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Th10b

Appeal filed:	6/30/2010
Substantial issue found:	12/17/2010
Staff report prepared:	7/20/2011
Staff report prepared by:	Madeline Cavalieri
Staff report approved by:	Dan Carl
Hearing date:	8/11/2011

CDP APPLICATION

Appeal numbers .....**A-3-PSB-10-032 (Larson SFD)**

Applicants.....Jordan and Rachael Larson

Project location .....202 Vista Del Mar, Pismo Beach, San Luis Obispo County (APNs 010-231-027 and 010-231-028)

Project description.....Construct a 1,220 square foot single-family residence on lot 20 (APN 010-231-028) and demolish an existing garage and construct a new garage on lot 9 (APN 010-231-027).

File documents.....Administrative record for City of Pismo Beach CDP 10-0006; City of Pismo Beach certified Local Coastal Program (LCP); City of Pismo Beach Subdivision Regulations of 1959; City of Pismo Beach Zoning Code of 1963.

Staff recommendation ...**Denial**

A.Staff Recommendation

1. Summary of Staff Recommendation

The Applicants propose to construct a new single-family residence on lot 20 and demolish and rebuild a one-car garage on lot 9, at 202 Vista del Mar Avenue, in the Shell Beach neighborhood of the City of Pismo Beach, San Luis Obispo County. Lots 9 and 20 are part of an area between Vista del Mar and Terrace Avenues where larger lots with single-family homes front the two streets (e.g., lot 9 in this case), and smaller lots are sandwiched in-between the larger lots (e.g., lot 20 in this case). This location raises questions about whether the smaller lots are separate legal lots entitled to typical stand-alone development, such as a single-family residence, as proposed here, or whether they should be considered lots that simply extend the usability of the street-fronting lots and are not entitled to more development than that. On December 17, 2010, the Commission found that the City's action, approving the project, raised a substantial issue of conformance with the LCP and took jurisdiction over the CDP application. In their deliberation, the Commission was concerned that the interior lots were not legal and thus not entitled to stand-alone development. The standard of review for the proposed project is the certified City of Pismo Beach LCP and the public access and recreation policies of the Coastal Act.

The proposed project is located in the City's single-family residential (R-1) zoning district, which limits development to one single-family residence and accessory uses on each legal lot. Although the project site contains two separate parcels with two different assessor's parcel numbers, staff does not believe that lot 20 was legally subdivided, and therefore, does not believe that it is a legal lot under the City's LCP. In short, although the City's Planning Commission initially approved the subdivision that created lot 20 in 1972, the available evidence shows that the subdivision did not conform to the local laws that were in effect at the time and that would need to be met to effectuate the City's approval, including with respect to City Council approval, parcel map documentation, minimum parcel size, and street frontage requirements. Therefore, absent additional information to the contrary, lot 20 is not a legal lot for the purpose of assessing the proposed project's consistency with the certified LCP, and the proposed project is inconsistent with the zoning requirements of the single-family residential district because it includes constructing a single-family residence on an illegal lot. Further, the City's LCP requires a two-car garage on lot 9. Although there is an existing, non-conforming one-car garage on lot 9, because that garage would be demolished under the proposed project, it must be replaced with a two-car garage to comply with LCP requirements.

Staff is unaware of any modifications that could make the proposal to construct a single-family residence on lot 20 consistent with the requirements of the LCP. Rather, Staff continues to believe that these Applicants and the other property owners in the affected subdivision need to work directly with the City for resolution of the lot legality issues that afflict these properties, and has provided that advice to interested parties since before this project was appealed, and continuing after the Commission's December action. Such a resolution could result in the City taking an action to recognize the lots via CDP authorization, or to change the LCP to allow development of the kind proposed here in the affected area, or both. On the other hand, the resolution of this issue could result in the City disallowing development of the kind proposed here, whether through CDP and/or LCP means. In any case, the resolution should be focused on all of the lots in question, and the proposed project does not provide the Commission nor the City with the means to address the problem systematically under the LCP. As it stands under the current LCP and fact set, the proposed project is not consistent with the LCP.

Thus, Staff recommends that the Commission deny the CDP for the proposed development. The motion to implement this recommendation is below.

2. Staff Recommendation on CDP Application

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-PSB-10-032 for the development proposed by the Applicants. I recommend a no vote.

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 a Coastal Development Permit. The Commission hereby denies a coastal development permit for the proposed development on the grounds that 1) the development will not conform with the policies of the City of Pismo Beach Local Coastal Program, and 2) denial of the proposed development a) will not constitute a taking of private property for public use without payment of just compensation, and b) is an action to which the California Environmental Quality Act does not apply.

