

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL SUBSTANTIAL ISSUE AND DE NOVO HEARING

LOCAL GOVERNMENT: County of San Luis Obispo

LOCAL DECISION: Approved with conditions, 07/07/98

APPEAL NUMBER: A-3-SLO-98-074

APPLICANT: THOMAS KING

APPELLANT: Commissioners Nava and Reilly; and Pati Hutchinson and Ginger Newman; and Esther Janowsky and Lillian Jacob

PROJECT LOCATION: 3610 Studio Drive, Cayucos, San Luis Obispo County, APN: 064-449-030

PROJECT DESCRIPTION: Construction of a new single family dwelling and a new shoreline protective structure, and a variance to reduce the required blufftop setback from 25 feet to 7.5 feet.

FILE DOCUMENTS: County of San Luis Obispo certified Local Coastal Program, Administrative Record for County permits D930100P and D960285V, and file for Coastal Development Permit 4-83-479

STAFF RECOMMENDATION

Staff recommends that the Commission determine that **substantial issue exists** with respect to the grounds on which the appeal was filed. Staff recommends that the Commission then proceed immediately to a de novo hearing on the merits of the project. Finally, staff recommends that the Commission **approve** the project, as conditioned, and **grant** a permit to the applicant for the proposed residence on the grounds that, as conditioned to redesign the project to incorporate the 25 foot setback as required by the LCP and to delete the proposed rip-rap, the proposed development will be consistent with the LCP and the public access and recreation policies of the Coastal Act.

SUMMARY EVALUATION OF SUBSTANTIAL ISSUE

ISSUE	COASTAL ACT & LAND USE PLAN POLICIES	ZONING ORDINANCE	CONSISTENCY
Blufftop Setback and Shoreline Structure	Cayucos Communitywide Standard No. 2, Hazards Policies 1, 4, and 6.	Section 23.04.118	Inconsistent. Required blufftop setback is 25 feet. Proposed setback is 7.5 feet. Seawalls are only allowed to protect <u>existing</u> structures.
Drainage	Hazards Policy 2, Erosion and Geologic Stability	Section 23.05.050	Inconsistent. County- approved project without complete drainage calculations and plans.
Community Character (Cayucos Small Scale Design Neighborhood)	Policy 1, Protection of Visual and Scenic Resources; Cayucos Communitywide Standard 2d(1), Setbacks, Studio Drive Cayucos Single Family Standard 4b, Side Setbacks	Section 23.11.030	Consistent. Variances granted for side setbacks are consistent because structure meets definition of a single story house under the Uniform Building Code.

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I. SUMMARY OF APPELLANTS' CONTENTIONS

(See Exhibit 1 for the full texts)

Appellants Pati Hutchinson and Ginger Newman contend that the County violated the LCP in the following way:

1. A variance from Cayucos Urban Area Residential Single Family Standard 4b., Side Setbacks, may set a precedent for other variances from this standard, which would adversely affect the character of the Cayucos Community Small Scale Design Neighborhoods.

Appellants Esther Janowsky and Lillian Jacob contend that the County violated the LCP in the following ways:

1. Redirection of the existing drainage may cause water to flow onto their property to the south, adversely affecting it.
2. At 7.5 feet back from the bluff edge, the structure doesn't comply with the 25 foot bluff top setback required by Cayucos Urban Area Communitywide Standard 2.a.
3. The approval of a new structure with a seawall violates Hazards Policies 1 and 6.
4. The variances to the side setbacks and the bluff setback may adversely affect the site and other, neighboring properties.
5. The proposed structure is out of character with the Studio Drive neighborhood.

Appellants Commissioners Nava and Wan contend that the County violated the LCP in the following ways:

1. Cayucos Urban Communitywide Standard 2.b. requires a 25 foot minimum bluff setback unless a geologic report indicates a *larger* setback is necessary, not a smaller setback as approved by the County.
2. Hazards Policies 1, 4, and 6 require that new development be setback from bluff tops a distance to withstand erosion for 75 years *without* the need for a shoreline protection structure, not setback minimally *and* with a shoreline protective structure as approved by the County.
3. The Coastal Zone Land Use Ordinance allows shoreline protective structures to protect *existing* structures, not a new house, and requires a blufftop setback that is the *larger* of a stringline setback or a geologic report-determined setback that would provide erosion protection for 75 years *without* a shoreline protective device.

II. LOCAL GOVERNMENT ACTION

On February 26, 1998, the San Luis Obispo County Planning Commission approved the coastal development permit and a variance for the development of a single family dwelling with a reduced blufftop setback of 7.5 feet (from 25 ft.) and a seawall. The Planning Commission did not approve a variance to reduce the side setbacks. On July 7, 1998, on appeal, the County Board of Supervisors modified the Planning Commission's approval and approved a coastal development permit and variances for the development of a single family dwelling with reduced side setbacks of 3 feet (from 4 ft.), a reduced blufftop setback of 7.5 feet (from 25 feet) and a seawall. Please see Exhibit 2 for the complete text of the resolution and the County's findings and conditions.

III. STANDARD OF REVIEW FOR APPEALS

Coastal Act section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is between the sea and the first public road paralleling the sea.

The grounds for appeal under section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is located between the nearest public road and the sea and thus, this additional finding must be made in a *de novo* review in this case.

IV. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE AND COASTAL DEVELOPMENT PERMIT

A. *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 County has approved the project in a manner that is inconsistent with the certified Local Coastal Program and with the Chapter 3 public access policies of the Coastal Act.

MOTION. Staff recommends a **NO** vote on the following motion. This 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.

*I move that the Commission determine that Appeal No. A-3-SLO-98-074 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.*

B. *Staff Recommendation on Coastal Development Permit:*

Staff recommends that the Commission adopt the following resolution:

Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the certified Local Coastal Program of the County of San Luis Obispo, will be consistent with the public access and recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act

V. RECOMMENDED CONDITIONS

A. *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.

B. Special Conditions

1. Revised Plans

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, permittee shall submit two copies of revised plans to the Executive Director for review and approval. The revised plans shall show the proposed house set back a minimum of 25 feet from the bluff edge and without a seawall, rock armor or other shoreline protection device. The revised plans shall incorporate whatever revisions are necessary to the house design to accommodate the drainage easement mentioned in Special Condition 3, below.

2. County Approval

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, permittee shall provide the Executive Director with evidence that the revised plans have been reviewed and approved by San Luis Obispo County.

3. Drainage

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, permittee shall submit to the Executive Director, for review and approval, a copy of a County-approved drainage easement, including all drainage improvement plans. The drainage system shall ensure that drainage shall be managed on-site and that runoff does not adversely affect adjoining properties and shall include an energy dissipater at its outlet onto the beach.

4. Assumption of Risk

PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT, applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from shoreline erosion and the applicant assumes the liability from such hazards; and (b) the applicant unconditionally waives any claim of liability on the part of the Commission or its successors in interest for damage from such hazards and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens thought by the Executive Director to affect its enforceability.

5. Effect on County Conditions

This Coastal Commission action has no effect on conditions imposed by San Luis Obispo County pursuant to an authority other than the California Coastal Act.

VI. RECOMMENDED FINDINGS AND DECLARATIONS

A. Project Location and Description

The site of the proposed project is a lot on the seaward side of Studio Drive at the southern end of the community of Cayucos in San Luis Obispo County, about one mile north of the City of Morro Bay (see Exhibits 3 and 4). The 3400 Square foot vacant lot is about 40 feet wide, 75 feet long on the north side, and 90 feet long on the south side. It has a drainage swale running almost its entire length. The swale is the result of many years of runoff from neighboring areas being directed through pipes which daylight on the inland side of the lot. For about half its length, the swale is lined with concrete. Beyond the concrete, the swale becomes a gully that continues to the bluff that is about 15 to 20 feet high. Up to nine feet of non-engineered, uncompacted fill was placed on the lot in the early 1960s, likely during the widening of Highway One to four lanes. The surface elevation of the lot is comparable to that of the adjoining lots. Some of the fill material is large chunks of sandstone; according to the applicant those on the seaward face of the bluff have functioned as a non-engineered seawall. At the base of the bluff is a wide sandy beach with a few rock outcroppings. Riprap seawalls protect existing houses on both sides of the subject lot and on many of the other lots in the neighborhood. Many of these were illegally constructed in response to the large storms of 1983. Please refer to de novo finding number 1, below, for further discussion of these seawalls.

The subject lot is one of the few remaining undeveloped lots in the Studio Drive neighborhood. The applicant applied for and was granted a permit (never exercised) by the Coastal Commission in 1986 for the construction of a 2550 square foot, two story, single family dwelling with a bluff setback of 18.75 feet and no shoreline structure. The geology report for the site,

dated June 26, 1985, determined an average bluff retreat rate of 3 inches per year, and that "On the basis of a 3 inch per year retreat rate, a 75 year bluff retreat of 18.75 feet can be assumed. No foundations shall be constructed within 18.75 feet of the bluff." The 1985 plans for the house show no part of it closer than 18.75 feet to the bluff edge and the foundation is shown as being no closer than 24 feet to the bluff edge.

Now the County has approved a coastal development permit and side setback and blufftop setback variances for a single family dwelling and a riprap seawall. The seawall is proposed to be a riprap structure keyed into the bedrock at the base of the bluff and extending to the top of the bluff, a vertical distance of about 15 to 20 feet. As approved by the County, the seawall would tie into the existing walls on either side. It would be significantly higher up the bluff face than the existing seawall on the south and about even with the one on the north. The cross-section shows that the wall would extend horizontally onto the beach about 10 feet. It may also encroach onto State Park property (perhaps as much as 20 feet?), although no property surveys have been done for this application to determine the exact location of the seaward property line. Please see Exhibit 7 for a cross-section of the proposed riprap seawall.

B. Substantial Issue Findings

1. New Development, Blufftop Setback, and Seawalls

a. Appellants' Contention: The appellants contend that the proposed new house with a reduced blufftop setback and a seawall is inconsistent with the LCP, will be precedential and a grant of special privileges.

b. Local Government Action: On June 7, 1998, the Board of Supervisors, on appeal, partially upheld the appeal of Thomas King, affirmed the decision of the Planning Commission in part and modified the decision of the Planning Commission and approved a single family dwelling with a bluff setback of 7.5 feet and a seawall.

c. Applicable LCP Policies: LUP Hazards Policy 1, New Development. *All new development proposed within areas subject to natural hazards from geologic or flood conditions (including beach erosion) shall be located and designed to minimize risks to human life and property. Along the shoreline new development (with the exception of coastal-dependent uses or public recreation facilities) shall be designed so that shoreline protective devices (such as seawalls, cliff retaining walls, revetments, breakwaters, groins) that would substantially alter landforms or natural shoreline processes, will not be needed for the life of the structure. Construction of permanent structures on the beach shall be prohibited except for facilities necessary for public health and safety such as lifeguard towers.*

LUP Hazards Policy 4, Limitations on the Construction of Shoreline Structures. *Construction of shoreline structures that would substantially alter existing landforms shall be limited to projects necessary for:*

- a. Protection of existing development (new development must ensure stability without depending upon shoreline protection devices);*

LUP Hazards Policy 6, Bluff Setbacks. New development or expansion of existing uses on bluffs shall be designed and set back adequately to assure stability and structural integrity and to withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protection structures which would require substantial alterations to the natural landforms along bluffs and cliffs. . . .

Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.118, Blufftop Setbacks. The required setback shall be the larger of the two required by subsections a. and b. of this section.

a. Stringline setback method::

- (1) A line between the most seaward portions of the structures on the adjacent lots; or
- (2) where there is substantial variation of land form between adjacent lots, the average setback of structures on the adjoining lots shall be used.

b. Bluff retreat setback method: New development . . . on bluffs shall be . . . setback from the bluff edge a distance sufficient to . . . withstand bluff erosion and wave action for a period of 75 years without construction of shoreline protective structures that would in the opinion of the Planning Director require substantial alterations to the natural landforms along bluffs and cliffs. A site stability evaluation report shall be prepared and submitted by a certified engineering geologist . . . that indicates that the bluff setback is adequate to allow for bluff erosion over the 75 year period.

