

W20a

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original staff report

235 Terrace Ave.
Pismo Beach, CA 93449

December 31, 2013

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

Re: A-3-PSB-10-032
Hearing date: Wednesday - January 8, 2014
Agenda Item W20a

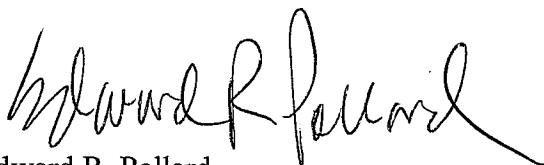
To Whom It May Concern:

Enclosed are our materials for the Coastal Commissioners who will hear our matter next
Wednesday, January 8, 2014, in San Diego.

We have been pushed to the limit~~ed~~ to get this packet together to get it to you with such short notice and ask that you reproduce all of the material and see that the Commissioners receive it by this coming Friday, January 3rd.

Thank you very much, and please call me if any questions.

Very truly yours,



Edward R. Pollard
805-773-1907

edrpollard@yahoo.com

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CENTRAL COAST AREA

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Pismo Beach, CA 93449

December 31, 2013

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

Re: A-3-PSB-10-032
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Agenda Item W20a

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CALIFORNIA
COASTAL COMMISSION
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Dear Commission Members:

The development being appealed was approved on April 13, 2010, by the Pismo Beach Planning Commission by a 4-to-1 vote. An appeal to the City Council was heard on June 1, 2010, and was denied by a 3-to-2 vote. This project is proposed by Jordan and Rachel Larson as Project No. 10-0006 and consists of a Coastal Development permit for the demolition of a one-car garage on Lot 9 and construction of a new three-story residence on Lot 20. The address of the project is 202 Vista Del Mar Street, Pismo Beach, California.

This project involves the potential use of Lot 20, part of a twenty-lot parcel map, No. 71-269, copy enclosed.

The plan proposes to demolish a one-car garage and create a 14'-wide easement across Lot 9 in favor of the rear Lot 20 and also replace a one-car garage on Lot 9.

The applicants are asking that Lot 20 be considered a separate, stand-alone homesite which could be sold separately from Lot 9. This is the crux of the opposition from appellants hereto.

Lot 20 is one of 20 parcels created by Parcel Map PB 71-269, and following I have related the history of how this Parcel Map was conceived and approved:

Lot 9 fronts on Vista Del Mar Street and is part of the 1925 subdivision Pismo Terrace, which consists of almost entirely legal non-conforming lots. Lot 20 is a part of a 20-lot subdivision completed in 1971 - 43 years ago - by myself at almost the same time as I completed the 30-lot Shoreline Terrace Subdivision Tract 394 that lies on two sides of the Shell Beach Elementary School. Included are maps of both of these subdivisions.

After we completed Tract 394, a very irregular-shaped adjacent parcel became available that lay behind our lots fronting on Terrace Avenue. This property is outlined in red on the Parcel Map.

As the map shows, it had limited access via a 10'-wide strip, 400' long, up to Shell Beach Road and a 20'-wide easement at the other (south) end to Vista Del Mar Street. The property was available at an attractive price and we became interested in it as well as being concerned as to how this property would ultimately be developed.

Our newly-approved lots on Terrace Avenue were only 82' deep, and we thought it would be very beneficial if we had greater depth to these lots. We also could see distinct benefits to lots on Vista Del Mar Street if those lots were deeper as most of the existing improvements were near the rear property line; i.e. they had no back yards.

We approached the owners on Vista Del Mar Street and the City with the proposition of purchasing the parcel and subdividing it into parcels to be added to existing lots fronting on Terrace Avenue and Vista Del Mar Street. All of the abutting owners were thrilled with the proposal and we received encouragement and support from the City. The City staff/Planning Commission stated they had been concerned how that property would otherwise be developed with its location and limited access, and complimented us for our proposal.

We proposed to divide the property into 20 lots ranging in size from 652 sq.ft. to 4,920 sq.ft., and lot lines were to be extensions of lot lines of abutting lots with frontage on Terrace Avenue and Vista Del Mar Street. It was clearly understood that **stand-alone** homesites were not proposed or being approved.

The subdivision was to improve the desirability of lots for homeowners while benefitting the neighborhood. We proceeded to purchase the property, obtained City approvals and ultimately sold the subdivided parcels to abutting owners. Lots were sold to owners on Vista Del Mar Street for about \$1,500.

The former City Mayor, Joe Crescione, was a City Planner in 1971 and clearly remembers this matter and testified before the current City Council in August 4, 2009 as to what was proposed and approved by PM 71-269, i.e. no new homesites were created. Everyone knew that these parcels would be sold to abutting owners to enlarge their homesite, and no improvements were requested or required as no new homesites were being created. The minutes of the Planning Commission show this to be a fact and Mayor Crescione's testimony is available of record. The City made no mention of a requirement to merge the lots. If it was a requirement of the subdivider, why was it not so stated and insisted upon?

Please note the following on the Parcel Map:

1. The map was approved by the City in 1971 and was recorded February 29, 1972. No new **separate** building sites were proposed or approved by the City. There previously existed a 20' sewer easement that traversed the south end of the parcel from Terrace Avenue to Vista Del Mar Street.

2. Over this sewer easement we established a 20' wide **private** access easement along the common line between some parcels to provide access for purposes of storing RV's or boats, etc., behind each ownership. The map so designates this easement as "**not a public way.**"

3. The map notes that parcel lines are extensions of existing lot lines.

4. None of the parcels met the 5,000 sq.ft. minimum lot size for new SFR lots (some are only 10' wide).

5. None of the parcels had developable access to a public road.

6. None of the parcels had utilities, easements for utilities, or any street improvements. None of the lots met the City code requirements or Subdivision Map Act requirements for stand-alone homesites.

7. All lots have been sold to abutting owners on Terrace Avenue and Vista Del Mar Street.

The City has required merging in two instances on the subject parcels. In 2001, Sal Caminada, owner of Lot 12 on Vista Del Mar Street and Lot 17 of Parcel Map PB 71-269, was required to merge his two parcels in order to obtain a permit to remodel and expand his garage. This was the first time that merging was ever mentioned as a requirement for a permit. Then this past year the McMillan property was also merged as a condition of a building permit. If the City considered merging necessary in those instances, then why would it not be required for any other proposed development of two non-conforming parcels in common ownership?

In my appeal to the City Council, I pointed out a very important distinction must be made between Shell Beach lots created in the 1920's, prior to the establishment of land use regulations regarding subdivision and zoning, and the parcels of Parcel Map PB 71-269. Unlike these much older parcels in Shell Beach that must be considered independent homesites, the subject parcels were created under City of Pismo Beach Zoning and Subdivision Code requirements for new lots--**and those requirements continue in effect to today.**

The subdivision of Parcel Map PB 71-269 approved by the City in 1971 was subject to the 1963 Zoning Code **and** Resolution No. 446, an ordinance which sets forth all the requirements for the subdivision of **new** homesites after October 1959. Resolution 446 was the controlling document under which I obtained approval of the 30-lot Shoreline Terrace Tract 394 in 1971 **and** Parcel Map PB 71-269. I have in my possession the minutes of the Planning Commission which state that the approval of our 1971 Subdivision must comply with Resolution 446.

I would like to point out that at virtually the same time as the Parcel Map was approved in 1971, the City required our new lots created by Tract 394 to have 5,000+ sq.ft., paved streets, curbs, gutters, sidewalks, water, sewer, drainage facilities, street lights and easements for utilities. **None of these requirements were requested or required for Parcel Map PB 71-269 as no new separate homesites were being created.**

This demonstrates once again that Parcel Map PB 71-269 was approved only for plottage purposes and not separate stand-alone homesites as none of the parcels complied with the many requirements of **separate, new** homesites. To now at this time approve a parcel from Parcel Map PB 71-269 as a separate homesite will also be in direct conflict with City code for the creation of **new** lots, thereby conflicting with the Subdivision Map Act and LCP.

How can it be that at virtually the same time the City waved all of these requirements in the approval of Parcel Map PB 71-269, they also thereby created separate stand-alone building sites--and still met their own Code requirements for new lots? Impossible! It didn't happen! Further, how is it that all the many requirements of code for new lots can be ignored but compliance with other requirements such as setback, maximum lot coverage, parking requirements, building height, et cetera, are mandatory?

I believe the City has a responsibility to require merging of the substandard back lots as a condition of a building permit. City code and Government code encourages the merging of small abutting non-conforming parcels in a single ownership. Please refer to Sections J and K of Section 17.102.060 City Zoning Ordinance (1983 Code) and California Government Code Section 66451.11. The Government Code sets forth conditions under which the City can merge these parcels by ordinance. Copies of these codes are available to staff.

What has occurred during the past two years is that the owner of Lot 9 on Vista Del Mar Street and Lot 20 of the Parcel Map (Larson applicant) has applied for a permit to build a three-story house on his plottage "back" lot and sell it off as a "stand-alone" homesite. Lot 20 consists of only 2,179 square feet. This proposal has received considerable objection from the neighborhood. (See included petition.)

Allowing independent development and sale of these "plottage" parcels is tantamount to creating or allowing to be created new substandard stand-alone homesites without having to comply with 1) City zoning and subdivision ordinances for new SFR lots, 2) Land Use Element of the General Plan or 3) the Subdivision Map Act. Thereby, this is in conflict with the Local Coastal Plan.

The separate independent development of these plottage lots will ultimately result in a very substandard non-conforming development essentially in the "backyards" of homes on Terrace Avenue and Vista Del Mar Street. Such development will be incompatible with the neighborhood. The existing parcel sizes for lots fronting on Terrace Avenue is between 6,256 sq.ft. to 10,686 sq.ft. with several of the lots over 9,000 sq.ft. Existing lots on Vista Del Mar Street that abut the subject plottage lots range from 6,679 sq.ft. to 9,042 sq.ft. (which includes the plottage lots). To allow separate development of these "plottage" lots these lots would result in lots ranging in size from 1,870 sq.ft. to a maximum of 3,630 sq.ft.--considerably smaller than prevailing homesites in the neighborhood and in Shell Beach.

The applicant is advocating turning these plottage lots into "flag lots" if an owner creates an access easement across the frontage lot for the benefit of the plottage lot. This could result in seven or more of these substandard non-conforming flag lots on Vista Del Mar Street and potentially other parcels on Terrace Avenue. This would have a definite negative impact on orderly development of the area and the City at large in regard to the general planning of the whole community. It would set a very negative precedent for local planning.

Planning Commission is allowing the removal of a one-car garage on Lot 9 and only to be replaced by a one-car garage. City code requires the replacement of a two-car garage when the one-car garage is removed, as Lot 9 is in excess of 2,700 square feet. See Section 17.108.020, A, of the City Zoning Ordinance; also Ordinance No. 94-04, Section 6.1.

The owner of Lot 20 will have to back out of the garage 127 feet to enter Vista Del Mar Street. This is unsafe! It must be recognized that the driveway (road) will be utilized by two families and this fact introduces increased safety hazards. The replacement garage will be virtually on the easement line, thus not allowing reasonable setback of improvements from the easement (travel way) for sight distance, et cetera.

The proposed doubling of homesites on the Larson ownership will adversely impact parking on Vista Del Mar Street. Vista Del Mar Street is one of the major traffic carriers bringing traffic from Shell Beach Road down to Ocean Blvd. and the beach. The project, and the other similar projects that will undoubtedly follow if this project is allowed, will without question adversely impact parking and traffic on Vista Del Mar Street.

The applicant has proposed a three-story structure which is incompatible with surrounding residences. There are NO three-story residences anywhere between Vista Del Mar and Terrace Avenue or, to my knowledge, in all of Shell Beach. City code does not address the concept of three-story residences as to how they would be configured or how they would be compatible with surrounding properties--probably because it was unthinkable at the time as it is now! City code states development of new single-family residences are to be harmonious and compatible with the size and character of the surrounding neighborhood.

The highest and best use of Lots 9 and 20 is to develop them as a primary residence and perhaps a "granny unit" or support structure on Lot 20. They should be merged as a condition of a building permit.

A petition is included signed by virtually all of the adjoining and nearby neighbors and property owners who strongly oppose the proposed status of a precedent-setting, separate stand-alone homesite for Lot 20.

As has been recognized during the past 38 years, the plottage lots **are developable** in connection with the abutting frontage lots, and the appellants herein **have no objection to continued**

December 31, 2013

development in this manner. The strong objection arises when it is proposed to consider **separate development and sale** of these lots.

We, therefore, respectfully ask that the Coastal Commission review this matter and act to ensure that the City of Pismo Beach comply with not only the original intent of their approval of Parcel Map 71-269, but also with City Code for the creation of new lots.

It is my position that Mr. Larson continues to possess all the same rights he received when he purchased the property. If denied the right to **separately** develop and sell the back lot, he still has the same reasonable economically feasible use of the back lot.

On July 20, 2011, Madeline Calavieri produced a very thorough staff report analyzing the legality of the parcel map lots for new stand-alone homesites. This report showed that Parcel Map parcels did not comply with City of Pismo Beach ordinances for the creation of new homesites and thereby did not comply with the Subdivision Map Act or the LCP. As a consequence, her report recommended denial. The report also stated that denial did not constitute a "taking without just compensation," and that CEQA does not apply.

I ask that Commissioners review Ms. Calavieri's report, included herewith as I believe it reveals the true circumstances and factors involved in a recommendation for denial ... and the correct adjudication.

The City has produced a Certificate of Compliance but it is clear that this action does not alter what occurred and it cannot retroactively make plottage parcel map parcels comply with the pertinent subdivision and zoning ordinances.

The parcel map lots are not legal stand-alone homesites. To approve Mr. Larson's project as proposed would be in direct conflict with the Subdivision Map Act, Land Use Plan and LCP.

