

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
(408) 427-4863
HEARING IMPAIRED: (415) 904-6200

TH 7a

October 18, 1996

TO: Commissioners and Interested Persons *DPN*
10/24/96

FROM: Tami Grove, Deputy Director
Diane Landry, District Legal Counsel
Lee Otter, District Chief Planner
Steve Guiney, Coastal Planner

SUBJECT: CITY OF PISMO BEACH: LOCAL COASTAL PROGRAM MINOR AMENDMENT NO. 3-96, Proposed minor amendments to the certified Local Coastal Program to be reported to the Commission at the meeting of November 12 - 15, 1996, to be held at the Radisson Hotel/Mission Valley, 1433 Camino Del Rio South, San Diego, tel. (619) 260-011.

The City of Pismo Beach is requesting that its certified Local Coastal Program be amended to revise 15 of its Implementation Plan (Zoning Ordinance) sections which govern Architectural Review and permit processing. Eight of those proposed changes are either considered major changes or are subject to suggested modifications to ensure consistency with the Land Use Plan and the Coastal Act. Those changes are discussed in a separate report. This report is concerned only with the remaining seven proposed amendments, which have been determined to be minor amendments pursuant to Coastal Commission regulations section 13554. The proposed minor amendments consist of revisions to the following sections of the City's Zoning Ordinance: 17.102.060(9), 17.105.120, 17.105.130, 17.118.050, 17.121.070, 17.121.160, and 17.124.085.

The purpose of this notice is to advise interested parties of the determination by the Executive Director pursuant to Section 13555 of the Commission regulations that the amendments are minor as defined in section 13554. Minor amendments include several types of changes such as change in the notification and hearing procedures that is consistent with the requirements of the Coastal Act and which do not change the kind, location, intensity, or density of use. Please refer to the attachments for complete text of the proposed changes.

Pursuant to section 13555, the Executive Director will report this determination to the Coastal Commission at its November 12 - 15, 1996 meeting at the Radisson Hotel/Mission Valley in San Diego. The Executive Director will also report any objections to the determination that are received within ten days of posting this notice. The proposed minor amendments will be deemed approved unless one-third of the appointed members of the Commission request that they be processed as major amendments (pursuant to section 13555(b)), and will then take immediate effect.

If you have any questions or need additional information regarding the amendments or Commission procedures, please contact Steve Guiney at (408) 427-4863 at the Central Coast Area office in Santa Cruz. Please also contact Mr. Guiney in writing by 5:00 p.m., November 6, 1996, if you wish to register an objection to the proposed "Minor Amendment" determination.

Summary of Minor Amendments

Section 17.102.060(9): change number of other section referred to.

Section 17.105.120: adds four new kinds of development requiring Architectural Review and permit.

Section 17.105.130: deletes existing narrative about findings and replaces with numbered findings.

Section 17.118.050: adds requirement for Architectural Review by Planning Commission for alterations which exceeds 200 square feet to non-conforming structures.

Section 17.121.070: deletes requirement for Architectural Review permits for conforming new construction or additions in excess of 200 square feet on a substandard parcel in the R-1 and R-2 zones, for conforming additions in excess of 200 square feet to existing non-conforming structures in the R-1 and R-2 zones, and for tract home developments when referred by conditions of the Planning Commission and/or City Council.

Section 17.121.160: allows for extension of permits by the hearing body which approved the permit, rather than only by the Planning Commission

Section 17.124.085: add procedure for waiver of public hearing for "minor" development pursuant to Coastal Act section 30624.9.

RECEIVED
JUL 15 1996

ORDINANCE NO. 0-96-09

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH, CALIFORNIA
AMENDING SECTIONS 17.006.0365, 17.033.020, 17.069, 102, 105, 118, 121, AND 124 OF THE
P.B.M.C. CHAPTER 17 RELATED TO ARCHITECTURAL REVIEW REQUIREMENTS AND
PERMIT PROCESSING PROCEDURES

WHEREAS, the City of Pismo Beach is charged with development application processing in the City of Pismo Beach; and

WHEREAS, this process can be expedited with revisions to the P.B.M.C, Chapter 17. These revisions will provide for a more concise review process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PISMO BEACH DOES ORDAIN AS FOLLOWS:

Section 1. Sections 17.006.0365, 17.069, 102, 105, 118, 121, and 124 and Section 17.033.020 of the P.B.M.C. are amended as to read as follows:

Section 17.006.0365 - Development - On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material . . . Decks are exempted from this definition."

