

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST AREA OFFICE  
725 FRONT STREET, STE. 300  
SANTA CRUZ, CA 95060  
(408) 427-4863  
HEARING IMPAIRED: (415) 904-5200

RECEIVED AT MEETING

DATE: July 11, 1996



SANTA CRUZ

CENTRAL COAST

Commission Hearing of  
July 11, 1996  
Waterfront Hilton Beach Resort  
21100 Pacific Coast Highway  
Huntington Beach  
(714) 960-7873

RECEIVED

OCT - 1 1996

CALIFORNIA  
COASTAL COMMISSION

DISTRICT DIRECTOR'S REPORT

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<u>Regular Waivers</u>	(3-96-065-W, Maruska, Los Osos)
<u>De Minimus Waivers</u>	(3-96-078-DM, Lemke, Pacific Grove) (3-96-079-DM, Tansey, Carmel)
<u>Immaterial Amendments</u>	(3-95-010-A1 Santa Cruz Port District) (3-81-041-A18, City of Santa Cruz) (3-87-184-A4, Silverking, Santa Cruz Co.)
<u>Extensions</u>	(none)
<u>Emergency Permits</u>	(none)
<u>Correspondence</u>	(see green sheet)

## DETAIL OF ATTACHED MATERIALS

### REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Application</i>	<i>Project Description</i>	<i>Project Location</i>
<b>3-96-065-W</b> Mr. & Mrs. Don & Liz Maruska	Demolition of existing garage; construct new garage; install pool and pool enclosure	412 Mitchell Lane, Los Osos (San Luis Obispo County)

### REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Application</i>	<i>Project Description</i>	<i>Project Location</i>
<b>3-96-078-DM</b> Mr. Gil Lemke	Demolition of an existing 908 sq. ft. duplex pursuant to the recommendations contained in the Preliminary Cultural Reconnaissance prepared for the project site by Archaeological Consulting, 1/24/95) and the removal of one tree	707/709 Mermaid Avenue, Pacific Grove (Monterey County)
<b>3-96-079-DM</b> Mr. Michael L. Tansy	Demolition of existing 450 sq. ft. single family dwelling	Junipero Avenue (between 2nd and 3rd Avenues), Carmel (Monterey County)

### REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Application</i>	<i>Project Description</i>	<i>Project Location</i>
<b>3-95-010-A1</b> Santa Cruz Port District, Attn: Mr. Brian Foss	Amend permit to change Wednesday night beach bar-b-que to Thursday night; May 1 through September 30, for Crow's Nest Restaurant Beach Bar-B-Que, Santa Cruz Harbor, Santa Cruz	2218 East Cliff Drive (At beach), Santa Cruz (Santa Cruz County)
<b>3-81-041-A18</b> City of Santa Cruz	Original permit amended as follows: allow Sanctuary Tour Boat operation of "packaged tours" until May 14, 1997; passengers to be delivered to or picked up at Wharf by bus or shuttle (minimizing an increase in parking demand).	Santa Cruz Municipal Wharf, Santa Cruz (Santa Cruz County)

<p><b>3-87-184-A4</b> Silverking Oceanic Farms</p>	<p>Allow above-ground rectangular tanks covered by shade cloth structures instead of below-ground circular tanks; addition of a 100 sq.ft. pump house building; addition of a 384 sq.ft. storage shed to allow the raising of abalone in addition to salmon.</p>	<p>Davenport Landing Road (Davenport Landing Beach, south end of Davenport Landing Road), Davenport (Santa Cruz County)</p>
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**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

**TO:** All Interested Parties  
**FROM:** Peter Douglas, Executive Director  
**DATE:** June 27, 1996  
**SUBJECT:** Waiver of Coastal Development Permit Requirement:  
**Waiver Number 3-96-065-W**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13250(c) of the California Code of Regulations.

**APPLICANT:** Mr. & Mrs. Don & Liz Maruska  
**LOCATION:** 412 Mitchell Lane, Los Osos (San Luis Obispo County) (APN(s) 74-91-3)  
**DESCRIPTION:** Demolition of existing garage; construct new garage; install pool and pool enclosure  
**RATIONALE:** Proposed development involves impacts on coastal resources and coastal access that are insignificant.

**IMPORTANT:** This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 11, 1996, in Huntington Beach. If three Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Truly yours,

PETER M. DOUGLAS  
Executive Director

A handwritten signature in black ink, appearing to read "Lee Otter", written over a horizontal line.

By: LEE OTTER  
Chief of Permits

**CALIFORNIA COASTAL COMMISSION**

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725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(408) 427-4863

**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

TO: All Interested Parties  
FROM: Peter Douglas, Executive Director  
DATE: July 8, 1996  
SUBJECT: Waiver of Coastal Development Permit Requirement:  
**Waiver De Minimis Number 3-96-078-DM**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

APPLICANT: Mr. Gil Lemke  
LOCATION: 707/709 Mermaid Avenue, Pacific Grove (Monterey County) (APN(s) 6-74-29)  
DESCRIPTION: Demolition of an existing 908 sq. ft. duplex/pursuant to the recommendations contained in the Preliminary Cultural Reconnaissance prepared for the project site by Archaeological Consulting, 1/24/95); and the removal of one tree  
RATIONALE: Proposed development involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and it is consistent with the policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200).

**IMPORTANT:** This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 11, 1996, in Huntington Beach. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Truly yours,

PETER M. DOUGLAS  
Executive Director

A handwritten signature in black ink, appearing to read "Lee Otter".

By: LEE OTTER  
District Chief Planner

**CALIFORNIA COASTAL COMMISSION**

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725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(408) 427-4863

**NOTICE OF COASTAL DEVELOPMENT PERMIT WAIVER**

**TO:** All Interested Parties  
**FROM:** Peter Douglas, Executive Director  
**DATE:** July 8, 1996  
**SUBJECT:** Waiver of Coastal Development Permit Requirement:  
**Waiver De Minimis Number 3-96-079-DM**

Based on project plans and information submitted by the applicant(s) named below regarding the development described below, the Executive Director of the Coastal Commission hereby waives the requirement for a Coastal Development Permit, pursuant to Title 14, Section 13238 of the California Code of Regulations.

**APPLICANT:** Mr. Michael L. Tansy;  
**LOCATION:** Junipero Avenue (between 2nd and 3rd Avenues), Carmel (Monterey County) (APN(s) 10-105-12)  
**DESCRIPTION:** Demolition of existing 450 sq. ft. single family dwelling  
**RATIONALE:** Proposed development involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and it is consistent with the policies of Chapter 3 of the Coastal Act of 1976 (commencing with Section 30200).

**IMPORTANT:** This waiver is not valid unless the site has been posted AND until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission at the meeting of Thursday, July 11, 1996, in Huntington Beach. If four Commissioners object to this waiver, a coastal development permit will be required.

Persons wishing to object to or having questions regarding the issuance of a coastal permit waiver for this project should contact the Commission office at the above address or phone number prior to the Commission meeting date.

Truly yours,

PETER M. DOUGLAS  
Executive Director

A handwritten signature in black ink, appearing to read "Lee Otter", written over a horizontal line.

By: LEE OTTER  
District Chief Planner

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST AREA OFFICE  
25 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(408) 427-4863

**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties  
FROM: Peter Douglas, Executive Director  
DATE: June 25, 1996  
SUBJECT: Immaterial Amendment  
**Permit Amendment: 3-95-010-A1**

Based on project plans and information submitted by the applicant(s) named below regarding the amendment described below, the Executive Director of the Coastal Commission hereby finds this amendment to be IMMATERIAL pursuant to Title 14, Section 13166(a)(2) of the California Code of Regulations.

APPLICANT: Santa Cruz Port District, Attn: Mr. Brian Foss  
LOCATION: 2218 East Cliff Drive (At beach), Santa Cruz (Santa Cruz County)  
DESCRIPTION: Amend permit to change Wednesday night beach bar-b-que to Thursday night; May 1 through September 30, for Crow's Nest Restaurant Beach Bar-B-Que, Santa Cruz Harbor, Santa Cruz  
RATIONALE: Requested changes can be found consistent with the policies contained in the Local Coastal Program and in Chapter 3 of the Coastal Act.

IMPORTANT: This permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment is proposed to be reported to the Commission at the meeting of Thursday, July 11, 1996, in Huntington Beach.

If you have any questions about the proposal or wish to register an objection, please contact Joy Chase at the Central Coast Area office.

Truly yours,

PETER M. DOUGLAS  
Executive Director

A handwritten signature in black ink, appearing to read "Lee Otter", written over a horizontal line.

By: LEE OTTER  
Chief of Permits

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE  
25 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(408) 427-4863

**NOTICE OF PROPOSED PERMIT AMENDMENT**

**TO:** All Interested Parties  
**FROM:** Peter Douglas, Executive Director  
**DATE:** June 25, 1996  
**SUBJECT:** Immaterial Amendment  
**Permit Amendment: 3-81-041-A18**

Based on project plans and information submitted by the applicant(s) named below regarding the amendment described below, the Executive Director of the Coastal Commission hereby finds this amendment to be IMMATERIAL pursuant to Title 14, Section 13166(a)(2) of the California Code of Regulations.

**APPLICANT:** City of Santa Cruz  
**LOCATION:** Santa Cruz Municipal Wharf, Santa Cruz (Santa Cruz County) (APN(s) 5-401-2)  
**DESCRIPTION:** Original permit amended as follows: allow Sanctuary Tour Boat operation of "packaged tours" until May 14, 1997; passengers to be delivered to or picked up at Wharf by bus or shuttle (minimizing an increase in parking demand).  
**RATIONALE:** Requested changes can be found consistent with the policies contained in the Local Coastal Program and in Chapter 3 of the Coastal Act.

**IMPORTANT:** This permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment is proposed to be reported to the Commission at the meeting of Thursday, July 11, 1996, in Huntington Beach.

If you have any questions about the proposal or wish to register an objection, please contact Joy Chase at the Central Coast Area office.

Truly yours,

PETER M. DOUGLAS  
Executive Director

A handwritten signature in black ink, appearing to read "Lee Otter", written over a horizontal line.

By: LEE OTTER  
Chief of Permits



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**NOTICE OF PROPOSED PERMIT AMENDMENT**

TO: All Interested Parties  
FROM: Peter Douglas, Executive Director  
DATE: July 1, 1996  
SUBJECT: Immaterial Amendment  
**Permit Amendment: 3-87-184-A4** (previously numbered P-1461 and then P-79-356)

Based on project plans and information submitted by the applicant(s) named below regarding the amendment described below, the Executive Director of the Coastal Commission hereby finds this amendment to be IMMATERIAL pursuant to Title 14, Section 13166(a)(2) of the California Code of Regulations.

APPLICANT: Silverking Oceanic Farms  
LOCATION: Davenport Landing Road (Davenport Landing Beach, south end of Davenport Landing Road), Davenport (Santa Cruz County) (APN(s) 58-22-7, 58-131-19)  
DESCRIPTION: Allow above-ground rectangular tanks covered by shade cloth structures instead of below-ground circular tanks; addition of a 100 sq.ft. pump house building; addition of a 384 sq.ft. storage shed to allow the raising of abalone in addition to salmon.  
RATIONALE: There will be less environmental impact than from what was previously approved - less riparian habitat grading, less freshwater use, less export of fill and less chemicals in the outfall.

**IMPORTANT:** This permit will be modified accordingly if no written objections are received within ten working days of the date of this notice. This amendment is proposed to be reported to the Commission at the meeting of Thursday, July 11, 1996, in Huntington Beach.

If you have any questions about the proposal or wish to register an objection, please contact Rick Hyman at the Central Coast Area office.

Truly yours,

PETER M. DOUGLAS  
Executive Director

  
By: LEE OTTER  
District Chief Planner

cc: Kim Tschantz, Santa Cruz County Planning Department

## CORRESPONDENCE

1. Item Th3a Santa Cruz LCP Amendment No. 1-96 (Minor)
2. Item Th3b Sand City LCP Amendment No. 1-96 Certification Review
3. Item Th5b San Luis Obispo Co. LCP Amendment No. 1-96 Miscellaneous.)
4. Item Th6a Appeal No. A-3-95-79 (Andrews & Lee)
5. Item Th6b Appeal No. A-3-SMC-96-008 (McKenzie, San Mateo Co.)
6. Item Th9a,b,c Permit No 4-81-194-A and Appeal No A-3-SLO-95-70

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HEARING IMPAIRED: (415) 904-5200

TH 3a



June 19, 1996

**TO:** Commissioners and Interested Parties

**FROM:** Tami Grove, District Director  
Rick Hyman, Coastal Program Analyst

**SUBJECT:** SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM  
MINOR AMENDMENT NO. 1-96

Santa Cruz County is requesting that its certified Local Coastal Program be amended to revise terminology to its updated equivalent. "Within the Urban/Rural Boundary" is to be replaced with "Within the Urban Services Line or Rural Services Line", in three sections involving exclusions from permit requirements (Sections 13.20.071, 13.20.072, 13.20.078). This amendment request was filed on June 12, 1996, pursuant to Section 30510(b) of the Coastal Act and Section 13553 of the California Code of Regulations.

The purpose of this notice is to advise interested parties of the determination by the Executive Director pursuant to Section 13555 of California Code of Regulations that the filed amendment is "minor" as defined in Section 13554. Minor amendments include several types of changes which do not affect permitted land uses. These minor amendments only change terminology. The full text is attached to this notice.

Pursuant to Section 13555, the Executive Director will report in writing this determination to the Coastal Commission at its meeting of July 11, 1996, to be held at the Waterfront Hilton Beach Resort, 21100 Pacific Coast Highway, Huntington Beach CA 92648. He will also report any objections to the determination received within 10 days of posting of this notice. This proposed minor amendment will be deemed approved, provided the concurrent Exclusion Request is approved ( see staff report for Exclusion Amendment No. E-82-4-A4 on this same agenda), unless one-third of the appointed members of the Commission request that it be processed as a major amendment (pursuant to Section 13555(b)). It will take effect on July 12, 1996 according to County Ordinance #4416.

If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Rick Hyman or Diane Landry at the Central Coast District Office in Santa Cruz. If you wish to register an objection to the proposed "minor" amendment determination, please contact either of the above staff by July 8, 1996.

