

CALIFORNIA COASTAL COMMISSION

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**STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE AND DE NOVO HEARING**

LOCAL GOVERNMENT: City of Pismo Beach
LOCAL DECISION: Approved with conditions
APPEAL NUMBER: A-3-PSB-96-059
APPLICANT: SILVER SHOALS PARTNERSHIP
APPELLANT: William A. Griffin, Katherine Luis, Anatol Jordan
PROJECT LOCATION: South side of Silver Shoals Drive between Shell Beach Road and the Pacific Ocean, City of Pismo Beach, San Luis Obispo County, APN: 010-152-016
PROJECT DESCRIPTION: Subdivision of a 3.04 acre parcel into ten residential lots and one public access recreational lot.
SUBSTANTIVE FILE DOCUMENTS: City of Pismo Beach Certified Local Coastal Program, City of Pismo Beach permit file 95-142.

SUMMARY OF STAFF RECOMMENDATION

On July 11, 1996, the Commission opened and continued this appeal because staff had not received the complete project file from the city in time to review the file and complete a staff report for the Commission. Staff recommends that the Commission, after public hearing, determine that a substantial exists with respect to the grounds on which the appeal has been filed for the reasons discussed below. If the Commission so finds, staff further recommends that a de novo public hearing on this project immediately follow and that the Commission grant a permit with conditions requiring that the applicant submit revised plans clearly indicating that no more than 50 percent of the required open space come from the private residential lots and that the blufftop park/open space lot will extend to the mean high tide line, and adding a condition clearly requiring the removal of the temporary cul-de-sac when the road is extended to the property to the south.

List of Exhibits

- 1. Appeal of Anatol Jordan
- 2. Appeal of Katherine Luis
- 3. Pismo Beach Findings and Conditions
- 4. Location Map
- 5. Vicinity Map
- 6. Project Plans
- 7. Visual Analysis Photos of Site
- 8. Correspondence

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I. SUMMARY OF APPELLANT'S CONTENTIONS (See Exhibits 1 and 2 for the full text)

- A. **Katherine Luis**, received May 24, 1996. This appeal contends that the proposal is inconsistent with the City's Local Coastal Program for the following reasons:
 - 1. The bulk of the buildings on lots 1 and 2 is overwhelming on Shell Beach Road.
 - 2. Noise mitigations would destroy view considerations.
 - 3. South Palisades Specific Plan not certified by the Commission.

B. Anatol Jordan and William Griffin, received May 28 and May 21, 1996. It appears that Mr. Griffin may not be an aggrieved party and therefore not eligible to appeal this action. However, since his appeal and Mr. Jordan's appeal are identical the question of the validity of Mr. Griffin's appeal is moot. This appeal contends that the proposal is inconsistent with the City's Local Coastal Program for the following reasons:

1. Public and private views would be obstructed.
2. The geologic reports are inadequate.
3. Noise issues were not adequately addressed.
4. The density is too great for the site and compromises open space.
5. Road design inadequate.
6. The City did not follow its procedures for processing the multiple permits required for this proposal.

II. LOCAL GOVERNMENT ACTION

The City of Pismo Beach approved the proposal on May 7, 1996, including a mitigated negative declaration, tentative tract map, conditional use permit, coastal development permit, architecture review permit, and landscaping permit for subdivision of a 3.04 acre lot into 10 residential lots and one blufftop park/open space lot.

III. APPEAL PROCEDURES

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea. Furthermore, developments approved by counties may be appealed if they are not the designated "principal permitted use" under the certified LCP. Finally developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by a city or county (Coastal Act Section 30603(a)).

For projects not located between the sea and the first public road paralleling the sea, the grounds for an appeal shall be limited to an allegation that the development does not conform to the certified LCP (Coastal Act Section 30603(b)(1)). Because this project is appealed on the basis of its location between the sea and the first public road paralleling the sea, the grounds for an appeal to the Coastal Commission include not only the allegation that the development does not conform to the standards set forth in the certified local coastal program but also the allegation that the development does not conform to the public access policies of the Coastal Act.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the staff recommends "substantial issue," and no Commissioner objects, the substantial issue question

will be considered moot, and the Commission will proceed directly to a de novo public hearing on the merits of the project.

If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Coastal Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act. In other words, in regard to public access questions, the Commission is required to consider not only the certified LCP, but also Chapter 3 policies when reviewing a project on appeal.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, because the City has approved the project in a manner that is inconsistent with the certified Local Coastal Program.

- A. The issue of open space raised by appellant Anatol Jordan raises a substantial issue about the method used to calculate the required open space, for the reasons discussed below.
- B. The other issues raised by appellants Anatol Jordan and Katherine Luis do not raise a substantial issue, for the reasons discussed below.
- C. **MOTION.** Staff recommends a NO vote on the following motion"

I move that the Commission determine that Appeal No. A-3-PSB-96-059 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

Staff recommends a NO vote which would result in a finding of substantial issue and bring the project under the jurisdiction of the Commission for hearing and action. To pass the motion, a majority of the Commissioners present is required.

V. STAFF RECOMMENDATION ON COASTAL PERMIT

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the project, subject to the recommended conditions below and adopt the following resolution.

Approval with Conditions

The Commission hereby **grants**, subject to the conditions below, a permit for the proposed development as modified, on the grounds that the modified development, as conditioned, will be consistent with the certified City of Pismo Beach Local Coastal Program, will be consistent with the public access and recreation policies of Chapter 3 of the Coastal Act, and will not have any adverse impacts on the environment within the meaning of the California Environmental Quality Act.

VI. STANDARD CONDITIONS

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Compliance.** All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. **Inspections.** The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

VII. SPECIAL CONDITIONS

1. Revised Plans

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, permittee shall submit the following:

- a. Two copies of revised tentative tract maps for review and approval by the Executive Director which shall clearly indicate that the blufftop park/open space lot will be dedicated to the City of Pismo Beach as park/open space and that the lot will extend from the western edge of the loop road right-of-way to the mean high tide line.
- b. Calculations (and maps as necessary) clearly showing that even with driveways, the site will meet the LCP-required open space area as calculated by Commission staff in this permit. No more than 50 percent of the required open space may come from the private residential lots. If the calculations show that the 60 percent open space area standard and/or the maximum 50 percent open space from the private residential lots cannot be met, then the applicant shall propose alternative measures to the Executive Director to achieve the required open space, which may require an amendment to this permit.

2. Temporary Cul-de-sac

The temporary cul-de-sac proposed at the southerly end of Silver Shoals Drive shall be removed when the road is continued through the property to the south. At that time, none of Silver Shoals Drive shall then encroach more than 35 feet into the required blufftop setback.

3. Coordination with City Conditions (See Exhibit 3, attached)

The City's coastal development permit conditions are hereby incorporated as conditions of this permit, except as follows: City conditions A) 4 and E) 4, "Compliance with South Palisades Specific Plan," are hereby deleted in their entirety. City condition B) 9, "Development Standards," is deleted in part where it would conflict with the conditions of this Coastal Commission permit concerning open space. Accordingly, City conditions A) 2, 3, and 5; B) 3, 4, 5, 6, and 9 (where condition B)9 does not conflict with this Coastal Commission permit); and E) 5 are incorporated into this Coastal Commission permit.

VIII. RECOMMENDED FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND BACKGROUND

1. Description.

The site of the proposal is located in the northern portion of the City of Pismo Beach on the shelf between Highway One/US Highway 101 and the sea, in an area known as the South Palisades Planning Area (please see Exhibit 4).

The City approved a Tentative Tract Map consisting of 10 residential lots and one open space lot, a 0.47 acre bluff retreat area with passive recreation improvements located adjacent to the bluff top. A 4 foot wide pedestrian trail and a 10 foot wide class 1 bicycle pathway would be located within the retreat area. New meandering sidewalks consisting of a 12 foot range (six feet in either direction) are proposed within the right-of-way and a 6 foot wide public utility easement area. A 10 foot wide bikeway easement with an 8 foot wide asphalt concrete bikeway is proposed adjacent to Shell Beach Road right-of-way. Full street improvements are proposed down the existing one-half width portion of Silver Shoals Drive and along the blufftop, ending in a temporary cul-de-sac at the southern property boundary. With future development of the property to the south, the road would continue onto that property. No houses were approved. Each house to be built in the future will have to undergo separate coastal development permit review at the City.

2. Background.

The City's LCP was certified in 1984. Major revisions to the Land Use Plan (LUP) were undertaken and certified with suggested modifications in 1992. The City accepted the modifications and the revised document was effectively certified in 1993. The LUP divides the City into 18 planning areas. The subject site is in Planning Area B, the South Palisades Planning Area. According to the LUP, *"The South Palisades Planning Area is developing by the guidelines of a Specific Plan adopted in 1986."* However, that specific plan was never certified by the Commission. Research into the Commission's files revealed that the South Palisades Specific Plan was adopted by the City on February 3, 1986 and revised on July 14 and 28, 1986, and September 12, 1988. Correspondence between Commission staff and the City in 1987 and 1988 includes discussion of the South Palisades Specific Plan as one part of the initial four part submittal for LCP amendment number 1-88. According to the correspondence and notes in that file, there were problems with the specific plan submittal and it was withdrawn from consideration. It has never been resubmitted and certified. Without certification by the Commission, land use regulations in the coastal zone are not legally effective as a standard of review for coastal development permits and cannot be relied upon as a criterion for project approval or denial. **Therefore, the South Palisades Specific Plan is not legally effective and the City cannot rely on it as a standard for approval of projects in the South Palisades Planning Area.**

The City can regulate land use in that planning area through the certified Local Coastal Program, which consists of the Land Use Plan and zoning ordinance. Thus the first task was to determine if the subject proposal was approvable without reference to the Specific Plan. The LUP and the zoning ordinance do contain the regulations that the City applied to this proposal. Therefore the proposal does not fail on the basis of the legal ineffectiveness of the South Palisades Specific Plan. With that determination made, the next task was to investigate whether or not the City's approval was consistent with the regulations in the LUP and zoning ordinance. The results of that investigation are included in the Issue Discussion, below.

B. ISSUE DISCUSSION

1. Coastal Access Issues

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

Coastal Act Section 30212: *(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Coastal Act Section 30214: *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*

LUP Policy PR-22. Lateral Beach/Shoreline Access Required. *Coastal Beach Access Dedication - For all developments on parcels located along the shoreline, a lateral public access easement in perpetuity extending from the oceanside parcel boundary to the top of the bluff shall be required for the purpose of allowing public use and enjoyment of dry sandy and rocky beaches, intertidal and subtidal areas. Such easements shall be granted to the California Department of Parks and Recreation, the City of Pismo Beach, or other appropriate public agency.*

The City approval specifically conditioned the project to require dedication of lot 11, the 0.47 acre blufftop park/open space lot, to the City as park/open space land, with the requirement that "Lot 11 shall extend from the western edge of the loop road's right-of-way (including the temporary cul-de-sac) to the mean high tide line or other appropriate western boundary as determined by the City of Pismo." This could result in the seaward edge of the park/open space lot ending somewhere landward of the mean high tide line, which would not be consistent with Coastal Act section 30211 and LUP Policy PR-22. Therefore, Special Condition No. 1 attached to this permit includes language to correct this problem. With this condition, the proposal will be consistent with Coastal Act section 30211 and LUP Policy PR-22.

Vertical access was neither required by the City nor by the LCP. LUP Policy PR-24 does require vertical access under certain conditions and in certain locations. In the South Palisades Planning Area, no vertical access is contemplated for the subject site. The high bluffs (30+ feet) do not lend themselves to easy, safe access. There is an existing beach

access about one-quarter mile south of the subject site and a beach access is proposed with future development about 500 feet south of the subject site. The City approval is consistent with the LCP and with Coastal Act sections 30212 and 30214 in this regard.

2. Visual Issues

LUP Policy LU-B-5 Visual Access. *Development of the South Palisades area shall protect visual access to the ocean and to dominant coastal landforms. Specifically, the size and location of structures shall retain to the maximum extent feasible intermittent views of the ocean from U.S. Highway 101. To accomplish these design objectives, the following standards shall be incorporated into the Specific Plan: 1. The building pads for all development shall be at or below existing grade. 2. Residential units shall be predominantly attached and clustered. 3. A minimum of 60 percent of the existing parcels within the planning area as of 1992 shall be retained in open space. 4. Structures immediately landward of the required bluff setback shall not exceed 15 feet in height from the existing natural grade. 5. Heights of structures other than those identified in subsection 4 above shall not exceed a maximum of 25 feet above natural grade. Two story structures shall be permitted only where it is determined that views of the ocean will not be blocked or substantially impaired. A visual analysis of potential view blockage shall be required for each development proposal. 6. Road right-of-way widths shall be complemented by an additional building setback of a minimum of 20 feet. 7. Open space shall be arranged to maximize view corridors through the planning area from public viewing areas to protect and maintain views of both the ocean and coastal foothills, as well as the visual sense of the coastal terrace landform. Accordingly, common open space shall have continuity throughout the development and shall not be interrupted by fences or other structures.*

Zoning Ordinance Section 17.081.020(3)HL-3, Height Limitations. *In the South Palisades Planning Area, heights of all buildings shall vary from one to two stories, with two-story structures being allowable only in areas which will not substantially block ocean overviews from U.S. Highway 101. Heights of structures immediately landward of the required General Plan bluff setback shall not exceed 15 feet in height measured from the highest point of the roof to the center point of the building footprint at the site grade existing as of January 23, 1981. Heights of other structures shall not exceed a maximum of 25 feet above the grade existing as of October 12, 1976.*

Zoning Ordinance Section 17.006.0908, Site Grade. *Site grade is a phrase used in the Zoning Ordinance to establish lot grade for the purpose of determining building heights and other development criteria. Site grade is determined as follows: a. For subdivided properties existing as of the time of adoption of the October 12, 1976 Zoning Ordinance, site grade shall be the existing topography of each parcel as of October 12, 1976. b. For unsubdivided properties, or parcels subdivided after October 12, 1976, site grade shall be established as being the precise topography of the lot at the time of completion of finished grading, based on the City approved grading plan for the subdivision.*

With respect to the grade at which structures would be developed on the subject site, these three regulations appear to be in conflict. LUP Policy LU-B-5(1) requires building pads to be at or below existing grade, LU-B-5(4) limits heights on lots immediately landward of the bluff setback to 15 feet above existing natural grade, LU-B-5(6) limits heights elsewhere to 25 feet

above natural grade; Zoning Ordinance Section 17.081.020(3)HL-3 only requires that heights not exceed a certain figure above grade existing on one of two dates, depending on whether a lot is immediately landward of the bluff setback or is located elsewhere. Finally, Zoning Ordinance Section 17.006.0908(b) sets site grade as the topographic elevation after grading is completed as approved by the City, for parcels subdivided after October 12, 1976.

LUP Policy LU-B-5(1) clearly sets the *elevation of the building pads at or below existing grade*, while the other regulations deal with height of structures or, in the instance of Section 17.006.0908, define "site grade." *Existing* grade is not defined in the LCP. The City approval is consistent with LUP Policy LU-B-5(1). The City permit is conditioned to require a final grading plan that ". . .shall correct the grading notation (fill slope) indicated on Sheet 1 (Lots 3 through 10) according to the requirements of the City Engineer. No fill shall occur on Lots 1 through 10 as specified by the General Plan/LCP."

Visual issues involve not only the elevation of the building pads but also the height of the structures to be placed on the building pads and how the structures impact views to and along the coast from US Highway 101 and Shell Beach Road. Any development on this site, as well as anywhere else in this part of the city that lies on the blufftop between Highway 101 and the sea, could potentially disrupt or block views from Highway 101 to the bluff top, but not to the sea. In this case, as designed, views of the ocean from the highway would not be blocked because of the elevation of Highway 101 above the area seaward of the highway.

LUP Policy D-23 U.S. 101 Freeway. *The U.S. 101 Freeway, also known as El Camino Real, is hereby designated as a Pismo Beach scenic highway. The portion of this highway within Pismo Beach provides travelers with the only ocean view between the Golden Gate Bridge (San Francisco) and Gaviota, a distance of over 300 miles. The scenic views include the City and ocean on one side and the Pismo Foothills on the other. To implement this policy the City shall: . . .c. Require design review of all projects within 200 feet of the edge of the CALTRANS right-of-way for their visual qualities as seen from the road. . . .d. Require that new. . .development be modified in height, size, location or design so that existing "bluewater" ocean views from U.S. Highway 101 will not be blocked, reduced or degraded. . . .Exceptions will be allowed only for 1) residential or visitor serving commercial structures where no other use of the property is feasible. . . .*

LUP Policy D-26 Shell Beach Road. *Shell Beach Road is hereby designated as a Pismo Beach Scenic Highway. Shell Beach Road is the scenic road that ties together much of Pismo Beach. Its character is derived from the views of the ocean on one side and the foothills on the other. To implement this policy the City shall: a. Conduct a special design study of this corridor. b. Require design review for development on all properties abutting the road right-of-way.*

LUP Policy D-28 Visual Quality. *Any new development along city-designated scenic highways should meet the following criteria: a. Development should not significantly obscure, detract from nor diminish the scenic quality of the highway. In those areas where design review is required, or the protection of public views as seen from U.S. Highway 101 is an issue or concern, the City shall require by ordinance a site specific visual analysis. Such analysis shall utilize story poles, photo montages, or other techniques as deemed appropriate in order to determine expected visual impacts, prior to approval of new development. . . .*

LUP Policy LU-B-5 Visual Access (cited above).

The proposed building pad nearest the highway is about 185 feet from Highway 101 and so is required to undergo design review. The City did require design review. However, since the approval was only for the creation of lots, design review consisted of a review of a cross sectional depiction of potential building heights and photos with potential future building heights, extrapolated from a ten foot high story pole, marked on them. It is clear from that information that future houses on the site will be visible from both US Highway 101 and Shell Beach Road. Future houses will not block views of the ocean from US Highway 101; they will obstruct the view of the top of the bluff, but they will not block either surf or blue water ocean views, the surf not being visible due to the height of the bluffs and the blue water ocean views being retained due to the highway's elevation above the site.

Any house along Shell Beach Road will impact views from that road to the ocean. There is no way to avoid this unless the house were sunk completely below the grade of the road or no development were allowed at all. While grading to ensure that a house would be completely below the road grade is possible, it would require an excavation some 15 to 20 feet deep with massive retaining walls. The financial and environmental impacts of those avoidance scenarios would be severe. There is an existing residential development on the north side of the subject site that obstructs views of the ocean from Shell Beach Road and there are others in the vicinity that more or less obstruct the view. This proposal amounts to infill and, as conditioned by the City's permit, will have less of an impact on views from Shell Beach Road than those earlier developments and will be less massive immediately adjacent to Shell Beach Road. The City has conditioned the permit to require that the setback from property lines be a minimum of one-half the building height at the top plate, or the building envelope line, whichever is greater.