Very truly yours,



Edward R. Pollard

Encls.

805-773-1907

edrpollard@yahoo.com

Janet George
140 Vista Del Mar
Pismo Beach, California 93448
805-556-0226

W20a

December 30, 2013

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CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

Re: A-3-PSB-10-032
Hearing Date 1/08/2014
Agenda Item W20a

Ladies and Gentlemen of the Commission,

The City of Pismo Beach Planning Commission approved the above mentioned project on April 13, 2010. Subsequently seven appeals were filed with the City Council, which at a hearing on June 1, 2010, upheld the Planning Commission's decision by 3 to 2. Three appeals were then filed with the Coastal Commission, and Substantial Issue was found at a hearing on December 17, 2010. Another hearing was set for August 11, 2011 (staff report attached) with a staff recommendation of denial (Exhibit A), but was postponed by the applicant.

At the December 17, 2010, hearing one of the Commissioners, Mary Ann Reiss, who had just finished her term as the Mayor of Pismo Beach, voted against the project both at the City Council appeal and also at the Coastal Commission. She commented, *"I agree with the appellants in a lot of the areas. I believe there are many flaws with this project on the local level as to the legality, lack of a variance and parking issues that will have a cumulative affect on the City of Pismo Beach."* Other members of the Commission also voiced concern about inadequate infrastructure, cumulative impact and setting precedence.

A staff report dated July 20, 2011 was produced by Madaline Cavalieri. It's indepth analysis of the project concluded a recommendation for denial based on the project not conforming with policies of the City of Pismo Beach LCP, that the denial will not constitute a taking of private property without payment of just compensation, and that CEQA does not apply.

Now the project is on the January 8, 2014 agenda even though nothing has changed since 2010. For some reason staff's recommendation is now "Approval with Conditions." I believe the July 20, 2011 staff report addressed all the issues of why this project should be denied, and feel the December 19, 2013 staff report is incomplete and inaccurate. Despite Ms. Cavalieri's July 20, 2011 staff report (Exhibit A), Mr. Robinson seems to think that the City determined Lot 20 was legal allowing it to be a legal, buildable lot. This is in total contradiction of the evidence in the earlier report.

To say that the City can give a certificate of compliance and make any of the twenty lots of PB 71-269 (Exhibit B) legal is not true. These lots vary in size from 652 to 4,920 square feet, which is less than what the zoning code for a Building Site requires. They do not have principal frontage on a street, road, highway or waterway, nor do they have access to a public street or adequate infrastructure.

This current staff report seems to go back and forth between requirements for a single-family residence and a secondary dwelling unit. The application in question is for a single-family residence on Lot 20. Page 9, paragraph 2, states:

"Further, even if the project site only consisted of one legal lot, the proposed residence would meet all of the restrictions for a second dwelling unit, except that the residence is 20 square feet larger than the 1,200 square foot maximum floor area. Therefore, the development would appear almost identical to a second dwelling unit."

The project site does consist of only one legal lot and Section 17.117.080E of Pismo Beach, CA Municipal Code (Exhibit C) states, *"the maximum building area of a secondary dwelling unit, not including any garage, may not exceed 600 s.f. for lots less than 10,000 s.f. in area,"* so this house could not be built on the site as a secondary dwelling and therefore would not appear almost identical as a second dwelling unit. He also states on page 8 that, *"zoning regulations require newly created parcels to be more than 5,000 square feet, many of the existing parcels in the neighborhood are less than that, and generally approximately 4,750 square feet."* So Lot 20 does not meet the minimum square feet and the existing lot sizes do not matter. They vary, but none are as small as Lot 20 at 2,179 sq.ft.

Regarding neighborhood compatibility, the proposed house is not compatible with the existing house on Lot 9, which is a single-story house built in 1952 with no exterior remodel or upgrades. In addition, being a 3-story house, it will not be compatible with any other houses in the neighborhood. Also, by adding the driveway easement over Lot 9 and the new required 2-car garage, the front house (Lot 9) will no longer be compatible with the neighborhood. The front yard will most likely be eliminated and may not meet all the requirements for landscaping. There are no other easements in Shell Beach over two lots where one lot is burdened with an easement to a rear lot.

As to Public Access staff concludes, *"the approved development would not cause adverse impacts to public access either by generating new traffic trips or by reducing the availability of parking."* This is not the case and would set a very detrimental precedent. If this project is approved it could lead to more of these lots being developed separately in the future, resulting in essentially a new substandard non-conforming subdivision in the backyard of existing residences. Traffic could increase substantially. On-street parking will also increase because no one can park on an easement driveway, which has to be open at all times for the rear lot. The back lot has limited parking as well.

I hope you will concur with the staff report dated July 20, 2011, which concluded that these twenty lots are not legal to build on as stand-alone developments and deny this permit. In keeping with the existing ordinances the applicant could build a 600 sq.ft. secondary dwelling if they so desired on Lot 20, but a 1,220 sq.ft. single-family residence as proposed is not in keeping with the City ordinance, neighborhood, nor the intentions and approvals of the original plottage parcel map. Thank you.

Sincerely,



Janet George

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 PHONE: (831) 427-4863
 FAX: (831) 427-4877
 WEB: WWW.COASTAL.CA.GOV

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 numbersA-3-PSB-10-032 (Larson SFD)

ApplicantsJordan and Rachael Larson

Project location202 Vista Del Mar, Pismo Beach, San Luis Obispo County (APNs 010-231-027 and 010-231-028)

Project descriptionConstruct 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 documentsAdministrative 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.



California Coastal Commission

A-3-PSB-10-032 (Larson SFD) stfrpt 8.11.2011 hrg.doc

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.

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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 subdivider¹ (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:



California Coastal Commission

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.

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.



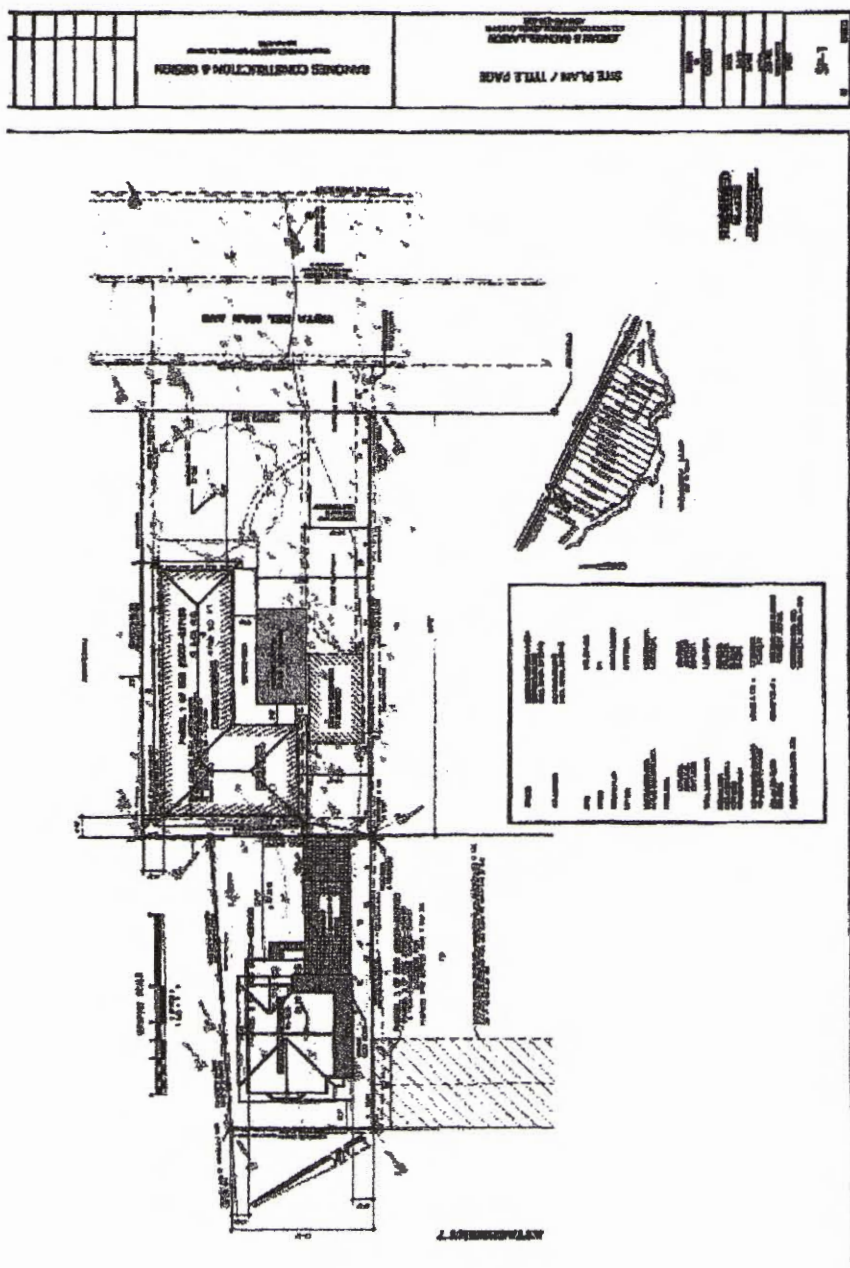
CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.

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.



FILED THIRTEEN DAY OF JANUARY
AT NEW YORK
BY THE CLERK OF THE COURT
JAMES H. HARRIS
JAN 13 1968



RESOLUTION NO. R-2009-068

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH
DETERMINING DEVELOPMENT GUIDELINES FOR LOTS CREATED BY PM
71-268, AND WAIVING ANY FEE FOR LOT MERGERS BETWEEN VISTA DEL
MAR AND TERRACE AVENUE FRONTING LOTS AND ANY LOT CREATED
BY PM 71-268.**

WHEREAS, On February 28, 1972 the City of Pismo Beach recorded Parcel Map No. PB 71-268 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 71-268 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 71-268:

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 71-268.

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 71-288 lot.
4. Development on PM 71-288 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 71-288 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 71-288, 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, Ehling,
Higginbotham, Reiss
NOES: 0
ABSENT: 0
ABSTAIN: 0

Approved:


Mary Ann Reiss
Mayor

Attest:


Emily Colborn, CMC
City Clerk

SURVEYOR'S CERTIFICATE

THIS MAP WAS PREPARED BY ME OR UNDER MY
DIRECTION AND WAS COMPILED FROM RECORD
DATA AND BASED ON A FIELD SURVEY IN CONFORMANCE
WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT
AT THE REQUEST OF James H. Anderson & John Anderson
IN JANUARY OF 1972



CITY ENGINEER'S CERTIFICATE

THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE
WITH THE LAND SURVEYOR'S ACT THIS 25 DAY
OF February 1972

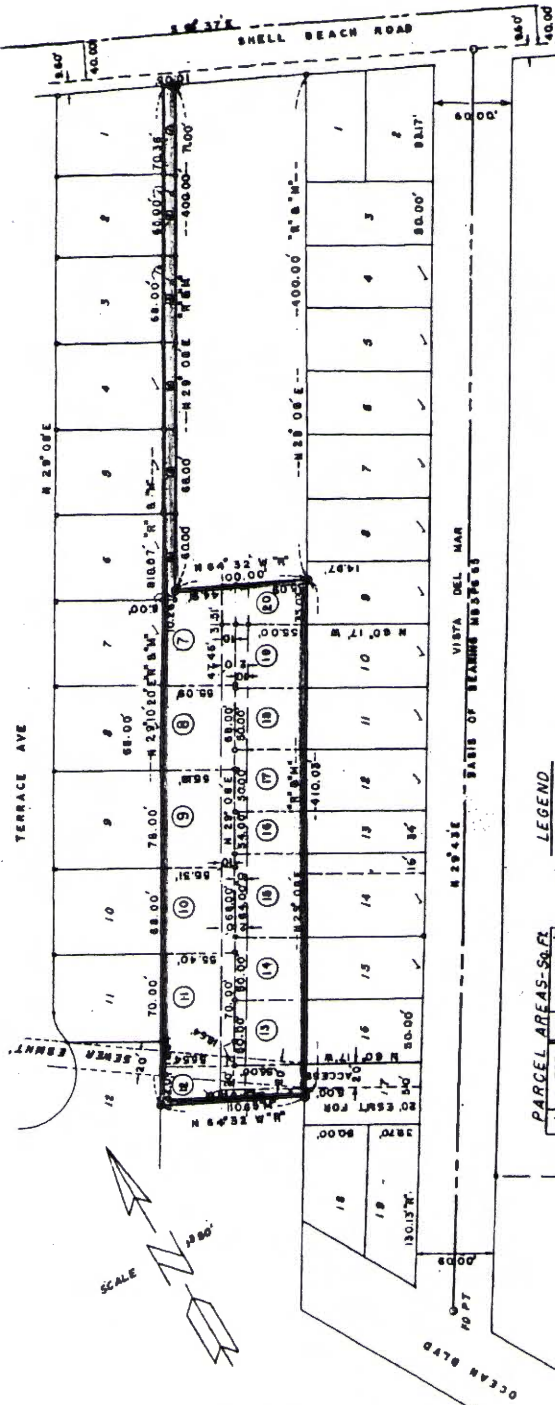
SIGNED Donald R. Kim
CITY ENGINEER

RECORDERS CERTIFICATE

FILED THIS 25 DAY OF FEBRUARY 1972
AT 2:00 PM IN BOOK 7 OF RECORDS PAGE 56
AT THE REQUEST OF James H. Anderson & John Anderson
R.C.E. 7081

SIGNED James H. Anderson
COUNTY CLERK

SIGNED & SEALED James H. Anderson
R.C.E. 7081



LEGEND

- OUTER LIMITS
- PARCEL LIMITS
- ORIGINAL LOT LINES
- SET BACKS AND ALLEYS
- PARCEL LINES - EXTENDED LOT LINES
- 20' EIGHT' STRIP PARCELS - AT LOT 16/17
- 20' SEWER EIGHT'

PARCEL AREAS - SQ. FT.

