is partially protected by the revetment, seaward of the San Simeon Community Services District wastewater treatment facility (the status of the original coastal development permit for this rock is unknown at this time; however, additional rip-rap was approved by the County in 1995 pursuant to an emergency permit). Although the rock revetment has not protected a portion of the bluff in front of this condominium building, limited signs of bluff retreat are visible in this area. This building has, nevertheless, been included in the application for shoreline protection and its erosion history is considered in the full review of the proposal.

Overall, even the worst case scenario presented by the applicants does not support a finding that the structures are in danger from erosion. Recent geotechnical studies at the site do not justify a revetment at 9227-9231 Balboa Avenue at this time. Lacking a demonstrable imminent threat, the proposed revetment is unnecessary and inconsistent with LUP Policy 4, and CZLUO Section 23.05.090. The coastal development permit for the project, as submitted and approved by the County, should be denied based on inconsistencies with LCP requirements and the lack of an *imminent* threat to the existing blufftop condominiums.<sup>1</sup>

### 6.1.3 Visual Compatibility

CZLUO Section 23.05.090 c(3) states that shoreline structures shall be sited to be visually compatible with the surrounding structures and natural features. With the exception of the existing rip-rap, put in place to prevent further undermining of an existing San Simeon Community Services District waterline/sewerline support structure, sandbags, and a few wooden access stairways, the surrounding bluff face is free of protective structures and appears as a natural, unaltered marine terrace (please see photos attached as Exhibit E). Much of the blufftop south of the project site is undeveloped, and any new development will be sited an appropriate distance from the bluff edge to prevent a need for shoreline protective devices. Thus, it can be assumed that the area will remain in a relatively unaltered state, and therefore, the construction of a shoreline structure, at least as currently proposed, would not be visually compatible with the natural features of the area. This issue is further discussed in the Visual Resources section of this report.

### 6.1.4 Alternatives to Shoreline Protection

CZLUO Section 23.05.090 also requires that findings be made, prior to considering a shoreline structure such as a rock revetment or seawall, that any non-structural methods of protection have been explored and proven to be impractical or infeasible. Insufficient evidence has been provided to indicate that the

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<sup>1</sup> See also discussion in Finding 6.1.6 of coastal development permit history of the condominiums.



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requirements of Subsection c(6) have been satisfied. The geotechnical report notes that, "The main conditions that contributed to the bluff instability are the low strength of the soil when wet and the steep slope angle of the bluff face." Further, there is some evidence that the bluff slumping is due to groundwater. However, there has been no consideration of drainage controls or non-structural efforts to reduce this component of bluff instability. The only alternatives proposed in the geotechnical report are structural, and no discussion of non-structural methods of protection is included (see Exhibit M). Insufficient evidence has been provided to show that alternatives such as drainage controls, an upper bluff retaining wall, sand replenishment or maintenance programs on the blufftop itself have been examined and deemed infeasible. Nor, has it been demonstrated that the structures are in imminent danger from erosion. In the discussion of a retaining wall option (proposed subsequent to County approval), the reason given for prompt action is "delaying installation of a bluff protection structure will result in extreme construction cost inflation because more expensive structural construction methods may need to be employed the closer the erosion gets to the structures." It is possible that with the proactive implementation of some non-structural protection methods, the need for these more expensive construction methods can be avoided or postponed for many years.

There are several alternatives to the subject revetment extension that are feasible in this case and which would not involve the substantial negative impacts to coastal resources that would be expected from the proposed project. The solution most consistent with the LCP would be a combination of drainage control and groundwater management. The Commission's Senior Geologist has concluded that this is indeed a feasible engineering solution at this location. Accordingly, the proposed revetment extension is unnecessary and is inconsistent with LUP Policy 4 and CZULO Section 23.05.090

Therefore, even if the case were made that a structure was at risk, it is premature for the applicants to conclude that the preferred alternative is a rip-rap revetment or a vertical seawall (proposed subsequent to the County's approval of the rip-rap revetment), lacking an in-depth analysis of impacts, potential mitigations and potential design alternatives. The request for a coastal development permit for the project, as submitted and approved by the County, should be denied based on its inconsistencies with LCP requirements and the applicants' lack of consideration of alternatives to the proposed shoreline structure.

### **6.1.5 Sand Supply Impacts**

The LCP requires that "In order to approve a land use permit for a shoreline structure, the...applicable review body shall first find that the structure is designed and sited to: (1) Eliminate or mitigate adverse impacts on the local shoreline sand supply..." (CZLUO Section 23.05.090(c)(1)). The County asserts that this is the case, however, there is no discussion of this issue in the County findings. The Commission's experience statewide has been that shoreline protection structures have a significant and measurable effect on shoreline process and sand supply. The natural shoreline processes referenced in



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the subject LCP policies, such as the formation and retention of sandy beaches, can be significantly altered by construction of protective structures, since bluff retreat is one of several ways that beach quality sand is added to the shoreline. Bluff retreat and erosion is a natural process resulting from many different factors such as erosion by wave action causing cave formation, enlargement and eventual collapse, saturation of the bluff soil from ground water causing the bluff to slough off, and natural bluff deterioration. Shoreline armoring directly impedes these natural processes.

Beach material comes to the shoreline from inland areas, carried by rivers and streams; from offshore deposits, carried by waves; and from coastal dunes and bluffs, becoming beach material when the bluffs or dunes lose material due to wave attack, landslides, surface erosion, gulying, et cetera. Coastal dunes are almost entirely beach sand, and wind and wave action often provide an on-going mix and exchange of material between beaches and dunes. Many coastal bluffs consist in whole or in part of marine terrace deposits – sediment formed on ancient shore platforms and beaches when the land was lower relative to the sea than it is today (as is the case in San Simeon Acres). Much of the material in the terraces is often beach quality sand or cobble, and a valuable contribution to the littoral system when it is added to the beach. Bluff erosion is a natural means by which this material is added to the beach. When the back beach or bluff is protected by a shoreline protective device, the natural contribution of material from the bluff to the beach will be interrupted and there will be a measurable loss of material to the beach.

Some of the effects of engineered armoring structures on the beach (such as scour, end effects and modification to the beach profile) are temporary or difficult to distinguish from all the other actions which modify the shoreline. Such armoring also has distinct qualitative impacts to the character of the shoreline and visual quality. However, some of the effects that a structure may have on natural shoreline processes can be quantified, including: 1) loss of the beach area on which the structure is located; 2) the long-term loss of beach which will result when the back beach location is fixed on an eroding shoreline; and 3) the amount of beach quality material which would have been supplied to the beach if the back beach or bluff were to erode naturally.

In this case, the proposed revetment would extend along the bluff headland fronting Balboa Avenue. As such, the loss of the beach area on which the structure would be located (approximately 960 square feet) is potentially significant. Due to a lack of information regarding the project's impacts to sand supply, the proposed project is also inconsistent with CZLUO Section 23.05.090(c)(1).

### 6.1.6 Permit History/Deed Restrictions

All three parcels have a coastal development permit history. In particular, each was reviewed for consistency with Coastal Act Section 30253, which states in relevant part:



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*New development shall (1) minimize risks to life and property in areas of high geologic, flood, and fire hazard. (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

It should also be noted that both 9227 and 9229 Balboa (APNs 013-403-012 and 013-403-006, respectively) have recorded deed restrictions on the property, pursuant to a condition of the coastal development permits originally issued for the construction of the two condominium structures. These restrictions require the property owners to assume the risk of storm wave runoff and shoreline erosion associated with a blufftop parcel. The content of the deed restrictions are discussed below.

Coastal development permit 4-86-236 was issued to Midland Pacific Building Corporation in 1986, for a two-story, 5-unit condominium development on parcel number 013-403-006 (formerly 013-031-030), noted as Lot B (9229 Balboa) on the project site plan. The previous geological analysis of this site was reported (Pacific Geoscience, Inc., October 3, 1986) and summarized in the Commission staff report prepared at that time (an excerpt of the staff report is attached as Exhibit J). The recorded deed restriction for this parcel includes an assumption of risk, attached as Exhibit H, which states in relevant part:

*...The undersigned Owner, for himself/herself and for his/her heirs, assigns, and successors in interest, covenants and agrees that they understand that the site may be subject to extraordinary hazards from the storm wave runoff and associated shoreline erosion and they assumed the liability from such hazards; and unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards....*

Coastal development permit 418-28 was issued to Robert and Carol Sessa in 1980, for a one-story, 4-unit condominium development on parcel number 013-403-012 (formerly 013-036-065), noted as Lot C (9227 Balboa) on the project site plan. The previous geological analysis of this site was reported and summarized in the Commission staff report prepared at that time (an excerpt of the staff report is attached as Exhibit K). The recorded deed restriction for this parcel, attached as Exhibit I, includes an assumption of risk, similar to the restriction noted above, and a limitation on future requests for a seawall, which states in relevant part:

*...The [applicant] agrees that...(d) any future requests for a seawall or protective devices will not be evaluated upon the necessity of saving the structure, but shall be evaluated on*



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*a balance of the Coastal Act Policies and by so doing shall minimize impacts on policy areas including, but not limited to, public access, scenic quality and natural landforms...*

Coastal development permit 125-29 was issued to J.A. & R.M. Stinson in 1977 to construct a two-story, 5-unit apartment building on parcel number 013-403-024 (formerly 013-031-029), noted as Lot A on project plans. Although this parcel does not have a similar deed restriction as those stated above, a finding was made regarding the geologic stability of the site, which states in relevant part:

*The proposed site is underlain with a rock known as the Franciscan formation whose instability and potential erosion problems have been well documented by the Cal. Division of Mines and Geology. Prior to the development of this lot a geologic report should be filed which...express[es] the professional opinion as to whether the project can be designed so that it will neither be subject to nor contribute significantly to geologic instability throughout the lifespan of the project.*

This finding recognizes the potential for erosion problems on the subject parcel and addresses the need to locate development so that it will neither be threatened by bluff retreat, nor contribute significantly to bluff failure. Although staff has not been able to determine when such a report was done, these findings indicate that the applicant was apprised of the risks of development in this location, and that the condominium building should have been set back an appropriate distance, based on a geologic report filed prior to construction, to prevent the need for a shoreline protective structure.

In addition, coastal development permit 4-84-284, issued for the conversion of the apartment building to condominium purposes, was conditioned to require the property owner to make an irrevocable offer to dedicate both lateral and vertical public access easements to a public agency or private organization approved by the Executive Director of the Coastal Commission.

Blufftop setbacks are established for the purpose of locating development out of harms way, without the need for a shoreline protective device, for the life of the structure, typically estimated at 75 years. Oftentimes, the distances of these setbacks meet or exceed conclusions made in geologic reports. When two of the condominium buildings (9227 and 9229 Balboa) were originally constructed, they were set back 25 feet from the bluff edge, pursuant to conclusions made in geologic studies for the sites and surrounding area (erosion rates of 3-6 in/yr and 4 in/yr, respectively). With these setbacks, the structures were, in theory, setback for at least 75 years without risk from shoreline erosion.<sup>2</sup>

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<sup>2</sup> In adopting these findings, and in light of the permit history of these structures, the Commission expresses no opinion as to whether the condominiums previously approved under Coastal Act section 30253, if shown to be in danger from erosion sometime in the future, would qualify for shoreline protection under Coastal Act section 30235 as "existing structures".



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### **6.1.7 Geologic Conditions and Hazards Conclusion**

Commission staff, including the Commission's Senior Coastal Engineer and Senior Geologist have reviewed the geotechnical analysis provided by the Applicants in support of the proposed project and have determined that neither of the existing blufftop structures are imminently threatened as required by the LCP to allow for shoreline armoring. Recent site visits and bluff studies conducted by Commission staff reinforce this determination. Furthermore, there are feasible alternatives for maintaining the bluff, including those that do not involve constructing the revetment. As such, the Commission finds that the proposed revetment request is unnecessary and inconsistent with the certified LCP policies discussed in this finding and is therefore denied. Finally, sand supply impacts were not addressed in the County's review of the proposed project. Due to a lack of information regarding the project's impacts to sand supply, the proposed project is also inconsistent with CZLUO Section 23.05.090(c)(1) and is therefore denied.

### **6.2 Public Access and Recreation**

The project is located between the first public road and the sea. As such, the project must be consistent not only with the certified LCP but also the access and recreation policies of the Coastal Act. Sections 30210 through 30214 of the Coastal Act state that maximum access and recreation opportunities to be provided, consistent with, among other things, public safety, the protection of coastal resources, and the need to prevent overcrowding. Coastal Act Sections 30210 and 30211 specifically protect the public's right of access to the blufftop and sandy beach in front of the condominiums.

#### **6.2.1 Applicable Policies**

**Coastal Act Section 30210.** *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

**Coastal Act Section 30211.** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

**Coastal Act Section 30221.** *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future*



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*demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Coastal Act Section 30240(b) also protects parks and recreation areas. Section 30240(b) states:

*Section 30240(b). Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

**LCP Shoreline Access Policy 2: New Development.** *Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development . . .*

**CZLUO Section 23.04.420: Coastal Access Required.** Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section...

### 6.2.2 Blocked Public Access

When two of the condominiums (9227 and 9229 Balboa) were originally permitted, and when 9231 Balboa converted from an apartment building to a condominium, the property owners were required to make an irrevocable offer to dedicate a lateral easement for public access and passive recreational uses running the entire width of the property, from the mean high tide line to the toe of the bluff (please see Exhibit F and G for two of the three deed restrictions). San Luis Obispo has since accepted and thus manages those public lateral access easements, which are solely for public access and recreational use. The proposed revetment would cover approximately 960 square feet (120 feet in length multiplied by an average of 8 feet in width) of sandy beach easement area. This is in direct conflict with the public rights that have been established by virtue of the access dedications. The effect of covering this beach area with the proposed revetment would be to remove a portion of the beach from public use. At higher tides, the impact on public use of this area of the beach would be exacerbated given that tidal influence foreshortens the beach at these times. Another effect would be to further limit the public's ability to gain access both up and down the coast laterally along this stretch of beach, particularly at higher tides. Furthermore, the rocks that make up rip-rap revetments can tend to migrate onto the beach and present a public access and public safety impediment.

The applicant's engineer has proposed several structural alternatives including a proposal for a vertical seawall. In the short term, the vertical seawall proposal, involving cutting and filling of the existing bluff, may have a lesser impact on public access than the proposed revetment, as it would not necessitate



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covering a significant portion of the sandy beach (please see Exhibit M). However, in the long-run, as is true of most shoreline structures, the seawall would eventually cause the dry beach to disappear, as explained in more detail below, which leaves the seawall to protrude into the ocean, thereby inhibiting public access to and along the beach.

The above mentioned adverse public access impacts contradict Coastal Act Sections 30210, 30211, and 30221, which protect such recreational areas and the public's right of access thereto. Furthermore, in addition to the direct loss of useable recreational beach area, the introduction of the proposed revetment would tend to have a number of long term effects on the dynamic shoreline system and the public's use of the beach. First, the revetment would lead to a progressive loss of sand as shore material is not available to nourish the sand supply system. Second, and particularly in combination with the loss of sand generating materials, the proposed revetment would fix the back beach location. The effect on public use is that the useable beach space narrows; eventually this beach area between the revetment and the water would be expected to disappear. Third, changes in the shoreline profile, particularly changes in the slope of the profile which result from a reduced berm width, alter the useable beach area restricted for public access. A beach that rests either temporarily or permanently at a steeper angle than under normal conditions will have less horizontal distance available for the public to use. This reduces the actual area in which the public can pass on property restricted for public access. Fourth, the proposed revetment would cumulatively affect public access by causing accelerated and increased erosion on the adjacent beaches. This effect may not become clear until such devices are constructed individually along a shoreline. Fifth, since the proposed revetment is not sited so far landward that it would only be acted upon during severe storm events, beach scour, particularly during the winter season, will be accelerated because there is less beach area to dissipate the wave's energy. This will act to exacerbate the narrowing of the useable beach space available for public access. It should be noted that no site specific evidence has been submitted by the applicants to address these generally well documented impacts of shoreline structures.

### **6.2.3 Public Access and Recreation Conclusion**

Overall, even if the proposed revetment or vertical seawall were consistent to this point with the County's LCP, the Commission finds that the proposed shoreline structures are inconsistent with the beach access and recreational use policies of Coastal Act Sections 30210, 30211, and 30221, LCP Shoreline Access Policy 2 and CZLUO Section 23.04.420. Because of these access inconsistencies, and because the revetment is not otherwise approvable (as detailed in the previous geologic findings), the Commission denies the proposed revetment project.