Report Contents

B.Findings and Declarations

The Commission finds and declares as follows:

1. Project Location

The proposed project is located at 202 Vista del Mar Avenue, approximately half a block inland of the shoreline, in the Shell Beach neighborhood of the City of Pismo Beach (see Exhibit 1). The site contains two assessor's parcels: lot 9 (APN 010-231-027) and lot 20 (APN 010-231-028). Lots 9 and 20 are part of an area between Vista del Mar and Terrace Avenues where larger lots with single-family homes front the two streets and smaller lots without their own street frontage are sandwiched in-between the larger

lots. Lot 9 fronts Vista del Mar Avenue and has an existing single-family residence and one-car garage on it. Lot 20 is a vacant lot located behind lot 9, essentially in the backyard of lot 9, and it has no road frontage. Lot 20 was created in 1972 when an interior "flag lot" was divided in order to extend the backyards of the existing lots along Vista del Mar and Terrace Avenues, according to the then subdivider[1] (see Exhibit 2). The proposed project includes components on both lot 9 and lot 20, both of which are owned by the Applicants. See location and parcel maps in Exhibits 1 and 2.

2. Project Description

The proposed project is for construction of a new 1,220 square foot house on lot 20, and demolition and reconstruction of a one-car garage on lot 9 (including to facilitate shared driveway access through lot 9 to lot 20) at 202 Vista del Mar in the City of Pismo Beach. See proposed project plans in Exhibit 3.

3. Lot Legality

The new single-family residence would be constructed on lot 20 of parcel map 71-269, which was recorded on February 29, 1972 (see Exhibit 2).[2] The parcel map shows a series of 20 lots that are located behind the lots that have road frontage on Vista del Mar Avenue and Terrace Avenue. In 2009, the City analyzed the legality and development potential of these lots from the 1972 subdivision and concluded that the parcels were legally subdivided, in part because they are shown on a recorded parcel map that was signed by the City Engineer at that time (see City analysis in Exhibit 4). The City also determined that there are no restrictions on the parcels that would prohibit the development of single-family residences. On October 20, 2010, the City issued an unconditional certificate of compliance (COC) under the Subdivision Map Act (SMA) for lot 20.

Although the City determined that lot 20 is legal under the SMA, the available evidence suggests otherwise. Specifically, although there is no question that a parcel map was recorded, a recorded parcel map only establishes lot legality under SMA if it meets the definition of a parcel map under SMA, which among other things requires approval of the map by the local authority under the provisions of the SMA or local ordinances adopted pursuant to the SMA. In this case there is a recorded parcel map, but the available evidence shows that the subdivision was not approved in conformance with the local subdivision ordinances that were in effect at the time.

The City has provided the Commission with two relevant local laws that may have been in effect at the time the map was created in 1972, but it has not been shown with certainty what, exactly, was in effect

[1] The original 1972 subdivider, Edward Pollard, has participated in the proceedings associated with the proposed project. Although the parcel map and associated available documentation from the early 1970s does not communicate this objective, Mr. Pollard has indicated to the Commission that this was the original intent of the subdivision (see, for example, Mr. Pollard's appeal of the City's approval of the subject project).

[2] This date is prior to the CDP requirements of 1972's Proposition 20, the Coastal Initiative, and 1976's Coastal Act. Thus, at that time, a CDP was not required for the subdivision.

at that time. The first is the City's subdivision regulations that were established in 1959 and the second is the City's zoning ordinance of 1963. Unfortunately, the City has not been able to locate a complete copy of the 1963 zoning ordinance. The City's position is that the 1963 zoning ordinance superseded the 1959 subdivision regulations, and that it applied at the time of the 1972 subdivision. However, there does not appear to be any evidence to substantiate this. Section 6-3 of the 1959 subdivision regulations requires that new lots be consistent with zoning regulations. This shows that the subdivision code was intended to be distinct from the zoning code and to work with it, making it unlikely that a zoning code would have superseded a subdivision ordinance. Further, the portion of the 1963 zoning ordinance that is available does not include subdivision regulations, so it is not clear how it could have replaced the 1959 subdivision regulations. Thus, based on the information that has been provided, it appears that the 1959 subdivision regulations were most likely the local subdivision ordinances that were in effect at the time of the 1972 subdivision, but this has not been conclusively determined.

