

CALIFORNIA COASTAL COMMISSION

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APPEAL STAFF REPORT

SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal number.....**A-3-PSB-00-032, Limberg Second Story Addition**

Applicants.....Mike Limberg (Agent: Rodney R. Levin Architects)

Appellants.....Bruce McFarland

Local government.....City of Pismo Beach

Local decision.....Approved with conditions (3/07/00)

Project location.....99 Indio Drive, City of Pismo Beach, San Luis Obispo County (APN 010-141-043).

Project description.....Construct a 4,408 sq. ft. second story addition, removal of an existing side yard wall and construction of a new wall outside of City's right-of-way (ROW), construction of new lap swimming pool, and landscaping with associated irrigation structures.

File documents.....City of Pismo Beach certified LCP; local permit file 99-0047; *Geologic Bluff Study, 99 Indio Drive, Shell Beach, California*, (April 16, 1999) by Earth Systems Consultants; *Addendum to Referenced Geologic Study*, (September 8, 1999) by Earth Systems Consultants; and Letter dated May 8, 2000 to CCC from Earth Systems Consultants.

Staff recommendation...**Substantial Issue Exists, Approval with Conditions**

Summary of Staff Recommendation

This is the substantial issue determination and de novo hearing for appeal number A-3-PSB-00-032 (the Commission previously opened and continued the substantial issue hearing for this matter on April 10, 2000). Staff recommends that the Commission find that a **substantial issue exists** with respect to this project's conformance with the certified City of Pismo Beach Local Coastal Program (LCP) and take jurisdiction over the project. Staff subsequently recommends that the Commission **approve the project**



California Coastal Commission
June 15, 2000 Meeting Santa Barbara

Staff: K. Colin Approved by:
A-3-PSB-00-032 Staff Report for 6-15-00 Hearing.doc (5/25/00)

subject to special conditions designed to bring the project into conformance with the certified LCP.

There are three separate issues raised through the appeal: (1) the determination of an accurate bluff erosion rate for the project site and the appropriateness of constructing a swimming pool at a bluff-top parcel; (2) the allowed maximum height of the proposed structure and its relation to the highest point of the lot; and (3) improvements to existing nonconforming structures.

2. Staff Report Summary

The City-approved project includes a 4,408 square foot second story addition to an existing single family dwelling upon an approximately 18,8400 square foot (0.43 acre) lot. At its closest point, the existing structure is fifteen feet from the bluff-top. Local approval includes the allowance of irrigation within the bluff-top setback. However, LUP Policy S-3 requires that, "all structures shall [...] neither create nor contribute significantly to erosion, geologic instability or destruction of the site or require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs." Staff recommends that the proposed project is inconsistent with LUP Policy S-3 of the LCP, and for this reason, recommends that a substantial issue is raised in terms of the proposed project's conformance with the certified City of Pismo Beach LCP.

Available geologic evidence and investigations accomplished to date indicates that, at this location, the primary structure would not become endangered by bluff erosion within a one hundred (100) year time period. In light of this evidence, staff recommends that the imposition of a condition requiring the recordation of a deed restriction stating an assumption of risk and waiver of future shoreline protection structures is also required in order to bring the proposed project into consistency with the City of Pismo Beach LCP.

The proposed project would be, at its highest point, twenty feet-four inches (20'4") to the top of roof. Although the appellant contends that the high point of the lot used to determine this height was inconsistent with the natural site grade, staff recommends that the high point in question is consistent with the slope elevation trend at this location, and for this reason recommends that no substantial issue is raised in this regard.

Lastly, the existing gazebo and private stairway, and a portion of the existing residence, are nonconforming structures according to the LCP. In addition, the appellant contends that the existing gazebo, private stairway, and seawall were constructed without the benefit of a coastal permit. The appellant asserts that all the alleged un-permitted structures should be removed, while all nonconforming structures should be brought into compliance. However, no proof or information leading to a conclusive determination of illegality has been found by the City's investigation and furthermore, the LCP does not require that nonconforming structures be brought into compliance. Rather, the LCP requires that alterations to nonconforming structures be allowed, if the alteration itself conforms to all the requirements of the LCP. In this case staff recommends that the proposed second story addition is in conformity with the City of Pismo Beach LCP.



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1. Appellants' Contentions

In summary, the Appellant contends the following (see Exhibit B for the complete appeal document):

1. The calculated erosion rate is not consistent with others previously done for the Shell Beach area; and there should be peer review of the geologic report.
 - a) The construction of a swimming pool at this location will cause erosion and should not be allowed according to LUP Policy S-3.
2. This will be the largest house on Indio Drive.
 - a) The high point for calculating the lot elevation is in question, as it is at an unnatural area uprooted by tree growth and dirt dumping during the original construction; and



- b) Original CC & R's may not allow a second story addition and furthermore should not be allowed.
3. Existing nonconforming structures and illegal structures within the bluff-top setback should be removed (i.e. portion of house, seawall, gazebo, and private stairway to beach) according to LUP Policy S-3.

2. Local Government Action

On January 11, 2000 the Planning Commission approved a coastal permit, architectural review, and landscape review, with conditions, for the construction of a 4,408 square-foot second story addition to the existing 4,370 square foot single family residence, located on a 18,840 square-foot lot (APN 010-141-049); removal of existing wall within City's right-of-way and construction of a new wall outside of City's right-of-way (ROW); construction of a swimming pool; and landscaping with associated irrigation devices. This decision by the Planning Commission was subsequently appealed by two separate appellants, Bruce McFarland and Arthur Savage. The appeal of Arthur Savage was withdrawn prior to the public hearing of the City Council.

On March 7, 2000 the City Council denied the appeal of Bruce McFarland and upheld the Planning Commission's approval, with no changes to the Planning Commission's decision. The City's complete final action was received by the Coastal Commission's Central Coast District Office on March 20, 2000. The Commission's ten-working day appeal period for this action began on March 21, 2000 and concluded at 5:00 P.M. on April 3, 2000. One valid appeal was received during the appeal period.

3. 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 because of its location within 300 feet of the top of the seaward face of any coastal bluff and also because it is located between the first public road and 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 needs to be made in a de novo review in this case.

4. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

Motion. I move that the Commission determine that Appeal Number A-3-PSB-00-032 raises no substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.

Staff Recommendation of Substantial Issue. Staff recommends a **no** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution To Find Substantial Issue. The Commission hereby finds that Appeal Number A-3-PSB-00-032 presents a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

5. Staff Recommendation on Coastal Development Permit

The staff recommends that the Commission, after public hearing, **approve** the proposed project subject to the standard and special conditions below. Staff recommends a **YES** vote on the following motion:

I move that the Commission approve Coastal Development Permit Number A-3-PSB-00-032 subject to the conditions below and that the Commission adopt the following resolution:

Approval with Conditions. The Commission hereby grants a permit for the proposed development, as modified by the conditions below, on the grounds that the modified development will be in conformance with the provisions of the City of Pismo Beach certified Local Coastal Program (LCP), is consistent with the Public Access and Recreation policies of Chapter Three of the Coastal Act, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act (CEQA).



A yes vote would result in approval of the project as modified by the conditions below. The motion passes only by affirmative vote of a majority of the Commissioners present.

6. Conditions of Approval

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 on which the Commission voted on the application. 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. **Final Project Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director for review and approval a revised landscaping plan that shows no irrigation at APN 010-141-043.
2. **Assumption of Risk/Shoreline Protection.** Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:



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1. The applicant acknowledges and agrees that the site may be subject to hazards from waves, flooding, liquefaction, erosion, and wildfire.
 2. The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
 3. The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
 4. The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
 5. The applicant agrees that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.
 6. The applicant shall not construct, now or in the future, any shoreline protective device(s) for the purpose of protecting the residential development approved pursuant to coastal development permit A-3-PSB-00-032 including, the second story addition and swimming pool. In the event that these structures are threatened with imminent damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future and by acceptance of this permit, the applicant hereby waives any rights to construct such devices that may exist under Public Resources Code Section 30235.
 7. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
3. **City of Pismo Beach Conditions.** With the exception of Conditions #8(a) and 8#(c) which is replaced by Special Condition 1 above, all conditions attached to the local approval of the project that are authorized under the City's general police power, rather than the Coastal Act, all remain in effect. (City Council Decision on Application 99-0047; See Exhibit A).



7. Recommended Findings and Declarations

The Commission finds and declares as follows:

Findings for Substantial Issue

A. Project Background

Project Location & Setting

The project is located upon a bluff-top parcel at 99 Indio Drive, in the City of Pismo Beach, San Luis Obispo County. (See Exhibit C for regional location map) The property carries an R-1 zoning designation and in addition to the general policies of the LCP, also falls under those of the Sunset Palisades Planning Area. The site is bordered on the north and west by existing single family residences, on the east by a City linear bluff-top park, and the south by the Pacific Ocean. The existing residence sits atop the approximately twenty-five (25) feet high coastal bluff at this location. There is no vertical public beach access within the immediate vicinity and the closest access point appears to be up to one-half mile down coast.

The Sunset Palisades Planning Area is developed exclusively with single family residences. The majority of the lots within the planning area are developed, with very few remaining vacant. The LCP characterizes the Sunset Palisades area as, "an ocean oriented, low profile residential neighborhood with a backdrop of the coastal foothills." The LCP notes further that, "the base of the bluffs is an intertidal habitat, natural resource area, which should be protected. Public access to this sensitive area should be limited," and also that, "some residences along the bluffs have provided their own stairways to small beaches." LCP Policy LU-A-6 (Concept) for the planning area states:

Sunset Palisades, an area of existing homes with scattered vacant lots, shall be designated for Low Density Residential. The emphasis is on maintaining coastal views, open space and protecting the coastal bluffs and intertidal area. Infill development shall be compatible with the existing community.

Project Description

As discussed, the City approval allows the construction of a 4,408 square-foot second story addition to an existing 4,370 square foot single family residence, located on a 18,840 square-foot lot (APN 010-141-049); removal of existing wall within the City's ROW and construction of a new one outside of the ROW; construction of a new lap swimming pool; and landscaping with associated irrigation structures. According to the City, the existing house was previously constructed in 1972, but the property was subdivided by parcel in 1978 (PM 28-9). (See Exhibit D for project plans)



B. Analysis of Project Consistency with Local Coastal Program

B.1 Bluff Erosion Rate

Appellant McFarlan contends that the calculated erosion rate of one-inch per year does not agree with those previously determined for this area. In particular, the appellant notes that erosion rates to the north and south of the project site previously have been determined to be within the range of three to four inches per year, and as such, feels that the geologic study should go through a peer review process. The appellant also contends that the construction of a swimming pool at this location will lead to unnecessary erosion of bluff and should therefore not be allowed.

City Action

On March 7, 2000, the City Council, on appeal, upheld the decision by the Planning Commission, denied the appeal, and approved the project. This approval accepts the conclusions of the April 16, 1999 geologic report and September 8, 1999 addendum by Earth Systems Consultants for the project. The City's approval includes conditions that require: (1) no turf (i.e. grass) is to be allowed along the bluff-top or around the pool, (2) only low water irrigation systems shall be installed in the bluff top area, (3) grading of the rear bluff top area of the parcel to direct surface runoff away from the bluff face, (4) installation of subsurface perforated piping to collect percolated surface runoff and route to a sump pump for drainage to the street, and (5) measures to ensure that draining of the new lap pool does not increase erosion.