Section 17.033.015 - Permitted Uses requiring a Development permit or Coastal Development permit

1. Single family detached residential structures
2. Accessory structures

Section 17.033.020 Uses Subject to a Conditional Use Permit -

1. Dwelling units in attached structures
2. Subdivisions

Section 17.069 Architectural Review (AR) Overlay Zone - Delete in its entirety

*Section 17.102.060(9) Minimum Lot Size and/or Area Requirements for New Lots - Revise as follows:

9. Development on Nonconforming Parcels Development may be permitted on non-conforming parcels subject to the Architectural Review Procedure of Chapter 17.105.120

*Section 17.105.120 Applications Subject to Architectural Review and requiring an Architectural Review Permit: The following development applications are subject to Architectural Review by the Planning Commission and require an Architectural Review Permit:

1. Conditional Use Permits and Development Permits, except wherein no structures, landscaping, parking and fences are proposed or where no such improvements may be required.

2. Variance Permits
3. Signs requiring Planning Commission approval
4. Other items required by ordinance or General Plan/Local Coastal Program Land Use Plan.
5. Applications for development within the viewshed of Highway 101 and Price Canyon Road.
6. Applications for all development adjacent to Boosinger Park shall be reviewed for Architectural Review by the Planning Commission to ensure that they enhance visual quality while minimizing alterations to the rock outcrops.
7. Subdivisions in the Coastal Zone.
8. Modification to the architectural facade to existing development on parcels zoned other than R-1, R-2, OS-1 and OS-2 which is greater than 50% of the exterior perimeter linear footage.
9. Additions in excess of 200 s.f. for non-conforming structures.

* Section 17.105.130 Required findings for an Architectural Review Permit - Delete text in its entirety and replace with the following:

Architectural Review Permits shall include the following findings:

1. The architectural and general appearance of the development is in keeping with the character of the neighborhood.
2. The project is not detrimental to the orderly and harmonious development of the City.
3. The project does not impair the desirability of the investment or occupation in the neighborhood.
4. The project is consistent with the General Plan/Local Coastal Plan.

* Section 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 Ordinance, if nonconforming in either design or arrangement, may be permitted only if such alteration is in compliance with the regulations set forth in this Ordinance for the District where the building or structure is located. Any alteration which exceeds 200 square feet in floor area shall require architectural review by the Planning Commission.

17.121.010 Development Permit Non-Coastal:

- 1) Planning Commission Development Permits: Planning Commission Development Permits are required for any new construction of a permitted use (as established by Chapter 17.09 herein) in all zones except the R-1 and R-2 zone. In addition, Development Permits are also required for any new permitted uses in a zone whereby the establishment of the new use would result in an intensification of use over the previous land use activity on the site. Development Permits provide for Planning Commission review of Architectural design, pursuant to Chapter 17.105 herein, landscaping and off-street parking and loading requirements. All developments shall be encouraged to be designed and developed as a cohesive unit by taking advantage of modern site planning techniques. Development Permits may be conditioned by the Planning Commission to ensure compatibility of development with City goals and policies. Discretionary Development Permits are subject to the Public Hearing and

Notice Procedures established by Chapter 17.121 herein.

- 2) Ministerial Development Permits: Ministerial Development permits are required for new construction without a public hearing for the following types of development:
 - a) Any new construction of a permitted use or addition to existing development in the R-1 and R-2 zones on lots of 5000 s.f. or greater.
 - b) Additions to existing development on parcels zoned other than R-1 and R-2, OS-1 and OS-R which equal less than 25% of the floor area of existing development or 1,000 s.f., whichever is less, provided no new parking is required or variances are requested. If new parking would be required or a variance is requested a public hearing before the Planning Commission shall be required.
 - c) Any minor development in the Coastal Zone provided that no request for a public hearing has been recieved.

* Section 17.121.070 Architectural Review Permits - Delete in its entirety

* Section 17.121.160 Expiration of Permits - amendment of item 2.

2. Upon application filed prior to the expiration date of the approved permit, the time at which the permit expires may be extended by the hearing body that approved the permit of a period or periods of time not exceeding an additional twenty-four (24) months.

Section 17.121.215 Administrative Hearings - The purpose of an Administrative hearing is to satisfy the public hearing and notice requirements for appealable land use permits; enable public review of significant land use proposals which are not of sufficient magnitude to warrant Planning Commission review. This approval process is subject to the following requirements and criteria:

- 1) Application content: Applications shall include a standard City application form and conform with the application checklist provided by the Public Services Department/Planning Division including appropriate fees as established by City.
- 2) Applications: Planning permit applications, including Coastal Permit applications as identified in Section 17.124.070, but subject to the definition of minor development as defined in section 17.124.085, shall be reviewed through the Administrative Hearing process:
 - a. Additions to existing development on parcels zoned other than R-1 and R-2, OS-1 and OS-R greater than 25% of the existing floor area provided no new parking is required or variances are requested. If new parking would be required or a variance is requested a public hearing before the Planning Commission shall be required. Additions to existing development in the R-1 and R-2 zones shall be reviewed by the Public Services Department. Additions to existing development in the OS-1 and OS-R zone shall be reviewed by the Planning Commission.
 - c. Development of single family residential units or additions thereto in the PR zone utilizing the standards of development specified in the applicable approved specific plan for the area in which the development is proposed.