CZLUO Section 23.05.090, Shoreline Structures. . . .

a. Where allowed: . . .

- (1) Protection of existing coastal development. . . .

Cayucos Urban Area Communitywide Standard 2, Setbacks

a. Bluff setbacks. 25-Foot minimum unless a geologic report prepared by a registered civil engineer or other qualified professional indicates that a larger setback is necessary to withstand 75 years of bluff erosion.

d. Analysis: The County's approval would allow the proposed house to be as close as 7.5 feet from the bluff edge and would allow the construction of a proposed seawall to protect the new development. The riprap would completely cover the bluff face and be continuous across the face of the bluff from north to south, tying into the existing seawalls on either side. It would extend completely up the bluff face, a vertical distance of about 15 to 20 feet. According to the plans, the riprap would extend onto the sandy beach about 10 feet from the base of the bluff, covering an area of \pm 400 square feet of sandy beach.

The LCP does not allow shoreline protective devices for new development. Seawalls are allowed to protect existing development only. Further all new structures are required to be set back from the bluff edge a sufficient distance so that they will not need any protection from bluff

erosion, specifically for a minimum of 75 years. The general guidance on the placement of new blufftop development is found in CZLUO Section 23.04.118 which specifies that the setback shall be the *larger* of the stringline method or the bluff retreat method, in which a geologic report is used to determine the 75 year setback. A more specific standard however, has been certified for Cayucos. Cayucos Urban Area Communitywide Standard 2, which applies in this case, requires a *25 foot minimum setback* from the bluff edge unless a geologic report requires a *larger* setback. The geologic reports in this instance established an erosion rate of three inches per year, which equates to 18.75 feet over 75 years, which is less than the Standard requires. Accordingly, the LCP Standard for blufftop setback is clearly 25 feet, not 7.5 feet as approved by the County.

As approved by the County, this project is inconsistent with LUP Hazards Policies 1,4, and 6, CZLUO Sections 23.04.118 and 23.05.090 and Cayucos Urban area Communitywide Standard 2. Therefore a substantial issue is raised.

2. Adequacy of Drainage

a. Appellants' Contention: The appellants contend that the rerouting of the drainage is inconsistent with the LCP and will adversely affect their property.

b. Local Government Action: On June 7, 1998, the Board of Supervisors, on appeal, partially upheld the appeal of Thomas King, affirmed the decision of the Planning Commission in part and modified the decision of the Planning Commission and approved a single family dwelling, rerouting the drainage from the center of the property to the north side of the house.

c. Applicable LCP Policies: LUP Hazards Policy 2, Erosion and Geologic Stability. *New development shall ensure structural stability while not creating or contributing to erosion or geological instability.*

CZLUO Section 23.05.050, Drainage Standards.

b. Natural channels and runoff. Proposed projects are to include design provisions to retain off-site natural drainage patterns and, when required, limit peak runoff to predevelopment levels.

d. Development adjacent to coastal bluffs. The drainage plan shall incorporate measures to minimize increased erosion to the coastal bluff as a result of development.

d. Analysis: Special conditions 21 through 24 of the County's approval deal with drainage. Condition 21 requires submission of "... a complete drainage analysis to the Department of Planning and Building and the County Engineering Department for review and approval." Condition 22 states that

The drainage structures as currently proposed may be inadequately sized to convey storm water flows, and therefore may require enlargement. If more space is required. . . Prior to issuance of building permits, the residence will be redesigned and relocated to accommodate any additional area needed for drainage.

Condition 23 requires various drainage measures such as installing roof gutters and discharging surface water through and beyond the face of the riprap. Condition 24 requires a drainage easement.

The appellants' concerns about drainage are valid. The drainage information is vague. The applicant must demonstrate that the rerouted runoff will not adversely affect the adjoining properties and that the drainage system will be adequate. Depending on the actual final calculations and design of the drainage system, there may have to be large revisions to the proposed project. This must be determined prior to issuance of the coastal development permit. As approved by the County, the project is inconsistent with LUP Policy 2 and CZLUO Section 23.05.050. **Therefore, a substantial issue is raised regarding drainage.**

3. Small Scale Design Neighborhoods

a. Appellants' Contention: The appellants contend that the structure is out of character with the Studio Drive neighborhood and the variance from Cayucos Urban Area Standard 4b., Side Setbacks, may be precedential and adversely affect the character of the Cayucos Community Small Scale Design Neighborhoods.

b. Local Government Action: On June 7, 1998, the Board of Supervisors, on appeal, partially upheld the appeal of Thomas King, affirmed the decision of the Planning Commission in part and modified the decision of the Planning Commission and approved a single family dwelling with a side setback variance from four feet to three feet.

c. Applicable LCP Policies: LUP Visual and Scenic Policy 1, Protection Of Visual and Scenic Resources. *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.*

CZLUO Section 23.11.030 , Definitions: Community Small Scale Design Neighborhoods. *Neighborhoods that are of special design interest to the community based on the existing character and scale.*

a. Cayucos: . . . Studio Drive Neighborhood - *That area designated Residential Single Family between Highway One and the ocean.*

Cayucos Urban Area Communitywide Standard 2d.(1), Setbacks, Studio Drive Area. *West of Studio Drive, Side: 3 feet*

Cayucos Urban Area Residential Single Family Standard 4.b., Side Setbacks. *Single story dwellings shall have setbacks as provided in Cayucos Communitywide Standard 2. Proposed two-story construction (including decks) shall have a lower floor setback on each side of not less than four feet. . . . An upper story wall setback on each side yard of a minimum of two-and-one-half (2 1/2) feet greater than the lower story wall shall also be required. . . .*

d. **Analysis:** In this area of Cayucos, the side setback for single story houses is three feet. Two-story houses are required to have a side setback of four feet on the lower floor with the upper floor set back an additional 2.5 feet on each side. The purpose of the requirement is to reduce the massing of new two story structures along Studio drive, between Highway One and the ocean. The proposal would entail removal of the fill material on the site and the construction of a house with two floors, one mostly below grade. The proposed house would appear to be only one floor when viewed from the front along Studio Drive. Viewed from the beach it would be a two story house, as is the existing house immediately to the north. According to the County file, the County Building Division considered the house to be two stories. The applicant believes that according to the Uniform Building Code (UBC) the house is a single story house. According to the UBC, a story is ". . . that portion of a building included between the upper surface of any floor and the upper surface of the floor next above. . . ." but that "If the finished floor level directly above a basement is more than 6 feet above grade . . . for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such basement . . . shall be considered a story." Another way of phrasing this is to say that if the finished floor directly above a basement is *less* than 6 feet above grade for more than 50 percent of the total perimeter and is *less* than 12 feet above grade at any point, then the basement will not be considered a story (and the house would be considered to be one story). Since the lower area of the proposed house would be mostly below grade and the upper floor would be less than 6 feet above grade for more than 50 percent of the total perimeter, and would be less than 12 feet above grade at any point, then according to this definition, the house as proposed is a "single story" house. **Therefore no substantial is raised regarding side setbacks.**

C. De Novo Findings

1. New Development, Blufftop Setback, and Seawalls

The LCP's general policy is that new development be set back from ocean bluffs a distance that would provide for protection from erosion for a minimum of 75 years (LCP Hazards Policy 6). As discussed above, the San Luis Obispo County LCP, in the Estero Area Plan, specifically requires a *minimum* 25 foot setback from the bluff edge in this area of Cayucos. Setbacks are necessary to protect structures from erosion of the coastal bluff for the life of the structure. On a site that has a relatively low bluff (15 – 20 feet) as this site has, the required 25 foot setback also provides protection from the damaging effects of waves that may overtop the bluff. In this case, the County approved a new house, a new seawall, and a variance to allow the house to be as close as 7.5 feet to the edge of the bluff. The applicant requested a variance to allow him to have his house at essentially the same distance back from the bluff edge as his neighbors' houses. His reason is that that would allow him to enjoy the same views his neighbors have and would allow for a larger house than could be built if set back 25 feet. However, as discussed below, there is no basis for a variance and seawalls are not allowed by the LCP in this circumstance.

a. No Basis for a Variance

A variance can be approved only when the approving body makes five findings, as required by the Government Code. The five findings, as listed in Coastal Zone Land Use Ordinance Section 23.01.045 of the LCP, are as follows:

1. The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which such property is situated; and
2. There are special circumstances applicable to the property, related only to size, shape, topography, location, or surroundings, and because of these circumstances, the strict application of this title [the Coastal Zone Land Use Ordinance] would deprive the property of privileges enjoyed by other property in the vicinity that is in the same land use category; and
3. The variance does not authorize a use that is not otherwise authorized in the land use category; and
4. The variance is consistent with the provisions of the Local Coastal Program; and
5. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements.

The findings made by the County are paraphrased as follows. They can be read in their entirety on page 13 of Exhibit 2.

1. No special grant of privileges inconsistent with limitations on other properties in the vicinity and land use category are authorized because single family dwellings are an allowed use in the residential single family land use category.
2. There are special circumstances that apply to the property. These are that an open drainage swale 3 - 8 feet deep runs through the site and there is uncompacted fill on the site.
3. Although the LCP does not allow construction of a seawall with new development, a seawall will be constructed as recommended in a geology report that stated that the bluff could erode several feet at one time in an intense storm, that the existing seawalls to the north and south contribute to accelerated bluff erosion by deflecting wave energy onto the subject site, and that a bluff protection structure is recommended.
4. The variance does not authorize a use not otherwise authorized in the land use category because single family residences are allowed uses in the residential single family category.
5. The variance is consistent with the LCP.
6. The granting of the variance does not adversely affect public health or safety, is not detrimental to public welfare, nor injurious to nearby property or improvements because the project is subject to building codes.

Finding number 1 and finding number 4 are based on single family residences being allowed uses in the residential single family land use category. While this is true, this is not a situation, for example, of a simple reduction of a rear yard setback so as to allow development of a house which otherwise could not be reasonably developed. The setback reduction here is a bluff top setback reduction made possible only because a seawall would be constructed along with the house. The variance is not necessary to be able to develop the parcel. In addition, all similarly situated vacant lots in Cayucos are held to the same setback standards.

Finding number 2 appears to indicate that the drainage swale running through the parcel makes it necessary to reduce the bluff setback in order to develop the site. The County's findings contain no substantiation of a need to reduce the bluff setback based on the existence of the swale nor is there any logical connection between the existence of the swale and the bluff setback.

Findings 3 and 5 are contradictory. Finding number 3 clearly acknowledges that the LCP does not allow the construction of seawalls with new development. Yet the finding says a seawall will be constructed because a geology report indicates that, despite the average erosion rate, an intense storm could erode several feet of the bluff at one time and that the existing seawalls on either side of the parcel contribute to erosion of its bluff. Finding number 5 states that the variance is consistent with the LCP. A variance cannot be granted unless the approving body determines, by making the required findings, that the variance satisfies the criteria of the Government Code. Here, the Government Code requires a finding that the variance is consistent with the LCP. Clearly, the variance is not consistent with the LCP since the LCP does not allow seawalls with new residential development.

There is no substantiation for Finding number 6. It may very well be that the variance will not adversely affect public health or safety or be detrimental to the public welfare or injure nearby property or improvements, but no case has been made to support such a finding.

Summarizing, there is no basis for a variance that would allow the house to be built as close as 7.5 feet to the bluff edge. The existence of the drainage swale and uncompacted fill do not necessitate a variance to the required bluff setback so that a house can be built, the findings are contradictory, and the variance is clearly inconsistent with the LCP.

b. Seawalls not Allowed in New Development

As discussed above, the San Luis Obispo County LCP allows shoreline structures only for existing development. It specifically prohibits new development that needs a shoreline structure in order to be developed and new development that includes a seawall (Hazards Policy 1 and Coastal Zone Land Use Ordinance Section 23.05.090). This project, which is new development on a vacant lot, was approved with a shoreline protective device. This directly conflicts with the requirements of the LCP, and cannot be approved.