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### 6.3 Visual Resources

#### 6.3.1 Applicable Policies

Visual access to and along the coast is a form of public access. As such, and as described in the above public access and recreation finding, the standard of review for visual access is not only the certified LCP but also the access policies of the Coastal Act. Applicable Coastal Act policies are:

*Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

*Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

*Section 30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The San Luis Obispo County LCP addresses the need to protect the scenic and visual qualities of the coast. Applicable policies are discussed below.

#### **Visual and Scenic Resources Policy 1: Protection of Visual and Scenic Resources.**

*Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, and in visually degraded areas restored where feasible.*

#### **Visual and Scenic Resources Policy 2: Site Selection for New Development.**

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors....*



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### **Visual and Scenic Resources Policy 10: Development on Beaches and Sand Dunes.**

*Prohibit new development on open sandy beaches, except facilities required for public health and safety (e.g. beach erosion control structures)....*

#### **6.3.2 Visual Access Issues**

The proposed rip-rap revetment has potential to adversely impact the scenic and visual qualities of the area. Impacts on the public viewshed have not been adequately addressed through exploration of alternative revetment designs, the project has not been designed to minimize the alteration of natural landforms, and it is not visually compatible with the character of the surrounding area. Commission experience in other Central Coast communities has shown that it is possible to minimize the visual impacts associated with rock revetments through landscape 'caps' and sand camouflaging. For example, in Carmel, 35-foot tall rock revetments are essentially invisible to the public eye because they have been constructed with landscaping elements that drape over the top of the rocks and sand which is piled up at the base of the structures. Regular maintenance, particularly following storm events, keeps these revetments camouflaged and the visual impacts are essentially eliminated. Although the proposed revetment is somewhat smaller in size than the example given, it is possible that alternatives revetment designs, if done with consideration for impacts to visual resources and natural landforms, may be more appropriate in the area.

The applicants' alternative proposal for a vertical seawall may have similar impacts on the visual resources of the area. Because the beach and bluff face surrounding the project is relatively free of shoreline armoring devices, any form of protective structure will essentially alter the natural characteristics of the San Simeon Acres beach area.

Visual Resource Policy 10 prohibits new development on beaches, except for facilities required for the health and safety of the public. Insufficient evidence has been provided to conclude that the proposed revetment is necessary to protect the public from coastal hazards related to bluff erosion, and therefore, the project does not meet the requirements of this policy.

#### **6.3.3 Visual Access Conclusion**

In conclusion, based on the intent of these policies to protect the unique and attractive features of the landscape, preserve views to and along the ocean, and protect the health and safety of the public, in conjunction with the previous analysis of the project's inconsistency with CZLUO Section 23.05.090, the project is inconsistent with Visual Resource Policies 1, 2, and 10 of the LCP.

In sum, the proposed project is inconsistent with the visual policies cited in this finding and is therefore denied. Denial of the project retains the existing scenic viewshed at this location "to the maximum



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extent possible" consistent with LCP and Coastal Act policies which protect this resource.

### **6.4 California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. All of the issues previously forwarded to the County in early 1998 during the CEQA review period are the same issues that have been discussed in this appeal. There are crucial information gaps, a lack of critical analyses, and major LCP and Coastal Act policy inconsistencies. Most importantly, the geotechnical information available shows that there is not an existing structure that is significantly threatened at this location that would warrant the proposed shoreline protection and the range of negative coastal resource impacts associated with it.

As illustrated by the findings in this staff report, the Commission finds that the proposed revetment would result in significant adverse effects on the environment within the meaning of CEQA and that the "no project" alternative is the least environmentally damaging feasible alternative to the proposed project. Accordingly, the proposed project is not approvable under CEQA and is denied.



**EXHIBIT B**  
**Conditions of Approval - D970319P**

**Approved Development**

1. This approval authorizes the installation of a riprap bluff protection structure, minor grading and temporary beach access for construction equipment.

**Site Development**

2. Site development shall be consistent with the approved site plan and elevations. All work shall be done consistent with Earth Systems Consultants Geologic Bluff Study dated March 19, 1998, as well as specific conditions of this permit approval.
3. The applicant shall place the toe of the new seawall as close as feasible to the existing toe of bluff. In no case shall the end of the seawall encroach more than 10 feet seaward beyond the existing seawall located on the northernmost lot of La Playa and the adjacent lot to the north.
4. Prior to issuance of a construction permit, the applicant shall submit a sample of rock material to be used for bluff protection or a letter from a geologist verifying the similarity of the rocks to be used with the existing rocks. If possible, rocks used for bluff protection construction shall be of similar geologic type and appearance as the existing rocks within the bluff face and in the immediate area.

**Archaeology**

5. In the event archaeological resources are unearthed or discovered during any construction activities, the following standards apply:
  - a. Construction activities shall cease, and the Environmental Coordinator and Planning Department shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may be accomplished in accordance with state and federal law.
  - b. In the event archaeological resources are found to include human remains, or in any other case where human remains are discovered during construction, the County Coroner is to be notified in addition to the Planning Department and Environmental Coordinator so that proper disposition may be accomplished.

**Bluff Setback Landscaping Material**

6. Any landscaping material placed within the 25 foot bluff top setback shall be drought tolerant and not require the use of irrigation or watering with the exception of natural rainfall.

EXHIBIT NO.	A
APPLICATION NO.	A-3-SLO-99-019
Approval Conditions	
1 of 3	

Public Access

7. **Prior to issuance of a construction permit**, the applicant shall execute and record an offer of dedication for public access along the shoreline. The offer of dedication shall provide for lateral access of twenty-five (25) feet of dry sandy beach along the shore to be available at all times during the year, or from the mean high tide to the toe of the bluff where topography limits the dry sandy beach to less than twenty-five (25) feet, as well as room for any improvements required by Coastal Zone Land Use Ordinance Section 23.04.420 - Coastal Access. The offer shall be in a form acceptable to County Counsel, and shall be approved by the Planning Director and the Executive Director of the California Coastal Commission prior to the issuance of a construction permit.
8. **Prior to final inspection**, the northern set of stairs proposed for replacement may be reconstructed if accessible for public access or other public access is provided.

Grading

9. All excess excavated material, if any, other than clean beach sand shall be removed from the beach prior to the next high tide following excavation. Such material shall be disposed of in either an approved fill location or a permitted landfill.

Miscellaneous

10. All equipment used for seawall construction shall be removed from the beach at the end of the working day. If high tides encroach into the construction area, such equipment shall also be removed from the wetted beach area during each tidal cycle.
11. **Prior to commencement of work**, the applicant shall obtain an encroachment permit (if applicable) from the County Engineering Department for all work to be done in or around the street right-of-way of either Vista Del Mar, Balboa Avenue, or Pico Avenue. In no case shall rock materials be allowed to be unloaded and stored on the pavement of any of those streets. Also, no equipment shall be staged or stored on these streets and tracked equipment shall not be allowed on the pavement if it will result in damages to the pavement.
12. If the public right-of-way is used to access the bluff top, the applicant shall be responsible for the protection of existing culverts within the right-of-way. If the culverts are damaged as a result of the applicant's project, the applicant shall have the sole responsibility to repair/replace the culverts to the satisfaction of the County Engineer.
13. No fueling or scheduled maintenance of equipment shall occur on the beach. Equipment shall be removed from the sandy beach for such activities.
14. All equipment shall be inspected for leakage of petroleum products (e.g. gasoline, diesel fuel, hydraulic oil) or antifreeze on a daily basis. Equipment showing obvious signs of such leakage

EXHIBIT NO.	A
APPLICATION NO.	A-3-SLO-99-019
Approval Conditions	2 of 3

beach.

15. **Prior to final inspection of the seawall**, all heavy equipment access-ways onto the beach, if any, shall be restored to pre-construction conditions. The applicant is aware that construction of new or temporary equipment access-ways onto the beach may require additional review and permits.
16. The applicant is aware that spillage of any petroleum product on the beach requires immediate notification of the proper authorities. In the event of a spill, notification shall be accomplished as follows:
  - a. During normal business, notify the County Division of Environmental Health at (805) 781-5544. During "off" hours, contact the San Luis Obispo County Sheriff at (805) 781-4553 or (805) 781-4550 and request to be connected with the On-duty Hazardous Materials Coordinator at County Environmental Health.
  - b. Contact the State Department of Fish and Game, Office of Oil Spill Prevention and Response at (805) 772-1756 (24 hours).

If the spill presents an immediate or imminent hazard to life and/or safety, call 911.

17. All work shall be done with the review and approval of the project registered engineering geologist and project civil engineer. The registered engineering geologist shall, at a minimum, inspect the keyway prior to placing of rip-rap, and inspect the general placement of the filter-fabric. The project civil engineer shall at a minimum establish the mean high tide line prior to commencement of construction, and provide construction observation services adequate to assure that the construction generally conforms to project specifications.
18. The applicant is aware that drainage structures to prevent surface runoff from flowing over the bluff face in an erosive manner must be maintained as originally installed, and that periodic inspections of the seawall should be made by a qualified individual (e.g. registered engineering geologist, registered civil engineer), particularly following periods of extreme wave action. Such inspections should be made during periods of very low tides during the winter months when the beach profile is lowest.