1	707	11	4920
2	842	12	5188
3	826	13	2780
4	880	14	2780
5	880	15	3450
6	880	16	1870
7	4471	17	2780
8	3749	18	2550
9	4209	19	2780
10	3784	20	1830
TOTAL AREA			
49,200 SQ. FT.			

**PARCEL MAP
NO. PB. 71-269**

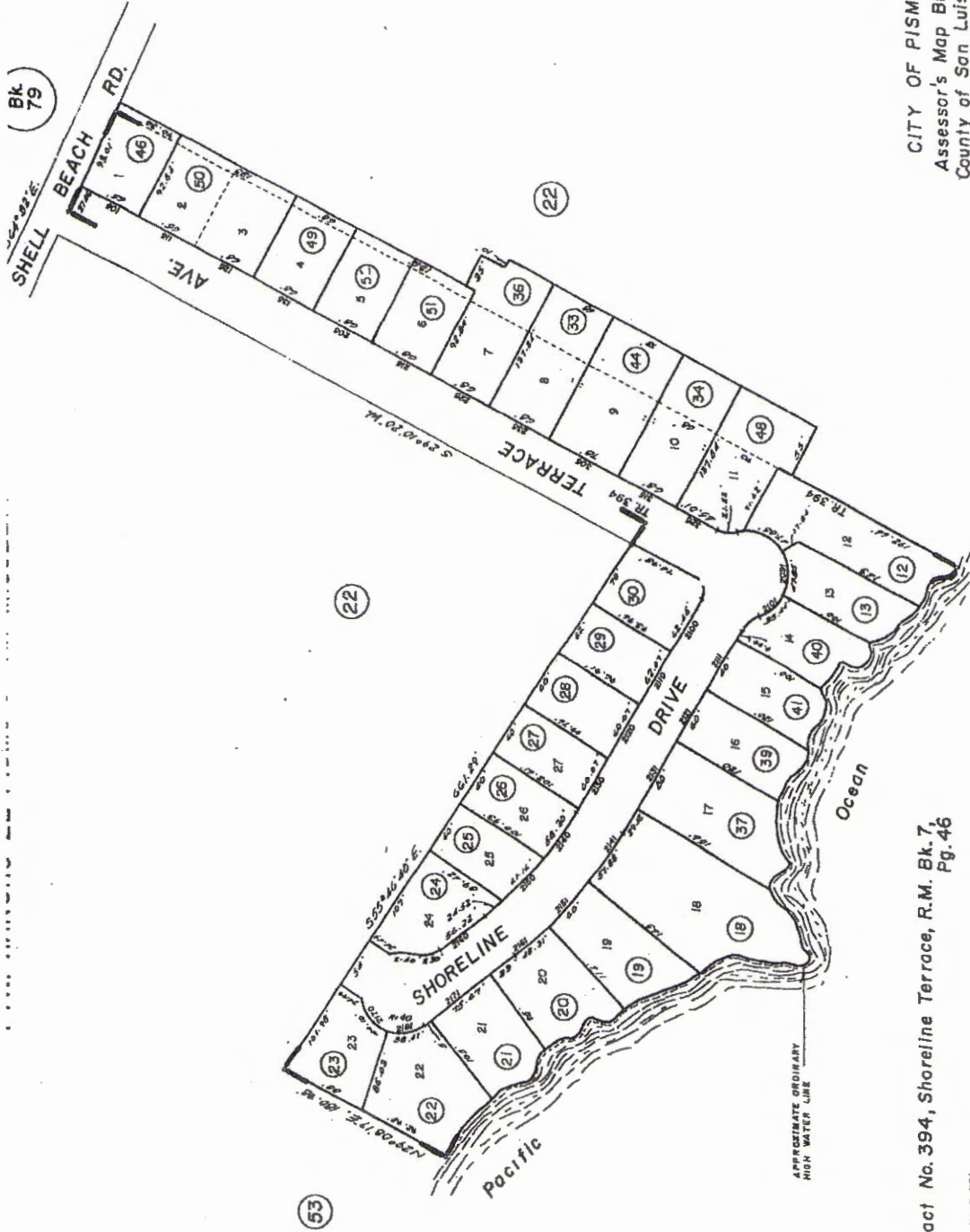
A DIVISION OF A PORTION OF
LOT 6
PISMO & SAN MIGUELITO RCHS
IN THE CITY OF
PISMO BEACH, CALIFORNIA
PREPARED AT THE REQUEST OF James H. Anderson & John Anderson
JAN. 1972 SCALE 1"=50'

10-52

Bk 79



THIS MAP IS PREPARED FOR
ASSESSMENT PURPOSES ONLY



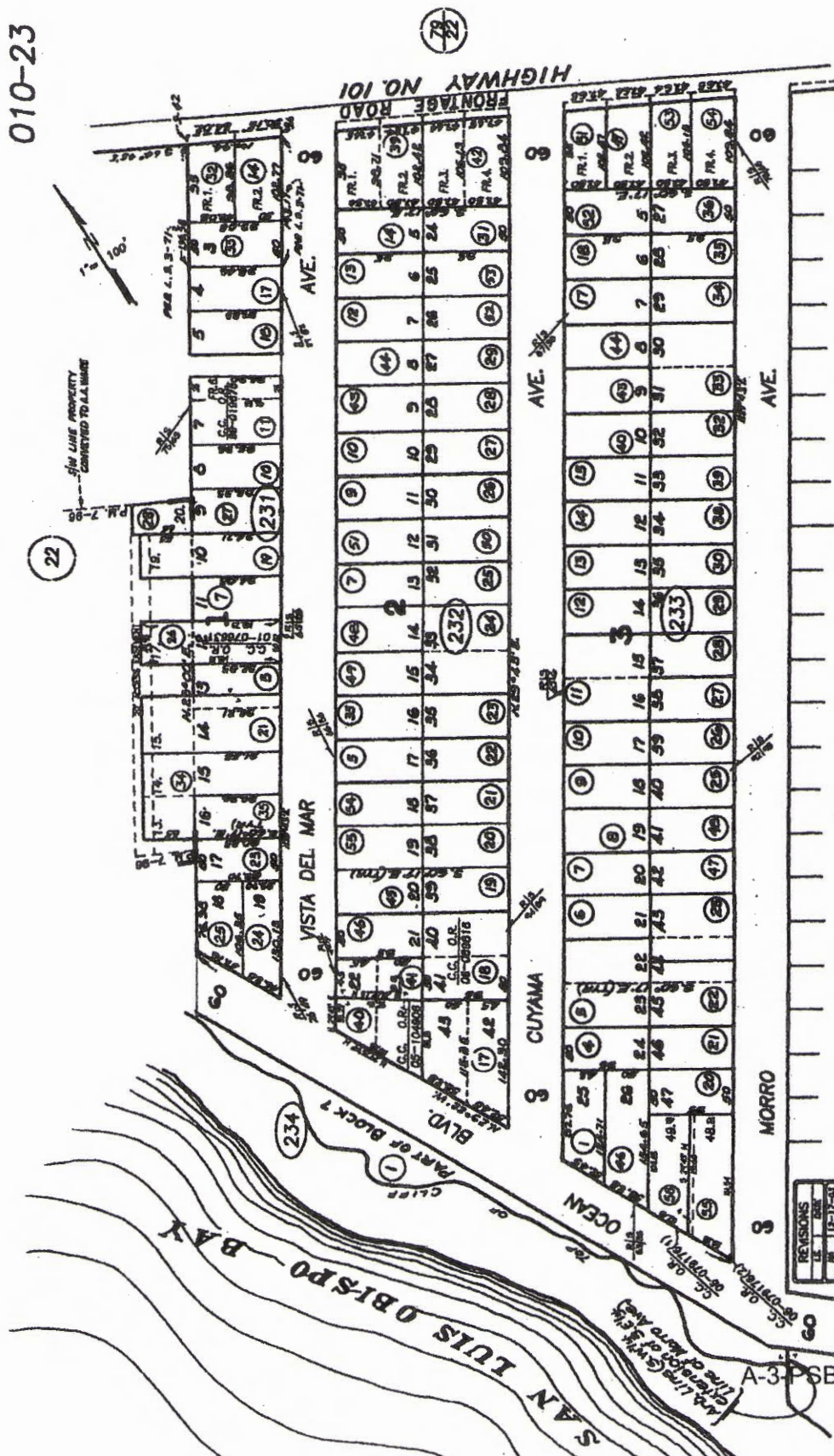
CITY OF PISMO BEACH
Assessor's Map Bk. 10 - Pg. 52
County of San Luis Obispo, Calif.

Tract No. 394, Shoreline Terrace, R.M. Bk. 7,
Pg. 46

7-12-78
9-15-88

A-3-PSB-10-032 (Larson)
Exhibit 2
Page 25 of 95

010-23



NOTE:
Dimensions on lots adjacent
to Highway extended to Subdivision
line.

4

24

PISMO TERRACE, R.M. Blk. 3, Pg. 65

CITY OF PISMO BEACH
ASSESSOR'S MAP
SAN LUIS OBISPO, CALIF.
BOOK 010 PAGE 23

REVISIONS	DATE	BY
1	12-17-97	...
2	08-16-98	...
3	12-11-99	...
4	02-03-00	...
5	02-03-00	...
6	01-10-02	...

A-3-P6B-10-032 (Larson)
Exhibit 2
Page 26 of 95

Re Larson Project - Permit No. A-3-PSB-10-032





December 9, 2008

To: Members of the Pismo Beach Planning Commission

As residents of Terrace Avenue and Vista Del Mar, we would like to express our opposition to any proposal that creates a separate building site in the plottage parcels between our two streets. It has been our understanding that these parcels (Parcel Map 71-269) were created for the purpose of adding square footage and depth to existing lots, and were not to be developed as separate building sites.

None of the requirements for independent building sites was met at the time the City approved the parcel map. As noted on the map, lot lines were extensions of existing lot lines, public access was not created, and no utilities were provided. The minutes of the action taken by the City to approve the parcel map will confirm that the parcels were not separate building sites.

These plottage parcels have benefitted all the adjoining parcels as well as the character of the neighborhood in general. To permit these parcels to be converted into separate stand-alone homesites is contrary to the intent of the subdivider and the City's approval of the subdivision. It would also be a detriment to the surrounding properties by creating a radically substandard size site among much larger homesites, as well as reduce the effective size of the primary parcel on Vista Del Mar by burdening it with an easement over 30% of its area. Last, but not least, by not requiring the applicants to replace a two-car garage will certainly result in increased parking on an already crowded street.

Janet Gunge 140 Vista Del Mar, Shell Beach

Ed & Sharon Fellert 235 TERRACE Ave

Patricia Jett 225 Terrace Ave

Patricia & John Nunez 220 Vista Del Mar

Barry & Sandy Gilil 325 TERRACE AVE

Maymie Telwa 305 Terrace Ave
Shell Beach

Barbara Sanchez 234 Vista Del Mar

Sel & Nelly Canchi 226 VISTA DEL MAR

Robert B. Blum Vista Del Mar

Alice Fellert
315 Terrace Ave
Pismo Ex

Richard Felix 134 Vista Del Mar

Seth Felix 134 Vista del Mar

ALLEN K. HUTKIN
MARIA L. HUTKIN

JEFFREY H. WONG
OF COUNSEL

HUTKIN LAW FIRM

ATTORNEYS AT LAW
1229 HIGUERA STREET, FIRST FLOOR
SAN LUIS OBISPO, CALIFORNIA 93401

TELEPHONE
(805) 544-1500

FACSIMILE
(805) 544-1532

December 28, 2013

California Coastal Commission
Central Coast District Office 725 Front
Street, Suite 300
Santa Cruz, CA 95060

Re: **CDP Application Number A-3-PSB-10-032 (Larson SFD)**

Dear Commission Members:

We have owned the property at 150 Vista Del Mar in Shell Beach since 1990, which is right next door to the Larson's proposed project. The Coastal Commission already correctly determined that the proposed project cannot be approved because the interior lot was not legally created. The addendum to the new staff report reasserts that determination, yet recommends approval simply because the City of Pismo Beach has issued an improper unconditional certificate of compliance. It is extremely distressing that we and the other residents of Vista Del Mar must again fight to uphold land use laws and preserve our neighborhood.

The addendum to the new staff report finds that there is no proof that Lot 20 was legally created and that it "raises concern." It is the applicants' burden to prove the legality of a proposed project, and the project must be denied if the applicant does not meet the burden. *See, Lechuza Villas West v. California Coastal Commission* (1997) 60 Cal.App.4th 218.

Even if the Larson's proved Lot 20 (the interior lot) was legally created, which they cannot, the project must be denied because Lot 9 (the front lot) will not comply with land use ordinances and regulations. The City of Pismo Beach is attempting to fit a square peg in a round hole by labeling aspects of the development that do not comply with current laws as "grandfathered" legal nonconforming uses. The change in use of Lot 9 from a single family residence to a driveway servicing a separate parcel and a parking area in front of the porch renders the limited doctrine of nonconforming use inapplicable. The illegality of Lot 9 is not addressed in the staff report.

Separate development of a landlocked lot is not compatible with the neighboring properties on Vista Del Mar and Terrace. Vista Del Mar is marked with a coastal access sign, it gets a lot of traffic and parking, there are no sidewalks, and there are a lot of pedestrians. The number of houses at 202 Vista Del Mar will double, but no street parking is added.

Approval of the proposed project will cause significant adverse impacts to coastal resources. Vista Del Mar provides public access and parking for beach-goers. It is the widest street with the largest lot sizes, and is therefore more passable and safe than other streets in the subdivision.