- d. Development in the Coastal Appeal Zone, with the exception of subdivisions pursuant to Section 16.26 of the P.B.M.C.
- 3) Environmental review and determination: No action shall be taken to approve or conditionally approve an application through the Administrative Hearing process unless the project is categorically exempt from CEQA or a Negative Declaration can be approved.
- 4) Public hearing procedure: The Administrative hearing process includes a public hearing before an Administrative Hearing Officer (a Planning Commissioner) and one staff person. The Administrative hearing officer role shall be rotated on a monthly basis; any disagreement between staff and the administrative hearing officer will require an application to be heard at a public hearing before the Planning Commission pursuant to Sections 17.121.210 and 17.124.100 of the Zoning Code.
- 5) Referral to the Planning Commission:
 - a) At the discretion of the Administrative Hearing officer or Staff person in attendance at the hearing, permit applications may be referred to the Planning Commission pursuant to the requirements for a Planning Commission hearing as specified in the Zoning Code if he/she determined the application involves a major policy issue or public controversy that would be resolved more suitably by the Commission. This referral can be made without the applicant being charged an additional application fee; however, a charge for noticing and publication would be required of the applicant.
 - b) An applicant may also choose that his/her application be subject to Planning Commission review and decision, provided that an additional fee in an amount equivalent to the difference between the fees required for an administrative hearing are provided. Such request by the applicant must be provided to the Administrative Hearing Officer in writing prior to the administrative hearing.
- 6) Action on the application: Immediately after the conclusion of the public testimony at the administrative hearing, the Administrative Hearing Officer shall:
 - a) Announce the decision on the project
 - b) If additional information is required or clarification of an issue is needed, the Administrative Hearing Officer may continue the hearing to a date certain.
 - c) In the event final action is taken at the hearing, inform those present of the procedures by which the decision of the Administrative Hearing Officer may be appealed.
- 7) Criteria for approval:
 - a) Permits for projects reviewed at the Administrative Hearing shall be approved only where the proposed project satisfies all provisions of the Zoning Code.
 - b) Variances applications shall not be reviewed by the Administrative

Hearing Officer.

- c) In order to grant permit approval, findings for the project must be made that the proposed use will not be detrimental to the health, safety or welfare of persons working or living at the site or within the vicinity. A proposal may be denied or attached with conditions as deemed necessary to secure the purposes of these regulations. Actions on permits shall be justified in written findings, based on substantial evidence in view of the whole record. For projects approved between the sea and the first public road, a finding must be made that the public access and recreation requirements of Chapter 3 of the Coastal Act are met.
- 8) Permit(s): No permit approved at an Administrative Hearing shall be issued until ten (10) business days have elapsed since the Administrative Hearing at which the project was approved.
- 9) Appeals: Action on applications heard before the Administrative Hearing Officer may be appealed to the Planning Commission as specified in Section 17.121.240 of the Zoning Code.

***17.124.085** Waiver of public hearing for Minor development -Minor development means a development which:

- a) Is consistent with the LCP
 - b) Requires no discretionary approval other than a coastal development permit
 - c) Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast. Minor development shall include single family homes and additions thereto as well as other development which meets this criteria.
- A public hearing for minor development may be waived if both of the following occur:
- 1) Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons know to be interested in receiving notice.
 - 2) No request for public hearing is received by the City within 15 working days from the date of sending the notice. The notice shall provide a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a coastal development permit application.

17.124.150 Local Appeal Periods on Coastal Development Permits - Revise as follows:

An action taken by the Planning Commission or the Administrative Hearing Officer through the Administrative Hearing process pursuant to Section 17.121.215 of the Zoning Code on a Coastal Development Permit shall become final after the tenth, (10th) working day following said action, unless an appeal to the Planning Commission (for projects approved by the Administrative Hearing Officer) or the City Council (for projects approved by the Planning Commission) is received at the Public Services Department or the City Clerks Department within that time. At the time of City action on a Coastal Development Permit, a "Notice of City action on a Coastal Development Permit" shall be transmitted to the Coastal Commission Area Office by registered mail. This notice shall contain the information specified and shall be sent to the individuals required as set forth in Section 17.124.210. This "Notice of City

action on a Coastal Development Permit", when received by the Coastal Commission, shall initiate the Coastal Commission's appeal period for appealable developments. In the event that no local appeal of the City's decision is made, the Coastal Commission's appeal period shall run until its expiration (10 working days commencing upon receipt of the City's "Notice of City action on a Coastal Development Permit"). In the event that an appeal of a Planning Commission decision is made to the City Council, pursuant to the procedures established in this ordinance, the Coastal Commission's appeal period on appealable developments shall not commence until receipt of the City's "Notice of City action on a Coastal Development Permit", pursuant to the requirements of Section 17.124.210. (See Section 17.124.180 for Coastal Commission Appeals.)