EXHIBIT NO. A
APPLICATION NO. A-3-520-99-019
Approval Conditions 3 of 3

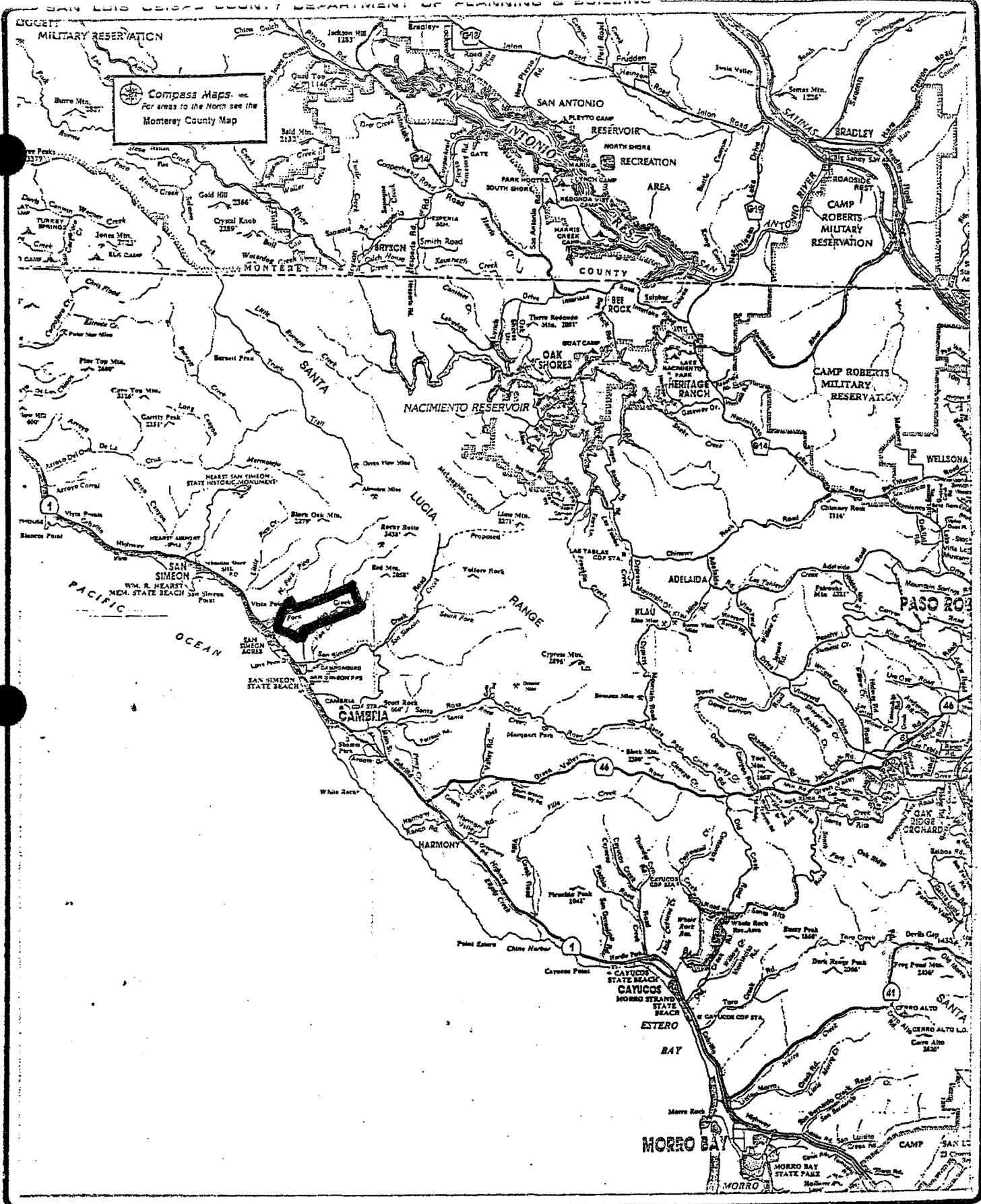


EXHIBIT NO. B

APPLICATION NO.  
A-3-SLO-99-019

Regional Map  
1 of 1

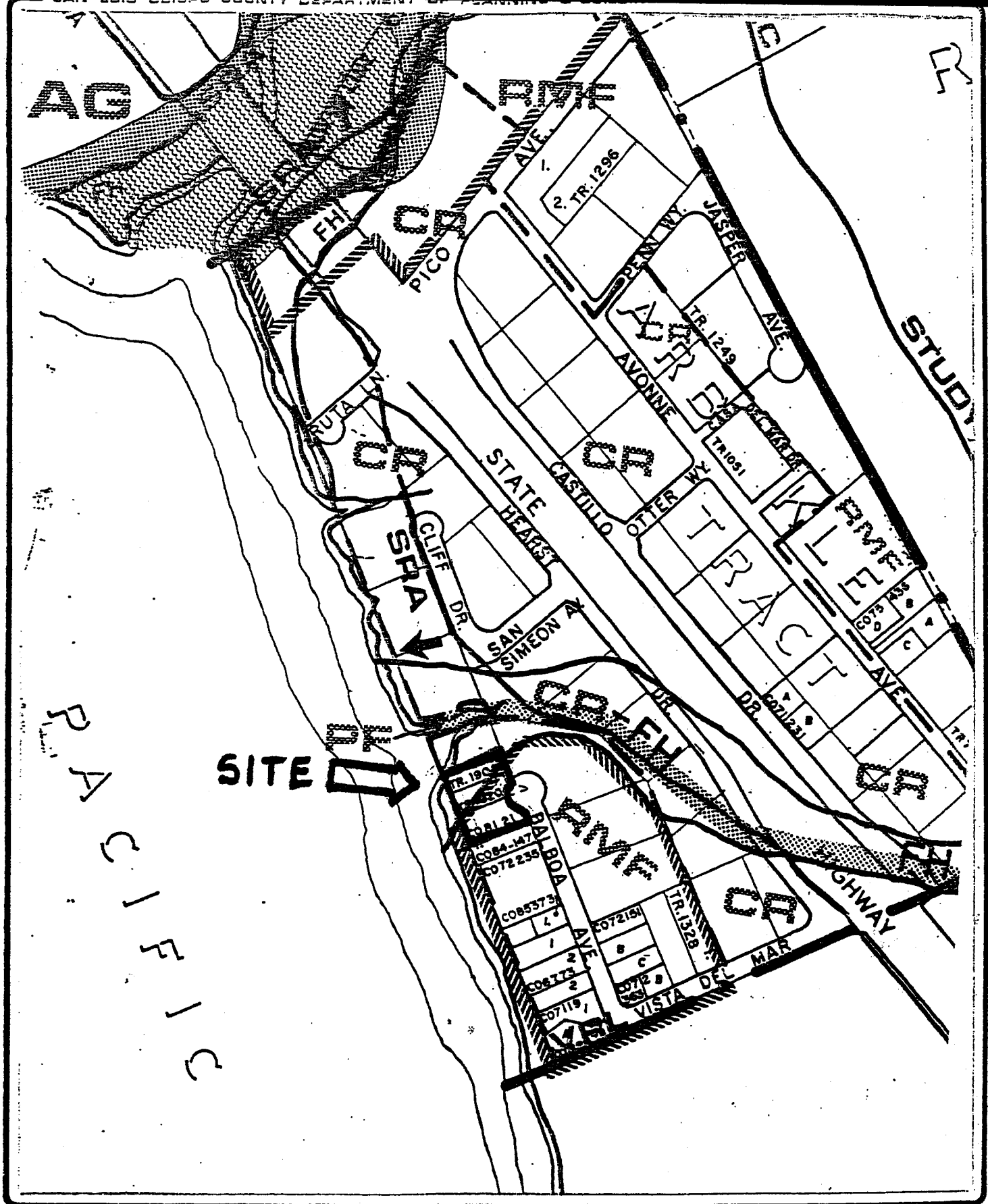
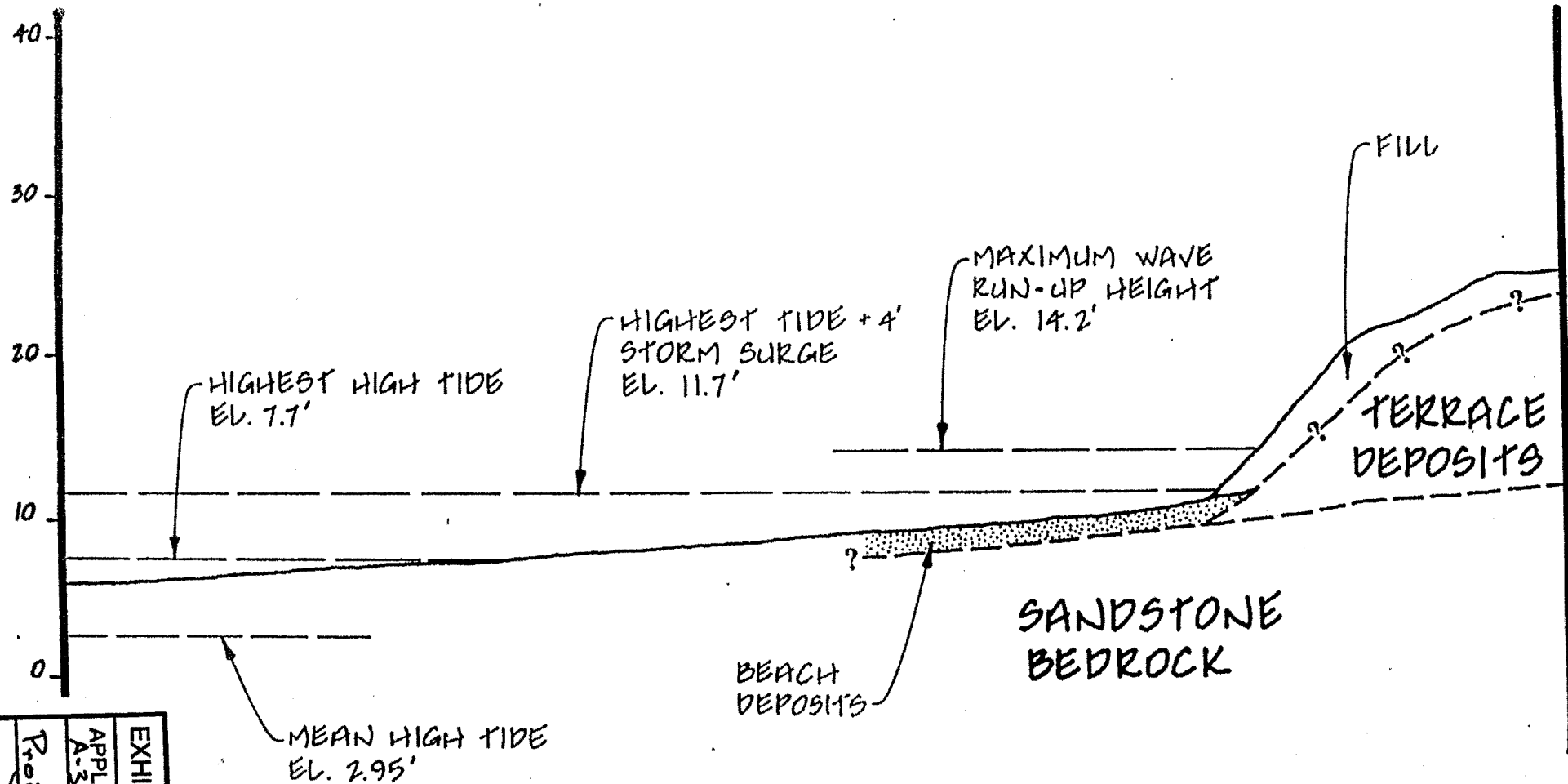


EXHIBIT NO. C  
APPLICATION NO.  
A-3-340-99-019  
Location Map  
1 of 1

# SECTION A-A'

## EXISTING MULTI-FAMILY DUPLEXES

9213, 9227, 9229, & 9231 Balboa Avenue  
San Simeon, California



Systems Consultants

n California

3, 1998

4378 Santa Fe Road, San Luis Obispo, CA 93401

(805) 544-3276 (805) 544-1786 FAX

NGG10834-01

EC

EXHIBIT NO. D

APPLICATION NO.  
A-3-SLO-94-019

Project Plans  
1 of 3

### **CONSTRUCTION NOTES**

- ① **WATER-CRYSTALLINE POLYMER SUBSTRATE, COATINGS AND ADHESIVES**  
**WATER-SOLUBLE POLYMER SUBSTRATE, COATINGS AND ADHESIVES**

### CONSTRUCTION OBSERVATION PROGRAM

- [illegible]

## IRRIGATION & LANDSCAPE MODIFICATION

- CONTRIBUTORS SHOULD INCLUDE, AS PROVIDING BACKGROUND EVIDENCE ON THE AMERICAN ECONOMIC SITUATION, AN ACCURATE AND BRIEF SUMMARY OF THE CURRENT ECONOMIC SITUATION IN THE UNITED STATES AND THE WORLD.

## LEGEND

- |                                     |                                     |
|-------------------------------------|-------------------------------------|
| EXISTING BLOCK WALL                 | EXISTING BLOCK WALL                 |
| EXISTING FENCE                      | EXISTING FENCE                      |
| EXISTING EDGE OF PAVEMENT           | EXISTING EDGE OF PAVEMENT           |
| EXISTING STORM DRAIN DRAINAGE INLET | EXISTING STORM DRAIN DRAINAGE INLET |
| EXISTING SIDE DRIVE                 | EXISTING SIDE DRIVE                 |
| EXISTING REAR DRIVEWAY              | EXISTING REAR DRIVEWAY              |
| SLAB                                | SLAB                                |
| EXISTING CONCRETE                   | EXISTING CONCRETE                   |

- BASIS OF ELEVATIONS**  
THE ELEVATIONS FOR THE TOPOGRAPIHC MAP ARE BASED ON THE BASS DIST STATION "A-75" AT THE SOUTHWEST COR OF THE BRIDGE ON HIGHWAY 1 ADJACENT POOL CREEK.  
ELEVATION = 6285 (MGS 20)
- THE TIE IS ON THE TOP OF THE 5/8" REBAR AT THE CENTER OF THE COL-DE-SAC OF BALDIA.  
ELEVATION = 3410

## NOT

- RE DOCUMENTARY INFORMATION FROM HEREON  
IS BASED ON RECORD DATA FOR 10/28/77,  
10/29/78, 33/01/78 AND 30/01/84.
- ENGINEER/GEOLOGIST OF RECORD  
G.M. DODDGE, 10004 N. SHAWNEE, APT. 30-140  
N. 100TH STREET, SHAWNEE, KS  
66201  
SANDHILL GEOTECH, INC. 10004 N. SHAWNEE  
AP. 30-140, SHAWNEE, KS 66201

**SECTION**  
10 PAGE

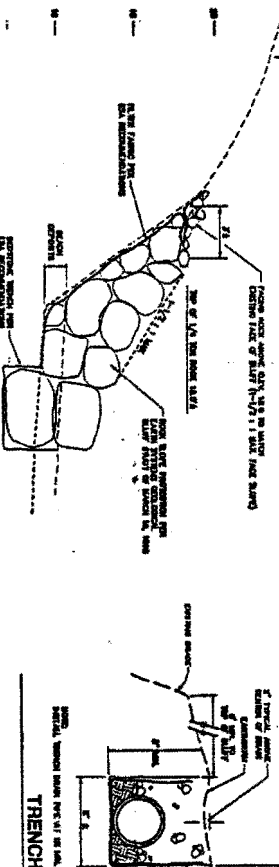
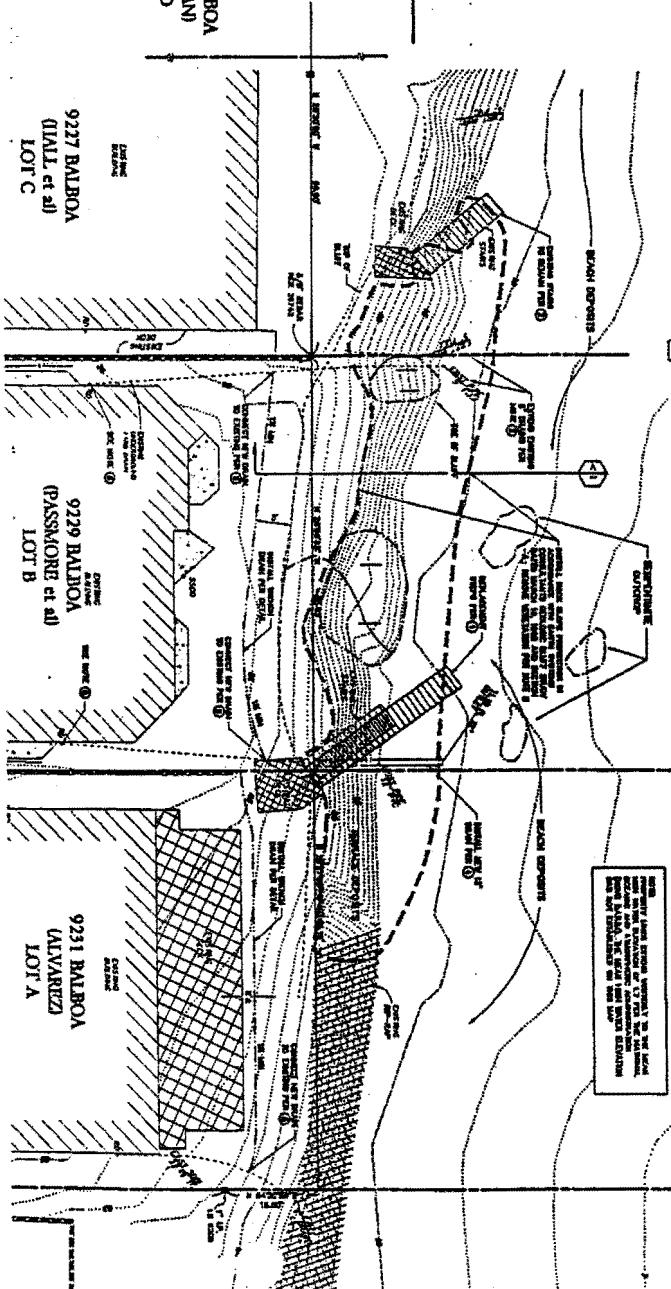


EXHIBIT NO. D  
APPLICATION NO.  
A-3-540-99-019  
Project Plans  
2 of 3



APN 013-403-012

APN 013-403-006

APN 013-403-074

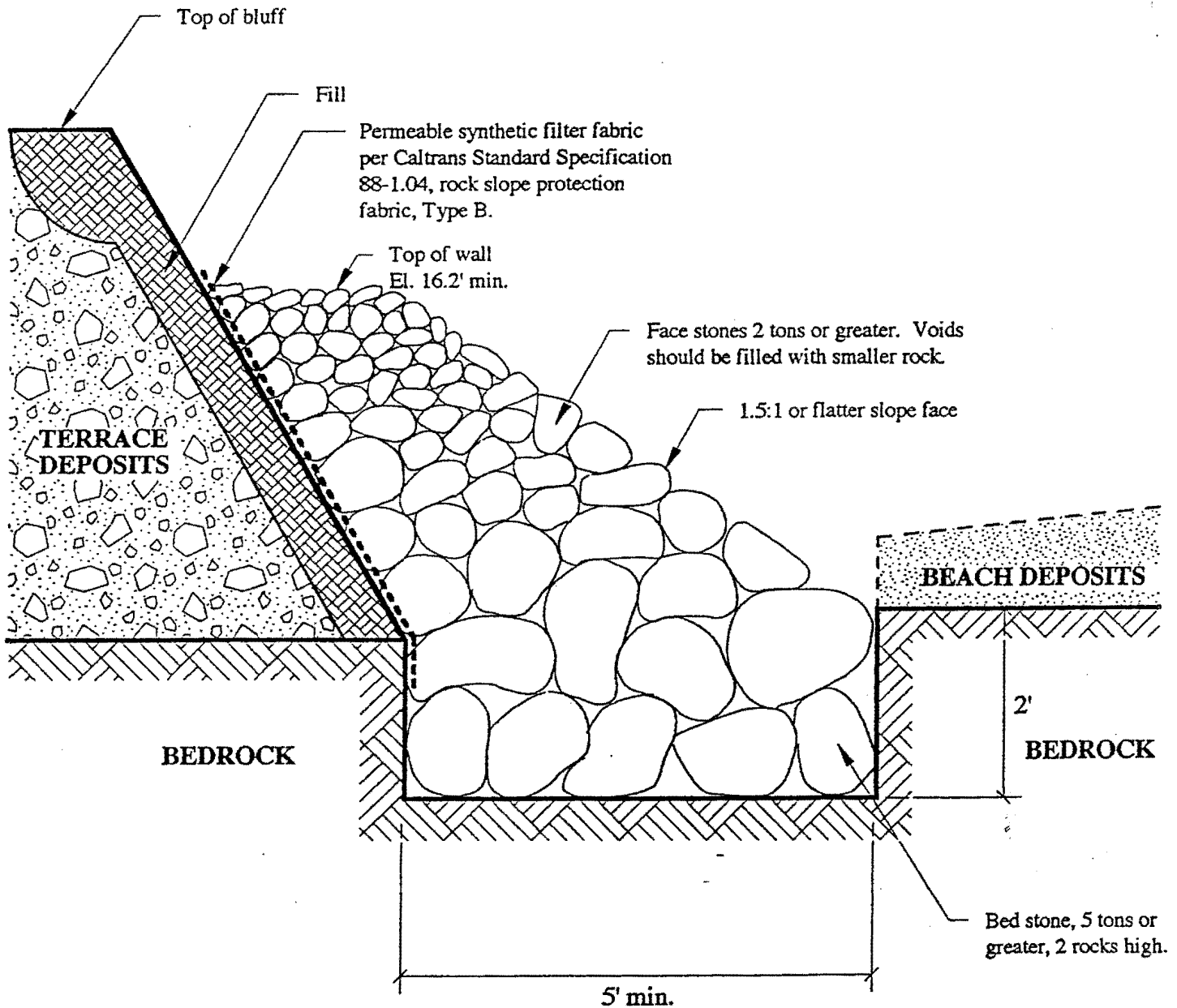
[illegible]