This will have particular impact relative to the two lots adjacent to Shell Beach Road which will have building pads at approximately elevation 93 feet. Shell Beach Road lies at about elevation 99 to 100 feet along the site. The setback along Shell Beach Road is 20 feet. If single story houses are proposed on those two lots, they will project up above the elevation of Shell Beach Road by about six feet and would have minimum setbacks from the property lines of the greater of one-half the building height at the top plate or the building envelope line (at least 10 feet (five feet on each lot)). The City approval also requires a setback between principal buildings equal to the average building height. So for single story houses on those lots (and all the others as well) the minimum distance between the two houses would be at least 10 feet and could range upwards from there. For two story houses (up to 25 feet tall), the buildings will reach approximately 18 feet above the road. At the same time, the minimum setback between two story portions of structures on lots 1 and 2 adjacent to the road is required to be a minimum of 40 feet. This would provide a significant view corridor between the houses down toward the ocean. The City's condition is consistent with the LCP and provides an innovative way to tie height to increased interior side setbacks, providing more view corridor as height increases.

The situation on this site can be distinguished from that of the recent appeal (A-3-PSB-95-79) of the subdivision on the Beachcomber site just a few hundred yards north along Shell Beach Road. There, the City approved the concept of two story houses on building pads that were not at or below the grade, but were averaged and where the set backs between houses on the two lots adjacent to Shell Beach Road were not tied to height. In that situation, the

Commission was faced with reconciling the situation by requiring lowering of the building pads to meet the LCP requirement. The Commission found that the same effect could be achieved by limiting the building height on the lots adjacent to the road and that that solution would not require additional grading. Additional grading could have complicated the drainage and driveway approach issues by making it impossible to utilize natural drainage to the street and by requiring steep driveway approaches off of the street, in excess of that allowed by the City's standards.

The proposal incorporates a view corridor along the loop road to the ocean. The City approval requires a 20 foot setback along Silver Shoals Drive. This coupled with the street width of 52 feet provides a 72 foot wide corridor down the length of the street to the blufftop park/open space lot.

The City approval requires that each individual house that is proposed will have to undergo individual design review and has included detailed development standards in Table B-1 of the conditions (please see Exhibit 3). While no houses were proposed or approved with this project, concept plans were approved which, when considered with the required development standards, will result in coordinated design. The City's conditions state that *"Prior to issuance of a building permit, the project plans shall indicate compliance with the architectural design standards for the tract. Development standards shall be in substantial conformity with Table B-1. . . ."* Table B-1 lists the development standards. Also, *"Prior to issuance of building permits for individual homes, a visual analysis of potential view blockage shall be submitted for review and approval pursuant to General Plan/LCP LU--B-5(5) if proposed dwellings are not in substantial conformity with the conceptual designs marked Exhibit E, sheets 1 of 5 through 4 of 5. The City shall make the determination of substantial conformity."*

LUP Policy LU-B-5 states that *"Development of the South Palisades area shall protect visual access to the ocean and to dominant coastal landforms. Specifically, the size and location of structures shall retain to the maximum extent feasible intermittent views of the ocean from U.S. Highway 101."* Policy LU-B-5.2. states that *"Residential units shall be predominantly attached and clustered."* This reflects the general intent in the South Palisades Planning Area to protect views over the area and the general intent of the P-R zone district *". . .to facilitate greater flexibility in the development of any area by providing a means for varying designs and structures best suited to environmentally sensitive locations, including. . .visually sensitive areas."* Zoning Code section 17.033.020, *Uses Permitted Subject to a Conditional Use Permit*, states that *"Uses permitted in the Planned Residential Zone may include and shall be limited to: 1. Dwelling units in detached, attached or multi-storied structures or any combination thereof. . ."* Most residential units now existing in the South Palisades Planning Area are attached and clustered; this has not necessarily resulted in protection of views over the area. This is due in large part to the linear property alignment running down the coastal shelf from Shell Beach Road to the bluffs. While the design of the subject subdivision is for detached, individual single family dwellings, the arrangement of the driveways and building envelopes will provide for a unified design and intermittent view corridors down Silver Shoals Drive and views over the site from Highway 101. This meets the requirement of the LCP and the City's approval is consistent with the LCP and the City's approval is consistent with LUP Policies D-23, D-26, D-28, and LU-B-5, regarding visual issues and heights.

3. General Site Planning Issues

a. **Planned Residential Zone.** The proposed project is zoned Planned Residential (P-R).. According to Section 17.033.010 of the City's Zoning Ordinance, *"The Planned Residential or P-R Zone is designed to facilitate greater flexibility in the development of any area by providing a means for varying designs and structures best suited to environmentally sensitive locations, including geologically hazardous or visually sensitive areas, as delineated in the General Plan/Local Coastal Program Land Use Plan."* The P-R zone district allows *"Dwelling units in detached, attached or multi-storied structures or any combination thereof. . . ."* The P-R zone district has 16 site planning standards contained in Section 17.033.120. That Section is reproduced in its entirety below. An evaluation of conformance follows each numbered standard.

Zoning Ordinance Section 17.033.120 Site Planning Standards. *The standards set forth in this section shall apply to each Planned Residential Development Zone. In its report to the Council, the Planning Commission may recommend such additional standards as it deems necessary or desirable in carrying out the general purpose and intent of this article. The intent of this zone is to encourage and foster sensitive and well-conceived residential development proposals. The following data shall be provided:*

1. Plan: The plan may provide for a variety of housing types.

The plans submitted by the applicant indicate that the development will be detached single family dwellings with the ten residential lots gaining access to Silver Shoals Drive via four driveways and with concept plans illustrating the general type of house allowed on each lot. This is consistent with the approval.

2. Lot area, coverages, Setbacks: The plan shall follow the criteria. . .in Chapter 17.102.

Lot area criteria for the P-R zone district is found at Chapter 17.102 .060(7) which states that lot area shall be *"As established by the Use Permit, or as further identified in the certified Local Coastal Program Land Use Plan."* The LUP does not identify any particular lot area. The City approval shows the smallest lot to be 6982 square feet in size. The Beachcomber appeal (A-3-PSB-95-79) has approval for minimum lots sizes of 6,000 square feet. The City approval and the LCP are consistent.

Section 17.102.080, lot coverage, for the P-R zone states *"Total maximum lot coverages, less existing road rights-of-way and nonbuildable open space areas: As established by the Use Permit, not to exceed 40 percent, or as further identified in the certified Local Coastal Program Land Use Plan."* The City approval stated that maximum lot coverage was to be 40 percent, which is consistent with the standard given in Section 17.102.080

Section 17.102.020(3), front yard setbacks for the P-R zone district states *"As established by the use permit, but not less than fifteen (15) feet."* The City approval required a minimum 20 foot setback from public rights-of-way and 10 feet from the driveways and is therefore consistent with this standard. Section 17.102.030(3), side yard setbacks for the P-R zone district, and Section 17.102.040(3), rear yard setbacks for the P-R zone district state *"As*

established by the Use Permit, or as further identified in the Certified Local Coastal Program Land Use Plan. The Use Permit requires setbacks of a minimum of one-half the building height (measured from the top plate), or building envelope line, whichever is greater. The building envelope lines show a minimum 5 foot side yard setback for interior lots. Therefore, the City approval is consistent with this standard.

3. Height: The height of buildings shall be flexible, utilizing the limitations established for similar uses by Chapter 17.102 herein as a guideline for R-1, R-2 and R-3 zones, unless specific standards are identified in the General Plan/Local Coastal Program Land Use Plan. Heights of structures shall be designed consistent with the efficiency of public services and protection of public views from designated scenic highways

Chapter 17.102 limits height in residential zone districts generally to 25 feet. The LUP specifically limits structure heights in the South Palisades Planning Area to a maximum of 15 feet for lots immediately landward of the bluff setback and to a maximum of 25 feet for all other lots. The City approval limits the most seaward lots to 15 feet, the next six lots inland to 18 feet, and the two adjacent to Shell Beach Road to 25 feet (for views over the site). This is consistent with the LCP.

4. Urban Form: The quality of the physical plan shall demonstrate a standard of excellence in the grouping of buildings, aesthetic control, a harmony and compatibility among the several elements; all designed to preserve the quality of the natural landscape and enhance the quality of the development.

The concept plans show a development of ten residential lots with only four driveways off of Silver Shoals Drive, an integrated design concept (Spanish style), no garages facing the street unless on one of the rear lots 80 + feet back from the street, and increased setbacks from property lines with increases in building height. The City approval is consistent with this standard.

5. Density: The density for any P-R Zone shall be within the density range as provided for by the General Plan/Local Coastal Program Land Use Plan. . . .

LUP Policy LU-B-1 states that *"The south Palisades area is designated for Medium Density Residential. . . ."* The City approval is at a medium density (5 to 10 units/acre) and is therefore consistent with this Policy.

6. Non-residential uses and/or structures. . . .

No non-residential uses and/or structures are proposed; this standard is not applicable.

7. Separation between buildings. . . shall be not less than ten (10) feet.

No buildings are proposed at this time, but the city approval requires setbacks from property lines to be the greater of one-half the building height or the building envelope line (which is typically at least 5 feet on each lot); this would provide a minimum of 10 feet of separation between buildings on their sides. Building setback between principal buildings is required by the City to be equal to the average building height which would equal approximately a minimum of 12 feet for single story structures. The approval is consistent with this standard.

8. Parking: all parking requirements under Chapter 17.108 et. seq. of this Ordinance shall be met.

Chapter 17.108.020(2), minimum off street parking requirements for the P-R zone district states "Two parking spaces per dwelling which may be permitted in parking courts, carports, or garages. . . ." The City approval requires three parking spaces per house which is consistent with this standard.

9. Commercial uses. . . .

There are no commercial uses proposed in this development and so this standard is not applicable.

10. Open Space: Open space shall comprise at least sixty (60) percent of the gross lot area less road right of ways in low density and medium density zones. . . . This open space shall be used for recreational or environmental amenities for collective or private enjoyment by occupants of the development, but shall not include buildings or structures, public or private streets, or driveways. Open space shall be organized in an effort to protect views of the ocean and coastal foothills, as appropriate to the property, based on the approved specific plan. A maximum of fifty (50) percent of the total required open space area may be composed of open space on privately owned properties unless a lower percentage is required in the General Plan/Local Coastal Program Land Use Plan. Every owner of a dwelling unit or lot shall own as an appurtenance to such dwelling unit or lot an undivided interest in the private common open space areas and facilities.

The calculations in this and the following paragraph are also in tabular form on page 16. The gross lot area is 132,422 square feet. Road rights-of-way total approximately 25,000 square feet. The gross lot area minus the road rights-of-way is then 132,422 - 25,000 which equals 107,422 square feet. Open space must comprise 60 percent of 107,422 square feet: $107,422 \times .6 = 64,453$ square feet. The blufftop park/open space lot is about 0.47 acres which equals 20,473 square feet, which is approximately 32 percent of the required open space. Up to 50 percent of the required open space, or 32,227 square feet is allowed to come from the ten privately owned residential lots, which total 88,824 square feet. Therefore the total open space provided by the project as approved is 52,700 square feet (20,473 + 32,227). However, the total required is 64,453 square feet, so the project as approved by the City falls 11,753 square feet short of the required open space and is therefore inconsistent with the LCP.

The City calculated net lot area (gross lot area minus the road right-of-way) is essentially the same as Coastal Commission staff's calculation; the City's figure being 108,900 square feet, Commission staff's being 107,422 square feet, a difference of less than 1500 square feet. Using the City's figure of 108,900, total open space equals 65,340 square feet ($108,900 \times .60$). Subtracting the blufftop park/open space lot area of 20,473 square feet from 65,340 square feet results in 44,867 square feet of remaining required open space. That entire 44,867 square feet of open space was then accounted for by totaling the required planting area on the ten residential lots, which equals 45,216 square feet, or an excess of 349 square feet. However, this is a fundamentally different way of calculating the open space than that contemplated in the LCP and results in the private residential lots contributing 69 percent of

the required open space when the LCP allows no more than 50 percent of the total required open space area to come from the private residential lots.

**Coastal Commission Calculation of Total Required Open Space,
Allotment, and Resulting Deficiency**

Gross lot area	132,422 square feet
<u>Minus road rights-of-way</u>	<u>- 25,000 square feet</u>
Equals	107,422 square feet
Gross lot area minus road rights-of-way x 60 percent equals total required open space	107,422 x .60 = 64,453 square feet
Maximum amount of open space allowed to come from private residential lots is 50 percent of total required open space	64,453 x .50 = 32,227 square feet
Total required open space	64,453 square feet
Minus blufftop park/open space	-20,473 square feet
<u>Minus max. open space allowed from private residential lots</u>	<u>-32,227 square feet</u>
Equals required open space deficiency	11,753 square feet

City Calculation of Total Open Space, Allotment, and Resulting Excess

Gross lot area	132,422 square feet
<u>Minus road rights-of-way</u>	<u>- 23,522 square feet</u>
Equals	108,900 square feet
Gross lot area minus road rights-of-way x 60 percent equals total required open space	108,900 x .60 = 65,340 square feet
Total open space/planting area on the private residential lots	45,216 square feet (= 69 % of total required open space, but LCP says only 50 % of total required open space is allowed from private residential lots, not that up to 50% of the private residential lots may be counted as open space.)
Total open space/planting area on the private residential lots	45,216 square feet
<u>Plus blufftop park/open space</u>	<u>+20,473 square feet</u>
Equals total City-calculated open space available	65,689 square feet
Total City-calculated open space available	65,689 square feet
<u>Minus total required open space</u>	<u>- 65,340 square feet</u>
Equals excess of open space, according to City calculations based on allowing up to 50 % of the private residential lots to be counted as open space, rather than allowing no more than 50 % of the required open space to come from the private residential lots.	349 square feet

The City's reasoning is based on the fact that this area is treated in the non-certified South Palisades Specific Plan and the certified LCP with an orientation toward clustered development, although conventional single family lot development is allowed. In addition, the non-certified South Palisades Specific Plan allows for modifications of the requirements therein, stating *"The Planning Commission may grant a use permit and approve projects which do not conform to the standards of this plan when it has been clearly shown that the proposed project is better than could otherwise be developed; provided, however, that any change is consistent with the Local Coastal Plan and underlying Zoning."* While that flexibility may be desirable, it is flawed in two ways here. First, the change in the method of open space calculation and allotment is not consistent with the LCP nor the underlying zoning, neither of which allow for such a change and, second, the South Palisades Specific Plan is not certified and therefore its standards have no legal effect in project approval.

The City also points to the last sentence of zoning code section 17.033.120(10) which states *"Every owner of a dwelling unit or lot shall own as an appurtenance to such dwelling unit or lot an undivided interest in the private common open space areas and facilities."* In a conventional single family dwelling development like this one, there is no private common open space area. According to the City, it is therefore appropriate to allow a greater percentage of open space on the individual lots to count toward the open space requirement. In this case, based on the City's calculations, the ten private residential lots would be contributing approximately 69 percent of the required open space. However, for the reasons discussed above, the City's approval of this amount of open space allotted to the individually owned residential lots is inconsistent with the certified LCP. Therefore, the Commission finds that Special Condition number 1.b., attached to this permit, is necessary to ensure consistency with the certified LCP.

11. Geologic Report: An engineering geological report shall be prepared and submitted by a registered engineering geologist including a description of the geology of the development site, a geologic map and conclusions and recommendations regarding the effect of geologic conditions and marine conditions where applicable on the proposed development.

The City approval included a condition requiring that the applicant *"Provide a recent engineering geology report. . . ."* which is to *". . . include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations concerning the adequacy for the intended use of the site to be developed by the proposed grading as affected by geologic conditions"*. The City approval was consistent with this standard.

12. Public and Private Streets: The location and arrangement of public and private streets shall provide convenient and safe access to all planned residential developments.

The City approval is consistent with this standard.

13. Hillside Developments. . . .

This is not a hillside development and so this standard is not applicable.

14. Title Documents: *The adopted final plan shall contain appropriate title documents such as proposed covenants, deed restrictions, easements. . . . Said covenants, easements and other provisions. . . may be modified. . . only in accordance with the amendment requirements of the City's Certified Local Coastal Program and with the approval of the City Council.*

The City approval required CC&Rs (Covenants, Conditions, and Restrictions) and is consistent with this standard.

15. Phasing. . . .

The City approval did not contemplate phasing and so this standard is not applicable.

16. Private Maintenance: *Open Space, facilities and street commonly owned by all residents shall be maintained by a homeowners' association.*

The City approval required creation of a homeowners' association for this purpose and so is consistent with this standard.

b. Noise. The appellants contend that the City failed to apply the noise standards in the LUP appropriately and that future potential noise walls along Highway 101 or Shell Beach Road will adversely impact views.

LUP Policy N-3 Location of New Development & Noise-Sensitive Land Uses. *New development shall not be permitted where the noise level, due to existing stationary sources, exceeds the standards of Table N-3; or the noise levels from existing or projected transportation noise exceeds the standards of Table N-4, unless effective noise mitigation measures have been incorporated into the development to reduce noise exposure to acceptable levels.*

An acoustical analysis was conducted which described noise attenuation methods that could be applied to the two lots nearest US Highway 101, including double paned windows, locating noise sensitive rooms (bedrooms, etc.) away from that side of the house, etc. Doing so would bring the existing noise levels down to the standards. Of course, once the two lots nearest the highway are built on, those structures will provide very effective noise attenuation for the lots farther away from the highway. The City approval requires a lot specific noise study prior to issuance of an occupancy permit. Any noise attenuation walls will be subject to view analysis just as any other development. The approval is consistent with the policy.

c. Loop road design is inadequate. The LUP requires a blufftop open space area equal to 100 feet plus the 100 year predicted erosion setback. Here that equals 121 feet (erosion rate of 2.5 inches/year for 100 years = 250 inches = 21 feet, plus 100 feet = 121 feet). The LUP allows for an encroachment by a road of up to 35 feet into the bluff top open space. The City approval limits encroachment into the blufftop open space to 35 feet with the exception of the temporary cul-de-sac. The adjacent property on the south is as yet undeveloped and so no road connection can be made at this time; therefore some method of allowing for vehicles to turn around at the end of the street is necessary. Since this is a temporary intrusion into the blufftop open space and will be removed when the road is continued to the south with the development of that property, and since it allows for additional public access to the blufftop, it would appear to be consistent with the LCP. However, the City did not include a condition

requiring the removal of the cul-de-sac when the parcel to the south is developed. Therefore special condition number 2 is necessary to ensure the removal of the temporary cul-de-sac when the property to the south is developed. With that condition, the proposal is consistent with the LCP.

d. Bluff setback. The appellants contend that the bluff setback is inadequate. Four separate bluff erosion studies were undertaken, one as part of the South Palisades Specific Plan EIR in 1979, which concluded that the erosion rate was 6 inches per year in the vicinity of the subject site, a City-wide bluff erosion study in 1992 which estimated the erosion rate to be 3 to 4 inches per year in the South Palisades area, and two site specific studies. These were undertaken in 1995; and set the erosion rate at 2 - 2.5 inches per year. The City approval applied a rate of 2.5 inches per year which, given the range of estimated erosion rates, is not an unreasonable figure.