**SANTA CRUZ COUNTY: LOCAL COASTAL PROGRAM MINOR AMENDMENT NO. 1-96  
FULL TEXT OF PROPOSED AMENDMENTS**

**SECTION XX**

Subsection (a) of Section 13.20.071 of the County Code is hereby amended to read as follows:

**13.20.071 RESIDENTIAL DEVELOPMENT. 1 to 4 UNIT EXCLUSION.**

- (a) Except as indicated in subsection (b) below, the exclusion for residential development is for projects as described below on lands within the Urban/Rural Boundary Urban Services Line or Rural Services Line, and where designated as a principal permitted use under the applicable zone district:

The construction, reconstruction, demolition, repair, maintenance, alteration or addition to any 1 to 4 unit residential development or accessory structure on legal lots or lot combinations or record on the date of Local Coastal Program certification, and at densities specified in the Land Use Plan.

**SECTION XXI**

Subsection (a) of Section 13.20.072 of the County Code is hereby amended to read as follows:

**13.20.072 COMMERCIAL DEVELOPMENT EXCLUSION.**

- (a) Except as indicated in subsection (b) below, the exclusion for commercial development includes the following:
1. The construction, reconstruction, demolition, or alteration in size of any commercial structure less than 2000 square feet in size, on legal lots of record within the Urban/Rural Boundary Urban Services Line or Rural Services Line.
  2. Commercial change in use in an existing structure.

**SECTION XXII**

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Subsection (d) and (e) of section 13.20.078 of the County Code are hereby amended to read as follows:

**13.20.078 COASTAL EXCLUSION FOR WELLS.** Construction of a well or test well on undeveloped land for the purpose of providing domestic water and fire protection for one single family dwelling is excluded, provided that the land is not:

- (a) In an area designated as groundwater emergency pursuant to Chapter 7.70.
- (b) In an area designated by a water agency or a State agency with jurisdiction as an area subject to saltwater intrusion.
- (c) In an appealable area of the coastal zone as designated in Chapter 13.20, Sections 13.20.122 (a) and (b).
- (d) In an area designated as a sensitive habitat in the General Plan and Local Coastal Program Land Use Plan.
- (e) In an area designated within the Urban/Rural Boundary Urban Services Line or Rural Services Line in the General Plan and Local Coastal Program.

## CALIFORNIA COASTAL COMMISSION

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SANTA CRUZ, CA 95060  
(408) 427-4863  
HEARING IMPAIRED: (415) 904-5200

TH 36



DATE: July 8, 1996

TO: Commissioners and Interested Parties

FROM: Peter Douglas, Executive Director  
Tami Grove, District Director  
Steve Monowitz, Coastal Program Analyst

SUBJECT: City of Sand City Local Coastal Program Amendment #1-9  
Concurrence with the Executive Director's determination that the action by the City of Sand City accepting certification of Amendment #1-96, with modifications, to the City's Local Coastal Program is legally adequate.

EXECUTIVE DIRECTOR'S DETERMINATION AND REPORT FOR COMMISSION REVIEW AT THE MEETING OF JULY 11, 1996

Background

Sand City Local Coastal Program Amendment # 1-96, regarding the Seaside-Sand City Bike Path Project, was certified by the Commission on May 9, 1996, with modifications. These modifications clarified the application of LCP policies regarding visual resources and environmentally sensitive habitat areas to the bike path project. On June 4, 1996, within the six month time limit for acting on and responding to the Commission's certification of an LCP amendment, the Sand City Council considered the Commission's action, acknowledged receipt of the resolution of certification, and accepted the Commission's suggested modification's, without any further amendments thereto.

Recommendation

Pursuant to Section 13544 of the California Code of Regulations, the Executive Director must determine that the action of the City of Sand City is legally adequate, and report that determination to the Commission. It is recommended that the Commission concur with the determination of the Executive Director that the action of the Sand City Council, accepting certification of LCP Amendment #1-96, is legally adequate.

Attachments

- o Draft letter to Sand City Mayor David K. Pendergrass
- o Copy of Resolution SC 96-45

0431M

D R A F T

July 12, 1996

David K. Pendergrass, Mayor  
City of Sand City  
1 Sylvan Park  
Sand City, CA 93955

Re: City of Sand City, Local Coastal Program Amendment #1-96

Dear Mayor Pendergrass:

This office has reviewed Sand City Resolution SC 96-45, adopted by the Sand City Council on June 4, 1996. By that action the City acknowledged receipt of the Commission's certification and has incorporated the certified amendment into the City's Local Coastal Program. I have determined, and the Commission has concurred, that the City's action with respect to Local Coastal Program Amendment #1-96 is legally adequate to satisfy the requirements of Section 13544 of the California Code of Regulations. This determination was reported to the Commission at the July 11, 1996 meeting in Huntington Beach.

Very truly yours,

PETER M. DOUGLAS  
Executive Director

LES STRNAD  
Deputy District Director

cc: Steve Matarazzo, Sand City Community Development Director

0431M

CITY OF SAND CITY

RESOLUTION SC 96-45, (1996)

RESOLUTION OF THE SAND CITY COUNCIL ADOPTING THE COASTAL COMMISSION SUGGESTED MODIFICATIONS TO THE PROPOSED SAND CITY LCP MAJOR AMENDMENT NO. 1-96 (BIKE PATH)

WHEREAS, on February 6, 1996, the Sand City Council approved a resolution adopting Local Coastal Program amendments designed to facilitate the development of the regional bike path traversing Sand City's coastal zone; and

WHEREAS, on February 20, 1996, the Community Development department transmitted said resolution and the accompanying text of Land Use Plan and Implementation Program amendments to the Coastal Commission for their review and scheduling; and

WHEREAS, the subject LCP amendment has been subject to adequate environmental analysis in conformance with CEQA Guidelines Section 15265, Adoption of Coastal Plans and Amendments thereto, and

WHEREAS, on May 9, 1996, the Coastal Commission, based on staff recommendations, approved and certified Sand City Local Coastal Program Major Amendment 1 - 96, subject to suggested modifications, attached hereto, and incorporated herein by this reference; and

WHEREAS, the City Council is in receipt of the Coastal Commission's certification resolution and accompanying order.

NOW, THEREFORE, BE IT RESOLVED that the Sand City Council, following public hearing hereby adopts LCP Major Amendment No 1-96, with the suggested modifications of the Coastal Commission and without any further amendments thereto.

PASSED AND ADOPTED this 4th Day of June, 1996 by the following vote:

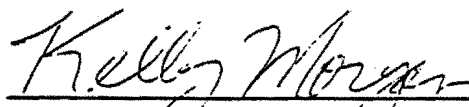
AYES: Councilmembers Kline, Morris, Hansen, Lewis, Pendergrass

NOES: None

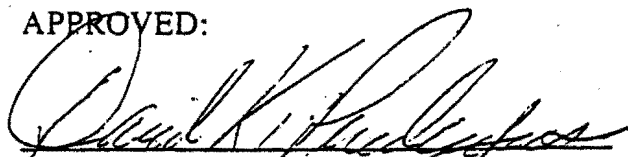
ABSENT: None

ABSTAIN: None

ATTEST:

  
\_\_\_\_\_  
Kelly Morgan, City Clerk

APPROVED:

  
\_\_\_\_\_  
David K. Pendergrass, Mayor

TH 56

SAN LUIS OBISPO COUNTY

## DEPARTMENT OF PLANNING AND BUILDING

ALEX HINDS  
DIRECTORBRYCE TINGLE  
ASSISTANT DIRECTORELLEN CARROLL  
ENVIRONMENTAL COORDINATORBARNEY MCCAY  
CHIEF BUILDING OFFICIALNORMA SALISBURY  
ADMINISTRATIVE SERVICES OFFICER

**DATE:** July 2, 1996

**TO:** California Coastal Commission

**FROM:** Kami Griffin, Senior Planner, General Plan Administration

**VIA:** Alex Hinds, Director, Planning and Building Department

**SUBJECT:** San Luis Obispo County LCP Major Amendment No. 1-96

The County of San Luis Obispo Department of Planning and Building has received a copy of the staff report prepared for the above referenced LCP amendment and has no comments. County staff is in agreement with Coastal Commission staff recommendation on the amendments.

Due to budget constraints, county staff will be unable to attend the meeting on July 11, 1996. If your Commission takes an action other than what is recommended by coastal staff, we would respectfully request that the item be continued to the following meeting so that county staff can make arrangements to attend the meeting.

Your positive consideration of this item is appreciated.



**EDA**ENGINEERING  
DEVELOPMENT  
ASSOCIATESRECEIVED  
JUL 1 1996

TH 6a

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

June 27, 1996

Via Facsimile: (408) 427-4877  
Total Five (5) PagesMr. Steve Guiney  
California Coastal Commission  
725 Front Street, Suite 300  
Santa Cruz, California 95060Re: **APPEAL NO. A-3-PSB-95-79; PISMO BEACH Tract No. 2129 - Andrews/Lee**  
(EDA Ref.#2-1760-003)

Dear Steve:

In followup to our discussion this morning, I am enclosing an idea we have for providing what will appear to be shared garage access for Lots 1/2 and 3/4, by utilizing an easement and planted median for privacy. The enclosed sketches could permit your suggestion to remain for these lots. Also, please note that the enclosed Tract Map has again been slightly revised from the last transmittal to (1) accommodate the easements on Lots 1 and 4, and to (2) fine tune lot widths on the remaining 2 story lots to make most of these sites 7,000 sf (+/-). I will make a clean copy of this exhibit available to you as soon as we agree on a final course of action on these matters.

I spoke to Steve Andrews a moment ago and he suggested that a 3:12 roof pitch would preclude tile, and that the 3-1/2:12 pitch is the minimum required for concrete and barrel tile roofs. Also, in our calculation we omitted a 6" high concrete foundation and the roof cap of 4" to 6" along the roof peak. If you utilized a 21'-6" limit for Lots 19 and 20, the section would be 6" slab, 8' 1st floor, 1' plate/joist line, 8' second floor, and a 3-1/2' roof pitch, with a 6" roof cap, to total 21'-6". This would be acceptable to Mr. Andrews if acceptable to you.

We clarified and agreed that your conditions would render the South Palisades Specific Plan inapplicable to the Tract, and that the certified LCP standard of maximum 60% building area as a percentage of total lot area would govern the ultimate building sizes for individual residential units.

Our remaining concern is with Condition 2(c) and the shared driveways between Lots 19/21 and 20/22. We would request you consider the architectural and height limit changes for these lots, plus the large sizes of Lots 21 and 22 which pull these one story houses further away from Shell Beach Road, as doing more for the visual objectives than the shared drives will produce.

PLANNING ■ CIVIL ENGINEERING ■ LAND SURVEYING

1320 NIPOMO ST. ■ SAN LUIS OBISPO, CA 93401 ■ 805-549-8658 ■ FAX 805-549-8704  
744 OAK ST. ■ PASO ROBLES, CA 93446 ■ 805-237-1033 ■ FAX 805-237-3797

Guiney/Coastal Transmittal

**APPEAL NO. A-3-PSB-95-79 (EDA Ref.#2-1760-003)**

June 27, 1996

Page 2

I believe the 21'-6" limits for Lots 19 and 20 and the elimination of the shared drives for Lots 19/21 and 20/22 are the remaining questions to address.

I will anticipate talking with you between 2-3 PM or after 4 PM today.

Thank you for your continuing assistance.

Sincerely,

**ENGINEERING DEVELOPMENT ASSOCIATES**



David Watson, AICP  
Director of Planning Services

encs

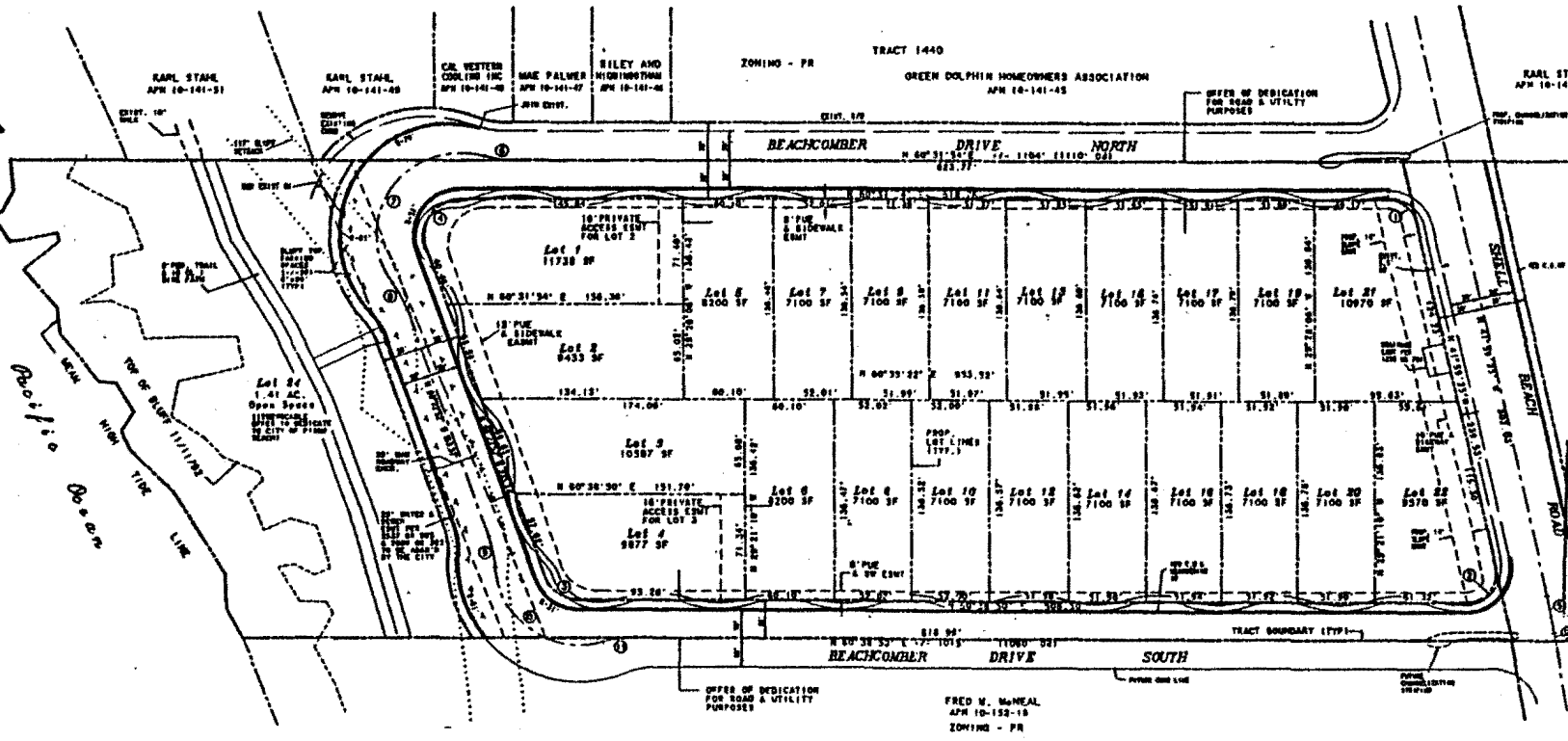
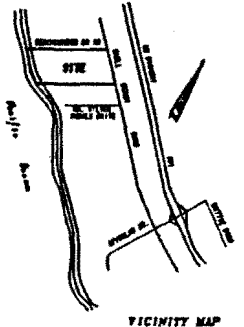
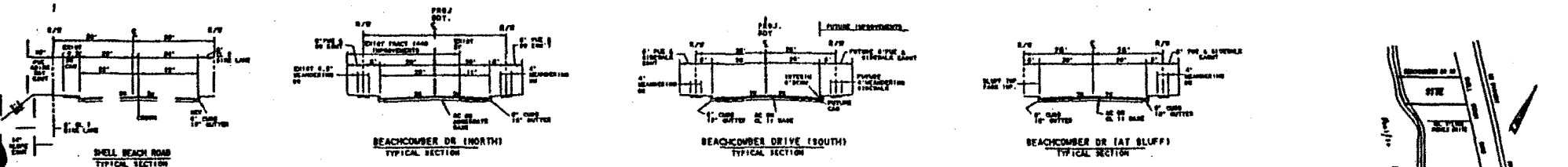
cc: Steve Andrews