Regardless of which regulation was in effect, and even if both regulations were in effect, it does not appear that the parcel map was created in conformance with the local laws of the time, as required by the SMA. First, the 1959 subdivision regulations required approval of the subdivision and final parcel map by both the Planning Commission and the City Council. The City has provided copies of minutes from the Planning Commission meeting of December 9, 1970, which indicate that the Planning Commission approved the subdivision stipulating a pedestrian easement, and referred further consideration of the easement to the City Council. It is unclear from the minutes whether or not the Planning Commission's approval of the subdivision was intended to be final, or if it was intended to be referred to the City Council, or be limited to just the easement. Given that approval by both bodies was required per the 1959 regulations, it is likely that the Planning Commission's action was intended to be a referral to the City Council for further action. In either case, the City has not been able to locate the relevant City Council minutes or resolutions to verify any City Council actions on the subdivision. Thus, the nature of the Planning Commission's action is uncertain, and there is no evidence that the subdivision or map was approved by the City Council, and therefore that the subdivision received the required approvals.

Second, under the 1959 regulations, Planning Commission and City Council subdivision approvals were required to be included on the face of the approved parcel map. Even if these decision-making bodies approved the subdivision, the recorded parcel map itself does not include any evidence of their approvals. Rather, the map was recorded and signed solely by the City Engineer (more than a year after the Planning Commission's 1970 action). Thus, the parcel map does not meet the requirements that were then in effect to include Planning Commission and City Council approvals on the face of an approved parcel map, and therefore the map was not consistent with these documentation requirements.

Third, the lots in the parcel map do not meet the minimum lot size requirements of the 1959 subdivision regulations. Moreover, although the portion of the 1963 zoning ordinance that the City has available does not contain any minimum lot sizes, it is unlikely that there were in fact no minimum lot sizes, and it is unlikely that the small lot sizes created on the subject map, including those that are only 10 feet deep, would be consistent with any required minimum lot sizes. Thus, the lots do not meet the minimum size requirements of the 1959 regulations, and have not been shown to meet (and are unlikely to meet)

the 1963 minimum size requirements, and therefore the lots were not consistent with minimum size requirements.

Finally, the 1963 zoning code defines a lot as a building site that has "its principal frontage on a street, road, highway or waterway," and the lots created through the subject subdivision did not have such frontage. Thus, if the 1963 zoning code was the applicable local subdivision ordinance at the time, the lots do not meet the principle frontage requirement, and therefore the lots were not consistent with frontage requirements.

Therefore, it appears that the subject parcel map did not comply with the 1959 subdivision regulations, nor the 1963 zoning code.

The City issued its COC under the SMA for lot 20 in 2010, despite this evidence. The Commission does not believe that the COC conclusively establishes lot legality for purposes of the Commission's review of the project under the LCP. Because the COC was based on the same fact set described above and issued without the City first verifying that the parcel was subdivided in accordance with the laws and regulations that were in place at the time the subdivision map was approved, the Commission finds that it should not be treated as a legal lot when considering the project's consistency with the LCP. If the City had instead issued a conditional certificate of compliance, which would appear to be more appropriate given the facts described above, such conditional certificate of compliance would also have required approval of a CDP, which did not happen in this case.

In summary, based on the evidence available, the early 1970s subdivision did not meet applicable requirements for approvals, parcel map documentation, minimum lot sizes, and street frontage. Although there is some uncertainty because of missing documentation from that era, available evidence does not suggest that the subdivision was legal. Therefore, absent additional information showing the lot was legally subdivided in 1972, the Commission considers lot 20 to be illegal and must consider the project's consistency with the LCP in light of this determination.

4. Coastal Development Permit Determination

The standard of review for this application is the certified City of Pismo Beach LCP and the Coastal Act's public access and recreation policies.

A. Zoning

1. Applicable Policies

The certified LUP designates the subject site for medium density residential development, and the LCP zoning district is Single Family Residential (R-1). The LCP states:

> ***IP Section 17.018.010 Purpose of Zone.*** *The one-family residential or R-1 zone is intended to be applied in areas of the City in which topography, access, utilities, public services and general conditions make the area suitable and desirable for single family home development.*
>
> ***IP Section 17.018.020 Permitted Uses.*** *In the single family residential zone the following uses only are permitted as hereafter specifically provided for by this section and subject to the general provisions and exceptions set forth in Chapters 17.102 and 17.105: (1) Single Family dwellings; (2) Home Occupations (see Chapter 17.115); (3) Accessory private lath houses or greenhouses for the propagation and cultivation of plants for hobby and home use only; (4) Tree, orchard and/or vegetable gardening for occupants' use only; (5) Mobile Homes on certain lots as permitted by Municipal Code Chapter 17.106.*
>
> ***IP Section 17.102.100 Minimum Lot Area Per Family Unit.*** *(A) A-E Zone: Two units per lot; (B) R-1 Zone: One unit per buildable lot, or combination of buildable lots; (C) R-2 Zone: Two thousand sq. ft.; (D) R-3 Zone: One thousand four hundred fifty sq. ft…*