LUP Policy S-3 states *"All structures shall be set back a safe distance from the top of the bluff in order to retain the structures for a minimum of 100 years, and to neither create nor contribute significantly to erosion, geologic instability or destruction of the site or require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs."* LUP Policy S-4 requires site specific geologic reports. There is no inconsistency because the City approval included the appropriate site specific geologic studies. The LCP requires a site specific bluff erosion study; it does not set any particular erosion rate.

e. Procedures for Processing Multiple Permits. The appellants contend that the City did not follow the sequencing of permit review and approval as required by the LCP. The appellants cite the following zoning code sections:

(i) 17.105.160 - Filing, which states, *"Projects shall not be deemed filed until all materials, plot plans, elevations, grading plans and other necessary information have been received by the Planning Department. . . . Not later than 30 calendar days after the City has received an application for a development, the City shall determine in writing whether such application is complete and shall immediately transmit such determination to the applicant for such project. If the written determination is not made within the aforementioned 30 days, the application shall be deemed complete."*

(ii) 17.105.165 - Time Limits, which states, in part, *"Applications for tentative tract or parcel maps (subdivisions) in all zones (except R-1 zones) must be accompanied with an approved Development Permit or Conditional Use Permit, in addition to other applicable submittal requirements. The application for the tentative tract or parcel map will not be deemed complete for filing purposes until such time as the associated Development Permit or Conditional Use Permit has been approved for the proposed development."*

(iii) 17.124.060 - Coastal Development Permit Application Procedures, which states that *"The information required in the applicable zone designation as established in the Certified Land Use Plan and Zoning Ordinance shall be submitted prior to the filing of a Coastal Development Permit Application."*

The City approval of this project included approval of a tentative tract map, conditional use permit, coastal development permit, architectural review permit, and landscape permit. All of these applications were combined into one processing package and were heard together by

the Planning Commission and the City Council. This is not consistent with the LCP's application processing sequence as laid out in the cited zoning ordinance sections. Typically, local governments process together the several permits that a project such as this needs. That is not to say that therefore the City may ignore its own particular regulations. Its land use regulations, including processing procedures, if lawfully enacted, like any other of its laws, are legally binding on the City. Presumably the City had some reason for setting up the processing sequence as it did, although that reason is unknown now.

Although the standard of review for appeals is the certified LCP, looking to the Coastal Act for some guidance on this particular issue is helpful. The Coastal Act, in terms of application processing is mostly, if not exclusively, concerned that proper notice be given to actual or potential concerned parties so that they will have an opportunity to make their concerns known to the decision making body. Local governments can, and are required by other state laws to, include additional measures in their processing regulations, such as limits on time to determine application completeness and overall processing time limits, etc. In this particular instance, the City's record indicates that the appellants were notified of the City's hearings and two of them appeared in person and spoke at those hearings. Thus the important requirement to notify those with an interest in the proposal was met. Would the proposal have had a different result if the City had strictly followed its processing sequence and first taken action on a conditional use permit and then at a later, separate hearing taken action on the tentative map? The answer is unknown, of course. The City, and the Commission, may again face the question of proper processing sequence in the future unless the City strictly follows its regulations or amends them. However, as to the question of whether or not this raises a substantial issue, in terms of the City's action being consistent with the LCP, the Commission finds that it does not. Proper notification was given and public comment was taken before the City took action.

C. CONCLUSION

The City approval is inconsistent with the LCP for the reasons discussed above. Although the City has adopted a Specific Plan for the planning area, it has not been certified by the Commission and so is not legally effective. Nevertheless, as modified by the Special Conditions of this Coastal Commission permit, the proposal is consistent with the certified LCP and can be approved.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. A variety of issues has been examined in connection with the environmental impacts of this proposal and conditions developed to address those issues. The Commission finds that, as modified and conditioned by this permit, the proposed project will not have any significant adverse impacts on the environment and can be found consistent with CEQA.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
723 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4862



APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

RECEIVED
MAY 24 1996

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

KATHERINE LUIS

198 EL PORTAL

93449

(805)

773-4064

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government:

PISMO BEACH CITY COUNCIL

2. Brief description of development being appealed:

HOUSING DEVELOPMENT

IN SCENIC HIGHWAY OVERLAY

3. Development's location (street address, assessor's parcel no., cross street, etc.):

SMELL BEACH RD. & SILVER SHOALS
95142 APN 010-152-016 TRACT 2173 PISMO BEACH CA.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: LIMITED

c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-PSB-96-059

DATE FILED: 5/24/96

DISTRICT: Central Coast

EXHIBIT 1

A-3-PSB-96-059

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: MAY 9, 1996

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
SILVER SHOALS PARTNERSHIP - PISMO BEACH
RIK LOUGHEAD & JOHN NICHOLAS
MORE COMPLETE ADDRESS WILL FOLLOW DIRECTLY
IN LETTER

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) DEL JORDAN
126 BEACHCOMBER
PISMO BEACH, CALIF 93449
- (2) DIM JEWEL
118 SILVER SHOALS
PISMO BEACH, CALIF 93449
- (3) PHIL TERESI
106 SILVER SHOALS
PISMO BEACH CALIF. 93449
- (4) S. E. BELL
160 SILVER SHOALS
PISMO BEACH, CALIF. 93449

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

Ex. 1
A-S-PSB-96-059
p2

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

- BULK OF BUILDINGS ON LOTS 1 & 2
IS OVERWHELMING ON THE NARROW,
TWO LANE SCENIC SHELL BEACH ROAD,
- NOISE MITIGATIONS ON SHELL BEACH ROAD
AND HIGHWAYS 1/101 WOULD DESTROY VIEW
CONSIDERATIONS - DOES NOT LEAVE ADEQUATE
OR VIEW CORRIDOR
OPEN SPACE. - NO CERTIFICATION BY COASTAL COMM.
OF SPECIFIC PLAN WHICH IS POOR. - FOR THE
MOST PART THE DESIGN IS CREATIVE!

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

*Scenic Highway
Committee,
Pismo Beach*

Katherine D. Luis
Signature of Appellant(s) or
Authorized Agent

Date 5-24-96

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____ to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

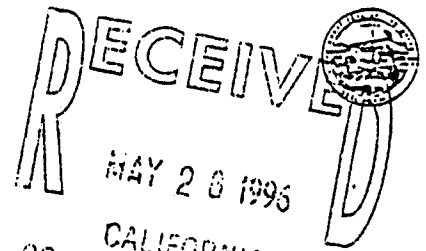
Date _____

Ex 1
A-3-PSB-96-059
p 3

CALIFORNIA COASTAL COMMISSION

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

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT



Please Review Attached Appeal Information Sheet Prior To Completing This Form.

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

ANATOL J. JORDAN
126 BEACHCROSER (SHELL BEACH,
CA 93449 (XOS) 773-3810
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: CITY OF PISMO.

2. Brief description of development being appealed: ON SILVER SHOALS, 10 RESIDENTIAL LOTS
ONE OPEN SPACE LOT, PROPOSED SUBDIVISION
OF (FOR) 10-SINGLE FAMILY DWELLINGS ALLOWING
TWO STORY BUILDINGS

3. Development's location (street address, assessor's parcel no., cross street, etc.): NORTH SILVER SHOALS DRIVE
@ SHELL BEACH RD 010-152-010

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: X
- c. Denial: _____

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-PSB-96-059

DATE FILED: APPEAL ORIGINALLY FILED 5/24/96

DISTRICT: CENTRAL COAST

H5: 4/88

EXHIBIT 2
A-3-PSB-96-059

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. City Council/Board of Supervisors d. Other _____

6. Date of local government's decision: MAY 7 1996

7. Local government's file number (if any): 95-142

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
MR. RICK LOUGHEAD
991 HANFORD DR
DISMO BEACH, CA 93449

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) M/Mrs BILL GRIFFIN
130 SILVER SHOALS
SHELL BEACH, CA 93449

(2) M/Mrs LANIER HARPER
136 SILVER SHOALS
SHELL BEACH CA. 93449

(3) KAY LEWIS
TEL PORTAL
SHELL BEACH, CA

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

Ex. 2
A-3-PSB-96-059
P2
4

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

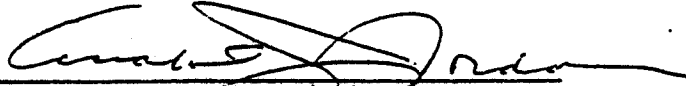
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(REFER TO ATTACHED.)

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or
Authorized Agent

Date May 25, 1996

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Ray Lewis to act as my/our representative and to bind me/us in all matters concerning this appeal.


Signature of Appellant(s)

Date 5/25/1996

Ex 2
A-3-PSB-96-059
P3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by:
 - b. City Council/ Board of Supervisors
6. Date of local government's decision: May 7, 1996
7. Local governments file number: Project 95-142

Section III. Identification of Other Interested Persons

- a. Name and mailing address of permit applicant:
Silver Shoals
A California Limited Partnership
Mr. Rick Loughead
991 Hanford Dr.
Pismo Beach, CA 93449 (805) 773-5761
- b. Names and mailing addresses s available of those who testified (either verbally or in writing) at the City/county/port hearing (s). Include other parties which you know to be interested and should receive notice of this appeal.

Section IV. Reasons Supporting this Appeal

There are issues with the public and private scenic views, geologic/bluff retreat/park & open space, noise, density and proper notice, time and procedures meeting requirements of adequacy of CEQA, The Coastal Commission and local Pismo Beach General Plan and Zoning Ordinance requirements. The Project is not consistent with and does not conform to the General Plan / Local Coastal Plan, Zoning Ordinance and EIR. The specific pages of the various rules, laws and ordinances are attached for your convenience. The items that support this appeal are highlighted. See attached.

A comparison of the projects plans and supporting documents will have to be compared to the requirements of rules and laws governing a large project such as this.

For instance, the geologic reports, two of them were done and both were inadequate. When the city required the second review report a decision was made at that time that whatever the report stated the city would go with it no matter what. The firm that was hired to do the report was a firm that had recently prepared a report for Project 92-153 before you on appeal now. Their study for the 92-153 project showed a 2 inch per year retreat rate which was the same rate of retreat that was recommended for review. All of the studies failed to utilize recorded surveys dating to 1945 and 1946 and a

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USGS monument installed in 1871 and recovered in 1961. These actual measurements provide the actual retreat for 50 years on the subject property Southern boundary and other useful information on nearby properties less than 200 feet away. The reports make assumptions that just are not factual. The 2.5 inch retreat is just inadequate and it is not accurate.

There was only a limited visual analysis performed and the GP/LCP requires a much more indepth study. To adequately perform the visual analysis a cross section drawing needs to be prepared and story poles placed so that the neighbors and planning commission , city council and coastal commission can see exactly what the impact will be. Photographs are required to be taken after the placement of the story poles as required by CEQA showing the maximum impact. This has not been done. A person held a 10 foot pole and assumptions were made and a few photographs were taken that were used in a report. The city in essence performed the limited study and billed the developer for the study when in fact the contractor for the city did not know what CEQA required and the requirements of GP/LCP were not met. Assumptions were made as to the impacts and the degree of blockage has never been computed as required by the Zoning Ordinance, EIR and General Plan/LCP.

The EIR states the density for SFR to be 4 du/ac. If planned residential is utilized as recommended then maybe a density up to 7 du/ac could be achieved. In this project the Open Space Park/ Bluff Retreat is being counted as an exception to the South Palisades Specific Plan which has never been certified by the Coastal Commission. The GP/LCP and Zoning Ordinance do not allow for the inclusion of the area outside the buildable lot area. This calculation somehow allows for essentially more density along with an exception of the Specific Plan to permit a driveway less than 24 feet in width. The attempt here is to make the project denser. Minimum open space of the lots was to be 60% and the maximum lot coverage was to be 40%. Exceptions were made and only two lots offer 60% or more open space. The simple solution would be 4 du/ac. Then the fire and safety and minimum turning area required for a 90 degree turn would be met. The driveways do not need to be paved in poured asphalt or concrete they could be a combination with some open blocks and grass etc. There are a lot of options besides the increased density and lack of planning. The 18 foot heights will surely block substantially the private views. There is no proof otherwise. I do not "know" my elevation but a document states that my neighbors house is 74.9 feet at his driveway/garage/deck. The plans for the nearest lot to him shows an elevation of 70 feet.. We know his ceiling height is 8 feet . So if a house is built on a 70 foot elevation lot with a 18 foot roof line then the city would be assuming that my neighbors eyes would extend 5 feet above his deck sitting down or standing up take your pick. My neighbor is about 6' tall and his wife is shorter than he. I will be impacted in a similar manner. The visual impact has not been adequately studied or documented. The Coastal Commission commented on project as to the public scenic views on designated Scenic Highways such as Shell Beach Road and Hwy. 101. Those comments were largely ignored and no adequate study has been preformed.

Keep in mind that this Silver Shoals project and the Beachcomber project combined

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are somewhere between 20 % and 25% of the entire study area. They are lot sales only and at this point no effective and adequate study has been done as pertains to geologic, visual and noise. The buyers of the lots could not possibly envision the problems that they will face when their plans and dreams come face to face with the lack of adequate planning in the name of it is only lot sales. The time of the city and coastal commission will be taken up with 33 hearings on things that could be addressed now. Please do not make this work dependent on future owners and public officials. Clear up once and for all the questions raised here for these developers and everyone that will be impacted. Our only request is for a development that meets the minimum standards. This does not.

There is no reason to build a road that has not been built fully with the intention to put in speed bumps to impede and deter access to the beach. The road is below the city standards today. It is a half width also known as a "half-wit" road. There is no space for traffic and pedestrians. The residents are heavily impacted because of past actions. When the road is improved it will be a full width road with sidewalks, curbs and adequate space for the residents and visitors. Please allow the road to be fully improved and then see if there is a future need for speed bumps. There is no justification for the speed bumps.

There is a loop road proposed for this project and the loop will only be half completed. If and when the neighbor to the south develops their property then the loop will not align because of the failure to plan and the geologic setback is unrealistic. There are recorded surveys to prove the assumptions of photographic analysis were incorrect.

See GP/LCP

Design D-2. C.

D-3. b

D-23

D-26

D-28

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Checklist for South Palisades

17.006.0365 Development: On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to: **subdivision pursuant to the subdivision Map Act** (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, **demolition**, of alteration of the size of any structure, including any facility of any private, public or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes and kelp harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

_____ Topographic Map (existing) with adjacent property and to the middle of the streets; Show 20 degree rule line; show 50'; etc.

_____ Geologic Study Report

_____ Noise Study Report--pay particular attention to exterior noise levels; both current and future. Highway 101 and Shell Beach Road mitigation will be necessary.

_____ Visual Analysis Study and Report.

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_____ Application for permit(s) and notification.
What is the order? Can all the permit(s) be obtained at once?
Can the permit(s) have one combined hearing? What and
When is the minimum Public Notice? Am I trying to hide
anything? Do I want a project the is consistent with the law?
Do I want a project that conforms with the General Plan/ Local
Coastal Plan, Zoning Code, California Environmental Quality
Act and Specific Plan? Do I want a quality development that
has the support of the neighbors, the Planning Commission, the
City Council and the Coastal Commission? Do I want a
development that has the highest possible value?

Mitigated Negative Declaration
Conditional Use Permit
Vesting Tentative Tract Map
Coastal Development Permit
Architectural review Permit
Landscape Permit

17.105.080 Views It shall be the responsibility of the City to
protect scenic views consistent with the General Plan/ Local
coastal Program Land Use Plan and all of its Elements.

1. Conditional Use Permit--obtain first in order that the
applicant may apply for a (2.) Tentative Tract Map. (See
17.105.165 time limits) "Applications for tentative tract or
parcel maps (subdivisions) in all zones (except R-1 zones) must
be accompanied with an approved Development Permit or
Conditional Use Permit, in addition to other applicable
submittal requirements."

(3.) 17.124.060 Coastal Development Permit Application
Procedures

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The information required in the applicable zone designation as established in the Certified Land Use Plan and Zoning Ordinance shall be submitted prior to the filing of a Coastal Development Permit Application.

17.121.240 Appeals of Staff Decisions In case an applicant or any other person is not satisfied with the action of the City Planner on a permit decision, ordinance interpretation or similar matter, he may appeal in writing to the Planning Commission. Upon receipt of such appeal, the Public Services Department shall set the matter for public hearing and notice thereof to be given as provided in Subsection 17.121.210. The written appeal shall include a description of the nature and reasons for the appeal.

17.105.160 Filing Projects shall not be deemed filed until all materials, plot plans, elevations, grading plans and other necessary information have been received by the Planning Department. The Planning department shall indicated upon the file copy of the Tentative Map and accompanying data the date of filing. Not later than 30 calendar days after the City has received an application for a development, The City shall determine in writing whether such application is complete and shall immediately transmit such determination to the applicant for such project. If the written determination is not made within the aforementioned 30 days, the application shall be deemed complete.

17.105.165 Time Limits The City shall approve, conditionally approve or disapprove within one year after the date of filing (see Section 17.105.160), any development applications other than subdivisions. Subdivision applications shall be approved, conditionally approved or disapproved within fifty (50) days after the filing thereof or within one year

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of the date of filing if an Environmental Impact Report or additional information is required. Applications for tentative tract or parcel maps (subdivisions) in all zones (except R-1 zones) must be accompanied with an approved Development Permit or Conditional Use Permit, in addition to other applicable submittal requirements. The application for the tentative tract or parcel map will not be deemed complete for filing purposes until such time as the associated Development Permit or Conditional Use Permit has been approved for the proposed development. In the event the City fails to approve, conditionally approve or disapprove a development application within the time periods stated above, such failure to act shall be deemed to be approval of the project, provided however, the City reserves the right to complete any environmental determinations in process at the time of approval and place conditions on said development to ensure that the provisions of the California Environmental Quality Act, the City's adopted Environmental Guidelines, Zoning Ordinance and General Plan are met. Extensions of time limits, as stated above, may be made upon the consent of the City and the applicant.