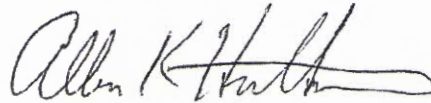
There are at least six other landlocked lots in the alley between the houses fronting Vista Del Mar and Terrace, that will be developed and/or sold as independent parcels pursuant to the precedent set by approving Lot 20 as a separate lot that can be developed. The additional cars parked on both sides of Vista Del Mar and coming and going from driveways will decrease the ability to pass and safety of Vista Del Mar as a public access to the ocean.

Approval of the Larson project will also cause negative visual impacts. The lots that front Vista Del Mar and Terrace are between 6,256 sq. ft. and 10,686 sq. ft. in size. Lot 20 is only 2,179 sq. ft. in size, as are the other interior lots. When those lots are developed with tall, narrow homes like the home proposed by the Larsons, they will be visible and will likely obstruct views of hills along the ocean to the north. Although there is a 26 ft. height limit, it is measured in such a way that the height of the structure in relation to the surrounding neighborhood can be much taller.

We have no problem with the Larsons developing their property within current legal restraints. Prior to the Larson's application, the City of Pismo Beach determined that the interior lots could not be owned and developed separate from the lots with street access. The City's abrupt about-face and issuance of an improper unconditional certificate of compliance is unfair to neighboring land owners who have legally developed their properties, and relied on the City and Coastal Commission to deny projects where the applicant has not met his burden of proving the subject lot was legally created. It is also unfair to the public in that it the development will hinder access, both physical and visual, to the coastline.

We respectfully request that the Commission deny the Larson project.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen K. Hutkin", with a long, sweeping horizontal stroke at the end.

Allen K. Hutkin
Maria L. Hutkin

December 29, 2013

242 Vista del Mar
Pismo Beach, CA 93449

To the California Coastal Commission:

We live at 242 Vista del Mar, having just completed building our home this past year. The backyard of our property consists of Parcel No. 15 of Parcel Map No. 71-269.

When we purchased our property we understood that the parcel map lot was to be developed in conjunction with the lot fronting on Vista del Mar. In fact, the City required that as a condition of our development plan we had to merge our two lots, which we did without objection.

We oppose any change to make the parcel map lots separately, independently developable. They should be developed with the frontage lots as we were required to do.

Thank you.

Very truly yours,



Craig McMillan



Joanna McMillan

Date: December 28, 2013

To: California Coastal Commission

From: Robert Schuh

I live at 2020 Ocean Blvd., at the corner of Vista Del Mar Street and Ocean Blvd.

For many reasons I am against the project proposed by Mr. and Mrs. Larson at 202 Vista Del Mar. Please do not allow the rear property to be developed and sold separately.

The total ownership of the Larson property should be planned and developed as a unit--consistent with what has been done recently at the McMillan property at 242 Vista del Mar.

The two parcels should be merged as one as a condition of the building permit. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Robert Schuh". The signature is written in dark ink and is positioned below the "Very truly yours," text.

Robert Schuh, DDS

325 Terrace Ave.
Shell Beach, CA 93449

December 27, 2013

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

Dear Coastal Commission Members:

We purchased our property on Terrace Avenue in 1990 and enjoy the larger lots and open space between Terrace Avenue and Vista Del Mar. Consequently we are strongly opposed to allowing stand-alone homesites on the rear parcels, which are part of Parcel Map 71-269. These lots were created to add depth to existing lots and were not approved to be separate homesites.

Approving stand-alone homesites on one of these parcels will result in a very adverse impact on our neighborhood, essentially resulting in a new substandard subdivision in our backyards.

Please consider the ramifications and reflect on the objects of the Coastal Commission ... to "protect, conserve, restore and enhance environmental and human-based resources of the California coast and ocean for environmentally sustainable and prudent use by current and future generations."

This mission is in direct contrast to allowing development on substandard non-forming lots and thereby adversely impacting our neighborhood.

Sincerely,

Barry Erlich
Sandra Erlich

Barry Erlich
Sandra Erlich

225 Terrace Ave.
Pismo Beach, CA 93449

December 29, 2013

Coastal Commission
Santa Cruz, CA

Dear Commissioners:

I live almost directly behind the subject property, having built my home in 1978. My property consists of Lot 7, Shoreline Terrace subdivision and Lot 7 of parcel map 71-269.

When my husband and I bought and built on our lot it was with the understanding that the parcel map lots were not to be developed separately but were only developable as part of our overall plan together with our lot on Terrace Avenue.

I am in disbelief that this matter is still being considered and **STRONGLY OBJECT** to the parcel map lots being considered as "stand alone" building sites! Doing so would result in a very substandard, objectionable and **NON-CONFORMING** development in our backyards!

Please honor the intent of the original parcel map. Thank you.

Very truly yours,

A handwritten signature in cursive script that reads "Patricia Tietz".

(Mrs.) Patricia Tietz

Edward & Bluma Felix
134 Vista Del Mar
Pismo Beach, California 93449

December 29, 2013

California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060

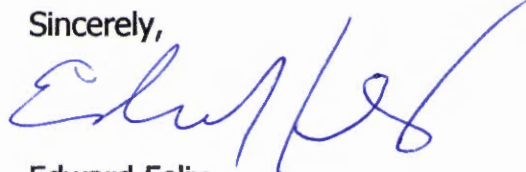
Re: A-3-PSB-10-032

Dear Commissioners,

We are in opposition of project A-3-PSB-10-032. We purchased our home in Pismo Beach in January 2003 which abuts the said project. We had offered to purchase lot 20 from the previous owner, Bernice Higgins, to enlarge our existing lot as the lots on map PB 71-269 were intended to do. Our lot is a true "flag lot" as we own a 12.5 foot wide driveway that comes off of Vista Del Mar. The project being proposed has an easement over the front lot 9 to access lot 20 which doesn't exist anywhere else in Shell Beach. No other lot in the Shell Beach section of Pismo Beach has an easement from the street frontage lot to a separately owned lot. There are some properties that do have easements over one property to another but each of these lots has street frontage and none of the easements cross the front of a property as the only access to the other property. We feel this makes this project out of character with the community and not compatible with the neighborhood.

We would respectfully request that you deny this project.

Sincerely,



Edward Felix



Bluma Felix

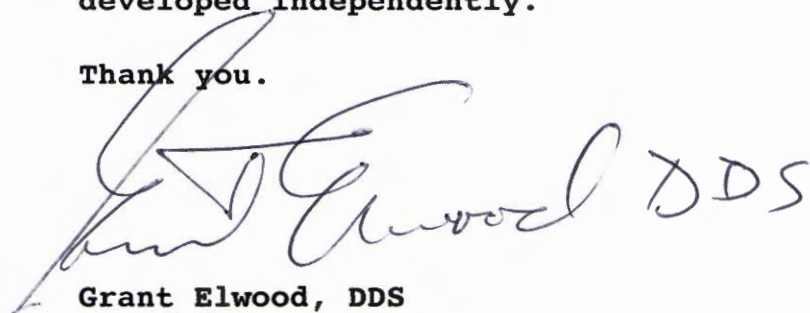
December 30, 2013

To the California Coastal Commission:

I believe the project proposed by the Larsons at 202 Vista del Mar will result in a very adverse impact to the character of our neighborhood.

Please vote against allowing the back lots to be sold and developed independently.

Thank you.

A handwritten signature in cursive script, appearing to read "Grant Elwood", followed by the letters "DDS" in a more formal, blocky font.

Grant Elwood, DDS

P.S. Do the right thing
here! Correct planning
errors made in the
subdivision

315 Terrace Ave.

Shell Beach, CA. 92449

December 29, 2013

Dear Coastal Commission Members,

315 Terrace Avenue is currently owned by the Alice G. Pollard living Trust. Alice Pollard passed away in April, 2012. I am Thomas E. Michelsen, Successor Trustee of her Trust. I am also her son. My mother was always opposed to developing the rear lots separate from frontage parcels. She and I have always liked having a larger lot.

My wife and I are in the process of purchasing 315 Terrace Ave. from the trust and plan to re-locate to the home within the next 6 months.

Besides being a family gathering place since 1975 when my mother and my step-father purchased the property, we want to keep the current neighborhood feel of the area. This is a primary reason for our subsequent purchase of the home and our planned retirement to Shell Beach, California.

To summarize as Successor Trustee of the trust that currently owns 315 Terrace, we strongly oppose any changes to the current zoning regimen.

Please consider the long term effects of any changes in the current zoning laws.

Sincerely,

Thomas E. Michelsen

Successor Trustee

Alice G. Pollard Living Trust

235 Terrace Ave.
Pismo Beach, CA 93449
December 31, 2013

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

Dear Commissioners:

I am quite familiar with this appeal because my husband, Ed Pollard, is the one who developed the subdivision in which we have lived for over 40 years.

I am sure you have heard the saying, "No good deed goes unpunished." This seems to apply perfectly in this matter because the only reason the Larsons HAVE a back lot is because at the time of developing our subdivision, Ed was able to also secure the extra property between the streets of Terrace and Vista del Mar and went to the trouble of doing what he thought made sense and would be much appreciated by property owners on both Terrace Avenue and Vista del Mar ... having a backyard. This was not to make a lot of money in the doing of it but to just do what seemed logical and beneficial to all concerned. Without doing what he did, we would all have the dinky little lots that are so prevalent these days in Shell Beach.


To think that someone would come along all these years later and try, in essence, to make what could eventually be the start of another subdivision between the two streets of Terrace Avenue and Vista del Mar is just unbelievable. I don't know how anyone who is reviewing this matter could possibly think that this would be a prudent thing to do--for anyone's neighborhood.

We are not objecting to the Larson family building another appropriate size home on their separate back lot. But it is really more of a backyard to their present dwelling and presents all kinds of complications if TWO homes are going to be crammed on it with separate ownerships. It makes no sense to anyone affected by the proposition, except the Larsons.

Please try to picture this situation in your mind and ask yourself if this is what would be good for our neighborhood--or the one you might live in. And please remember, if approved it won't just be happening in the Larson's backyard--it could very likely be happening all up and down the backyards of our two streets. It isn't good planning or good in any other way except to ruin a neighborhood.

Thank you so much for your understanding and consideration.

Yours truly,



(Mrs.) Sharon Pollard

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W20a

Filed: 6/30/2010
Action Deadline: None
Staff: D. Robinson - SC
Staff Report: 12/19/2013
Hearing Date: 1/8/2013

STAFF REPORT: DE NOVO HEARING

Application Number: A-3-PSB-10-032

Applicants: Jordan and Rachel 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).

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

The Applicants propose to construct a new single-family residence on a vacant lot (lot 20) and to demolish and rebuild a one-car garage on an adjacent lot (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 rows of larger lots with single-family homes front the two streets (e.g., lot 9 in this case), and rows of smaller lots, with no road frontage, are located between the larger lots (e.g., lot 20 in this case). The proposed demolition and relocation of the existing garage is necessary to allow for driveway access from Vista del Mar Avenue to the rear lot.

On December 17, 2010, the Commission found that the City's action approving the project raised a substantial issue of conformance with the City's LCP due to questions about lot legality and

took jurisdiction over the CDP application. Specifically, there were questions raised about the legality of the subdivision that created the rear lot (lot 20).

The project site is located in the Shell Beach neighborhood of the City, which is characterized by relatively dense residential development on small parcels, and is zoned for single-family residential development (R-1). The proposed project is a new 1,220 square foot residence that would meet all of the requirements of the zoning ordinance, including requirements for maximum lot coverage and building area, setbacks and height limits. In addition, the approved development has no potential to obstruct public views of the shoreline. Lastly, the development has simple vertical and horizontal lines, detailed architectural articulation and stepped back upper floors, consistent with LCP requirements. Therefore, the proposed development has been designed to be compatible with the community character and visual resources of the area and would not adversely impact coastal resources. With regard to lot legality, in 2010, when reviewing the subject project, the City determined that the rear lot (lot 20) was legally subdivided, and issued an unconditional certificate of compliance for the lot, pursuant to the Subdivision Map Act. The project is proposed in an existing developed residential infill area with no potential for significant public view impacts, and even if the lot were not legal, the same project is essentially consistent with the LCP as a second dwelling unit. Therefore, recognition of the subdivision would not lead to adverse coastal resource impacts.

Finally, as required by the LCP, the approved development includes two on-site parking spots for the residence on lot 20 and two on-site parking spots for the residence on lot 9. However, the LCP does require two covered parking spaces on lot 9, and thus, staff recommends a special condition to require a two-car garage on lot 9.

Therefore, as conditioned (including with a construction condition to protect against water quality impacts and ensure the public's use and enjoyment of the immediate neighborhood), the proposed project can be found consistent with the requirements of the certified City of Pismo Beach LCP and the public access and recreation policies of the Coastal Act. The motion and resolution to approve the project subject to the staff recommendation are found on page 4 of this report.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- Exhibit 1 – Location Map and Site Photo
- Exhibit 2 – Project Plans
- Exhibit 3 – Artist’s Rendering
- Exhibit 4 – Parcel Map PB 71-269
- Exhibit 5 – City Resolution 2009-068
- Exhibit 6 – LCP zoning map

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number A-3-PSB-10-032 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number A-3-PSB-10-032 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with City of Pismo Beach Local Coastal Program policies and Coastal Act access and recreation policies. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

- 1. Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
- 2. Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
- 3. Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
- 4. Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
- 5. Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit two sets of revised final plans, for the Executive Director's review and approval, in substantial conformance with the plans submitted with the application (prepared by Ramones Construction & Design January 4, 2010, and dated received in the Coastal Commission's Central Coast Office on June 15, 2010), modified as follows:

- a. **Two-Car Garage on Lot 9.** The plans shall include a two-car garage (which contains two covered parking spaces) on lot 9. The garage may be a traditional tandem garage or a vertical tandem garage, and must conform to all applicable LCP standards, including for height, lot coverage and property setbacks. The two-car garage shall be solely for use by the owners of lot 9. The two-car garage shall be designed with vertical, horizontal and roof articulation, as required by LUP Policy H-4, and shall be designed to blend with the character of the surrounding residential development through the use of appropriate building materials and colors.

