

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
 705 FRONT STREET, SUITE 300
 CRUZ, CA 95060
 427-4863



Th23c

Filed: 09/08/99
 49th day: 10/27/99
 Open & Cont'd: 10/13/99
 180th day: 03/06/00
 Staff: K. Colin
 Staff Report: 11/18/99
 Hearing Date: 12/09/99

STAFF REPORT: APPEAL NO SUBSTANTIAL ISSUE

LOCAL GOVERNMENT: City of Pismo Beach
 DECISION: Approval with Conditions
 APPEAL NUMBER: A-3-PSB -99-062
 APPLICANT: **Glen Holley**
 APPELLANT: Thomas Rasori; Thomas Barrett
 PROJECT LOCATION: 339 Boeker, Pismo Beach
 PROJECT DESCRIPTION: Construction of 352 square foot second floor addition to 499 square foot residence, with continued uncovered two space tandem parking in existing side yard.
 FILE DOCUMENTS: City of Pismo Beach Local Coastal Program (LCP), Notice of Final Local Action for Coastal Development Permit No. 98-144.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, determine that **NO** substantial issue exists with respect to the grounds on which the appeal has been filed. The project is a 352 square foot second floor addition to an existing 499 square foot residence with continued uncovered two-space tandem parking in the existing side yard. The project is located within the Shell Beach Planning Area of Pismo Beach in an area composed largely of single-family, residential development. The City granted a variance to the off-street parking requirements of the Local Coastal Program which require two parking spaces, one of which must be covered (LCP). Because of the constrained lot, the project cannot cover one parking space consistent with the side setback requirements. In all other respects the project is consistent with the LCP. The appellants contend that the project does not warrant the granting of a variance to the City's parking standards. These contentions do not raise a substantial issue because the project, as conditioned by the City, is an allowable variance under the zoning ordinance and the City has made all the required findings for such variance. Although the circumstances of this case may not be strictly "unique", as required by the variance ordinance, the approved project nonetheless does not raise a substantial with respect to LCP compliance.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal was filed, pursuant to Coastal Act section 30603.

MOTION. Staff recommends a YES vote on the following motion:

I move that the Commission determine that Appeal No. A-3-PSB-99-062 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

II. SUMMARY OF APPELLANT'S CONTENTIONS (Please see Exhibit A for the full text of the appeal.)

Both appellants make the exact same contentions. Specifically, the appellants contend that the project does not comply with the City of Pismo Beach certified Local Coastal Program as follows:

- The approval of variance is a grant of special privilege, that this is inconsistent with Section 17.121.30 of the Coastal Zoning Ordinance;
- The granting of variance is non-allowable and inconsistent with Section 17.121.40, item one, of the Coastal Zoning Ordinance;
- The project is a self imposed hardship that may not be allowed under Section 17.121.40, item three, of the Coastal Zoning Ordinance; and
- The project is inconsistent with the governing ordinance for the property, Section 17.118.050 of the Coastal Zoning Ordinance.

III. LOCAL GOVERNMENT ACTION

The Planning Commission of the City of Pismo Beach denied the applicant's request for granting of variance from the City's parking standards on June 8, 1999. This decision was subsequently appealed by the project applicant to the City Council. The City Council of Pismo Beach upheld the Appeal by the applicant and adopted Resolution No. R99-41, thereby conditionally approving the Coastal Development Permit, Variance from parking requirements, and Architectural Review Permit on August 3, 1999 (CDP 98-144). (Findings for variance and conditions of approval attached as Exhibit B).

The Commission received the Final Local Action Notice for the project on September 7, 1999 and received this appeal of the City's action on August 12, 1999. The appeal was filed on September 8, 1999.

In accordance with the California Code of Regulations, on September 23 staff requested all relevant documents and materials regarding the subject permit from the City to enable staff to

analyze the appeal and prepare a recommendation for the substantial issue determination. The administrative record for the project was received from the City on October 22, 1999.

Since the Commission did not timely receive all requested documents and materials to allow consideration at the October 1999 hearing, the Commission opened and continued the hearing at the October 1999 Commission meeting pursuant to Section 13112 of the California Code of Regulations. All of the remaining file materials have now been transmitted to the Commission and reviewed by staff.

IV. APPEAL PROCEDURES

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 under Section 30603 (a)(1) of the Coastal Act because it is between the sea and 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 through public road and the sea or the shoreline of any body of water located within the coastal zone. Boeker Avenue is located between the nearest public road and the sea. As a result, a finding regarding the project's consistency with the public access and recreation policies of Chapter 3 of the Coastal Act must be made in a *de novo* review in this case.

V. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

1. Project Location and Description

The project is located in the Shell Beach Planning Area of the City of Pismo Beach, within the portion of the Planning Area that is zoned for and characterized by single-family residences. The area is bound by Highway 101 to the north and the Pacific Ocean to the south. The project is located at 339 Boeker Avenue on a dead end street that terminates at the bluff top (see attached location map Exhibit C).

The project is the construction of a 352 square foot second floor addition to 499 square foot residence, on a parcel approximately 1,646 square feet in size. Parking is to be provided by the continued use of two uncovered tandem parking spaces in the side yard (please see Exhibit D for a copy of project plans). The existing structure is a non-conforming single-family residence that predates the City's zoning ordinance and the Coast Act which was constructed prior to the 1940's. The structure is non-conforming because it does not comply with the off-street parking requirement for two off-street parking spaces, one of which must be covered, nor does it comply with the side yard setback of four feet at the west parcel boundary. In addition, the subject parcel is substandard in that it does not meet the minimum lot area and width requirements under the R1 zoning district. Minimum lot area and width for R1 zoning district are 5,000 square feet and 50 feet. The applicant's parcel is 1,646 square feet and thirty feet wide.

2. Project History

Approved Project

The locally approved project includes the granting of a Coastal Development Permit, Architectural Review Permit, and Variance for the construction of a 352 square foot second floor addition to an existing 499 square foot residence and the continued use of two existing uncovered, tandem parking spaces.