It appears that one would think that there are procedures that allow for what the Specific Plan states in its Purpose that "This 48 acre area is currently subdivided into primarily long, narrow 2 to 4 acre lots, which do not lend themselves **easily to the quality development that this PRIME COASTAL AREA DESERVES.**"

The documents that govern land use in Pismo Beach have language that appears early and reappears often that mandates that Pismo Beach should receive careful recognition and planning, that the Pacific Ocean is the most significant single natural resource, that the Pacific Ocean is valued for its scenic

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beauty, that all land use proposals shall respect, preserve and enhance the most important natural resources of Pismo Beach, that natural resources are essential to the quality of life of Pismo Beach, that natural resources are the key foundation of Pismo Beach, that conservation and protection of natural resources shall be the key focus of the General Plan, that the unique geographical character of Pismo Beach is recognized as the foundation for all other aspects of the community, that the physiographic characteristics enhance the quality of life of residents and visitors and shall not be wasted, destroyed or neglected, that they are generally nonrenewable and provide many of the scenic, historic, economic, recreation, open space and ecological values for the community, that the resources are prized by the State, National and even International community, that solutions for co-operative use shall always be based on retaining the areas fragile charm and resources, that the importance of conservation planning cannot be underestimated, that the intent of policies is to prevent waste, haphazard exploitation, destruction or neglect, that resources make up the special essence of Pismo Beach's environment, natural resources are highly interrelated and must be viewed in context with one another when considering development within the city.

We are talking about what makes Pismo Beach, *Pismo Beach* and the ECONOMIC LIFESTREAM , things that are at the CORE of Pismo Beach's identity and existence.

What I am beginning to feel as I look more closely at this situation is a project that is getting piecemeal planning. It appears to be an error of omission rather than commission. Rather than being a lie it is a half-truth and from a moral standpoint I feel that a half-truth is equal to a lie. As we go down the road of time, it might be said, "You never asked that!" I am asking, praying and requesting that you ask for an

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state General Plan requirements and Coastal Plan requirements. The information contained in the documents state that Pismo Beach has been a popular tourist destination since the 1880's. Tourism is the dominant economic activity in Pismo Beach. The Rail Road arrived in 1895 and the Highway came in 1912-- vacationers had easy access to the new town.

Pismo Beach had 7,669 residents according to the 1990 U. S. Census and during Summer holidays the population increases by a factor of 3 times.

The Rail Road no longer stops at Pismo Beach but the U. S. 101 Freeway now forms the spine of the city, bringing travelers along this route to their only contact with the ocean edge for some three hundred miles between San Francisco and Santa Barbara County. (GP/LCP p. 3)

Using the "Spine" analogy, it might be said that Shell Beach is the Head, the Face and the Eyes and the way the area in the South Palisades area is developed could have the effect of blinding Pismo Beach.

There are included in the General Plan/LCP a set of guiding Principles and Policies.

Principle P-1 Balanced transportation (p. C-10-11)

A. Visitor traffic--Because Pismo beach is a visitor oriented community, good access is essential. It is imperative that good access via U. S. 101 be maintained.

Policies C-2 Freeway U. S. 101-- 6 lanes--Scenic Highway Designation

It is very difficult to have it both ways--a Scenic Highway and no view.

Conservation & Open Space Element CO-3

Natural Resources- The conservation issues focus on the natural resources of Pismo Beach including air, water, biology, archeology and physical geography.

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EIR for this and other projects that are not consistent with the General Plan/LCP, Specific Plan, or Ordinances.

“COMMUNITIES SHOULD BE PLANNED WITH AN EYE TO THE EFFECT MADE UPON THE HUMAN SPIRIT OF BEING SURROUNDED BY BEAUTY INSTEAD OF UGLINESS.”

THOMAS JEFFERSON

“It is highly prized, that edge of California where the earth confronts the sea.”

Paul Sedway

“To begin with

The sea is a sound

A down and around pound of sound

A lot of swish and splish

The smell of something big”

Mason Williams

The General Plan/ Local Coastal Plan adopted November 24, 1992, Introduction:

The Pismo Beach General/ Local Coastal Program is the City's Constitution for physical development and change within the existing and future city limits. The Plan is a legal mandate that governs both private and public actions. The general plan is atop the hierarchy of local government law regulating land use.

Subordinate to the general plan are specific plans, ordinances and zoning laws. Zoning laws must conform to the adopted general plan.

A large portion of Pismo Beach lies within the Coastal Zone. The Coastal Act of 1976 requires the city to have a Local Coastal Plan certified by the State Coastal Commission. The Pismo Beach plan is a combined document meeting both the

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The intent of policies is to guide the management of these resources to enhance the quality of life of residents and visitors and to prevent waste, haphazard exploitation, destruction or neglect.

Because the supply of natural resources is limited, the importance of conservation planning cannot be UNDERESTIMATED. THE RESIDENTS AND VISITORS TO PISMO BEACH DEPEND HEAVILY ON NATURAL RESOURCES, WHETHER THEY BE WATER, CLEAN AIR, THE SCENIC AND RECREATIONAL QUALITIES OF THE COMMUNITY, OR GAS OR ELECTRICITY FOR COOKING.

RESPONSIBILITY FOR CONSERVATION OF NATURAL RESOURCES LIES NOT ONLY WITH THE CITY COUNCIL, PLANNING COMMISSION AND OTHER GOVERNMENTAL BODIES, BUT DEPENDS ON THE WISE USE OF NATURAL RESOURCES BY EVERY RESIDENT AND VISITOR.

Pismo Beach is located in a special environmental setting on a narrow marine terrace border by the beach and ocean on one side and the hills on the other. It is the only community in central California where Highway 101, the ocean, and the community converge in close proximity. The major physical factors and resources affecting the community's development include soil and landforms, such as the sandy beaches, coastal bluffs and surrounding hills, the surface and ground water resources, climate, air quality, unique biological habitats and the Pacific Ocean. These resources make up the special essence of Pismo Beach's environment. They are highly interrelated and must be viewed in context with one another when considering development within the city. These unique interrelated resources are what makes Pismo Beach, PISMO BEACH.

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OPEN SPACE IS ONE OF MAN'S MOST IMPORTANT NONRENEWABLE RESOURCES, A PREMIUM SPACE THAT, once destroyed can only be recovered by expending tremendous energy and cost.

Pismo Beach relies heavily on its SCENIC, NATURAL SETTING TO MAINTAIN ITS ECONOMIC LIFESTREAM OF VACATIONERS AND TOURISTS, not to mention retirees and families, who desire to live in Pismo Beach because of its amenities.

Psychological function:

The psychological sense of mountains, cliffs and the sea that are at the CORE of Pismo Beach's IDENTITY AND EXISTENCE.

Principles P-2 "Essential to the quality of life of Pismo Beach"

Natural Resources--Key Foundation of the City. Pismo Beach is the ocean, beaches, hills, weather and related eco-system. Conservation and PROTECTION OF THESE resources shall be the KEY FOCUS OF THE General Plan.

The unique geographical character of Pismo Beach is recognized as the foundation for all other aspects of the community.

These physiographic characteristics enhance the quality of life of residents and visitors and shall not be WASTED, DESTROYED, OR NEGLECTED.

They are generally NONRENEWABLE and provide many of the SCENIC, HISTORIC, ECONOMIC, RECREATION, OPEN SPACE AND ECOLOGICAL VALUES FOR THE COMMUNITY.

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P-3 Resources & Open Spaces Belong to Everyone

Pismo Beach is an integral part of the larger California coastal community, linked by shared resources that are PRIZED BY THE STATE, National and even international community. Congenial and cooperative use of these resources by both residents and visitors is recognized.

Solutions for co-operative use shall always be based on retaining the areas fragile charm and resources.

P-6 The Big Three The Ocean --A resource for everyone
The ocean, coastal cliffs, and shoreline resources are vital to Pismo Beach for their wildlife habitat, recreational use, open space, SCENIC VALUE and the city's overall economy. These natural assets will be protected and made available to all.

CO-16 Pacific Ocean, Beach and Coastal Cliffs.

Background. The Pacific Ocean is the most significant single natural resource and open space for Pismo Beach. It provides a number of Unique Opportunities. It is valued for its scenic BEAUTY.

LU-6-Principles

P-13 All land use proposals shall RESPECT, PRESERVE AND ENHANCE the most important natural resources of Pismo Beach; those being the ocean and beaches, hills, valleys, canyons, and cliffs.

P-14 Immediate Ocean Shoreline.

The ocean, beach, and the immediate abutting land are recognized as an irreplaceable national resource to be enjoyed by the entire city and region.

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This unique narrow strip of land should receive careful recognition and planning.

The purpose of the beach is to make available to the people, for their benefit and enjoyment forever, the scenic, natural, cultural and recreational resources of the ocean, beach and related uplands.

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NOTICE OF FINAL ACTION BY THE CITY OF PISMO BEACH
ON A COASTAL DEVELOPMENT PERMIT

DATE: MAY 9, 1996

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

ATTN: STEVE GUINEY

FROM: City of Pismo Beach
Community Development Department
PO BOX 3/760 MATTIE ROAD
Pismo Beach, CA 93449

RE: Action by the City of Pismo Beach on a Coastal Development Permit for the following project located within the Pismo Beach Coastal Zone:

FINAL LOCAL
ACTION NOTICE

REFERENCE # 3-PSB-96-015

APPEAL PERIOD 5/15 - 5/29/96

APPLICANT:

OWNER/AGENT

Name: Silver Shoals Partnership
Address: %Richard Loughhead, 991 Hanford, Pismo Beach, CA 93449
Telephone No. (805)773-5761

Application File No.: 95-142
Site Address / APN: Silver Shoals Drive between Shell Beach Road and the Pacific Ocean, Pismo Beach / APN 010-152-016
Project Summary: Subdivision of one 3.04 acre parcel into ten residential lots and 121 foot public access and recreation area lot dedication.
Date of Action: May 7, 1996
Action by: Planning Commission City Council Staff
Action: Approved
 Approved with conditions/modifications
 Denied
 Continued: to meeting of: _____
Attachments: Amended Conditions of Approval
 Findings
 Staff Report
Appeal Status: YES Appealable to the Coastal Commission (see note)

NOTE: Appealable to the California Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within ten working days following Coastal Commission receipt of this notice. Any appeal of this action must be filed in writing to the Coastal Commission using forms obtainable from the Santa Cruz district office at the address identified above.

EXHIBIT 3

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RECEIVED
MAY 14 1996
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

EXHIBIT B
CITY OF PISMO BEACH
PERMIT NO. 95-142 / TM 2173, CUP, CDP, ARP, & LP
CONDITIONS OF APPROVAL
PLANNING COMMISSION MEETING OF APRIL 9, 1996
CITY COUNCIL MEETING OF MAY 7, 1996

The conditions set forth in this permit affect the title and possession of the real property which is the subject of this permit and shall run with the real property or any portion thereof. All the terms, covenants, conditions, and restrictions herein imposed shall be binding upon and inure to the benefit of the owner (applicant, developer), his or her heirs, administrators, executors, successors and assigns. Upon any sale, division or lease of real property, all the conditions of this permit shall apply separately to each portion of the real property and the owner (applicant, developer) and/or possessor of any such portion shall succeed to and be bound by the obligations imposed on owner (applicant, developer) by this permit.

CASE NO: 95-142 - (TM 2173, CUP, CDP, ARP, & LP) PAGE 1/17
APPLICANT/OWNER: SILVER SHOALS PARTNERSHIP
LOCATION/APN: NORTH SILVER SHOALS DRIVE / 010-152-016

AUTHORIZATION: Subject to the Conditions of Approval stated below and incorporated herein by reference, approval of Permit No. 95-142 grants the permittee permission for the following:

- 1) Tentative Tract Map 2173 consisting of 10 residential lots and 1 park/open space lot.
- 2) Approximately 0.47 acre bluff retreat area/park with landscaping, a trash receptacle, and passive recreation improvements located within the bluff top including a 4' wide pedestrian trail, a 10' wide Class 1 bicycle/pedestrian pathway, a park bench, ~~and a sand shower~~ two picnic tables and two barbecues. (added by City Council on May 7, 1996)
- 3) New meandering sidewalks (4' wide) within the right-of-way and a 6' wide public utility easement (PUE) area.
- 4) A 10' wide PUE / bicycle easement located west of Shell Beach Road.
- 5) Modifications from the Specific Plan allowing (a) the bluff top park to be counted as a portion of the project's open space, (b) three driveways to have a 16 foot width versus 24 foot, and (c) perimeter yard fencing within the setback (as specified by Table B-1).

Said items and improvements shown on the approved plans with City of Pismo Beach stamp of May 9, 1996. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach.

EFFECTIVE DATE: This permit shall become effective upon the passage of 20 days following the City Council approval, provided that an appeal has not been filed to the Coastal Commission within 20 working days following the receipt by the Coastal Commission of the City's Notice of

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CASE NO: 95-142 - (TM 2173, CUP, CDP, ARP, & LP) PAGE 2/17
APPLICANT/OWNER: SILVER SHOALS PARTNERSHIP
LOCATION/APN: NORTH SILVER SHOALS DRIVE / 010-152-016

Action. The filing of an appeal shall stay the effective date until an action is taken on the appeal.

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. recordation of the final, City-approved map at the County Recorder's Office) of this permit. The permits will expire on **May 7, 1998** unless inaugurated prior to that date. Time extensions may be granted as prescribed by Zoning Code Section 17.121.160.

STANDARD & SPECIAL CONDITIONS, POLICIES AND SELECTED CODE REQUIREMENTS

Conditions as indicated below have been deemed to be of a substantive nature on the basis of the Planning Commission's decision. These conditions cannot be altered without Planning Commission approval.

A) CONDITIONS SUBJECT TO COMPLIANCE PRIOR TO RECORDATION OF A FINAL MAP:

PUBLIC SERVICES DEPARTMENT/PLANNING DIVISION:

1. RECORDATION OF PERMIT AGREEMENT. No later than 30 days following the Effective Date of this Permit, this Permit Agreement shall be recorded with the County Recorder's Office, and evidence thereof provided to the City. Cost associated with filing of this document shall be the responsibility of the applicant.
2. CC&R'S. CC&R's providing for the creation of a Homeowners Association shall be submitted to the City for review by the Public Services Department and City Attorney. The CC&R's shall create a legal entity pursuant to the laws of the state for the control and maintenance of all land and improvement to be held in common. This legal entity shall possess the authority to make sufficient assessments and be responsible for the maintenance of all facilities and shall be self-sustaining. The project's CC&Rs shall clearly define (a) driveway paving responsibilities (initial construction and maintenance), (b) street tree installation and maintenance, (c) construction and maintenance of retaining walls which cross property lines, (e) landscaping along the meandering sidewalk and the Shell Beach Road public bikepath, and (f) any other common or shared lot facilities. The project's CC&R's shall be approved by the City prior to map recordation.
3. BLUFF TOP PARK LANDSCAPING, IRRIGATION, AND FACILITIES. Final landscaping, irrigation, and facility plans encompassing the open space lot (bluff top park

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CASE NO: 95-142 - (TM 2173, CUP, CDP, ARP, & LP) PAGE 3/17
APPLICANT/OWNER: SILVER SHOALS PARTNERSHIP
LOCATION/APN: NORTH SILVER SHOALS DRIVE / 010-152-016

area) shall be submitted by the project applicant to the City for review and approval by the Parks Recreation Beautification Commission. Plans shall be prepared pursuant to PBMC 15.48. **Cost of the plan check and inspection shall be paid by the applicant upon submittal.** Detailed calculations shall be provided on the face of the plan indicating the provision of the total lot area in planting and vegetation. Plans must comply with the provisions of the South Palisades Specific Plan. Project facilities shall include a ten foot wide concrete path, four foot wide unpaved path, a park bench, sand shower, and trash receptacle unless altered by the Parks Recreation Beautification Commission. The landscape plans shall include the following provisions:

- a. Water Conservation Checklist
 - b. Landscape Design Plan (including plant list)
 - c. Irrigation Design Plan
 - d. Certificate of Substantial Compliance
4. COMPLIANCE WITH SOUTH PALISADES SPECIFIC PLAN. All applicable standards of the South Palisades Specific Plan shall be shown on the final map and/or improvement plans including the requirements listed in Section 8 Specific Plan Development Requirements unless otherwise specified herein.
5. ROAD ALIGNMENT. The road right-of-way, excluding the project's temporary cul-de-sac, shall not encroach greater than 35 feet into the bluff top park. *Curving on the project's cul-de-sac shall be concrete. The concrete shall be 8 inches on the ocean side versus the 6 inches on the project plans. (added by City Council, May 7, 1996)*

PUBLIC SERVICES DEPARTMENT/PUBLIC WORKS DIVISION:

6. BLUFF PARK DEDICATION. TM 2173 shall delineate (a) the open space/bluff top park as Lot 11, (b) the dimensions and area of Lot 11, and (c) that Lot 11 is to be dedicated to the City of Pismo Beach as park/open space land. Lot 11 shall extend from the western edge of the loop road's right-of-way (including the temporary cul-de-sac) to the mean high tide line or other appropriate western boundary as determined by the City of Pismo.
7. Street Radius/Turn. TM 2173 shall provide a knuckle turn adjacent to Lot 9 consistent with City Engineering standards as shown on Exhibit 1, "Knuckle at Loop Road."
8. FINAL MAP/SUBDIVISION AGREEMENT/IMPROVEMENT PLANS. A final map and subdivision agreement, and public improvement plans shall be prepared in accordance with the Map Act and local ordinances and submitted for checking and approval by the

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City Engineer. The final map and subdivision agreement shall be approved, executed and recorded prior to the issuance of a building permit.

9. BONDING. Bonding shall be provided to the City of Pismo Beach in the form of a Performance Bond and a separate Labor and Materials Bond in amounts as stipulated by City Ordinance. These securities shall be provided as bonds, set-aside letters and/or irrevocable letters of credit in a format acceptable to the City Attorney. These bonds shall be expressly for the purpose of guaranteeing the installation of public or semi-public improvements required for the development. All required bonds shall be presented to the City as part of the submittal of a Final Map. Monument Bonds may also be required per the City Engineer.
10. GUARANTEE BOND/WARRANTY BOND A Warranty/Guarantee Bond shall be provided to the City to be used to ensure that any and all public or semi-public improvements associated with the project are in proper working order/condition for a minimum period of one (1) year after a final inspection of the project, or after acceptance of the public improvements by the City Council of the City of Pismo Beach, whichever is applicable and whichever is later. Said bond will be in amount equal to ten-percent (10%) of the costs of the completed public or semi-public improvements. Said bond may be held for such additional period (beyond one year) as may be deemed appropriate by the Director of Public Services.
11. FEES. All fees required for processing or approving the final map shall be paid at the time of the final map submittal. Variable fees will be estimated by staff, and any discrepancy refunded or collected upon final map approval. All special assessments (from Assessment District) will be paid in full, or will be reapportioned at the subdivider's expense.
12. RIGHT-OF-WAY DEDICATION. Offers for street right-of-way dedications shall be made for the proposed streets upon the map. Any additional rights-of-way, within or without the tract boundaries that are necessary for the completion of the proposed project shall be provided.

Full width right-of-way for the complete loop street will be required per the Municipal Code and the Public Services Director. All rights-of-way are to be provided by the final map or by separate document prior to the recordation of the final map.