The IP defines a lot and a single family dwelling as follows:

> ***IP Section 17.006.0665 Lot.*** *A legal unit of land created in accordance with subdivision law and assigned a lot number.*
>
> ***IP Section 17.006.0400 Dwelling, Single Family.*** *A dwelling unit designed exclusively for use and occupancy by one family.*

The LCP has three residential zoning districts: R-1 provides for development to accommodate density of one family per lot; R-2 provides for development to accommodate two or three families per lot;[3] and R-3 provides for development to accommodate a higher density of dwelling units per lot.[4] Lots are defined by IP Section 17.006.0665 as legal lots. IP Section 17.018.020 permits single-family dwellings in the R-1 district, and Section 17.006.0400 defines a single-family dwelling as a unit designed exclusively for use and occupancy by one family. IP Section 17.102.100, which specifies the minimum lot area per family unit, limits development to one unit per buildable lot in the R-1 zone. Thus, in the R-1 zone, the certified LCP limits development to one single-family dwelling per legal lot.

2. Consistency Analysis

As discussed above, the available evidence shows that lot 20 was not legally created. Therefore, the proposed project involves constructing a new single-family residence on an illegal lot, inconsistent with the zoning regulations of the LCP. Thus, the Commission finds that the proposed project is inconsistent with the certified LCP.

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[3] IP Section 17.021.010 identifies the purpose of the R-2 zone, stating: "The two or three family residential or R-2 zone is intended to be applied in areas of the City where a density of two or three families per building site can be physically accommodated…" IP Section 17.021.020 lists the Permitted Uses in the R-2 zone, which include single-family dwellings, duplexes and triplexes.

[4] IP Section 17.024.010 identifies the purpose of the R-3 zone, stating: "The Multi-Family Residential or R-3 Zone is intended to apply in the areas of the City where it is reasonable to permit varying intensities of residential developments." IP Section 17.024.020 lists the Permitted Uses in the R-3 zone, which include single-family residences, duplexes, triplexes, and apartments of four or more units.

B. Off-Street Parking

1. Applicable Policies

The LCP requires adequate off-street parking to avoid impacts on nearby public access and beach parking. LUP Circulation Element Policy C-14 states:

> ***Parking.*** *…In order to assure that development projects will not adversely affect the availability of existing parking for shoreline access, an adequate quantity of on-site parking spaces to serve the full needs of the development shall be required, except as noted above for the downtown area. Exact parking standards shall be established by City ordinance, but minimum parking ratios for new developments shall not be less than: …single-family residential: 2 spaces per unit…New development projects located within one quarter mile of the beach or bluff edge shall be evaluated to assess their impact on the availability of parking for public access to the coast. If a project would result in a reduction of shoreline access parking, the project may be required to provide additional parking spaces to accommodate public access…*

In carrying out this policy, the LCP requires at least two parking spaces in a garage for each single-family residence on lots over 2,700 square feet. Section 17.108.020.A states:

> ***Single Family and Duplex Structures.*** *Two parking spaces per dwelling, both of which must be within a garage, except that no more than one space shall be required to be within a garage if the parcel area is less than two thousand seven hundred square feet.*

The one-car garage on lot 9 that is proposed to be demolished and reconstructed is an existing, nonconforming use. The LCP prohibits structural alterations to any nonconforming structure if the alteration is not in compliance with the current zoning regulations. The relevant zoning regulation of the IP states:

> ***17.118.050. Existing Nonconforming Structures – Structural Alterations.*** *Structural alterations including enlargement and extensions of any building or structure existing at the date of the adoption of this Title, if nonconforming in either design or arrangement, may be permitted only if such alteration is in compliance with the regulations set forth in this Title for the district where the building or structure is located…*

2. Consistency Analysis

The LCP requires one parking space in a garage on lots under 2,700 square feet and two parking spaces in a garage on lots over 2,700 square feet. Lot 9 is larger than 2,700 square feet. The existing residence on lot 9 is served by a nonconforming one-car garage that is proposed to be demolished and replaced with a new one-car garage. The LCP prohibits structural alterations to nonconforming structures, unless those alterations are consistent with the current zoning code. Complete replacement, as proposed here, thus requires the new structure to be consistent with current requirements, including that the garage provide two parking spaces. The proposed new one-car garage does not meet the requirement to provide two parking spaces within the garage, and is thus inconsistent with the LCP. Therefore, the Commission finds that the replacement garage is inconsistent with the certified LCP.