Land Use Plan Applicable Policies

LUP Policy S-3 (Bluff Set-Backs) All structures shall be set back a safe distance from the top of the bluff in order to retain the structures for a minimum of 100 years, and to neither create nor contribute significantly to erosion, geologic instability or destruction of the site or require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

For development on single family residential lots subdivided prior to January 23, 1981, the minimum bluff setback shall be 25 feet from the top of the bluff (blufftop is defined as the point at which the slope begins to change from near horizontal to more vertical). A geologic investigation may be required at the discretion of the City Engineer, and a greater setback may be applied as the geologic study would warrant.

For all other development, a geologic study shall be required for any development proposed.

Implementation Plan Applicable Regulations

IP Section 17.078.060 (5) (Shoreline Protection Criteria and Standards) New development shall not be permitted where it is determined that shoreline protection will be necessary for protection of the new structures now or in the future based on a 100 year geologic projection.



IP Section 17.102.130 (Swimming Pools): Swimming pools, hot tubs spas and associated equipment shall not be located closer than five (5) feet to any rear property line or side property line and shall not create a nuisance. Such structures shall also be subject to required bluff top setbacks as specified in the Local Coastal Program Land Use Plan. (See Section 17.102.050)

Geologic Characteristics of Project Site & Calculated Erosion Rate

The approximate southern half of the parcels bluff boundary is currently protected by an existing seawall, while a small promontory constitutes the northern half (See Exhibit E). The approximately 20-foot high seawall is constructed of concrete blocks that are supported by a concrete footing, and was built sometime in the early 1970's. It appears in all likelihood that this structure was built prior to enactment of the Coastal Act. The seawall appears to be performing satisfactorily, with no apparent evidence of deterioration.

The approximately twenty-five (25) foot high coastal bluff at this location is composed of two geologic materials. The bottom of the bluff consists of 8 to 10 feet of sandstone bedrock of the Edna member of the Pismo formation that is overlain by 13 to 15 feet of clayey sand terrace deposits. The bedrock has a near vertical slope angle, while the terrace deposits have a 3/4:1 (horizontal:vertical) slope angle. The top of the bluff is covered with a dense growth of ice plant and various shrubs.

A September 8, 1999 geologic report by Earth Systems Consultants established an erosion rate of 1-inch per year, which equates to a 100-year erosion setback of approximately eight (8) feet, while recommending a minimum setback from the top of bluff at 25-feet. This erosion rate is applicable only to the underlying bedrock of the promontory, not to the overlying terrace deposits, and not to areas protected by the seawall. In terms of establishing an erosion rate for this site, the September 8, 2000 Earth Systems report states,

This retreat rate was based upon topographic surveys that provided direct evidence of bluff retreat for the last 20 years at the site. It is likely that the bluff retreat rate was in the range of 3-4 inches per year prior to the construction of the sea wall. However, the sea wall is protecting a weaker, less resistant bluff area compared to the adjacent areas, which has reduced the retreat rate at the site.

Substantial Issue Determination on Bluff Top Setback & Proposed Swimming Pool

As the appellant points out, there has been considerable variation in the bluff retreat rates reported for various properties in the vicinity; the Commission's has noted this through their previous review of projects at 107 and 307 Indio Drive. Both of these previous projects were for proposed shoreline protection structures and presented higher erosion rates to the Commission. (307 Indio Drive presented an erosion rate of 4 inches, while 107 Indio Drive gave an erosion rate of 6 to 12 inches.) Commission staff queried the applicant in a letter dated May 3, 2000 as to why the bluff erosion rate at 99 Indio Drive differed so greatly from others in the vicinity; the applicant's geologist responded in a letter dated May 8, 2000. (See Exhibit F for full text of letters) In summary, the response explains how the variation in geology has affected erosion rates in the vicinity and states in part,



The site at 99 Indio Drive is somewhat bounded to the north and south by erosional resistant points, particular the point to the north. As the points are resistant to erosion they have a low bluff retreat rate. [...] The bluff at 307 Indio Drive consists of a different geologic formation than at 99 Indio Drive. Shale bedrock of the Monterey formation is exposed in the bluff at 307 Indio Drive. Like the site at 99 Indio Drive, the coastline in the vicinity of this site is also jagged with points and inlets. Because the bedrock characteristics of the Monterey formation are extremely variable from site to site, bluff retreat rates can range from 1 to 10 inches per year, depending on the dip angle of the bedding, degree of fracturing and folding and trend of the bedding with respect to the prevailing direction of the incoming sea waves.

At 107 Indio Drive the bluff exposes a soft, fractured bituminous sandstone bedrock that appears to be more susceptible to sea wave erosion than the silty (non-bituminous) sandstone exposed in the bluff at 99 Indio Drive. These two types of sandstones are interbedded within the rock formation and because they are interbedded, differential erosion rates of the two geologic units cause the jagged formation of the coastline.

The Commission's staff geologist has reviewed the available geologic information addressing the regional variation in erosion rates, and has visited the site. He concurs with the conclusions drawn by the applicant's geologist in this regard. In establishing a local bluff retreat rate at a particular property, the Commission must rely on the geology specific to this site, as it will govern erosion over the long term.

The subject lot was subdivided prior to January 23, 1981 and so requires a minimum setback of 25 feet, with the possibility of a greater setback based on a geologic investigation. As mentioned, the geologic report accomplished for this project did not call for a setback greater than twenty-five (25) feet.

As stated by the applicant's geologist, the terrace deposits are eroding at a faster rater than the underlying bedrock. Evidence presented by the applicant's geologist confirms that wave run-up has not caused significant erosion in the past. A May 8, 2000 letter from Earth Systems Consultants speaks to this point and states,

[...] it is not likely that sea wave run-up has caused a significant erosional impact on the terrace deposits. If sea wave run-up did play a major role in eroding the terrace deposits, the bluff face, where the terrace deposits are exposed, would have a near vertical slope angle and a bedrock bench would be present. These geologic features are indicative that the terrace deposits are eroding at a faster rate than the underlying bedrock. However, uncontrolled surface water runoff and saturated soils have caused the top of the bluff to erode at a faster rate than the underlying bedrock. This is evident by the flatter slope angle of the terrace deposits when compared to the slope angle of the bedrock.

Commission staff, including the staff geologist, observed evidence of this first hand during a site visit of April 24, 2000, during which time two existing slump failures and current seepage out of the bluff profile were observed. Uncontrolled surface run-off and saturated soils from large rain fall events have caused the top of bluff to erode at a faster rate than the underlying bedrock, and will continue to do so in the absence of corrective measures. The Commission's staff geologist is in agreement that surface runoff



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is a major contributor to bluff erosion at this location, and furthermore that corrective measures are necessary. As indicated in the applicant's geologic report, there has been very limited retreat of the bluff edge over the last 20 years, and this retreat has been at approximately the same rate as the retreat rate of 1 inch per year reported for the bedrock underlying the site. However, poorly consolidated marine terrace deposits such as those making up the upper 13-15 feet of the bluff typically will erode until they form a slope of 30-35 degrees. At this site they are at a much steeper angle and accordingly are probably unstable or only marginally stable. If the terrace deposits were to erode to a 30 degree angle, the bluff edge would retreat to a point approximately 26 feet landward of the edge defined by the bedrock, or approximately 20 feet landward of the present bluff edge. If the 8 feet of retreat expected for the underlying bedrock is added, the total bluff edge retreat could be as much as 28 feet, which would undermine the structure. This worst-case scenario is likely to occur if surface and groundwater infiltration are not controlled. The proposed grading to divert runoff from the bluff top will greatly reduce instability of the upper bluff and decrease the amount of retreat. The Commission finds, however, that it would be prudent to eliminate irrigation on the bluff top in order to reduce the risk of slumping and minimize retreat of the upper bluff.

Given the situation of variable erosion rates between the two geologic substrates at this location, the Commission finds that an erosion rate of one (1) inch per year for the underlying bedrock is appropriate, while measures to control surface run-off are called for to further limit erosion of the terrace deposits.

The City's approval of the project includes provisions that: (1) no turf (i.e. grass) is to allowed along the bluff-top or around the pool, (2) only low water irrigation systems shall be installed in the bluff top area, (3) grading of the rear bluff top area of the parcel to direct surface runoff away from the bluff face, (4) installation of subsurface perforated piping to collect percolated surface runoff and route to a sump pump for drainage to the street, and (5) measures to ensure that draining of the new lap pool does not increase erosion. The Commission's staff geologist concurs that these measures are appropriate and necessary to slow the erosion rate at this site, with the exception of the City's approval of irrigation at this location.

As discussed, surface runoff is a major contributor to bluff erosion at this location; allowance of irrigation at this location will only exacerbate the current situation. Prior to the project's appeal to the City Council, Commission staff expressed specific concerns about this component of the project in a letter to the City dated February 4, 2000. (See Exhibit G for full text of letter) In short, this correspondence notes the Commission's practice to date has been the prohibition of irrigation within forty (40) feet of bluff-top edge. Coincidentally, the applicant's parcel is on average approximately forty (40) feet wide when measured from the bluff-top edge. Given the potential for increased bluff instability at this location, the Commission contends that all feasible measures should be employed in order to reduce the probability of future endangerment to the property owner, and the likelihood that additional shoreline protection structures would be proposed at a future date. **Therefore, the Commission finds that allowance of irrigation at this location raises a substantial issue in terms of the projects consistency with LUP Policy S-3 of the City of Pismo Beach LCP that requires, "all structures shall [...] neither create nor contribute significantly to erosion, geologic instability or destruction of the site or require construction of protective devices that would substantially alter natural**



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landforms along bluffs and cliffs.”

The appellant also contends that the construction of a swimming pool at this location will lead to unnecessary erosion of the bluff and should therefore not be allowed. IP Section 17.102.130 of the LCP does not prohibit the construction of swimming pools at bluff top parcels, but only requires that they adhere to the bluff setbacks of the LCP. In this case the swimming pool is proposed to be located to the south of the existing residence, within the side yard. At this location the proposed swimming pool would be approximately thirty (30) feet from the top of bluff and as such, adheres to the required minimum bluff top setback. However, in addition to the required minimum setback, LUP Policy S-3 (Bluff Set-Backs) requires that, “all structures shall [...] neither create nor contribute significantly to erosion, geologic instability or destruction of the site or require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.”