Up to nine feet of non-engineered, uncompacted fill was placed on the lot in the early 1960s, likely during the widening of Highway One to four lanes. Some of the fill material is large chunks of sandstone; according to the applicant those on the seaward face of the bluff have functioned as a non-engineered seawall and his proposal would merely remove the existing non-engineered "seawall" and replace it with an engineered seawall. However, all bluffs function as

non-engineered seawalls. To accept the applicant's argument would be tantamount to sanctioning the construction of a seawall with every new house proposed to be built on a blufftop parcel. The existing fill material is not a seawall just as any existing bluff is not a seawall. Nor does this project constitute repair, maintenance, or replacement of an existing seawall. The applicant has chosen a house design that necessitates removal of most of the nine feet of fill on the parcel. This would entail removing the material constituting the bluff face. The applicant could, by modifying the house design, including moving it landward to comply with the LCP-required minimum setback, do away with any need to remove the bluff face material.

This site could be developed with an adequately sized single family home similar to those in the neighborhood. As approved by the County, the house would be approximately 3500 square feet (2730 square feet living area, 770 square feet garage), slightly larger than the lot and resulting in ± 65 percent site coverage. If the house was set back the required 25 feet, a home of ± 2337.5 square feet could be constructed on this site consistent with design policies for the area and without a seawall.

According to one of the geologic reports

The existing rip-rap bluff protection structures located to the north and south of the subject property contribute to accelerated bluff erosion. The accelerated erosion results when sea waves are deflected off the ends of these structures, and onto the subject bluff. . . .

In order to reduce bluff erosion, a bluff protective structure is recommended.

However, a site visit and review of photos of the bluff face do not reveal any extraordinary erosion near the ends of the existing seawalls. While no one disputes that a seawall reduces bluff erosion, a seawall is not needed on this site because the beach below the site is a fairly wide, relatively low energy beach so that wave energy, except in large storms, is greatly dissipated before it reaches the bluff. In addition, there is no evidence of imminent hazard and there are no structures at risk.

Finally, while it is true that riprap seawalls protect existing houses on both sides of the subject lot and on many of the other lots in the neighborhood, many of these were illegally constructed in response to the large storms of 1983. Commission files indicate that in excess of 20 seawalls were illegally constructed after the 1983 winter storms. Commission staff held a meeting in Cayucos to which all of the owners of the illegal seawalls were invited, in order to facilitate submittal of permit applications. Preliminary research suggests that a number of applications were received and approved. However, further research is needed to establish the status of adjoining seawalls and other seawalls in the vicinity of the project. In other words, the status of the adjacent seawalls cannot, at this time, be considered one way or another in this appeal. Rather than approving seawalls for protection of structures on a lot-by-lot basis, there needs to be a program developed to address legality of existing seawalls, cumulative effects of seawalls on coastal resources, and erosion and protection of structures along all of the Cayucos bluffs.

In conclusion, the LCP is very clear in requiring a 25 foot blufftop setback (or more) along the Cayucos waterfront. In this case, no more than 25 feet is needed for LCP conformance, because the 25 foot standard exceeds the minimum 18.75 foot erosion setback specified by the

geotechnical data for this lot. Finally, and most importantly, through project redesign, the proposed residential use can be feasibly shifted landward a sufficient distance to both avoid the need for a seawall and to meet the LCP's 25 foot blufftop setback standard. As conditioned to require such redesign, the project will conform to the applicable LCP sections cited above.

2. Drainage

From all accounts, when Highway One was widened to four lanes in this area in the early 1960s, some material from cuts was placed on the site, apparently as part of the installation of drainage pipes and to reduce erosion from the drainage directed onto the site. From the northeastern edge of the lot, where the drainage pipes empty onto the lot about half way down the length of the lot, runoff is carried in a concrete-lined swale. The runoff flows in an unlined swale the rest of the way to the bluff edge where it flows down the bluff face and onto the beach. The applicant proposes to convey the runoff entirely in a pipe through his property on the north side of the lot. Since the parameters of the drainage situation are not known, including what effect, if any, there might be on adjoining properties, the applicant must provide that information prior to issuance of a coastal development permit (Hazards Policy 2 and Coastal Zone Land Use Ordinance Section 23.05.050) This permit is conditioned to require the applicant to submit drainage plans as well as a copy of a County-approved drainage easement, to ensure maintenance of the rerouted drainage.

3. Public Coastal Access and Recreation

Although none of the appellants stated any contention with the County's action relative to access, 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.

a. Applicable Policies: Coastal Act Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

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

Section 30212. (a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby. . . .*

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

LCP: Shoreline Access Policy 2, New Development. *Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. . . .*

Coastal Zone Land Use Ordinance (CZLUO) Section 23.04.420, Coastal Access Required. *Development within the Coastal Zone between the first public road and the tidelands shall protect and/or provide coastal access as required by this section. . . .*

d. Type of Access Required:

(1) Vertical access:

(I) Within an urban or village area where no dedicated public access exists within one-quarter mile of the site. . . .

(3) Lateral Access Dedication. All new development shall provide a lateral access dedication of 25 feet of dry sandy beach. . . .

b. Analysis

Currently, there is vertical access within one-quarter mile of the site. Two lots to the south (about 80 feet) is an unimproved dirt trail leading to the beach. Six lots to the north (about 240 feet) is an improved accessway, so no vertical access is required to be provided by this project. Since the beach is owned by the Department of Parks and Recreation as part of Morro Strand State Beach, lateral access for the public is already guaranteed. Although the County conditioned the project to require the applicant to record an offer to dedicate lateral access, the Commission finds that a dedication of lateral access is not needed since the beach is owned by State Parks. However, as proposed, the revetment would cover approximately 400 square feet of beach. Surveys have not been done to establish whether or not the revetment would be on State Parks property, although it may well be since it would be located on sandy beach which, by most accounts, is State Parks property. If so, an encroachment permit would be needed from State Parks. More important, mitigation for the impact of the project on sandy beach would be needed as well. Such mitigation has not been provided in the project, nor discussed in the County's findings (except for the probably unnecessary lateral access dedication). This is inconsistent with the public access policies of the Coastal Act. In any event, because the revetment is not allowable under the LCP, nor necessary to avoid erosion hazards, the impacts to the public access are avoidable. As conditioned, therefore, to prohibit the revetment, the project is consistent with the public access policies. Finally, because the site is a small residential lot in an area designated for residential use and developed with residences, commercial recreational activities would not be appropriate on this site. Therefore, the lot need not be reserved for public or commercial recreational use. Therefore, as conditioned by the Commission, the proposal is consistent with Coastal Act sections 30210, 30211, and 30212 regarding public access and with Coastal Act section 30221 regarding public recreation.

VII. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effects which the activity may have on the environment. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary for Resources as being the functional equivalent of environmental review under CEQA.

The County's action of this project included environmental review by means of a negative declaration approved by the Board of Supervisors on July 7, 1998. This report has examined a variety of issues in connection with the environmental impacts of this proposal.

An alternative project design has been identified which would eliminate the need for a seawall and would better conform the project to the LCP's requirements for public view protection and small scale design neighborhoods. This permit has been conditioned to require such alternative design. Accordingly, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse impacts on the environment within the meaning of CEQA.

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.

SECTION I. Appellant(s)

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

Pati Hutchinson 2190 Circle Dr. Cayucos, CA
Ginger Newman 1933 Pacific Ave. Cayucos, CA
93430 (805) 995-2021 (Pati)
Zip Area Code Phone No.
995-1982 (Ginger)

SECTION II. Decision Being Appealed

1. Name of local/port government: San Luis Obispo County Board of Supervisors

2. Brief description of development being appealed: _____

3. Development's location (street address, assessor's parcel no., cross street, etc.): 3610 Studio Dr., Cayucos, CA 93430
APN 064-449-030; West side, 225 feet south of
Cody Lane

4. Description of decision being appealed:

a. Approval; no special conditions: _____

☒ b. Approval with special conditions: _____

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.

EXHIBIT 1
A-3-SLO-98-074
KING
page 1

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SLO-98-074

DATE FILED: 7/16/98

DISTRICT: CENTRAL Coast

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JUL 16 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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: 7/7/98

7. Local government's file number (if any): D930110P + D960285V

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:

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) _____

(2) _____

(3) _____

(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.

EXHIBIT 1
A-3-SLO-98-074
KING
page 2

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.)

see attached page

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.

Patti Hutchinson

Ginger Newman

Signature of Appellant(s) or
Authorized Agent

Date 7/14/98

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)

EXHIBIT 1
A-3-SLO-98-074
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page 3

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Our reason for this appeal:

This vacant lot is on the ocean bluff in the town of Cayucos which is within the Estero Area Local Coastal Plan. Approval of this variance violates Standard 4. b. in the Residential Single Family section of the LCP because the house will not conform to the lower floor and upper floor side setbacks dictated in the Small Scale Design Neighborhood regulations. The County Planning Department upheld the side setback standards only to be overruled by the Board of Supervisors. The argument given for granting this variance was that the lot was very small. ALL of the lots in Cayucos within the small scale neighborhood are small. Accommodations such as diminished bluff top set-backs and movement of a drainage ditch to the side of the property have been granted in order for this land owner to build a home. The public should not have to further accommodate this home by voiding these important side set back standards just so that more square footage can be built. If a building permit is issued for the home as presently approved, a precedent may be set. Others will follow with similar requests for variances which, if granted, will slash the impact of the standards now in place.

The initial Coastal Commission designated this neighborhood as small scale to protect the character of the then existing community. The citizens of Cayucos worked with the San Luis Obispo County Board of Supervisors to create the present standards designed to accomplish that protection. The Coastal Commission agreed with these standards when they adopted them two years ago and made them part of the Estero Area LCP. The public has a right to expect compliance to adopted standards. Thank you.

CALIFORNIA COASTAL COMMISSION

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

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JUL 27 1998

**APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT**

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please review attached appeal information sheet prior to completing this form.

California Coastal Commission

SECTION I. Appellant(s):

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

Commissioner Pedro Nava; Commissioner Mike Reilly

California Coastal Commission

45 Fremont Street, Suite 2000

San Francisco, CA 94105

ZIP

Area Code Phone No.
(415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

San Luis Obispo County

2. Brief description of development being appealed:

New single family residence, new seawall, and variance to reduce blufftop setback from 25 feet to 7.5 feet

3. Development's location (street address, assessor's parcel number, cross street, etc.):

3610 Studio Drive, Cayucos, San Luis Obispo County, APN: 064-449-030, approximately 225 feet south of Cody Lane

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: **XX**

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-SLO-98-074

DATE FILED: 7/16/98

DISTRICT: Central Coast District

EXHIBIT 1
A-3-SLO-98-074
KING
page **5**

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

a. ___ Planning Director/Zoning
Administrator

c. ___ Planning Commission

b. XX Board of Supervisors/
City Council

d. ___ Other: _____

6. Date of local government's decision: July 7, 1998

7. Local government's file number: D960285V and D930100P

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:

Thomas F. King
140 Arbor Land
Moss Beach CA 94038

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

(1) Jessica Kahel, San Luis Obispo County Department of Planning and Building,
County Government Center, San Luis Obispo CA 93408

(2) Pati Hutchinson, 2190 Circle Drive, Cayucos CA 93430

(3) Ginger Newman, 1933 Pacific Avenue, Cayucos CA 93430

(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.

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.)

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.)

(See 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 knowledge.

Signed Chris Ruff
Appellant or Agent

Date 7/27/98

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant

Date _____

0016F

EXHIBIT 1
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

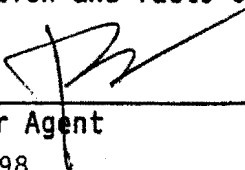
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

(see 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 knowledge.

Signed 
Appellant or Agent
Date 7/27/98

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed _____
Appellant
Date _____

The San Luis Obispo County Board of Supervisors granted a coastal development permit and variance to the applicant to construct a new single family residence and a new seawall and to reduce the required 25 foot blufftop setback to 7.5 feet, on an existing, vacant lot. The upper half of the existing bluff face and the surface of the lot have been built up with approximately 9 feet of fill, to be at approximately the same elevation as adjacent lots.