# REVETMENT DETAIL

## EXISTING MULTI-FAMILY DUPLEXES

Sites 9213, 9227, 9229 & 9231 Balboa Avenue  
San Simeon, California



**NOTE: ALL ROCK TO BE SET BY CALTRANS METHOD A PLACEMENT**

**Schematic Only**



**Earth Systems Consultants**

Northern California

March 18, 1998

4378 Santa Fe Road, San I

(805) 544-3276

EC

EXHIBIT NO.	D
APPLICATION NO.	A-3-560-99-019
Project Plans	
3 of 3	

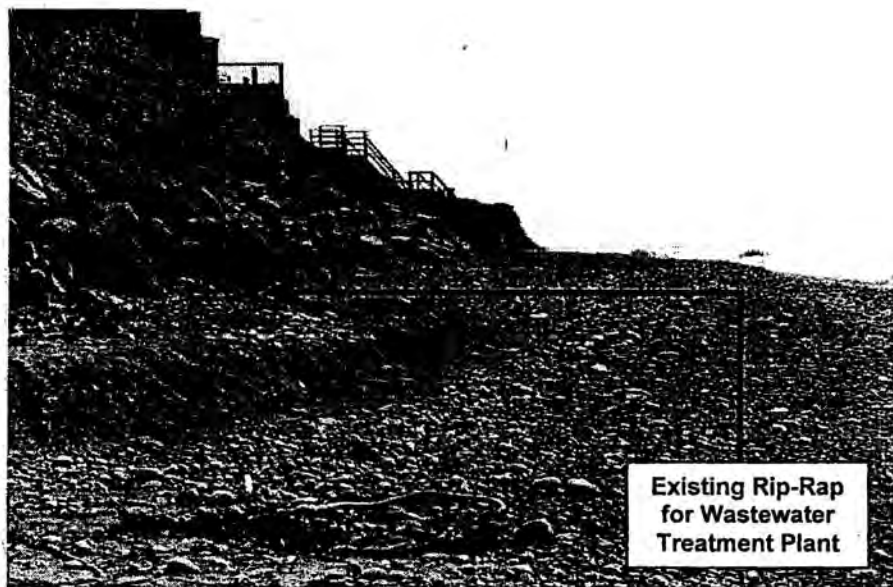


**Project Area**

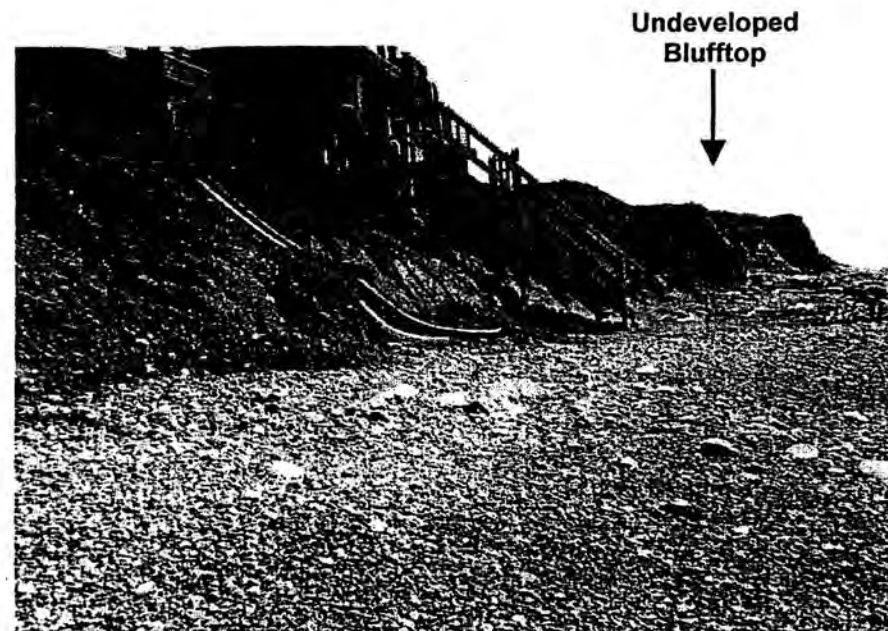


**Approximate Location of Proposed Rock Revetment**

EXHIBIT NO.	219
APPLICATION NO.	A-3-510-49
Site Photo	1 of 1



**Project Area**



**Project Area (in front of 9229 Balboa)**

9227 Balboa  
APN 013-403-012

2791  
DOC. NO. 3121  
OFFICIAL RECORDS  
SAN LUIS OBISPO CO., CAL

JAN 22 1981

WILLIAM E. ZIMARIK  
COUNTY RECORDER  
TIME 12:10 PM

Return Original to and  
Recorded Requested by:  
STATE OF CALIFORNIA  
CALIFORNIA COASTAL COMMISSION  
631 Howard Street, 4th Floor  
San Francisco, CA 94105

IRREVOCABLE OFFER TO DEDICATE

- I. WHEREAS, ROBERT S. SESSA and CAROL A. SESSA, husband and wife, as joint tenants, are the record owners, hereinafter referred to as "owners", of the real property located at Route 1, Box 140 A-D, San Simeon, San Luis Obispo County, California, legally described as particularly set forth in attached Exhibit A hereby incorporated by reference, and hereinafter referred to as the "subject property"; and
- II. WHEREAS, the California Coastal Commission, South Central Coast Regional Commission, hereinafter referred to as "the Commission", is acting on behalf of the People of the State of California; and
- III. WHEREAS, the People of the State of California have a legal interest in the lands seaward of the mean high tide line; and
- IV. WHEREAS, pursuant to the California Coastal Act of 1976, the owners applied to the Commission for a coastal development permit for four (4) condominiums on the subject property; and
- V. WHEREAS, a coastal development permit no. 418-28 was granted on November 21, 1980, by the Commission in accordance with the provisions of the Staff Recommendation and Findings, Exhibit B, attached hereto and hereby incorporated by reference, subject to the following condition:

The applicant shall record an irrevocable offer to dedicate to a public agency or to a private association approved by the Regional Commission an easement for public access and passive recreational use running from the mean high tide line to the toe of the bluff. Such easement shall be free of prior liens or encumbrances except

Exhibit E (1 of 6)

tax liens. The offer shall be made in a manner and form approved in writing by the Executive Director. The offer shall be irrevocable for a period of 21 years, running from the date of recordation and shall run with the land in favor of the people of the State of California, binding successors and assigns of the applicant or landowner.

VI. WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

VII. WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Section 30210 through 30212 of the California Coastal Act of 1976 and that therefore in the absence of such a condition, a permit could not have been granted;

NOW THEREFORE, in consideration of the granting of permit no. 418-28 to the owners by the Commission, the owners hereby offer to dedicate to the People of California an easement in perpetuity for the purposes of an easement for public access and passive recreational use running from the mean high tide line to the toe of the bluff, located on the subject property running from the mean high tide line to the toe of the bluff, and as specifically set forth in attached Exhibit C, hereby incorporated by reference.

This offer of dedication shall be irrevocable for the period of twenty one (21) years, measured forward from the date of recordation, and

Exhibit F  
(2 of 5)  
-2-

VOL 2300 PAGE 400

shall be binding upon the owners, their heirs, assigns, or successors in interest to the subject property described above. The People of the State of California shall accept this offer through the County of San Luis Obispo, the local government in whose jurisdiction the subject property lies, or through a public agency or a private association acceptable to the Executive Director of the Commission or its successor in interest.

Acceptance of the offer is subject to a covenant which runs with the land, providing that the first offeree to accept the easement may not abandon it but must instead offer the easement to other public agencies or private associations acceptable to the Executive Director of the Commission for the duration of the term of the original offer to dedicate. The grant of easement once made shall run with the land and shall be binding on the owners, their heirs, and assigns.

Executed on this 23 day of December, 1980, in the City of Riverside, County of Riverside.

DATED: December 23, 1980

  
ROBERT S. SESSA, Owner

  
CAROL A. SESSA, Owner

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

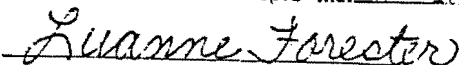
} SS.

On December 23, 1980 before me, the undersigned, a Notary Public in and for said County and State, personally appeared

ROBERT S. SESSA and

CAROL A. SESSA

known to me to be the persons S whose name S are subscribed to the within instrument and acknowledged that they executed the same.

  
Signature of Notary

FOR NOTARY SEAL OR STAMP

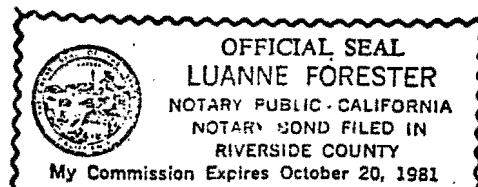


Exhibit F (3 of 5)

This is to certify that the offer of dedication set forth above dated December 23, 1980, and signed by ROBERT S. SESSA AND CAROL A. SESSA, owners, is hereby acknowledged by the under signed officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 418-28 on November 21, 1980, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

DATED: December 30, 1980

Cynthia K Long

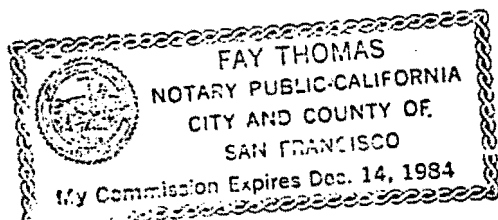
CYNTHIA K LONG LEGAL COUNSEL  
California Coastal Commission

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On DECEMBER 30, 1980, before the undersigned, a Notary Public in and for said State, personally appeared CYNTHIA K LONG,  
\_\_\_\_\_ known to me to be the LEGAL COUNSEL  
of the California Coastal Commission and known to me to be the person who executed the within instrument on behalf of said Commission, and acknowledged to me that such Commission executed the same.

Witness my hand and official seal.



Fay Thomas  
Notary Public

Exhibit F  
-4- (4 of 5)

VOL 2300 PAGE 402

EXHIBIT A

Real property in the County of San Luis Obispo, State of California,  
described as:

Parcel B of Parcel Map CO-74-204, in the County of San Luis Obispo,  
State of California, according to map recorded in Book 16, Page 88  
of Parcel Maps, in the Office of the County Recorder of Said County.

Exhibit F  
(5 of 5)

Recording Requested by and  
When Recorded, Mail to:  
California Coastal Commission  
631 Howard Street, 4th Floor  
San Francisco, California 94105  
Attention: Legal Department

DOC. NO. **18414**  
OFFICIAL RECORDS  
SAN LUIS OBISPO CO., CAL

**MAR 18 1987**

3/18/87 1555 3

9229 Balboa  
APN 013-403-006

FRANCIS M. COONEY  
County Clerk Recorder  
TIME 1:40 PM

**IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT  
AND  
DECLARATION OF RESTRICTIONS**

THIS IRREVOCABLE OFFER TO DEDICATE PUBLIC ACCESS EASEMENT AND DECLARATION OF RESTRICTIONS (hereinafter "offer") is made this 3rd day of February, 1987, by Kevin McGurty, Dennis Moresco and Leo Michaud (hereinafter referred to as "Grantor").

I. WHEREAS, Grantor is the legal owner of a fee interest of certain real property located in the County of San Luis Obispo, State of California, and described in the attached Exhibit A (hereinafter referred to as the "Property"); and

II. WHEREAS, all of the Property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code (which code is hereinafter referred to as the "Public Resources Code"); and

III. WHEREAS, the California Coastal Act of 1976, (hereinafter referred to as the "Act") creates the California Coastal Commission, (hereinafter referred to as the "Commission") and requires that any coastal development permit approved by the Commission must be consistent with the policies of the Act set forth in Chapter 3 of Division 20 of the Public Resources Code; and

IV. WHEREAS, pursuant to the Act, Grantor applied to the California coastal commission for a permit to undertake development as defined in the Act within the Coastal zone of San Luis Obispo County (hereinafter the "Permit"); and

Exhibit G  
(10f B)



V. WHEREAS, a coastal development permit (Permit No. 4-86-236) was granted on November 12, 1986, by the Commission in accordance with the provision of the Staff Recommendation and Findings, attached hereto as Exhibit B and hereby incorporated by reference, subject to the following condition:

LATERAL ACCESS PRIOR TO TRANSMITTAL OF THE PERMIT, the landowner shall execute and record a document, in a form and content acceptable to the executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the mean high tide line to the toe of the bluff. The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the state of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

VI. WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

Exhibit G  
(2 of 8)

VII. WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

VIII. WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Section 30210 through 30212 of the California Coastal Act of 1976 and the Local Coastal Program as defined in Public Resources Code Section 30108.6 and that therefore in the absence of such a condition, a permit could not have been granted;

IX. — WHEREAS, it is intended that this offer is irrevocable and shall constitute enforceable restrictions within the meaning of Article XIII. Section 8 of the California Constitution and that said offer, when accepted, shall thereby qualify as an enforceable restriction under the provision of the California Revenue and Taxation Code, Section 402.1;

NOW THEREFORE, in consideration of the granting of Permit No. 4-86-236 to Grantor by the Commission, the owner(s) hereby offer(s) to dedicate to the People of California an easement in perpetuity for the purposes of Public Access and passing recreational use along shoreline located on the subject property such easement shall be along entire width of property and from the mean high tide line to the toe of the bluff and as specifically set forth by attached Exhibit C hereby incorporated by reference.

Exhibit G  
(3 of 8)

1. BENEFIT AND BURDEN. This offer shall run with and burden the Property and all obligations, terms, conditions, and restrictions hereby imposed shall be deemed to be covenants and restrictions running with the land and shall be effective limitations on the use of the Property from the date of recordation of this document and shall bind the Grantor and all successors and assigns. This Offer shall benefit the State of California.

2. DECLARATION OF RESTRICTIONS. This offer of dedication shall not be used or construed to allow anyone, prior to acceptance of this offer, to interfere with any rights of public access through use which may exist on the Property.

3. ADDITIONAL TERMS, CONDITIONS, AND LIMITATIONS. Prior to the opening of the accessway, the Grantee, in consultation with the Grantor, may record additional reasonable terms, conditions, and limitations on the use of the subject property in order to assure that this Offer for public access is effectuated.

4. CONSTRUCTION OF VALIDITY. If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

5. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Grantor and the Grantee, whether voluntary or involuntary.

Exhibit G  
(4 of 8)

6. TERM. This irrevocable offer of dedication shall be binding for a period of 21 years starting from the date of recordation. Upon recordation of an acceptance of this Offer by the Grantee, this Offer and terms, conditions, and restrictions shall have the effect of a grant of access easement in gross and perpetuity that shall run with the land and be binding on the parties, heirs, assigns, and successors. The People of the State of California shall accept this offer through the local government in whose jurisdiction the subject property lies, or through a public agency or a private association acceptable to the Executive Director of the Commission or its successor in interest.

Acceptance of this Offer is subject to a covenant which runs with the land, providing that any offeree to accept the easement may not abandon it but must instead offer the easement to other public agencies or private associations acceptable to the Executive Director of the Commission for the duration of the term of the original Offer to Dedicate. Executed on this 3rd day of February 1987, at San Luis Obispo, California.

SIGNED:

  
Kevin W. McGurty

  
Dennis Moresco

  
Leo Michaud

Exhibit G  
(5 of 8)

State of California, County of San Luis Obispo, ss

On this 3rd day of February, in the year 1987, before me Gerri A. Rabbin, a Notary Public, personally appeared Kevin W. McGurty, Dennis Moresco and Leo Michaud, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they executed it.



Gerri A. Rabbin  
NOTARY PUBLIC IN AND FOR  
SAID COUNTY AND STATE

This is to certify that the Offer to Dedicate set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to the action of the Commission when it granted Coastal Development Permit No. 4-86-236 on November 12, 1986, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: February 17, 1987

John Bowers

John Bowers, Staff Counsel  
California Coastal Commission

STATE OF California )  
COUNTY OF San Francisco )

On 17 February 1987, before me the undersigned Notary Public, personally appeared John Bowers, personally known to me to be (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as the Staff Counsel and authorized representative to

Exhibit G  
(6 of 8)

the California Coastal Commission executed it.



*Gary Lawrence Holloway*  
NOTARY PUBLIC IN AND FOR  
SAID STATE AND COUNTY

Exhibit G  
(7 of 8)

EXHIBIT A

THE LAND REFERRED TO HEREIN IS DESCRIBED AS FOLLOWS:

THAT PORTION OF THE ARBUCKLE TRACT, BEING IN LOT A OF RANCHO SAN SIMEON, COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA, BEING PARCEL C OF MAP NO. CO-74-204, RECORDED FEBRUARY 13, 1975 IN BOOK 16, PAGE 88 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

(END OF DESCRIPTION)

Exhibit G  
(8 of 8)

Recording Requested by and  
When Recorded, Mail to:  
California Coastal Commission  
631 Howard Street, Fourth Floor  
San Francisco, California 94105  
Attention: Legal Department

MAR 18 1987

FRANCIS M. COONEY  
County Clerk Recorder  
TIME 1:40 PM

9229 Balboa

APN 013-403-006

DEED RESTRICTION

I. WHEREAS, KEVIN W. MCGURTY, DENNIS MORESCO and LEO MICHAUD, hereinafter collectively referred to as Owner, is the record owner of the following real property: That portion of the Arbuckle Tract, being in Lot A of Rancho San Simeon, County of San Luis Obispo, State of California being Parcel C of Map No. CO-74-204, recorded February 3, 1975, in Book 16, Page 88 of Parcel Maps in the Office of County Recorder, herein referred to as the subject property; and

II. WHEREAS, the California Coastal Commission is acting on behalf of the People of the State of California; and

III. WHEREAS, the subject property is located within the coastal zone as defined in Section 30103 of the California Public Resources Code (herein referred to as the California Coastal Act); and

IV. WHEREAS, pursuant to the California Coastal Act of 1976, the Owner applied to the California Coastal Commission for a coastal development permit for the development of the subject property described above; and

V. WHEREAS, coastal development permit No. 4-86-236 was granted on November 12, 1986, by the California Coastal Commission in accordance with the provision of the Staff Recommendation and Findings, attached hereto as Exhibit "A" and herein incorporated by reference; and

VI. WHEREAS, coastal development permit No. 4-86-236 was subject to the terms and conditions including but not limited to the following conditions:

Exhibit H  
(1 of 5)



Assumption of Risk. PRIOR TO TRANSMITTAL OF THE PERMIT, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazards from the storm wave runup and associated shoreline erosion and the applicant assumes the liability from such hazards; and (b) that the applicant unconditionally waives any claim of liability on part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest.