1760coas.009

**ENGINEERING DEVELOPMENT ASSOCIATES**

1320 NIPOMO ST. ■ SAN LUIS OBISPO, CA 93401 ■ 805-549-8658 ■ FAX 805-549-8704  
744 OAK ST. ■ PASO ROBLES, CA 93446 ■ 805-237-1033 ■ FAX 805-237-3797

TR 60



RECEIVED

JUL 5 1996

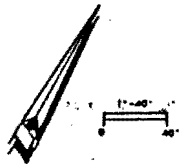
CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

OWNER & SUBDIVIDER:  
JAMES B. LEE, INC.  
P. O. BOX 1717  
CAMARILLO CA 93011  
8051 387-9107

**BELLSTONE**  
A CALIFORNIA LIMITED PARTNERSHIP  
JAMES B. LEE  
MEMBER

**STEVE ANDREWS**  
CONTRACTING AND DEVELOPMENT  
805 773-1148  
501 SHELL BEACH RD. #E  
SHELL BEACH, CA 93449

Prepared by:  
**William R. Dyer**  
Civil Engineer - Land Surveyor  
ALL RIGHTS RESERVED  
805 462-8844



- NON-PLOTTABLE EASEMENTS**
- OIL PIPELINE ESMT PER 66 Dc. 229
  - OIL PIPELINE ESMT PER 66 Dc. 273
  - OIL PIPELINE ESMT PER 72 Dc. 42
  - OIL PIPELINE ESMT PER 382 OR 388
  - OIL PIPELINE ESMT PER 66 Dc. 231

- LEGEND**
- RETAINING WALL
  - EXISTING UTILITY
  - PROPOSED UTILITY
  - WATER LINE
  - SEWER LINE
  - GAS LINE
  - STORM DRAIN
  - FIRE HYDRANT
  - DROP INLET
  - MANHOLE

**COURSE TABLE:**

CURVE	DELTA	RADIUS	LENGTH
1	77° 21' 41"	20.00'	27.04'
2	102° 38' 15"	20.00'	35.33'
3	70° 50' 22"	20.00'	30.37'
4	100° 34' 48"	25.00'	47.53'
5	82° 00' 02"	500.00'	26.18'
6	15° 48' 12"	75.00'	20.89'
7	140° 32' 11"	50.00'	127.30'
8	15° 48' 11"	75.00'	20.89'
9	15° 48' 21"	75.00'	20.89'
10	100° 36' 51"	50.00'	100.20'
11	15° 48' 00"	75.00'	20.89'
LINE	BEARING	DISTANCE	
12	S 50° 59' 23" E	5.40'	

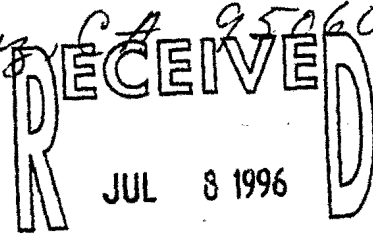
VESTING TENTATIVE MAP  
TRACT 2129

BEING A PORTION OF LOT 4 OF A PART  
OF THE PISMO EL RANCHO AND SAN MIGUELITO RANCHO  
CITY OF PISMO BEACH  
COUNTY OF SAN LUIS OBISPO, CALIF.

June 1996  
SHEET 1 OF 3

California Coastal Commission  
725 Front St., Ste 300

Santa Cruz, CA 95060



CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

THLa  
July 3, 1996

Re: Hearing: July 11, 1996

Permit # A-3 PSB-95-079

Applicants: Andrews and Lee

Appellants: Jordan and Harper

Dear Coastal Commission:

I own my home at 106 Silver Shoals Dr., Shell Beach. I am a full time resident since January of 1989.

I have serious concerns over the above named proposed project, and am in agreement with Mr. A.J. Jordan and Lenir and Dee Harper.

We feel that many developers do not adhere to Coastal Commission recommendations and guidelines. They pursue their own agendas without consideration for existing households in the area. Population density, increased pollution, and traffic and noise levels are concerns of the families living here. Property value is a major concern.

The height of the homes in this proposed development is a factor in the esthetics and beauty of our Coastline. Why perpetuate bad planning?

Silver Shoals (my street) is a bad example. I purchased the 2<sup>nd</sup> completed home on the street. Had I known what would be allowed to be built on my street - (too high and too big on tiny lots) -

I would not have purchased my home.

My home is among the two smaller homes and not

over structured in height. There are eleven  
homes on Silver Shoals.

The proposed project is too high and  
will block the ocean view from the  
101 Freeway and from Shell Beach Road.  
Our coastline should be enjoyed by all  
of us.

Thank you very much and I am  
sorry I cannot attend the public  
hearing.

Sincerely

Mollie Teresi

106 Silver Shoals

Shell Beach, Ca. 93449

(805) 773-3513

THLAR RECEIVED  
JUL 2 1996

Dear Mr. Guiney,

June 30, 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Re: A-3-PSB-95-79

It seems that arguments are being made for various reasons to approve the development as conditioned. Yes, there are REASONS but they are reasons WITHOUT EXPERIENCE. There has been an attempt to "accomplish" the union of opposites. The applicant and appellants are not actually opposites in this case. What has happened (to borrow a phrase) is to put a "fool" and a "thinking person" together and ask them to find some "middle ground." My intention and motive is and has always been to have a quality development; a development that meets the spirit and intent and in fact the requirements as are included in the EIR, General Plan/Local Coastal Plan, CEQA and Zoning Code. My intention is a project that conforms and is consistent with the various regulations that apply to development in the South Palisades Planning Area.

Thank you for sending me a copy of the Staff Report. It seems that the developer has indicated some willingness to have the project conform with requirements of the General Plan/ Local Coastal Plan. Piece meal planning continues on the project. The project is not now consistent with the General Plan/ Local Coastal Plan, The City of Pismo Beach Zoning Ordinances nor the Environmental Impact Report. CEQA guidelines have not been followed. The public comments have been ignored at each step of the hearing process. At best the public comments have been summarized and half answered. The studies if prepared at all for the project have been each and every one inadequate and late at best so that the public could not review them prior to the public hearings and be allowed time to comment on them.

I sent some comments and cited various code sections of the

GP/LCP; Zoning Code and the EIR prior to the April 10, 1996 Coastal Commission hearing date. I am sending this letter along with attachments because the Staff report seems to have overlooked the facts regarding the environmental impact of noise. The City of Pismo Beach at the time the project was going through the local government application, review and hearing process, including the Mitigated Negative Declaration did not have the benefit of the intention of applying any planning requirements on the project because the project was for lot sales only and each lot would require its own planning some time in the future. The local political majority which might not exist at the time of the next hearing on July 11, 1996, wanted this project and other projects for lot sales only to be approved as soon as possible. I was told by Helen Elder in a brief meeting that I had with her that if I were able to point out areas that needed mitigation and that the area met the definition of "development" and that the proposed project required planning under CEQA in every detail would that make any difference--NOT at all. In fact I was told that any information such as that would not be considered at all. Later that day I was to return for an appointment that had been set up to meet with Helen Elder and I was informed that it would be a waste of her time to meet with me and that I could not see her. It is my opinion that Ms. Elder was in fear of losing her job if any thing conflicted with approving and approval of the project. In fact the work laid out for her to do was to answer the comments that had been made at the public meetings. My verbal and written comments were not answered then and have never been answered. The city Public Works and Planning Department Staff were all fearful of losing their jobs. It was recommended that the Planning Commission and Staff be abolished in the City of Pismo Beach. This has not happened yet! The person that was formerly in charge of this project with the city of Pismo Beach has moved on to another job. More work is contracted out now.

I inquired of you Mr. Steve Guiney, at the time of the appropriateness of the "Lot Sales Only" concept vs. a development ie. subdivision needing planning at the time of the subdivision. I was told that a similar situation existed in Morro Bay for a project named "The Cloisters" and that full planning was required on that project. I passed the information on to Pismo Beach. If you have not heard of the book Message to Garcia I can tell you that what happened was a close parallel to the story in the book. Garcia was a General who would kill any messenger that brought him bad news. As it happened the city attorney for Morro Bay was the same person for Pismo Beach. He took great except to the notion that there was a similarity between the two projects. I had never said that I thought that there was a similar situation but what I had said was that the Coastal Commission had told me that there was a similar situation.

What I found upon further investigation was that as a condition of approval the California Coastal Commission was requiring that "Sound Walls" be built along Highway 1 for the "Cloisters" project in Morro Bay. Why not Beachcomber, now?

This has been a long way to get back to the point. The Point is that this is according to you Mr. Steve Guiney a similar situation and it is a Subdivision project that deserves the most careful planning. I deserves that planning now and not 23 times into the future. I feel that it would be inappropriate to require one lot owner to mitigate the noise for all the lots or at least 6 lots (1,2,3,23,22,21).

The Noise Analysis and Noise Mitigation Recommendation prepared on September 22, 1995 was not marked RECEIVED by the City of Pismo Beach until October 16, 1995. That will tell



you that the Staff, contracted service of Helen Elder in charge of the Mitigated Negative Declaration, Architectural Review Committee, Planning Commission, City Council and Public never had an opportunity to see or comment on the study. The study was only acknowledged after the public comment period had ended. The study is totally inadequate under CEQA and is a ruse to get this project approved without proper mitigation. The study fails to recommend exterior noise mitigation for any lot, the study assumes that the houses on lots 1 and 23 will be 25' in height thus the dwelling units will become an effective noise barrier for other units to the southwest. Mr. Steve Guiney, thanks to the efforts of the Coastal Commission and your self the developer was caused to meet at some level with the appellants and as a result the height will not be 25' but 15'. There goes what mitigation that had been planned or envisioned by the person who prepared the report. When I asked Dr. David Lord why he had not recommended a sound wall or berm along Hwy. 101 his response was that he would let the city decide what they wanted to do. I stated that he had not properly recommended the adequate mitigation for the exterior and he said that the 25' houses would be mostly adequate. I stated to Dr. David Lord that it was not a foregone conclusion that the houses would be 25' and he told me that he had not been told that.

I saw a program on TV, Sunday afternoon, on KCET- The Wisdom of Faith with Huston C. Smith a UC Berkeley Professor, Huston Smith stated that "Zen is Infinite Gratitude to all things Past; Infinite Service to all things Present; Infinite Responsibility for all things in the Future."

Huston Smith stated or quoted, "Feel the heartbeats of others as if they were your own. To Love. To become fully human. To have Empathy. To overcome self-centeredness."

If the staff recommendation and commission ruling is as proposed, or to state another way, that ruling this the wrong way-the result will be a wound.

I hope that I will always listen to others as we hope others will listen to us.

“The eye takes a person into the world. The ear brings the world into a human being.” Lorenz Oken

I am certain that it would be beneficial to revisit the Noise Study and see that it states on page. 2. “Existing ambient noise along the east side of the site facing Highway 101 was measured at a level of approximately Ldn 67 dBA, which presently exceeds the allowed “acceptable” values of the Noise Element and the Noise Ordinance.”

Also stated for future noise levels, (Caltrans uses a computation that indicates that traffic will double every 20 years and when traffic is doubled there is a 3 dBA increase expected which is a 30% increase in noise- dBA is logarithmic- the life of the project is based on 100 years or 5 times 3 dBA =15 dBA or a 150% increase in noise) “The ambient noise level is dominated by noise from Highway 101 and is expected to increase slightly in intensity during future years. Secondary noise emanating from Shell Beach Road is also expected to increase slightly.”

On or about September 22, 1995 when the report was prepared the noise level was 67.1 dBA or 70.1% above the “Acceptable” level and as I have previously stated that does not reflect the time of the year or days that have a higher traffic volume, the increased speed limits to 65 mph or the effects of the louder trucks from Mexico and Canada due to NAFTA.

The good thing is that mitigation can be accomplished with a earth berm along the side of Highway 101, on land that the developer already owns and is already dedicating as open space. I am sending along a copy of pages from the Cal trans Manuel that indicates that economic feasibility is pegged at \$35,000.00 a house. For 23 lots that would be \$805,000.00. I think that the developer can do this job of a berm for probably less than one allotment that CALTRANS has for a single house.

On the other hand, the mitigation for individual lot owners would be very difficult and infeasible. If the interpretation was strictly adhered too then it would seem possible that at least six (6) lots would not be able to obtain building and occupancy permits.

Please address this problem now as a condition of development not 23 times into the future. Because development did not occur in the past according to the LCP, EIR, Zoning and CEQA does not mean future development should not be consistent and in conformance with the codes and regulations that apply now. The less restrictive interpretation is allowable as long as there is not a more restrictive interpretation elsewhere in the codes, LCP and EIR. One more favorable interpretation can not be conveniently selected and the other more restrictive mitigation ignored.

The modified development , as conditioned, is not consistent with the certified City of Pismo Beach Local Coastal Program and will have adverse impacts on the environment within the meaning of the California Environmental Quality Act.