All requirements above and all requirements of the approved Revised Final Plans shall be enforceable components of this coastal development permit. The Permittee shall undertake development in accordance with the approved Revised Final Plans.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:

- a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and visual resources. Construction (including but not limited to construction activities, and materials and/or equipment storage) is prohibited outside of the defined construction, staging, and storage areas.
- b. **General BMPs.** The plan shall identify the type and location of all erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following: (1) silt fences, straw wattles, or equivalent apparatus shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging to coastal waters or to areas that would eventually transport such discharge to coastal waters; (2) the contractor shall ensure that good construction housekeeping controls and procedures are maintained at all times (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the site).

- c. **Construction Site Documents.** The plan shall provide that copies of the signed coastal development permit and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request.
- d. **Construction Coordinator.** The plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, etc.) is conspicuously posted at the job site.
- e. **Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.

Minor adjustments to the above construction requirements may be allowed by the Executive Director in the approved Construction Plan if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources. All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this coastal development permit. The Permittee shall undertake construction in accordance with the approved Construction Plan.

IV. COASTAL DEVELOPMENT PERMIT DETERMINATION

In this de novo review of the proposed CDP application, the standard of review is the City of Pismo Beach certified LCP and, because the project is located between the first public road and the sea, the public access and recreation policies of the Coastal Act.

A. 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 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" adjacent to the existing lots along Vista del Mar and Terrace Avenues was divided (see **Exhibit 4**). The proposed project includes development on both lot 9 and lot 20, both of which are owned by the Applicants. See location and parcel maps in **Exhibits 1 and 4**.

B. 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 2**.

C. DEVELOPMENT STANDARDS AND PARKING

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.*

In addition, LUP policy C-14 aims to assure that development projects will not adversely affect the availability of existing parking for shoreline access:

Circulation Element Policy C-14 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, and requires two spaces, but only one space within a garage, for lots under 2,700 square feet:

17.108.020.A 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 because under the existing LCP, a two-car garage would be required on lot 9,

which is over 2,700 square feet. The LCP only allows structural alterations to nonconforming structures if the alteration is 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...*

Lastly, the City’s LCP provides development standards for garages, and allows tandem garages under certain conditions:

17.108.030A.6 General Requirements of Parking Areas – Residential. *Residential garage entrances fronting on the lot line in all zones shall be located a distance of not less than twenty percent of the depth of the lot, not to exceed twenty feet.*

17.108.030A.7 General Requirements of Parking Areas – Residential. *Tandem parking spaces are allowed in the following circumstances:*

a. On single-family residential lots when the planning commission or director finds that:

(i) Existing conditions or terrain on the property present unusual circumstances, justifying the approval of tandem parking;

(ii) The tandem space(s) is (are) appropriately located on the site;

(iii) The use of tandem spaces will not jeopardize the health, safety, or welfare of persons in the neighborhood;

(iv) The use of tandem spaces will result in a better project than would otherwise be feasible; and

(v) Any two spaces in tandem are under the control of one person or group living together.

Analysis

The project site is located in the R-1 zoning district. Although the zoning regulations require newly created parcels to be more than 5,000 square feet, many of the existing parcels in the neighborhood are less than that, and generally approximately 4,750 square feet. The portion of the neighborhood that the project is located in is zoned R-1 and allows one primary single-family residence per lot as well as one second dwelling unit.¹ Beginning approximately three lots inland from the project site, within the same block, there is R-2 and R-3 zoning; R-2 zoning allows for two primary units per lot, and R-3 allows for up to four primary units per lot (see LCP zoning map in **Exhibit 6**).

¹ In 2008, the City applied for an LCP amendment to accommodate secondary dwelling units in the zoning regulations. In this amendment, the City proposed to allow second dwelling units only on parcels of 5,000 sq. ft. or more. However, the Commission approved the LCP amendment only if modified to eliminate this restriction, specifically stating that such a restriction would result in prohibiting second dwelling units in much of the Shell Beach neighborhood, since many of the existing parcels are less than 5,000 square feet. Ultimately, the City accepted the Commission’s modifications and second dwelling units are now allowed on all residential parcels within Shell Beach, including the subject property.

The proposed development is a small, 1,220 square-foot home in a neighborhood that is entirely developed with single-family residences. The proposed single-family residence would meet all of the requirements of the zoning ordinance, including requirements for maximum lot coverage and building area, setbacks and height limits.² The approved development has no potential to obstruct public views of the shoreline. In addition, the project was developed through the City's design review process, and would have simple vertical and horizontal lines, detailed architectural articulation and stepped back upper floors, consistent with the land use policy H-4, stated above (see artist's rendering in Exhibit 3).

Further, even if the project site only consisted of one legal lot, the proposed residence would meet all of the restrictions for a second dwelling unit, except that the residence is 20 square feet larger than the 1,200 square foot maximum floor area. Therefore, the development would appear almost identical to a second dwelling unit. In addition, the approved development has been designed to be compatible with the community character and visual resources of the area and will not result in adverse coastal resource impacts.

In terms of parking, while the LCP only requires one parking space in a garage for the rear lot (because it is less than 2,700 square feet, and thus the proposal in this regard is consistent with the LCP requirements), the LCP requires *two* parking spaces within a garage on the front lot (because it is more than 2,700 sq. ft. in size). The project proposes to demolish and construct a new one-car garage on lot 9 outside of the current driveway area to allow access to the rear lot. 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 requires that when there are structural alterations to nonconforming structures, those structures must come into conformance with current LCP requirements, including, in this case, the requirement to provide two parking spaces within a garage. 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. However, there is available space on lot 9 to accommodate a tandem two-car garage, which could potentially be allowed pursuant to Section 17.108.030A.7. This LCP section allows tandem parking spaces in residential zones when a series of five findings can be made (see language of 17.108.030A.7, above).

In this case, several unique factors about the lot configuration allow these findings to be made. First, because access to the back of the property for the proposed single family dwelling would be from Vista Del Mar (as shown on Exhibit 2), another parking space to the south of the proposed garage (forming a side-by-side garage) would be infeasible since it would block that required access. Additionally, a two-car side-by-side type of garage outside of that accessway, to the north for example, would require either part of the existing house to be removed or would be inconsistent with the required minimum front yard setback, if it was moved more to the front of the lot. Thus, based on existing conditions, there is nowhere to place a side-by-side covered two-

² The proposed residence meets all of the zoning standards of the R-1 zone, including for maximum building height (25 feet proposed/25 feet allowed), maximum building area (1,220 sq. ft. proposed/1873.9 sq. ft. allowed), lot coverage (33.7% proposed/55% allowed), and minimum front yard setbacks (27.5 feet proposed/13.2 feet allowed), rear yard setbacks (6.7 feet proposed/6.6 feet allowed) and side yard setbacks (4 feet proposed/4 feet allowed). In addition, the proposed development is consistent with the minimum parking requirements on lots under 2,700 sq. ft. (2 spaces, 1 within a garage and 1 uncovered proposed/2 spaces, 1 within a garage and 1 uncovered allowed).

car garage on lot 9 without being inconsistent with development standards or impacting the existing residence.

Second, a tandem garage could be designed to meet all required setbacks and thus would be appropriately located on the site.³ Third, the site is located in a residential neighborhood with relatively light vehicle traffic and there is no evidence that the use of tandem spaces (as opposed to a side-by-side alignment) would jeopardize the health, safety, or welfare of others in the neighborhood. Fourth, the tandem garage alternative would result in a better project because it would allow the overall project components to be otherwise consistent with the LCP. Further, private parking policies such as these aim in part to protect the availability of public parking along public roads, which could otherwise be taken up by residents' vehicles, and providing two covered parking spaces will help achieve this objective. Lastly, as conditioned, the two-car garage would only be under the control of the owners of the front lot, lot 9, consistent with the final factor allowing for tandem garages.

The Applicants have expressed interest in pursuing a vertical tandem garage on lot 9 to meet the requirement for two covered parking spaces. Vertical tandem garages look similar to traditional garages, and are equipped with an interior vehicle lift. Depending on the type of vehicles that need to be accommodated, a vehicle lift can be installed without the need to increase the height of the garage roof. In this case, the height of the proposed one-car garage is 12.9 feet, and the Applicant has indicated that the maximum height needed to install an adequate vehicle lift would be 14 feet. The LCP allows for a maximum garage height of 25 feet. Given the location of the proposed project in a residential infill area, and the proposed project's design, which is well articulated and will blend with the surrounding built environment, increasing the garage height by a little more than one foot over the proposed height would be consistent with the LCP as long as it is designed to blend with the surrounding built environment. Thus, either a traditional tandem garage or a vertical tandem garage could be constructed to comply with the LCP and **Special Condition 1** requires the Applicant to modify their proposed project plans accordingly. **Special Condition 1** also specifies that the two-car garage must comply with LCP development standards, and must be designed to blend with the surrounding environment, through use of articulation and appropriate building materials and colors. As conditioned, the project is consistent with the LCP's requirement for a two-car garage on lot 9.

Conclusion

The new single-family residence would meet all of the requirements of the zoning ordinance, including requirements for maximum lot coverage and building area, setbacks and height limits, with the exception of parking. As mentioned above, the proposed project is inconsistent with the LCP because it proposes a one-car garage on lot 9, instead of the two-car garage that is required. To resolve this inconsistency, **Special Condition 1** requires the Applicants to redesign the proposed one-car garage into a two-car garage (e.g. tandem or vertical tandem) on the front lot. This minor change would allow the project to be consistent with all of the LCP's development

³ Phone conversation with City of Pismo Beach planner Michael Gruver, 12/13/13. Mr. Gruver stated that a tandem front to back two car garage would be acceptable to the City in this case and that the garage would likely need to be 10 feet wide by 41 feet long. Available space in front of the proposed 1-car garage would allow for the citing of such a garage outside of the minimum front and rear yard setbacks. In addition, Mr. Gruver has stated that nothing in the LCP specifically prohibits a vertical tandem garage, and thus if it were to be designed consistent with the LCP, including the LCP's garage development standards and community character policies, then it could be approved.

standards and parking requirements for the subject project. In addition, even if the lot was not legal, the same project is essentially consistent with the LCP development standards at the site for a second dwelling unit.

D. COMMUNITY CHARACTER, NEIGHBORHOOD COMPATIBILITY AND VISUAL RESOURCE PROTECTION

The LCP provides a series of principles and objectives for protecting the visual resources of the City, highlighting the importance of the beaches and other open space shoreline areas, as well as the small-scale character of the built environment. These principles and objectives call for the protection of scenic views for the benefit of the public and call for new development to blend with the existing open space and built environment. Special emphasis is placed on the feeling of being near the coast. The LCP states:

***Land Use Element Policy H-1. Concept:** ...The focus of this area is a more traditional beach community with small single family lots, street activity, and views of the ocean to the west, and the foothills to the east. The emphasis is on assuring that new and expanded homes are compatible with the scale, bulk, and character of existing neighborhood.*

***Land Use Element Policy H-4. Residential Guidelines:** a. **Scale of Structures.** New development should be designed to reflect the small scale image of Shell Beach rather than large monolithic buildings. Buildings should be designed with vertical, horizontal and roof articulation of building faces. Where two-story buildings are proposed, the second story should normally be stepped back...*

Analysis

The proposed project is located in the Shell Beach neighborhood of the City, which is characterized by relatively dense residential development on small parcels. The Land Use element of the LCP cautions that there is a trend in Shell Beach to expand or replace small beach cottages on small lots with large houses that may be incompatible with the community character, and LCP Policy H-4 states: “New development should be designed to reflect the small scale image of Shell Beach rather than large monolithic buildings. Buildings should be designed with vertical, horizontal and roof articulation of building faces. Where two-story buildings are proposed, the second story should normally be stepped back...”

The proposed development includes a small, 1,220 square foot home in a neighborhood that is entirely developed with single-family residences. The proposed residence would not exceed the 25’ height limit and would be located near other buildings of similar height. The proposed development has no potential to obstruct public views of the shoreline. In addition, the project was approved through the City’s design review process, and would have simple vertical and horizontal lines, detailed architectural articulation and stepped back upper floors, consistent with the land use policy H-4, stated above (see artist’s rendering in **Exhibit 3**). Further, **Special Condition 1a** requires the new two-car garage to be designed with vertical, horizontal and roof articulation, as required by LUP Policy H-4, and to blend with the character of the surrounding residential development.

Conclusion

The proposed development has been designed and further conditioned to be compatible with the community character and visual resources of the area. The new single-family residence would meet all of the requirements of the zoning ordinance, including requirements for maximum lot coverage and building area, setbacks and height limits.

E. PUBLIC ACCESS AND RECREATION

Coastal Act Sections 30210 through 30224 specifically protect public access and recreational opportunities, including visitor-serving resources. In particular:

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 30212(a): *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects....*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221. *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Analysis

As described above, the approved development is in a densely developed residential portion of the Shell Beach neighborhood. There are several public access and visitor-serving amenities in this area. There is a linear park with two beach access points along the shore at the upcoast end of the neighborhood, and there is public, on-street parking available on Vista del Mar Avenue, as well as the surrounding blocks to accommodate this park and shoreline access. According to the LCP, Vista del Mar Avenue is a local street, and the intersection of Shell Beach Road and Vista del Mar was at level of service (LOS) A in 1990, and the projected LOS was B for 2010.⁴

⁴ According to City Planner, Mike Gruver, the LOS at that intersection still operates at a LOS A despite the LCP stating it was expected to operate at LOS B. Construction on the rear lots will not decrease the LOS to B or below.