The County's approval is inconsistent with the certified Local Coastal Program for the following reasons.

Cayucos Urban Area Communitywide Standard 2.b. requires a 25 foot minimum bluff setback unless a geologic report indicates that a larger setback is necessary to withstand 75 years of bluff erosion.

Hazards Policies 1, 4, and 6 require that new development ensure stability through means other than the construction of shoreline protective devices that would substantially alter landforms or natural shoreline processes, and require that new development be set back from blufftops a sufficient distance to withstand erosion for a period of 75 years without construction of shoreline protection structures.

Coastal Zone Land Use Ordinance section 23.04.118 says that the required setback for new development on a coastal bluff shall be the larger of either that setback determined by the stringline method or the setback determined by a geologic report to be sufficient to withstand bluff erosion for a period of 75 years without a shoreline protection structure.

Coastal Zone Land Use Ordinance section 23.05.090 allows shoreline protection structures to protect existing development, public beaches in danger of erosion, coastal dependent uses, or existing public roadway facilities to public beaches where no alternative route exists.

Average yearly bluff retreat rates for the subject parcel have been estimated at from 1.2 to 3 inches per year, although any single erosion episode could erode several feet. If it is assumed that the historic average yearly erosion rate will continue, a setback of from 7.5 to 18.75 feet without a shoreline protection structure would protect the proposed structure from bluff erosion for 75 years. The County has approved a variance that would allow new development as close as 7.5 feet from the bluff with a shoreline protection structure.

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.

STATE OF CALIFORNIA—THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, STE. 300

SANTA CRUZ, CA 95060

(408) 427-4865

HEARING IMPAIRED: (415) 904-3200

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Post-It® Fax Note 7671

Date	7.28.98	# of pages	6
To	Coastal Commission		
From	J. Kahl		
Co./Dept.	Co.		
Phone #	for Esther Jacob		
Fax #	408 427 4877	Fax #	(805) 781-1242

RECEIVED

JUL 28 1998

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):

ESTHER JANOWSKY — PHONE 919 942 7941
 235 HUNTINGTON DRIVE CHAPEL HILL NC 27514 FOR:
 LILLIAN JACOB 3620 STUDIO DRIVE
 CAYUCOS CA (805) 995 3480

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: D930100P D960285V
 BOARD OF SUPERVISORS, SAN LUIS OBISPO COUNTY

2. Brief description of development being
 appealed: 3500 FOOT SINGLE FAMILY RESIDENCE AND SEAWALL
 WITH REQUEST FOR A VARIANCE TO BLUFF TOP AND SIDE SETBACK
 REQUIREMENTS

3. Development's location (street address, assessor's parcel
 no., cross street, etc.): 3610 STUDIO DRIVE (WEST SIDE)
 APN 064-449-030

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: ☒ _____
- 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-SLO-98-074

DATE FILED: 7/16/98

DISTRICT: Central Coast District

H5: 4/88

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A-3-SLO-98-074
KING
page 10

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: JULY 7 1998

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:

THOMAS F. KING
140 ARBOR LANE
MOSS BEACH CA 94038

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) JOHN A. HOWARD AND DITA RESELLA
5819 STALLION RIDGE
COLLEGE STATION, TX 77845

(2) ANGELA R. VARIAN
5146 GLIDE DRIVE
DAVIS CA 95616

(3) _____

(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.

EXHIBIT 1
A-3-SLO-98-074
KING
page 11

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.)

We are the southern neighbors of the lot, and we (as well as the neighbors on the north side of the lot) have expressed concern in writing about the impact of this project on the drainage of this coastal bluff area. We are concerned that the massive amount of grading involved in this project may not only destroy the existing drainage system, but may divert water flow and hasten coastal bluff erosion endangering our property (ie cause water to flow (see attached) onto and past our property since it will be diverted)

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.

Lillian Jacob
Esther C. Jacob
Signature of Appellant(s) or
Authorized Agent

Date

July 28 '98

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 _____

EXHIBIT 1
A-3-SLO-98-07
KING
page 12

Appeal 7/28/98

RE: D930100P D960285V

The proposed building doesn't meet the 25 foot 75. year set back recommended for coastal bluffs in the local coastal plan. This may adverse effects both on bluff stability and damage the aesthetics of the coast. Furthermore the project has a sea wall which is also counter to the local coastal plan which has a policy that sea walls not be built as a part of new construction.

Because of the variances, the building will be the maximum possible size given the size of the lot. This may have an adverse impact on the fragile, already eroding site, and on the neighboring properties, especially during the construction phase.

Finally, these are small scale design neighborhood standards and the proposed structure is totally out of character with the rest of the neighborhood.

Please note that the above information supercedes my agreement to the conditions of the form letter composed by Mr. King (dated March 11, 1998) to which I previously signed my name, and is consistent with my earlier concerns expressed in my letters of 2/23/98 and 2/24/98. I did not understand the subtleties and implications of Mr. King's letters at the time I signed it.

Lillian Jacob
L. St. C. 10.18.

RECEIVED

JUL 14 1998

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 19__

PRESENT: Supervisors Harry L. Ovitt, Ruth E. Brackett, Chairperson Michael P. Ryan

ABSENT: Supervisors Laurence L. Laurent, Peg Pinard

RESOLUTION NO. 98-211

**RESOLUTION AFFIRMING AND MODIFYING THE DECISION OF THE
PLANNING COMMISSION CONDITIONALLY APPROVING
THE APPLICATION OF TOM KING FOR
MINOR USE PERMIT/COASTAL DEVELOPMENT PERMIT D930100P**

The following resolution is now offered and read:

WHEREAS, on February 26, 1998, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "*Planning Commission*") duly considered and conditionally approved the application of TOM KING for Minor Use Permit/Coastal Development Permit D930100P; and

WHEREAS, Thomas F. King appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "*Board of Supervisors*") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on June 2, 1998, and the appeal was tentatively partially upheld and continued to July 7, 1998. At the continued hearing on July 7, 1998 determination and decision was made; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be partially upheld and the decision of the Planning Commission should be affirmed in part and modified subject to the findings and conditions set forth below.

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NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act..
4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.
5. That the appeal filed by Thomas F. King is hereby partially upheld denied and the decision of the Planning Commission is affirmed in part and modified and that the application of Tom King for Minor Use Permit/Coastal Development Permit D930100P is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full;

Upon motion of Supervisor Ovitt, seconded by Supervisor Brackett, and on the following roll call vote, to wit:

AYES: Supervisors Ovitt, Brackett, Chairperson Ryan

NOES: None

ABSENT: Supervisors Laurent, Pinard

ABSTAINING: None

the foregoing resolution is hereby adopted.

Michael P. Ryan

Chairman of the Board of Supervisors

ATTEST:

Julie L. Rodewald
Clerk of the Board of Supervisors

BY: CHERIE AISPURI Deputy Clerk

(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

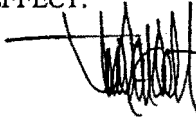
 6.18.98

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Exhibit A
D930100P - Minor Use Permit Findings

- A. The proposed project or use is consistent with the Local Coastal Program and the Land Use Element of the general plan because it is a principally permitted use allowed by Table "O" of the Land Use Element and Local Coastal Plan.
- B. As conditioned, the proposed project or use satisfies all applicable provisions of this title.
- C. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the uses because the building code and setback requirement will insure that it will not be detrimental to health, safety or welfare.
- D. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because it is a single family residence located in an area with other single family residences.
- E. The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project because it is a single family residence located on Studio Drive, which is a local street capable of carrying the additional traffic generated by the project.
- F. The project includes a seawall located partially on sandy beach. The public will lose this area of sandy beach that has been historically used by the public.

The project is conditioned to provide a lateral access dedication. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, because it will not inhibit access to coastal waters and recreation areas and because, as conditioned, a lateral access dedication will be provided by the applicant, if the property extends seaward of the toe of the bluff. A vertical access exists approximately 100 feet to the south of the site.

- G. On the basis of the Initial Study and all comments received there is no substantial evidence that the project will have a significant effect on the environment.

H. The proposed project includes the construction of a shoreline protection device. The project site has unique and special conditions which make the approval of the proposed project consistent with the Local Coastal Program and Land Use Element. The geotechnical evaluation prepared by Earth Systems Consultants (February 6, 1995) found that "as much as 9 feet of undocumented fill material covers much of the site." (p. 2) These undocumented fill materials are not materials native to the site, and according to the Earth Systems Report, present concerns in terms of "the presence of undocumented fill material, the expansion potential of the soils, and the stability of the fill soils in the areas of the proposed cuts." (Id. p. 3) The Report further concluded that because of the inability to predict settlement and the varying characteristics of undocumented fill material, the Uniform Building Code prohibits the placement of structures directly on this material, and that it is necessary to "remove all undocumented fill material present within the building area."

In addition, a Report prepared by Chipping Geological Services (March 8, 1994) indicates that the property "is longitudinally bisected by the drainage channel from a culvert that drains both Studio Drive and a portion of Highway One." (p. 1) The Chipping Report further concludes that the original geology of the lot was modified with fill, a culvert, and a gully, and that:

"The sides of the gully are otherwise made of rubble, deposited as landfill. It appears that the culvert was constructed a few feet below the level of the original grade, and that the present surface of the lot has been built up from fill. The fill consists of blocks of sandstone that are lithologically different from those exposed to the south in the bluff, but which are identical to sandstones in the large Highway One road cut to the north end of Morro Bay. Thus it is reasonable to speculate that the culvert was emplaced as part of the freeway construction project that produced spoils from the cut, and that these spoils were used both to bury the culvert and build up the [front] of the bluff to protect the culvert against erosion." (p. 1)

The Chipping Report further concluded that:

"The bluff is composed completely of fill materials, and no native materials were exposed. The fill is composed of blocks of sandstone of various sizes in a matrix of sand, gravel and dirt. The front of the bluff has been armored in a high concentration of the larger blocks, mainly as a result of the selective removal of the matrix. Both the front of the bluff and the channel from the culvert have been eroded by waves, and increased steepness at the base of the bluff is ascribed to removal of some material at the toe of the fill by coastal erosion." (p. 2)

"The adjoining properties have their bluffs protected by riprap, although it is concealed below thick ice plant on the property to the south." (p. 2)

The Chipping Report recommends that "the culvert be moved to the property line and that a free space be created above it so that the lining could be serviced", and that drainage from the culvert is "the prime factor in retreat of the bluff". (pp. 3-4) The proposed project is consistent with this recommendation and would resolve drainage which is the prime factor in bluff retreat.

The "Site Evaluation for a Bluff Protection Structure" prepared by Earth Systems Consultants (February 28, 1995), observed that:

"Adjacent to the bluff, the northern and southern property lines are bounded by existing rip-rap bluff protection structures. The structure to the south is partially buried with beach sand and ice plant. The structure to the north extends from the bottom of the bluff to the top, as shown in profile line A-A on Plate 1. This structure also extends onto the subject bluff area approximately 10 feet. The beach area located west of the bluff gently slopes toward the ocean. The bluff is composed entirely of fill materials. The fill consists of cobbles and small boulders with a clayey sand/sandy clay matrix." (pp. 1-2)

The Earth Systems Report observed that hazards to adjoining lots exist, unless remedied, under the following conditions:

"...if the fill materials were saturated and an intense storm with high tide conditions occurred simultaneously, the bluff could potentially retreat several feet at one time. The existing incised erosion gully on the lot is evidence that the fill materials are not resistant to erosion. The small boulders within the fill material add some armored protection against erosion, but when the fill soil matrix becomes saturated the soil loses its ability to hold these boulders in place. Once the boulders become loose they begin to migrate down slope and provide only a slight amount of protection against sea wave erosion." (p. 2)

"The existing rip-rap bluff protection structures located to the north and south of the subject property contribute to accelerated bluff erosion. The accelerated erosion results when sea waves are deflected off the ends of these structures, and onto the subject bluff." (p. 2)

The Report, therefore, recommends a bluff protective structure, consistent with the approved project. Unless such a structure is approved, the continuing rate of erosion

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endangers existing structures on the north and south of the proposed site. The proposed project, including a shoreline protection device, is consistent with § 30235 of the California Coastal Act.