The entire loop street will have one name (North Silver Shoal Drive),

13. EASEMENTS. Any necessary easement (utility, drainage, grading, etc.) shall be provided

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by a final map or by separate document prior to the recordation of the final map. The final map shall denote and relocate the Unocal Pipeline Easement from Lots 9 and 10 to the right-of-way of North Silver Shoals Drive.

Public easements for water lines, sanitary sewer lines, and storm drain systems shall be of 20-foot width or larger where required to accommodate certain existing and/or proposed facilities.

If City property or right-of-way is to be abandoned, easements for existing utilities will be identified and retained.

14. EXISTING OVERHEAD UTILITY LINE UNDERGROUNDING. All existing overhead utility lines presently running across or located along the frontages of the project and any transformers or other equipment shall be relocated and placed underground in facilities designed by the developer/individual utility companies and approved by the City Engineer prior to the approval of the final map.
15. ON-SITE UTILITY LINES/UTILITY PLAN. All on-site utility extensions, transformers or other equipment serving this project shall be placed underground in facilities approved by the City Engineer and Building Official.

A composite utility plan showing all existing and proposed facilities, mains, and laterals be finalized and approved by the Public Works Division. The composite utility plan will show the finalized location of the water mains, domestic laterals, fire hydrants and fire protection laterals as approved by the City Engineer and the Fire Chief.

16. GRADING AND DRAINAGE. A grading and drainage plan shall be finalized and approved by the City Engineer and Building Official prior to the approval of the final map. On-site or off-site grading associated with this development will not be permitted until the plan is approved. The lot shall be graded to drain the street and/or structures to carry surface water run-off from the site without impacting adjacent property. The grading plan shall correct the grading notation (fill slope) indicated on Sheet 1 (Lots 3 through 10) according to the requirements of the City Engineer. No fill shall occur on Lots 1 through 10 as specified by the General Plan/LCP.

Any information required by the City Engineer to review the adequacy of the proposed drainage plan shall be provided by the Subdivider.

17. EROSION CONTROL PLAN. An erosion control plan shall be finalized and approved by the City Engineer and Building Official prior to the approval of the final map. The

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erosion control plan shall contain components as specified in the project's negative declaration. ~~and shall address proper erosion control for the proposed sand shower.~~
Eliminated by the City Council, May 7, 1996.

18. IMPROVEMENT PLANS. Improvement plans for all public, semi-public and all off-site construction shall be prepared on standard City plan, or plan and profile sheets. Said plans shall be submitted for checking and approved by the City Engineer prior to the approval of the final map. The subdivider, his engineer, and contractor are encouraged to cooperate with the City to accomplish the design and construction of the balance of improvements on the existing norther portion of Silver Shoals. The plans shall detail the location, type and adequacy of existing and proposed:
- a. Water lines and facilities for domestic supply, fire protection, and landscape irrigation;
 - b. Sewer line and facilities for sanitary collection systems;
 - c. Right-of-way improvement of adjacent public streets per the Public Services Director, including: standard curbs, gutters, driveways and sidewalks;
 - d. Traffic control signs, signals if applicable, street symbols, curb and roadway striping and street signs;
 - e. Street light facilities with voltage, underground service, spread of lighted area and spacing of standards noted;
 - f. Storm drainage lines and facilities (see Grading and Drainage above) ;
 - g. Location and number of street tree wells on improvement and building plans shall be reviewed and approved by the Public Services Director and the project planner;
 - h. All other indicated utilities and appurtenant facilities.
19. BEACH ACCESS STAIRWAY. The applicant shall pay a portion of the cost for the stairway identified in the South Palisades Specific Plan (consistent with the South Palisades Specific Plan). Applicable project fees, together with previously collected fees, will be used to pay for design of, and construction of the stairway.
20. DESIGN CRITERIA. All noted public works improvements shall be designed and constructed to the standards of the City of Pismo Beach, or in the absence thereof, to the standards of the County of San Luis Obispo. The City Engineer has all such standards on file at City Hall. The decision of the City Engineer shall be final regarding the specific standards that shall apply.

B) **CONDITIONS SUBJECT TO COMPLIANCE PRIOR TO ISSUANCE OF A BUILDING PERMIT:**

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COMMUNITY DEVELOPMENT DEPARTMENT/PLANNING DIVISION:

1. COMPLIANCE WITH PLANNING COMMISSION APPROVAL. Prior to the issuance of a building permit, the Project Planner shall confirm that the construction site plan, floor plan and building elevations are in compliance with the Planning Commission's approval and conditions of approval.
2. BUILDING PERMIT APPLICATION. To apply for building permits submit four (4) sets of construction plans ALONG WITH FOUR (4) COPIES OF THE CONDITIONS OF APPROVAL NOTING HOW EACH CONDITION HAS BEEN SATISFIED to the Building Division.
3. ARCHITECTURAL DESIGN STANDARDS. Prior to issuance of a building permit, the project plans shall indicate compliance with the architectural design standards for the tract. Development standards shall be in substantial conformity with Table B-1, the South Palisades Specific Plan (unless a modification has been granted), the General Plan/Local Coastal Plan, and the City's zoning code.
4. REVIEW OF FUTURE DEVELOPMENT: Future applications for discretionary permits for the development of individual homes shall be reviewed through a public hearing process with notice as required by state and local law.
5. VISUAL ANALYSIS. Prior to issuance of building permits for individual homes, a visual analysis of potential view blockage shall be submitted for review and approval pursuant to General Plan/LCP LU-B-5(5) if proposed dwellings are not in substantial conformity with the conceptual designs marked Exhibit E, sheets 1 of 5 through 4 of 5. The City shall make the determination of substantial conformity.
6. NOISE ANALYSIS. Prior to issuance of an occupancy permit for Lots 1 and 2, an acoustical engineer shall verify that interior noise levels will not exceed 45 dBA and exterior (yard) noise levels will not exceed 60 dBA. Occupancy shall not be granted until adequate measures are in place.
7. LANDSCAPING AND IRRIGATION PLANS LOTS 1 THROUGH 10. Final landscaping and irrigation plans for Lots 1 through 10 shall be submitted by the person developing these lots or their designated agent. A landscape and irrigation plan for each individual lot shall be submitted to the City's Planning Department for review and approval. Plans shall be prepared pursuant to PBMC 15.48. **Cost of the plan check and inspection shall be paid by the applicant upon submittal.** Detailed calculations shall be provided on the face of the plan indicating the provision of a minimum of 40% of the

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total site area in planting and vegetation area with no more than 10% covered with lawn or turf. Plans must comply with the provisions of the South Palisades Specific Plan. The landscape plans shall include the following provisions:

- a. Water Conservation Checklist
 - b. Landscape Design Plan (including plant list)
 - c. Irrigation Design Plan
 - d. Certificate of Substantial Compliance
8. STREET TREES REQUIRED. Prior to issuance of a building permit, the project plans for Lots 1, 2, 3, 5, 7, 9 and 10 shall include appropriate street trees subject to review and approval by the project planner and the Public Services Department.
9. DEVELOPMENT STANDARDS. Future development shall be subject to the development standards listed in Table B-1 (next page), Table B-2, and applicable specific plan, zoning code, and General Plan/LCP policies. Where there is a conflict between Table B-1 or Table B-2 and South Palisades Specific Plan or zoning standards, Table B-1 shall represent the requirement.

COMMUNITY DEVELOPMENT DEPARTMENT/BUILDING DIVISION:

10. BUILDING REQUIREMENTS. The application for building permit shall be subject to the following requirements:
- a. Project shall comply with the most recent adopted City building codes.
 - b. Plans shall be submitted by a California Licensed architect and/or engineer.
 - c. A separate grading plan complying with Chapter 70, UBC, and Title 15 PBMC, may be required.
 - d. A soils investigation may/shall be required for this project.
 - e. Stairs, decks, platforms shall meet the strict guidelines in Chapters 17, and 33, UBC.
 - f. Smoke detectors shall be provided in conformance with Chapter 12, UBC.
 - g. Approved fire-resistive assemblies shall be provided for occupancy and/or exterior wall protection.
 - h. Wood shingles or shakes are not allowed per City codes.
 - i. Clearly dimension building setbacks and property lines, street centerlines, and between buildings or other structures on plot plans.
 - j. Provide a statement on the plans that all property lines and easements are shown on the plot plan.
 - k. The Title Sheet of the plans shall include:
 1. Occupancy group
 2. Description of use

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3. Type of construction
 4. Height of the building
 5. Floor area of building(s)
- l. Project shall comply with current City and State water conversation regulations.
 - m. Dust and erosion control shall be in conformance with standards and regulations of the City of Pismo Beach.

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 LOCATION/APN:

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Table B-1 - Development Standards		
ITEM	LOTS	REQUIRED
Lot Coverage (1)	1 through 10	Maximum 40 %
Building Area		Maximum 60% Each Lot
Planting Area		Minimum 40%
Open Space		See Table B-2
Maximum Building Height	9 and 10	Maximum Height 15 Feet (2)
	3 through 8	Maximum Height 18 Feet (2)
	1 and 2	Maximum Height 25 Feet (2)
Building Setback From Public Right-of-Way	1, 2, 3, 5, 7 9, 10	Minimum 20 Feet
Building Setback From Property Lines	1 through 10	Minimum 1/2 building height (measured from top plate), or building envelope line, whichever is greater.
Building Setback Between Principle Buildings ****		Average Building Height
Solid Wall/Fence Height In all setback areas	1 through 10	Maximum 42 inches
Wall Height (Except Along Shell Beach Road and in Front Yards)		Maximum 60 inches (3)
Wall Height Around swimming pool		Maximum 60 inches
Off-Street Private Parking		Minimum 3 parking spaces, one of which must be within a garage. Parking may not be located in setback areas.
Noise Levels Exterior		60 dBA Maximum
Noise Levels Interior		45 dBA Maximum
Driveway Width	1 through 4	24 feet paved width
	5 through 10	16 feet paved width
Architectural Style	1 through 10	Spanish Style with Tile Roof (Color Board approved by Architectural Review).

Notes:

- (1) Lot coverage must be inside the indicated building envelopes (Exhibit E, Sheet 1 of 1).
 - (2) Height shall be measured at approved pad grades.
 - (3) Proposed fencing must be reviewed by the Planning Commission (in conjunction with the proposed residence), solid portions of walls/fences may not exceed a height of 42 inches, open fencing (such as wrought iron railing) may be allowed to a height of 60 inches (5 feet), and all fencing over 42 inches is prohibited in the front yard setback.
- ** On lots 1 and 2 there shall be a 40 foot setback between two story portions of structures. One story portions of structures may be included within this 40 foot setback. (added by City Council on May 7, 1996)

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Table B-2 Minimum Open Space & Planting Required Each Lot					
Lot #	Open Space & Planting Area Minimum		Lot #	Open Space & Planting Area Minimum	
	Square Feet	Percent		Square Feet	Percent
1	4325	58%	6	4382	45%
2	4210	60%	7	4016	53%
3	2999	40%	8	4382	45%
4	4173	50%	9	6710	61%
5	4016	53%	10	6003	47%

- n. Any demolition shall comply with A.P.C.D. regulations, and acquire any required permits for the demolition.
 - o. Fireplaces and similar appliances shall be San Luis Obispo Air Pollution Control District approved only.
 - p. The permittee shall put into effect and maintain all precautionary measures necessary to protect adjacent water courses and public or private property from damage by erosion, flooding, deposition of mud or debris originating from the site.
 - q. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability, details shall be provided.
 - r. Building pads shall have a drainage gradient of 2% toward approved drainage facilities.
 - s. Certification of compliance with the grading plans and soils report shall be submitted to the Building Division prior to final approvals.
 - t. A licensed surveyor / engineer shall verify pad elevations, setbacks, and roof elevations.
11. **GRADING REQUIREMENTS.** The application for a grading permit shall be subject to the following requirements:
- a. Recommendations within the soils engineering report shall be incorporated within the grading plan and specifications.
 - b. Grading plans and site maps shall include the following:
 1. The exterior boundary of the property on which grading is to be performed.
 2. Contour lines which conform to minimum intervals; 2 foot contours for slopes less than 10%; five foot contours for slopes between 10 and 30%; ten foot contours for areas over thirty percent.
 3. Contours shall normally extend 25 feet beyond the property boundary.
 4. Location of buildings or structures on land of adjacent owners which are within

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- 15 feet of the project site or which will be effected by the proposed grading or construction project.
5. Show all legal restrictions such as property lines, easements, setbacks, etc.
 6. Show any unusual site conditions.
- c. Provide a recent engineering geology report for this project.
 - d. Engineering geology report shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy for the intended use of site to be developed by the proposed grading as effected by geologic conditions.
 - e. Recommendations included in the geologic report shall be incorporated within the grading plans and specifications.
 - f. Provide extent and manner of cutting trees and clearing vegetation, disposal of the same, and measures for protection of undisturbed trees and/or vegetation.
 - g. Provide on specifications the method and location of soil disposal.
 - h. Provide a plan for the control of erosion of excavated materials.
 - i. During grading operations the permittee shall be responsible for the prevention of damage to adjacent property and no person shall excavate on or sufficiently close to the property line adjoining public streets, sidewalk, alley, or private or public way without supporting and protecting such property from settling, cracking, or other damages which might result.

FIRE DEPARTMENT

12. ADDRESS NUMBERS. Plans for address numbered on every structure shall meet the following requirements:
 - a. Numbers must be plainly visible and clearly legible from the frontage street.
 - b. Numbers to be a minimum of 4" in height for residential (one and two family).
 - c. Numbers shall contrast with their background.
13. ACCESS ROADWAYS (FOR FIRE APPARATUS). Access roads shall have all-weather driving surfaces capable of supporting fire apparatus weighing 40,000 lbs.
 - a. All-weather surface shall consist of a graded road.
 - b. Asphalt access lanes will be required in hillside areas or any area deemed necessary by the Fire Chief during inclement weather periods.
 - c. No combustible construction will occur prior to all-weather access being provided and combustible construction may be stopped anytime these conditions are not met.
14. WATERLINES AND HYDRANT DISTRIBUTION. Prior to construction, plans for waterlines and hydrant locations shall be submitted to the Fire Department for approval.

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No combustible construction shall be allowed until required hydrants and waterlines are in and serviceable. Water mains to a minimum of 8" in size.

15. FIRE HYDRANTS. All fire hydrants shall conform to the Pismo Beach water distribution system materials list.
 - a. Each hydrant to have one 4-1/2" outlet and two 2-1/2" outlets (wet barrel).
 - b. Each hydrant shall be painted OSHA yellow.
 - c. No rolled curbs will be allowed within 10' of a hydrant, type "A". Sidewalks to be a minimum of 40" wide behind hydrant center line.
 - d. Curb to be painted red 10' both sides of hydrant.
 - e. A blue reflective marker shall be installed 6" off center of street in line with hydrant.

16. FIRE FLOW. All fire protection water must be gravity flow with adequate storage to meet domestic and required fire flow.
 - a. Required fire flow will be determined by the Fire Chief, City Engineer, ISO requirements, and Uniform Fire Code Appendix III-A.
 - b. In all cases the minimum acceptable residual pressure shall be 20 P.S.I.

17. UTILITIES. If gas meters, electric utilities or any part of the Fire Protection Water System are subject to vehicular damage, impact protection shall be provided.

18. CLEARANCES. Driveways, common access roads, and required fire lanes shall be constructed to accommodate emergency vehicles. Dead end fire apparatus access roads exceeding 150' in length are not allowed.
 - a. A minimum of 13'-6" overhead clearance is required.
 - b. A minimum of 24' clear width is required for all fire access.
 - c. The minimum outside turning radius for cul-de-sacs shall be 40' unobstructed. The inside radius shall be 20'. When parking is permitted in the cul-de-sac, the minimum outside radius from center to curb shall be 48 feet.
 - d. The gradient for fire apparatus access roads shall not exceed the maximum approved by the Chief.

19. AUTOMATIC FIRE SPRINKLER SYSTEM. Provide an Automatic Fire Sprinkler System on buildings located on Lots 2, 4, 6, 8. Lots 2 and/or 4 may be constructed without a automatic fire sprinkler system if the construction type is increased to Type 5, one hour for that unit, or the driveway to these lots is upgraded to support a 40,000 pound fire engine. The automatic fire sprinkler system shall comply with requirements of the Pismo Beach Fire Department and NFPA 13D standard. Four sets of plans and two sets of calculations shall be submitted and approved prior to the issuance of a building permit. Water service/fire service laterals and meters serving the property shall

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be a minimum of 1 1/2 inch or larger as determined by hydraulic calculations.

20. FEES AND PERMITS. Any and all applicable fees and permits shall be secured prior to commencing work.
21. TEMPORARY CUL-DE-SAC ONSITE. Prior to the removal of the cul-de-sac on the Pacific Beach Club property, a temporary cul-de-sac shall be constructed at the end of North Silver Shoals Drive. The cul-de-sac on the Silver Shoals property (Tract 2173) shall be consistent with the Planning Commission Exhibit 1 dated April 9, 1996 and Fire Department requirements. *The cul-de-sac shall be relocated east of the location identified on this exhibit prior to approval of the final map, to the satisfaction of the City Engineer.*

PUBLIC SERVICES DEPARTMENT/PUBLIC WORKS DIVISION

22. Public Works items A.6 through A.20 must be complete and the final map recorded.

B) **CONDITIONS SUBJECT TO COMPLIANCE DURING CONSTRUCTION:**

PUBLIC SERVICES DEPARTMENT/BUILDING DIVISION:

1. SITE MAINTENANCE. During construction, the site shall be maintained so as to not infringe on neighboring property. Said maintenance shall be determined by the Building Official.

PUBLIC SERVICES DEPARTMENT/PLANNING DIVISION:

2. ARCHAEOLOGICAL MATERIALS. In the event of the unforeseen encounter of subsurface materials suspected to be of an archaeological or paleontological nature, all grading or excavation shall cease in the immediate area, and the find left untouched until a qualified professional archaeologist or paleontologist, whichever is appropriate, is contacted and called in to evaluate and make recommendations as to disposition, mitigation and/or salvage. The developer shall be liable for costs associated with the professional investigation.

PUBLIC SERVICES DEPARTMENT/PUBLIC WORKS DIVISION:

3. TRAFFIC CONTROLS (S). During construction, it shall be the responsibility of the Contractor to provide for safe traffic control in and around the site. This will be in accordance with Work Area Traffic Control Handbook and may include but not be limited to signs, flashing lights, barricades and flag persons as directed by the Building Official

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or the City Engineer. Sidewalks and streets shall be kept free of building materials, dumpsters and other obstructions. *During construction of the street widening, no parking shall be permitted during daylight hours on North Silver Shoals Drive. (added by City Council on May 7, 1996)*

4. **DUST AND EROSION CONTROL.** All dust and erosion control shall be in conformance with the standards of the City of Pismo Beach, applicable ordinances, and the City Engineer.
5. **STREET MAINTENANCE.** During the construction period, the project frontage(s) shall be swept by an acceptable street cleaning firm as needed. At the conclusion of construction, prior to the issuance of an occupancy permit the aforementioned roads shall be inspected by the Director of Public Services and repairs effected as warranted and directed.
6. **SPEED BUMPS.** *Speed bumps shall be incorporated into the street design for North Silver Shoals Drive. When Silver Shoals Drive is constructed speed bumps shall be included. (added by City Council on May 7, 1996)*

C) CONDITIONS SUBJECT TO COMPLIANCE PRIOR TO THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY:

PUBLIC SERVICES DEPARTMENT/PLANNING DIVISION:

1. **LANDSCAPE INSPECTION REQUIRED.** All landscaping and irrigation systems shown on the approved plans shall be installed by the project applicant and shall be subject to inspection and approval by the project planner prior to the issuance of a Certificate of Occupancy.