Principle 1 of the Circulation Element calls for local streets to operate at LOS C or better.

As required by the LCP, the approved development includes two on-site parking spots for the residence on lot 20 and two on-site parking spots for the residence on lot 9. Therefore, the approved project would not cause adverse impacts to the availability of public parking. In addition, because the existing and projected LOS at the nearby intersection is within the acceptable LOS for the City, the approved development would not independently, or cumulatively, cause adverse impacts to traffic.

In addition, recent Commission actions confirm that modest increases in density, such as that approved here, can generally be accommodated by the existing roads and parking infrastructure capacity. For example, in City of Pismo Beach LCP amendment 1-08, the Commission found that increased densities in the Pismo Heights neighborhood would not cause adverse impacts to coastal resources. And, in its approval of the City's second dwelling unit ordinance discussed above, the Commission's suggested modifications eliminated the City's proposed restrictions on second dwelling units on lots of less than 5,000 square feet, specifically to ensure such units are allowed in the Shell Beach neighborhood, in which the approved project is located. In support of this action, the Commission found that given the LCP's requirements for off-street parking, the parking demand from the increased density caused by second dwelling units would not compete with the parking requirements of beach visitors.

Conclusion

Therefore, for all the reasons above, the approved development would not cause adverse impacts to public access either by generating new traffic trips or by reducing the availability of parking, and thus can be found consistent with the LCP in this regard.

F. OTHER

The LCP protects public access and water quality, and requires construction measures to reduce sedimentation and avoid polluted runoff, including through LUP Policy CO-31. This project would involve large equipment along Vista Del Mar Avenue and nearby streets, potentially impacting the public's use and enjoyment of the immediate neighborhood, and generally intruding upon and negatively impacting the aesthetics, ambiance, serenity, and safety of the public experience in this area. In addition, because the site is sloped and near to coastal waters, construction in this area has the potential to adversely impact the water quality of coastal waters.

These potential impacts can be contained through a construction plan condition that includes requirements for identifying the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view, clearly fencing off the minimum construction area necessary, and protecting marine and groundwater through Best Management Practices. Therefore, **Special Condition 2** is required to ensure best management practices are carried out during construction to limit these anticipated impacts.

G. 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, prior to Coastal Act permitting requirements (see **Exhibit 4**). 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 5**). The City also determined that there is no restriction on the subject parcel that would prohibit the development of a single-family residence on it. On October 20, 2010, the City issued an unconditional certificate of compliance (COC) under the Subdivision Map Act (SMA) for lot 20.

Commission staff reviewed the record regarding the legality of lot 20 and believed that while the facts and law were not entirely clear, it did not appear that lot 20 was legally subdivided. This was, however, a difficult and close decision regarding lot legality, and the City came to the opposite conclusion. The proposed development, as conditioned, will have no adverse coastal resource impacts. Moreover, the same development approved by this permit is permitted in the exact location and essentially the same configuration of the proposed development as a second unit on lot 9 (except for an additional 20 sq. ft. of floor area), so the physical development approvable under the LCP is essentially the same, whether lot 20 is a legal lot or not. Therefore, under these unique facts, the Commission accepts the City's determination that lot 20 became a legal lot in 1972, before Coastal Act provisions applied to the subdivision.

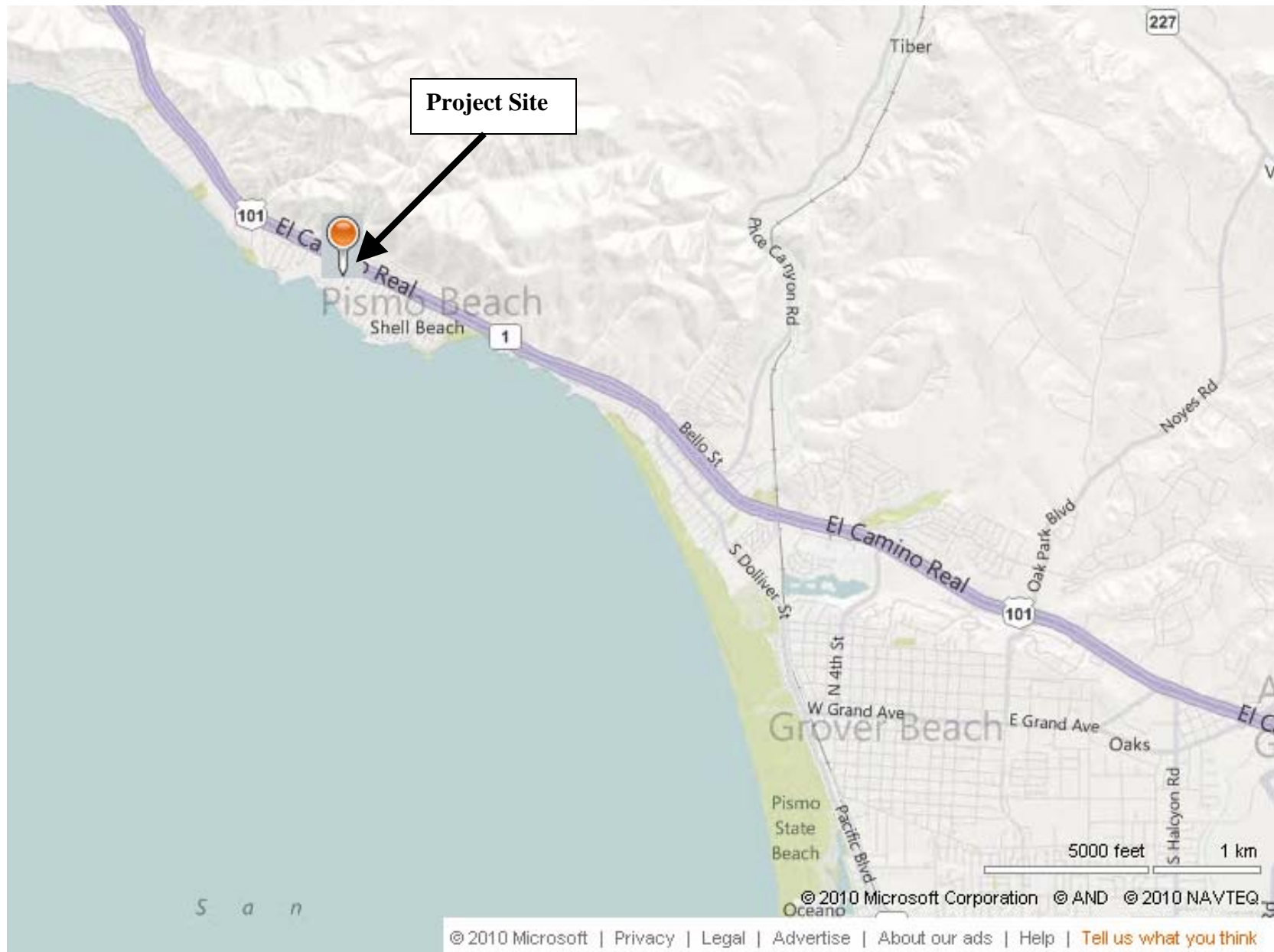
H. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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 City as the lead CEQA agency concluded that the development was categorically exempt under CEQA. 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. The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources to the extent allowed while avoiding a taking of private property without just compensation. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section

21080.5(d)(2)(A).





SURVEYOR'S CERTIFICATE

THIS MAP WAS PREPARED BY ME OR UNDER MY
DIRECTION AND WAS COMPARED FROM RECORD
DATA AND BASED ON A FIELD SURVEY IN CONFORMANCE
WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT
AT THE REQUEST OF San Miguelito Ranch
IN January 1978



CITY ENGINEERS CERTIFICATE

THIS MAP HAS BEEN EXAMINED FOR CONFORMANCE
WITH THE LAND SUBDIVISION ACT THIS 20 day OF January 1978

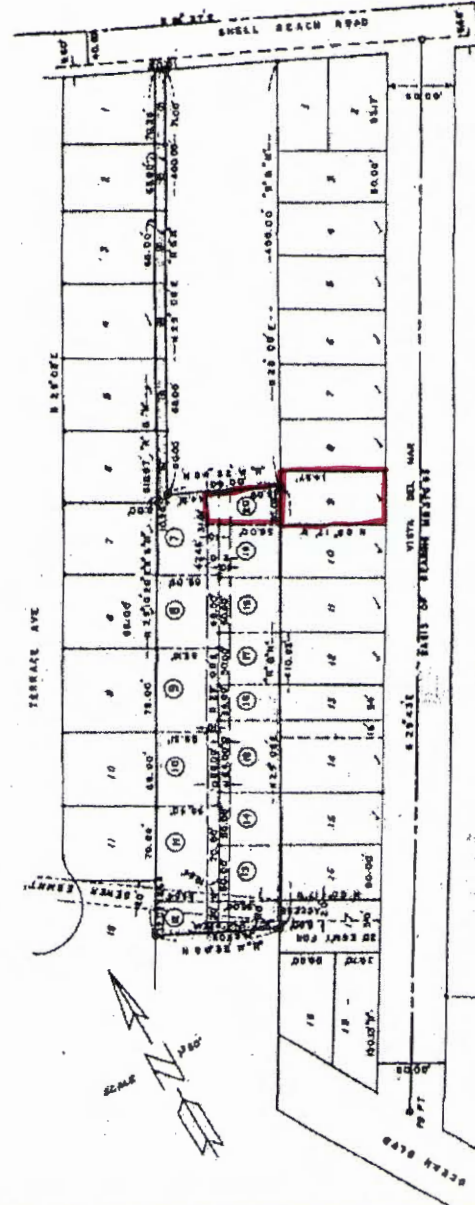
City Engineer
CITY ENGINEER

RECORDERS CERTIFICATE

FILED THIS 22 DAY OF January 1978
AT THE REQUEST OF San Miguelito Ranch
IN San Miguelito Ranch
COUNTY OF San Diego
STATE OF California



SHOWN & SEALED James H. Miller
R.C.E. TORI



**PARCEL MAP
NO. PB 71-269**

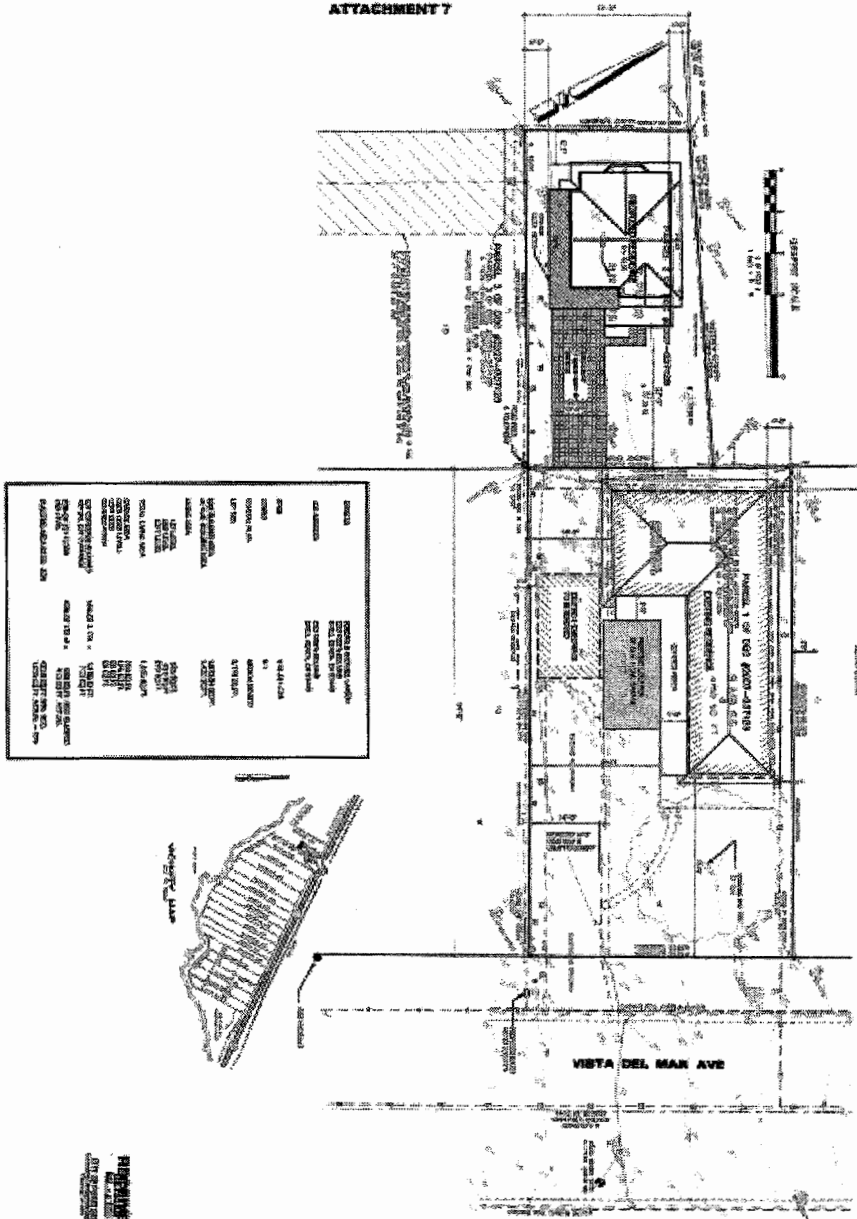
A DIVISION OF A PORTION OF
LOT 5
PISMO & SAN MIGUELITO RCHS
IN THE CITY OF
PISMO BEACH, CALIFORNIA
PREPARED AT THE REQUEST OF San Miguelito Ranch
BY James H. Miller
SAN DIEGO

PARCEL AREAS - SQ. FT.