17.124.180 Appeals to the Coastal Commission - amendment to last paragraph

The Coastal Commission's ten (10) working day appeal period shall begin upon the date of their receipt of the City's "Notice of City action on a Coastal Development Permit" unless an appeal to the City Council is made pursuant to this Ordinance. In the event that a local appeal of a Planning Commission action is made to the City Council, the Coastal Commission's appeal period for appealable developments shall not commence until their receipt of a "Notice of City action on a Coastal Development Permit" is received pursuant to Section 17.124.210.

Section 2. Effective Date upon Coastal Commission approval.

Planning Division staff is hereby authorized to submit an application to the California Coastal Commission for certification of this amendment to the Pismo Beach Local Coastal Program Implementation Measures (Zoning Code). The amendment will be carried out in accordance with the California Coastal Act and shall take effect immediately upon Coastal Commission approval.

Section 3. Posting.

Before the expiration of fifteen (15) days after the passage of this ordinance, it shall be posted with the names of members voting for or against the same in three public places within the City of Pismo Beach, to wit;

1. City Hall - 760 Mattie Road, Pismo Beach
2. U.S. Post Office - Substation, 711 Dolliver (Fissori)
3. U.S. Post Office - Crest Drive, Pismo Beach

RE-INTRODUCED at a regular meeting of the City Council held this 21st day of May, 1996 on motion
of Councilmember Halldin, seconded by Councilmember Stahl, and on the following
roll call vote, to wit:

AYES: Councilmembers Halldin, Stahl and Mayor Bailey
NOES: Councilmembers Mellow and Brown
ABSENT: none
ABSTAIN: none

Paul B. Bailey
Mayor Paul B. Bailey

ATTEST:

Sharon Jones
City Clerk
Sharon Jones

APPROVED AS TO FORM:

David R. Hunt
City Attorney
David R. Hunt

PASSED AND ADOPTED at a regular meeting of the City Council held this 6th day of
June, 1996 on motion of Councilmember Halldin, seconded by Councilmember
Stahl, and on the following roll call vote, to wit:

AYES: Councilmembers Halldin, Stahl and Mayor Bailey
NOES: Councilmembers Brown and Mellow
ABSENT: none
ABSTAIN: none

Paul B. Bailey
Mayor Paul B. Bailey

ATTEST:

Sharon Jones
City Clerk Sharon Jones

EXHIBIT C

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH, CALIFORNIA, AMENDING SECTIONS 17.006.0365, 17.033.020, 17.069, 102, 105, 118, 121, AND 124 OF THE P.B.M.C. CHAPTER 17 RELATED TO ARCHITECTURAL REVIEW REQUIREMENTS AND PERMIT PROCESSING PROCEDURES

WHEREAS, the City of Pismo Beach is charged with development application processing in the City of Pismo Beach; and

WHEREAS, this process can be expedited with revisions to the P.B.M.C, Chapter 17. These revisions will provide for a more concise review process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PISMO BEACH DOES ORDAIN AS FOLLOWS:

Section 1. Sections 17.006.0365, 17.069, 102, 105, 118, 121, and 124 and Section 17.033.020 of the P.B.M.C. are amended as to read as follows:

Bold - additions

Deletions shown in ~~Strikeouts~~

Modified language per recent Coastal Commission streamlining determination - *italics*

Redlined - language added by PC streamlining committee

Section 17.006.0365 - Development - On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material Decks are exempted from this definition."