A swimming pool at this location certainly could potentially contribute to increased erosion of the bluff. The City’s approval of the project does not include specific requirements as to how potential leaks or drainage problems of the pool will be prevented. However, condition of approval number fifteen (15) requires the submission of an erosion and drainage plan that includes a requirement that, “permanent measures must include plans for the draining of the new lap pool so that such drainage does not increase erosion on the site.” In a letter dated February 15, 2000, the applicant’s pool contractor has proposed measures in fulfillment of this condition, of which include: (1) lining of excavation with geotextile fabric, (2) gravel base over fabric, (3) PVC perforated pipe drain pipe, (4) gunite reinforced walls of pool, and (5) gunite encasement of all non-corrosive plumbing. (See Exhibit H for full text of letter) These proposed measures, when used in conjunction with the others discussed above to control surface run-off, should result in a situation where the proposed swimming pool does contribute significantly to erosion at this location. **Therefore the Commission finds that in this case, with the incorporation of the above discussed erosion control measures, the construction of a swimming pool is consistent with the policies of the LCP and thus raises no substantial issue.**

B.2 Allowable Structure Height

Appellant McFarlan contends that the addition would not conform to the height requirements of the LCP. Specifically, he contends that the high point for calculating the lot elevation is questionable, as it is an area of “un-natural grade” that has been uplifted by tree root growth and the dumping of dirt during the structures original construction. Additionally, the appellant questions whether there are existing Conditions, Covenants, & Restrictions (CC&R’s) that would not allow a second story addition at this location.

City Action

On March 7, 2000, the City Council, on appeal, upheld the decision of the Planning Commission, denied the appeal, and approved the project. The City approved a maximum height of twenty feet-four inches (20’ 4”) to the top of roof. This height is fifteen feet from the highest point of the lot and was established by reference to the southeast corner of the lot.



Land Use Plan Applicable Policies

LUP Policy LU-A-7 (a) (Height of Structures) No structure shall exceed 15 feet in height when measured from the highest point of the site natural grade to the highest point of the structure; Nor shall any such structure exceed 25 feet, in height, when measured from the highest point of the roof above the center of the building foot print to the elevation of the natural grade directly below that point.

Implementation Plan Applicable Regulations

IP Section 17.081.020 (1) (Criteria and Standards) HL-1: In all low density areas identified in the HL Overlay Zone Map, except the Central Sunset Palisades Planning Area, no structures shall exceed 15 in height when measured from the highest point on the roof to the highest point of the site grade, nor shall any such structure exceed 25 feet when measured from the highest point of the roof above the center of the building footprint at site grade (See also Chapter 17.102).

IP Section 17.102.010 (Building Heights) Building heights shall be as follows:

(1) Residential: Except as provided in Chapter 17.081, no structures in the A-E, R-1, R-2 or M-H zones shall exceed twenty-five (25) feet in height as measured above the center of the building footprint at site grade, nor shall the vertical measurement of any portion of the structure exceed thirty-five (35) feet.

IP Section 17.006.0908 (Site Grade): Phrase used in the Zoning Ordinance to establish lot grade for the purpose of determining building heights and other development criteria. Site grade is determined as follows:

- (a) For Subdivided properties existing as of the time of adoption of the October 12, 1976 Zoning Ordinance, site grade shall be the existing topography of each parcel as of October 12, 1976.*
- (b) For unsubdivided properties, or parcels subdivided after October 12, 1976, site grade shall be established as being the precise topography of the lot at the time of completion of finished grading, based on the City approved grading plan for the subdivision.*

Substantial Issue Determination on Allowable Structure Height

The appellant contends that the high point of the lot is an unnatural occurrence that has been created by an uplifting of the ground surface by tree roots. It is evident when comparing the policies of the LUP to that of the IP that there is a conflict in wording that is used to define which grade is to be used for maximum height measurement. The LUP requires that building height be measured from "natural site grade," while the IP requires measurement from "site grade." Even though this conflict exists, the policies of the IP serve to further define those of the LUP, and therefore the application of the term "site grade" is appropriate in this case.



As mentioned above, "site grade" for the subject parcel, "shall be established as being the precise topography of the lot at the time of completion of finished grading, based on the City approved grading plan for the subdivision," since the parcel was created through a subdivision completed in 1978.

The staff report to the City Council states,

"There are not City records extant that indicate definitively the site grade of this property in 1978. A plan for the street improvements exists in the City files, but it appears that the parcel map file, including grading plans, was destroyed in the City flood several years ago. The street improvement plan does not include elevations for the area near the high point of this lot."

The report further states that, "therefore, it is necessary to make some assumptions of the grade." In light of the absence of subdivision grading plans required by the LCP the Commission must also interpret "site grade" in this case.

According to the applicants surveyor, (Volbrecht Surveys) in a letter dated February 11, 2000,

As shown on our topographic survey and stated in my letter, the highest point of site grade is near the mature stand of eucalyptus trees near the easterly property corner. It is my opinion that this high point is a naturally occurring situation which is substantiated by a closer examination of our topographic site survey. This property is typical of most downslope coastal bluff top properties, the highest point or area is along the front right of way line with the balance of the lot descending in grade towards the top of bluff. Note that the subject property has an elevation of 100.33 feet at the Indio Drive right of way and the westerly edge of the driveway. Continuing southeasterly along this right of way, the natural grade begins to rise until it "tops out" at the highest point of site grade, a distance of more than 80 feet. The same rise in natural grade occurs in Indio Drive and, in fact, the crown of Indio Drive is actually higher than the corresponding points along the frontage of the subject property.

Staff conducted a site visit on April 24, 2000 in order to conduct an independent investigation into the parcels high point and general topographic position in relation to the vicinity. Observations made at the site during this day confirm the statement made by the applicant's surveyor to the effect that the crown of Indio Drive is actually higher than the subject property. This observation was further substantiated by an observed trend of increasing elevation when traveling from west to east across the parcel. Although the natural grade has been altered by development of Indio Road and individual houses in the vicinity, the elevation increase as one moves from the west to the east is readily apparent. In addition, the high point of the lot referenced by the applicant is consistent with the slope or elevation trend at this location and does not appear to be an un-naturally occurring situation that is the result of uplifting by tree root growth. **Therefore, the Commission finds that the high point of the lot used to calculate the maximum structure height is consistent with LCP policy 17.081.020 (1) and as such, no substantial issue is raised in this regard.**

The appellant also questions whether there are existing Conditions, Covenants, & Restrictions (CC&R's) that would not allow a second story addition at this location. The standard of review in this



case is the City of Pismo Beach certified LCP and not any CC&R's that may be applicable to the property. Furthermore, the LCP does not refer to CC&R's that might place additional restrictions upon this property, above those of the LCP. **Therefore, the Commission finds that there are no grounds for appeal in regards to the allegation that the presence of applicable CC&R's at the subject property might prohibit the addition of a second story, and no substantial issue is raised in this regard.**

B.3 Additions to Nonconforming Structures

Appellant McFarlan contends that prior to allowing any addition to the structure, all non-conforming structures should be brought into compliance with the requirements of the LCP. Namely, the appellant believes that the following non-conforming structures should be removed or brought into compliance:

1. those portions of the existing building within the bluff-top setback;
2. existing gazebo and private stairway to the beach; and
3. the existing seawall.

Furthermore the appellant alleges that the seawall, gazebo, and stairway were constructed without the benefit of coastal permits.

City Action

On March 7, 2000, the City Council, on appeal, upheld the decision by the Planning Commission, denied the appeal, and approved the project. The City's staff report to the City Council for this project acknowledges that the existing gazebo, staircase, and seawall are nonconforming and further states that the City's regulations (i.e. LCP) do not require removal of nonconforming structures when conforming additions are made. The report also states that, "as a condition of discretionary approval, however, the City Council may require the removal of these elements."

Implementation Plan Applicable Regulations

IP Section 17.118.050 (Existing Nonconforming Structures—Structural Alterations)

Structural alterations including enlargement and extensions of any building or structure existing at the date of the adoption of this Ordinance, if nonconforming in either design or arrangement, may be permitted only if such alteration is in compliance with the regulations set for the in this Ordinance for the District where the building or structure is located. Any alteration which exceeds 200 square feet in floor area shall require Architectural Review. The City Planner may approve such alteration in the R-1 and R-2 zones. Alterations in all other zones require the approval of the Planning Commission as provided for in Chapter 17.121.

IP Section 17.118.060 (Maintenance and Replacement) *Nonconforming structures may be maintained, repaired or portions thereof replaced upon securing the appropriate City approvals.*



IP Section 17.118 (Destroyed Buildings) A nonconforming building verified to have been destroyed to the extent of more than fifty percent (50%) of its reasonable value at the time of its destruction by fire, explosion, or other casualty or Act of God, may be restored, reconstructed and used only in compliance with the regulations existing in the district wherein it is located. Provided, however, that any single family R-1 nonconforming use may be rebuilt on its original foundation by only the owner-occupant at that time of destruction within a period of one year from the time of destruction, regardless of the percentage of destruction.

Substantial Issue Determination on Addition to Nonconforming Structures

Staff has verified that the gazebo and private stairway are in fact nonconforming structures under the LCP. Both the gazebo and private stairway are constructed on the bluff face. Reference to LUP Policy S-5 (Development on Bluff Face) confirms this finding for the gazebo and private stairway and states in part,

No additional development shall be permitted on any bluff face, except engineered staircases or accessways to provide public beach access, and pipelines for scientific research or coastal dependent industry. [...]

In addition, a small portion of the house is nonconforming because it encroaches upon the 25 year bluff-erosion setback required by the LCP, of which was also established by the geologic report accomplished for the project.

As stated in IP Section 17.118.050 above, alterations to nonconforming structures are allowed, if the alteration itself conforms to all the requirements of the LCP. In this case, the appellant questions whether the addition of a second story to the residence would be consistent with the bluff-top set back requirements of the LCP.

As discussed in the findings above, there has been very limited retreat of the bluff edge over the last 20 years, and this retreat has been at approximately the same rate as the retreat rate of 1 inch per year reported for the bedrock underlying the site. With the incorporation of measures to control surface runoff, the instability of the upper bluff and amount of retreat will greatly decrease. Therefore, the Commission finds that establishment of a twenty-five (25) foot bluff top setback is appropriate for determining an allowable addition to the subject nonconforming single family residence.

As discussed, the only nonconforming structure being modified at this time is the residence, and not the gazebo or private stairway. Furthermore, the second story addition, as approved by the City, would conform to the bluff-top setback requirements of the LCP. The LCP does not require all nonconforming development on the site to be brought into compliance prior to or in conjunction with additional approvals. **Therefore, the Commission finds that there are no grounds with which to require existing nonconforming structures on the property to be brought into conformance, that the proposed second story is consistent with the bluff-top setbacks of the LCP, and that no substantial issue is raised in these regards.**



The appellant also raises the issue as to whether these structures were ever built with the benefit of coastal permits. As stated in the staff report to the City Council,

It is not certain that the nonconforming elements were built without permits. The City's records are not complete. There are no records for the construction of the house or any of the bluff top structures.