The City Council approved the Architectural Review Permit, as required under Section 17.118.050 of the Zoning Ordinance, after finding the proposed development to be visually compatible with the character of the Shell Beach Planning Area. In conjunction with the approved Coastal Development Permit for the second floor addition, the City Council approved a variance from the parking standards required under Section 17.108.020 of the Zoning Ordinance. This section of the ordinance requires that two off-street parking spaces per dwelling unit be provided, one of which must be a garage or carport. The need for variance arises in this case due to the location of the applicant's non-conforming residence on a small, substandard parcel in that there is insufficient room to provide the required covered parking space outside of the required setbacks. Thus the City Council adopted the required findings for variance and approved the two existing uncovered tandem parking spaces in the side yard (See *variance* discussion below for further detail).

Procedural History

The initial development proposal submitted by the applicant to the Planning Commission included the request for variance from the single covered off-street parking requirement of the Zoning Ordinance, by the continued use of two uncovered tandem parking spaces in the side yard setback. However, on February 9, 1999, the Planning Commission voted not to approve the project, but to continue the project in order to allow the applicant to consider other alternatives in order to avoid a variance from the parking requirements of the ordinance. Suggested alternatives offered by the Planning Commission to the applicant included the conversion of the applicant's existing living room into the required single covered parking space or the demolition of the existing structure and rebuild of a new structure which conformed to the zoning ordinance. Subsequently, the applicant then submitted revised plans to Planning Commission on February 19, 1999. The submitted revised plans included a 218 square foot

one-car garage within the side yard with no setback. As noted in the Planning Commission agenda report, the revised plans would have required a variance from the side yard setback, as well. At the Planning Commission meeting of February 25, 1999, upon guidance from the Commission, the applicant withdrew the revised plans from application on grounds that the originally submitted plans (no garage) could be better received than the one-car garage located on the property line. The applicant then subsequently withdrew the application with the revised plans from consideration on February 26, 1999. In turn, the applicant submitted the original plans (no garage) for consideration by the Planning Commission on June 8, 1999. At this meeting the project was denied by the Planning Commission. It is unclear to staff as to why the Planning Commission decided against their previous recommendations to the applicant. In any event, the applicant then appealed the Planning Commission decision to the City Council, which overturned the Commission's decision and approved the Architectural Review Permit, Coastal Development Permit, and Variance.

3. Substantial Issue Determination

Summary of Appellants Allegations

The appellants contend that the City did not make all the necessary findings under the Coastal Zoning Ordinance for approving the variance from parking requirements. Additionally, the appellants allege that the variance is non-allowable because the project is a self-imposed hardship. Section 17.121.40; item three, of the zoning ordinance states that "variances as a result of hardships that are self-imposed may not be allowed." Lastly, the appellants contend that the project is inconsistent with the governing ordinance for the property.

Required Findings for Variance

As mentioned above, the existing residence is a non-conforming structure constructed on a substandard lot prior to current zoning standards. Based upon the applicant's submitted site plan existing side yard setbacks are currently one (1) foot at the west parcel boundary and nine (9) feet at the parcels east boundary, respectively. With a required minimum front and rear yard setback of ten (10) feet, this leaves a remainder of developable area outside of all required setbacks to a strip five feet wide by thirty-three feet six inches long at the eastern parcel boundary.

Under Section 17.118.050 of the zoning ordinance structural alteration to non-conforming structures must comply with regulations set forth in the ordinance for the zoning district where the structure is located. Therefore, the proposed second story addition to the existing non-conforming house triggers compliance with the single covered parking space requirement. One option to comply with this requirement is to continue the use of two tandem parking spaces in the side yard, without a single covered space, by seeking a variance from the covered space requirement. A second option is to construct a carport or single car garage up to the parcel boundary, and also seek a variance for structural development within the setback.

In the case of this appeal, an approval of a variance from the single off-street covered parking space requirement must be made, or an approval of variance for the construction of the covered space within the side yard setback would be required, if the project were to be approved. This is due to the requirements of Section 17.118.050 of the zoning ordinance and a lack of a sufficient size of developable land outside of the required setback, as mentioned

above. In other words, whether the applicant proposed to construct a covered parking space within the setback or proposed to continue the use of two uncovered parking spaces within the setback, a variance in each case is required. In this instance, the City Council chose to approve the continued use of two uncovered parking spaces in the side yard.

The applicant essentially *has* met the criteria for a variance under Section 17.121.030 of the zoning ordinance. This Section of the zoning ordinance states in part:

Variances from the structural development standards of this Ordinance for any zone may be granted ...when unusual hardships arise from the strict application of said standards applicable to the property. Variances may only be granted when all of the following circumstances are found to apply...:

- 1. That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated.; and*
- 2. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the Zoning Ordinance is found to deprive subject property of development potentials available to other properties in the vicinity and under identical current zone classifications; and*
- 3. The special circumstances affecting the subject property are unique to the site and do not apply equally to other lots in the vicinity under identical zone classifications.*

In the main, all of the above circumstances apply to the applicant's subject parcel. Concerning the first circumstance, nine of the twenty-three parcels of similar size (30 x 54.86 feet) on Boeker Avenue do not currently provide any covered parking spaces (See Exhibit E for Parking Status Table). Conversely, fourteen of the remainder parcels of similar size currently provide at least one covered parking space. Of the fourteen parcels that currently provide covered parking, twelve of these were constructed after the enactment of the zoning ordinance. Therefore, the variance would not be a grant of special privilege in regards to other properties in the vicinity or identical zoning district.

Second, because of the small size of the parcel and lack of sufficient developable area outside of the required setbacks the applicant is not able to comply with the single covered parking space required under the zoning ordinance. As described below, a significant number of other properties in the vicinity under the identical zone district can obtain the development potential of the applicant's without requiring a variance.

Lastly, In regards to the third required circumstance, as can be referenced in the current assessor parcel map, attached exhibit F, over twenty parcels of the same size as the applicant's in the vicinity have been merged into a single lot. The effect of these lot mergers has in effect at least doubled the parcel size and afforded the owner a greater developable area in which to comply with the requirements of zoning ordinance. The applicant does not have the possibility of merging the subject lot with adjacent ones since they are both currently developed with single family residences. There do appear to be few other lots within the vicinity with such site constraints. Overall, though, while the special circumstances of the site may not be

"unique" strictly speaking, a substantial issue is not raised under the LCP with respect to the protection of coastal resources.