~~Section 17.033.015 - Permitted Uses requiring a Development permit or Coastal Development permit -~~

- 1. ~~Single family detached residential structures~~
- 2. ~~Accessory structures~~

~~Section 17.033.020 Uses Permitted Subject to a Conditional Use Permit - Uses permitted in the Planned Residential Zone may include and shall be limited to:~~

- 1. ~~Dwelling units in detached, attached or multi-storied structures or any combination thereof.~~
- 2. ~~Subdivisions~~

Section 17.069 Architectural Review (AR) Overlay Zone - Delete in its entirety

* Section 17.102.060(9) Minimum Lot Size and/or Area Requirements for New Lots - Revise as follows:

9. Development on Nonconforming Parcels Development may be permitted on non-conforming parcels subject to the Architectural Review Procedure of Chapter 17.105.120

* Section 17.105.120 Applications Subject to Architectural Review and requiring an Architectural Review Permit: The following development applications are subject to Architectural Review by the Planning Commission and require an Architectural Review Permit:

1. Conditional Use Permits and Development Permits, except wherein no structures, landscaping, parking and fences are proposed or where no such improvements may be required.
2. Variance Permits
- ~~3. Architectural Review Permits~~
- ~~4. Signs requiring Planning Commission approval~~
- ~~5. Other items required by ordinance or General Plan/Local Coastal Program Land Use Plan.~~
5. Applications for development ~~on all developments on properties in excess of a 15% slope located within the viewshed of Highway 101 and Price Canyon Road. and all other developments on properties with slopes in excess of 20% shall be reviewed by the Planning Commission.~~
6. Applications for all development adjacent to Boosinger Park shall be reviewed for Architectural Review by the Planning Commission to ensure that they enhance visual quality while minimizing alterations to the rock outcrops.
- ~~7. Subdivisions in the Coastal Zone.~~
- ~~8. Modification to the architectural facade to existing development on parcels zoned other than R-1, R-2, OS-1 and OS-2 which is greater than 50% of the exterior perimeter linear footage.~~

* Section 17.105.130 Required findings for an Architectural Review Permit - Delete text in its entirety and replace with the following:

Architectural Review Permits shall include the following findings:

1. The architectural and general appearance of the development is in keeping with the character of the neighborhood.
2. The project is not detrimental to the orderly and harmonious development of the City.
3. The project does not impair the desirability of the investment or occupation in the neighborhood.
4. The project is consistent with the General Plan/Local Coastal Plan.

* Section 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 Ordinance, if nonconforming in either

design or arrangement, may be permitted only if such alteration is in compliance with the regulations set forth in this Ordinance for the District where the building or structure is located. Any alteration which exceeds 200 square feet in floor area shall require Architectural Review by the Planning Commission.

17.121.010 Development Permit Non-Coastal:

- 1) **Planning Commission Development Permits:** Planning Commission Development Permits are required for any new construction of a permitted use (as established by Chapter 17.09 herein) in all zones except the R-1 and R-2 zone. In addition, Development Permits are also required for any new permitted uses in a zone whereby the establishment of the new use would result in an intensification of use over the previous land use activity on the site. Development Permits provide for Planning Commission review of Architectural design, pursuant to Chapter 17.105 herein, landscaping and off-street parking and loading requirements. All developments shall be encouraged to be designed and developed as a cohesive unit by taking advantage of modern site planning techniques. Development Permits may be conditioned by the Planning Commission to ensure compatibility of development with City goals and policies. Discretionary Development Permits are subject to the Public Hearing and Notice Procedures established by Chapter 17.121 herein.
- 2) **Ministerial Development Permits:** Ministerial Development permits are required for new construction without a public hearing for the following types of development:
 - a) Any new construction of a permitted use or addition to existing development in the R-1 and R-2 zones on lots of 5000 s.f. or greater.
 - b) Additions to existing development on parcels zoned other than R-1 and R-2, OS-1 and OS-R which equal less than 25% of the floor area of existing development or 1,000 s.f., whichever is less, provided no new parking is required or variances are requested. If new parking would be required or a variance is requested a public hearing before the Planning Commission shall be required.
 - c) *Any minor development in the Coastal Zone provided that no request for a public hearing has been recieved.*

* **Section 17.121.070 Architectural Review Permits** - Delete in its entirety

* **Section 17.121.160 Expiration of Permits** - amendment of item 2.

2. Upon application filed prior to the expiration date of the approved permit, the time at which the permit expires may be extended by the ~~Planning Commission~~ hearing body that approved the permit of a period or periods of time not exceeding an additional twenty-four (24) months.

Section 17.121.215 Administrative Hearings - The purpose of an Administrative hearing is to satisfy the public hearing and notice requirements for appealable land use permits; enable public review of significant land use proposals which are not of sufficient

magnitude to warrant Planning Commission review. This approval process is subject to the following requirements and criteria:

- 1) **Application content:** Applications shall include a standard City application form and conform with the application checklist provided by the Public Services Department/Planning Division including appropriate fees as established by City.