Thank you,

*Louie Harper*

Lanier Harper  
136 N. Silver Shoals Dr.  
Shell Beach, CA 93449-1610

P.S. I request that a copy of this letter be provided to the members of the Coastal Commission at the earliest possible time and that it be entered into the record. I also request that it be noted that the developer did not have a visual analysis prepared and that the photographs shown as Exhibit 5 were prepared by and for the appellants at the expense of the appellants for the purpose of illustrating the need for the required visual planning. The LCP on page D-13 states "D-28 Visual Quality a. the city shall require by ordinance a site specific visual analysis. Such analysis shall utilize story poles, photo montages or other techniques deemed appropriate in order to determine expected visual impacts, prior to approval of new development; documentation shall be retained for evaluation of permit conformance." Where is the analysis and where is the documentation? Piece meal planning will just not get it done. Of course the city can have the pictures and you have the pictures, but what will that do 23 times in the future when no visual analysis was prepared by the developer? Please review LCP Design Element P-7,D-2 a.,c.,D-3 b.(Subdivision Design Criteria-Views Through the Site "Projects should be designed to preserve some of the significant views enjoyed by residents of nearby properties which could be blocked by the project. Especially on larger sites, portions of these views can be preserved by clustering the buildings or creating new public view points." D-22, D-23,c.,d.,e., D-26, D-28 a.,d.,h., "Existing ordinances shall be updated to reflect scenic highway policies.", D-35 ... Staff covered only some of the visual components of the Zoning and LCP, in order to grasp the Spirit and Intent one would have

to look at all the sections regarding development, something the Mitigated Negative Declaration did not look at nor the Specific Plan that is not certified, nor have the mitigation recommendations of the EIR been stated and applied. All these things are mentioned in my appeal and subsequent correspondence. Please require the appropriate and necessary planning this area deserves as stated in the LCP and EIR.

TH 66

**Environmental Services Agency**



**Planning and Building Division**

**County of San Mateo**

Mail Drop PLN122 · 590 Hamilton Street · 2nd Floor · Redwood City  
California 94063 · Telephone 415/363-4161 · Fax 415/363-4849

**Board of Supervisors**  
Ruben Barrales  
Mary Griffin  
Tom Huening  
Ted Lempert  
Michael D. Nevin

**Director of  
Environmental Services**  
Paul M. Koenig

**Planning Administrator**  
Terry L. Burnes

June 19, 1996

*Coastal Commission Hearing Date: July 7-9, 1996*

Louis Calcagno, Acting Chair, and  
Members, California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105

Dear Chairman Calcagno and Members of the Coastal Commission:

**SUBJECT: Appeal of McKenzie Bed and Breakfast, at Pigeon Point, San Mateo County**  
(Coastal Commission File #A-3-SMC-96-008)

The decision of the San Mateo County Planning Commission to approve the McKenzie bed and breakfast is currently on appeal to the Coastal Commission. At your April 10 hearing on this matter, there was criticism of the County's review of this project. We believe that our staff completed a thorough assessment of this project and made an appropriate recommendation and that our Planning Commission's action to approve the project subject to various conditions was a carefully considered and proper decision.

This matter is now for the Coastal Commission to decide and we wish you well with your deliberations. We thought, however, that it might be helpful to clarify the County's review of this project so that the focus of future discussions could be on what the Coastal Commission should do rather than what the County has done.

1. Coastal Access.

It is the controversy over access which brought this matter to the Coastal Commission, so that might be the best place to start.

No one disputes that there are existing paths across the McKenzie property to the beach. The issue, however, is whether there is public access as distinguished from potential private individual rights to cross the property. The issue of the general public's right to

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JUN 25 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

use those paths is the subject of a settlement agreement between the State of California, McKenzie and the County. This settlement was approved by the Coastal Commission. The State's attorneys concluded there was a weak case to legally establish a right to public access across the McKenzie property, but they did obtain McKenzie's consent to making the beach itself public as part of the settlement. While the general public does not appear to have a case for access across the McKenzie property, individuals may. That issue could not be addressed in the settlement agreement.

The McKenzie inn does not physically interfere with any of the paths to the Beach. Under recent Federal Supreme Court decisions (Nolan vs. California Coastal Commission among them), the general rule is that neither the County nor the State may require McKenzie to dedicate beach access to the public unless it can be shown that her project interferes with existing public access. The project does not interfere with any existing public access; therefore, dedication of access to the beach cannot be supported.

Nonetheless, during its hearings on the matter, the County Planning Commission exhorted the parties (McKenzie, a group of fishermen and Mark Nolan's New Horizons educational group) to make one last attempt to reach an agreement. They did and the Commission incorporated that voluntary agreement into its approval of the project.

The fishermen subsequently reached a more detailed license agreement with McKenzie, but Nolan's agreement with her fell apart while working out the details sometime after the County Planning Commission decision. Had Mark Nolan chosen to appeal the decision to the County Board of Supervisors, we would have continued to work with him and McKenzie to resolve their differences and I believe we would have been successful. He chose instead to appeal directly to the Coastal Commission. At that point, the matter was out of the County's hands.

2. Use.

Under our Local Coastal Program (LCP), a country inn is a priority use at this location. The use is clustered near other visitor serving uses at Pigeon Point. Conditions were included to ensure its compatibility with nearby agriculture. Use should not be an issue here.

3. Intensity of Use.

McKenzie has one "density credit" which would allow her to build one house at this location. Generally speaking, when new houses are built on the San Mateo coast these days, they vary from 3,000 to 5,000 square feet and usually have four or more

bedrooms. Under our LCP, intensity of a non-residential use must equate to the intensity of residential use allowed on the site. However, visitor serving and commercial recreation uses receive a 100% intensity bonus due to their priority status.

Thus, the question here is, does the inn equate to not more than two residences? The County has a somewhat complicated test for this involving projected water consumption, which was addressed in our work on this project, but I think common sense would also tell us that a nine-unit bed and breakfast inn is not substantially different from two residences of the type we normally get on the coast these days. Intensity of use should not be an issue here.

4. Siting and Design.

The design of the project clusters development on the site and near other visitor serving uses at Pigeon Point. The design of the buildings is compatible with the design of the nearby historic lighthouse structures. Siting and design should not be an issue here.

5. Water and Sewage Disposal.

The County's approval was subject to conditions requiring water supply and sewage disposal to County standards. I believe this was a specific point of criticism at the Coastal Commission hearing, some Commissioners apparently feeling that water and sewage disposal should have been proven up front. We believe that criticism is unfounded. If the project does not meet County requirements in this regard, it will be scaled back until it does (fewer rooms) or it will not be built. If meeting those standards requires substantial redesign, that would require rehearing to amend the Coastal Development Permit.

There are two other factors which need to be considered here. First, a domestic well itself requires a Coastal Development Permit. That means that to prove water, which requires drilling a well, one needs a CDP. Given the access dispute, the applicants may have felt the lowest risk approach was to go through the coastal permit process only once. In any event, they applied for the inn and the well together.

Secondly, there may be a misunderstanding of our permit process. Unlike the Coastal Commission, we have a two-stage permit process. Planning permits, such as the Coastal Development Permit required in this case, are processed first and their approval is often subject to conditions to be cleared before a building permit is issued. This is perfectly acceptable, especially if those conditions deal with an area where the County has adopted clear performance standards which govern the subsequent approval, such as the County



Louis Calcagno, Acting Chair, and  
Members, California Coastal Commission

- 4 -

June 17, 1996

has done with water supply and sewage disposal. The issuance of the building permit is a strong control point in the County's process.

Water supply and sewage disposal should not be an issue in the appeal to the Coastal Commission. If adopted County standards are not met, the project will not be built.

There are other details of this project, but I think those are the main points of controversy at this point. Please call me at 415/363-1861 if you have further questions about the County's review of this project. Thank you.

Sincerely,



Terry Burnes  
Planning Administrator

TB:fc - TLBG0864.6FN

cc: Steve Monowitz, Central Coast Area Office  
Kathleen McKenzie  
Mark Nolan  
Members, County Planning Commission  
Paul Koenig, Director of Environmental Services  
Michael Murphy, Deputy County Counsel

TH 6 b

# ADVENTURE SPORTS

U N L I M I T E D

June 24, 1996

Mr. Steven Monowitz  
California Coastal Commission  
225 Front St., Suite #300  
Santa Cruz, CA, 95060

RECEIVED  
JUN 26 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Dear Mr. Monowitz:

This letter concerns the appeal #A-3-96-8 by Mark Nolan to review the decision of San Mateo County granting a permit to Kathleen McKenzie for a bed and breakfast development at Pigeon Point above the state owned beach known as Whaler's Cove (refer to map). The McKenzie project has no provision for public access. This development essentially eradicates any walking access to this state property and precludes most of the state's citizens from visiting one of its special coastal environments.

I have enclosed a map showing a portion of California's picturesque coastal seascape north and south of Whaler's Cove State Beach. This crescent of white sand stands out as a south facing natural bay, nestled under a gradual slope, protecting it from the prevailing NW weather pattern. The result is a predictably warm and sheltered cove without the pounding surf that is typical of the open north coast of California. A casual promenade brings people to an abundance of intertidal biology; marine mammals frolic within easy view. Most of the intertidal treasures are in public domain, however, without Whaler's Cove access all are unapproachable to a vast segment of the state's population due to sheer cliffs and are dangerous because of entrapment with tumultuous seas at high tides. What makes this state asset especially unique is its close proximity to a public road with an existing pathway affording easy walking access suitable for seniors, families with children and even fisher people with aluminum boats.



Mr. Steven Monowitz

June 24, 1996

Page 2

I've lived in California for 52 years. My occupation over the past 30 years has, in essence, been to educate the public about the marine environment. I've taken thousands of people, from grade school age to university, from families to seniors, to learn its behavior and bathe in its wonders. In this endeavor, I've searched for coves such as Whaler's. I submit to you that if the map I've enclosed covered the whole of California, Whaler's Cove would stand out as one of the few public approachable beaches making available the open coastal rocky tidelands.

My objective in this letter is not to prevent the McKenzies from developing their land; I think their project is tasteful and appropriate. However, to approve it without stipulating appropriate access to Whaler's Cove, thereby shutting this state owned environmental jewel off from 99% of the public, would be unconscionable. I hope to prevail on your good judgment so that this matter can be fairly adjudicated to the needs of business and the citizens of the state of California.

Respectfully,

A handwritten signature in black ink, appearing to read 'Dennis Judson', written over a large, loopy oval scribble.

Dennis Judson

President, Adventure Sports, Unlimited, Inc.



**EXPLORING NEW HORIZONS  
OUTDOOR SCHOOL**

a nonprofit organization

P.O. Box 37  
Loma Mar, California 94021  
(415) 879-0608

June 26, 1996

Terry Burnes, Planning Administrator  
Planning and Building Division  
San Mateo County  
590 Hamilton St.  
Redwood City, CA 94063

SM  
RECEIVED  
JUN 28 1996

CALIFORNIA  
COASTAL COMMISSION

TH 66

Dear Mr. Burnes:

Thank you for sending me a copy of your letter to the Members of the Coastal Commission.

I am extremely offended by your explanation of the appeal process. A phone call before writing the letter would have been appreciated. By not consulting me you are spreading misinformation.

First, I did not choose to appeal to the Coastal Commission vs. San Mateo County. The planning commission hearing was on December 13, 1995. After the hearing, I enthusiastically replied to Mr. O'Brien (Ms. McKenzie's Attorney) that we needed to act on the agreement because children would be returning to the Pigeon Point Environmental Education Program in January. I did not receive an agreement and was unable to reach Mr. O'Brien by December 28, 1995, the last day to appeal the decision to the San Mateo Board of Supervisors. Although nervous about having to enter into agreement with Ms. McKenzie, at this time I still believed that I would receive an agreement soon. In January, I continued to try to contact Mr. O'Brien and did not receive an agreement. I also contacted county counsel, Michael Murphy and Bill Rozier in the planning department. When I asked them how the county would enforce the agreement, I did not receive a satisfactory reply. On January 30, 1996, seven weeks after the planning commission hearing with no agreement from Mr. O'Brien and no apparent support from San Mateo County, I filed the appeal. I find it ironic that in retrospect you believe the county would have worked out an agreement. I would have appreciated hearing your opinion in January and now find your words lack credibility.

In response to the vague reference "Nolan's agreement with her fell apart...sometime after the Planning Commission's decision." After appealing the decision, Mr. O'Brien cut off negotiations on February 13, 1996 only two weeks after filing the appeal. If Mr. O'Brien and the land owner had not been so adversarial, listened to our needs for the school children and continued to negotiate, an agreement would have been reached. I believe there was never good faith intentions to allow school children access to Whaler's Cove, that I would still be trying to reach an agreement if I had not appealed the decision, and that the agreement was a ruse to get the project approved by the planning commission.

Finally, your contention that water availability not be proven before a coastal development permit is issued is ludicrous. Water should be the first criteria for any development. The San Mateo County Planning Department is wasting everyone's time by issuing coastal development permits for projects that may not have sufficient water quantity or quality.