However, while it is unknown when the gazebo, private stairway, and seawall were constructed, and if the developments were accomplished under authority of a permit, the proposed addition is a separate project and would not be physically dependent upon the gazebo, private stairway, or seawall. Additionally, according to the City, no information leading to a conclusive determination of illegality was found by the City's investigation and **therefore the Commission finds that no substantial issue is raised by this point.**

Findings for the Coastal Development Permit

1. Coastal Development Permit Determination

A. Approvable Development

As mentioned in the substantial issue findings above, the approximate southern half of the parcels bluff boundary is currently protected by an existing seawall, while a small promontory constitutes the northern half. Additionally, a September 8, 1999 geologic report by Earth Systems Consultants established an erosion rate of 1-inch per year for the promontory, which equates to a 100-year erosion setback of approximately eight (8) feet, while recommending a minimum setback from the top of bluff at 25-feet. Furthermore, the Commission found the erosion rate of one (1) inch per year for the underlying bedrock to be appropriate, and concluded that measures to control surface run-off would greatly reduce instability of the upper bluff and decrease the amount of retreat.

As discussed in detail on pages 7 through 12 of this staff report, the proposed project is inconsistent with the certified LCP because it allows irrigation along the bluff top in a situation where bluff erosion is already exacerbated by surface runoff. Therefore, the Commission finds that only by modifying the project to include the prohibition of irrigation at the property will it be consistent with aforementioned LCP policies.

On a similar note, the applicant has presented evidence that indicates, once proposed erosion control measures are put into place, that primary structures located on the property would not become endangered by bluff erosion within a one-hundred (100) year time period.

As stated in the substantial issue findings above, LUP Policy S-3 (Bluff Set-Backs) requires that,

All structures shall be set back a safe distance from the top of the bluff in order to retain the structures for a minimum of 100 years, and to neither create nor contribute significantly to



erosion, geologic instability or destruction of the site or require construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

For development on single family residential lots subdivided prior to January 23, 1981, the minimum bluff setback shall be 25 feet from the top of the bluff (blufftop is defined as the point at which the slope begins to change from near horizontal to more vertical). A geologic investigation may be required at the discretion of the City Engineer, and a greater setback may be applied as the geologic study would warrant.

For all other development, a geologic study shall be required for any development proposed.

In addition, IP §17.078.060 (5) (Shoreline Protection Criteria and Standards) requires that,

New development shall not be permitted where it is determined that shoreline protection will be necessary for protection of the new structures now or in the future based on a 100 year geologic projection.

In light of the fact that the applicant has submitted evidence that primary structures endangered by bluff erosion for at least one hundred (100) years, the Commission finds that it must also impose a condition prohibiting the future construction of additional shoreline protection structures at this location in order to fully assure compliance with the LCP.

Therefore, only by modifying the project to include the prohibition of irrigation on the property and an assumption of risk/waiver of future shoreline protection structures, will it be consistent with the aforementioned LCP policies. Accordingly, the Commission finds that only through the implementation of proposed special conditions one (1), (2), and (3), can the proposed project be found consistent with the LCP. This approval requires the submittal of revised landscaping plans showing no irrigation on the property, and also the recordation of a deed restriction detailing the assumption of risk and the waiver of future rights to construct shoreline protection structures at this location to protect the development being approved by this action (see Special Conditions 1, 2, and 3).

The Commission finds that only as modified by Special Condition 1, 2, and 3 of this approval can the proposed project be considered consistent with the safety, visual resource, land use, and conservation policies of the certified LCP.

B. Public Recreation and Access

As discussed in the findings for substantial issue (pages 7 through 18), the project site is located atop a bluff top parcel at the northern end of Pismo Beach. Regional shoreline characteristics in the projects vicinity are composed of small pocket sandy beaches, with interspersed rocky intertidal habitats, and an overlying bluff averaging twenty (20) to twenty-five (25) feet in height. Adjacent to the applicant's parcel is an existing linear City bluff top park; the applicant's property currently carries an outstanding offer-to-dedicate (OTD) for lateral beach access that expires on January 25, 2004. Although staff has been unable to obtain the relevant permit history, this OTD may have been required under the coastal permit for the subdivision. The nearest vertical public access point is up to one-half mile downcoast at



the Cliffs Hotel, while there are scattered private stairways that also provide vertical access to the beach.

However, as discussed above, the LCP notes that because of the presence of sensitive intertidal habitat at this location, public access to this area should be limited. LCP Policy LU-A-6 (Concept) speaks to this point and states:

Sunset Palisades, an area of existing homes with scattered vacant lots, shall be designated for Low Density Residential. The emphasis is on maintaining coastal views, open space and protecting the coastal bluffs and intertidal area. Infill development shall be compatible with the existing community.

In addition, LCP policy LU-A-11 (Beach Access and Bluff Protection) requires that,

The coastal tidal and subtidal areas should be protected by limiting vertical accessways to the rocky beach and intertidal areas. Lateral Beach access dedication shall be required as a condition of approval of discretionary permits on ocean front parcels pursuant to Policy PR-22. No new public or private beach stairways shall be allowed. If existing stairways are damaged or destroyed they shall not be repaired or replaced.

While IP § 17.066.020 (8) and (9) (Criteria Standards) also require that,

(8) Public access from the nearest roadway to the shoreline and along the beach shall be provided in new developments except where protection of environmentally sensitive habitats prohibits such access or adequate public access exists nearby unless impacts associated with the accessway are adequately mitigated.

(9) Public access to and along the beach may not be required if such access would be detrimental to sensitive tidal or subtidal areas or where construction of public accessways would increase erosion hazards or other safety hazards or environmental degradation, unless impacts associated with the accessway are adequately mitigated.

Therefore, in light of the existing lateral access OTD and provision of public lateral bluff top access immediately adjacent to the project site, the Commission finds that additional public access from this site is not required and the project is consistent with Coastal Act § 30212 (a)(1) and (2), that states,

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby, [...]

Therefore, the Commission finds that the proposed project is consistent with the Public Access and Recreation policies of the Coastal Act.

C. 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



Appeal A-3-PSB-00-032 Staff Report

Limberg Second Story Addition

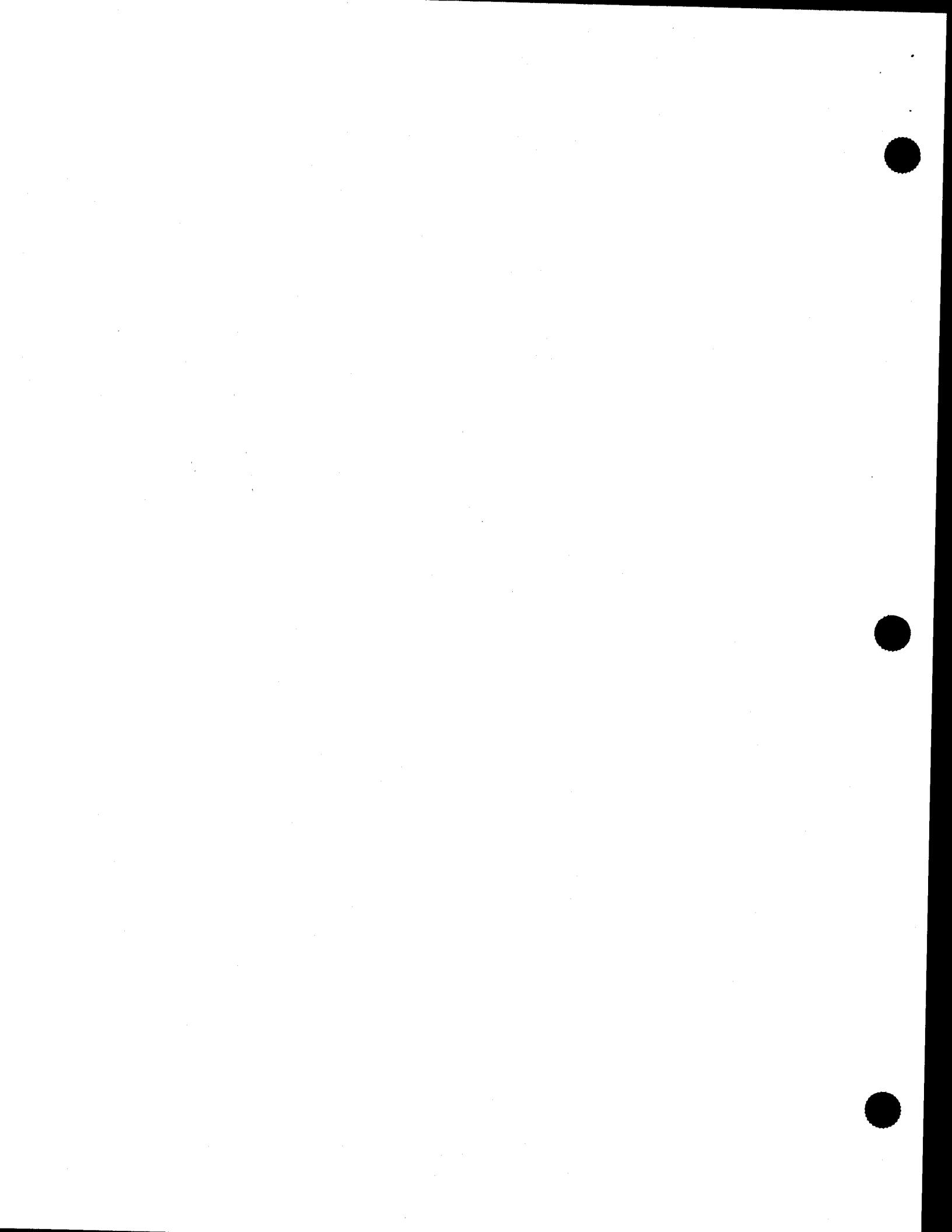
Page 21

development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The City of Pismo Beach made findings that the project qualifies for exemption from the requirements of CEQA, pursuant to Section 15301 (Class I) of the CEQA Guidelines which exempts additions to single-family residences of less than 10,000 square feet in an area where all public services and facilities are available to allow for maximum development permissible by the General Plan, and projects that are in an area which is not environmentally sensitive. In this case, the project proposes the facilitation of potential significant adverse impacts by the exacerbation of erosion through the allowance of irrigation within the bluff-top area. Prior to the City's adoption of the exemption Commission staff sent written correspondence (February 4, 2000) to the City suggesting the prohibition of irrigation within the bluff top area. Subsequently, the project was not altered and the Exemption was adopted when the project was approved by the City of Pismo Beach City Council on March 7, 2000.

The issues previously forwarded to the City by Commission staff, as well as others that have become apparent since the Exemption, have been discussed in this staff report and appropriate mitigations have been developed to supplement the City of Pismo Beach approval of the proposed project. Accordingly, the project is being approved subject to conditions which implement the mitigating actions required of the Applicant by the Commission (See Special Condition 1). **As such, the Commission finds that only as modified and conditioned by this permit will the proposed project not have any significant adverse effects on the environment within the meaning of CEQA.**





**EXHIBIT A
RESOLUTION NO. R 2000 -**

**A Resolution of the Council of the City of Pismo Beach upholding the Planning Commission's approval of a Coastal Development Permit, Architectural Review, and Landscape Review for Project no. 99-0095, APN: 010-141-049, for an addition to a single-family residence, and denying the appeals of that approval.
99 Indio Drive**

WHEREAS, Rodney R. Levin Architects ("Applicant") submitted an application to the City of Pismo Beach for approval of a Coastal Development Permit, Architectural Review, and Landscape Review; for an addition to a residence at 99 Indio Drive; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 11, 2000, at which all interested persons were given the opportunity to be heard; and

WHEREAS, two residents of Pismo Beach filed appeals of the Planning Commission approval;

WHEREAS, the City Council held a duly-noticed public hearing on March 7, 2000, on those appeals, at which all interested persons were given the opportunity to be heard; and

WHEREAS, this project is categorically exempt per section 15301 (Class 1) because it is an addition to a single-family residence of less than 10,000 square feet in an area where all public services and facilities are available to allow for maximum development permissible by the General Plan, and in an area that is not environmentally sensitive;

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

A. FINDINGS IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

1. The project consists of construction of additions to one single-family residence on a site intended for this purpose.
2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the project.
3. The project is exempt from CEQA pursuant to section 15301 (Class 1) of the CEQA Guidelines, exempting changes to small structures under certain circumstances.