Non-Allowable Variances

The appellant's also contend that the variance is non-allowable under zoning ordinance Section 17.121.040, item numbers one (1) and three (3). These subsections of the zoning ordinance state:

1. The use of lands or buildings not in conformity with the regulations specified for the district in which such lands or buildings are located may not be allowed by the granting of a variance from the strict application of the terms of this Ordinance.
3. Variances proposed as a result of hardships that are self-imposed may not be allowed.

There exist no grounds with regards to Section 17.121.040, item (1) in which to base such allegation since no non-conforming use of the property is being proposed (the current and proposed residential use is conforming). Additionally, the allegation with regards to non-allowable variances under Section 17.121.040, item three (3) has no grounds for merit because the hardship is not self-imposed. The applicant did not create the substandard lot, nor did he construct the house. Therefore, the Commission finds that approval of variance is allowable under Section 17.121.040, items one (1) and three (3) of the zoning ordinance.

Structural Alterations to Existing Nonconforming Structures

Section 17.118.050 of the zoning ordinance states:

"Structural alterations including enlargement and extensions of any building or structure existing at the date of the adoption of this Ordinance, if non-conforming in either design or arrangement, may be permitted only if such alteration is in compliance with the regulations set forth in this Ordinance for the District where the building or structure is located."

The appellants allege that the project can not be permitted, as it does not comply with Section 17.118.050 of the zoning ordinance. However, this allegation has no merit since the project involves creation of a second floor addition in conformance with the zoning ordinance and the continued use of two uncovered, off-street tandem parking spaces can be allowed through the variance process of the zoning ordinance. More important, as discussed earlier, the Commission finds that the approved project, including the variance from the covered parking space requirement, does not present a substantial issue with respect to LCP compliance.

STATE OF CALIFORNIA--THE RESOURCES AGENCY

CC
PETE WILSON, Governor

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):

Thomas C. Barrett, member, City Planning Commission
2170 Costa del Sol, Pismo Beach, CA. 93449
93449 (805) 473-9501 days 773-5053 eves
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Pismo Beach

2. Brief description of development being appealed: Single family home, nonconforming, in local coastal zone, Zoned R-1

3. Development's location (street address, assessor's parcel no., cross street, etc.): 339 Boeker St. APN 010-312-041 cross of Shell Beach Rd., Pismo Beach, CA 93449

4. Description of decision being appealed:
- a. Approval; no special conditions: _____
 - b. Approval with special conditions: project 98-144
 - c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-PSB-99-012

DATE FILED: 9/8/99

DISTRICT: Central Coast

HS: 4/88

RECEIVED

AUG 12 1999

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA
CALIFORNIA COASTAL COMMISSION

EXHIBIT A - APPEAL
TEXT

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: Aug. 3, 1999

7. Local government's file number (if any): Rogoway-File#451.1

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:
Glenn and Pam Holley 339 Borker St.
Pismo Beach, CA. 93449

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

- (1) _____
- (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.

Mr. Holley then appealed to Pismo Beach City Council, 8-3-99, which resulted in the City Council upholding the appeal by Mr Holley. See attachment.

The reasons that I, as a planning commissioner, have filed this appeal with the Coastal Commission are as follows.

1. I feel strongly that this is a grant of special privilege. section 17.121.030, PB Zoning ordinance (12-14-83) see attachment.
2. I feel this is a non-allowable variance as defined in section 17.121.040, item 1. PB zoning ordinance (12-14-83) see attachment.
3. I feel this is a self imposed hardship, not allowed. section 17.121.040, item 3. PB zoning ordinance (12-14-83) see attachment.
4. The governing ordinance for this property is section 17.118.050. Existing nonconforming structures-structural alterations. PB zoning ordinance (12-14-83). see attachment

Note: Copies of all filings Have been mailed To Mr Holley at 339 Boeker St., Pismo Beach, CA. 93449. and hand delivered to City Clerk, City of Pismo Beach.

Thomas C. Banta

Date: 8-10-99

APPEAL FROM COASTAL PERMITS DECISION OF LOCAL GOVERNMENT (P. 3)

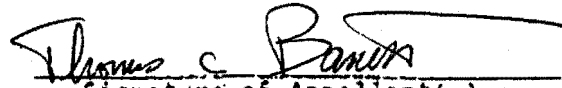
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The owner of this property purchased it within the last 12 Mos. Upon purchase, He had to know about Congested parking on all the small residential sts. in Shell Beach including Boeker. Mr. Holley applied to Planning Comm. (of which I'm a member) on 2-9-99 for a variance to build a 352 sq ft addition on a 499 sq ft home. Being nonconforming, we legally required a single car garage to be built on the property. Mr. Holley is unwilling/unable to comply and the PC subsequently denied his petition. SEE PAGE TWO (REASONS)

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

SECTION V. Certification

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



Signature of Appellant(s) or
Authorized Agent

Date 8-10-99

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 _____

STATE OF CALIFORNIA--THE RESOURCES AGENCY

PETE WILSON, Governor.

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE
725 FRONT STREET, STE. 300
SANTA CRUZ, CA 95060
(408) 427-4843
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):

Thomas Rasori
327 Montecito Ave., Pismo Beach, CA. 93449
(805) 773-2313 home
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Pismo Beach

2. Brief description of development being appealed: Single family home, nonconforming, in local coastal zone, zoned R-1

3. Development's location (street address, assessor's parcel no., cross street, etc.): 339 Boeker St. APN 010-312-040
cross of Shell Beach Rd., Pismo Beach, CA. 93449

- 4. Description of decision being appealed:
 - a. Approval; no special conditions: _____
 - b. Approval with special conditions: project 98-144
 - c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-PSB-99-062

DATE FILED: 9/8/99

DISTRICT: Central Coast

H5: 4/88

RECEIVED

AUG 12 1999

CALIFORNIA
COASTAL COMMISSION
CALIFORNIA COASTAL COMMISSION

EXHIBIT A - APPEAL
TEXT

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: Aug. 3, 1999

7. Local government's file number (if any): Roqaway-file#451.1

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:
Glenn and Pam Holley
Pismo Beach, CA. 93449

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

- (1) _____
- (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.