Sincerely,

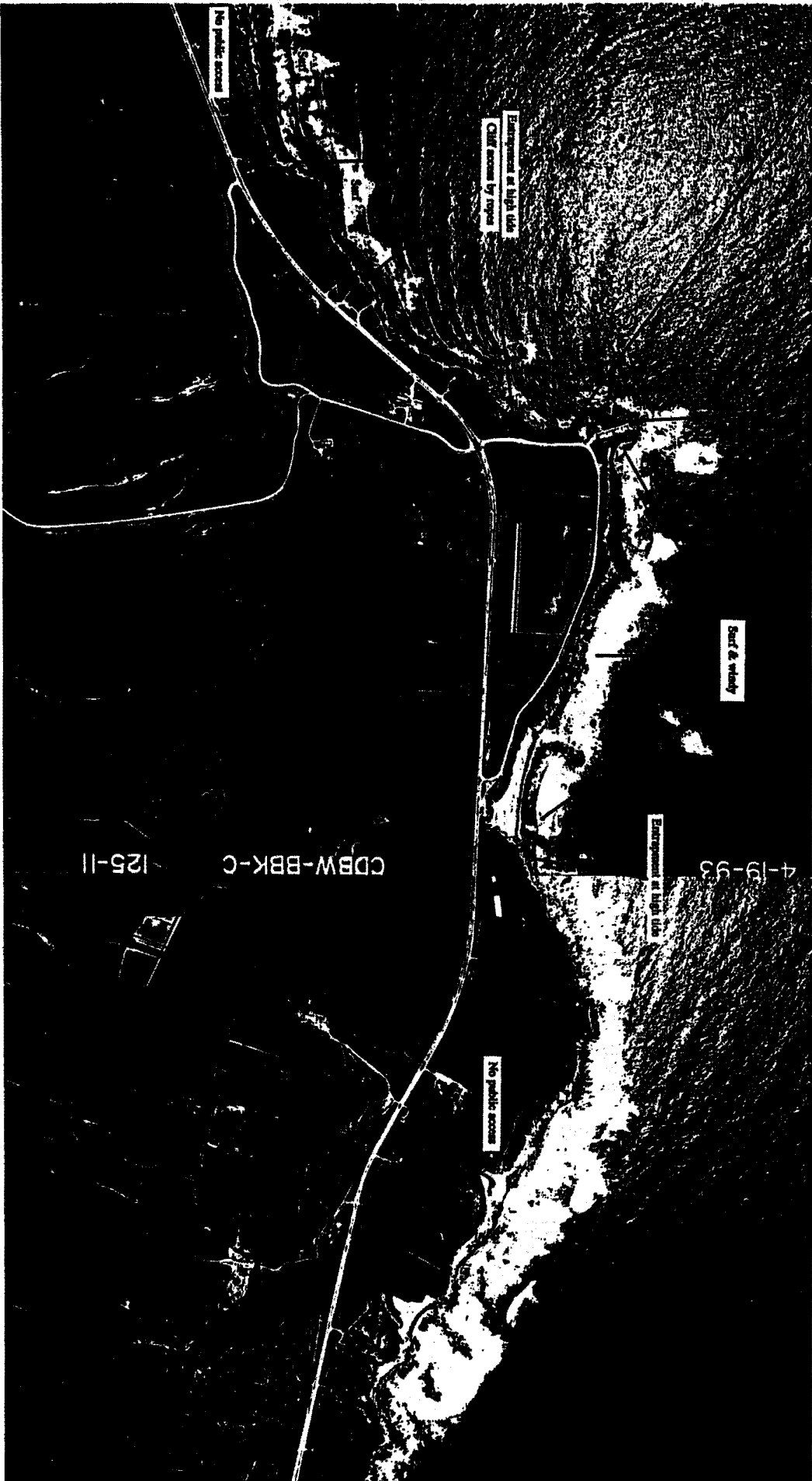
Mark L. Nolan  
Executive Director

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JUL 1 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

- Whitaker's Open Access**
- (that way between Half Moon Bay and Santa Cruz)
  - Short distance from road
  - Walking access to state owned islands
  - Protection from prevailing surf and wind
  - Beach at high tide with rocky tide pools
  - Only small boat access on open south coast

McKenzie Bed and Breakfast  
 project supported by  
 Martin Nolan MA-3-96-8



**TN 66**



June 27, 1996  
File No.: 21-339001

Mr. Steve Monowitz  
Coastal Planner  
California Coastal Commission  
Central Coast Area Office  
725 Front Street, Suite 300  
Santa Cruz, California 95060

**Subject: Response to Questions Regarding Water Use Assessment  
Pigeon Point Country Inn  
Pigeon Point, California**

Dear Mr. Monowitz:

The following are our responses to questions raised in your letter received by us via electronic facsimile on June 19 and 20, 1996. In some cases, we have paraphrased your questions for the sake of brevity, but have retained the intent and spirit of the question. Your questions are presented in bold print, and our response immediately follows.

**Please explain the figures contained in Table 3, specifically the "percent savings contribution" amounts, and how these amounts were derived?**

Table 3 has been reorganized in this letter into the two following tables, to better explain the flow reduction and savings using low-flow and ultra low-flow fixtures

Table 3-1 Consumption and percent savings for low flow fixtures

Appliance or Fixture	Percent Use	Gallons used based on 97 gallon/guest unit consumption using conventional fixtures	Gallons consumed using Low Flow fixtures	Percent Saving using Low Flow fixtures
Toilet	40	39	23	42
Shower	30	29	7	75
Bathroom faucet	15	15	8	45
Kitchen	15	15	8	45
Total	100	97	46	53

Table 3-2 Consumption and percent savings for ultra low flow fixtures

Appliance or Fixture	Percent Use	Gallons used based on 97 gallon/guest unit consumption using conventional fixtures	Gallons consumed using Ultra Low Flow fixtures	Percent Saving using Ultra Low Flow fixtures
Toilet	40	39	10	75
Shower	30	29	7	75
Bathroom faucet	15	15	7	50
Kitchen	15	15	7	50
Total	100	97	32	68

The figure of 97 gallons per day is the revised figure based on the use of only references that cite motel rooms with kitchens as described in a following section.

Percentage of use of each fixture is based on figures by Kleinfelder (1991) who cites California Department of Water Resources Bulletin 198-84. The figures were then recalculated after the omission of laundry use and automatic dishwasher use.

Calculation of gallons consumed by low flow fixtures or ultra low flow fixtures is as follows:

- Gallons used per fixture = 97 gallons \* percentage use of fixture
- Gallons used (low flow or ultra low flow fixtures) = gallons used based on 97 gallons per unit (conventional fixtures) \* water consumption for fixture (low flow or ultra low flow)/water consumption for fixture (conventional)
- Percent saving (low flow or ultra low flow) = [gallons consumed (conventional fixtures) - gallons consumed (low flow or ultra low flow fixtures)]/gallons consumed (conventional fixtures) \* 100

Please provide a source of reference for the "percent savings" figures contained in Figure 2.

The first reference used for the information in Table 2 is Kleinfelder (1991) and is based on California Department of Water Resources Bulletin 198-84, "Water Conservation in California", July 1984. Other information was derived from a brief informal survey of currently advertised flow rates of plumbing fixtures at hardware and plumbing suppliers in San Diego. San Diego was selected due to its similar geography (Coastal California) and its current and historical conservation requirements for plumbing codes.



**Please explain the basis for averaging water consumption figures of units that do not have kitchens with those that do (Table 4), when it is known that this project includes kitchens in all 9 of the units.**

There is a wide range of water consumption rates cited from references. These references include state and national figures and only a few of them list kitchens. Table 4 in our original report shows the range of references and the range of values presented. Those references that include kitchens were included in Table 4. If only those references that cite kitchens are included, the average consumption rate will increase by approximately 8% or 97 gallons per unit per day. This is the average consumption rate for standard plumbing fixtures and for 100% occupancy of the unit. As stated in our report, ultra low-flow fixtures will be used, and occupancy is anticipated below 100% although this figure was used to be conservative in our assessment.

When evaluating for water consumption for ultra low flow fixtures at peak flows, the projected water consumption for the project is 462 gallons per day, when only references that include kitchens are cited. This is calculated by increasing the previously calculated figure of 428 gallons per day (peak flow for ultra low flow fixtures) by 8 percent. This consumption rate is based on 100% rate of occupancy for the project and is considered a conservative figure.

**Please explain the basis for applying the calculated "percentage reduction" to the project's overall water use, when it appears that water conserving fixtures will reduce water use for certain activities, but not for others (e.g. filling a tub or kitchen sink)**

Water usage in the kitchen, as indicated in Table 3-2 accounts for only 15%. The figures for kitchen water usage are equivalent to standard residential kitchen use and should therefore account, in general, for normal kitchen operations. Filling the kitchen sink will most likely be an unusual event, and should not account for a substantial change in the 15% utilization figure.

With respect to filling tubs, according to Mr. Jim Keith, current plans for the facility do not include the installation of "soak" tubs. As shown in this letter and our original report, we are anticipating that the majority of usage will be in the shower. Furthermore, since we have based our assessment upon 100% occupancy, and since actual average occupancy will most likely be 60-70%, there should be an adequate buffer to cover the occasional full sink.

**Please provide your professional opinion regarding the accuracy of the estimated water usage, with respect to the following factors:**

- the project proposes a "soak tub" in each unit;
- the project is isolated with respect to restaurants and deli's, likely increasing the frequency of kitchen usage compared to typical transient usage; and
- the potential need for minimal landscaping.





No soak tub was included in the water assessment as stated on page 2 of the report. According to Mr. Jim Keith, current plans for the project do not include soak tubs.

While it is not possible to predict how the kitchen will be used, it is expected that the kitchen will be used in some way similar to a normal residential kitchen. The water consumption rate for the kitchen in the guest cottages is consistent with the percentage use for residential use as presented in Kleinfelder (1991) and EPA(1991).

Landscaping was not included in the water consumption assessment as stated on page 2 of the report. According to Mr. Jim Keith, any landscaping required at the site will be indigenous, xeriphyte type plants. There are no plans for decorative landscaping, which could potentially alter the ambient flora patterns in the area.

Please discuss how the requirement of low-flow fixtures since 1980 may affect the 53% savings through low-flow fixtures, and 68% savings through ultra low-flow fixtures.

The quantities used for flowrates are taken from EPA (1991), Metcalf and Eddy (1991), and Tchobanoglous and Schroeder (1987). All of these references cite national water consumption figures without the use of water conservation fixtures and then consider the savings to be made using water conservation fixtures. All calculations in the water use assessment are based on conventional fixtures being used and then the savings due to water conservation are calculated from these.

## LIMITATIONS

The conclusions and recommendations of this document are for the water demand and storage capacity requirements for the proposed Pigeon Point Country Inn facility, located in San Mateo County, California. The conclusions and recommendations in this report are invalid if:

- The structure or fixture types change.
- The report is used for adjacent or other properties.
- Any other change is implemented which materially alters the project from that proposed at the time this report is prepared.

The conclusions and recommendations in this report are based upon:

- Information provided by Mr. Jim Keith, property owner representative.
- Our experience in the area of this project.
- Technical references cited in this report and Chapter 6 of our Water Use Assessment dated June 6, 1996.

This report was prepared in accordance with the generally accepted standards of practice which existed in San Mateo County at the time the report was written. No warranty, expressed or implied, is made.



It is the Client's responsibility to see that all parties to the project, including the designer, contractor, subcontractors, etc., are made aware of this report in its entirety.

If you should have any questions regarding the contents of this document please do not hesitate to contact Tony or Chris.

Respectively,

**KLEINFELDER, INC.**

*Chris Johnson for 1*  
Tony Davis  
Staff Engineer

*Christopher S. Johnson*  
Christopher S. Johnson, R.G.  
Senior Hydrogeologist  
Water Resources Engineering Program

TD:CSJ:jg



An employee owned company

June 27, 1996

File No. 21-339001

Ms. Kathleen McKenzie  
443 Dearborn Park Road  
Pescadero, California 94060

**Subject: Groundwater Treatability  
Pigeon Point County Inn  
Pigeon Point, California**

Dear Ms. McKenzie:

Based upon our review of the laboratory reports provided to us regarding water samples collected by others at your site, we can make the following conclusions and recommendations regarding the treatability of the water:

- The presence of total coliform bacteria was reported. We believe that the detection of coliform bacteria is an artifact of improper sampling and is a false positive result. Proper sampling and sample handling should alleviate further analytical false positives.
- The use of a reverse osmosis treatment unit can provide an after-treatment water which will meet existing water quality standards for the chemical compounds reported above current drinking water standards.

If you have any questions or require further assistance please contact us at your convenience.

Respectfully,

Kleinfelder, Inc.

*Chris Johnson for*  
Tony Davies  
Staff Engineer

*Christopher S. Johnson*  
Christopher S. Johnson, RG  
Senior Hydrogeologist  
Water Resources Engineering Program

TD:CSJ:jg

06-96-68

Copyright 1996, Kleinfelder, Inc.

FROM : Panasonic FAX SYSTEM

PHONE NO. : 4157517792

Jun. 22 1996 18:11AM P2

MUZZI LAW

4156974177

P.02 --

TH 66

## CERTOSA, INC.

1768 EL CAMINO REAL, SUITE C-2  
BURLINGAME, CA 94010  
(415) 692-5408  
FAX (415) 697-4177  
JUNE 19, 1996

Kathleen McKenzie  
433 Dearborn Park Road  
Pescadero, CA 94060

Re: Agricultural Well

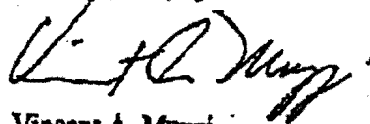
Dear Ms. McKenzie:

I am sorry to hear that the Coastal Commission Staff is giving your bed and breakfast project such a bad time. I am sure that they are aware from San Mateo County that there are no wells on our property westerly of Highway One.

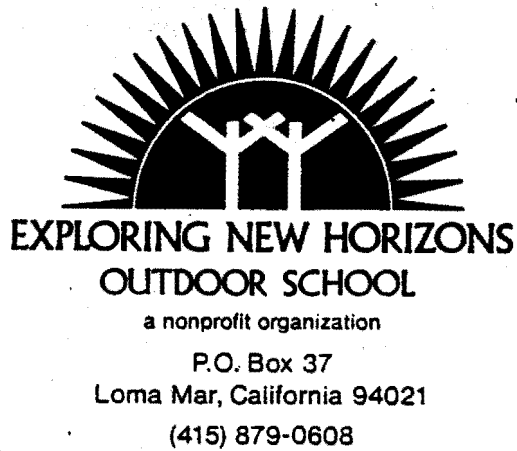
This letter will confirm that at the present time there are no agricultural wells in use on our lands located westerly of the Cabrillo Highway. We irrigate the portion of those properties which are in cultivation westerly of Highway One under an appropriate water right license from the State of California with waters diverted and pumped from Gazos Creek.

Good luck at your hearing. I hope the Commission will be fair with you and approve your needed project. If you have any questions, please call me.

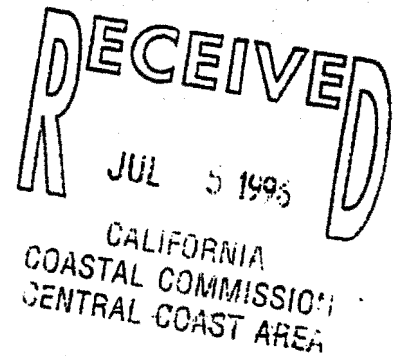
Yours truly,  
Certosa, Inc., by



Vincent A. Muzzi  
President



TH 66



July 2, 1996

Louis Calcagno, Acting Chair;  
Members, California Coastal Commission  
725 Front Street, Suite. 300  
Santa Cruz, CA 95060

Dear Chairman Calcagno and Members of the Coastal Commission:

I am regretfully unable to attend the Coastal Commission meeting on Thursday July 11, 1996. I have a conflicting commitment that has me out-of-state at the time of the hearings. As such, I have asked Duke Gribble, a Southern California resident and former outdoor education teacher at Pigeon Point to speak on my behalf and on behalf of the 15,000 students, parents, and teachers who have attended the Pigeon Point Environmental Education Program since 1984.