- 2) **Applications:** Planning permit applications, including Coastal Permit applications as identified in Section 17.124.070, but subject to the definition of minor development as defined in section 17.124.085, for development under the following circumstances shall be reviewed through the Administrative Hearing process:
 - a. ~~Development on lots of less than 5000 sq. ft. Development on lots greater than 5,000 s.f. in size does not require an administrative hearing and may be approved by the Public Services Department per Section 17.121.010.~~
 - b. Additions to existing development on parcels zoned other than R-1 and R-2, OS-1 and OS-R which equal more than 50% of existing development greater than 25% of the existing floor area provided no new parking is required or variances are requested. If new parking would be required or a variance is requested a public hearing before the Planning Commission shall be required. Additions to existing development in the R-1 and R-2 zones shall be reviewed by the Public Services Department. Additions to existing development in the OS-1 and OS-R zone shall be reviewed by the Planning Commission.
 - c. Development of single family residential units or additions thereto in the PR zone utilizing the standards of development specified in any the applicable approved specific plan for the area in which the development is proposed.
 - d. Development in the Coastal Appeal Zone, with the exception of subdivisions pursuant to Section 16.26 of the P.B.M.C.

- 3) **Environmental review and determination:** No action shall be taken to approve or conditionally approve an application through the Administrative Hearing process unless the project is categorically exempt from CEQA or a Negative Declaration can be approved.

- 4) **Public hearing procedure:** The Administrative hearing process includes a public hearing before an Administrative Hearing Officer (a Planning Commissioner) and one staff person. The Administrative hearing officer role shall be rotated on a monthly basis; any disagreement between staff and the administrative hearing officer will require an application to be heard at a public

hearing before the Planning Commission pursuant to Sections 17.121.210 and 17.124.100 of the Zoning Code.

5) **Referral to the Planning Commission:**

a) ~~At the discretion of the Administrative Hearing officer or Staff person in attendance at the hearing,~~ permit applications may be referred to the Planning Commission pursuant to the requirements for a Planning Commission hearing as specified in the Zoning Code if he/she determined the application involves a major policy issue or public controversy that would be resolved more suitably by the Commission. This referral can be made without the applicant being charged an additional application fee; however, a charge for noticing and publication would be required of the applicant.

b) An applicant may also choose that his/her application be subject to Planning Commission review and decision, provided that an additional fee in an amount equivalent to the difference between the fees required for an administrative hearing are provided. Such request by the applicant must be provided to the Administrative Hearing Officer in writing prior to the administrative hearing.

6) **Action on the application: Immediately after the conclusion of the public testimony at the administrative hearing, the Administrative Hearing Officer shall:**

- a) Announce the decision on the project
- b) If additional information is required or clarification of an issue is needed, the Administrative Hearing Officer may continue the hearing to a date certain.
- c) In the event final action is taken at the hearing, inform those present of the procedures by which the decision of the Administrative Hearing Officer may be appealed.

7) **Criteria for approval:**

- a) Permits for projects reviewed at the Administrative Hearing shall be approved only where the proposed project satisfies all provisions of the Zoning Code.
- b) Variances applications shall not be reviewed by the Administrative Hearing Officer.
- c) In order to grant permit approval, findings for the project must be made that the proposed use will not be detrimental to the health, safety or welfare of persons working or living at the site or within the vicinity. A proposal may be denied or attached with conditions as deemed necessary to secure the purposes of these regulations. Actions on permits shall be justified in written findings, based on substantial evidence in view of the whole record. For projects approved between

the sea and the first public road, a finding must be made that the public access and recreation requirements of Chapter 3 of the Coastal Act are met.

- 8) ~~Permit(s): Within 10 business days of the Administrative Hearing, the project permit will be provided to the applicant if the application has been approved. No permit approved at an Administrative Hearing shall be issued until ten (10) business days have elapsed since the Administrative Hearing at which the project was approved.~~
- 9) Appeals: Action on applications heard before the Administrative Hearing Officer may be appealed to the Planning Commission as specified in Section 17.121.240 of the Zoning Code.

***17.124.085**

Waiver of public hearing for Minor development - Minor development means a development which:

- a) *Is consistent with the LCP*
- b) *Requires no discretionary approval other than a coastal development permit*
- c) *Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast. Minor development shall include single family homes and additions thereto as well as other development which meets this criteria.*

A public hearing for minor development may be waived if both of the following occur:

- 1) *Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons know to be interested in receiving notice.*
- 2) *No request for public hearing is received by the City within 15 working days from the date of sending the notice. The notice shall provide a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the Coastal Commission any action taken by the City on a coastal development permit application.*