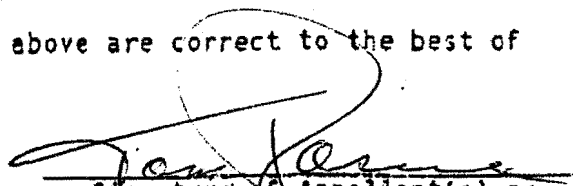
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

The owner of this property purchased it within the last 12 Mos. Upon purchase, he had to know about congested parking on all the small residential sts., in Shell Beach including Boeker. Mr Holley applied to PC on 2-9-99 for a variance to build a 352 sq ft addition on a 499 sq ft home. Being non-conforming, it was required that a single car garage be built on the property. Mr. Holley was unwilling/unable to comply and the PC subsequently denied his petition. SEE PAGE 2

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

SECTION V. Certification

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


Signature of Appellant(s) or Authorized Agent

Date 8-10-99

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)

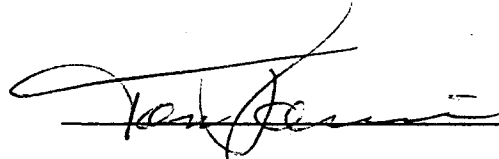
Date _____

Mr. Holley then appealed to Pismo Beach City Council, 8-3-99, which resulted in the City Council upholding the appeal by Mr. Holley. See attachment.

The reasons that I have appealed this to the Coastal Commission are as follows.

1. I feel strongly that this is a grant of special privilege. Section 17.121.030, PB zoning ordinance (12-14-83) see attachment.
2. I feel this is a non-allowable variance as defined in section 17.121.040, item 1. PB zoning ordinance (12-14-83) see attachment.
3. I feel this is a self imposed hardship, not allowed. section 17.121.040, Item 3. PB zoning ordinance (12-14-83) see attachment.
4. The governing ordinance for this property is section 17.118.050. existing nonconforming structures-structural alterations. PB zoning ordinance. (12-14-83). see attachment
5. Mr. Holley could have elected to add 200 sq. ft to his residence and will be allowed to add 250 sq. ft. to his home, when our new updated zoning ordinances become effective sometime this year. All without a variance. He elected not to pursue a two hundred foot addition for reasons unknown.

Note: Copies of all filings have been mailed to Mr. Holley at 339 Boeker St., Pismo Beach, CA. 93449. and hand delivered to City Clerk, City of Pismo Beach.



Date: 8-10-99

SEP 07 1999

RESOLUTION NO. R99-41

CALIFORNIA COASTAL COMMISSION CENTRAL COAST

A Resolution of the City Council of the City of Pismo Beach upholding the appeal by Glenn Holley and approving a Variance, Coastal Development Permit, and Architectural Review Permit for construction of a 352 square foot second floor bedroom/bath addition to an existing 499 square foot single family residence located at 339 Boeker, APN 010-312-041; Project No. 98-144; Applicant Glenn and Pam Holley

WHEREAS, Glenn and Pam Holley have submitted an application to the City of Pismo Beach for construction of a 352 square foot second floor bedroom/bath addition to an existing 499 square foot single family residence located at 339 Boeker Street, Pismo Beach; and,

WHEREAS, duly noticed public hearings were held by the Planning Commission on February 9, 1999, February 25, 1999, March 9, 1999, March 23, 1999 and June 8, 1999, at which all interested persons were given the opportunity to be heard; and,

WHEREAS, the Planning Commission denied the Variance, Coastal Development Permit, and Architectural Review Permit on June 8, 1999; and

WHEREAS, on June 11, 1999, Glenn Holley appealed the Planning Commission determination; and

WHEREAS, the City Council considered the appeal on August 3, 1999, including written material included in the agenda packet, and considered testimony from the City staff, the Appellant (applicant), and members of the public;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pismo Beach, California as follows:

FINDINGS FOR ENVIRONMENTAL DETERMINATION:

This project is Categorical Exempt, Class 3, Section 15303 under the California Environmental Quality Act (CEQA).

FINDINGS FOR VARIANCE:

1. There are special circumstances applicable to the property, including size, shape, topography, location or surroundings, whereby the strict application of the Zoning Ordinance is found to deprive the property of privileges enjoyed by others in the vicinity and under the same zoning classification. The special circumstances in this case - the small lot size (1,646 square feet) and narrow lot dimension (30 feet) make it infeasible to provide two parking spaces side-by-side, one of which must be covered.
2. The Variance does not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and zone. It is intended to bring the property up to parity with other properties in the vicinity and zone. Parity in this case is the ability to reside in a small, yet reasonably sized, residence.

CALIFORNIA COASTAL COMMISSION EXHIBIT B - FINDINGS & CONDITIONS

3. The special circumstances affecting the property are unique to the site and not those that apply equally to other lots in the vicinity under identical zone classification. The parcel size (1,646 square feet) and width (30 feet) make it infeasible to provide two parking spaces side-by-side, one of which must be covered.

FINDINGS FOR THE COASTAL DEVELOPMENT PERMIT AND ARCHITECTURAL REVIEW PERMIT:

1. The proposed construction of a 352 square foot second floor addition to a 499 square foot residence is compatible with the visual quality of the Shell Beach Planning Area.
2. The proposed construction of a 352 square foot second floor addition to a 499 square foot residence is consistent with the General Plan, LCP Land Use Plan category of Medium Density Residential.
3. The proposed construction of a 352 square foot second floor addition to a 499 square foot residence will be in conformance with the requirements of the Zoning Code Ordinance 98-06, Title 17, based on the Findings for Variance below and the Conditions of Approval.
4. The project complies with the coastal access requirements of the City's Zoning Code, Local Coastal Plan, and California Coastal Act.