Many citizens had not heard about the access closure until my appeal. News of my appeal generated many phone calls and letters from fisherman, scuba divers, kayakers, small craft boaters and beachcombers, all wanting access to Whaler's Cove fully restored. Over 200 letters in support of access were submitted to the Coastal Commission, including letters from the Sierra club, Committee for Green Foothills, U. C. Berkeley's Lawrence Hall of Science, San Mateo County Office of Education, professors, principals, teachers, and students. The consensus among the people I have spoken with is that they do not understand why the State of California accepted a settlement where there is a public beach with no public access. As it now stands, the State of California has a jewel of a public beach where school children are not allowed to visit, but the dogs of B'n'B patrons will defecate.

As the state resource agency responsible to not just California's school children and ocean enthusiasts, but all of the citizens of this great state, I urge the California Coastal Commission to thoughtfully balance the public's right to access with the proposed commercial development. Whaler's Cove is a unique, protected beach and an important historic, educational resource that must be accessible to all. Please support public education and all who appreciate the ocean by protecting access to this public beach.

In your decision please consider reopening access #42; a road to Whalers' Cove formerly used for launching small boats in the cove's protected waters. This road was bulldozed in the 1950's. The visual intensification and resource intensification (i.e. up to 18 additional sinks, 9 bathtubs, 9 toilets) created by the development merit public access. The LCP supports access in Site Specific Recommendations for Beaches along Pigeon Point Road, Policy 10.30b, Table 10.6: "...construct short staircases to the beach."



**EXPLORING NEW HORIZONS  
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a nonprofit organization

P.O. Box 37  
Loma Mar, California 94021  
(415) 879-0608

A less adequate alternative to insure access to Whaler's Cove is the development of a safe route at access #43. This would not allow small boats to be launched, but at least allow the public to hike 0.3 miles to Whalers' Cove during low tide.

I implore you to find a way to get California's school children back to Whaler's Cove. The education of 10,000 school children was enriched by field trips to Whalers Cove. Since plans to develop the property began, 3,500 school children have been deprived of this experience.

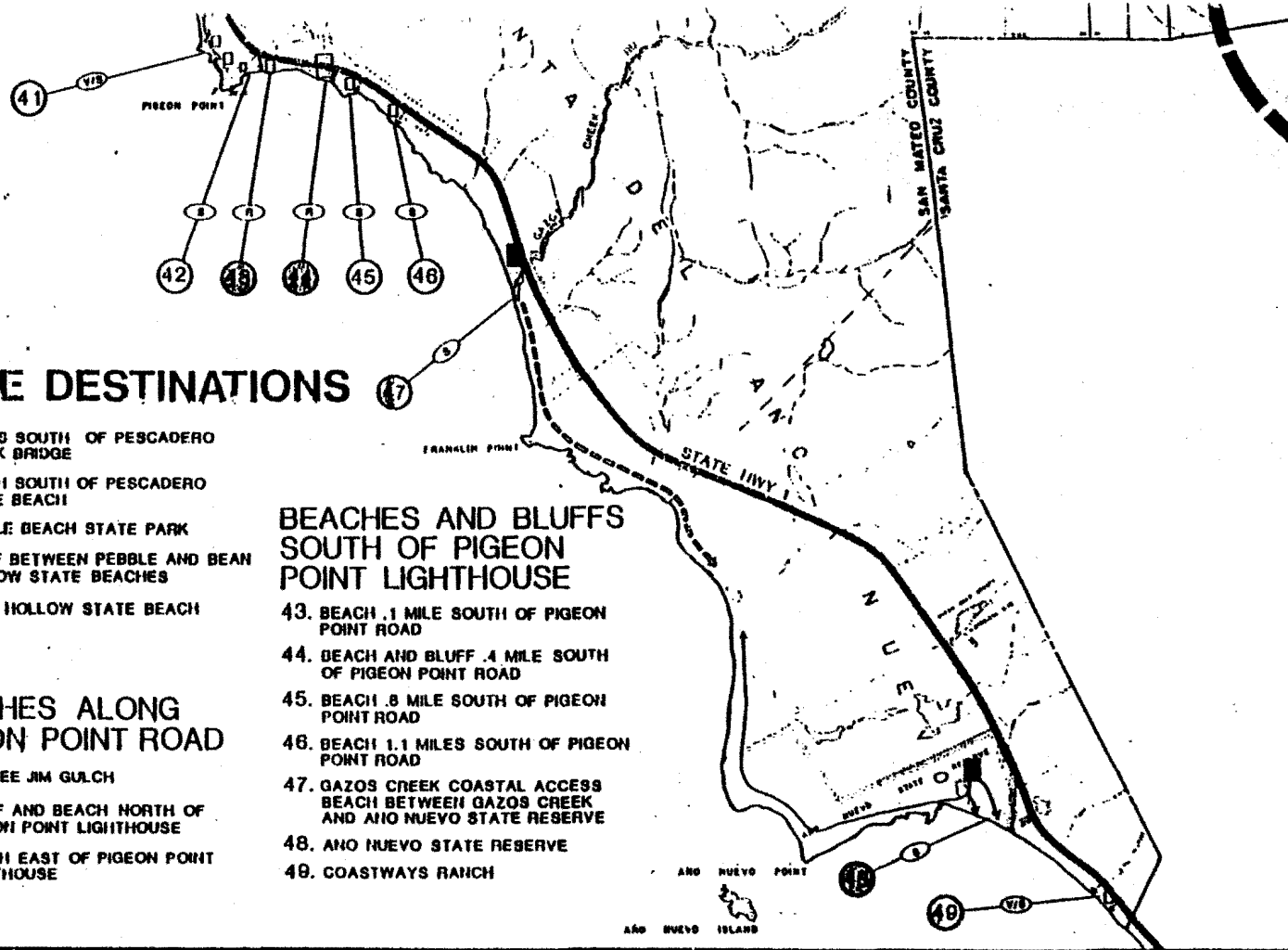
Thank you for your time and consideration in this important ruling.

Respectfully,

Mark Nolan  
Executive Director  
Exploring New Horizons

Enclosure

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 JUL 5 1996  
 CALIFORNIA  
 COASTAL COMMISSION  
 CENTRAL COAST AREA



## NAMES OF SHORELINE DESTINATIONS

- |  |   |
|--|---|
| 26. COVE NORTH OF MARTIN'S BEACH<br>MARTIN'S BEACH | 35. COVES SOUTH OF PESCADERO<br>CREEK BRIDGE              |
| 27. TUNTAS CREEK BEACH                             | 36. BEACH SOUTH OF PESCADERO<br>STATE BEACH               |
| 28. COVE SOUTH OF TUNTAS CREEK<br>BEACH            | 37. PEBBLE BEACH STATE PARK                               |
| 29. BEACH NORTH OF SAN GREGORIO<br>STATE BEACH     | 38. BLUFF BETWEEN PEBBLE AND BEAN<br>HOLLOW STATE BEACHES |
| 30. SAN GREGORIO STATE BEACH                       | 39. BEAN HOLLOW STATE BEACH                               |

- 31. BLUFF BETWEEN SAN GREGORIO  
AND POMPONIO STATE BEACHES
- 32. POMPONIO STATE BEACH
- 33. BLUFFS AND BEACH BETWEEN  
POMPONIO AND PESCADERO STATE  
BEACHES

### PESCADERO STATE BEACH

- 34. BEACH NORTH OF PESCADERO  
CREEK BRIDGE

### BEACHES ALONG PIGEON POINT ROAD

- 40. YANKEE JIM GULCH
- 41. BLUFF AND BEACH NORTH OF  
PIGEON POINT LIGHTHOUSE
- 42. BEACH EAST OF PIGEON POINT  
LIGHTHOUSE

### BEACHES AND BLUFFS SOUTH OF PIGEON POINT LIGHTHOUSE

- 43. BEACH .1 MILE SOUTH OF PIGEON  
POINT ROAD
- 44. BEACH AND BLUFF .4 MILE SOUTH  
OF PIGEON POINT ROAD
- 45. BEACH .8 MILE SOUTH OF PIGEON  
POINT ROAD
- 46. BEACH 1.1 MILES SOUTH OF PIGEON  
POINT ROAD
- 47. GAZOS CREEK COASTAL ACCESS  
BEACH BETWEEN GAZOS CREEK  
AND ANJO NUEVO STATE RESERVE
- 48. ANJO NUEVO STATE RESERVE
- 49. COASTWAYS RANCH



SOUTH-COAST

## LOCAL COASTAL PROGRAM

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
 PLANNING AND DEVELOPMENT DIVISION • SAN MATEO COUNTY, CALIFORNIA



## EXISTING SHORELINE ACCESS

0 1 2 3 4 MILES  
 0 1.6 3.2 4.8 6.4 KILOMETERS

SHORELINE DESTINATION		ACCESS TRAILS	PARKING AVAILABILITY		
<b>OWNERSHIP</b>	<b>TYPE</b>	<b>OWNERSHIP</b>	<b>OFFICIAL</b>	<b>UNOFFICIAL</b>	
PUBLIC	V - VIEWPOINT	PUBLIC			1-16 CARS
PRIVATE	S - SANDY BEACH	PRIVATE			18-75 CARS
COMBINATION	R - ROCKY BEACH	COMBINATION			OVER 75 CARS

SOURCE: FIELD SURVEY SPRING AND SUMMER, 1978

DATE:

12100 Skyline Blvd  
Los Gatos CA 95030

July 3, 1996  
California Coastal Commission  
Central Coast Area Office  
725 Front St  
Santa Cruz CA 95060

TH66  
RECEIVED  
JUL 3 1996  
CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

RE: permit #A-3-SMC-96-008  
Kathleen McKenzie, applicant  
Mark Nolan, appellant

Coastal Commission;

I wish to protest the granting of a permit to Ms McKenzie to build a 9 unit bed and breakfast at 921 Pigeon Point Road, San Mateo County (APN 86-300-30). Ms McKenzie's plan will effectively deny the public right of access to Whaler's Cove and the beach area below her property. The Commission's contention that public access is provided by paying for a room at the proposed bed and breakfast is dubious. The 'public' does not necessarily have the money nor the inclination to pay for such a room, and the requirement they do so is classicist and divisive. Does the Commission intend to create a society where only the wealthy can enjoy access to their beach?

Furthermore, Ms McKenzie has for some time had a hidden agenda for her bed and breakfast that the Commission has not addressed. It is my understanding that her operation will include dog kennels and the implied consent that her guests' dogs may run unhindered on the beach at Whaler's Cove. This would be a serious violation of the mandate of the Coastal Commission to protect the shore and the shore's wild life. I believe that Ms McKenzie's wish to restrict public access to the beach hinges on the above intention to allow dogs to run freely. She wants no witnesses to her violation of public law.

The crux of this matter, however, is that access to Whaler's Cove is far too precious to be limited to Ms McKenzie or her guests. Whaler's Cove is the only place on the coast between Santa Cruz and Half Moon Bay where a person can safely launch a small boat. For time out of mind, this sheltered cove has provided human beings with access to the ocean. When the wind and surf are high around Pigeon Point, Whaler's Cove remains calm and clear. On such a day, the Cove is stunningly beautiful, with Prisoner's Rock in a foreground of still water and a background of blowing foam. Everyone should be allowed to see this sight at least once in their lives. Everyone should be allowed to enter the ocean or explore the shore in such a benevolent and peaceful place. In summary, access to Whaler's Cove provides educational, aesthetic, recreational, and economical benefit to our people. Denying access to such a treasure is nothing less than a crime.

When the County of San Mateo entered into the agreement with Ms McKenzie, Mr Nolan, and a few unnamed fisherman which led to the granting of this permit, the constitutional rights of all the rest of us were violated. I urge the Commission to deny Ms McKenzie's application, not to completely stop her economic aspirations for her property, but to force a review of her plans which would allow true public access to Whaler's Cove and restrict dogs from running loose on the beach. Otherwise, the Commission will be guilty of ignoring its mandate from the State of California and will effectively be in collusion with the errors of the County of San Mateo and Ms McKenzie et al.

Sincerely,

*Edward Tripp*  
Edward Tripp



TH66

May 28, 1996

Jerry Sershen  
536 Fremont Avenue  
Pacifica, Ca 94044

RECEIVED  
JUN 5 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Steve Monowitz  
California Coastal Commission  
725 Front Street  
Santa Cruz, Ca 95060

Re: Appeal no. A-3-SMC-96-008

Dear Mr. Monowitz:

This concerns the proposed bed and breakfast inn next to Pigeon Point Lighthouse and the public access issue to Whaler's Cove. The access path is on the applicant's (Ms. McKenzie's) property.

I attended the California Coastal Commission hearing in Carmel on April 10, 1996. I spoke in opposition to the McKenzie project. My main concern is the public access issue. This involves the agreement that would restrict access to school groups and fishermen. This also involves the settlement that gives Ms. McKenzie the right to decide who can enter her property. During the hearing I also showed color slides as evidence to support my claim that my brother James and I had open access to Whaler's Cove for over a 10 year period (from 8-19-83 to 3-29-94). I know the exact dates because I kept an accurate log of our visits to Whaler's Cove. I can document the visits. The color slides I showed can support log entries. I am enclosing a copy of a page from one of these logs and photographic evidence to support the entry. I am also enclosing published evidence of public access to Whaler's Cove. The author of the publication is Tom Stienstra, outdoor writer for the San Francisco Examiner. For the record, I would like to state that: My brother James and I never asked for nor did we ever receive permission from the owner, Kathleen McKenzie or her caretaker, William Owsten to access the path on her property to Whaler's Cove.

Informed decisions were not made on the public access issue. It took an appeal of this permit to appreciate the extent of public use of Whaler's Cove, the value the public placed on being able to access the beach and the concern for their access rights. I am referring to examples of the more than 200 letters you received supporting the appeal.

THLB

June 3, 1996

Jerry Sershen  
536 Fremont Avenue  
Pacifica, Ca 94044

Steve Monowitz  
California Coastal Commission  
725 Front Street  
Santa Cruz, Ca 95060

Re: My 8 page report, dated, 5-28-96, to Steve Monowitz. Appeal no.  
A-3-SMC-96-008.

Subject: Corrections to my report.

Dear Mr. Monowitz:

Please attach the enclosed signed copy to the back of page (1) of my report.

I would like to make the following deletions on page 2, paragraphs 1 and 2 of my report:

I would like to address the "quite title" out of court settlement that gave Ms. Mckenzie the right to decide who can enter her property. ~~The public could not testify because they were barred from court.~~ This is a "public issue". It became a public issue when Ms. McKenzie (without a permit) erected a fence on her property, blocking off an established public access path to Whaler's Cove. This was a public access path years before she owned the property. It continued to be a public access path after she purchased the property in the mid 1980's, until she erected a fence in April of 1994.