The Earth Systems Consultants Report also concluded that the proposed shoreline protection structure will not adversely affect natural shoreline processes:

"The proposed structure should not affect the southerly transportation of the shoreline sand any more or less than the existing rip-rap structures located adjacent to the subject bluff. No adverse erosion impacts are anticipated at the ends of the proposed structure as it will tie into existing rip-rap protective structures on the north and south ends of the subject bluff. The proposed structure will be visually compatible with the existing rip rap structures." (p. 4)

The Report of December 2, 1997, prepared by Taylor & Syfan Consulting Engineers, observed with regard to the removal of the undocumented fill:

"The depth of the cuts is minimal at seven feet and can be easily shored at/on the North and South property lines so as not to adversely effect the stability of the adjacent properties or the bluffs."

Exhibit B
D930100P - Minor Use Permit Conditions of Approval

Approved Development

1. This approval authorizes the construction of a single family residence and seawall that is consistent with the following standards:

Design style - Generally consistent with the plans submitted with the project

Height - Not to exceed 15 feet measured from the midpoint of the centerline of the street.

Front setback - Zero feet

Side setbacks - Minimum 3 feet

Rear setback (bluff) - Minimum 7 1/2 feet

Total maximum gross floor area including garage - 3,500 square feet

Seawall to a maximum elevation of 26 feet above sea level and in accordance with Geotechnic report date February 28, 1995.

2. Site development shall be consistent with a revised site plan, floor plans and elevations to be submitted to the Development Review Section of the Department of Planning and Building for review and approval before issuance of a building permit. The revised plans shall indicate the changes required above.

Survey/Staking

3. At least 10 days prior to issuance of construction permits, the applicant shall provide a survey of the site and physically stake the rear bluff top setback, front corners of the lot, and the south and north side setbacks, and notify the Development Review Section so an inspection can be made to verify the building location. This verification is subject to annual review until the foundation is in place.

Erosion and Sedimentation Control

4. Prior to issuance of construction permits, the applicant shall submit to the Planning Division of the Department of Planning and Building and the County Engineering Department for review and approval a sedimentation and erosion control plan in compliance with Section 23.05.036 of the CZLUO.

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Fire Safety

5. Prior to issuance of a certificate of occupancy or final inspection, the applicant shall comply with the requirements of the Cayucos Fire Protection District as stated in their

referral review of September 25, 1997 including sprinklering to NFPA 13D.

Coastal access

6. **Prior to issuance of a construction permit**, the applicant shall execute and record an offer of dedication for public access along the shoreline. The offer of dedication shall provide for lateral access of twenty-five (25) feet of dry sandy beach along the shore to be available at all times during the year, or from the mean high tide to the toe of the bluff where topography limits the dry sandy beach to less than twenty-five (25) feet. The offer shall be in a form acceptable to County Counsel, and shall be approved by the Planning Director and the Executive Director of the California Coastal Commission prior to the issuance of a construction permit.
7. **Prior to final inspection**, the applicant shall record the offer to dedicate a lateral access easement, if applicable.

Seawall Maintenance Agreement

8. **Prior to issuance of construction permits**, the applicant shall enter into an agreement with the Department of Parks and Recreation to the satisfaction of County Counsel that states the applicant has permission to maintain the seawall for the life of the residence.

Consent of Owner

9. **Prior to issuance of construction permits**, the applicant shall provide a signed and dated Consent of Owner form from the Department of Parks and Recreation for any work for the seawall or any other work proposed by the applicant located on State Parks' land.

Seawall

10. **Prior to issuance of building permits**, the applicant shall provide to the Development Review Division of the Department of Planning and Building engineered plans for the seawall to be constructed to the 26' elevation above sea level following the recommendations of the geotechnical report dated February 28, 1995 (Earth Systems Consultants).
11. The applicant shall place the toe of the new seawall as close as feasible to the existing toe of bluff. **Prior to issuance of building permits**, the applicant shall provide a letter from the engineering geologist of record confirming that this has been accomplished.
12. All excess excavated material, if any, other than clean beach sand shall be removed from the beach prior to the next high tide following excavation. Such material shall be disposed of in either an approved fill location or a permitted landfill.
13. All equipment used for seawall construction shall be removed from the beach at the end of the working day. If high tides encroach into the construction area, such equipment shall also be removed from the wetted beach area during each tidal cycle.

14. No fueling or scheduled maintenance of equipment shall occur on the beach. Equipment shall be removed from the sandy beach for such activities.
15. All equipment shall be inspected for leakage of petroleum products (e.g. gasoline, diesel fuel, hydraulic oil) or antifreeze on a daily basis. Equipment showing obvious signs of such leakage shall not be used on the beach.
16. All heavy equipment access-ways onto the beach, if any, shall be restored to pre-construction conditions prior to final inspection of the seawall. New or temporary equipment access-ways onto the beach may require additional review and permits.
17. Spillage of any petroleum product on the beach requires immediate notification of the proper authorities. In the event of a spill, notification shall be accomplished as follows:
 - a. During normal business, notify the County Division of Environmental Health at (805) 781-5544.

or,

During "off" hours, contact the San Luis Obispo County Sheriff at (805) 781-4553 or (805) 781-4550 and request to be connected with the On-duty Hazardous Materials Coordinator at County Environmental Health.

- b. Contact the State Department of Fish and Game, Office of Oil Spill Prevention and Response at (805) 772-1756 (24 hours).

If the spill presents an immediate or imminent hazard to life and/or safety, call 911.

Geologic Hazards

18. During project construction/ground disturbing activities, the applicant shall retain the engineering geologist of record and shall provide the engineering geologist's written certification of adequacy of the proposed site development for its intended use to the Department of Planning and Building.
19. Prior to occupancy or final inspection, whichever occurs first, the soil engineer and engineering geologist of record shall verify that construction is in compliance with the intent of the reports prepared by Earth Systems Consultants dated February 6 (residence) and February 28, 1995 (seawall). This verification shall be submitted to the Department of Planning and Building for review and approval.
20. Prior to issuance of building permits, the applicant shall submit to the Development Review Division of the Department of Planning and Building engineered foundation plans which follow the recommendations of the geotechnical report dated February 6, 1995 (Earth Systems Consultants) or as updated to reflect project redesign, including a

concrete caisson foundation.

Drainage

21. **Prior to issuance of a construction permit**, the applicant shall submit a complete drainage analysis to the Department of Planning and Building and the County Engineering Department for review and approval.
22. The drainage structures as currently proposed may be inadequately sized to convey storm water flows, and therefore may require enlargement. If more space is required to accommodate drainage structures or other facilities, no additional excavation into the site will occur as compared to that which is depicted on the current plans. **Prior to issuance of building permits**, the residence will be redesigned and relocated to accommodate any additional area needed for drainage.
23. **Prior to occupancy or final inspection, whichever occurs first**, the applicant shall demonstrate compliance with the following drainage control measures outlined in the February 28, 1995 report prepared by Earth Systems Consultants:
 - a) The proposed house should have roof gutters that collect and properly dispose of the roof runoff;
 - b) The lot should be graded to drain away from the top of the bluff or a "V" ditch should be constructed 3 to 4 feet from the top of the bluff to intercept surface water before it flows over the top of the bluff;
 - c) Surface water collected on the site should be discharged beyond the bluff face and the proposed rip-rap structure and shall be buried to the maximum extent feasible to avoid unsightly piping.
24. **Prior to issuance of building permits**, the applicant shall enter into an drainage easement/agreement with the County Engineering Department to accept the water in the new location.

Engineered Shoring Plan

25. **Prior to issuance of building permits**, the applicant shall provide to the Development Review Division of the Department of Planning and Building an engineered shoring plan, including shoring during construction for the residence to the north of the site.

Water and Sewer

26. **Prior to issuance of building permits**, the applicant shall provide to the Development Review Division of the Department of Planning and Building updated water and sewer will serve letters.
27. **Prior to final inspection**, the applicant shall comply with all requirements of the Cayucos Sanitary District.

Plan

IN THE BOARD OF SUPERVISORS

COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA JUL 14 1998

RECEIVED

Tues day July 7

CALIFORNIA
COASTAL COMMISSION
CENTRAL AREA
JUL 14 1998

PRESENT: Supervisors Harry L. Ovitt, Ruth E. Brackett, Chairperson Michael P. Ryan

ABSENT: Supervisors Laurence L. Laurent, Peg Pinard

RESOLUTION NO. 98-212

**RESOLUTION AFFIRMING AND MODIFYING THE DECISION OF THE
PLANNING COMMISSION CONDITIONALLY APPROVING
THE APPLICATION OF TOM KING FOR
VARIANCE/COASTAL DEVELOPMENT PERMIT D960285V**

The following resolution is now offered and read:

WHEREAS, on February 26, 1998, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "*Planning Commission*") duly considered and conditionally approved the application of TOM KING for Variance/Coastal Development Permit D960285V; and

WHEREAS, Thomas F. King appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "*Board of Supervisors*") pursuant to the applicable provisions of Title 23 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on June 2, 1998, and the appeal was tentatively partially upheld and continued to July 7, 1998. At the continued hearing on July 7, 1998 determination and decision was made; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be partially upheld and the decision of the Planning Commission should be affirmed in part and modified subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

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1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibits A and B attached hereto and incorporated by reference herein as though set forth in full.
3. That the negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act..
4. That the Board of Supervisors has reviewed and considered the information contained in the negative declaration together with all comments received during the public review process prior to approving the project.
5. That the appeal filed by Thomas F. King is hereby partially upheld and the decision of the Planning Commission is affirmed in part and modified and that the application of Tom King for Variance/Coastal Development Permit D960285V is hereby approved subject to the conditions of approval set forth in Exhibit C attached hereto and incorporated by reference herein as though set forth in full;

Upon motion of Supervisor Ovitt, seconded by Supervisor Brackett, and on the following roll call vote, to wit:

AYES: Supervisors Ovitt, Brackett, Chairperson Ryan

NOES: None

ABSENT: Supervisor Laurent, Pinard

ABSTAINING: None

the foregoing resolution is hereby adopted.

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Michael P. Ryan

Chairman of the Board of Supervisors

ATTEST:

Julie L. Rodewald
Clerk of the Board of Supervisors
BY: CHERIE AISPURO Deputy Clerk
(SEAL)

APPROVED AS TO FORM AND LEGAL EFFECT:

JAMES B. LINDHOLM, JR.
County Counsel

By: [Signature] 6.29.98
Deputy County Counsel

STATE OF CALIFORNIA) ss COUNTY OF SAN LUIS OBISPO)
I, JULIE L. RODEWALD, County Clerk of the above entitled County, and Ex-Officio Clerk of the Board of Supervisors thereof, do hereby certify the foregoing to be a full, true and correct copy of an order entered in the minutes of said Board of Supervisors, and now remaining of record in my office.
Witness, my hand and seal of said Board of Supervisors this <u>8</u> day of <u>July</u> 19 <u>98</u> .
JULIE L. RODEWALD County Clerk and Ex-Officio Clerk of the Board of Supervisors
By: <u>[Signature]</u> Deputy Clerk

Exhibit A
D960285V - Variance Findings for
Blufftop Setback

- A. The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which it is situated because it is consistent with other development in the neighborhood. Single family dwellings are an allowed use in the residential single family land use category.
- B. There are special circumstances applicable to the property, including size, shape, topography, location, and surroundings and because of these circumstances, the strict application of this Title would deprive the property of privileges enjoyed by other properties in the vicinity and in the same land use category. These circumstances are that a drainage swale runs through the site and there is uncompacted fill (up to 9 feet in depth) on the site. The drainage swale is an open drainage ditch which varies in depth from 3 feet at the culvert (approximately 10 - 15 feet from the Studio Drive frontage) to approximately 8 feet at the bluff.
- C. Although coastal policy does not allow the construction of seawall with new development, a seawall built to the 26' elevation above sea level will be constructed as part of the project as recommended by a geology report for the project. The Geotechnical Report prepared by Earth Systems Consultants for the Bluff Protection Structure dated February 28, 1995 states the following:

"We concur with the estimated bluff retreat rate of 3 inches per year derived by Pacific Geoscience and Chipping Geological Services. However, if the fill materials were saturated and an intense storm with high tide conditions occurred simultaneously, the bluff could potentially retreat several feet at one time. The existing incised erosion gully on the lot is evidence that the fill materials are not resistant to erosion. The small boulders within the fill material add some armored protection against erosion, but when the fill soil matrix becomes saturated the soil loses its ability to hold these boulders in place. Once the boulders become loose they begin to migrate down slope and provide only a slight amount of protection against sea wave erosion.