City Council Approval of the Variance, Coastal Development Permit, and Architectural Review Permit

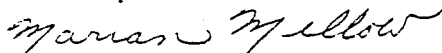
The City Council hereby approves the Coastal Development Permit, Architectural Review Permit, and Variance subject to the conditions attached hereto as Exhibit A.

UPON THE MOTION of Councilmember Reiss, seconded by Councilmember Henlin, the foregoing Resolution No. R99-41 is hereby approved and adopted this 17th day of August, 1999 by the following roll call vote, to wit:

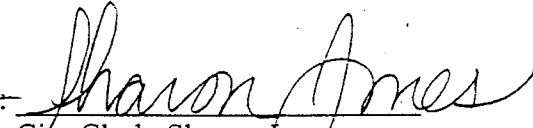
AYES: Councilmember Reiss, Councilmember Henlin, Mayor Pro-Tempore Mellow

NOES: None

ABSENT: Councilmember Natoli, Mayor Brown


Marian Mellow, Mayor Pro Tempore

ATTEST


City Clerk, Sharon Jones

CALIFORNIA COASTAL COMMISSION
EXHIBIT B - FINDINGS & CONDITIONS

RESOLUTION R99-41
EXHIBIT A
CITY OF PISMO BEACH CONDITIONS OF APPROVAL
CITY COUNCIL MEETING OF AUGUST 17, 1999
PERMIT/CASE NO. 98-144 / VAR / CDP / ARP
LOCATION: 339 BOEKER STREET, APN 010-312-041

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

AUTHORIZATION: Subject to the conditions stated below, approval of Permit No. 98-144 granting the permittee permits to construct a 352 square foot addition to an existing 499 square foot single family residence, as shown on the approved plans with City of Pismo Beach stamp of March 23, 1999. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach.

EFFECTIVE DATE: This permit shall become effective upon the 11th day following the City Council approval, provided that an appeal is not filed with the California Coastal Commission within 10 days of the final action by the City Council. The filing of an appeal shall stay the effective date until an action is taken on the appeal.

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on August 17, 2001 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160 (2).

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

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

Approved by the City Council on August 17, 1999

Applicant

Date

Property Owner

Date

CALIFORNIA COASTAL COMMISSION
**EXHIBIT B - FINDINGS &
CONDITIONS**

Standard Conditions, Policies And Selected Code Requirements

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

A. Conditions Subject To Compliance Prior To Issuance Of A Building Permit:

Planning Division:

1. BUILDING PERMIT APPLICATION. To apply for building permits submit five (5) sets of construction plans Along With Five(5) Copies Of The Conditions Of Approval Noting How Each Condition Has Been Satisfied To the Building Division.
2. Compliance With City Council Approval. The construction plot plan and building elevations provided for zoning clearance shall be in conformance with the City Council approval and conditions of approval.

Development standards for the project are as noted below:

Item	August 17, 1999 City Council Approved Project Standards
Building Height	23.25"
Building Floor Area	851 s.f.
Building Floor Area Ratio	52%
Second Floor Area	352 s.f.
Second Floor Area Ratio	70%
Lot Coverage	627 s.f.
Lot Coverage Ratio	38%
Planting Area	712 s.f.
Planting Area Ratio	43%
Yard Setbacks	
Front:	12'
Left Side	1'
Right Side	9'
Rear	10'
Parking Spaces	2 Open Tandem
Driveway Width	14'

3. Colors And Materials. Colors and materials shall be consistent with those described on the architectural elevations as reviewed and approved by the City Council.
4. Parking. The two open tandem parking spaces in the side yard shall be dedicated for parking in perpetuity.

Building Division:

5. The Title Sheet of the plans shall include:
 - a. Street address, lot, block, track and Assessors parcel number.
 - b. Description of use
 - c. Type of construction
 - d. Height of the building
 - e. Floor area of building(s)
 - f. Vicinity map
6. The title sheet of the plans shall indicate that all construction will conform to the 1994 UBC, UMC & UPC, the 1993 NEC, 1994 California Title 19 & 24, California Energy Conservation Standards and Handicapped Accessibility Standards where applicable and all City codes as they apply to this project.
7. Plans shall be submitted by a California licensed architect and/or engineer.
8. Title 24, Energy Conservation Documentation, may be required for this project.
9. Submittal of 5 complete sets of plans and attachments is required when applying for permits.

Fire Department:

10. Any and all applicable fees and permits shall be secured prior to commencing work.

Engineering Division - No comments

B. Conditions Subject To Compliance During Construction:

Building Division:

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

C. Conditions Subject To Compliance Prior To Requesting A Framing Inspection:

Planning Division:

1. Roof Height. Prior to requesting a framing inspection, a licensed surveyor shall measure and certify the height of the building including anticipated finishing materials.