B. FINDINGS FOR UPHOLDING OF THE PLANNING COMMISSION'S ACTION AND DENIAL OF THE TWO APPEALS:

1. The Planning Commission's action was in accordance with all policies and ordinances of the City of Pismo Beach and the State of California.

EXHIBIT NO. A

APPLICATION NO.

A-3-PSB-00-032

The City Council does hereby uphold the Planning Commission's action approving the Coastal Development Permit, Architectural Review Permit, and Landscape Review Permit subject to all Conditions as approved by the Planning Commission, attached as Exhibit A.

UPON MOTION of Councilmember _____ seconded by Councilmember _____ the foregoing Resolution is hereby approved and adopted the 7th of March, 2000 by the following roll call vote, to wit:

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

Mayor

ATTEST: _____

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| EXHIBIT NO. A |
| APPLICATION NO. |
| A-3-PS3-00-032 |
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**EXHIBIT A
CITY OF PISMO BEACH
CONDITIONS
PERMIT NO. 99-0047: CDP, ARP
PLANNING COMMISSION MEETING OF JANUARY 11, 2000
CITY COUNCIL MEETING OF MARCH 7, 2000
99 INDIO DRIVE, APN: 010-141-043**

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 99-0047 granting permits to construct a 4,408-square foot addition to a 4,370-square foot single family residence, as shown on the approved plans with City of Pismo Beach stamp of March 7, 2000. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach.

EFFECTIVE DATE: This permit shall become effective upon the passage of 20 days following the Planning Commission approval, provided that an appeal has not been filed to the City Council within 10 working days. 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 March 7, 2002 unless inaugurated prior to that date. Time extensions are permitted in accordance with 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 March 7, 2000.

Applicant

Date

Property Owner

Date

EXHIBIT NO. A

APPLICATION NO.

A-3-858-00-032

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 Planning Commission's decision. These conditions cannot be altered without Planning Commission approval.

A. CONDITIONS TO BE MET 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 PLANNING COMMISSION APPROVAL.** Prior to the issuance of a building permit, the Project Planner shall confirm that the construction plot plan and building elevations are in compliance with the Planning Commission's approval and conditions of approval. Project shall comply with the standards noted in the table below:

| Item | Required |
|----------------------------------|--|
| Lot area | 18,840 sq. ft. (approx) |
| Max bldg height | 123' 8" elevation |
| Max lot coverage | 5069 s.f. |
| Ground floor, gross floor area | 4,903 sf |
| 2 nd floor Area | 3,875 sf |
| 2 nd floor Area Ratio | 80% max, 79% proposed and approved |
| Building Area | 8,778 sf |
| Max building area Ratio | 86% of first 2,700 sf of lot area plus 60% of any area in excess of 2,700 sf |
| Planting Area | 5,145 sf (-27.2%) |
| Minimum planting area | 20% |
| Minimum front yard setback | 15' blufftop lot |
| Minimum street side yard setback | NA |
| Minimum rear yard setback | Blufftop setback 25' |
| Minimum parking spaces | Two in garage (existing; three in garage) |
| Minimum parking space dimension | 20 X 20' (for two spaces) |

EXHIBIT NO. **A**
 APPLICATION NO.
A-3-PSB-00-032

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|-----------------------|-------------------------------|
| GENERAL PLAN POLICIES | |
| Driveway widths | 16' maximum, see condition A6 |

3. **COMPLIANCE WITH GEOLOGY REPORT.** Grading and construction plans shall reflect all recommendations in the Geology Bluff Study, dated April 16, 1999, and subsequent letter, dated September 8, 1999, by Earth Systems Consultants.
4. **COLORS AND MATERIALS.** Colors and materials shall be consistent with those shown on the color board as reviewed and approved by the Planning Commission.
5. **YARD SETBACK.** No solid fences, hedges or walls over 42 inches in height shall be permitted in the front yard setback in accordance with the City's Zoning Ordinance. Any new wall in the front yard must include a portion that is "see-through" for sideyard views, consistent with policies D-2(c), D-38, D-39 and LU-A-9 of the General Plan. The existing wall within the City's right-of-way shall be removed prior to final inspection, and a new wall may be constructed on the site, in accordance with city policies and regulations. *(Specified by the Planning Commission on January 11, 2000)*
6. Building plans shall reflect a driveway width no greater than 16'. That portion of the existing driveway exceeding 16' in width shall be reconstructed with grasscrete or landscaped.
7. **BUILDING HEIGHT.** The maximum allowable height of the structure shall be shown on the construction plans, not to exceed twenty-five feet in height from the highest point of the roof to the center point of the building footprint, nor to exceed fifteen feet in height from the highest point of elevation of the site.
8. **LANDSCAPING AND IRRIGATION PLANS.** Landscaping and irrigation plans encompassing the entire site shall be submitted to the City for review and approval by the project planner. Detailed calculations shall be provided on the face of the plan indicating the provision of a -minimum of 20% landscape area with no greater than 10% provided as lawn area. The landscape plan shall include the following provisions:
 - a. Utilization of low water using irrigation systems shall be installed. Drip irrigation shall be used where feasible.
 - b. Landscape Design Plan (including plant list)
 - c. Irrigation Design Plan
 - d. Special provisions to prevent bluff erosion from irrigation.
 5. There shall be no turf permitted allowed on the bluff top and around the pool. *(added by Planning Commission January 11, 2000)*

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| EXHIBIT NO. A |
| APPLICATION NO. |
| A-3-253-00-032 |

BUILDING DIVISION:

9. **BUILDING REQUIREMENTS.** The application for building permit shall be subject to the following requirements:
- a. The Title Sheet of the plans shall include:
 1. Street address, lot, block, tract and assessor's parcel number.
 2. Description of use
 3. Type of construction
 4. Height of building
 5. Floor area of building(s)
 6. Vicinity map
 - b. 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 and 24, California Energy Conservation Standards and Handicapped Accessibility Standards where applicable and all City codes as they apply to this project.
 - c. Plans shall be required to be submitted by a California licensed architect and/or engineer.
 - d. A separate grading plan complying with Appendix Chapter 33, UBC, and Title 15 PBMC, may be required.
 - e. A soils investigation shall be required by this project.
 - f. All Erosion control of the site shall be clearly identified.
 - g. 13D Fire sprinklers systems are required per City codes.
 - h. A licensed surveyor/engineer shall verify pad elevations, setbacks, and roof elevations.
 - i. Clearly dimension building setbacks and property lines, street centerlines, and the distance between buildings or other structures on the plot plan.
 - k. Title 24, Energy Conservation Documentation shall be prepared and submitted with the building permit application.
10. The Building Department shall verify that the residence's building area does not exceed 8,778 sf (including garage).

ENGINEERING DIVISION:

11. All Engineering Plans and specifications are required to be stamped and signed by a qualified professional.
12. Accurately identify size and location of all existing public utilities within 10' of the property, and in all public rights-of-way fronting the property. Show all proposed and existing private utilities and Tie-in locations.
13. No building permits will be issued between November 1 and March 31 without prior approval of the Engineering Division and approval of an erosion and sediment control plan as noted in condition 14, below, and construction schedule. Erosion control measures shall be in place and approved by the Engineering Division prior to the start of construction.

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| EXHIBIT NO. A |
| APPLICATION NO. |
| A-3-PSB-00-032 |

14. The property owner shall enter into an encroachment agreement with the City for any existing and proposed construction within the City's right-of-way. The agreement shall be reviewed by the Engineering Division for approval.
15. An Erosion and Drainage Control Plan shall be submitted in accordance with the City Grading Ordinance. The plan shall reflect "best management practices" as proposed in the *California Regional Water Quality Control Board Erosion and Sediment Control Field Manual*; and shall include both temporary measures (to be used during construction, and until permanent measures are completed and established) and permanent measures. Permanent measures must include plans for the draining of the new lap pool so that such drainage does not increase erosion on the site.

FIRE DEPARTMENT:

16. **ADDRESS NUMBERS** - Plans for address numbers on every structure shall be submitted for review and approval by the Fire Department and meet the following requirements:
 - a. Numbers must be plainly visible and clearly legible from the frontage street.
 - b. Numbers to be a minimum of 4 inches in height for residential (one & two family).
 - c. Numbers shall contrast with their background.
17. **FIRE FLOW** - All fire protection water must be gravity flow with adequate storage to meet domestic and required fire flow for a minimum of two (2) hours for residential.
 - a. Required fire flow will be determined by the Fire Chief, City Engineer, and ISO requirements.
 - b. Minimum fire flow will be as per City standards.
 - c. In all cases, the minimum acceptable residual pressure shall be 20 P.S.I.
18. **UTILITIES**. If gas meters, electric utilities or any part of the Fire Protection Water System are subject to vehicular damage, impact protection shall be provided.
19. **AUTOMATIC FIRE PROTECTION SPRINKLER SYSTEM** - Provide an Automatic Fire Protection Sprinkler System. This system shall comply with requirements of the Pismo Beach Fire Department and NFPA 13D. Three (3) sets of plans and calculations are required. Plans shall be approved prior to the issuance of a building permit.
20. **FEES AND PERMITS**. Any and all applicable fees and permits shall be secured prior to commencing work.

EXHIBIT NO. A

APPLICATION NO.

A-3-253-00-032

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

ENGINEERING DIVISION

3. Owner and or owner's contractor are to take precautions against damaging road surfaces. The owner is responsible for protection against or repair of, at owner's expense, any damage incurred during or because of construction.
4. Street is to remain open to through traffic at all times. No temporary or long term parking or storage of construction equipment or materials shall occur without prior issuance of an encroachment permit.
5. Encroachment permit(s) must be obtained prior to any/all work in public right-of way.

C. CONDITIONS TO BE MET 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. Height to be certified as shown on approved plans.

D. CONDITIONS TO BE MET PRIOR TO FINAL INSPECTION AND ISSUANCE OF CERTIFICATE OF OCCUPANCY:

PLANNING DIVISION:

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

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| EXHIBIT NO. A |
| APPLICATION NO. |
| A-3-R5B-00-032 |
| |

E. CONDITIONS SUBJECT TO ONGOING COMPLIANCE:

1. **ROOF-MOUNTED EQUIPMENT**. All roof-mounted air conditioning or heating equipment, vents or ducts shall be screened from 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. **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), until such time as the zoning or uses allowed have been changed by the City of Pismo Beach. 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.
4. **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.