VII. WHEREAS, the Commission found that but for the imposition of the above conditions the proposed development could not be found consistent with the provisions of the California Coastal Act of 1976 and that a permit could therefore not have been granted; and

VIII. WHEREAS, it is intended that this Deed Restriction is irrevocable and shall constitute enforceable restrictions; and

IX. WHEREAS, Owner has elected to comply with the conditions imposed by Permit No. 4-86-236 so as to enable Owner to undertake the development authorized by the permit.

Exhibit H  
(2 of 5)

NOW, THEREFORE, in consideration of the granting of Permit No. 4-86-236 to the Owner by the California Coastal Commission, the Owner hereby irrevocably covenants with the California Coastal Commission that there be and hereby is created the following restrictions on the use and enjoyment of said subject property, to be attached to and become a part of the deed to the property. The undersigned Owner, for himself/herself and for his/her heirs, assigns, and successors in interest, covenants and agrees that they understand that the site may be subject to extraordinary hazards from the storm wave runup and associated shoreline erosion and they assumed the liability from such hazards and unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission and its advisors relative to the Commission's approval of the project for any damage due to natural hazards.

If any provisions of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.

Said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective and during the period that the development authorized by said permit or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the subject property described herein, and to that extent, said deed restriction is hereby deemed and agreed by Owner to be a covenant running with the land, and shall bind Owner and all his/her assigns or successors in interest.

Owner agrees to record this Deed Restriction in the Recorder's office for the County of San Luis Obispo as soon as possible after the date of execution.

Exhibit H (3 of 5)

DATED: FEBRUARY 3rd, 1987

SIGNED: \_\_\_\_\_

Kevin W. McGurty

\_\_\_\_\_  
Dennis Moresco

\_\_\_\_\_  
Leo Michaud

State of California, County of San Luis Obispo, ss

On this 3rd day of Feb., in the year 1987, before me Gerri A. Rabbin, a Notary Public, personally appeared Kevin W. McGurty, Dennis Moresco and Leo Michaud, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to this instrument, and acknowledged that they executed it.



\_\_\_\_\_  
NOTARY PUBLIC IN AND FOR  
SAID COUNTY AND STATE

This is to certify that the deed restriction set forth above is hereby acknowledged by the undersigned officer on behalf of the California Coastal commission pursuant to authority conferred by the California Commission pursuant to authority conferred by the California Coastal Commission when granted Coastal Development Permit No. 4-86-236 on November 12, 1986, and the

Exhibit H  
(4 of 5)

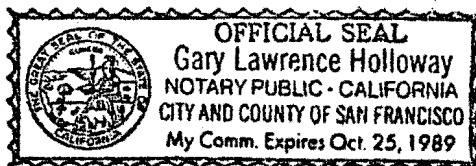
California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: February 17, 1987

John Bowers, Staff Counsel  
California Coastal Commission

STATE OF California )  
COUNTY OF San Francisco )

On 17 February 1987, before me the undersigned Notary Public, personally appeared John Bowers, personally known to me to be (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument as the Staff Counsel and authorized representative to the California Coastal Commission executed it.



Gary Lawrence Holloway  
NOTARY PUBLIC IN AND FOR  
SAID STATE AND COUNTY

Exhibit H  
(5 of 5)

RECEIVED

JAN 19 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Recording requested by  
STATE OF CALIFORNIA  
CALIFORNIA COASTAL COMMISSION  
631 HOWARD Street, Fourth Floor  
San Francisco, CA 94105

DOC. NO. 3122  
OFFICIAL RECORDS  
SAN LUIS OBISPO CO., CAL

JAN 23 1981

WILLIAM E. ZIMARIK  
COUNTY RECORDER  
TIME 12:10 P.M.

DEED RESTRICTION

9227 Balboa  
APN 013-403-012

I. WHEREAS, ROBERT S. SESSA and CAROL A. SESSA, hereinafter referred to as Owner, is the record owner of the real property described as

Parcel B of Parcel Map CO-74-204, in the County of San Luis Obispo, State of California, according to map recorded in Book 16, page 88 of Parcel Maps, in the Office of the County Recorder of said county,

hereinafter referred to as the subject property, and

II. WHEREAS, the California Coastal Commission is acting on behalf of the People of the State of California, and

III. WHEREAS, the People of the State of California have a legal interest in the lands seaward of the mean high tide line; and

IV. WHEREAS, pursuant to the California Coastal Act of 1976, the Owner applied to the California Coastal Commission for a coastal development permit for construction of a single family residence on the subject property described above, and

V. WHEREAS, a coastal development permit No. 418-28 was granted on November 21, 1980, by the California Coastal Commission based on the findings adopted by the California Coastal Commission attached in Exhibit B and hereby incorporated by reference; and

VI. WHEREAS, coastal development Permit No. 418-28 was

Exhibit I  
(1 of 8)

subject to terms and conditions including but not limited to the following condition

Prior to the issuance of a coastal development permit, the applicant shall submit to the Executive Director, a deed restriction for recording, free of prior liens except tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall provide (a) that the applicants understand that the site is subject to extraordinary hazard from waves during storms, from erosion and from landslides and the applicants assume the liability from those hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards; and (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the even of storms and landslides. The deed restriction shall further provide:

(d) Acknowledgement that any future requests for a seawall or protective devices will not be evaluated upon the necessity of saving the structure, but shall be evaluated on a balance of the Coastal Act Policies and by so doing shall minimize impacts on policy areas including, but not limited to, public access, scenic quality and natural landforms;

(e) Acknowledgement that any addition to the permitted structure or the construction of a non-attached structure which would be located between the existing structure and the top of the bluff shall require a valid Coastal Development Permit.

EXHIBIT "B"

VII. WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

VIII. WHEREAS, under the policies of Section 30253 of the California Coastal Act of 1976, new development shall assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability or destruction of the side or surrounding area, or in any way require the construction of protective devices that would substantially alter natural landforms along the bluff or cliff; and

IX. WHEREAS, the Commission found that but for the imposition of the above condition the proposed development could not be found consistent with the provisions of Section 30253 and that a permit could not therefore have been granted;

NOW THEREFORE, in consideration of the granting of Permit No. 418-28 to the Owner by the California Coastal Commission, the Owner hereby irrevocably covenants with the California Coastal Commission

Exhibit I  
(2 of 8)

2300 418

that there be, and hereby is, created the following restrictions on the use and enjoyment of said subject property, to be attached to and become a part of the deed to the property:

The undersigned Owner, for himself/herself and for his/her heirs, assigns, and successors in interest, covenants and agrees that:

(a) the applicants understand that the site is subject to extraordinary hazard from waves during storms, from erosion and from landslides and the applicants assume the liability from those hazards;

(b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards;

(c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of storms and landslides;

(d) any future requests for a seawall or protective devices will not be evaluated upon the necessity of saving the structure,

but shall be evaluated on a balance of the Coastal Act Policies and by so doing shall minimize impacts on policy areas including, but not limited to, public access, scenic quality and natural landforms; and

(e) any addition to the permitted structure or the construction of a non-attached structure which would be located between the existing structure and the top of the bluff shall require a valid Coastal Development Permit.

Said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development authorized by said permit, or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the subject property described herein, and to that extent, said deed restriction is hereby deemed and agreed by Owner to be a covenant running with the land, and shall

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE

SS.

On December 23, 1980 before me, the undersigned, a Notary Public in and for said County and State, personally appeared

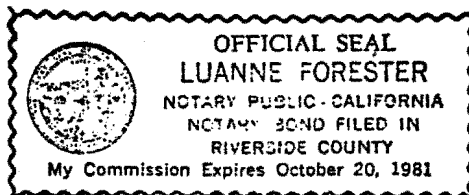
ROBERT S. SESSA and  
CAROL A. SESSA

\_\_\_\_\_, known to me to be the person s whose name s are subscribed to the within instrument and acknowledged that they executed the same.

Luanne Forester

Signature of Notary

FOR NOTARY SEAL OR STAMP



Assessor's Parcel No. \_\_\_\_\_

VOL 2300 PAGE 419

Exhibit I (4 of 8)

VOL 2300 PAGE 418




but shall be evaluated on a balance of the Coastal Act Policies and by so doing shall minimize impacts on policy areas including, but not limited to, public access, scenic quality and natural landforms; and

(e) any addition to the permitted structure or the construction of a non-attached structure which would be located between the existing structure and the top of the bluff shall require a valid Coastal Development Permit.

Said deed restriction shall remain in full force and effect during the period that said permit, or any modification or amendment thereof, remains effective, and during the period that the development authorized by said permit, or any modification of said development, remains in existence in or upon any part of, and thereby confers benefit upon, the subject property described herein, and to that extent, said deed restriction is hereby deemed and agreed by Owner to be a covenant running with the land, and shall bind Owner and all his/her assigns or successors in interest.

Owner agrees to record this Deed Restriction in the Recorder's Office for the County of San Luis Obispo as soon as possible after the date of execution.

Dated: December 23, 1980

  
ROBERT S. SESSA, Owner

  
CAROL A. SESSA, Owner

Exhibit I  
(5 of 8)

This is to certify that the deed restriction set forth above dated December 23, 1980, and signed by ROBERT S. SESSA and CAROL A. SESSA, owners, is hereby acknowledged by the undersigned officer on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 418-28 on November 21, 1980, and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

DATED: December 30 1980

Cynthia K Long  
CYNTHIA K LONG LEGAL COUNSEL  
California Coastal Commission

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

On December 7 1981, before the undersigned, a Notary Public in and for said State, personally appeared Cynthia K Long, Legal Counsel known to me to be the A. Bernard Representative of the California Coastal Commission and known to me to be the person who executed the within instrument on behalf of said Commission, and acknowledged to me that such Commission executed the same.

Witness my hand and official seal.

[Signature]  
Notary Public

Exhibit I  
(6 of 8)

2300 420

EXHIBIT "B"

(RETYPE FOR CLARITY ONLY)

Prior to the issuance of a coastal development permit, the applicant shall submit to the Executive Director, a deed restriction for recording, free of prior liens except tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall provide (a) that the applicants understand that the site is subject to extraordinary hazard from waves during storms, from erosion and from landslides and the applicants assume the liability from those hazards; (b) the applicants unconditionally waive any claim of liability on the part of the Commission or any other regulatory agency for any damage from such hazards; and (c) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repair, replacement, or rehabilitation of the property in the event of storms and landslides. The deed restriction shall further provide:

(d) Acknowledgement that any future requests for a seawall or protective devices will not be evaluated upon the necessity of saving the structure, but shall be evaluated on a balance of the Coastal Act Policies and by so doing shall minimize impacts on policy areas including, but not limited to, public access, scenic quality and natural landforms;

(e) Acknowledgement that any addition to the permitted structure or the construction of a non-attached structure which would be located

EXHIBIT "B" (CONT.)

between the existing structure and the top of the bluff shall require a valid Coastal Development Permit.

(2)  
Exhibit I  
(8 of 8)

1976 Coastal Acts, the Commission concludes that all new development projects between the first public roadway and the shoreline cause a sufficient burden on public access to warrant the imposition of access conditions as a condition to development, subject only to the exceptions specified by the Legislature.

As discussed above, the shoreline area of the applicant's site has been historically used by the public, therefore, these rights must be protected. The Commission therefore finds that, with the addition of a condition requiring the dedication of the shoreline (sandy beach areas) of the subject site, this project can be found consistent with Coastal Act policies concerning public access.

### 3. Geologic Stability

Sections 30253(1) and (2) of the Coastal Act require that:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As the project site is an ocean-fronting bluff top parcel, a geologic evaluation of the site was undertaken in accordance with the Commission's Interpretive Guidelines. This evaluation was carried out by a geotechnical research and engineering consultant for the applicant. Anticipated conditions resulting from future geologic processes were presented. Bluff retreat and erosion, as well as drainage were specifically addressed.

The applicant's geotechnical consultant indicates that the subject parcel experiences an average bluff retreat of 4 inches per year. It is anticipated that the landward bluff retreat will occur in a manner that retains the near vertical profile of the bluff. The assumed retreat rate is a long term average that reflects periods of erosional quiescence interrupted by storms of sufficient magnitude to actively erode the bluff. With the assumed 4 inch per year retreat rate for the bluff, the proposed 25 ft. blufftop development setback would yield a life span for the structure of 75 years. The consultant concludes that bluff protection devices ie. rip rap, seawalls, etc. will not be necessary in the foreseeable future. The consultant does recommend that all project runoff be collected and discharged in a non-erosive manner onto the beach well away from the toe of the bluff. As conditioned, final engineered drainage plans will be required. Given the proximity of the proposed project to the eroding coastal bluff, the applicant, as conditioned, will have to record a waiver of liability, or show evidence of similar waiver for conformity with Section 30253.

Staff Report for 9229 Balboa  
Exhibit J

The project site is relatively flat, but slopes slightly to the west toward the ocean. There is no major vegetation on the project site, i.e., grasses only. Access to the property will be via Balboa Avenue. The project site itself is 13,600 square feet. However, the entire property extends past the bluff to the mean high tide, the total being 21,450 or .49 acres. The property is zoned R-3, which is defined as a Medium Density Residential district requiring a 6,000 square foot minimum parcel size for the first two units. Additional units require an additional 1,600 square feet each. The 4 unit project meets the minimum area requirements specified under the zoning district. (San Luis Obispo County Planning Department Subdivision Review Staff Report; May 7, 1980).

## 2. Surrounding Area

The proposed project is located in San Simeon Acres on the westside and the north end of Balboa Avenue. San Simeon Acres is a small commercial village developed primarily to serve the tourist/recreation users in the North Coast of San Luis Obispo County, with a special attraction given it is the closest area to seek accommodations for the estimated more than 850,000 annual visitors to Hearst San Simeon Historical Monument. Due to the location of State Highway One, this area is visible both for travelers north and south bound on that public highway. The character of the surrounding area is a mixture of moderate density residential and resort commercial. Residential uses are mostly apartments and condominiums with some single family units in the area. Near Highway One, there are a number of motels, restaurants and shops. (San Luis Obispo County Planning Department Subdivision Review Report; May 7, 1980). Lots to the immediate north and south of the project site are vacant, however, the San Simeon Sewer Treatment Plant is at the north end of Balboa Avenue. There is a single family residence two lots to the south and a two story triplex to the east across Balboa Avenue and condominiums to the east and south.

## 3. Geologic Stability

Public Resources Code Section 30253(1), (2) states that:

"New development shall (1) minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (2) assure stability and structural integrity and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."

In accordance with the Statewide Interpretive Guidelines on Geologic Stability of Blufftop Development, the applicant submitted a geology report dated February, 1980 with letters of addendum dated August 6, 1980 and August 13, 1980. The original report states that "the marine terrace in this area is characterized by calcite cemented brown sandstone and conglomerate..." site is underlain by approximately ten(10) feet to twelve (12) feet of orangish brown, silty, fine to coarse grained sand with layers of pebble and cobbles, Pleistocene age, marine terrace deposit...and along the cliff face is a loosely dumped fill material... of undetermined source... limited to the bluff edge and... inland approximately five(5) feet to seven (7) feet. This is a brown clay, fine to coarse sand with cobbles and... is of dubious character, containing vegetation, tires, concrete, asphalt, still and large chunks of wood... from cliff outcrops it was observed that fill was placed on beach sand, with no indication of engineering control. This material would be inadequate for bearing soils in its present condition."

Staff Report for 9227 Balboa  
Exhibit K  
(1 of 2)

The August 6, 1980 letter specifically discusses the blufftop as it relates to annual retreat rate. The normal rate of retreat for this area is three(3) inches per year. However, due to the character of the five to seven(5-7) feet of fill on the front of the natural, the retreat rate for this portion of the bluff is six(6) inches per year. These figures are based on the premise that surface drainage be strictly controlled and that footpaths not be placed down on the top of the bluff.

The primary setback recommendation is as follows:

	FILL	IN-PLACE		TOTAL
Time	10-14 years	61 - 65 years	=	75 years
Rate	6"/year	3'/year		
Retreat	5' - 7'	16.5-15.5	=	22' to 23'

"Accordingly, a safe setback distance would be a minimum of twenty-three (23) feet from the bluff edge. This assumes surface drainage is controlled and diverted out of the bluff area by non-erosion drains. Also, alternate means should be provided for foot traffic now using the bluff, either by wood or concrete steps. If these recommendations are used with respect to setbacks and slope protection, adequate protection for a structure's lifetime of 75 years should than be applicable."

The beach in this area is utilized extensively by the public who both seek day/overnight services in San Simeon Acres. In the past, the Commission has approved three projects along the westside of Balboa Avenue, permits #125-29, #145-22 and #404-06. In all cases, the projects were proposed or conditioned to provide a twenty-five(25) foot or greater setback from the top of the bluff to any portion of the proposed structure.