CALIFORNIA COASTAL COMMISSION.
FINDINGS &
EXHIBIT B- CONDITIONS

D. Conditions Subject To Ongoing Compliance:

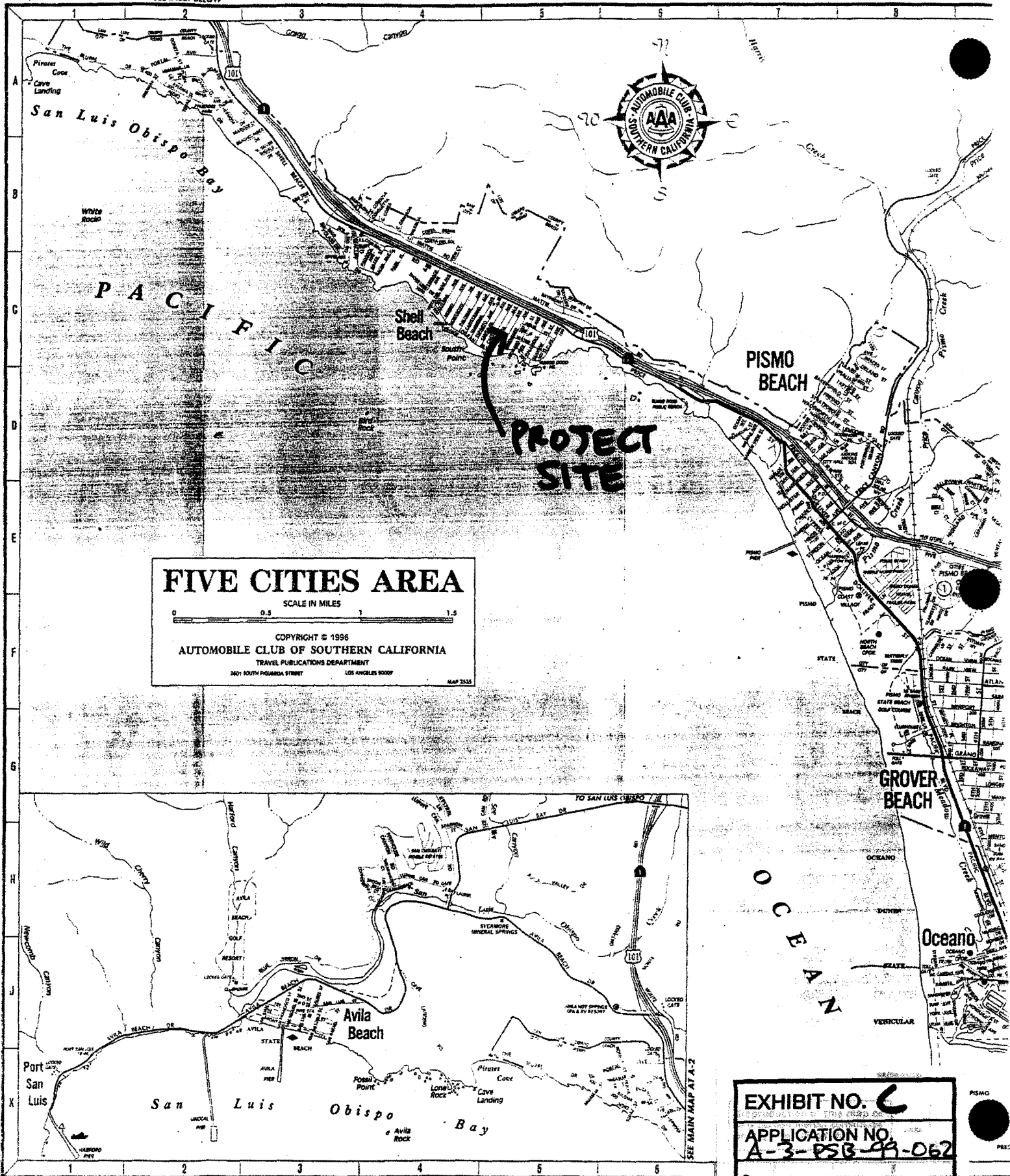
1. Roof-Mounted Equipment. All roof-mounted air conditioning or heating equipment, vents or ducts shall be screened from view in a manner approved by the Project Planner.
2. Compliance With Applicable Laws. All applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction shall be met. The duty of inquiry as to such requirements shall be upon the applicant.
3. Hold Harmless. The applicant, as a condition of approval, hereby agrees to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the applicant's project; or applicant's failure to comply with conditions of approval. This condition and agreement shall be binding on all successors and assigns.
4. Single Family Use Restriction - Uses of the subject property shall be limited to the uses listed in Chapter 17.018 of the Zoning Code (Single Family Residential). Said Chapter and Section 17.006.0400 limit the use of the property to no more than one (1) dwelling unit. No portion of the premises may be rented as a separate living quarters. A Lodging House, as defined by Section 17.006.0655, shall not be permitted.

E. Miscellaneous/Fees:

1. Required Fees. The applicant shall be responsible for the payment of all applicable development and building fees including the following:
 - a. All applicable development impact fees pursuant to Ordinance 93-01 and Resolutions 93-12 and 93-33.
 - b. School impact fees pursuant to the requirements of the Lucia Mar Unified School District.
 - c. Planning fees and fees related to building and construction and plan check.
 - d. Water and sewer system fees and hook-up fees.
 - e. Park development and improvement fee.
 - f. Any other special or applicable fees.

-END-

SEE INSET BELOW

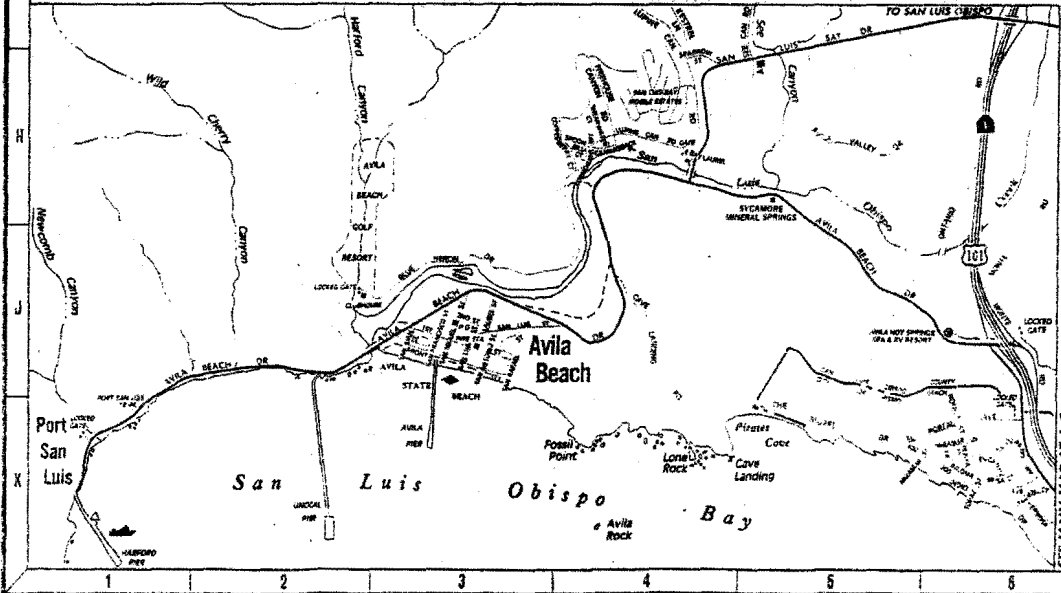


FIVE CITIES AREA

SCALE IN MILES
0 0.5 1 1.5

COPYRIGHT © 1996
AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA
TRAVEL PUBLICATIONS DEPARTMENT
2401 SOUTH FIGUEROA STREET LOS ANGELES 90007