"The existing rip-rap bluff protection structures located to the north and south of the subject property contribute to accelerated bluff erosion. The accelerated bluff erosion results when sea waves are deflected off the ends of these structures, and onto the subject bluff.

"In order to reduce bluff erosion, a bluff protective structure is recommended."

- D. The variance does not authorize a use that is not otherwise authorized in the land use category because single family residences are allowed uses in the residential single family category.

- E. The variance is consistent with the provisions of the Local Coastal Program.
- F. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements as the project is subject to building codes to insure public health, safety and welfare.

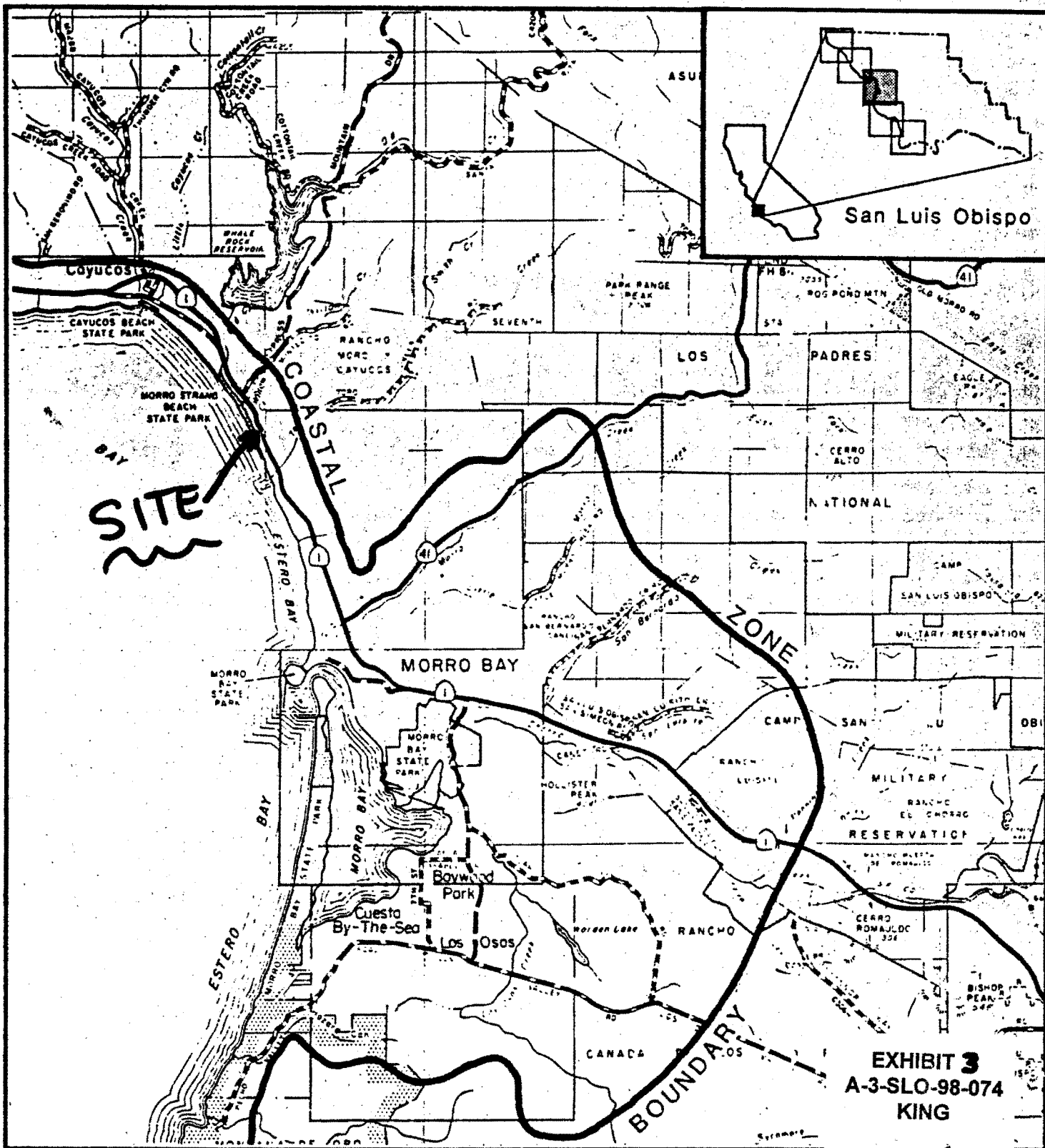
Exhibit B
D960285V - Variance Findings for
Side Setback

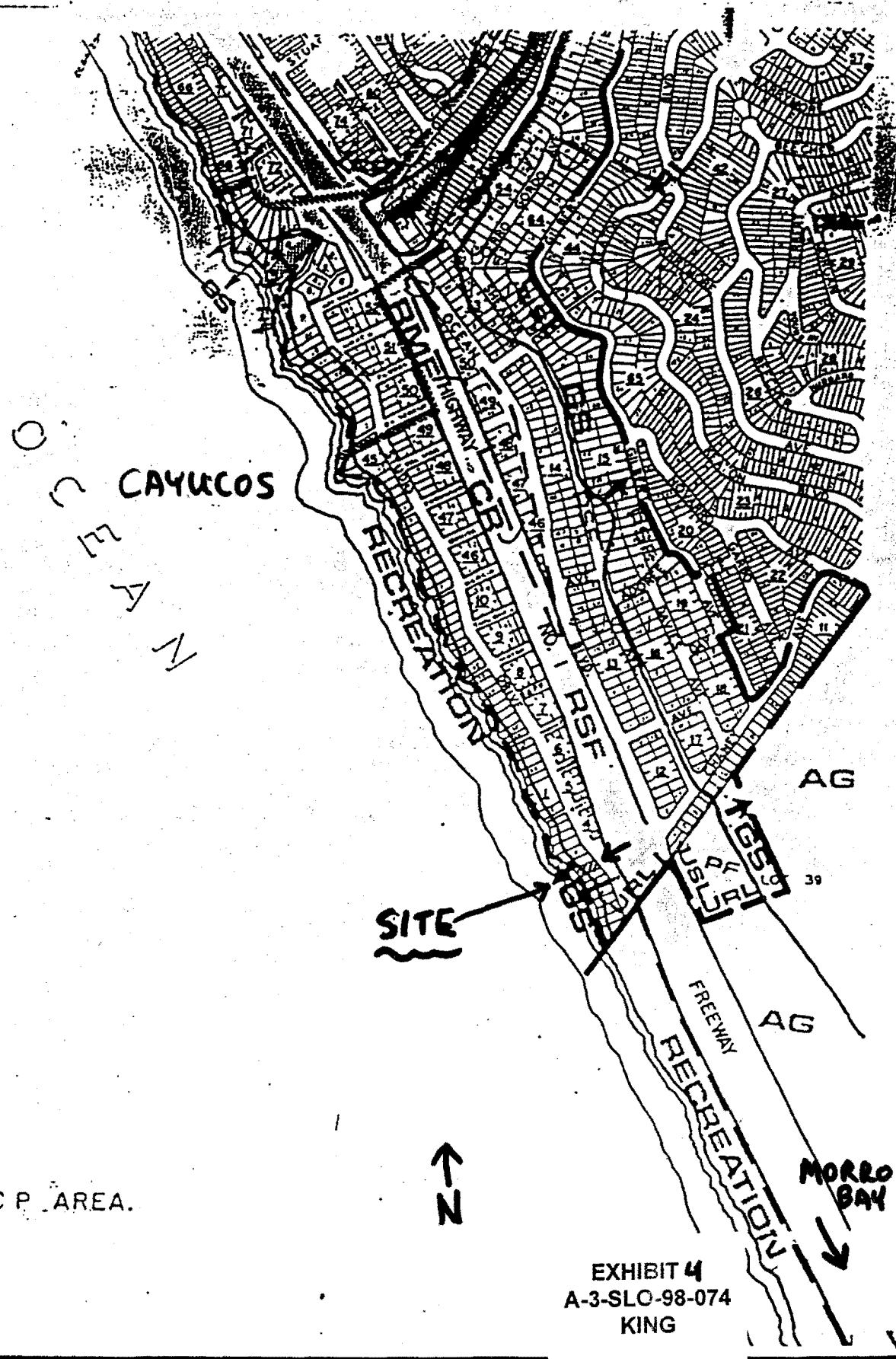
- A. The variance authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and land use category in which it is situated because it is a constrained marine blufftop site with a drainage swale and uncompacted fill. Single family dwellings are an allowed use in the residential single family land use category.
- B. There are special circumstances applicable to the property, including size, shape, topography, location, and surroundings and because of these circumstances, the strict application of this Title would deprive the property of privileges enjoyed by other properties in the vicinity and in the same land use category. These circumstances are that the site is a constrained marine blufftop site with a drainage swale and uncompacted fill.
- C. The variance does not authorize a use that is not otherwise authorized in the land use category because single family residences are allowed uses in the residential single family category.
- D. The variance is consistent with the provisions of the Local Coastal Program.
- E. The granting of such application does not, under the circumstances and conditions applied in the particular case, adversely affect public health or safety, is not materially detrimental to the public welfare, nor injurious to nearby property or improvements as the project is subject to building codes to insure public health, safety and welfare.

Exhibit C
D960285V - Variance Condition of Approval

Approved Development

1. This approval authorizes a rear blufftop setback of a minimum of 7 ½ feet.
2. This approval authorizes a minimum side setback of 3 feet.





THE C.P. AREA.