The proposed project is located twenty-five(25) feet from the top of the bluff, however, seven(7) feet of deck extends into this setback. Given the unusual circumstances of this blufftop; i.e., 5-7 feet of fill with an expected retreat rate of six(6) inches per year and an expected retreat rate of three(3) inches per year of the original bluff; and the Commission actions sited above, it is appropriate that all portions of the proposed project be setback a minimum of twenty-five(25) feet from the top of the bluff.

The proposed project, as conditioned, can be found consistent with Public Resources Code Section 30253(1) and (2).

4. Scenic and Visual Resources/Cummulative Impacts  
Public Resources Code Section 30251 states:

"The scenic and visual qualities of coastal areas shall be protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas."

Public Resources Code Section 30253(5) states:

"New development shall...(5) where appropriate, protect special communities and special neighborhoods which, because of their unique

Exhibit K  
(2 of 2)

January 28, 2002

JB  
**RECEIVED**

JAN 31 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Mr Jonathan Bishop  
California Coastal Commission  
725 Front Street, # 300  
Santa Cruz, Ca. 95060

Dear Sir,

I have received your letter of Jan. 24, 2002. I assume you are familiar with the details and various staff reports in evidence in the past several years, so I shall not reiterate them here.

One of the reasons continuance was granted was due to the fact that we received the last staff report a week or less before the De Novo. The Commission at that time recommended that a CCC Senior Geologist visit the site. This was done on April 24, 2000 as noted in your letter. We never heard from the commission in regards to this visit. In fact, this was the first and only visit to the site.

I have just returned from San Simeon and there are definite changes in the bluff that were not noticeable several months ago. Slumping in the center of the bluff and sand removal from the toe were evident. Winter time enhances viewing of the site.

We would appreciate your revisiting the site as you suggested.

Please be advised that we need advance notice of your visit. It is of the great importance that staff reports are sent to us in a timely manner. It takes considerable time to copy, study, and send them to those involved. My people live between San Diego and Merced and as distant as New Mexico.

Thank you for any cooperation and consideration you can give us.

Sincerely,

*Barbara Passmore*

Barbara Passmore, President  
19366 Winged Foot Cir.  
Northridge, Ca. 91326

CC: Diana Hall



January 26, 2002

Mr. Jonathan Bishop  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

**RECEIVED**

JAN 29 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Mr. Bishop,

I am writing in response to your letter of January 24, 2002. As I mentioned in our telephone conversation, the property owners want to pursue this application to its logical conclusion.

We hope to discern some useful guidance from the Coastal Commission during this process. Although the Commission does not look favorably on the project at this time, we know it is inevitable that protective measures will have to be implemented in the future. We fervently hope to avoid another situation such as the current one, in which we spend a substantial amount of money to engineer the project and acquire permits, only to be surprised by a last-minute appeal.

The situation on the bluff remains substantially the same, with erosion continuing at an erratic pace. To date this season, another large chunk of concrete has been dislodged and fallen onto the beach, however most of the erosion has continued at a reasonable pace. The debris is a source of concern, especially since some of the concrete slabs incorporate long protrusions of rebar. Since the sand comes and goes on the beach according to season, the debris is most troublesome in the winter. Consequently, this is a good time for your geologist to do another inspection.

One or more of the owners would like to be present during the inspection. Can you please contact me to set an appointment? We will make every effort to accommodate your schedule, but we will need prior notice. The property is a three-hour drive from my full-time residence; other owners must travel substantially further. Thank you.

Sincerely,

*Diana Hall*

Diana Hall  
1835 Sullivan Court  
Morgan Hill, CA 95037  
(408) 782-9275

9221

CC: Barbara Passmore, La Playa HOA



# **NORTH COAST ENGINEERING, INC.**

Civil Engineering • Land Surveying • Project Development

## **RECEIVED**

FEB 23 2000

February 18, 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

California Coastal Commission  
725 Front Street, Ste. 300  
Santa Cruz, CA 95060

Attention Ms. Tami Grove  
Deputy Director

Via Fax 831-427-4877

Subject: Coastal Commission Appeal of La Playa San Simeon Homeowner's  
Association Bluff Protection Structure at 9227, 9229 & 9231 Balboa Avenue,  
San Simeon, San Luis Obispo County (Your Appeal No. A-3-SLO-99-019)

Dear Ms. Grove:

Thank you for the postponement granted on the hearing of this project. It will provide a reasonable and warranted opportunity for the ten homeowners of this project, who have patiently proceeded through the County permit process and obtained the necessary San Luis Obispo County permits, to appropriately address the Commission's issues.

We request that the January 27, 2000 Commission Staff Report be revised to acknowledge our contentions and responses to the Reasons for Appeal described in our December 29, 1999 letter to Steve Monowitz. The purpose of our letter was to open dialogue with the Commission's staff to understand and appropriately address the Commission's concerns. It remains our desire to work with your staff toward a favorable recommendation for bluff protection on the subject properties.

We base this request on the following:

1. Recently experienced, documented accelerated rate of erosion.
2. The lack of acknowledgment of foundation support setback requirements for physical access & excavation necessary to construct a bluff protection structure.
3. The unpredictability and uncertainty associated with continued bluff erosion and storm cycles.

*Correspondence from Applicants' Engineer*  
*Exhibit L*  
*(1 of 10)*

4. San Luis Obispo County approved a Negative Declaration for this project on February 5, 1999, determining that there is no substantial evidence that the project may have a significant effect on the environment.
5. Lack of explanation of the Coastal Commission staff's determination that the County approval is inconsistent with the County certified Local Coastal Program considering the County permit Findings which state that the project is consistent with the LCP and Land Use Elements of the General Plan.
6. The County issued Minor Use Permit includes Conditions of Approval which mitigate for impacts to coastal resources. Condition of Approval No. 3(your 1/27/00 staff report Exhibit D) restricts the extent of the rock to within 10 feet seaward of the existing rip rap on the northern project lot. More than ample beach area will exist (approximately 100' to elevation 3.0) to provide for public access even with the rip rap seawall installed as approved by the County. This far exceeds the County required 25' minimum, and is a large area of accessible beach compared to nearby locations where no beach exists adjacent to the toe of bluff on the adjacent coast bluffs.
7. The proposed rock rip-rap is accessible to the public( for climbing & resting), and is compatible with the existing rock rip-rap immediately adjacent to the north and the color and bluff face geomorphology of the nearby coastal area landforms.
8. The staff has not acknowledged our alternative proposal described in our December 29, 1999 letter. Numerous alternatives were evaluated by the project Geotechnical Engineer (page 8, Section 8.0 of Earth Systems Consultants March 19, 1998 report-excerpt attached) prior to the selection of the rock structure.

Also attached are copies of the Casa La Playa Homeowner's Association letter of February 15 and Castle View Condos letter of February 16 addressing these issues.

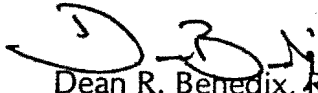
We also request that we have the opportunity to review the revised draft Staff report prior to its finalization and filing with the Commissioners.

Exhibit L  
(2 of 10)

Ms. Tami Grove  
February 18, 2000  
Page 3

Thank you for your consideration and assistance.

Sincerely,

  
Dean R. Benedix, R.C.E.  
Project Civil Engineer

Attachments

cc: Barbara Passmore (Via Fax 818-363-1779)  
Diana Hall (Via Fax 408-782-9536)  
Richard Alvarez

DRB/tas



## 8.0 CONCLUSIONS AND RECOMMENDATIONS

To reduce the bluff retreat rate, particularly at sites 9231, 9229 and the northern part of site 9227 where the bluff top is less than 15 feet from the structures, and to increase the stability of site 9213, we recommended a protection structure be constructed along the face of the bluff.

Alternatives for protective structures include concrete walls, masonry walls, crib walls, sheet piling, shotcrete, or engineered rock (riprap). For the study area, a riprap protective structure appears to be the most suitable structure for the following reasons.

1. Riprap is feasible from an economic standpoint.
2. Riprap is flexible and allows settlement without massive structural failure.
3. Riprap is easily maintained and does not require special drainage systems.
4. Riprap absorbs and dissipates energy rather than reflecting it, thus minimizing erosional effects on adjacent properties.
5. Riprap allows less run-up and overtopping by waves than vertical or formed walls.
6. The majority of the riprap can be placed by equipment located at the top of the bluff, thus minimizing disruption of tidal processes during construction.

The engineered rock (riprap) protection structure should be based on the following criteria.

### Maximum Estimated Wave Run-Up Height

The maximum wave height used for the maximum wave run-up analysis was 3 feet. This wave height was based on the existing shoreline topography and the depth of still water at the toe of the structure. The wave height also includes a 4-foot storm surge. A wave period of 5 seconds was also used for the analysis, which was based on wave data which was recorded along the Southern California Coast in November 1982 (Denison and Robertson, 1985).



## NORTH COAST ENGINEERING, INC.

Civil Engineering • Land Surveying • Project Development

JAN 18 2000

December 29, 1999  
CALIFORNIA COASTAL COMMISSION  
CENTRAL COAST AREA

California Coastal Commission  
725 Front St., Ste. 300  
Santa Cruz, CA 95060

Attention Mr. Steve Monowitz

Subject: Coastal Commission Appeal of La Playa San Simeon Homeowner's Association Bluff Protection Structure at 9227, 9229 & 9231 Balboa Avenue, San Simeon, San Luis Obispo County (Your Appeal No. A-3-SLO-99-019)

Dear Steve:

A brief description of the background of the project is in order to convey to you how we arrived at the current position of the project's development.

1. We had a preapplication meeting at the site with the San Luis Obispo County staff planner & environmental specialist in June 1998. During that meeting, the County staff requested us to provide a complete application package for simultaneous review by the Coastal Commission staff to assure your input and consideration throughout the application process.
2. The project Geological Bluff Study evaluated alternative protective structures and concluded the use of rock rap rap was the optimum technical solution for the six reasons stated in the March 19, 1998 report.
3. We submitted the Coastal Commission's copy of the application package to San Luis Obispo County Planning, as directed by them, with our June 21, 1998 application package.
4. We provided a complete copy of the application package to you via our November 30, 1998 letter, after becoming aware that the County had not provided you with detailed project information.
5. Steve Guiney's letter of December 24, 1998 provided a broad range of information on the project, but did not indicate whether a permit would be required for this project.

Correspondence from Applicants' Engineer  
Exhibit L  
(5 of 10)

Mr. Steve Monowitz  
December 29, 1999  
Page 2

6. Our letter of January 14, 1999 provided a copy of a recorded deed restriction and record Coastal Staff report to assist in your continued review of the project.

It is our intent to provide a **consolidated, reasonable and compatible structure to protect the residences of ten(10) families** on three lots while **maintaining the visual compatibility and with minimal disruption to the area's natural resources**. There is **existing bluff protection rip rap** on more than half of the northern project property lot, as well as on the San Simeon Acres Community Services District property adjoining the project to the north. For these reasons, the extent and form of the project was developed , evaluated and approved and permitted by the County.

We have determined, based on a record development plan and recent field measurements, that there has been approximately 13 feet of bluff erosion since 1989, a short term bluff retreat rate in excess of over one foot per year. The residents of these properties are extremely concerned about protecting their property before significant additional property is lost and/or excessive remediation costs are required. **The property owners and geotechnical engineer believe the best solution is the extension of the existing rock rip rap as approved by San Luis Obispo County.**

Attached is an item by item detailed response to your "Reasons for Appeal", addressing each issue. Additionally, in response to the Coastal Commissions's appeal concerns, there are two less desirable alternatives which the property owners may consider acceptable.

#### Alternative 1 - Reduced Length of Bluff Protection

The first Alternative is the elimination of rock rip rap on the northern project property( Lot A, 9231 Balboa-Alvarez) where the residence is the furthest from the bluff top. This alternative would leave a gap in the rock rip rap between the north property line of lot B(9229 Balboa-Passmore et al) and the existing rock on Lot A(9231 Balboa-Alvarez). This alternative would leave a section of about 30' on the south face of lot A unprotected, eventually requiring additional infill rock to protect that property. The lateral extent of the rock fill on the beach ( a maximum of 10' from the toe of the bluff seaward) necessary to provide reasonable protective structural stability would remain as shown on the County approved plan.

Exhibit L  
(6 of 10)

Mr. Steve Monowitz  
December 29, 1999  
Page 3

Alternative 2 - Retaining Wall

The second Alternative is the installation of a concrete retaining wall on the southern portion of the project area in place of the rock rip rap structure. Attached is a preliminary Retaining Wall Alternative plan and illustrative sections (Alignments A [Hall] & B [Passmore]) showing this concept, including features addressing the issues outlined in your March 19, 1999 appeal. The extent of the project has been reduced to only include 9227 (Lot C) & 9229 (Lot B) Balboa Avenue. We have also included in the attached summary responses to your "Reasons for Appeal" discussion regarding components of this alternative retaining wall for the bluff protection. Please note that rock revetment will still be needed at both ends of the retaining wall as shown on the plan to transition the protection from the rigid wall to the existing bluff face.

We wish to work with your staff to arrive at a reasonably acceptable design approach which can be favorably recommended to your Commission. Please review the attached and advise of your comments. Finalization and formalization of the revised plan depend upon your review comments.

Thank you for your assistance.

Sincerely,

  
Dean R. Benedix, R.C.E.  
Project Civil Engineer

Attachments

cc: Barbara Passmore (w/attachments)  
Diana Hall (w/attachments)  
Richard Alvarez (w/attachments)

DRB/tas

Exhibit L  
(7 of 10)



## Response to Coastal Commission "Reasons for Appeal"

1. A. "San Luis Obispo County LCP Hazards Policy 4 and CZLUO 23.05.090(a) limit construction of shoreline structures to projects necessary for protection of existing development..."

**Response:** The San Luis Obispo County Minor Use Permit approval of February 5, 1999 included the approved findings shown on Exhibit A (copy attached) which document consistency with the LCP Hazards Policy and CZLUO Title 23. These findings include the following:

- 1) "A. As conditioned the proposed project is consistent with the Local Coastal Program and the Land Use Element of the general plan...and are allowed by Table "O" of the Land Use Ordinance and Local Coastal Plan provided they ;are needed to protect existing structures such as the condominiums within 20 feet of the bluff. The use is consistent with all other elements of the general plan."
- "B. As conditioned, the project or use satisfies all applicable provisions of Title 23 of the San Luis Obispo County Code."
- "F. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act..."
- "K. On the basis of the Initial Study and all comments received, there is no substantial evidence that the project will have a significant effect on the environment."

- B. "Insufficient evidence has been presented to demonstrate that the rock revetment is necessary to protect the existing condominium development...the existing structures would not be undermined by erosion for approximately 26 to 54 years."

**Response:** Construction of a satisfactory bluff protection structure is required now to provide protection to the existing homes during construction and enable construction to be reasonably accomplished. The statement indicating that 26 to 54 years is remaining indicates that there is neither a) consideration given for the bearing pressure of the structure upon the marine terrace bluff which requires an angular bluff face to support the condominiums, nor 2) consideration for the construction process involved in preparing for and installing a bluff protection structure.

Exhibit L  
(8 of 10)

You have indicated that the Commission may consider/prefer the installation of a vertical (concrete) wall because it would not reduce the area of public access on the beach. Construction of a vertical wall which would not reduce the extent of existing public beach access requires that the wall be installed conceptually as shown on the attached cross section (Alignment) sketches. The sketches show a 1:1 slope line extending from the bottom of the condominium structure footings, representing the potential limit of the building bearing pressure zone. The limits of temporary construction for the installation of a vertical concrete retaining wall are shown on each alignment. Alignments A & B show the footing corner excavation at or intruding into the 5' safety setback pressure bearing zone. It should also be noted that two bluff face "slumps" have occurred along this bluff face at these locations as located and documented in the Earth Systems Consultants Geologic Bluff Study. The Alignment A sketch shows that temporary excavation for the installation of the conceptual wall catches existing grade at 6' from the face of the existing residences. The Alignment B section catches existing grade at 9' from the face of the existing structure. Delaying installation of a bluff protection structure will result in extreme construction cost inflation because more expensive structural construction methods may need to be employed the closer the erosion gets to the structures.

- C. " Furthermore, as required by the Coastal Development Permit 4-86-236 authorizing construction of one of the structures proposed to be protected by the revetment, a deed restriction was recorded under which the property owner assumed the risks associated with shoreline erosion. "

**Response:** There is no contention that the owners bear these risks, or are attempting to transferring the risks elsewhere. In assuming these risks, it is prudent and reasonable that the property owner take all necessary measures required to protect their property based on the eroding bluff face. There are no stated deed restrictions addressing bluff protection in the permit.