MAP 2535



SEE MAIN MAP AT A-2

EXHIBIT NO. C

APPLICATION NO. A-3-PSB-99-062

PROJECT LOCATION

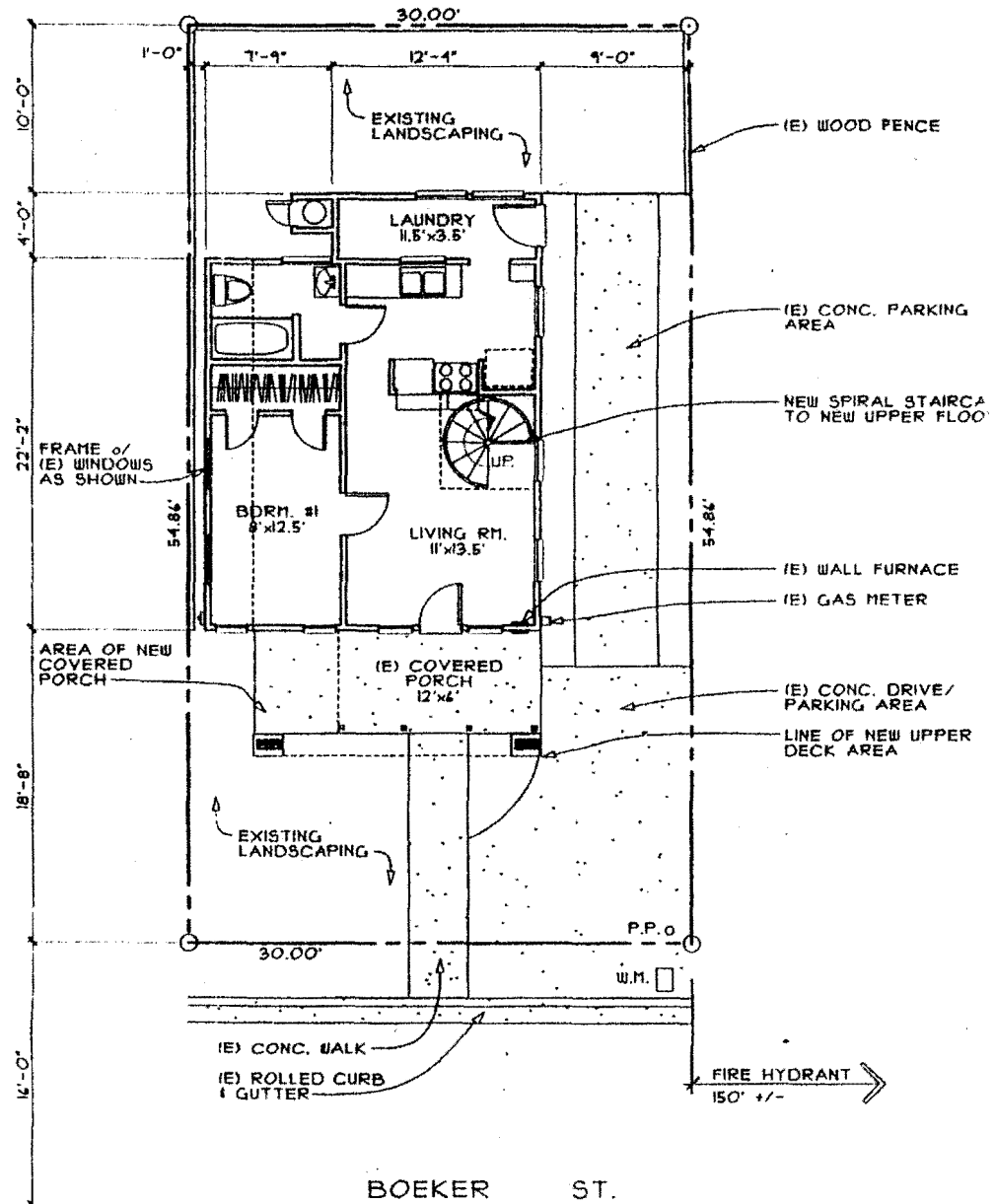
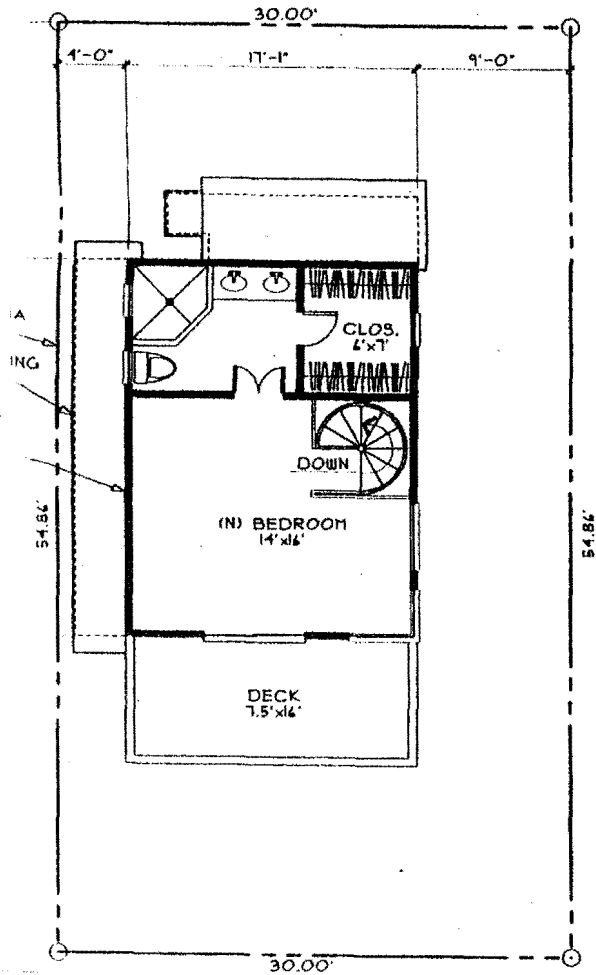


EXHIBIT NO. **D**
 APPLICATION NO.
 A-3-RS3-19-062
 PROJECT
 PLANS

(N) UPPER FLR. PLAN

SCALE: 1/8"=1'-0"

(E) LOWER FLR./SITE PLAN

SCALE: 1/8"=1'-0"

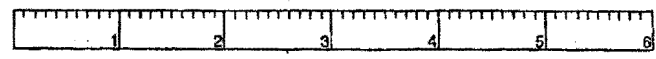
CURRENT PARKING STATUS
 FOR
 30.0' x 54.86' LOTS *
 ON
 BOEKER ST.