PUBLIC SERVICES/PUBLIC WORKS DEPARTMENT:

2. **DAMAGED IMPROVEMENTS** All curb, gutter and sidewalk cracked or damaged during or prior to construction shall be replaced to the satisfaction of the City Engineer.
3. **AS-BUILT DRAWINGS** Mylar reproducible "as-built" drawings of the public or semi-public improvements and final grading shall be furnished to the City after completion of the project. These drawings shall reflect all improvements incorporated in the approved improvement plans and grading plans for the project.
4. **SUBDIVISION IMPROVEMENT ACCEPTANCE.** The Subdivision improvement shall

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be complete and accepted by the City Council. The Guarantee Bond mentioned above shall be provided.

E) CONDITIONS SUBJECT TO ONGOING COMPLIANCE:

1. ROOF-MOUNTED EQUIPMENT. All roof-mounted air conditioning or heating equipment, vents or ducts shall be screened from public view in a manner approved by the Project Planner. Roof-mounted antenna of any type are prohibited.
2. COMPLIANCE WITH APPLICABLE LAWS. All applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction shall be met. The duty of inquiry as to such requirements shall be upon the applicant.
3. COMPLIANCE WITH MITIGATION MEASURES. All mitigation measures included in the Mitigation Monitoring Program associated with this Project 95-142 shall be conditions of approval as herein incorporated by reference.
4. COMPLIANCE WITH SOUTH PALISADES SPECIFIC PLAN. All applicable requirements of the South Palisades Specific Plan shall be met. The duty of inquiry as to such requirements shall be upon the applicant.
5. Bluff Top Park. Lot 11 (as designated on the final map) shall be retained as a park and open space as required by the General Plan/LCP Policy PR-23.

F) MISCELLANEOUS/FEEES:

1. REQUIRED FEES. The applicant shall be responsible for the payment of all applicable development and building fees including the following:
 - a. All applicable development impact fees pursuant to Ordinance 93-01, Resolution 93-12 and Resolution 93-33.
 - b. Water system improvement charge.
 - c. Water meter hook-up charge.
 - d. Sewer public facilities fee.
 - e. Park development and improvement fee and fees in lieu of park dedication.
 - f. School impact fees pursuant to the requirements of the San Luis Coastal School District.
 - g. Building and construction and plan check fees: building fee, grading and paving fee, plan check fee, plumbing, electrical/mechanical fee, sewer connection fee, lopez

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- assessment, strong motion instrumentation, encroachment fee, and other fees such as subdivision plan check and inspection fees.
- h. Other special fees:
 - 1. Assessment district charges.
 - 2. Other potential fees.
 - i. Any other applicable fees

The property owner and the applicant (if different) shall sign these Conditions of Approval within ten (10) working days of receipt, the permit is not valid until signed by the property owner and applicant.

**I HAVE READ AND UNDERSTOOD, AND I WILL COMPLY
WITH ALL ABOVE STATED CONDITIONS OF THIS PERMIT**

Approved by the City Council on May 7, 1996

Applicant

Date

Property Owner

Date

b:\apr9.96\cond95.142

[END]

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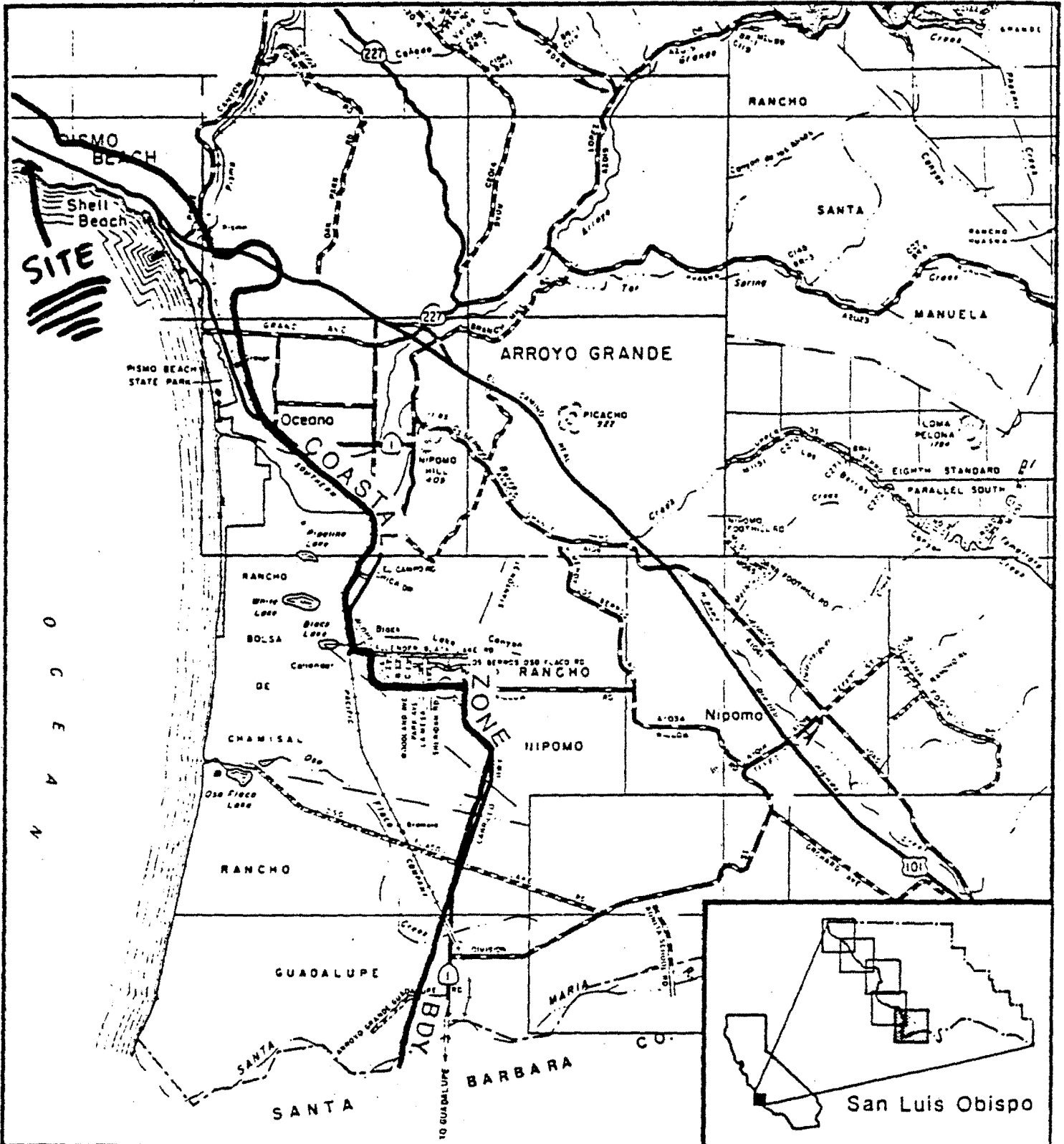
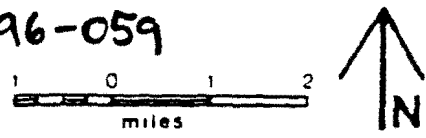


EXHIBIT 4 A-3-PSB-96-059

LOCATION MAP



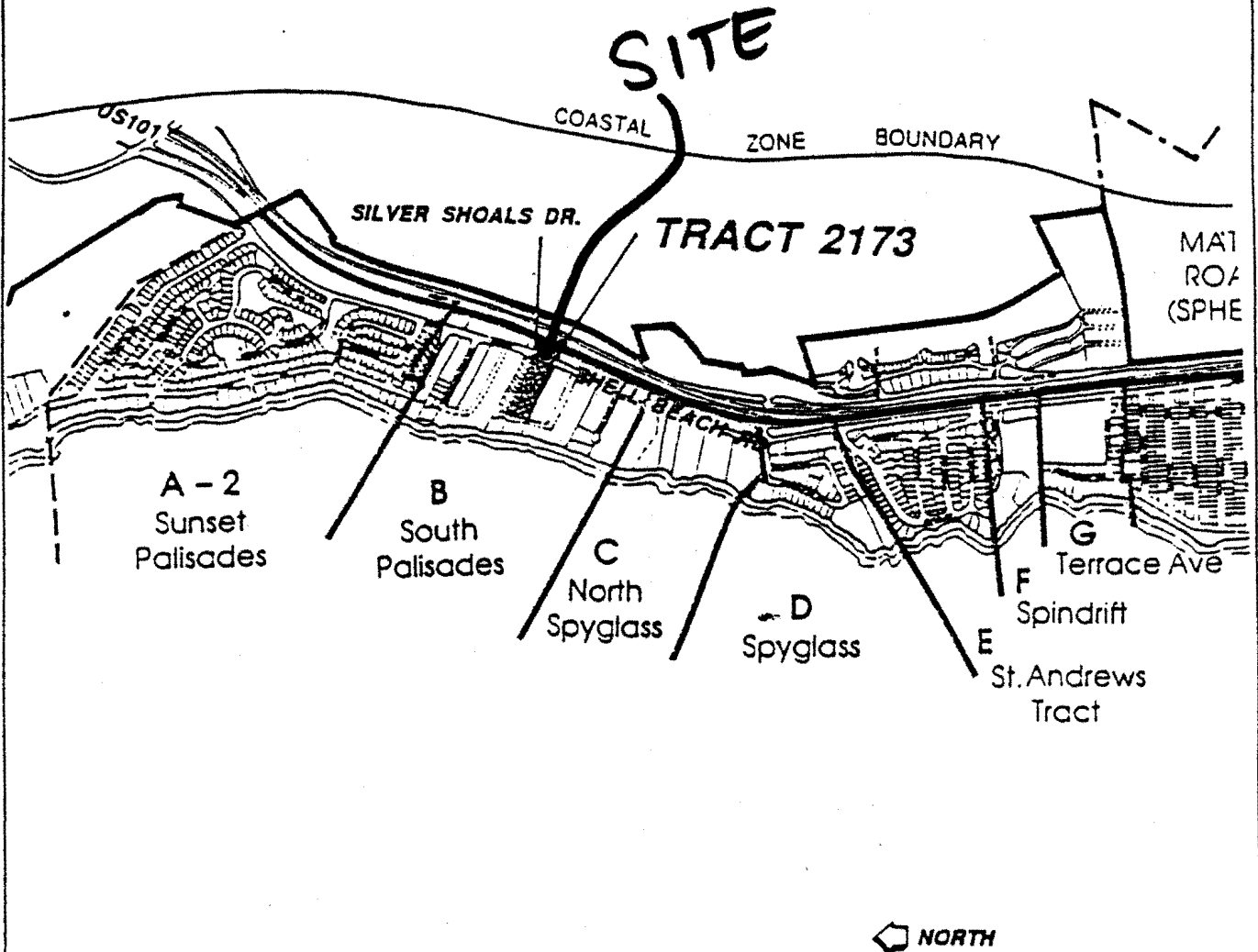
VICINITY MAP

CASE NO. 95-142

THIS MAP IS NOT TO SCALE

Neighborhood Planning Areas

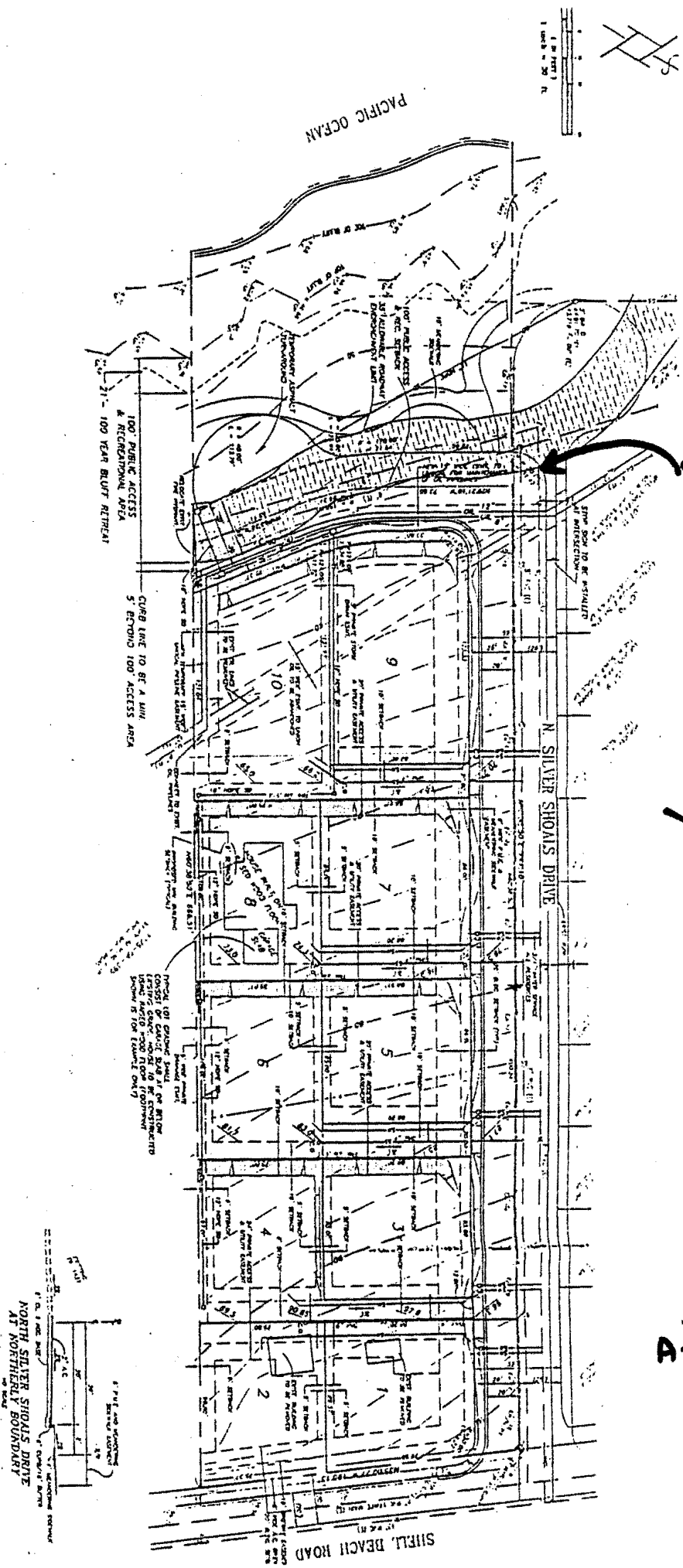
PISMO BEACH GENERAL PLAN



PUBLIC SERVICES DEPARTMENT
PLANNING DIVISION
CITY OF PISMO BEACH
760 MATTIE ROAD PISMO BEACH CA 93448

EXHIBIT B

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See Ex 6
p 3 for
revised
Knuckle

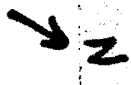


EXHIBIT 6
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NORTH SILVER SHOALS DRIVE
AT NORTHERLY BOUNDARY

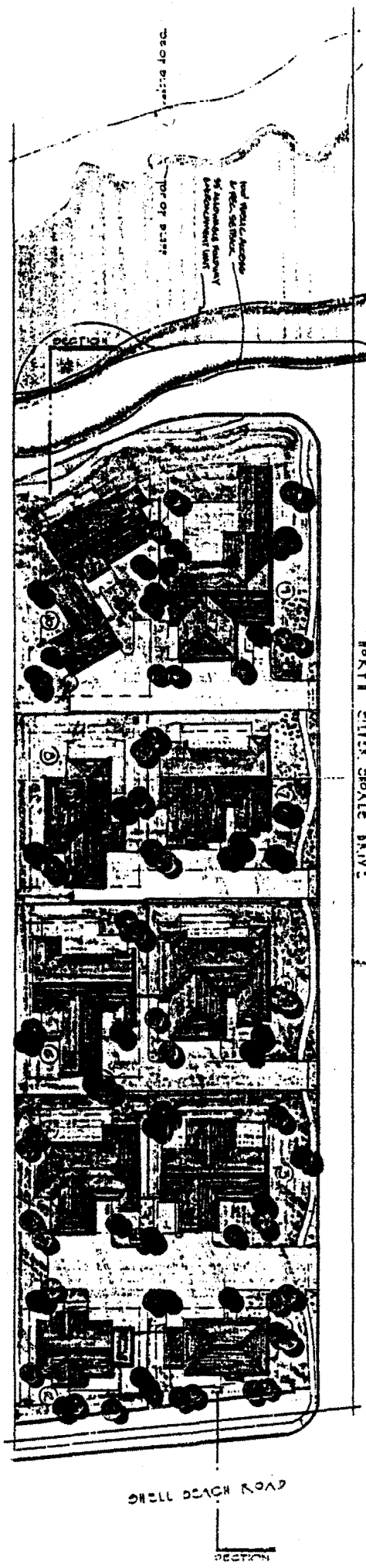
RECEIVED
JUN 27 1993
CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