F. MISCELLANEOUS/FEEES:

1. **REOUED 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. Water system improvement charge.
 - c. Water meter hook-up charge.
 - d. Sewer public facilities fee.
 - e. Park development and improvement fee.
 - f. School impact fees pursuant to the requirements of the San Luis Coastal School District.
 - g. Building and construction and plan check fees: building fee, grading and paving fee, plan check fee, plumbing, electrical/mechanical fee, sewer connection fee, lopez assessment, strong motion instrumentation, encroachment fee, and other fees such as subdivision plan check and inspection fees.
 - h. Other special fees:
 1. Assessment district charges.
 - Other potential fees
 - i. Any other applicable fees.

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

- END -

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| EXHIBIT NO. A |
| APPLICATION NO. |
| A-3-PSB-00-032 |
| |

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: MARCH 7, 2000

7. Local government's file number (if any): # 451.1
PROJECT NO. 99-0047

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:

MIKE LIMBERG
99 INDIE DRIVE
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) ROD LEVINE
1145 MARSH ST.
SAN LUIS OBISPO, CA 93401

(2) ROBERT STRONG

(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.

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| EXHIBIT NO. <u>B</u> |
| APPLICATION NO. |
| <u>A-3-95B-00-032</u> |
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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.)

POLICY S-3 OF THE SAFETY ELEMENT CALLS FOR AT LEAST A 25' OR A 100 YEAR SET BACK, A PORTION OF THE EXISTING HOUSE IS WITHIN THIS ABSOLUTE BLUFF TOP SET BACK AND IS THEREFORE A NONCONFORMING STRUCTURE. THIS PART OF THE HOUSE SHOULD BE REMOVED IN THE REMODELING. ALSO I QUESTION THE EROSION RATE THAT STATES THAT THE STRUCTURE IS SAFE FOR 180 YEARS, ABOUT AN 1" A YEAR. PROPERTIES TO THE NORTH AND SOUTH HAVE BEEN GIVEN A RATE OF 3 TO 4 INCHES A YEAR TO GET THEIR BUILDING PERMITS BUT COME BACK

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.

CONT

SECTION V. Certification

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

Bruce S. McFarlan
Signature of Appellant(s) or
Authorized Agent

Date 3/17/00

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

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| EXHIBIT NO. 13 |
| APPLICATION NO. |
| A-3-PSB-00-032 |
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IN A COUPLE OF YEARS ASKING FOR A SEAWALL OR BLUFFTOP PROTECTION BECAUSE THE EROSION RATE IS REALLY 6 TO 8 INCHES A YEAR. THERE SHOULD HAVE BEEN PEER REVIEW ON THIS SINCE IT'S SO FAR THE SLOWEST FIGURE IN ALL OF SHELL BEACH.

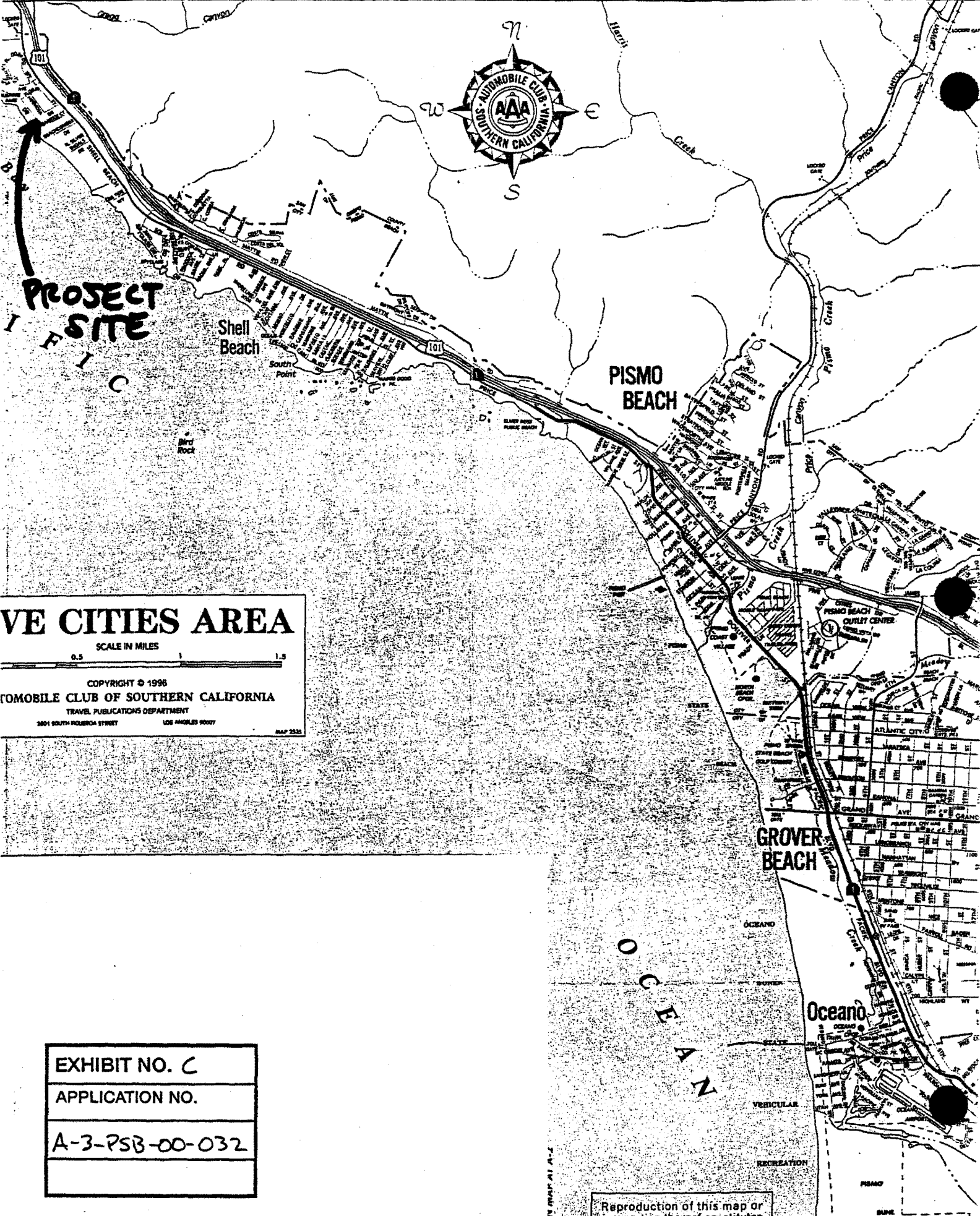
THE SWIMMING POOL WILL LEAK FURTHER ADDING TO EROSION AND SHOULD NOT BE ALLOWED UNDER POLICY S-3 THERE IS ALREADY A WATER RUNOFF PROBLEM IN THE CITY PARK DIRECTLY SOUTH OF THE RESIDENCE AND A SUBSURFACE WATER PROBLEM IN THAT PARK, THE SWIMMING POOL WILL ONLY ADD TO THE PROBLEM.

THERE ARE OTHER NONCONFORMING AN NON-PERMITTED AND ILLEGAL STRUCTURE IN THE S-3 AREA THAT SHOULD BE REMOVED BEFORE CONSTRUCTION IS ALLOWED, I.E. SEAWALL AND ITS ADDITION, PRIVATE STAIRS TO THE BEACH AND THE GAZEBO

THIS WILL BE THE LARGEST HOUSE ON INDIG DRIVE BY FAR I QUESTION IF IN THE ORIGINAL CC. R.'S IF A SECOND STORY IS ALLOWED, ALSO THE HIGH POINT FOR THE LOT ELEVATION IS IN QUESTION, IT IS AT AN UNNATURAL AREA OF TREE ROOTED UP GROWTH AN DIRT DUMPING DURING THE ORIGINAL CONSTRUCTION

THIS PROJECT SHOULD BE RE PLANNED WITH FURTHER BLUFF SET BACK, NO SWIMMING POOL, SMALLER AND LOWER AND WITH THE ILLEGALLY CONSTRUCTED NONCONFORMING STRUCTURES REMOVED BEFORE BEING ALLOWED TO GO AHEAD WITH A NEWLY DESIGNED PROJECT.

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| EXHIBIT NO. B |
| APPLICATION NO. |
| A-3-P53-00-032 |



PROJECT SITE

VE CITIES AREA

SCALE IN MILES

0.5 1 1.5

COPYRIGHT © 1996

OMOBILE CLUB OF SOUTHERN CALIFORNIA

TRAVEL PUBLICATIONS DEPARTMENT

3801 SOUTH HOLBROOK STREET LOS ANGELES 90007 MAP 2525

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| EXHIBIT NO. C |
| APPLICATION NO. |
| A-3-PSB-00-032 |
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Reproduction of this map or any portion thereof constitutes infringement of copyright.