APPROXIMATE AGE OF RESIDENCE	NUMBER OF RESIDENCES WITH:				
	ZERO PARKING SPACES PROVIDED	1-UNCOVERED PARKING SPACE PROVIDED	2-COVERED CARPORT SPACES PROVIDED	1-GARAGE SPACE PROVIDED	2-GARAGE SPACES PROVIDED
1970 AND NEWER RESIDENCES	NONE	NONE	2	1	9
1940 - 1970	1	NONE	NONE	1	NONE
PRE - 1940'S	6	2 (INCLUDING HOLLEY'S)	NONE	1	NONE

* 23 TOTAL

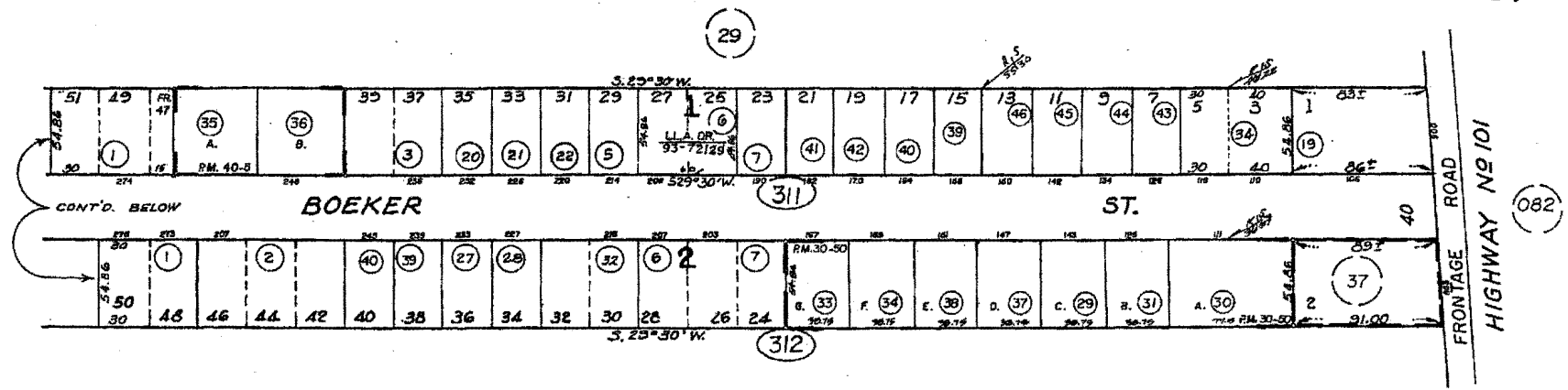
CALIFORNIA COASTAL COMMISSION
 EXHIBIT - E
 PARKING SPACE STATUS
 ON BOEKER AV.

TRW-REDI
1-800-345-7334

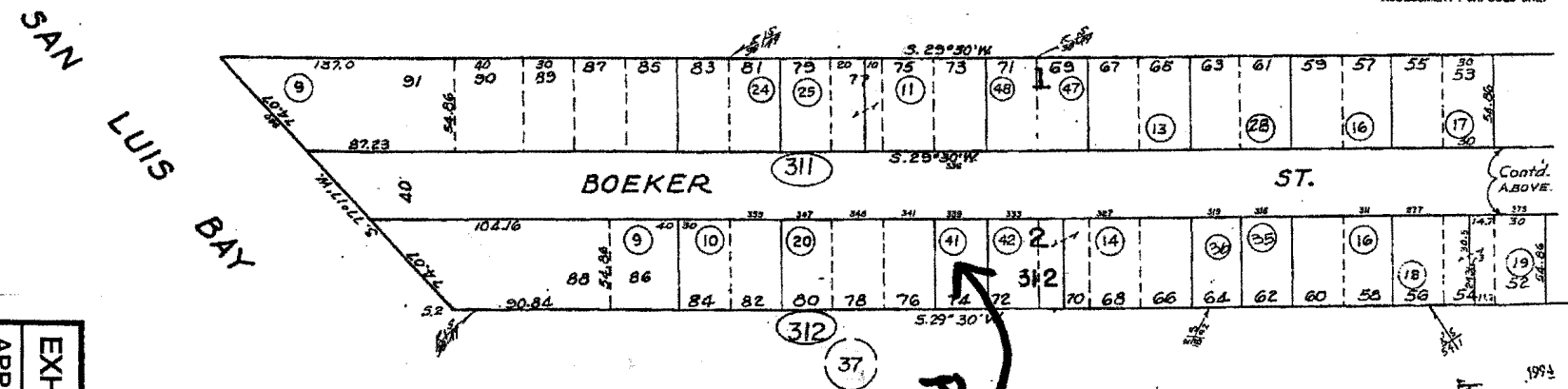


SCALE IN 1/10 OF AN INCH

TAX AREA CODE NO. 10-31



CONT'D. BELOW



THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY

SAN LUIS BAY

EXHIBIT NO. F
APPLICATION NO. 99-062
ASSESSOR PARCEL MAP

4-9-88	4-17-89
2-31-86	7-13-87
1-13-88	7-6-88
1-23-88	12-17-88
1-23-89	3-2-89

PROJECT SITE

1994
SHELL BEACH SUBDIVISION
CITY OF PISMO BEACH
SAN LUIS OBISPO COUNTY
CALIFORNIA