SITE

AG

AG

MORRO BAY

EXHIBIT 4
A-3-SLO-98-074
KING

PROJECT

D930100P & D960285V
KING M.U.P & VARIANCE

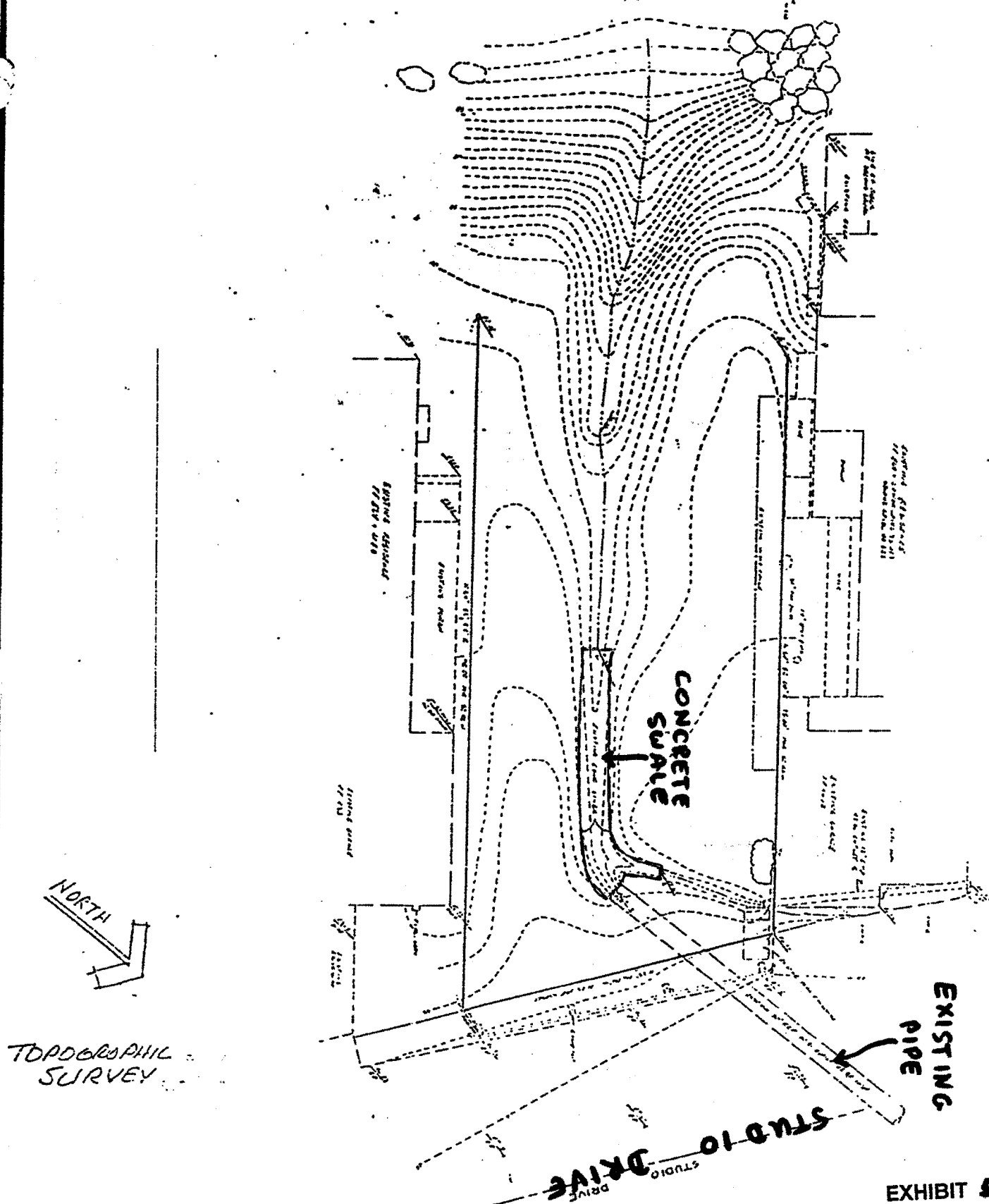


EXHIBIT

LAND USE CATEGORY MAP

0-31

BEACH



TOPOGRAPHIC SURVEY

EXHIBIT 5
A-3-SLO-98-074
KING

PROJECT

D930100P & D960285V
KING M.U.P & VARIANCE



EXHIBIT

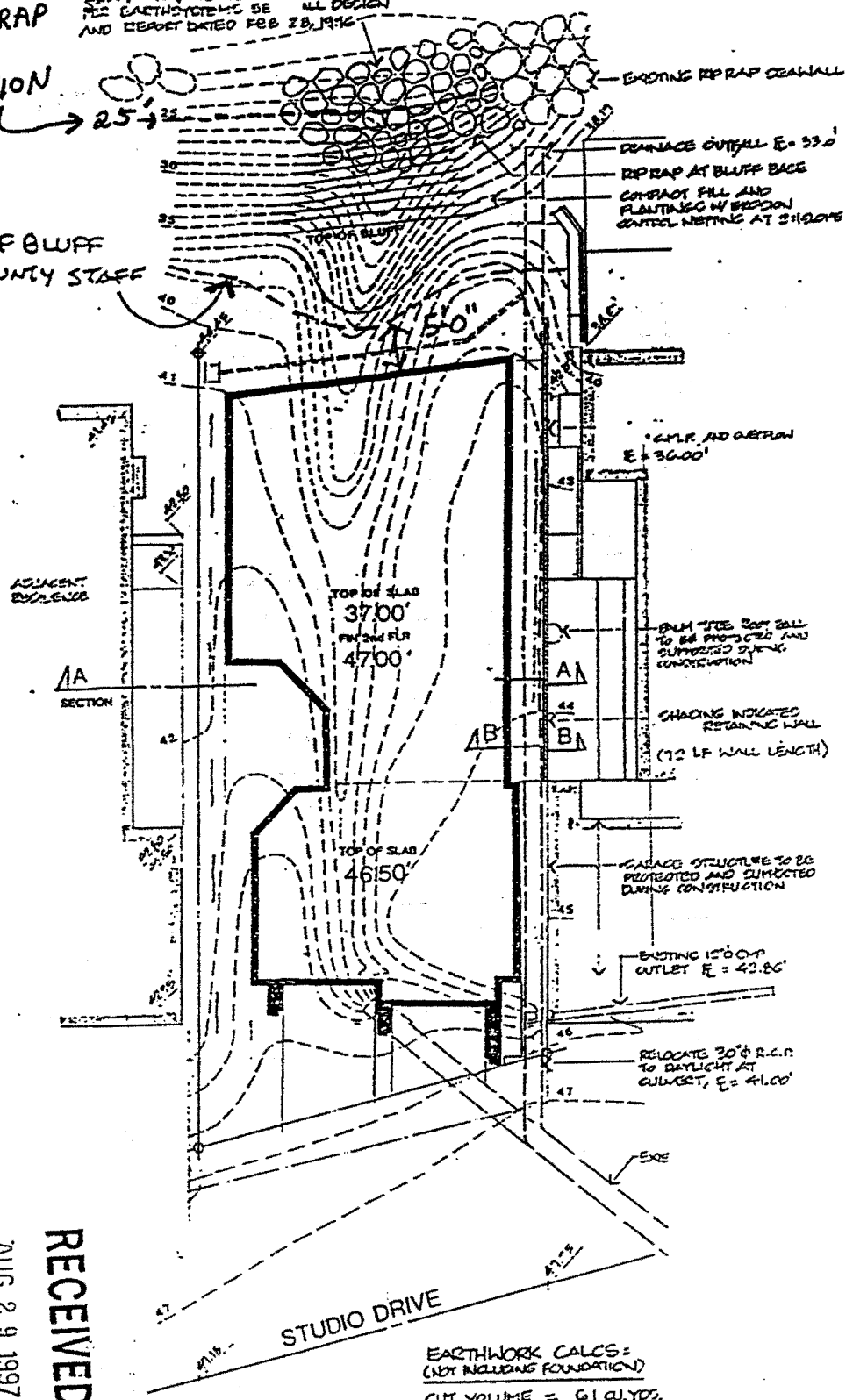
TOPOGRAPHIC MAP

6-28

NEW RIPRAP
TO 25'
ELEVATION

NEW RIPRAP TO 25 FT ELEVATION
PER EARTHWORKS SE ALL DESIGN
AND REPORT DATED FEB 28, 1996

TOP OF BLUFF
PER COUNTY STAFF



ADJACENT
ELEVANCE

SECTION
A-A

STUDIO DRIVE

EARTHWORK CALCS =
(NOT INCLUDING FOUNDATION)

CUT VOLUME = 61 CU. YDS.
FILL = NO FILL ON SITE.
ALL CUT TO BE EXPORTED.

BLUFF STABILIZATION AND
DRAINAGE PLAN SEE ALSO CONCEPTUAL
GRAVING PLAN

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AUG 29 1997
S.L.O. COUNTY
PLANNING DEPT.

PROJECT

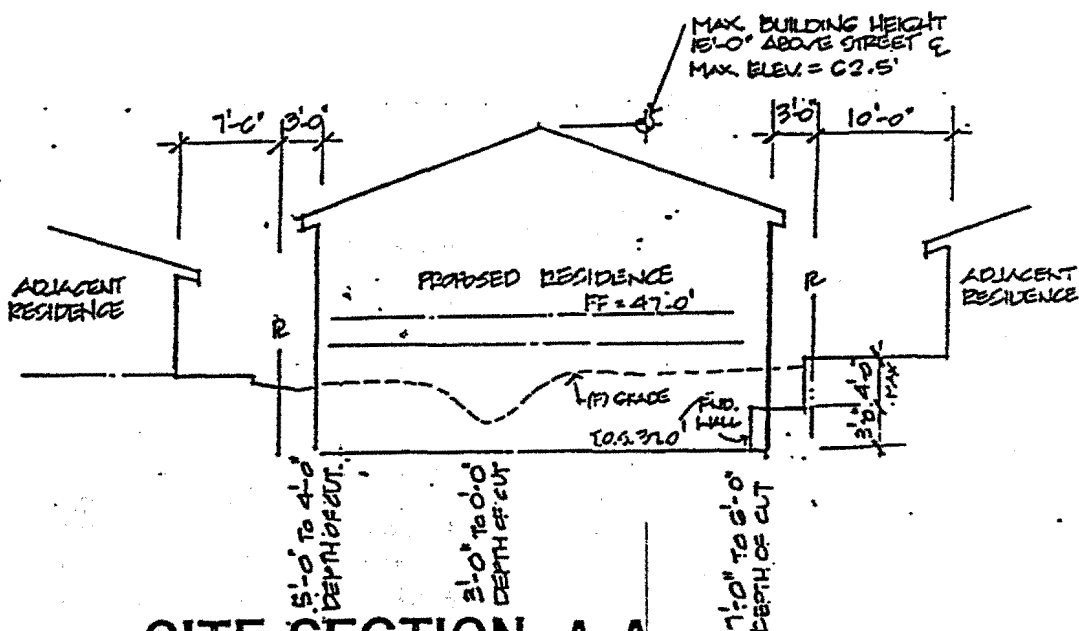
D930100P & D960285V
KING M.U.P & VARIANCE



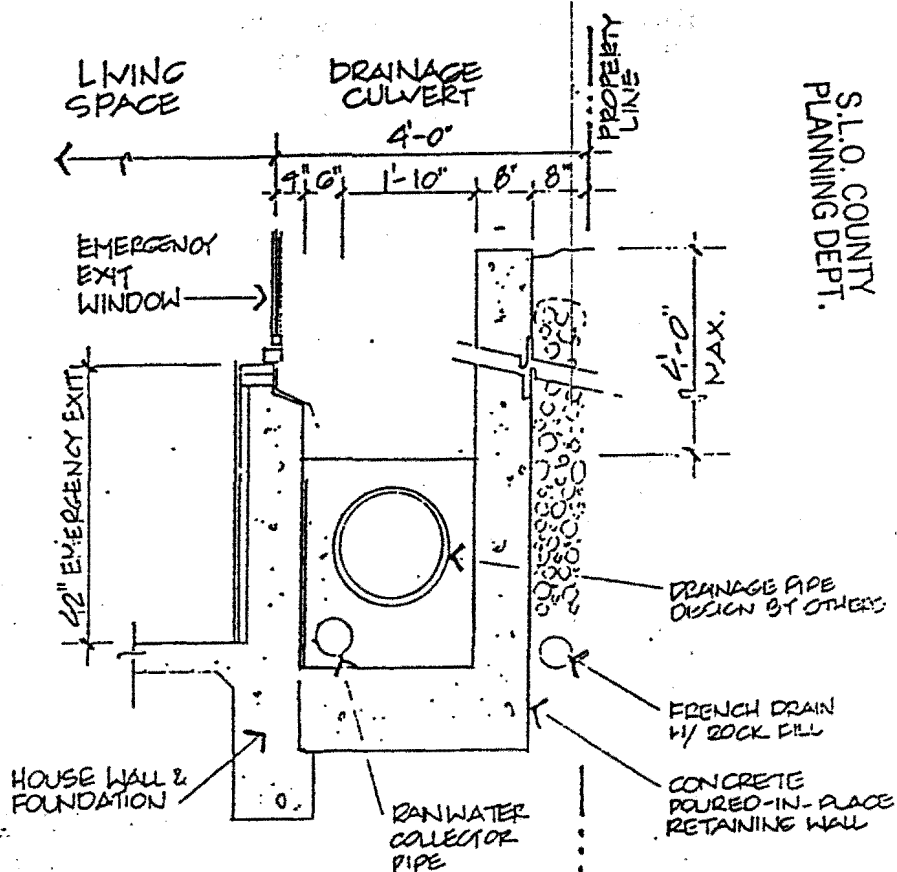
EXHIBIT

DRAINAGE PLAN

76



SITE SECTION A-A



SECTION B-B

3/4" = 1'-0"

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AUG 29 1997
S.L.O. COUNTY
PLANNING DEPT.