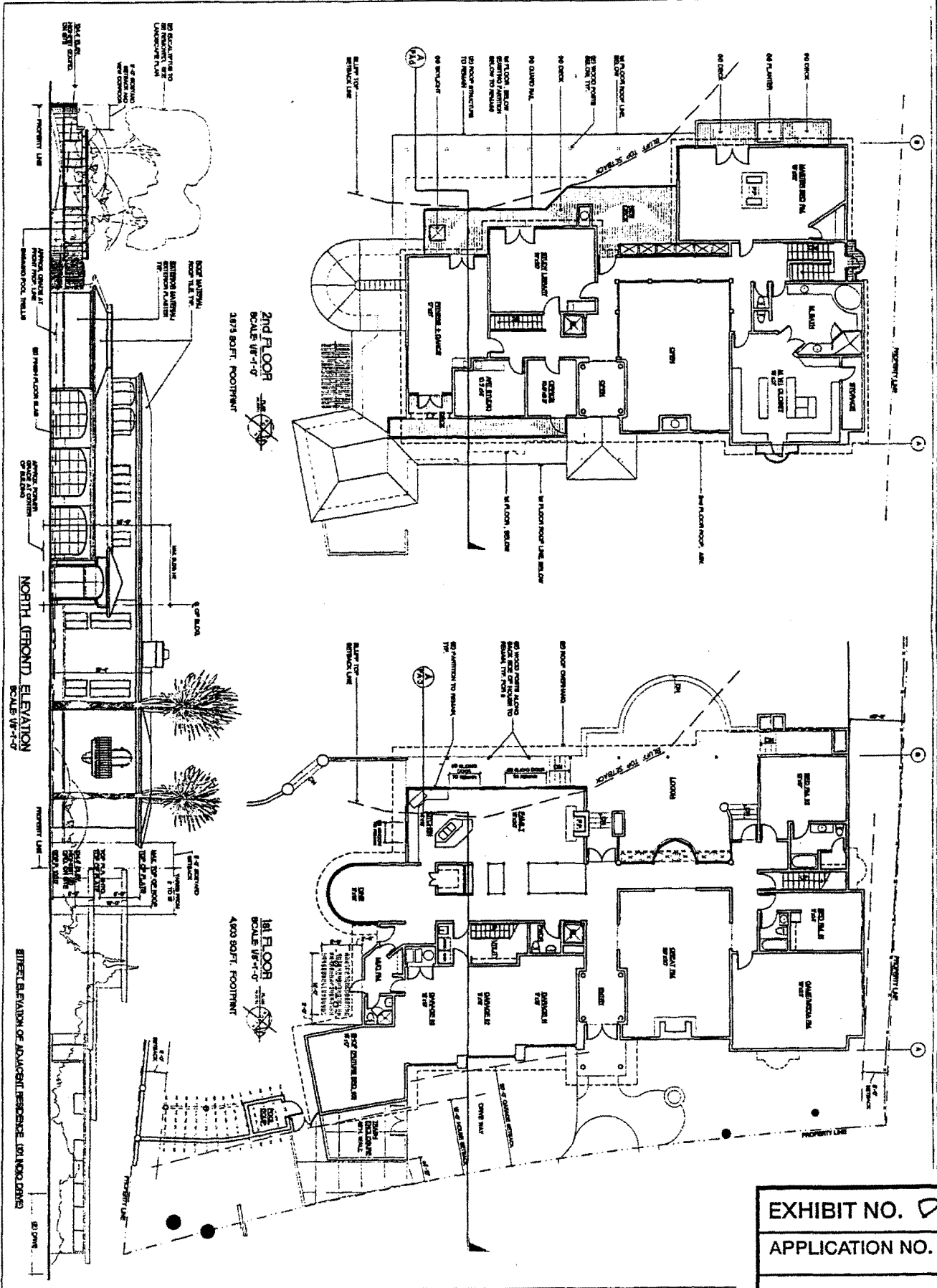
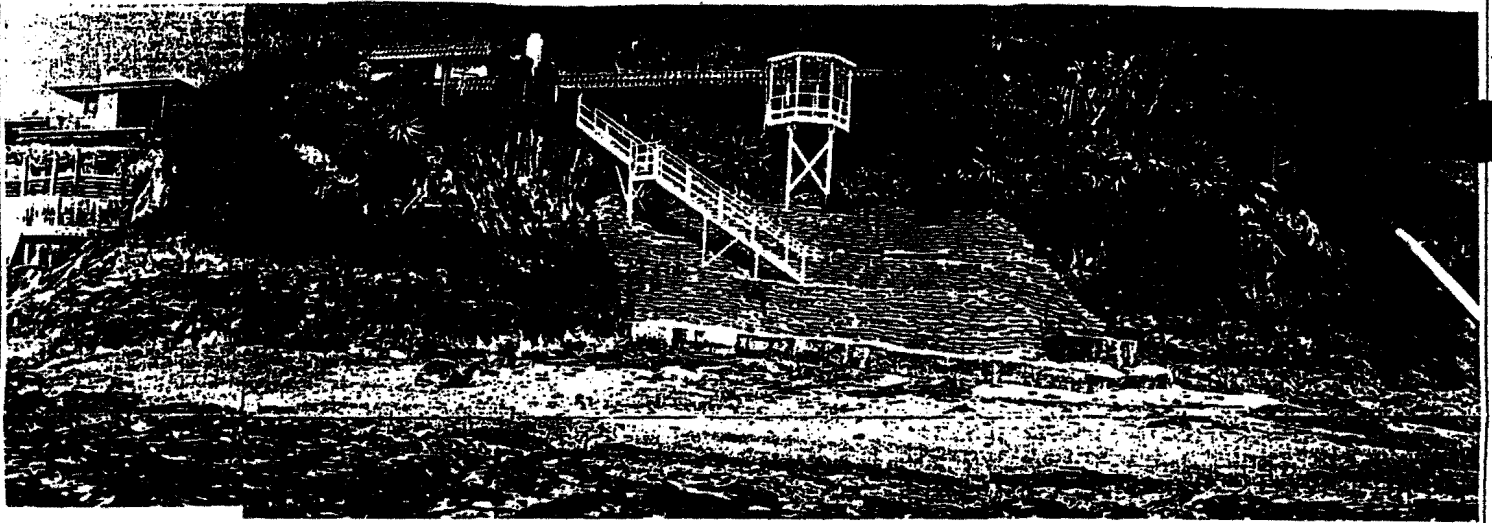


EXHIBIT NO.

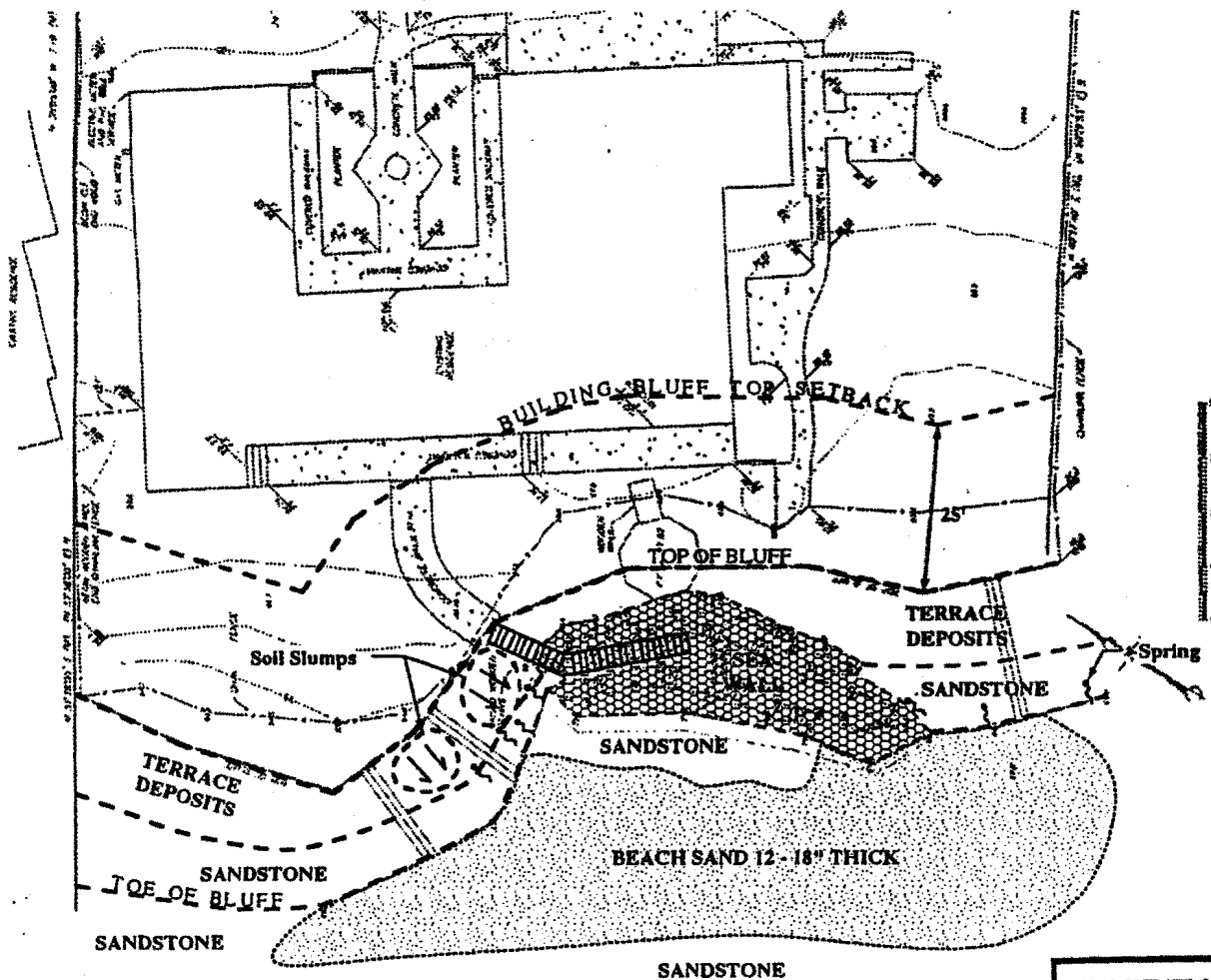
APPLICATION NO.

A-3-PSB-00-032

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|--------------------|--|---|--|
| PA-2 2.5 | PROJECT/OWNER DR. + MRS. MICHAEL LIMBERG RESIDENCE ADDITION/REMODEL 90 INDO STREET, SHELL BEACH, CALIFORNIA | ADRIAN ARCHITECTS ASSOCIATES 180 Marine Street San Luis Obispo, CA 93401 | |
| | DATE 8-26-88 BY A.D. | | |



PHOTOGRAPH OF BLUFF



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|-----------------|
| EXHIBIT NO. E |
| APPLICATION NO. |
| A-3-PSB-00-032 |

GEOLOGIC MAP



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
 725 FRONT STREET, SUITE 300
 SANTA CRUZ, CA 95060
 PHONE (831) 427-4863
 FAX (831) 427-4877



May 3, 2000

Rodney Levin
 Rodney Levin Architects
 1145 March Street
 San Luis Obispo, Ca 93401

Subject: *Additional Questions Pertinent to the Geology of 99 Indio Drive, Pismo Beach*

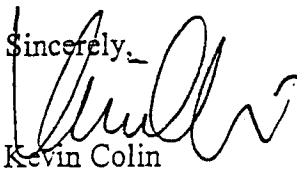
Dear Mr. Levine,

Thank you for taking time to accompany Commission staff on a site visit of your client's property on April 24, 2000. This visit was helpful in enabling Mark Johnson (Commission staff geologist) and myself put into perspective some of the issues raised in the appeal. In light of our observations made at this site, conversation with Rick Gorman of Earth Systems Consultants at the site, and the assertions made by the appellant, I have identified some additional questions which the current administrative record does not provide answers to. Your response to these questions will enable your client, in large part, to address this information gap in the record. Mr. Gorman would seem the most logical respondent to these questions. Needless to say, I will leave it up to you to forward these questions to him. They are as follows.

- 1) What is the height of the terrace deposits above the mean high tide line? What is the estimated wave run-up height? Taking the last 50+ years of storm cycles into consideration, is it likely that past/future storm events have/will cause significant erosion of the terrace deposits?
- 2) Why does the erosion rate of 1 inch/year at 99 Indio Drive differ so greatly from others established previously in the vicinity? In reviewing past proposals the Commission has noted that there is considerable uncertainty associated with the geologic analyses in the vicinity of the project, and the appellant has in turn also pointed this out. For example, during the Commission's previous review of a proposed development at 307 Indio Drive an erosion rate of 4 inches/year was established, while a proposal at 107 Indio Drive gave an erosion rate of 6 to 12 inches/year. Specifically, what geologic properties at the subject site cause the variation in erosion rate from others in the vicinity? How do they relate or differ?

Although tentatively set for hearing at the Commission's June meeting in Santa Barbara, your prompt attention to this matter will help ensure that my preparation of the staff report will occur in time for this meeting. At the very latest I would need answers to the above questions by May 11, 2000. Please do not hesitate to call me if this deadline is unrealistic or if you have additional questions.