17.124.150 Local Appeal Periods on Coastal Development Permits - Revise as follows:

An action taken by the Planning Commission or the Administrative Hearing Officer through the Administrative Hearing process pursuant to Section 17.121.215 of the Zoning Code on a Coastal Development Permit shall become final after the tenth, (10th) working day following said action, unless an appeal to the Planning Commission (for projects approved by the Administrative Hearing Officer) or the City Council (for projects approved by the Planning Commission) is received at the Public Services Department or the City Clerks Department within that time. At the time of the ~~Planning Commission~~ City action on a Coastal Development Permit, a "Notice of ~~City Planning Commission~~ City action on a Coastal Development Permit" shall be transmitted to the Coastal Commission Area Office by registered mail. This notice

shall contain the information specified and shall be sent to the individuals required as set forth in Section 17.124.210. This "Notice of City ~~Planning Commission~~ action on a Coastal Development Permit", when received by the Coastal Commission, shall initiate the Coastal Commission's appeal period for appealable developments. In the event that no local appeal of the City's ~~Planning Commission~~ decision is made, the Coastal Commission's appeal period shall run until its expiration (10 working days commencing upon receipt of the City's "Notice of City ~~Planning Commission~~ action on a Coastal Development Permit"). In the event that an appeal of a Planning Commission decision is made to the City Council, pursuant to the procedures established in this ordinance, the Coastal Commission's appeal period on appealable developments shall not commence until receipt of the City's "Notice of City ~~Planning Commission~~ action on a Coastal Development Permit", pursuant to the requirements of Section 17.124.210. (See Section 17.124.180 for Coastal Commission Appeals.)

17.124.180 Appeals to the Coastal Commission - amendment to last paragraph

The Coastal Commission's ten (10) working day appeal period shall begin upon the date of their receipt of the City's "Notice of City ~~Planning Commission~~ action on a Coastal Development Permit" unless an appeal to the City Council is made pursuant to this Ordinance. In the event that a local appeal of a Planning Commission action is made to the City Council, the Coastal Commission's appeal period for appealable developments shall not commence until their receipt of a "Notice of City ~~Planning Commission~~ action on a Coastal Development Permit" is received pursuant to Section 17.124.210.

Section 2. Effective Date upon Coastal Commission approval.

Planning Division staff is hereby authorized to submit an application to the California Coastal Commission for certification of this amendment to the Pismo Beach Local Coastal Program Implementation Measures (Zoning Code). The amendment will be carried out in accordance with the California Coastal Act and shall take effect immediately upon Coastal Commission approval.

Section 3. Posting.

Before the expiration of fifteen (15) days after the passage of this ordinance, it shall be posted with the names of members voting for or against the same in three public places within the City of Pismo Beach, to wit;

1. City Hall - 760 Mattie Road, Pismo Beach
2. U.S. Post Office - Shell Beach Road, Pismo Beach
3. U.S. Post Office - Crest Drive, Pismo Beach

INTRODUCED at a regular meeting of the City Council held this ___ day of _____, 1996 on motion of Councilmember _____, seconded by Councilmember _____, and on the following role call vote, to wit:

1996

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

Mayor Paul B. Bailey

ATTEST:

APPROVED AS TO FORM:

City Clerk
Sharon Jones

City Attorney
David R. Hunt

PASSED AND ADOPTED at a regular meeting of the City Council held this ____ day of _____, 1996 on motion of Councilmember _____, seconded by Councilmember _____, and on the following roll call vote, to wit:

AYES: _____
NOES: _____
ABSENT: _____
ABSTAIN: _____

CURRENT ZONING ORDINANCE

17.105.120 Applications Subject to Architectural Review The following development applications are subject to Architectural Review:

1. Conditional Use Permits and Development Permits, except wherein no structures, landscaping, parking and fences are proposed or where no such improvements may be required.
2. Variance Permits.
3. Architectural Review Permits.
4. Signs requiring Planning Commission approval.
5. Other items required by ordinance or General Plan/ Local Coastal Program Land Use Plan.



17.105.130 Architectural Review Drawings, sketches and site plans for applications required for Architectural Review under the provisions of Chapter 17.121 shall be considered in an endeavor to provide that the architectural and general appearance of such buildings or structures and grounds be in keeping with the character of the neighborhood and such as not to be detrimental to the orderly and harmonious development of the City, or to impair the desirability of investment or occupation in the neighborhood, and that the project is consistent with the goals, policies and programs of the Local Coastal Program Land Use Plan.

17.105.140 Solar Energy The Planning Commission shall encourage and may require projects to provide either passive or active solar systems for water heating and space air conditioning where feasible. The following techniques shall be explored:

1. Orientation of structures for maximum solar heat gain.
2. Proper location of roof overhangs and eaves to maximize natural cooling and heating.
3. Utilization of deciduous trees south of structures to provide for natural cooling and heating.
4. Use of passive and active solar systems to provide room heating and cooling needs as well as water heating. Examples include solar heating greenhouses, trombe walls, solar panels and other proven solar technology.