Another issue relating to the ~~court~~ settlement was the coastal commission questionnaire, dated May 5, 1995. I did not know about this questionnaire. I never filled one out. I also live in San Mateo county, in a coastal community north of Pescadero.

Sincerely,

*Jerry J. Sershen*

Jerry J. Sershen

RECEIVED  
JUN 5 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Enc: (1) signed copy of this letter.

I would like to address the "quiet title" out of court settlement that gave Ms. McKenzie the right to decide who can enter her property. The public could not testify because they were barred from court. This is a "public issue". It became a public issue when Ms. McKenzie (without a permit) erected a fence on her property, blocking off an established public access path to Whaler's Cove. This was a public access path years before she owned the property. It continued to be a public access path after she purchased the property in the mid 1980's, until she erected a fence in April of 1994.

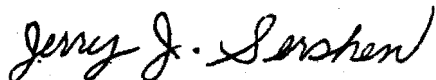
Another issue relating to the court settlement was the Coastal Commission questionnaire, dated May 5, 1995. I did not know about this questionnaire. I never filled one out. I also live in San Mateo county in a coastal community north of Pescadero.

The county planners left it up to Ms. McKenzie to negotiate an access agreement between a school group and 3 fishermen. The proposed three year renewable condition in that agreement even has some county officials concerned. (See the enclosed article, page 8)

Whaler's Cove is the only beach a boat can be safely launched between Half Moon Bay and Santa Cruz. The cove is protected from prevailing ocean swells and wind. There are only a few of these sheltered coves along the entire coast of California. The existing access path and gully is the only feasible way to transport a portable boat to the beach. A new access path to accommodate boats would have to be constructed on the east end of the cove. This area is too steep and rocky. (For a view of the steep, rocky terrain see enclosed photograph no. 2, page 5.). Even if it were possible to construct boat access here it would alter the whole character of the cove. At the very least it may be difficult to construct stairs for foot traffic only, stairs that would also fit into the character of the cove.

I am a U.S. Coast Guard veteran. Pigeon Point Lighthouse was under the Coast Guard when I was in the service. I have a special regard for this area. For over 10 years my brother and I went on fishing/nature trips by launching our boat at Whaler's Cove. Public access to the cove has been blocked now for over 2 years. Essentially, what we have is a public beach with no public access, except by boat.

Sincerely,



Jerry J. Sershen

**COBLENTZ, CAHEN, McCABE & BREYER, LLP**  
ATTORNEYS AT LAW

**THLB**

JONATHAN R. BASS  
JEFFREY A. BERNSTEIN  
CHARLES R. BREYER  
ALLEN E. BROUSSARD  
WILLIAM R. COBLENTZ  
VIRGINIA A. CRISP  
PAMELA S. DUFFY  
PAUL ESCOBOSA  
PHILIP S. FELDMAN  
LOUIS J. GIBAUDO  
SUSAN E. JAMISON  
ANN E. JOHNSTON  
JEFFREY G. KENWILES  
STEPHEN T. LANCTOT  
MICHAEL L. MEYERS  
BARBARA A. MILANOVICH  
JAMES R. MITCHELL  
HARRY O'BRIEN  
WILLIAM K. ORRICK, III

SUSAN J. RABENOVIC  
RICHARD R. RATCH  
BARRY REGER  
JOSEPH C. SPERO  
JOHN R. DANDLER

JACQUELINE S. CORLEY  
JOHN A. DECARIE  
RACHELLE L. DEVAUX  
J. KETHY EVANS-ORVILLE  
EDWARD J. FINLEY II  
ALAN C. DENNIS  
LAURA F. LEE  
AUDREY R. OGAMA  
CYNTHIA R. ROWLAND  
DANIEL J. STROMBERG  
SUSAN L. SULLMAN  
TAY C. VIA

222 KEARNY STREET, 7TH FLOOR  
SAN FRANCISCO, CALIFORNIA 94108-4510  
TELEPHONE: (415) 391-4800  
FACSIMILE: (415) 989-1663

OF COUNSEL  
DONALD H. CAHEN  
WILLIAM T. HUTTON

SPECIAL COUNSEL  
JEFFREY B. MARS

TIENS JACOB (1908-1974)  
WILLIAM F. McCABE (1939-1983)

July 8, 1996

**BY FACSIMILE AND MAIL**

California Coastal Commission  
c/o Central Coast Area Office  
725 Front Street, Suite 300  
Santa Cruz, CA 95060  
ATTENTION: Steve Monowitz.

Re: Permit No. A-3-SMC-96-008; 9-room Country Inn  
921 Pigeon Point Road, San Mateo County

Commissioners:

We write on behalf of the Applicant, Ms. Kathleen McKenzie, to urge the Commission to approve this Project, and to do so without imposing several of the special conditions recommended by the staff in its most recent Staff Report. The reduction in the density recommended by staff, from 9 to 6 rooms, is entirely unwarranted and is based on a tortured reading of the LCP which ignores both its plain language and long-standing interpretation. Most of the other special conditions recommended in the Staff Report are already addressed by the County's conditions of approval and are therefore unnecessary and inappropriate.

A proposed, revised approval resolution is attached to this letter, and we urge the Commission to approve the Project pursuant to this resolution rather than that contained in the Staff Report.

I. **Background.** The Staff Report omits some essential information from its account of the history of this Project. The Project was unanimously approved by the San Mateo County Planning Commission in December of last year. The only opposition at the County Planning Commission hearing was voiced by individuals seeking access over Ms. McKenzie's property to the adjacent beach. All of these opponents, specifically including the Appellant, Mr. Nolan, agreed to drop their opposition to the Project in return for the Applicant's agreement to provide limited

COBLENTZ, CAHEN, McCABE & BREYER

California Coastal Commission  
July 8, 1996  
Page 2

access to school groups and fishermen as provided in Condition No. 4 to the County's approval. The Planning Commission approval was not appealed to the County Board of Supervisors.

The Applicant also agreed in a Settlement Agreement with the State to transfer fee title to 1.5 acres of privately owned beach land located between the toe of the bluff and the mean high tide line. As part of this Settlement Agreement, the Coastal Commission specifically agreed that it would "process any appeal of the [Applicant's] Coastal Permit Application expeditiously and without undue delay in accordance with the timeliness requirements of the California Coastal Commission's regulations." Settlement Agreement, ¶15.

Despite his specific agreement not to appeal the County's approval of the Project, Mr. Nolan filed the subject appeal on the sole ground that the wording of Condition No. 4, which guarantees access to school groups, should be revised to provide greater access than had originally been envisioned by that condition. The original Staff Report recommended a finding of a substantial issue regarding the access condition and raised a variety of other issues regarding the Project. At its hearing on April 10, 1996, the Commission heard the appeal and continued the matter asking for additional information, primarily assurance that the Project had adequate water and sewage disposal capacity.

The most recent Staff Report amounts to a concession by the Coastal Commission staff that no substantial issue was, in fact, raised in the appeal. As to the issue of access, the Staff Report, at page 33, concludes as follows:

The minor increase in the intensity of beach use that will result from the subject project will not reduce the public's ability to access or recreate on Whaler's Cove beach, and therefore does not provide a nexus for a public access requirement pursuant to the Nolan decision.

This conclusion, reached belatedly by the Commission staff, is exactly that reached by the County 7 months ago. The staff's recommendation at the April hearing that the Commission find a substantial issue in this appeal was in error, and this error has delayed the Project by more than 3 months and has added tens of thousands of dollars to the cost of the Project in delay and additional legal and

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consulting fees. This is hardly the "expeditious" processing to which the Commission committed in the Settlement Agreement.

The latest Staff Report compounds the error, by recommending a host of unnecessary conditions, including a one-third reduction in the density of the Project from that permitted under the LCP. The Staff Report recommendation reflects a hostility to a small-scale visitor serving facility that is inexplicably at odds with the goals of the Coastal Act. The Applicant's response to these conditions is detailed below.

II. The Recommended Reduction in Density is Inconsistent with the LCP.  
The staff's analysis of the density of permitted development, contained at pages 8 through 15 of the Staff Report, is flatly absurd. To reach its conclusion that the density of the Project should be reduced from 9 to 6 rooms, the staff ignores the plain language of the LCP, the long-standing practice of the County in administering the LCP, and the only substantial evidence in the record of the estimated water use of this particular Project.

The San Mateo County LCP governs the density of development in the Agricultural Zoning District by reference to the maximum daily water use. For visitor serving facilities, the permitted density on this property (which has one "density credit") is that which would consume up to 630 gallons of maximum daily water use. The LCP specifically provides that the calculation of water use shall be based "on the best available information". LCP Policy 1.8(c).

In order to avoid a "battle of the experts" on the estimated water use for each and every application, the County commissioned a Rural Area Water Use Study, prepared by Kleinfelder Inc. Engineers, to estimate the maximum daily water use of each permitted use in the agricultural district. Although the Rural Area Water Use Study is not part of the certified LCP, it has been recognized and used by the County as compelling and objective evidence of the maximum daily water use of various permitted uses. The Rural Area Water Use Study also recognizes that the calculation of the maximum daily water use depends on the kinds of fixtures installed in the use. The County's consistent practice has been to rely on the Kleinfelder Rural Area Water Use Study estimates of water use based on low flow fixtures to calculate permitted densities, including the approved 9-room density of the Project.

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After the April hearing in this matter, the Coastal Commission staff informed Ms. McKenzie that it would not rely on the Kleinfelder Rural Area Water Use Study, but requested that the Applicant have a professional engineer estimate the water use specifically for this Project. Although we share the County's belief that density calculations should be based on a common reference point for all projects, the Applicant conceded to the wishes of the staff and commissioned Kleinfelder, Inc. to estimate the water use specifically for the Project. The resulting Water Use Assessment, attached as Exhibit K to the Staff Report, used conservative assumptions for the water use of the Project, including 100% occupancy, and water use by a non-resident manager equivalent to that of a guest in the Project. Using these conservative assumptions, Kleinfelder calculated a maximum water use for the Project of 428 gallons per day using ultra low-flow devices and 628 gallons per day using low-flow devices. Under either calculation, the 9 unit Project is within the 630 gallon limit specified in the LCP.

The Staff Report, for reasons we cannot comprehend, recommends that the Coastal Commission ignore both the Rural Area Water Use Study prepared for the County and the Water Use Assessment prepared for this Project. The Staff Report recommends, instead, a calculation of the permitted density for this Project based on a new and unsupportable reading of the LCP. As we understand it, the Staff Report's recommended calculation of density is based not on an estimate of the Project's actual water use, but on an estimate of what the water use might be if the Project ignored current codes and water conservation techniques. The gist of the Staff Report seems to be that the density calculation for this Project (unlike others approved over the last several years) should be based not on the water use of the Project as proposed but on the water use of the Project as it might have been proposed in 1979.<sup>1</sup>

The Water Use Assessment prepared by Kleinfelder, Inc. represents its best professional judgment concerning the actual estimated water use for the Project, and reflects the reality that actual water use will depend on the types of fixtures actually installed in the Project. Kleinfelder's adjustment of water use estimates to

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<sup>1</sup> Implicitly acknowledging that this calculation finds no support in the language of the LCP, the Staff Report refers to its bizarre interpretation as a "common sense view" of the LCP. Suffice it to say that the common sense of this approach eludes us.

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reflect the proposed use of ultra low flow water fixtures is not "double counting" as suggested in the Staff Report, nor does it provide a "density bonus" for water conservation. Instead, the Water Use Assessment follows the mandate of the LCP to estimate water use for the Project using the "best available information."

The other water use figures cited in the Staff Report are not inconsistent with the conclusions contained in Kleinfelder's Water Use Assessment for the Project. To the contrary, the actual water use cited by the staff for the Ventana Inn is 69 gallons per day per unit which translates to a permitted density for the Project of exactly 9 units. The Staff Report makes no indication of the type of fixtures installed in the Ventana Inn. A telephone conversation with the Ventana Inn indicates that some rooms have in-room jacuzzi tubs which would be expected to consume far more water than the ultra-low flow showers proposed to be installed in the Project.<sup>2</sup> As discussed in the Kleinfelder Water Use Assessment, the small kitchenettes to be installed in the rooms in the Project will not add significantly to the water use.

In short, there is no basis in the record or in the law to reduce the density of the Project below 9 units.<sup>3</sup> A one-third reduction in the density of the Project, added to the incredible cost of the delay which has already been imposed on this

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<sup>2</sup> The Staff Report in several places references a proposal to include "soak tubs" in the Project. In fact, the Applicant has specifically informed the staff that it will not install soak tubs but will install only ultra-low flow shower heads.

<sup>3</sup> We also point out that the San Mateo County Board of Supervisors has recently adopted a proposed amendment to the LCP, an outgrowth of the so-called Coastside Protection Initiative, which will shortly be forwarded to the Commission for its review. This amendment is widely recognized as tightening the controls and reducing the permitted density, particularly on larger parcels. The amendment would also standardize density calculations to avoid individualized water use assessments. Under this proposed amendment to the LCP, the Project would be permitted the same density as that approved previously by the County: 9 units.



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Applicant is plainly unjust. We urge the Commission to approve the Project as originally proposed.

III. Other Special Conditions Proposed in the Staff Report are Unnecessary. The Staff Report proposes a host of other special conditions which, with two exceptions, are wholly unnecessary as they are already covered adequately by the conditions of approval imposed by the County. The Applicant has demonstrated compliance with the requirements of the LCP with respect to the adequacy of the domestic water supply and the capacity of the site for installation of a septic system. The Applicant has submitted written determinations by engineering professionals (Kleinfelder, Inc. with respect to the adequacy of the water supply and UPP Geotechnology Inc. with respect to the septic system) indicating the adequacy of both. A well has been drilled on the site producing a stabilized flow of 5 gallons per minute, far in excess of that necessary to meet the demands of the Project. Percolation tests have confirmed an appropriate location for a leachfield with a percolation rating of "A".

There is absolutely no reason why special conditions should be imposed involving the Coastal Commission or its staff in further analysis of the specific design of the domestic water supply or the septic system. These issues, as well as issues regarding the fencing, signage, and final design of the Project were all adequately addressed in the conditions to the County's approval. A building permit for the Project will not and cannot be issued unless the County's Division of Environmental Health is satisfied with the adequacy of the septic and water systems. Continued oversight of these aspects of the Project by the Coastal Commission is redundant and unnecessary.