SILVER SHOALS

APPLICANT: S. J. ...
PROJECT: ...
SHELL BEACH, CALIFORNIA

NOTE: ...
REVISIONS ...
SHELL BEACH, CALIFORNIA

LOT NO	ACRES
1	2.51
2	2.51
3	2.51
4	2.51
5	2.51
6	2.51
7	2.51
8	2.51
9	2.51
10	2.51



Ex 6
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p 2

TRACT 2173 - KNUCKLE @ LOOP ROAD

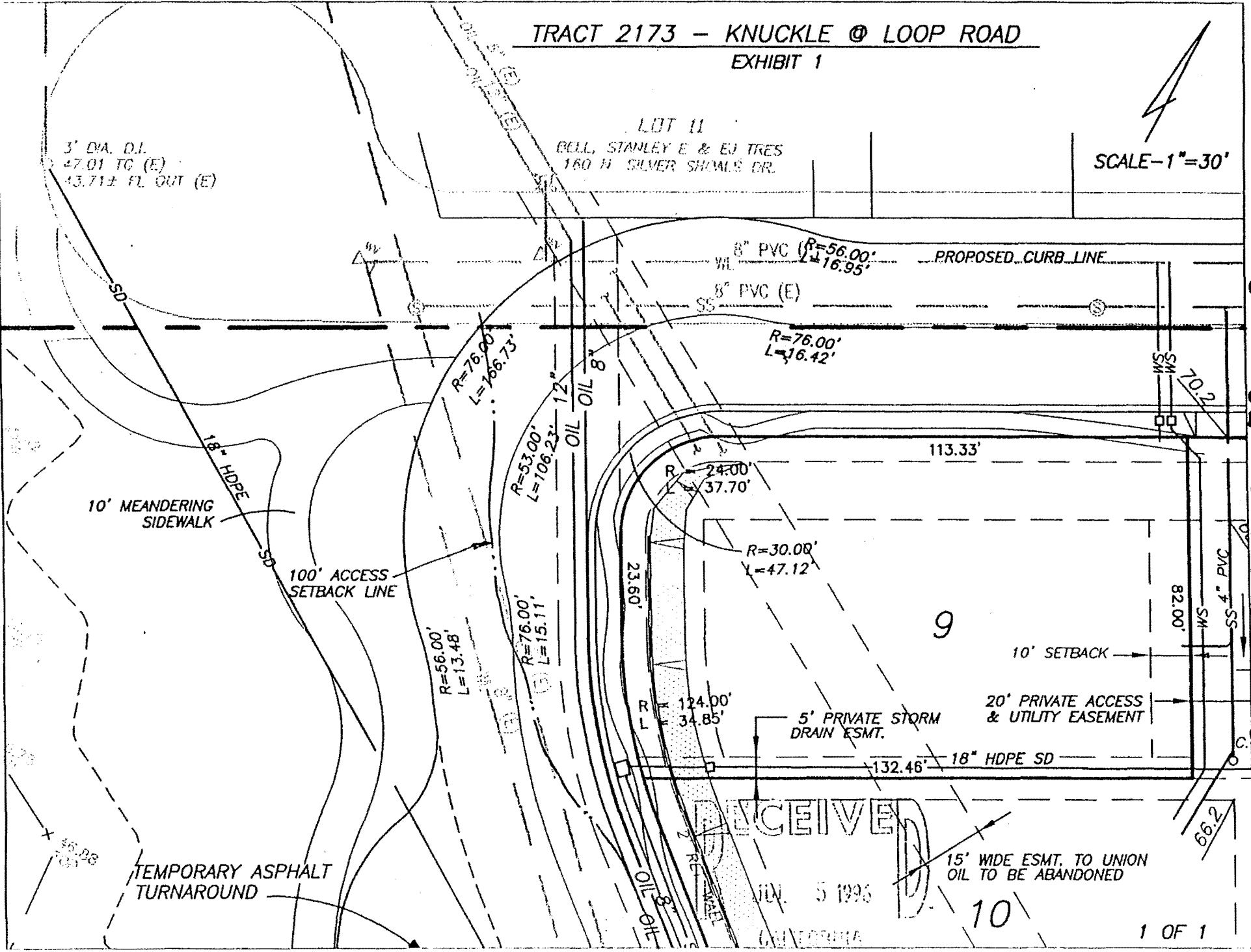
EXHIBIT 1

SCALE-1"=30'

LOT 11

BELL, STANLEY E & EJ TRS
160 N SILVER SHOALS DR.

3' DIA. D.I.
47.01 TC (E)
43.71± FL. OUT (E)



EX 6 A-3-PSB-96-059 P 3

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CALIFORNIA

15' WIDE ESMT. TO UNION OIL TO BE ABANDONED

10

1 OF 1

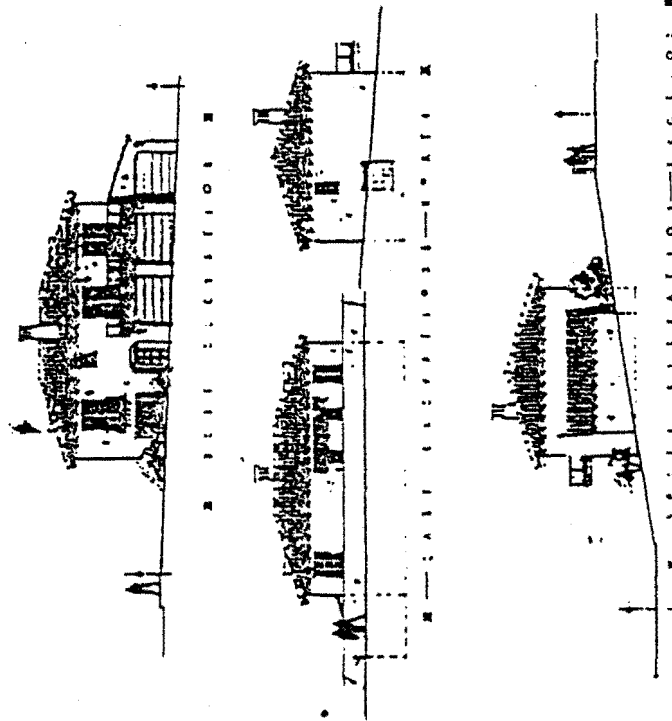
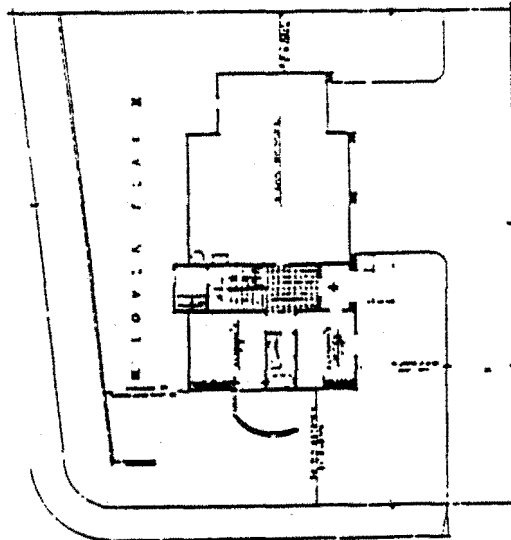
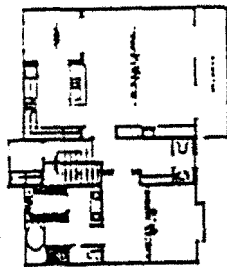
COASTAL COMMISSION
CENTRAL COAST AREA

ARCHITECTURAL CONCEPTS

CASE NO. 95-142

THIS MAP IS NOT TO SCALE

SILVER SHOALS
LOT 1
7660 MATTIE ROAD, PISMO BEACH, CA 93448



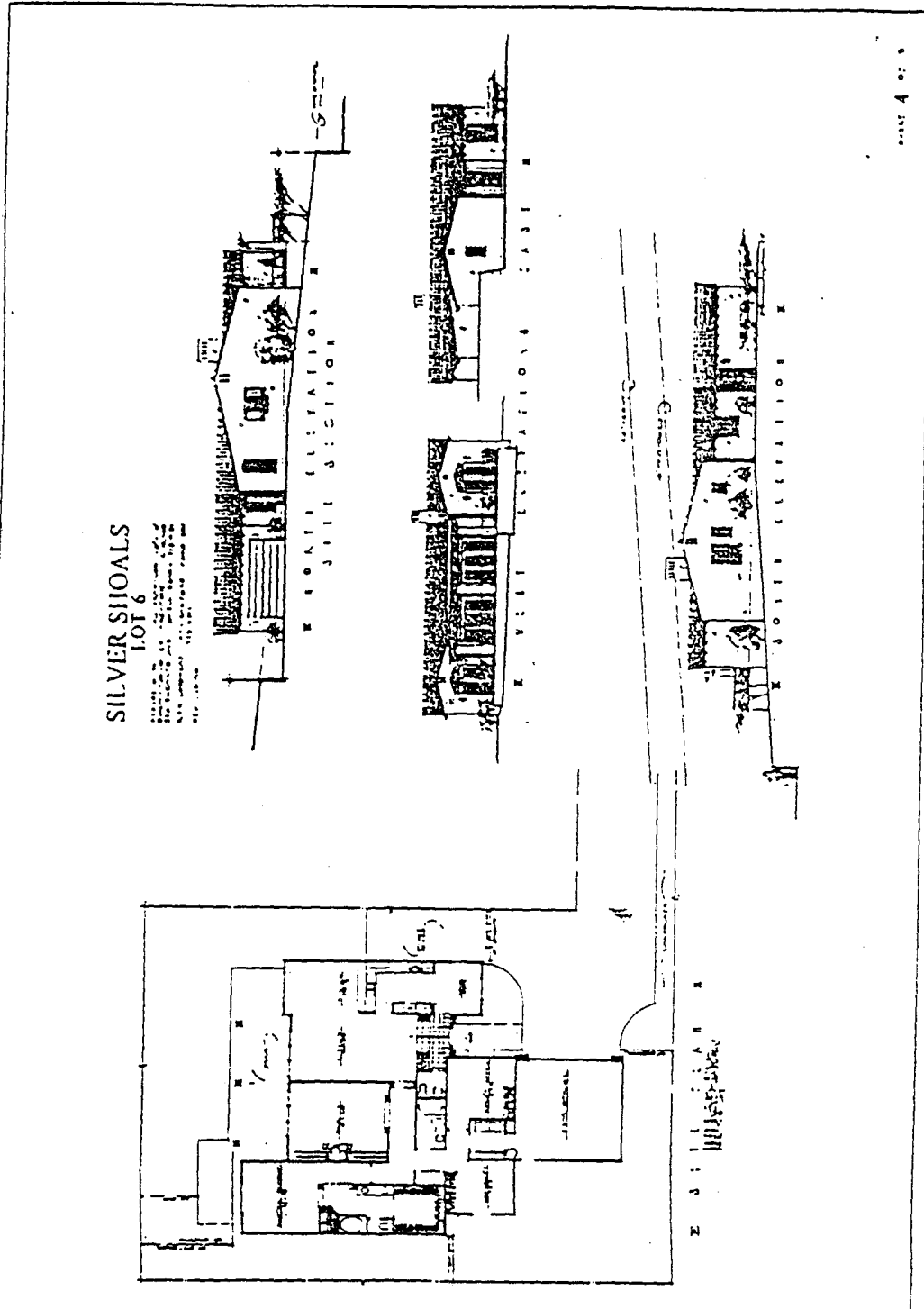
SCALE: 2" = 1'-0"

PUBLIC SERVICES DEPARTMENT
 PLANNING DIVISION
 CITY OF PISMO BEACH
 760 MATTIE ROAD PISMO BEACH CA 93448

EXHIBIT 4

ARCHITECTURAL CONCEPTS

CASE NO. 95-142
THIS MAP IS NOT TO SCALE



PUBLIC SERVICES DEPARTMENT
PLANNING DIVISION
CITY OF PISMO BEACH
760 MATTIE ROAD PISMO BEACH CA 93448

EXHIBIT 4

ARCHITECTURAL CONCEPTS

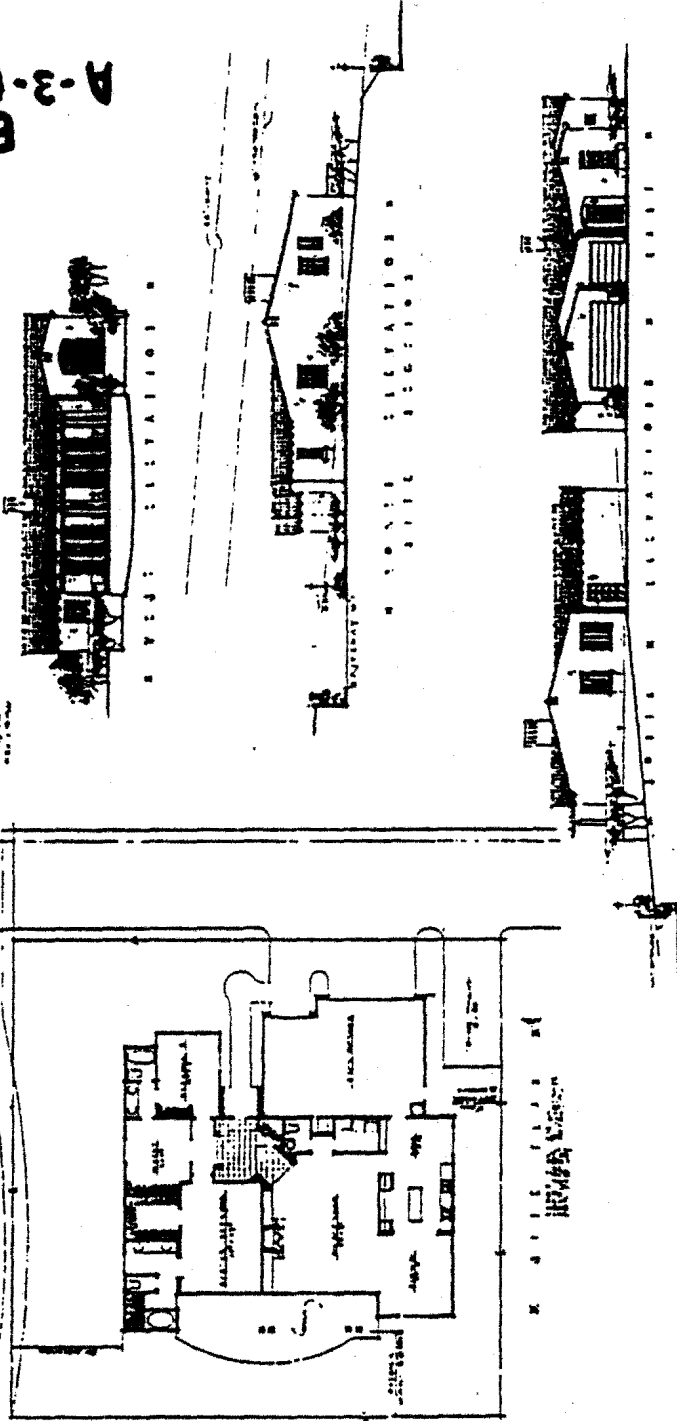
CASE NO. 95-142

THIS MAP IS NOT TO SCALE

Ex 6
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p 6

SILVER SHOALS
LOT 5

100' 0" WIDE
100' 0" DEEP



PUBLIC SERVICES DEPARTMENT
PLANNING DIVISION
CITY OF PISMO BEACH
760 MATTIE ROAD PISMO BEACH CA 93448

EXHIBIT 4

EX 6
A-3-BB-96-059
 97

NOTES:
 1. DEVELOPER SHALL MAINTAIN 10' FOOT FRONT YARD SETBACK FROM SHORELINE.
 2. PERMITS FOR SEWER AND WATER SHALL BE OBTAINED BY DEVELOPER.

SILVER SHOALS
 L A N
 JANUARY 21, 2000
 218 SHELTON AVE. SHELL BEACH, CA 94968
 RICK LOEBHEAD ARCHITECTS
 REV. 1.18.00

LOT NO. AREA
 1 7452
 2 7452
 3 7452
 4 7452
 5 7452
 6 7452
 7 7452
 8 7452
 9 7452
 10 7452
 11 7452
 12 7452

US 101

BLUFF

SHELL BEACH ROAD

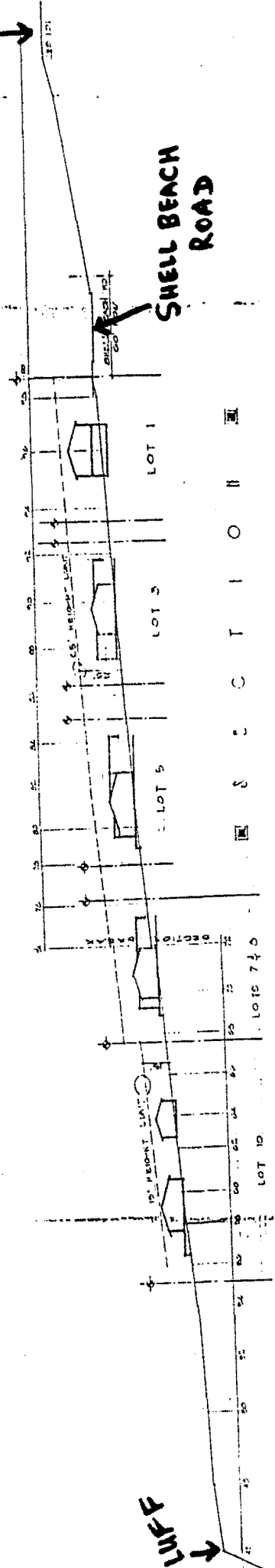
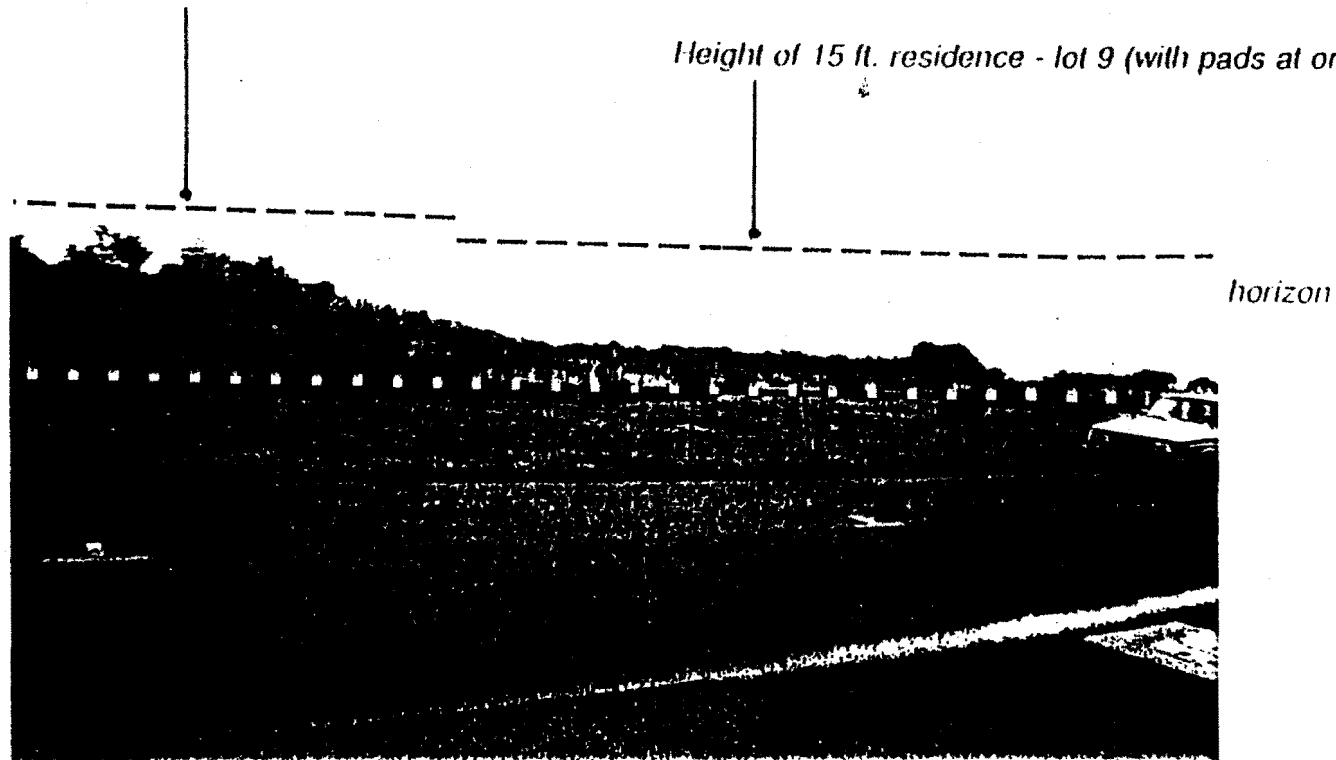