- 2.A. "SLO County LCP Hazards Policy 4 and CZLUO 23.050.090 require that the design and siting of shoreline structures not preclude public access to and along the shoreline."

**Response:** The proposed and County approved revetment design does not preclude public access to and along the shoreline because:

- 1) There is currently over 100' horizontally from the toe of bluff to the mean high tide. The County condition for public lateral access is from the toe of the bluff to the mean high tide, or 25' minimum, whichever is less. The Coastal permit required lateral access along the entire width of the property from the toe of the bluff to the mean high tide.

Exhibit L  
(9 of 10)

- 2) The existing vertical coastal access is along the north side of Lot A(9231 Balboa). This access way is currently completely accessible, including traversable steps down the bluff face to the beach. No disturbance to this access is included in the project.

- B. "The proposed revetment would interfere with public access and recreation by covering up a significant area of beach."

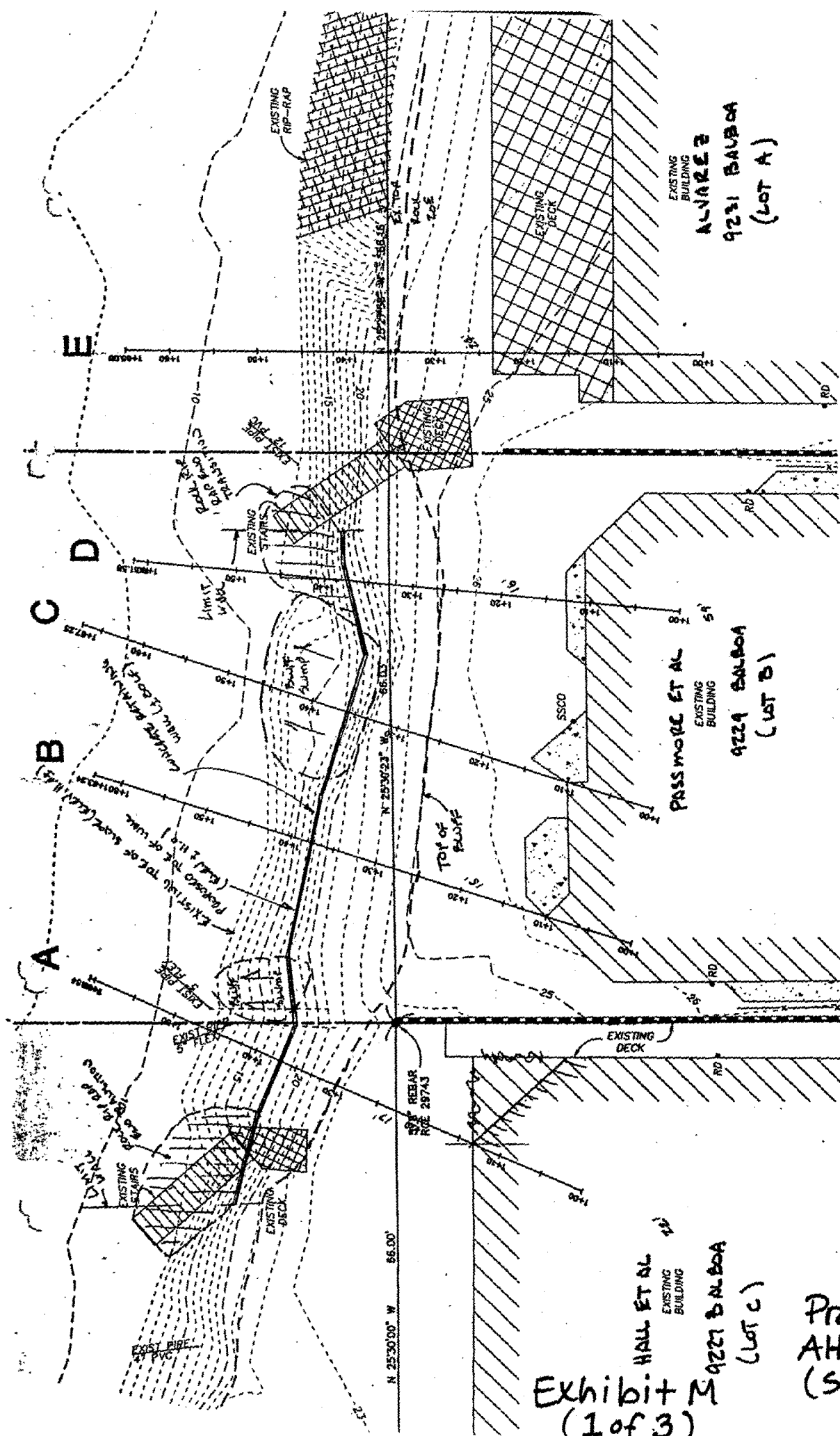
**Response:** It is proposed that a concrete retaining wall be installed to eliminate any net "take " of public access, and provide additional beach area at the toe of the bluff.

- C. "In addition, alternative structures that would avoid or minimize impact to coastal access have not been adequately considered."

**Response:** During the design development stages of the project, consideration was given to alternative structures. Extensive alternative analysis was not formally documented due to the County's unfavorable position on other possible alternatives. Consistent with San Luis Obispo County policies, we prepared an acceptable and reasonable design, approved by San Luis Obispo County.

- 3.A. "No analysis or finding has been made concerning the proposed revetments impact on sand that would be retained by the structure that would otherwise supply sand to the littoral cell."

**Response:** Discussions with Earth Systems Consultants indicates that the amount of sand lost is minuscule. We can, if you wish, provide further technical analysis to quantify an amount and propose replenishment mitigations.

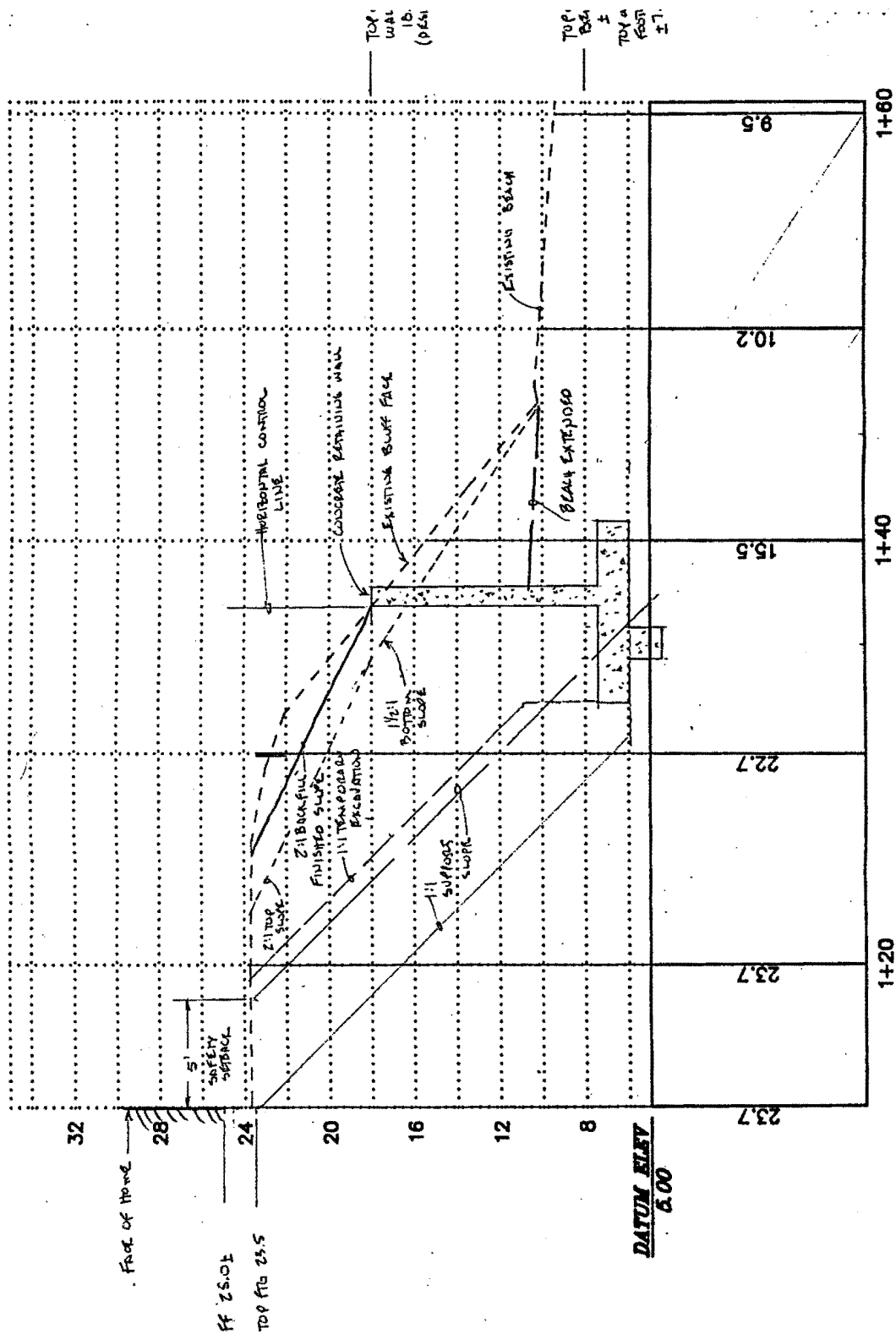


RETAINING WALL ALTERNATIVE  
 9227+9229 BALBOA AVE  
 SAN SIMON, CA  
 8.31.99  
 1"=10'  
 97172 DFB

Exhibit M  
 (1 of 3)

HALL ET AL  
 EXISTING BUILDING  
 9227 BALBOA  
 (LOT C)

Project  
 Alternative  
 (seawall)



ALIGNMENT A (HALL)

1"=5'



RECEIVED

CASA LA PLAYA HOMEOWNERS ASSOCIATION  
9229 Balboa Avenue, San Simeon California 91556-93452

FEB 17 2000

February 15, 2000

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA  
Renee Brooke

California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA. 95060-4508

Subject: Appeal Number A-3-SLO-99-019  
Agenda W9a

Dear Ms. Brooke

I am the President of the Casa La Playa Homeowners Association, a five unit condominium at 9229 Balboa Avenue in San Simeon, California. On February 5, 1999 we were issued a minor use permit by The County of San Luis Obispo to construct a rip rap sea wall to forestall further erosion of the bluff on our property and a portion of the properties to our north and south. Our Civil Engineer, Dean Benedix, of North Coast Engineering worked with Coastal Commission Staff Member Steve Guiney and with the County in preparing all of the submissions necessary to obtain the permit. We were surprised by the subsequent subject appeal filed by Commissioners Tuttle and Nava on 3/9/99 for reasons relating to the erosion rate, maintaining lateral public access, and the impact on the sand supply to the beach. Dean Benedix, now working with Steve Monowitz, responded to each of the Commissioners concerns in the appeal (Attachment 1) and submitted plans for an alternate proposal to replace the rock revetment with a seawall which would not intrude on the public access and provide a more acceptable visual impact. We were expecting a reply from Steve to Dean's responses and proposed seawall when we were blindsided with the Public Hearing Notice and staff report giving us three days to respond to the public hearing on the rock revetment. The Notice was sent by ordinary mail to me. No notice was sent to the other property owners or to Dean. We were fortunate to be home to receive it.

I believe the fundamental disagreement we have with the appeal by the Commissioners is with the erosion rate of the Bluff. You will note that in the first reason given by the Commissioners for the appeal the last sentence states that the permit for the condo structure was based on erosion rate of 4 inches per year and a bluff life span of 75 years. We have actually lost nearly half of the bluff in 9 Years! (The original 25 foot setback from the bluff in 1989 was measured at 13 feet in at least one spot and is more now.) Twelve feet in 9 years is an actual erosion rate of 15 inches a year, nearly 4 times that reported in the original geological report on which the 25 foot setback was based. I have shown this in graphical form on Attachment 2 in order to end any confusion about erosion rates

I am certain you can appreciate the frustration that I and the nine other owners of these properties feel in trying to get done what

Exhibit N - Applicants' Correspondence  
(1 of 10)

needs to be done to protect our homes and property. That is our only purpose. Our condo association alone has spent in excess of \$12,000 to obtain the necessary professional services and permits and was prepared to spend \$40,000 to \$50,000 on the rip rap seawall to halt the rapid erosion rate we have experienced in the last 9 years. If we do not act now the structure required, in what we believe is the very near future, will need to be stronger, larger, higher, and much more costly than the seawall we are now proposing in place of the rip rap. It would also certainly have a much greater negative visual impact. Surely to put it off would not be in any of our best interests. We have spent nearly four years getting to this point and would like to request that if the rip rap is not acceptable, than our alternate proposal for a concrete seawall be given fair consideration by the Coastal Commission Staff and that our engineer be given a chance to resolve the remaining concerns.

I would welcome the opportunity, as would some of the other owners, to meet with any of the Commissioners at their convenience to discuss this issue prior to the hearing in mid March.

Sincerely,

*Barbara Passmore*

Barbara Passmore

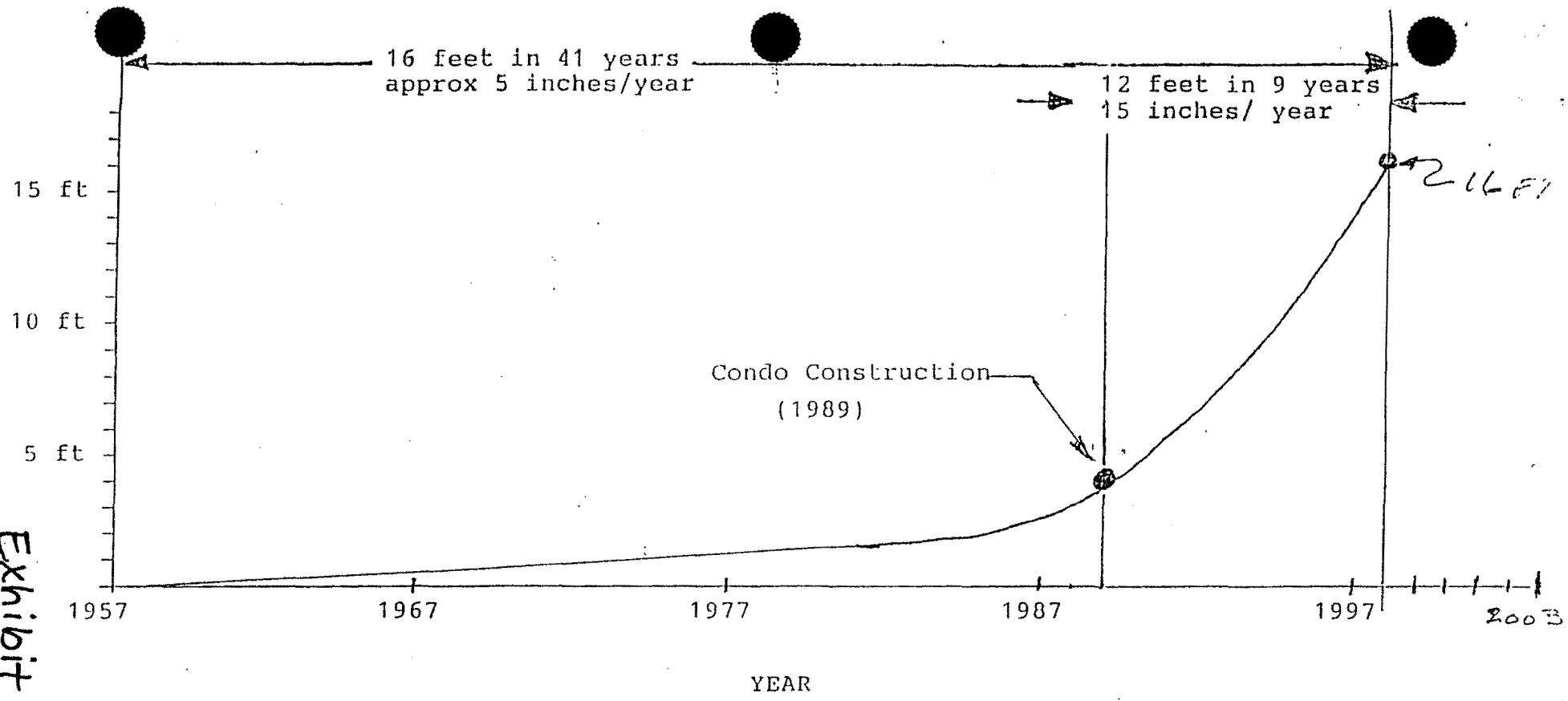
Attachments (2)

c.c. Renee Brooke  
Dean Benedix  
Steve Guiney  
Steve Monowitz

Exhibit N  
(2 of 10)



Exhibit N  
(3 of 10)



ACCELERATED RATE OF BLUFF RETREAT BASED ON THE MARCH 19, 1998 GEOLOGIC BLUFF STUDY BY EARTH SYSTEMS AND THE KNOWN 25 FOOT SETBACK OF THE CONDOMINIUM AT 9229 BALBOA FROM THE BLUFF FACE WHEN THESE UNITS WERE CONSTRUCTED IN 1989.