In the Applicant's proposed resolution, attached to this letter, we have proposed a condition confirming the limitation of the use of the units to visitor serving use. This was always the intent, and while we think it was implied in the County's approval of a Country Inn, the Applicant has no objection to a condition confirming this requirement and specifying a maximum length of visitor stay. We have omitted from this condition, however, the proposal that the Applicant submit annually to the Coastal Commission staff a copy of its transient occupancy tax return. Again, we encourage the Commission to look to the County for

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enforcement of its LCP requirements, and not to burden either its staff or the Applicant with needless paperwork.

The Applicant's proposed resolution also includes a modified version of the special condition proposed in the Staff Report regarding landscaping. The Staff Report in several places indicates that the Applicant has proposed to eliminate all landscaping. This is simply not the case. In connection with the evaluation of the water use, the Applicant indicated that there would be no irrigated landscaping. The Applicant has always intended to revegetate the site using native, drought-resistant vegetation. As a result, the Applicant has no objection to the substantive landscaping requirements proposed in the Staff Report. We do, however, suggest that the landscaping plan be subject to approval by the County, as required under the original County approval, rather than by the Coastal Commission staff. Once, again, oversight by the Commission staff is redundant and unnecessary.

IV. Conclusion. This Project is a small-scale, sensitively designed visitor-serving facility, exactly the kind of project which the Coastal Act and the LCP encourages as a priority use. The Project should not even be pending before you on de novo review, as no substantial issue was raised in the original appeal. The staff's recommendation to reduce the density of the Project is completely unwarranted and should be rejected out of hand. Further, the ongoing oversight of the Project should be left in the hands of the County which has the technical expertise to review the design of the Project's septic and water systems.

The Project has already been delayed far too long and at far too great a cost. Ms. McKenzie is not a real estate developer. She is an individual property owner seeking to build a small country inn on her own property, immediately adjacent

**COBLENTZ, CAHEN, McCABE & BREYER**

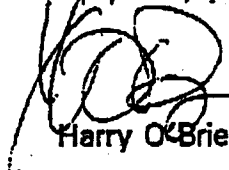
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to a publicly owned visitor-serving facility which has about 5 times the number of beds to be included in her facility. We urge the Commission to approve the Project in accordance with the draft resolution attached to this letter.

Very truly yours,



Harry O'Brien

cc w/enc: Ms. Kathleen McKenzie  
Terry Burns  
William Rozar

**CALIFORNIA COASTAL COMMISSION**

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



July 10, 1996

**MEMORANDUM**

TO: All Commissioners and Interested Parties

FROM: Tami Grove, District Director *TG*

SUBJECT: Addendum to Staff Recommendation  
for A-3-SMC-96-008 Kathleen McKenzie

Following receipt of additional information, including clarifications regarding water supply and facilities, and a proposed amendment of the Local Coastal Program, we have modified the recommended conditions to provide for division of the project into two phases -- with an ultimate maximum potential of 9 units altogether. Accordingly, the permit would be issued in two phases so that Phase I of the permit may be issued, once all conditions relevant to Phase I have been met, prior to the issuance of Phase II of the permit. Additional minor corrections and clarifications are included as well. Revised findings would be returned to the Commission for adoption at a subsequent hearing.

Based on information received after the preparation of the staff report released June 27, 1996, staff now recommends that the density for this project be increased to provide for a potential maximum of nine units. This increase in density is founded upon information from the applicant that the units have been re-designed to eliminate tubs and provide low flow showers only, thereby significantly reducing water use. Also of note, the County has recently approved a more precise and definitive method of objectively calculating density for non-residential development in rural San Mateo County. This comprehensive LCP amendment is expected to assign specific unit values to the various non-residential uses permitted in the rural areas and will eliminate the current case by case review which has often resulted in significant controversy. The Commission will, upon submittal of this amendment, have the opportunity to review the County's proposal and its potential impacts on build-out on the rural coastside of San Mateo County. At this time, staff cannot predict what the final unit values will be when certified, however, it is clear that a more objective method of determining them is on the horizon. Therefore, due to the new site specific information and the fact that this will likely be the last project to be reviewed under the current LCP, staff can recommend an increase in the density of this development if other issues outlined in the staff report can be resolved, (e.g., adequate sewer and water, mitigation of visual impacts caused by three of the units, etc.).

Accordingly, we recommend approval of the project subject to the following special conditions:

**III. SPECIAL CONDITIONS**

1. Scope of Permit and Phasing. This permit authorizes the development of a Country Inn, with an ultimate maximum of 9 units, in two phases. Phase I comprises those 6 units closest to

7. **Landscape Plan.** PRIOR TO THE TRANSMITTAL OF THE PERMIT, the permittee shall submit, for Executive Director review and approval, a landscape plan which includes the following:

- a. use of local drought resistant native plants in all areas that will be disturbed during project construction, as well as in all areas that will be exposed as a result of building demolition;
- b. use of Monterey cypress and local drought resistant native vegetation to screen project elements including, but not limited to the water storage tank, water treatment facility, and septic pumps; and
- c. an irrigation and maintenance plan necessary to ensure the survival or replacement of the required landscaping.

**ADDITION TO FINDINGS**

The following underlined language is added to the Access Finding Conclusion on page 33.

Furthermore, because the project interferes with a coastal access route which the public has no established legal right to use due to the settlement agreement approved by the state and county, the Commission does not have a basis for requiring public access across this site as a condition of development approval.

**ATTACHMENT  
APPLICANT'S PROPOSED RESOLUTION**

**I. APPROVAL WITH CONDITIONS**

The Commission hereby grants, subject to the conditions below, a permit for the proposed development, on the grounds that, as conditioned, the development will be in conformance with the provisions of the San Mateo County certified Local Coastal Program (LCP), the public access and recreation policies of the California Coastal Act of 1976 (Coastal Act), and will not have any significant adverse impact on the environment within the meaning of the California Environmental Quality Act (CEQA).

**II. STANDARD CONDITIONS**

Attached as Exhibit A

**III. SPECIAL CONDITIONS**

1. Scope of Permit. This permit authorizes the development of a 9-unit Country Inn, the use of an existing warehouse building for storage and office purposes only (no occupancy), a well, visitor parking spaces, and installation of utilities.

2. Compliance with Local Conditions of Approval. All 29 conditions of San Mateo County Coastal Development Permit #95-0022 become conditions of this permit. (See Exhibit B of the Staff Report for a copy of the local conditions of approval).

3. Visitor Serving Use Only. PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit, for Executive Director review and approval, a deed which indicates that this coastal permit authorizes the development of a 9-unit Country Inn, a visitor serving use exclusively available to the general public. This deed restriction shall also specify that visitor length of stays are limited to no more than 29 consecutive days, and no more than 84 days per year. Furthermore, the deed restriction shall indicate that conversion of any portion of the approved facilities to a private or member only use, or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public is specifically not authorized by this permit and would require an amendment to this permit which may require a reduction in project density in order to maintain compliance with the density regulations of the San Mateo County certified Local Coastal Program. Upon approval of the Executive Director, the deed restriction shall be recorded within 15 days and a conformed copy submitted for the record.

4. **Compliance with Geotechnical Recommendations.** Final project plans and project construction shall conform to and incorporate the recommendations contained in the Geotechnical Investigation prepared for the subject property by UPP Geotechnology, Inc., dated September 25, 1995.

5. **Landscape Plan.** The permittee shall submit, for review and approval by the County, a landscape plan which includes the following:

- a. use of local drought resistant native plants in all areas that will be disturbed during project construction, as well as in all areas that will be exposed as a result of building demolition;
- b. use of Monterey Cypress and local drought resistant native vegetation to screen project elements including, but not limited to the water storage tank, water treatment facility, and septic pumps; and
- c. an irrigation and maintenance plan necessary to ensure the survival or replacement of the required landscaping.

#### IV. FINDINGS AND DECLARATIONS

1. The Project will have a maximum daily water use of 630 gallons or less, and is therefore consistent with the density requirements of the LCP. The Commission is satisfied that the well which has been drilled on the property can provide an adequate supply of potable water, and the conditions of approval will require that the County Division of Environmental Health review and approve the domestic water supply before approval of the Project.

2. As adjacent agricultural lands do not rely on well water, the Project will not have an adverse effect on water supplies needed for agricultural production.

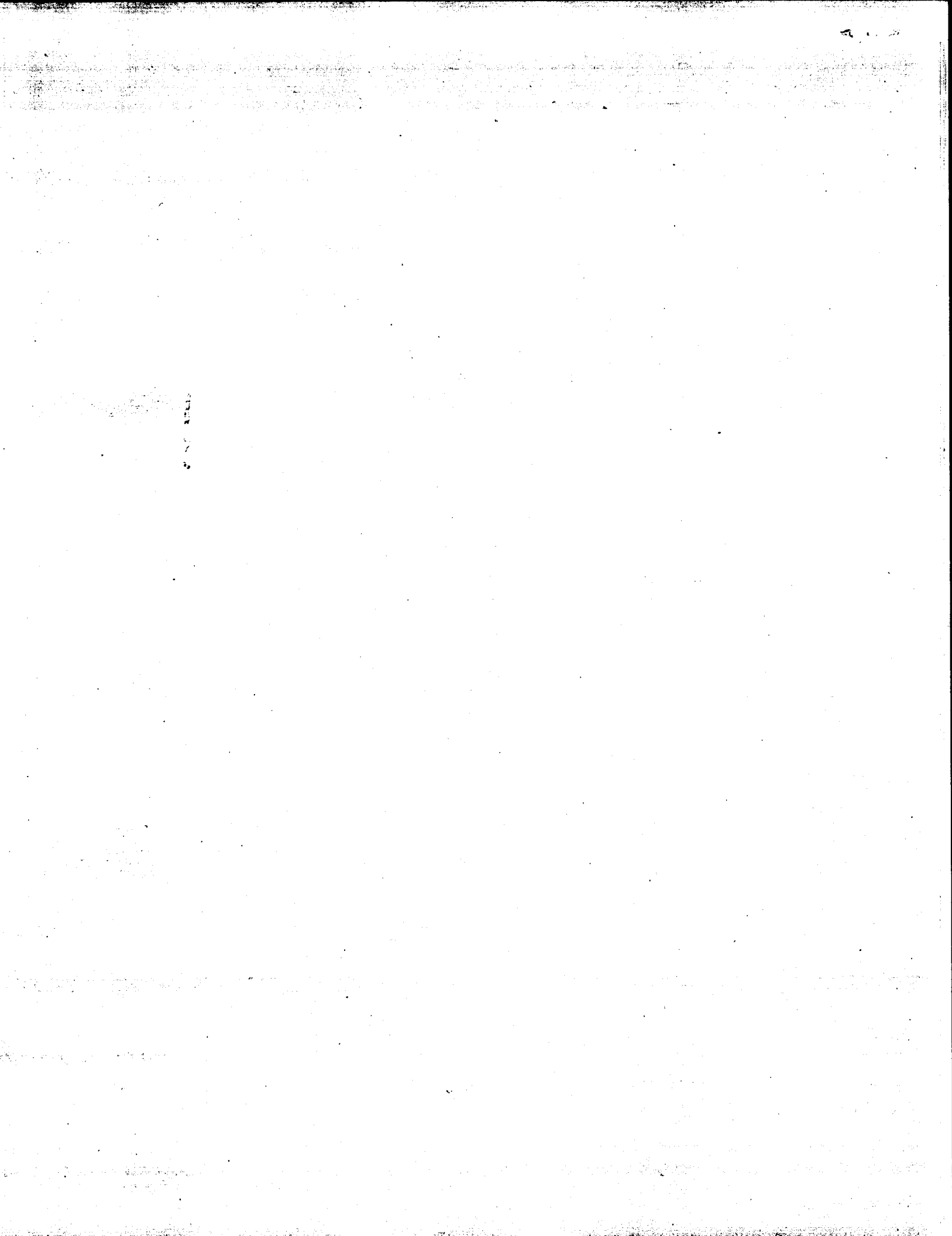
3. The Project will have no significant adverse impact on sensitive habitat areas. Project conditions require that drainage and erosion control plans, a landscape plan and sewage treatment plan be reviewed and approved by the County. The County's standard procedures are adequate to assure that these systems are installed without adverse effect on the environment.

4. The Project will result in the demolition of existing fencing and industrial buildings, which will be replaced with well-designed visitor serving facilities. The net result will enhance views of the ocean from the public road and also views from the beach. The Project includes a public parking area at the eastern end of the site from which public views can be enjoyed.

5. The minor increase in the intensity of beach use that will result from the Project will not reduce the public's ability to access or recreate on Whaler's Cove Beach and therefore does not provide a nexus for a public access requirement pursuant to the Nollan decision. Similarly, a requirement for public access would not be proportional to the insignificant impact of a few additional beach users, and cannot be pursued consistent with the precedent set by the Dolan case. Furthermore, the Project will not interfere with any coastal access route to which the public has or could establish a legal right to use, and therefore the Commission does not have a basis for requiring public access across the subject site as a condition of development approval. The Commission finds that the appeal, in fact, raised no substantial issue.

6. The findings of the County Planning Commission are incorporated herein by reference.





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RECEIVED

JUN 13 1996

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

To the Coastal Commission

What the hell happened?  
Years ago, when conservatives said  
the Coastal Commission would  
ruin things for business, freedom  
& the American way of life,  
I was all in favor of the new  
and promising to protect the beaches  
Coastal Commission. Something to  
represent me against powerful  
interests that I could do nothing  
about as an individual. As I  
remember, I voted for a referendum  
that established the Commission.  
Does my memory of events  
serve me right?

Well, my, my, how things  
turn around. You allowed  
the GIVE AWAY OF HEARST  
STATE BEACH, THE VISTA POINT,  
ETC, ETC, TO THE HEARST  
CORP. - FOR WHAT?! - PRIVATE  
RICH FOLKS DEVELOPMENT - THE  
POPULOS WON'T BE ABLE TO  
USE THIS AREA IN THE NEAR

FUTURE. DOES THIS SEEM  
LIKE A TURNAROUND IN THE  
RAISON D'ETRE OF THE  
COMMISSION?

Gee, seems like it  
to me. 'I'm absolutely shocked!  
Naive, I guess, but shocked  
none the less. You used to be  
my heroes, now you are  
backstabbers. Can't be trusted.  
I always wondered what  
that sort of redneck mantra  
"you can't trust government" was  
all about? Now I've got a hint.  
Thanks a lot.

Dorian Hachigian  
Los Osos  
CALIF.