EXHIBIT 7

A-3-PSB-96-059

Height of 18 ft. residence - lot 7 (with pads at or below natural grade)

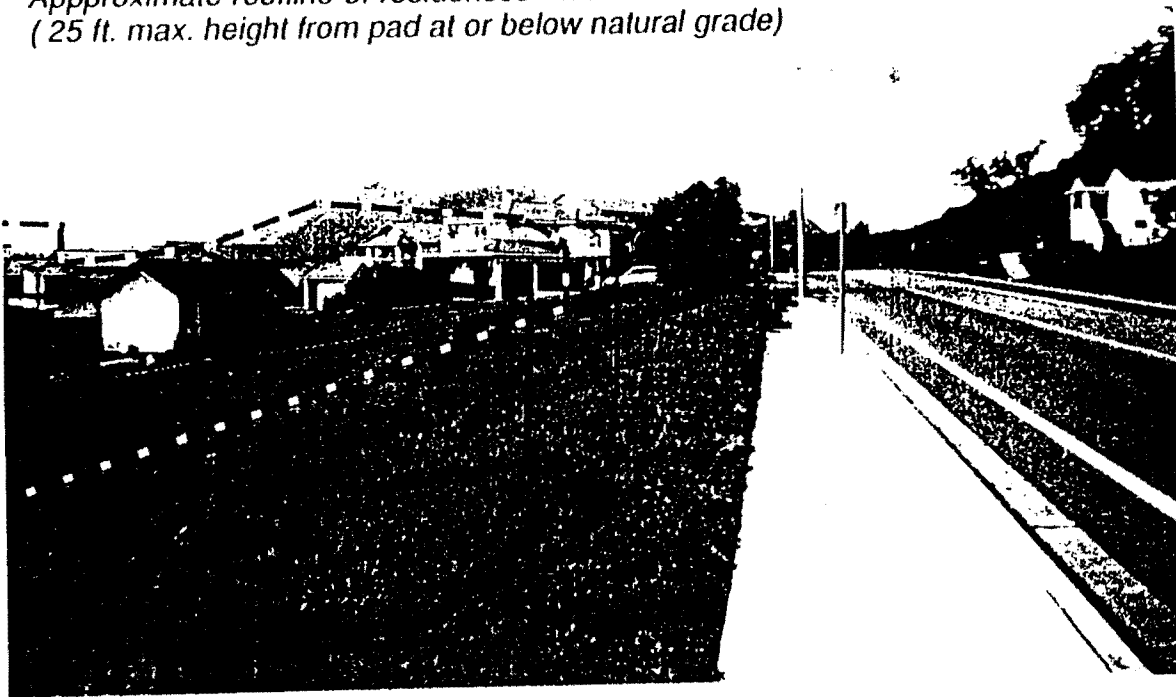
Height of 15 ft. residence - lot 9 (with pads at or below natural grade)



**EXHIBIT 9 VIEW FROM STREET AT 136 SILVER SHOALS
TRACT 2173 95-142 VISUAL ANALYSIS**

source: firma

*Approximate roofline of residences - lots 1 & 2
(25 ft. max. height from pad at or below natural grade)*



Ex 7
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P 2

EXHIBIT 9 **VIEW NORTH ON SHELL BEACH ROAD**
TRACT 2173 95-142 VISUAL ANALYSIS

source: firma

Ex 7
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p8

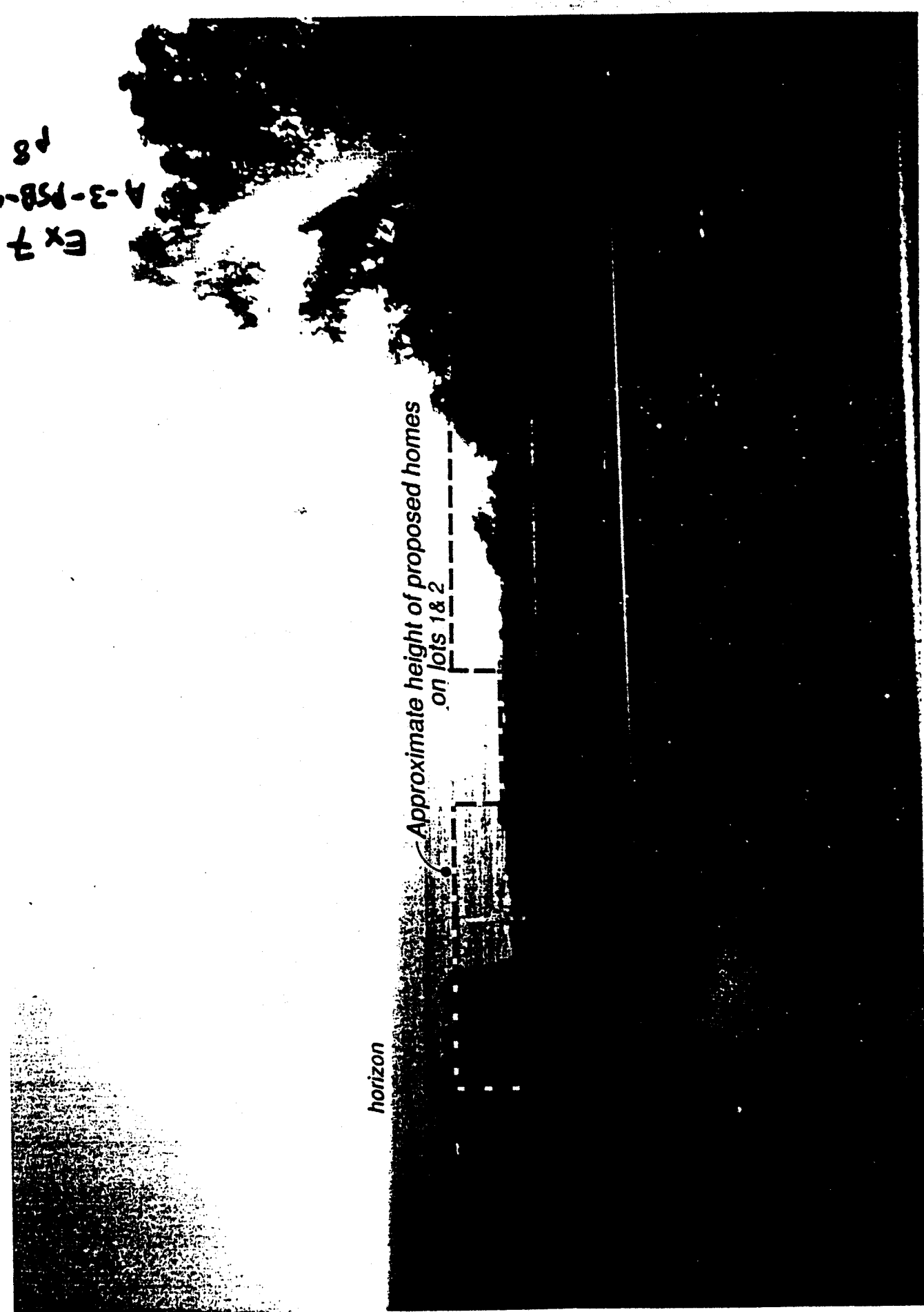


EXHIBIT 9 TENTATIVE TRACT 2173 95-142 VISUAL ANALYSIS
VIEW FROM NORTHBOUND US101

source: firma

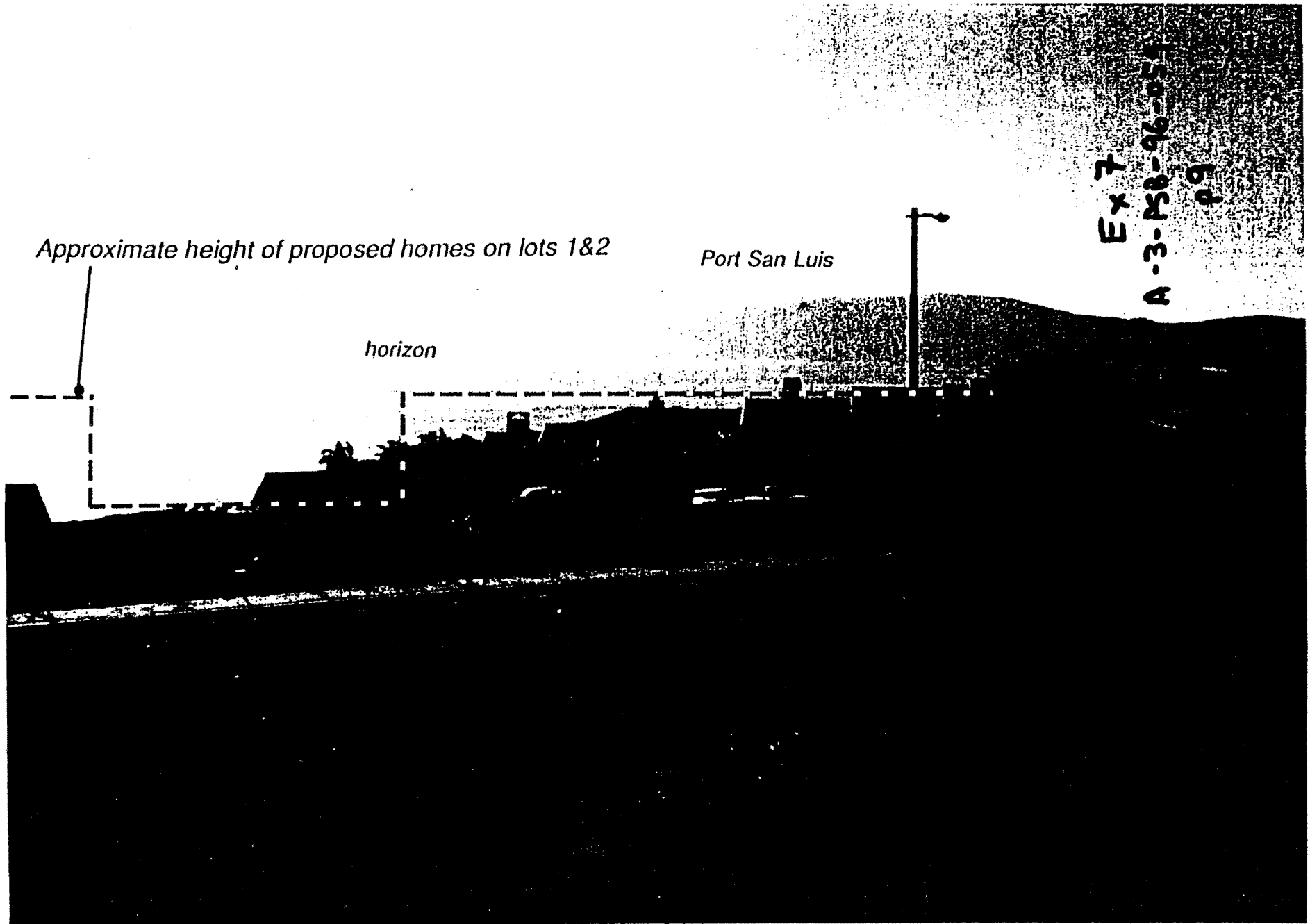
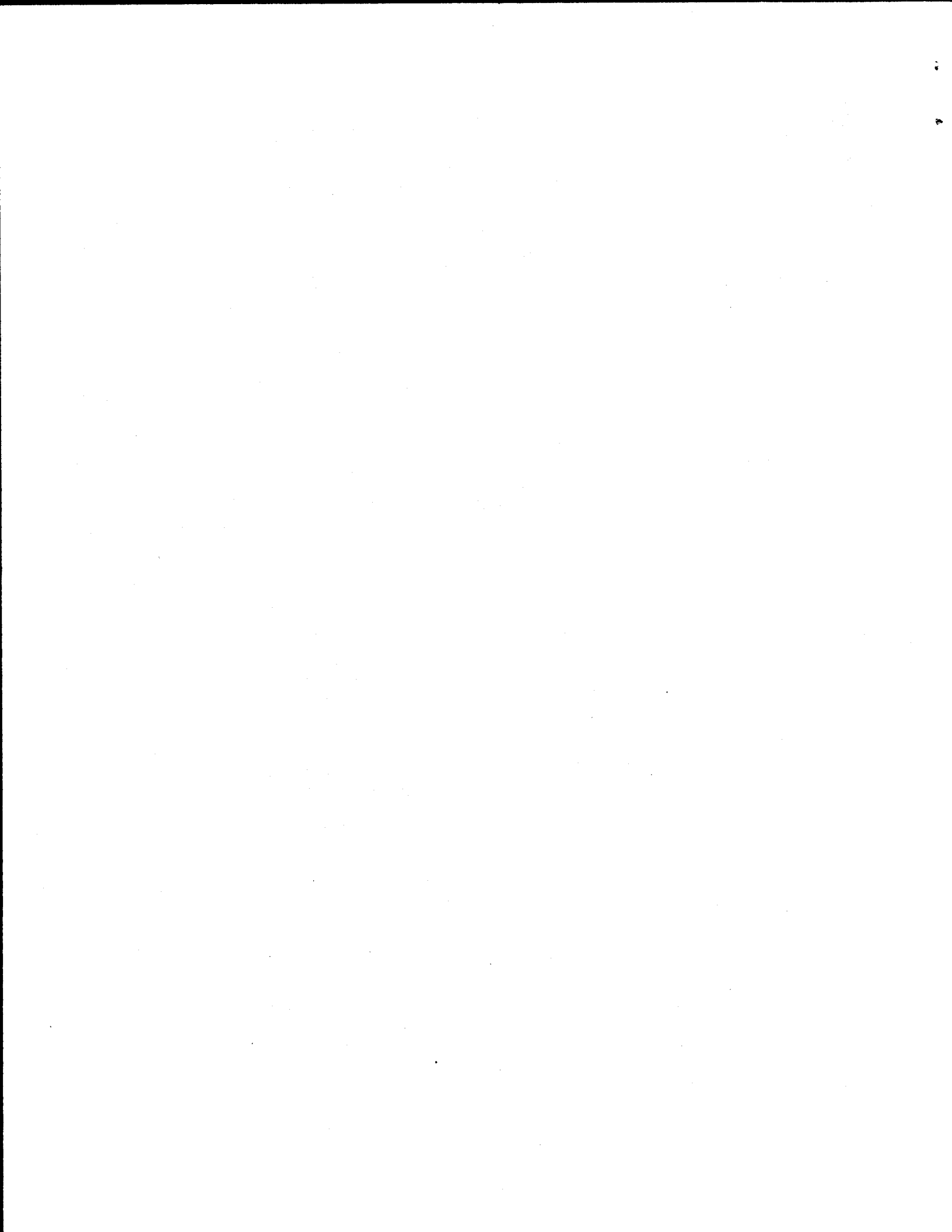


EXHIBIT 9 TENTATIVE TRACT 2173 95-142 VISUAL ANALYSIS
VIEW FROM JUST BELOW SOUTHBOUND US101

source: firma





1365 VANDER WAY
7891 WESTWOOD DR., SUITE 101
12 THOMAS OWENS WAY
1334 BROMMER ST., SUITE B3
141 SUBURBAN RD., SUITE D1
399 MAIN ST., SUITE 4
1016 E. MAIN ST.

SAN JOSE, CA 95112
GILROY, CA 95020
MONTEREY, CA 93940-5754
SANTA CRUZ, CA 95062
SAN LUIS OBISPO, CA 93401-7504
TEMPLETON, CA 93465
SANTA MARIA, CA 93454

(408) 297-6969
(408) 842-0236
(408) 372-3716
(408) 462-8790
(805) 543-5493
(805) 434-5930
(805) 922-5983

FAX (408) 297-7716
FAX (408) 842-7314
FAX (408) 372-7481
FAX (408) 462-8795
FAX (805) 543-2748
FAX (805) 434-5932
FAX (805) 925-2490

June 26, 1996
Project L1029/1

MR. RICHARD LOUGHEAD
BDC DEVELOPMENT
991 HANFORD STREET
Pismo Beach, CA 93449

RECEIVED
JUN 27 1996

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Subject: Supplemental Bluff Retreat Data
Tentative Tract 2173, APN 101-152-016
Silver Shoals Drive, Shell Beach Area of
Pismo Beach, California

- Reference: 1. Review of Engineering Geology Study
Bluff Erosion Hazard and Sea Cliff
Retreat for Tentative Tract 2173
by Terratech, Inc., dated December 18, 1995.
2. Engineering Geology Study, Bluff Erosion
Hazard and Sea Cliff Retreat for Tentative
Tract 2173, by AGS Services, Inc., dated
April 6, 1995.

Dear Mr. Loughead:

As requested, I have contacted several local survey companies who have indicated recent knowledge of the project area and asked them to provide research regarding existing survey monuments or records of survey which identify the top of the bluff in the past. Purpose of this research was to determine if any additional data was available for confirming actual bluff retreat rates based on survey sources.

A single monument reference point was identified by both Westland Engineering Company and RRM Design Group of San Luis Obispo. The specific USGS monument reference was found near the cul-de-sac for Silver Shoals Drive. As confirmed by Westland Engineering, the reference point was established in 1961, being 12.5 feet from the top of bluff, and is currently 11.0 feet back from the top of the bluff. This would indicate the bluff in this area has retreated at approximately 1/2 inch per year over the 35 year period.

This rate is appropriate for this area where development has controlled surface and anticipated subsurface drainage. Similar drainage control would result from the proposed development and similar retreat rates would be expected.

EXHIBIT 8

A-3-PSB-96-059

June 26, 1996

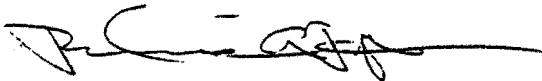
Project L1029/1

As stated in Reference 1, the historic or current erosion rates of 2 to 2.5 inches per year were identified in both the Site Specific Studies performed by AGS Services, Inc. (Reference 2) and Terratech, Inc. (Reference 1). The rates established by these studies were based on site specific geologic conditions and documented historic record. The obtained survey records for the reference point indicate the 2.0 to 2.5 inches per year to be conservative. This additional historic record confirms the conclusions of the site specific reports.

If there should be any questions regarding this report, please contact me at 805-543-5493.

Sincerely,

TERRATECH, INC.



Richard A. Pfof
Senior Engineering Geologist

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