C. CDP Determination Conclusion – Denial

As discussed in the above findings, the proposed project is inconsistent with the certified LCP. When the Commission reviews a proposed project that is inconsistent with an LCP, there are several options available to the Commission. In many cases, the Commission will approve the project but impose reasonable terms and conditions to bring the project into conformance with the LCP. In other cases, the range of possible changes is so significant as to make conditioned approval infeasible. In this situation, the Commission denies the proposed project because it does not meet LCP requirements for new single-family homes to be allowed only on legal lots and requiring a two-car garage for dwellings on lots over 2,700 square feet. Although the replacement garage issue could potentially be addressed, there are not conditions readily available that can resolve the lot legality issues. The Applicants retain a reasonable economic use of their property even with such denial, namely their existing single family home and related development.

Moving forward, the underlying lot legality issues as they affect these Applicants and other property owners in this area need to be better addressed before development such as this is again proposed in these circumstances under the LCP. It is clear that these Applicants and the other property owners in the affected area need to work directly with the City on resolution of the lot legality issues that afflict these properties. Such resolution may take multiple forms, and may result in a variety of development outcomes. At one end of the spectrum, the City might take action to recognize the lots via CDP, or take action to change the LCP to allow development of the kind proposed here, or both. At the other end of the spectrum, development of the kind proposed here could be disallowed, whether through CDP and/or LCP means. In any case, resolution would appropriately focus on all of the lots in question so that all affected parties are clear on the parameters of lot legality and potential development under the LCP moving forward. Absent such a resolution, a project that involves only one of the affected lots, like this one, does not provide the Commission or the City with the means to address the lot problem and proposed development systematically under the LCP. The Commission recommends that City and affected property owners work together to resolve these issues accordingly, as soon as possible.

5. California Environmental Quality Act (CEQA)

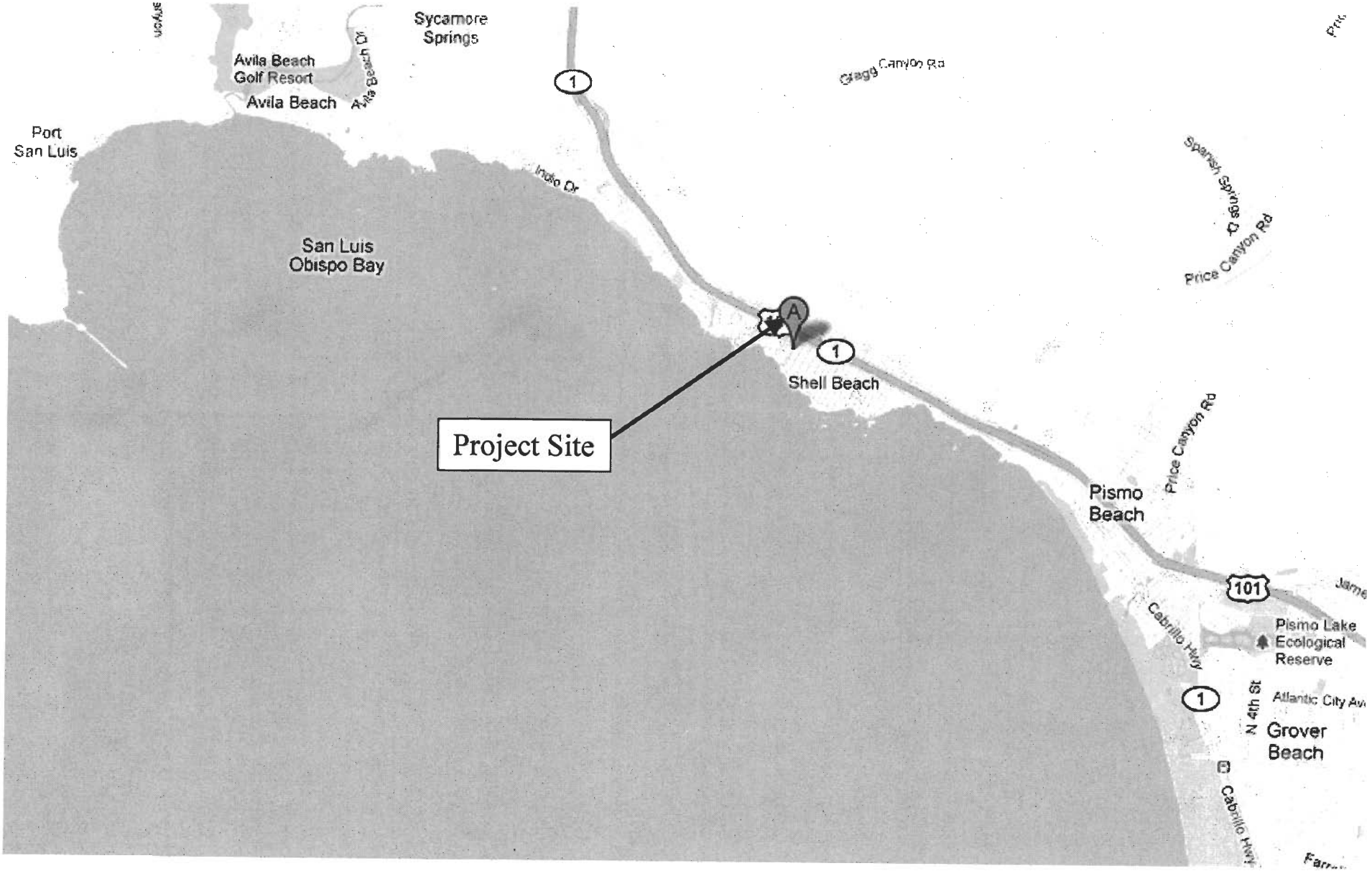
Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