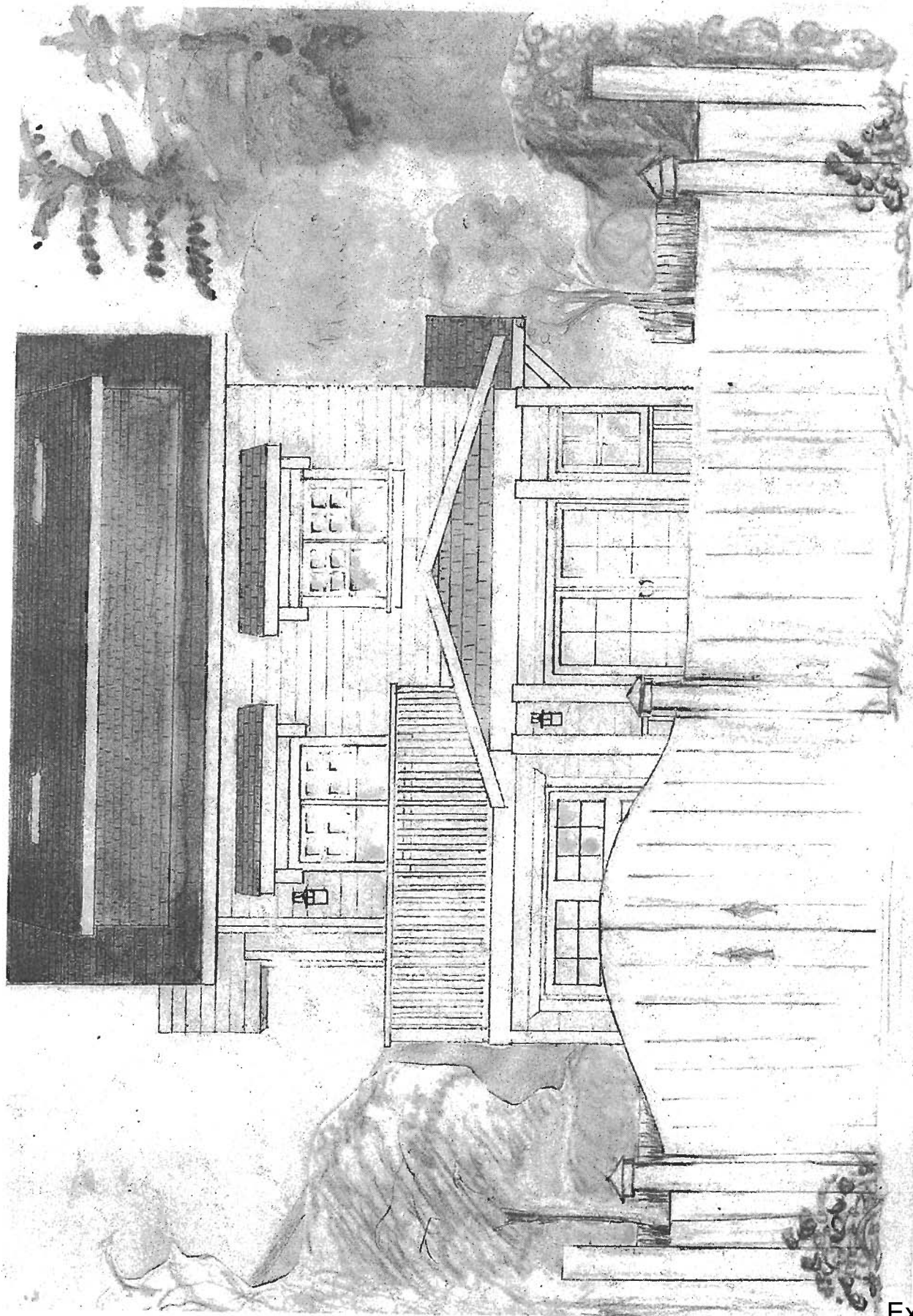
LOT	AREA	LOT	AREA
1	2,700	11	2,700
2	2,700	12	2,700
3	2,700	13	2,700
4	2,700	14	2,700
5	2,700	15	2,700
6	2,700	16	2,700
7	2,700	17	2,700
8	2,700	18	2,700
9	2,700	19	2,700
10	2,700	20	2,700
TOTAL	54,000		

- LEGEND**
- OUTLINE LINES
 - PARCEL LINES
 - ORIGINAL LOT LINES
 - SET BACK LINE
 - PARCEL LINES EXTENDED LOT LINES
 - 20' SETBACK FROM PARCELS WITH FRONT WAY
 - 24' SETBACK FROM PARCELS WITH FRONT WAY