ATTACHMENT 2

George and Diana Hall  
Castle View Condos  
C/O 1835 Sullivan Court  
Morgan Hill, CA 95037  
(408) 782-9275

February 15, 2000

Commissioner Shirley Dettloff  
City of Huntington Beach -  
2000 Main Street  
Huntington Beach, CA 92648

**NOTE: THIS COMMUNICATION HAS BEEN  
COPIED TO CCC STAFF IN SANTA CRUZ**

Re Substantial Issue Determination and De Novo Review of Bluff Protection Project, La Playa San Simeon  
Homeowners et al. Item W9a

Dear Commissioner Dettloff:

We are homeowners at one of the three properties involved in this project, and we are responding to the staff report dated 1/27/00. Our project appeal was originally scheduled for February, but due to insufficient noticing, staff has agreed to continue the item to March.

The myriad of objections put forth in this report boggles our minds. While we should like to address each issue individually, that is not possible in this limited space. If every one of the criteria raised by staff must be met completely before another protective device can be constructed on the California Coast, we've all seen our last seawall, revetment, or other such structure. Perhaps that is the Commission's goal? We can hardly believe you will sit by and watch one home after another wash into the sea.

For example, staff discusses the problems of "interfering with bluff erosion" and "fixing the back of the beach." Of course there are problems. But, any successful plan, structural or otherwise, will necessarily interfere with bluff erosion and fix the back of the beach. There is no other way to protect a building that cannot be physically moved. The logic of staff's position on this point escapes us. They seem to be saying the only acceptable protection plan is one with absolutely zero impact on the environment. Clearly, this is impossible.

Here's another example. As you will see in the attached photos, most of our beachfront is very rocky and almost devoid of sand during a good part of the year. Every year, the ocean currents remove the sand from our beach and move it southward. And then, every year, the currents bring the sand back for some time. You might say, we borrow a sandy beach for a few months of the year and own a rocky one. Any talk of replenishing sand or fostering sand dunes is inappropriate for us, as whatever we add would be gone within the year.

Similarly, the issue of public view shed is bogus. You can see that some of our bluff is actually a source of foreign debris, which was evidently dumped (probably illegally) on the bluff many years back. This excessive fill (which was a well-kept secret from homeowners) is doubtless contributing to the increased rate of retreat. Believe us, we are dismayed at the amount of debris that continues to emerge and migrate onto the beach. Some of this debris - concrete and rebar - is unsightly and even hazardous. In addition, a substantial length of riprap already exists on the north end of our project. Nothing we propose will adversely

Exhibit N  
(4 of 10)

February 15, 2000

Page 2

affect the public view shed in any way. A well-designed wall or riprap will arguably enhance the scenic and visually qualities of the area.

Many of staff's concerns might have been alleviated if they had ever bothered to visit the site or otherwise familiarize themselves with the terrain. Staff has simply lifted verbatim objections to a sea wall in Pismo Beach and applied them to our project. Yet our geography and our situation differ substantially from that project. We suspect that the County engineers were satisfied on many of these issues when they toured the site with our engineer. Further written discussion would have been redundant and burdensome to them. CCC staff has not done the same, nor have they seemed flexible enough to even sit down for reasonable discussion on these points. Currently assigned staff has not even looked at the site plan long enough to recognize that three properties are involved. Thus we had inadequate noticing of the De Novo review schedule and confusion on both sides. The whole thing is needlessly adversarial - much like a big cat and mouse game. We are happy to oblige with further information and discussion on any issue, if only we can determine what is expected. Our fear is that for every objection we address, another will appear in its place.

So, putting those issues aside for the moment, it is apparent that the real showstopper here is whether or not we are in *imminent* danger. Staff has more or less defined that condition as having the buildings threatened in the next two to three storm cycles. We are at a loss to get a precise definition as to what a storm cycle is, but Ms. Brooke (CCC staff) has suggested that a storm cycle more or less parallels a winter season, and two to three cycles amounts to "a few years." Accordingly, we shall discuss why our buildings could be in danger in the next few years.

The staff report is totally inconsistent in its discussion of bluff retreat rates. Citing early geology reports, staff calculates an expected rate of five to six inches and a safety zone for us of 26 to 31 years. In the next breath, staff talks about the possibility of slump (which we have already experienced) or bluff collapse and a safety zone of eight to ten years. Staff does not take into serious account the information on page 10, which cites our engineer's most recent calculations. This number is simple to explain and just about impossible to refute. La Playa was the most recent construction of the three properties involved in this project. The building had a restricted setback of 25 feet when it was completed in 1989. As of summer 1999, when our engineer took the most recent measurements, less than 13 feet of bluff remained in front of La Playa. Twelve feet lost in ten years equals a minimum retreat rate of 14-1/2 inches per year. If that rate remains consistent, the bluff edge will hit the building in ten years. But then, the building will be gone long before that happens.

We do not know precisely how much bluff is necessary to support the footings of the buildings. Our engineer has performed some calculations in this area and told us that the final number depends upon the slope of the bluff at the time. We can certainly provide detailed calculations, if staff does not already have them. As laypersons, common sense tells us that we would need a few feet in front of the building to stabilize weight bearing foundations and footings. Looking at our submitted plan for an alternate seawall design (Exhibit L) you can see that the engineer specified a minimum five-foot safety setback. The closer we get to that mark, the more difficult and dangerous construction will be, and the more risk of destabilizing the building. So, if we take five feet out of our remaining 13 feet of bluff, we are down to eight feet. At 14-1/2 inches per year, that gives us about six and a half years.

With our alternate plan (which was designed to eliminate the need to cover ANY public beach) we would excavate several feet into the bluff without crossing that five-foot safety setback. According to the engineer's calculations (Exhibit L, p.9) we are just about at the minimum bluff space for that plan as we sit today. Staff has not addressed this issue at all. In fact, staff makes no reference to our alternate plan, though it was created specifically to address what we believed was Mr. Monowitz' major concern about covering public beach.

Exhibit N  
(5 of 10)

February 15, 2000  
Page 3

Should we keep the riprap design, we have a little leeway. Still there would need to be some cleanup of the bluff face, probably removing some existing slump, etc. Let's say that would eat a foot or less. So, by our laypersons' count we need a minimum six feet of bluff to safely install riprap and the current 13 feet to do an excavated vertical seawall.

In 1996 we lost five feet in one storm season. Should that occur tomorrow, we would have less than eight feet of bluff remaining. We would have to complete a protection project before we lose another three feet of bluff or the building would be undermined. Should it happen in two years, when we might be sitting on 11 feet of bluff rather than 13, we would have six feet remaining. We would have only one foot of bluff between safety and losing the building. Under either of these scenarios, we are in danger. True, these are "what if" situations, but can anyone at CCC guarantee they won't turn into reality? We have seen as much retreat in recent history. By any common sense estimation, we qualify as being in imminent danger.

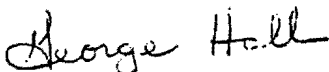
We have worked on this project for four years, making every effort along the way to be reasonable and flexible. The plans went to CCC twice before we bought our final permits. Yet, no issue was raised until we were done. Even at that point, we attempted to find a way to accommodate staff, but could not get a clear read on what, exactly, was required. If this negative report represents a set of reasonable objections, and if staff's uncooperative and uncommunicative behavior represents reasonable action, we are beating our heads against an iron wall. Give us reasonable conditions and we will do our level best to meet them. We have shown that willingness time and again.

Our required setback of 25 feet was supposed to be good for 75 years. Castle View was built in 1982. No matter how you slice it, that bluff is not going to last another 57 years. With the right conditions, we could see building failure in a very few years. This is not a problem any of our Castle View owners expected to encounter. We've had our own condo for more than ten years. While the bluff erosion was startling during the first five years of ownership, the damage we've witnessed in the last five years has been absolutely frightening. We have seen as much as two feet of bluff fall during a single El Nino storm. Admittedly, that was an unusual weather event - but not an unheard of one. We can have no way of predicting just when such a set of storms might recur. We are too close to the edge to wait and hope that the bluff retreat rate slows to its original five inches in time to delay the damage. What purpose can be served in waiting any longer? The beach is already more than 100 feet wide between the bluff toe and the mean high tide. Does the public want another few feet of rocky beach at the expense of our homes?

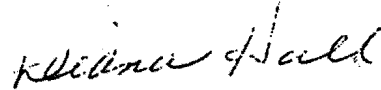
If you want to eliminate seawall construction in California, you must eliminate coastal building. In the meantime, what are you to do with existing homeowners? Will you abandon us? If you make the conditions to protect our property impossible to meet or outrageously impractical, that is exactly what you have done.

Thank you for your attention. We should like to follow-up in a week or so to see if we can answer any questions. In the meantime, you may reach us at (408) 782-9275.

Sincerely,



George Hall, President Castle View Condos



Diana Hall, Secretary, Castle View Condos

CC: Steve Monowitz, Dean Benedix

Exhibit N  
(6 of 10)

Jan - 3 - 2000

Calif. Coastal Commission  
725 Front St. Ste 300  
Santa Cruz Ca. 95060

Richard G. Alvarez  
5004 Shadow Ln  
Templeton Ca 93463  
Tel 805-238-3481

RECEIVED

attention Steve Monocinity

JAN 07 2000

Subject - Coastal Commission Appeal  
of La Playa San Simeon home owners  
protection of the bluff structure  
your appeal no A-3-SLO-99-019

I received a letter from North County  
Engineers inc + Ploris showing a  
retaining wall to protect the property  
of 9227 + 9229 Balboa but nothing  
on my property of 9231 Balboa.

Should this plan be approved I  
would please Request the approval  
include my property of 9231 Balboa

I am losing the Bluff area as fast  
or possible faster then the others -

please inform me as to what I should  
do to be included

Exhibit N  
(7 of 10)

Richard G. Alvarez  
9231 Balboa

It was included in the original  
Request for a Sea wall, which was  
approved by the County of San Luis Obispo

Richard Alway

January 26, 2002

Mr. Jonathan Bishop  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, CA 95060

**RECEIVED**

JAN 29 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Mr. Bishop,

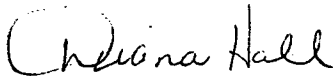
I am writing in response to your letter of January 24, 2002. As I mentioned in our telephone conversation, the property owners want to pursue this application to its logical conclusion.

We hope to discern some useful guidance from the Coastal Commission during this process. Although the Commission does not look favorably on the project at this time, we know it is inevitable that protective measures will have to be implemented in the future. We fervently hope to avoid another situation such as the current one, in which we spend a substantial amount of money to engineer the project and acquire permits, only to be surprised by a last-minute appeal.

The situation on the bluff remains substantially the same, with erosion continuing at an erratic pace. To date this season, another large chunk of concrete has been dislodged and fallen onto the beach, however most of the erosion has continued at a reasonable pace. The debris is a source of concern, especially since some of the concrete slabs incorporate long protrusions of rebar. Since the sand comes and goes on the beach according to season, the debris is most troublesome in the winter. Consequently, this is a good time for your geologist to do another inspection.

One or more of the owners would like to be present during the inspection. Can you please contact me to set an appointment? We will make every effort to accommodate your schedule, but we will need prior notice. The property is a three-hour drive from my full-time residence; other owners must travel substantially further. Thank you.

Sincerely,



Diana Hall  
1835 Sullivan Court  
Morgan Hill, CA 95037  
(408) 782-9275

CC: Barbara Passmore, La Playa HOA

Exhibit N  
(9 of 10)

January 28, 2002

JB  
**RECEIVED**

JAN 31 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Mr Jonathan Bishop  
California Coastal Commission  
725 Front Street, # 300  
Santa Cruz, Ca. 95060

Dear Sir,

I have received your letter of Jan. 24, 2002. I assume you are familiar with the details and various staff reports in evidence in the past several years, so I shall not reiterate them here.

One of the reasons continuance was granted was due to the fact that we received the last staff report a week or less before the De Novo. The Commission at that time recommended that a CCC Senior Geologist visit the site. This was done on April 24, 2000 as noted in your letter. We never heard from the commission in regards to this visit. In fact, this was the first and only visit to the site.

I have just returned from San Simeon and there are definite changes in the bluff that were not noticeable several months ago. Slumping in the center of the bluff and sand removal from the toe were evident. Winter time enhances viewing of the site.

We would appreciate your revisiting the site as you suggested.

Please be advised that we need advance notice of your visit. It is of the great importance that staff reports are sent to us in a timely manner. It takes considerable time to copy, study, and send them to those involved. My people live between San Diego and Merced and as distant as New Mexico.

Thank you for any cooperation and consideration you can give us.

Sincerely,

*Barbara Passmore*

Barbara Passmore, President  
19366 Winged Foot Cir.  
Northridge, Ca. 91326

CC: Diana Hall

Exhibit N  
(10 of 10)



## CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



1 May 2000

## MEMORANDUM

To: Renee Brooke, Coastal Program Analyst  
From: Mark Johnsson, Senior Geologist  
Re: A-3-SLO-99-019; La Playa San Simeon Homeowners Association et al.; Appeal

In order to facilitate my review of the above project, I have examined the following materials:

- 1) "Geologic Bluff Study," by Earth Systems Consultants, dated 19 March 1998 and signed by Richard Gorman
- 2) California Coastal Commission staff report for Substantial Issue Determination and De Novo Review," for hearing of 16 March 2000.

In addition, I made a site visit on 24 April 2000, accompanied by Richard Gorman (Earth Systems Consultants), project geologist for the applicants, and yourself.

The geologic bluff study quotes an erosion rate for the terrace deposits overlying sandstones of the Franciscan formation at this location of about 5 inches per year. Given the quoted bluff retreat of 16 feet between 1957 and 1998, and based on the amount of erosion apparent around the pilings of the stairway at 9231 Balboa Avenue (reportedly installed around 1990), this rate seems reasonable to slightly high. The report also cites a bluff retreat rate of about 6 inches per year for the artificial fill that mantles the bluff at 9229 Balboa Avenue. This may be a reasonable long-term average, but appears to be somewhat low given the amount of erosion observed in recent years, most notable after the 1997-1998 winter. It appears that the artificial fill at this site erodes episodically, and that much more erosion may occur during particularly wet or stormy periods compared to drier or calmer intervals. The closest structure is currently approximately 16 feet from the bluff edge.

The most rapid bluff erosion at the site appears to be the result of slumping of artificial fill that covers the bluff, principally at 9229 Balboa Avenue. This slumping appears to be exacerbated by groundwater within the fill and at the fill/terrace border. As shown in the geologic bluff study, the bluff is located well above the highest high tide line; a four foot storm surge occurring at highest high tide is required to reach to base of the bluff. Even the maximum wave run-up height calculated in the study (wave height of three feet, period of five seconds) only reaches an elevation of 14.2 feet, impinging on only the lowest 2.5 feet of the bluff. It appears that surficial erosion and groundwater processes are more important to bluff retreat at this site than marine erosion.

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In view of both the retreat rates quoted above, the distance of the structures from the bluff edge, and the analysis of the mechanisms of bluff erosion and retreat, a revetment is not recommended. The structures at Balboa Avenue due not appear to be in imminent danger from erosion, and the erosion that is occurring seems to be related principally to groundwater processes. It seems likely that erosion will continue principally in the artificial fill, and will likely cause relatively rapid bluff retreat until the fill has been eroded back to a point at which the natural marine terrace deposits are exposed in the bluff face. The amount of bluff retreat that will occur before this happens depends on the extent of the fill at the site and, to a lesser extent, on drainage and groundwater management practices. Except from buttressing the toe of the slope, a revetment would have limited effect in slowing retreat of the part of the bluff on which is exposed artificial fill. Those portions of the slope in which terrace deposits are exposed are not undergoing retreat at rates that will threaten the structures for at least the next 20 years.

Accordingly, there seems to be no justification for a revetment at 9227-9231 Balboa Avenue at this time. Current erosion problems would best be managed by a combination of drainage control and groundwater management. If subsequent studies show that the artificial fill is extensive, then a proposal for increasing the stability of this material might be appropriate.

I hope that this review is helpful. Please do not hesitate to contact me if you have any further questions.

Sincerely,

Mark Johnsson  
Senior Geologist

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