PROJECT

D930100P & D960285V
KING M.U.P & VARIANCE



EXHIBIT

Site Sections

EXHIBIT C
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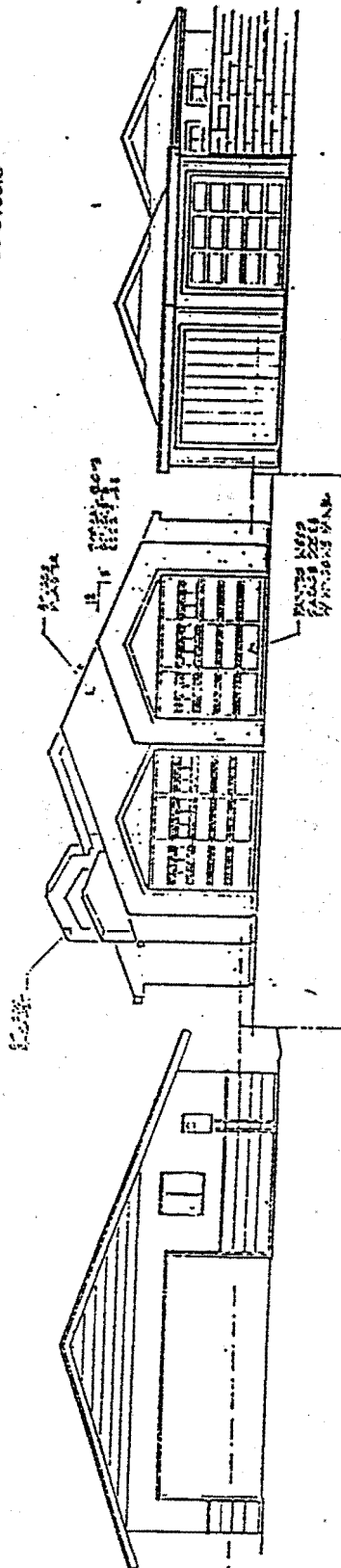
AUG 29 1997

S.L.O. COUNTY
PLANNING DEPT.

3620 STUDIO

3610 STUDIO (KING)

3600 STUDIO



NORTHEAST (VIEWED FROM STUDIO DRIVE) ELEVATION

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PROJECT

D930100P & D960285V
KING M.U.P & VARIANCE



EXHIBIT

STREETSCAPE/
EAST ELEVATION

Handwritten signature/initials

RECEIVED

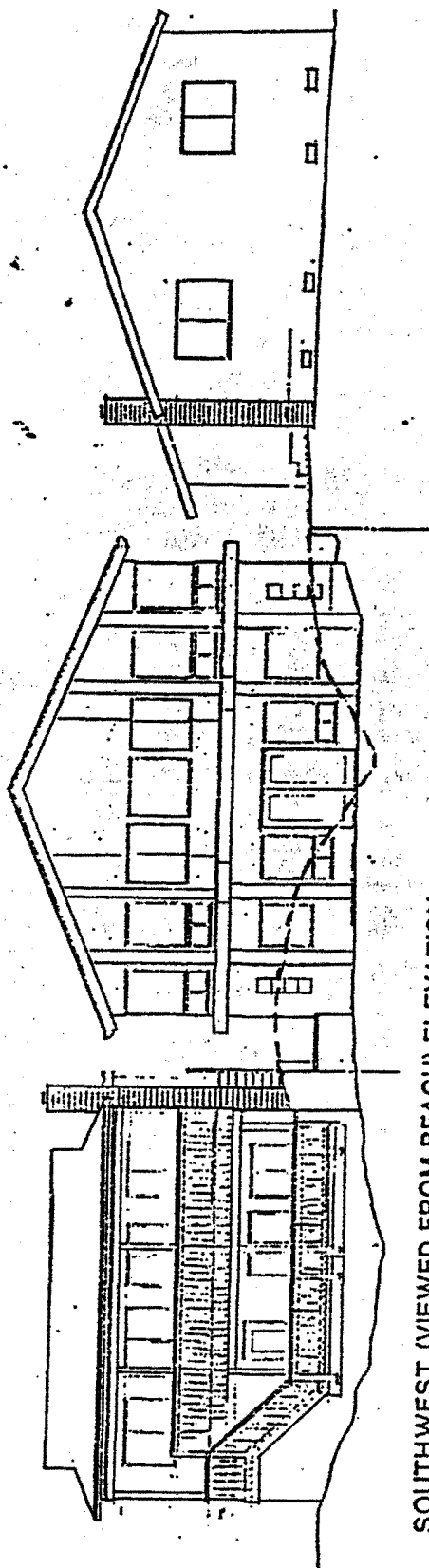
AUG 29 1997

S.L.O. COUNTY
PLANNING DEPT.

3600 STUDIO

3610 STUDIO (KING)

3620 STUDIO



SOUTHWEST (VIEWED FROM BEACH) ELEVATION

EXHIBIT 6
A-3-SLO-98-074
KING
page 4

PROJECT

D930100P & D960285V
KING M.U.P & VARIANCE

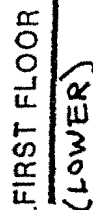


EXHIBIT

WEST ELEVATION

CV

S.L.O. COUNTY
PLANNING DEPT.



LOWER FLOOR PLAN



RECEIVED

AUG 29 1997

S.L.O. COUNTY
PLANNING-DEPT.

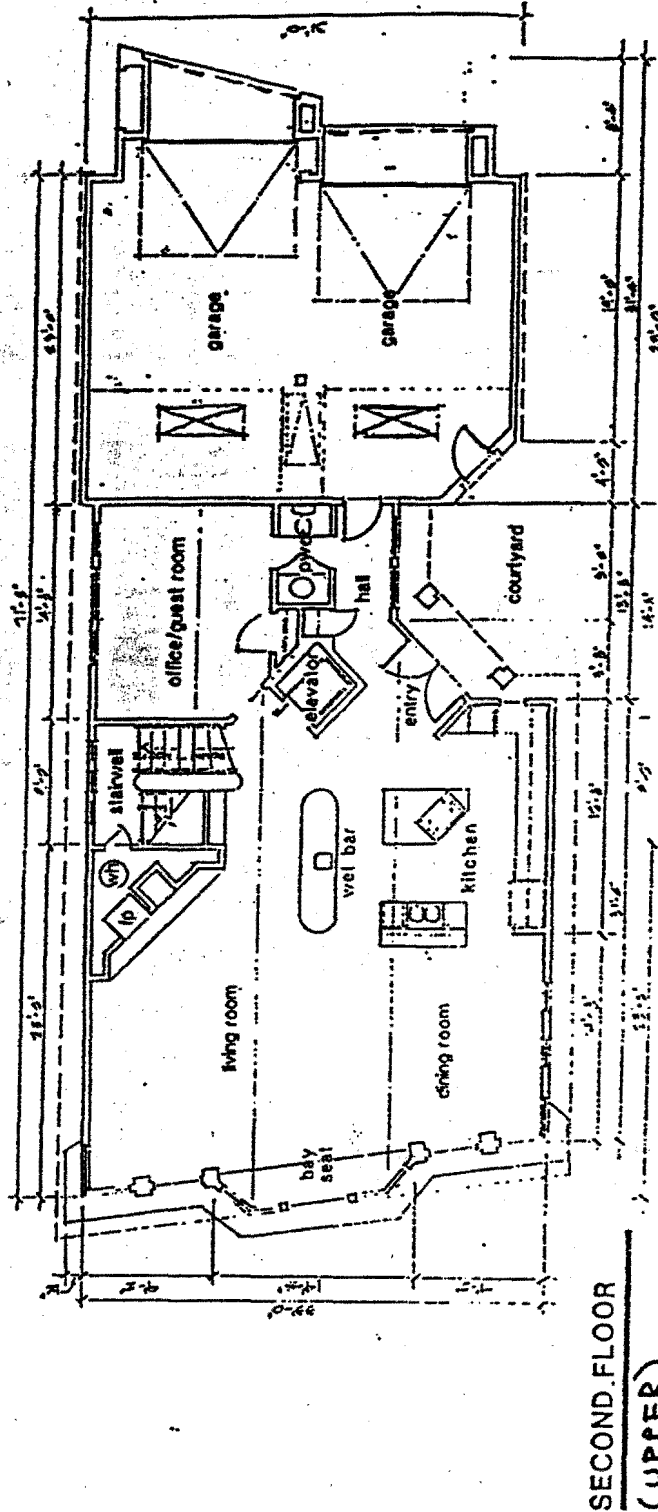


EXHIBIT 6
A-3-SLO-98-074
KING
page 6

PROJECT

D930100P & D960285V
KING M.U.P & VARIANCE



EXHIBIT

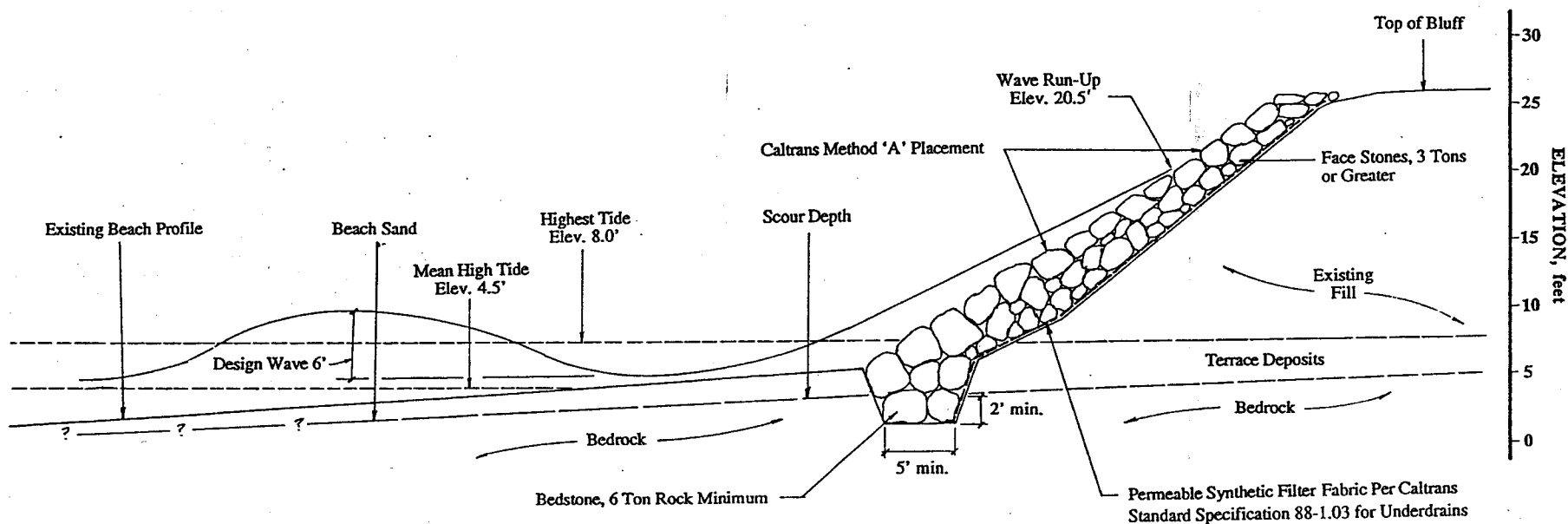
UPPER FLOOR PLAN

27

EXHIBIT 7
A-3-SLO-98-074
KING

A

A'



SCALE: 1/8" = 1'

CROSS SECTION A - A' **RECOMENDED RIP-RAP PROTECTION STRUCTURE**

LOT 8, BLOCK 1, MORRO STRAND UNIT 2
Cayucos Area of San Luis Obispo County, California



Earth Systems Consultants
Northern California

Pacific Geoscience Division

4378 Santa Fe Road
San Luis Obispo, CA 93401

February 17, 1995

LR

NGG09435-01