> ***CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects.*** *[Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.*
>
> ***Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication.*** *…(b) This division does not apply to any of the following activities: …(5) Projects which a public agency rejects or disapproves.*

> ***CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved.*** *(a) CEQA does not apply to projects which a public agency rejects or disapproves.*

Section 13096 (14 CCR) requires that a specific finding be made in conjunction with coastal development permit applications about the consistency of the application with any applicable requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposals. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed projects would have significant adverse effects on the environment as that term is understood in a CEQA context.

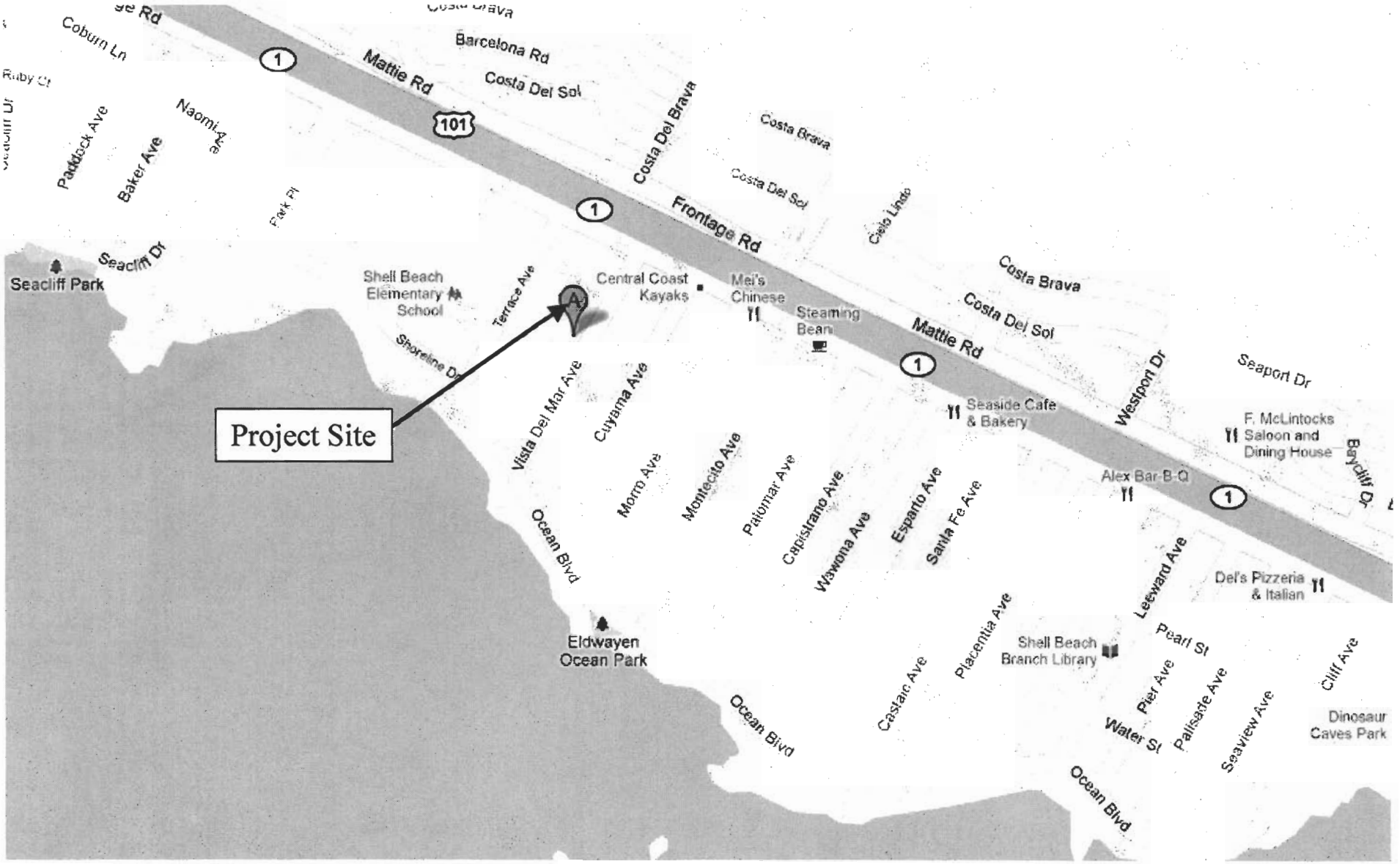
Pursuant to CEQA Guidelines (14 CCR) Section 15042 "a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed." Section 21080(b)(5) of the CEQA, as implemented by section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the projects were approved as proposed. Accordingly, the Commission's denial of these projects represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.