Sincerely,


 Kevin Colin
 Coastal Planner

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| EXHIBIT NO. F |
| APPLICATION NO. |
| A-3-PSB-00-032 |
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Earth Systems Pacific

4378 Santa Fe Road
 San Luis Obispo, CA 93401-8116
 (805) 544-3276 • FAX (805) 544-1786
 E-mail: esc@earthsys.com

May 8, 2000

FILE NO.: SL-08543-GD

Rodney R. Levin, Architect
 1145 Marsh Street
 San Luis Obispo, CA 93401

RODNEY R. LEVIN

MAY 10 REC'D

ARCHITECTS

PROJECT: 99 INDIO DRIVE
 SHELL BEACH, CALIFORNIA

SUBJECT: Response to Coastal Commission Questions

- REF.: 1) Letter Regarding Additional Questions Pertinent to the Geology of 99 Indio Drive, Pismo Beach, by the California Coastal Commission, dated May 3, 2000.
- 2) Geologic Bluff Study, 99 Indio Drive, Pismo Beach, by Earth Systems Consultants Northern California, dated April 16, 1999.

Dear Mr. Levin:

In accordance with your request, we have prepared a response to the two questions made in the referenced letter by the California Coastal Commission. The following text is our response to these questions.

Question No. 1

The height of the terrace deposits above the mean high tide line, within the site area, is estimated to be 10 feet or elevation 12 feet above sea level.

Based on wave run-up analyses our firm performed for other projects within the site vicinity, we estimate the wave run-up height on the ocean bluff face would be 12 to 13 feet.

The majority of erosion that occurred in the terrace deposits during the last 50+ years of storm cycles was from uncontrolled surface water runoff and saturated soil conditions that result from springs and percolated precipitation. Because of the terrace deposit elevation above sea level, it is not likely that sea wave run-up has caused a significant erosional impact on the terrace deposits. If sea wave run-up did play a major role in eroding the terrace deposits, the bluff face, where the terrace deposits are exposed, would

EXHIBIT NO. F

APPLICATION NO.

A-3-858-00-032



Mr. Rodney R. Levin

2

May 8, 2000

have a near vertical slope angle and a bedrock bench would be present. These geologic features are indicative that the terrace deposits are eroding at a faster rate than the underlying bedrock. However, uncontrolled surface water runoff and saturated soils have caused the top of bluff to erode at a faster rate than the underlying bedrock. This is evident by the flatter slope angle of the terrace deposits when compared to the slope angle of the bedrock.

Question No. 2

The Coastal Commission has noted that there is considerable uncertainty or variability in the bluff retreat rates along the coast of Pismo Beach, particularly at 107 Indio Drive where a geologist has estimated a bluff retreat rate of 6 to 12 inches per year. Bluff retreat can vary significantly from lot to lot depending on the geologic characteristics of the rock formation exposed in the bluff face, the steepness of the beach or shoreline in front of the bluff, the distance the bluff is from the mean high tide line and other coastal conditions such as the direction the bluff faces and if there are bedrock sea stacks or bedrock platforms present in near shore tidal zone. The coastline along the northern Pismo Beach and Shell Beach areas is jagged consisting of erosion resistant points or promontories and inlets that are not resistant due to the weak and soft conditions of the bedrock in the bluff face. I made a brief site visit to the vicinity of 107 and 307 Indio Drive was performed to observe the general geologic and coastal conditions of these areas.

The site at 99 Indio Drive is somewhat bounded to the north and south by erosional resistant points, particular the point to the north. As the points are resistant to erosion they have a low bluff retreat rate. *These points were estimated to have a bluff retreat rate of about 1 inch per year.* The inlet on site probably was eroding at a rate of about 3 to 4 inches per year prior to the construction of the sea wall, which is comparable to the bluff retreat rate estimated at 307 Indio Drive in Shell Beach.

The bluff at 307 Indio Drive consists of a different geologic formation than at 99 Indio Drive. Shale bedrock of the Monterey formation is exposed in the bluff at 307 Indio Drive. Like the site at 99 Indio Drive, the coastline in the vicinity of this site is also jagged with points and inlets. Because the bedrock characteristics of the Monterey formation are extremely variable from site to site, bluff retreat rates can range from 1 to 10 inches per year, depending on the dip angle of the bedding, degree of fracturing and folding and trend of the bedding with respect to the prevailing direction of the incoming sea waves.

At 107 Indio Drive the bluff exposes a soft, fractured bituminous sandstone bedrock that appears to be more susceptible to sea wave erosion than the silty (non-bituminous) sandstone exposed in the bluff at 99 Indio Drive. These two types of sandstones are

EXHIBIT: F

APP. A-3-PSB-00-032



Mr. Rodney R. Levin

3

May 8, 2000

interbedded within the rock formation and because they are interbedded, differential erosion rates of the two geologic units cause the jagged formation of the coastline.

The geologic and coastal conditions of the bluff suggest that a bluff retreat rate in the order of 6 to 8 inches may be feasible at this site. However, the geologist who prepared the bluff study report for 107 Indio Drive may have data that justifies the higher bluff retreat rate.

Thank you for this opportunity to have been of service. If you have any questions, please feel free to contact this office at your convenience.

Sincerely,

Earth Systems Pacific

Richard T. Gorman
Certified Engineering Geologist



ls

Doc.No.: 0005-078.LTR

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| EXHIBIT NO. F |
| APPLICATION NO. |
| A-3-758-00-032 |
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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
MONT STREET, SUITE 300
SAN CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877



February 4, 2000

Randy Bloom, Director
Community Development Department
City of Pismo Beach
760 Mattie Road
Pismo Beach, Ca 93449

Subject: Coastal Development Permit (99-0047) for 99 Indio Drive

Dear Mr. Bloom,

The Coastal Commission has received a final local action notice for the above referenced coastal permit. The purpose of this letter is to share with you some issues of concern that we have identified after review of the file documents for this permit. These center upon the establishment of appropriate bluff-top setbacks, as well as components of the project that may accelerate the rate of bluff-top erosion at this site.

In general, projects such as this require careful review in order to assure the maintenance of public safety and avoidance of impacts to coastal resources. Taking into account the conclusions drawn in the geologic report, the City has established a setback which is consistent with the policies of the Local Coastal Program. Although the approved structural development adheres to the LCP required setback, we note that the project includes landscaping within the bluff-top setback. The appropriateness of placing a lawn along the bluff-top at this location is questionable. With development along bluff-tops it is imperative to include appropriate erosion control measures in order to reduce the potential for landscaping to induce bluff-top failure. In the case of the subject development, the lawn will require watering that will infiltrate into the soil profile; the approved surface drains may not capture most of this. This may lead to the saturation of the soil profile and inevitably increase the probability of bluff top failure.

To prevent such situations from occurring, the Coastal Commission often requires that no permanent irrigation system be permitted within 40 feet of the bluff edge and that only drought and salt tolerant plant species be planted in these locations. In light of the approved landscaping, existing soil slumps, and springs along the bluff face, it appears that such requirements would be appropriate at this location. In the future we strongly encourage the City to also incorporate such requirements.

If you have any questions, please contact me at the number or address listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Colin".

Kevin Colin
Coastal Planner

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|-----------------|
| EXHIBIT NO. G |
| APPLICATION NO. |
| A-3-838-00-032 |

Blue Heron Pools

San Luis Obispo, CA 93401

(805)543-2221

February 15, 2000

Rodney Levine Architects
1145 Marsh
San Luis Obispo CA 93401

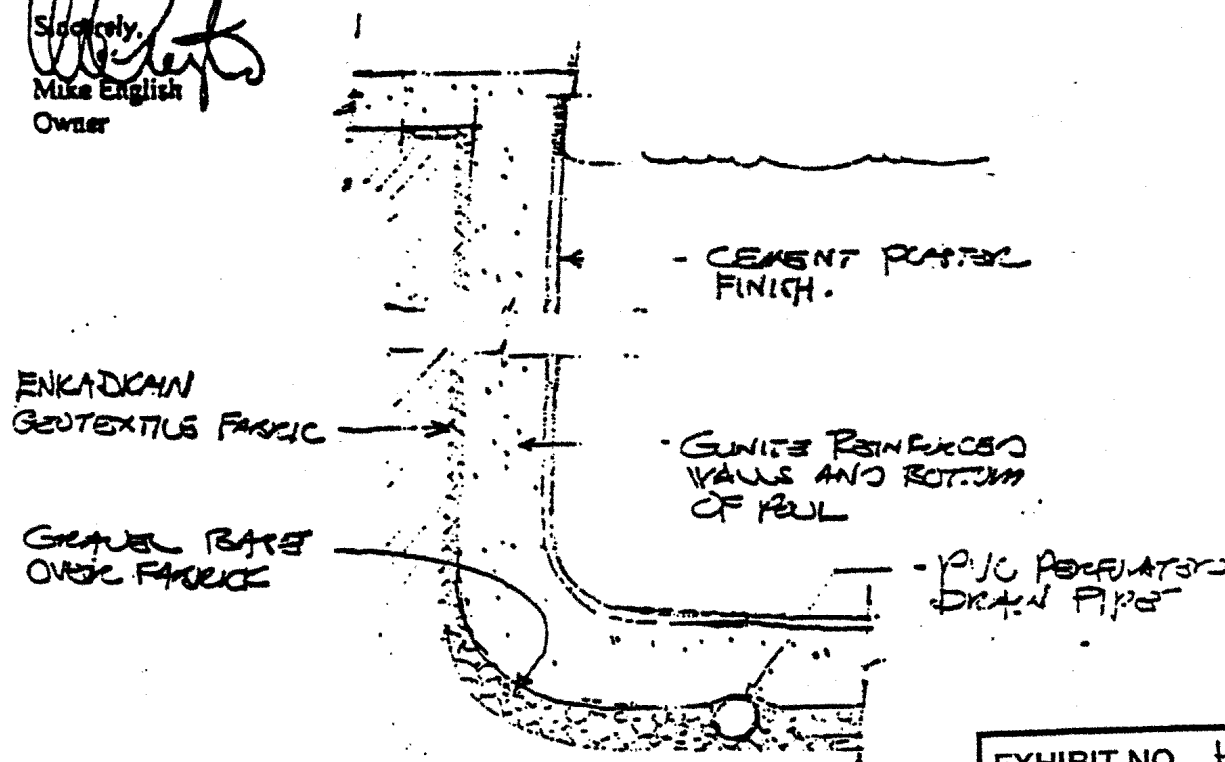
Dear Sirs,

Over the past 20 years we have had the opportunity to construct various swimming pool projects along the bluffs of Pismo Beach.

When properly constructed, swimming pools should pose no erosion problem along bluffs. When excavated, no fill or cushion is under or around the pool shell. By replacing the excavated soil with pneumatically applied reinforced gunite allows no voids and prevents erosion from beginning. All non-corrosive plumbing is gunite encased for further protection. Projects of ours such as Shelter Cove, Kon Tiki, Pismo Athletic Club, Sea Gypsy, and the Ramberg Residence have been in place for many years without any contribution to erosion.

Sincerely,

Mike English
Owner



SUGGESTED SOLUTION FOR POTENTIAL E

Exhi

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| EXHIBIT NO. 4 |
| APPLICATION NO. |
| A-3-853-00-0 |
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