17.105.143 Solar Protection The Planning Commission shall require that CC&R's adopted for new residential development contain provisions for the protection of solar access to any solar collection device required to be constructed by the City for that development. Provisions to be enforced by the homeowners association shall include requirements that new vegetation, walls or structures may not be allowed to shade more than 20 percent of the average solar energy reaching active or passive solar collecting devices during the hours of 10 am and 3 pm. Said solar collecting devices must be for the primary purpose of providing space heating or cooling, or water heating for the residence or pool.

17.105.145 Energy Conservation The Planning Commission shall require all new residential structures to provide for water and energy conserving devices consistent with applicable state and federal laws. Examples of such measures shall include, but not be limited to:

1. Low flow toilets, faucets and shower heads;
2. Additional insulation and weather stripping;

CURRENT ZONING ORDINANCE

3. The special circumstances affecting the subject property are unique to the site and do not apply equally to other lots in the vicinity under identical zone classifications.

Variances are subject to the Public Hearing and Notice Procedures established by Chapter 17.121 herein.

17.121.040 Non-Allowable Variances:

1. The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance from the strict application of the terms of this Ordinance.
2. Similar existing, nonconforming or illegal situations in the vicinity of a property are not evidence that would justify a variance in that the standards of the current zoning ordinance apply equally to conforming, nonconforming or illegal situations.
3. Variances proposed as a result of hardships that are self-imposed may not be allowed.
4. Density variances other than as provided in the adopted Housing Element portion of the General Plan/ Local Coastal Program Land Use Plan.

17.121.050 Coastal Development Permits: Any application for development (as defined herein) in the Coastal Zone shall be required to obtain a Coastal Development Permit in accordance with the provisions of Chapter 17.124, in addition to any other permit required by local ordinance.

17.121.060 Modifications to Permits: Modifications to previously issued permits may be issued subject to the following criteria:

1. Major Modifications to Planning Commission Permits, including significant departures from the original Planning Commission approval, shall require Planning Commission review and approval pursuant to the Public hearing and Notice Procedures of Chapter 17.121.
2. Minor Modifications to Planning Commission Permits, including minor changes not affecting the use, design or intent of the original Planning Commission approval, may be approved by the City Planner.
3. The City Planner shall determine whether a proposed project modification is of a minor or major nature.

* 17.121.070 Architectural Review Permits: Architectural Review Permits are required for any new construction of a permitted use (as established by Chapter 17.105 herein) as follows:

1. Conforming new construction or additions in excess of 200 sq. ft. on a substandard parcel in the R-1 and R-2 zones;
2. Conforming additions in excess of 200 sq. ft. to existing non-conforming structures in the R-1 and R-2 zones; and
3. Tract home developments when referred by conditions of the Planning Commission and/or City Council.

The City Planner may approve the above development applications.

17.121.080 Sign Permits Sign Permits are required for all new signs or face changes of existing signs pursuant to the requirements established in Chapter 17.111. Signs requiring Planning Commission approval shall be subject

COASTAL ACT

A waiver shall not take effect until it has been reported to the commission at the regularly scheduled meeting following its issuance by the executive director. If one-third of the appointed membership of the commission so request, at this meeting, such issuance shall not be effective and, instead, an application for a coastal development permit shall be required and processed in accordance with the provisions of this chapter.

(Added by Ch. 43, Stats. 1982.)

* Section 30624.9.

(a) For purposes of this section, "minor development" means a development which a local government determines satisfies all of the following requirements:

- (1) Is consistent with the certified local coastal program, as defined in Section 30108.6.
- (2) Requires no discretionary approvals other than a coastal development permit.
- (3) Has no adverse effect either individually or cumulatively on coastal resources or public access to the shoreline or along the coast.

(b) After certification of its local coastal program, a local government may waive the requirement for a public hearing on a coastal development permit application for a minor development only if both of the following occur:

- (1) Notice that a public hearing shall be held upon request by any person is provided to all persons who would otherwise be required to be notified of a public hearing as well as any other persons known to be interested in receiving notice.
- (2) No request for public hearing is received by the local government within 15 working days from the date of sending the notice pursuant to paragraph (1).

(c) The notice provided pursuant to subdivision (b) shall include a statement that failure by a person to request a public hearing may result in the loss of that person's ability to appeal to the commission any action taken by a local government on a coastal development permit application.

(Added by Ch. 669, Stats. 1995.)

Section 30625.

(a) Except as otherwise specifically provided in subdivision (a) of Section 30602, any appealable action on a coastal development permit or claim of exemption for any development by a local government or port governing body may be appealed to the commission by an applicant, any aggrieved person, or any two members of the commission. The commission may approve, modify,