A-3-PSB-10-032 (Larson)

CCC Exhibit 1

(page 1 **of** 2 **pages)**



A-3-PSB-10-032 (Larsen)

CCC Exhibit 1

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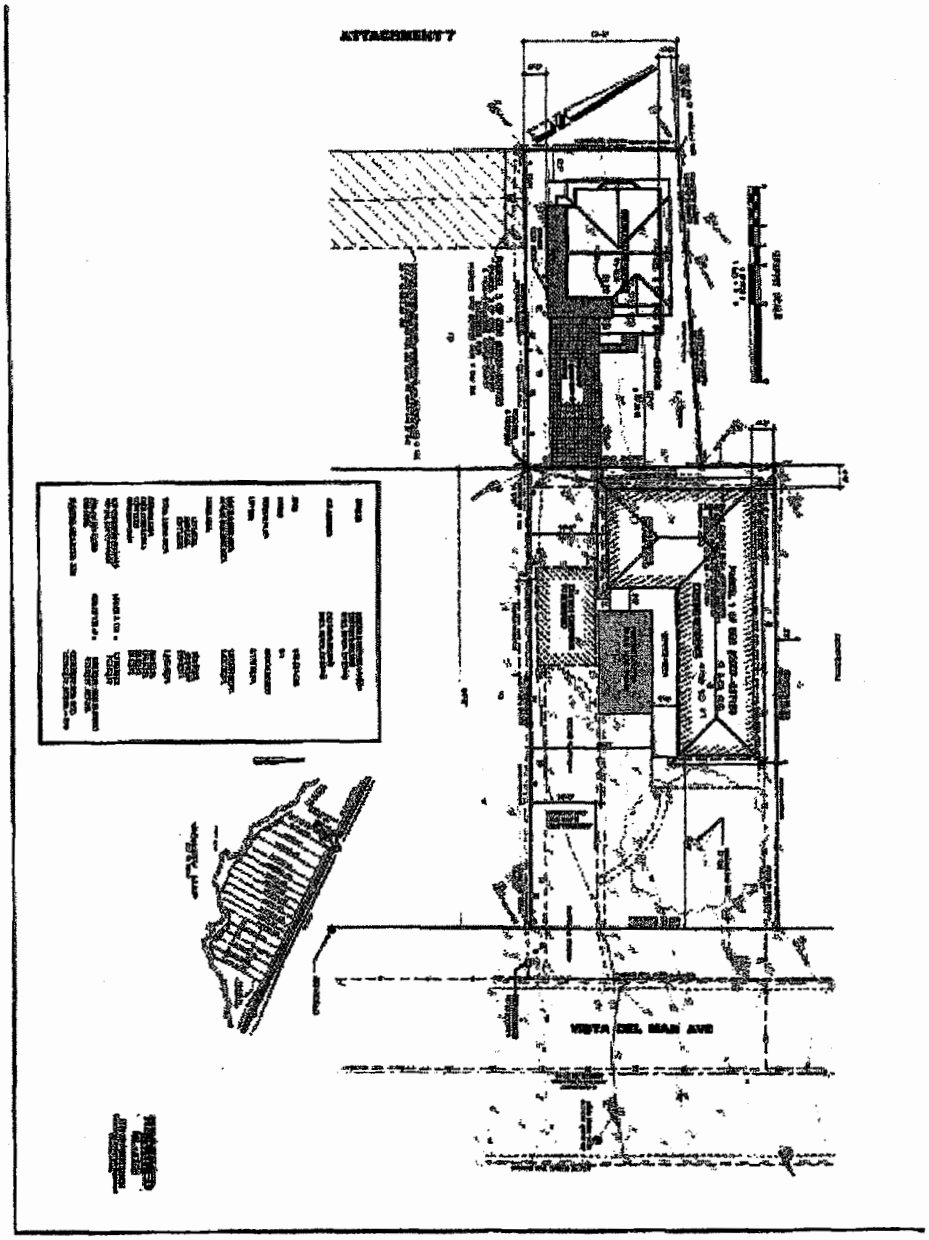
96
PM 7
PARCEL MAP
NO. PB 71-269
LOT 6
PISMO & SAN MIGUELITO RCHS
SURVEYOR'S CERTIFICATE
CITY ENGINEERS CERTIFICATE
RECORDERS CERTIFICATE
SHELL BEACH ROAD
FEDERAL AVE
OCEAN BLVD
LEGEND
PARCEL AREAS-SQ.FT.