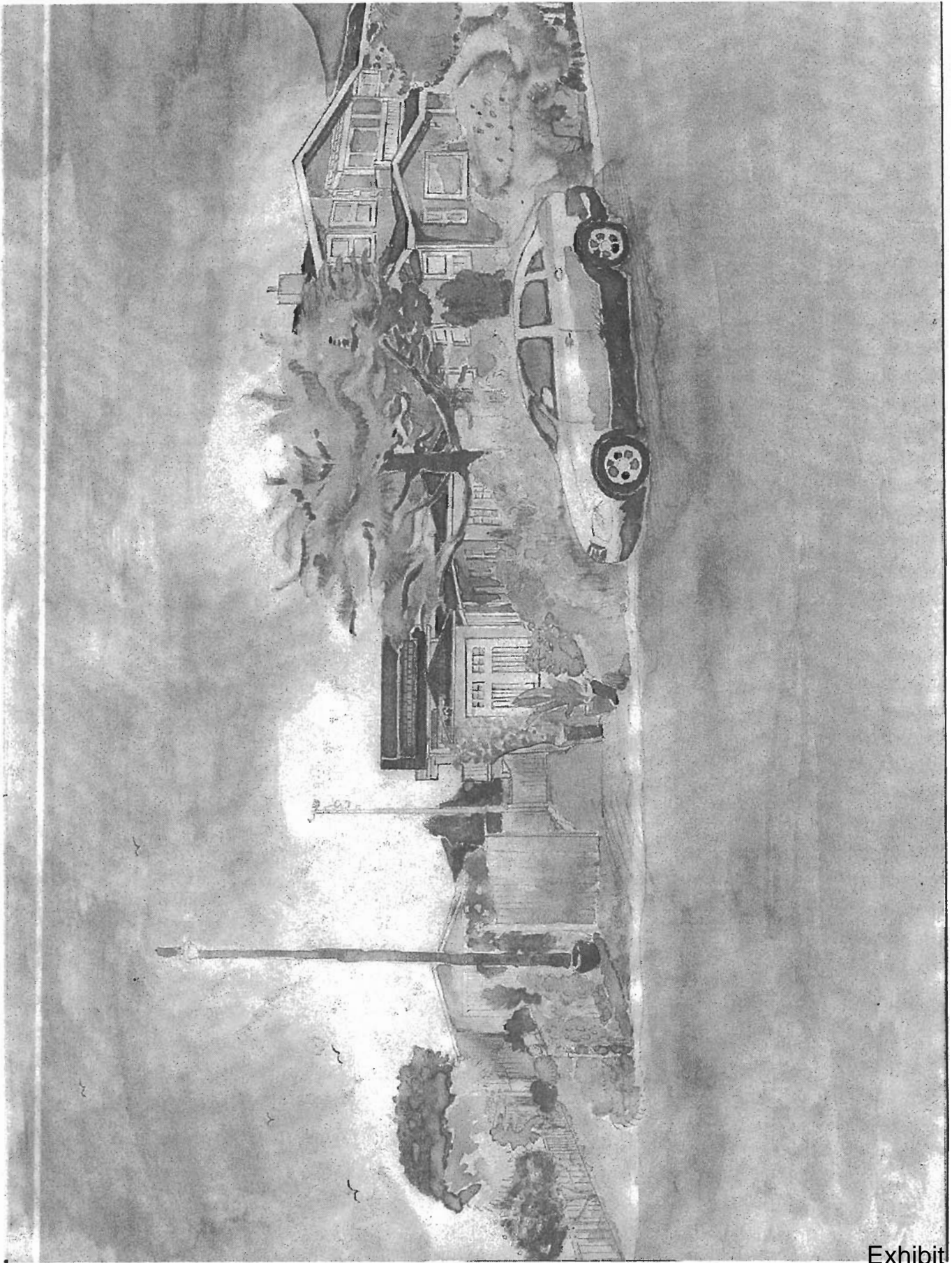
ATTACHMENT 7

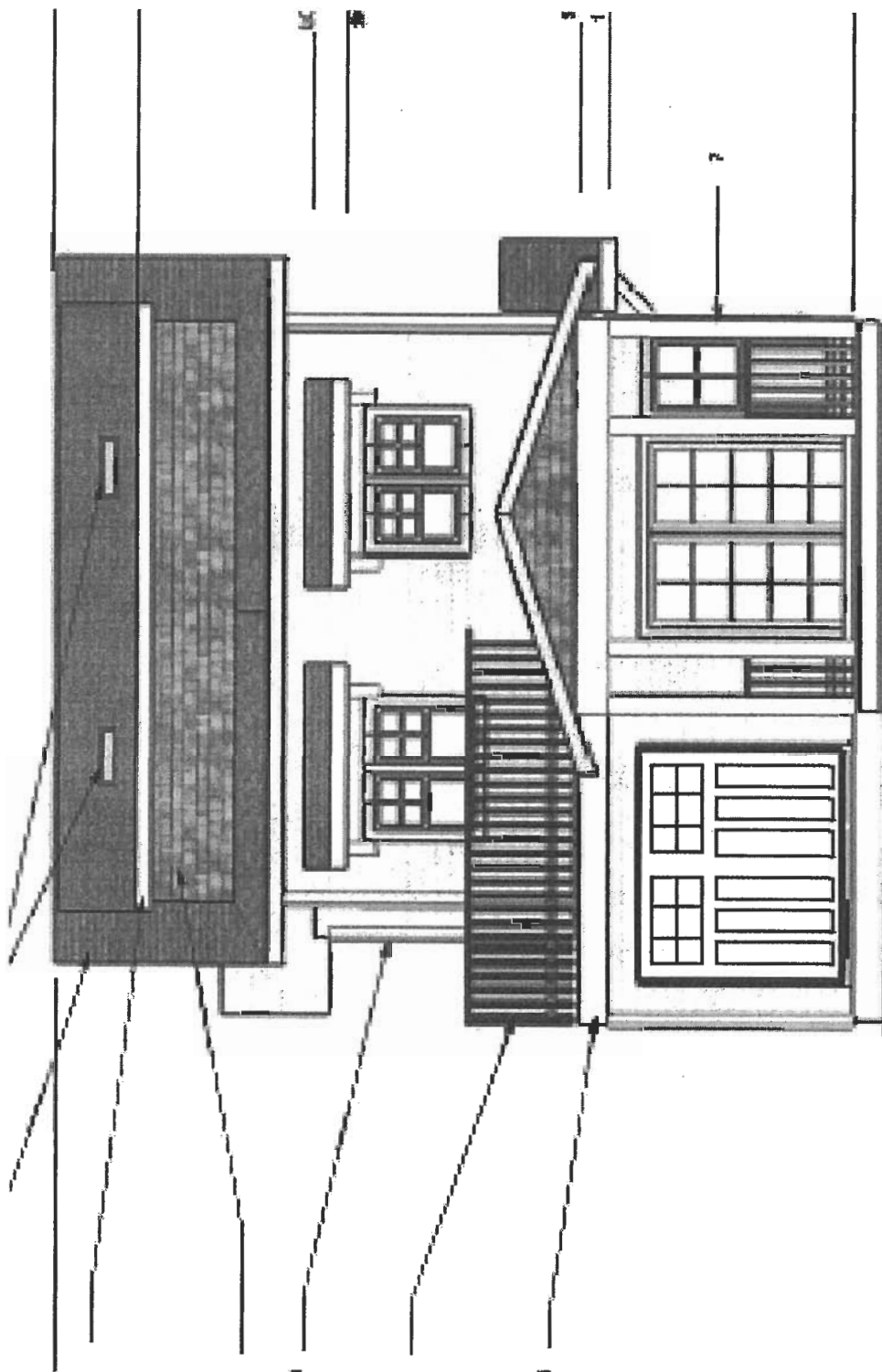


<p>Sp-1</p>	<p>DATE: 10/10/2010 DRAWN BY: JLM CHECKED BY: JLM APPROVED BY: JLM</p>	<p>SITE PLAN / TITLE PAGE</p> <p>JORDAN & RACHAEL LARSON 303 VISTA DEL MAR AVENUE, SUITE 200 SAN ANTONIO, TEXAS 78204 PHONE: (214) 591-1111</p>	<p>RAMONES CONSTRUCTION & DESIGN 10000 W. LAMAR AVENUE, SUITE 100 DALLAS, TEXAS 75243 PHONE: (214) 343-1111</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p>
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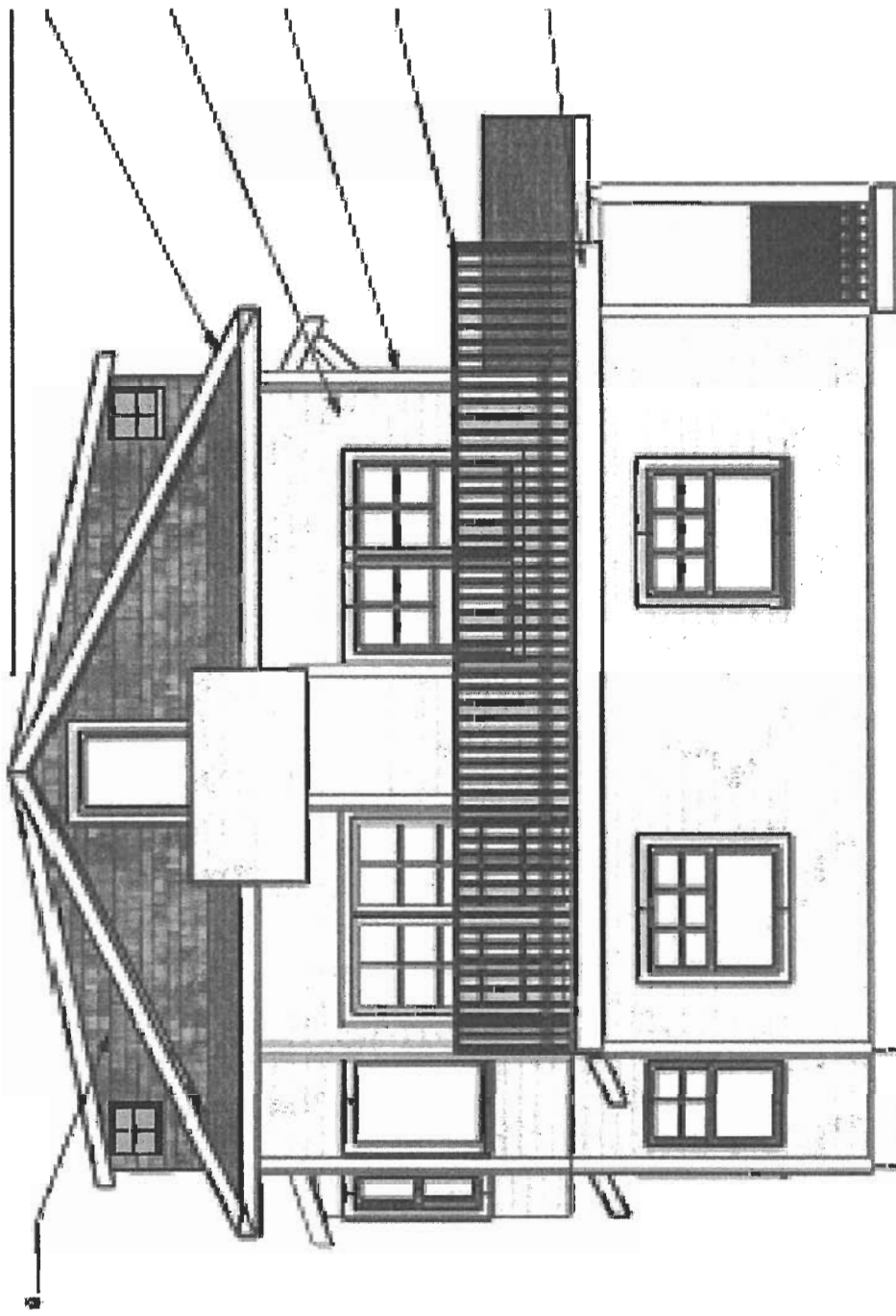


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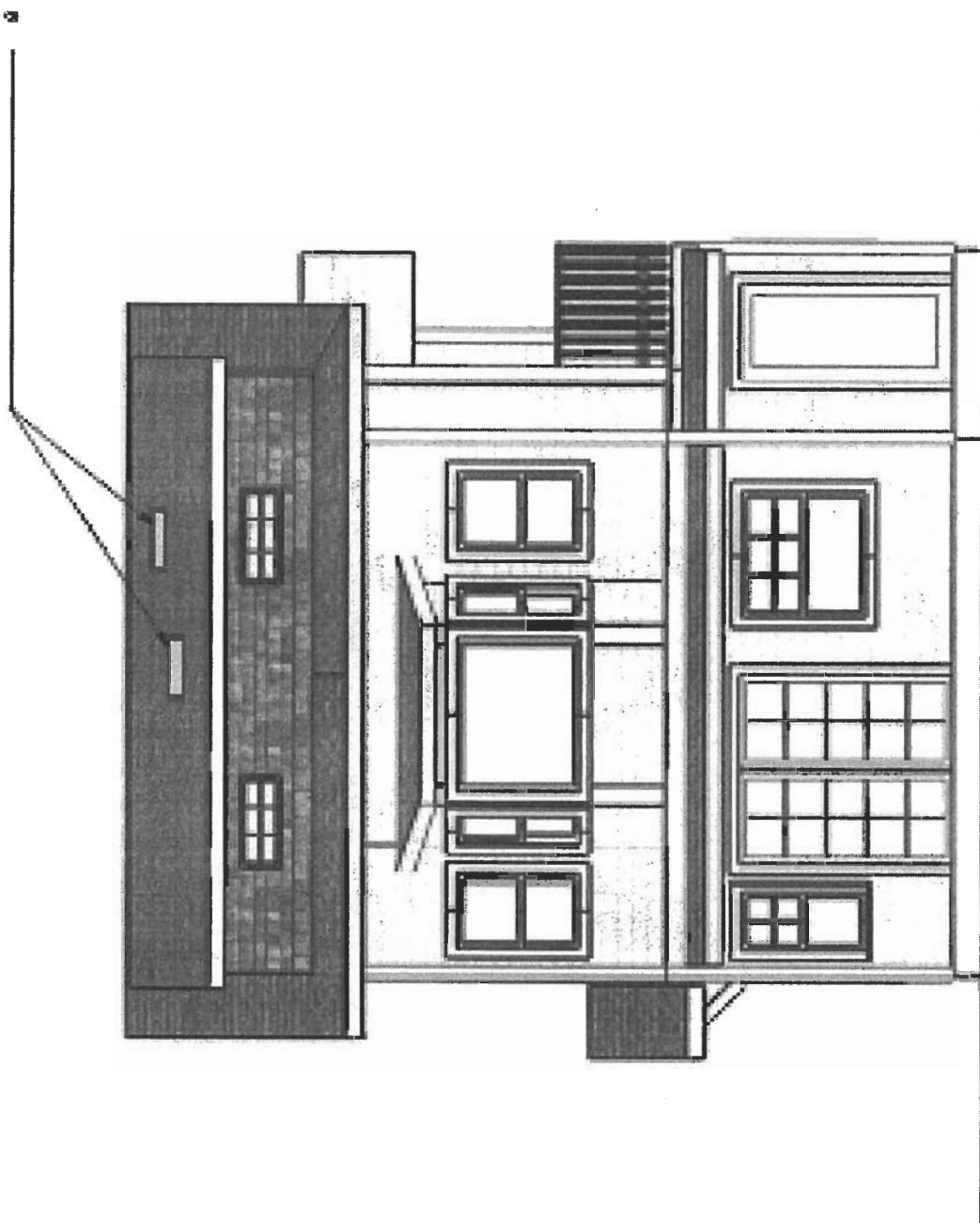




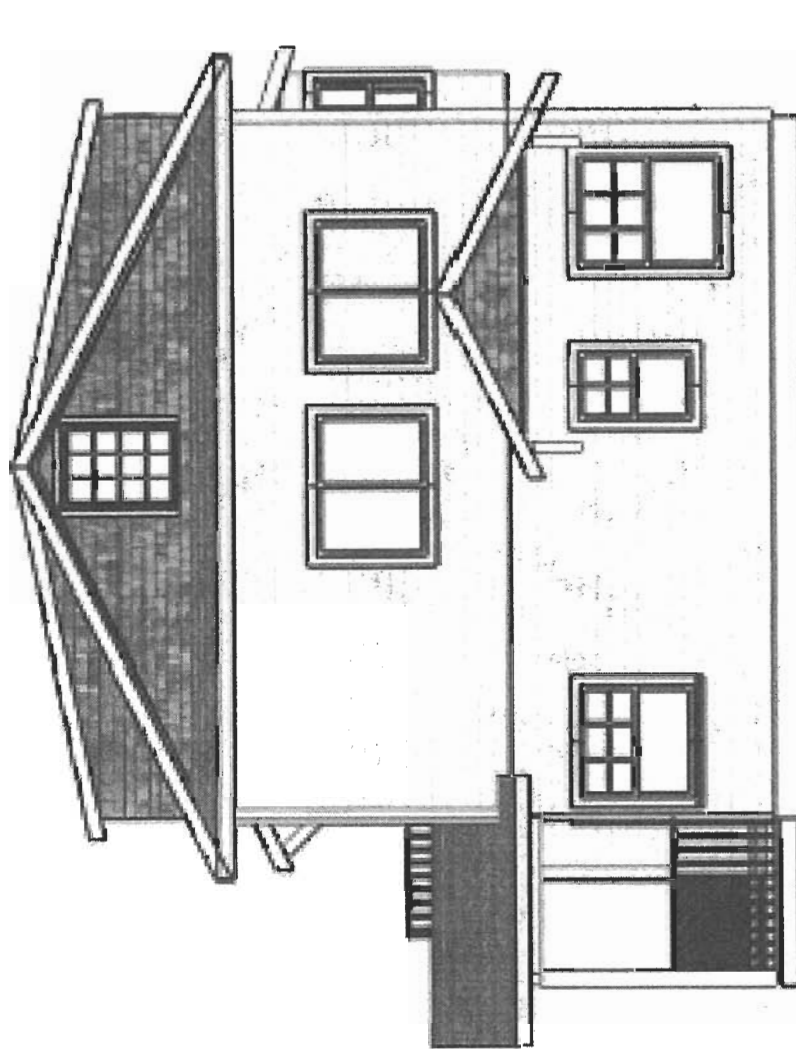
FRONT
SECTION 3 JAN 21 2021



LEFT
SCALE 1/4" = 1'-0"



REAR
Scale: 1/4" = 1'-0"



RIGHT
SCALE 1/4" = 1'-0"

RESOLUTION NO. R-2009-068

**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

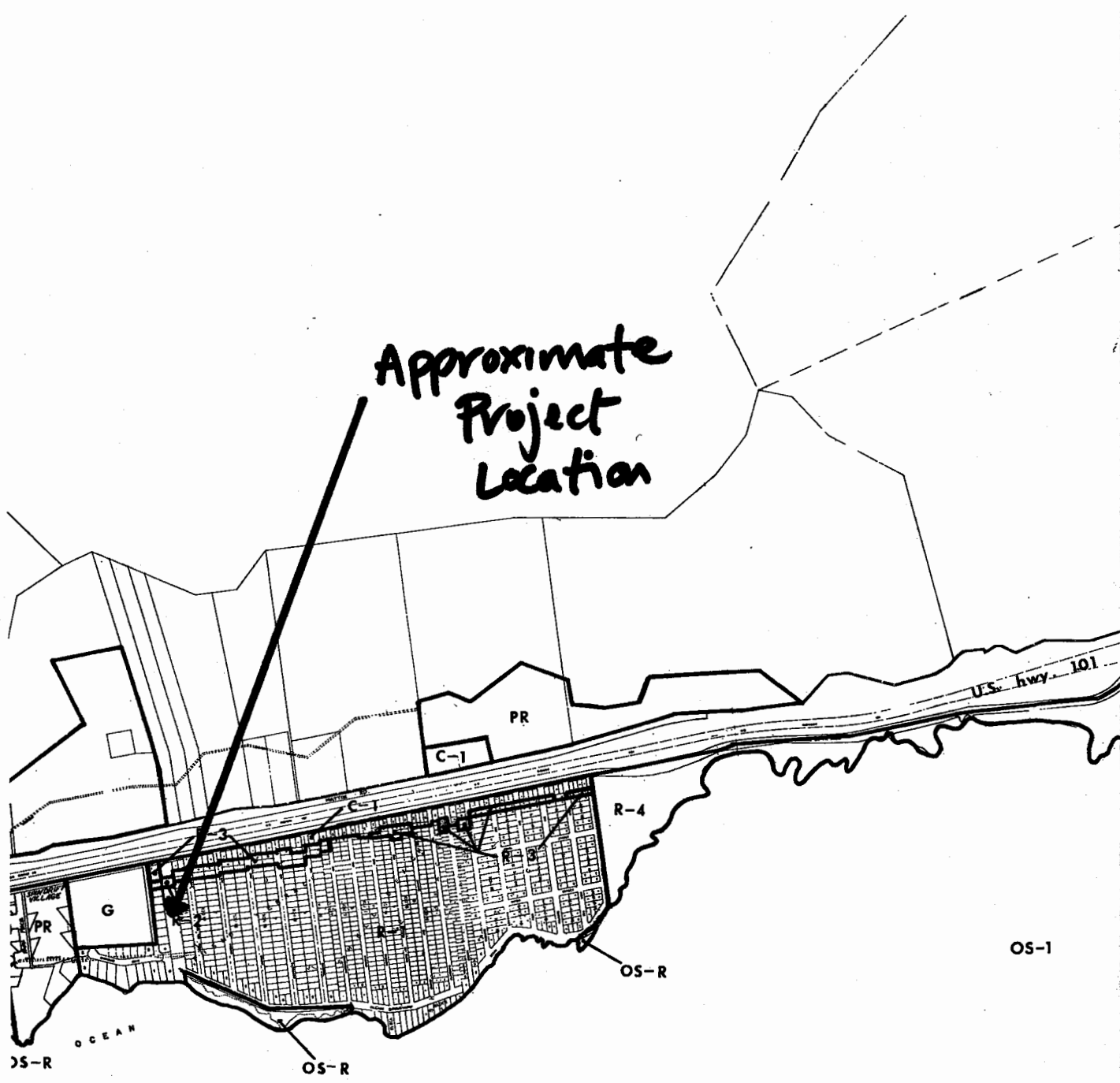
WHEREAS, The Planning Commission reviewed the background on PM 71-269 on September 1, 2009. The Commission concurred on a number of development guidelines for Council consideration;

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.



al trial	MH OS-R OS-1	Mobile Home Open Space Rec. Open Space Natural	C-1 Retail C C-2 General CR Commer
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