ATTACHMENT 7
VISTA DEL MAR AVE
SITE PLAN / TITLE PAGE
RAMONES CONSTRUCTION & DESIGN

RESOLUTION NO. R-2009-088

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH DETERMINING DEVELOPMENT GUIDELINES FOR LOTS CREATED BY PM 71-269, AND WAIVING ANY FEE FOR LOT MERGERS BETWEEN VISTA DEL MAR AND TERRACE AVENUE FRONTING LOTS AND ANY LOT CREATED BY PM 71-269.

WHEREAS, On February 29, 1972 the City of Pismo Beach recorded Parcel Map No. PB. 71-269 creating a series of substandard residential lots behind existing parcels facing Vista Del Mar and Terrace Avenue. The intent of the map was to provide additional depth to those existing lots facing Terrace Avenue and Vista Del Mar; and

WHEREAS, a private easement was established with the map, which created a de facto alley that did not provide for public access or utilities easements; and

WHEREAS, The newly created lots were never merged with their companion lots that faced public streets, nor was a covenant recorded stating how they could be utilized; and

WHEREAS, Some of these lots are developable if access is achieved from Vista Del Mar or Terrace avenue fronting lots; and

WHEREAS, On June 5, 2009, the Council adopted an urgency ordinance restricting construction on residential structures of the landlocked parcels. That ordinance has since expired; and

WHEREAS, The Planning Commission reviewed the background on PM 71-269 on September 1, 2009. The Commission concurred on a number of development guidelines for Council consideration;

WHEREAS, The City Council reviewed the guidelines on October 20, 2009; and

WHEREAS, It is the intent of the City Council to encourage developers to conform with existing zoning ordinances without resort to variances.

NOW THEREFORE, BE IT RESOLVED, by the Pismo Beach City Council that the following guidelines shall be utilized for future development on any lot created by PM 71-269:

1. Each project shall be considered on its own merits without a precedence determined by any previous approval of any other lot created with PM 71-269.

2. Access to each lot, and therefore its development potential, can only be achieved with a common access easement through the respective adjacent lot facing Vista Del Mar or Terrace Avenue.
3. Existing parking accommodations on any Vista Del Mar or Terrace Avenue fronting lot cannot be made non-conforming nor increase existing non-conformities to accommodate access to any PM 71-269 lot.
4. Development on PM 71-269 lots shall be compatible with the respective adjacent lot facing Vista Del Mar or Terrace Avenue.
5. Existing setbacks, lot coverage and building floor area on any Vista Del Mar or Terrace Avenue fronting lot cannot be made non-conforming nor increase existing non-conformities to accommodate access to any PM 71-269 lot.

BE IT FURTHER RESOLVED that should any property owner on Vista Del Mar or Terrace Avenue make application to merge their street fronting lot with a lot created by PM 71-269, the application will be processed by the City at no charge.

UPON MOTION OF Councilmember Waage seconded by Councilmember Vardas the foregoing resolution was passed, approved and adopted by the City Council of the City of Pismo Beach this 20th day of October 2009, by the following roll call vote:

AYES:	**5**	**Councilmembers: Waage, Vardas, Ehring, Higginbotham, Reiss**
NOES:	**0**	
ABSENT:	**0**	
ABSTAIN:	**0**	

Approved:

Mary Ann Reiss
Mayor

Attest:

Emily Colborn, CMC
City Clerk