

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
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**Th7d**

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Filed:	09/10/02
49 Day Waiver:	09/17/02
Staff:	MJW-SC
Staff Report:	10/17/02
Hearing Date:	11/07/02

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE DETERMINATION**

**APPEAL NUMBER:** A-3-PSB-02-076, Pinheiro

**LOCAL GOVERNMENT:** City of Pismo Beach

**DECISION:** Approved with conditions, 06/25/02

**APPLICANT:** Frank & Arlene Pinheiro

**APPELLANTS:** Frank Bertotti

**PROJECT LOCATION:** 374 Boeker (Shell Beach Planning Area), Pismo Beach (San Luis Obispo County) APN 010-311-051.

**PROJECT DESCRIPTION:** Construction of a 3,336 square foot single-family residence on a 6,4150 square foot blufftop lot.

**FILE DOCUMENTS:** City of Pismo Beach Certified Local Coastal Program; Final Local Action Notice 3-PSB-02-432; City of Pismo Beach City Council Resolution No. R-02-50.

**RECOMMENDATION:** No Substantial Issue

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission determine that **NO** substantial issue exists with respect to the grounds on which the appeal has been filed. Staff has determined that the action on a Coastal Development Permit (01-0251) and variance does not raise a substantial issue regarding conformance with the standards set forth in the City of Pismo Beach Certified Local Coastal Program, which includes the Shell Beach Area Plan.



California Coastal Commission  
November 7, 2002 Meeting in San Diego

Staff: M. Watson Approved by: *DSL*

The City's action allows for the construction of a two-story, 3,336 square foot single family residence. The project is located within the Coastal Zone in the Shell Beach planning area of the City of Pismo Beach, San Luis Obispo County (project vicinity and site location maps are shown in Exhibits 1 and 2, respectively). The property (APN 010-311-051) is located at 374 Boeker. The parcel fronts the Pacific Ocean and has a north-south facing orientation.

The appellant contends that the project does not comply with the City of Pismo Beach Local Coastal Program (LCP) because the project:

- Is not harmonious with the character of the surrounding neighborhood.
- Is not adequately setback from the blufftop;
- Did not require an emergency services easement;
- Is a recorded archeological site;
- Improperly identified the edge of blufftop.

These contentions do not raise a substantial issue because the proposed project is in conformance with the Shell Beach Area Plan and policies(p. LU28–LU30) for development of single family residences in the Coastal Zone, as well as the certified zoning ordinance Sections 17.018, 17.078.050, and 17.121.030. Specifically, the project meets LCP bluff setback requirements, has been designed consistent with LCP height & design standards, and includes appropriate mitigation to address the potential existence of cultural resources.

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**Exhibits**

1. Vicinity Maps
2. Site Location Map
3. Site Plans, Elevations & Model
4. Appellant's Contentions
5. San Luis Obispo County Findings and Conditions of Approval
6. Site Photos

**1. LOCAL GOVERNMENT ACTION**

The City of Pismo Beach Planning Commission approved a coastal development permit for the subject development in on June 25, 2002, subject to 10 conditions and 2 mitigation measures. This action was appealed to the City Council by Frank Bertotti on July 9, 2002. The Planning Commission action was upheld and the appeal was denied on August 6, 2002 by a vote of 4 to 0 with one Council member absent.

**2. 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 it is located between the first public road and the sea and is within 300' of the coastal bluff.

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 first public road and the sea and is within 300' of the coastal bluff.



### 3. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

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

***MOTION:*** *I move that the Commission determine that Appeal No. A-3-PSB-02-076 raises a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:**

Staff recommends a **NO** vote on the motion. Failure of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

#### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission finds that Appeal No. A-3-PSB-02-076 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 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.

### 4. RECOMMENDED FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

#### **A. Project Location and Description**

The project is located at 374 Boeker in the City of Pismo Beach within the Shell Beach Planning Area, San Luis Obispo County (Exhibit 2). The LCP zoning designates the project area as Single Family Residential.

The project involves the construction of 3,336 square foot single-family residence on a 6,150 square foot vacant blufftop lot at the end of Boeker. The existence of a public sewer main running through the property, limit the developable area at this location compared to that of similar sized lots in the neighborhood. Because of this constraint, the applicant applied for and was granted a variance from the second floor, floor area allowance. Additionally, the LCP calls for a public pedestrian pathway at this location. The City approval was conditioned to require a dedication of an easement eight feet wide for public access purposes. Copies of the project plans are attached to this report as Exhibit 3.



## B. Substantial Issue Analysis

The appellant contends that the project does not comply with the City of Pismo Beach Local Coastal Program because it is not compatible with the character of the surrounding neighborhood, is not adequately setback from the blufftop, did not require an emergency services vehicle easement, is a known archeological site, and improperly identified the bluff edge (see Exhibit 4 for text of appellants' contentions). As discussed below, the approved project does not raise a substantial issue in regards to the LCP's Land Use Plan and Zoning Ordinance policies.

### 1. Community Character

#### Appellant Contentions

With regard to community character, the appellant contends that the project does not comply with the scale, bulk, and character of the surrounding neighborhood structures. In particular, the appellant contends that the City approval exceeds the limitations placed on second floor, floor size. Additionally, the appellant takes issue with the height of the fireplace stacks. The appeal asserts that the City has not appropriately applied its standards to protect the unique character of the community. The appellant states:

*The rooftop, fireplace stack, and gables are not compatible with the scale, bulk, and character of the existing neighborhood.*

#### Relevant LCP Policies

The LCP standards applicable to this contention can be found in the Shell Beach Planning Area section of the LUP and the certified Zoning Ordinance of the City of Pismo Beach LCP.

**Section LU-H-4 – Residential Guidelines:** *a. Scale of Structures. New development should be designed to reflect the small scale image of Shell Beach rather than large monolithic buildings. Buildings should be designed with vertical, horizontal, and roof articulations of building faces. Where two-story buildings are proposed, the second story should normally be stepped back.*

**Section 17.102 General Provisions: Building Heights, Yard, Area, Coverage, and Construction Requirements.** *Building heights shall be as follows: 1. Residential: no structures in the A-E, R-1, R-2, or M-H zones shall exceed 25 feet in height as measured above the center of the building footprint at site grade...*

*6. Exceeding Height Limits: (R-1, R-2, R-3, P-R, and M-H zones): Television antennas, fire place chimneys and roof mounted solar collectors not exceeding an aggregate of six feet by six feet in dimension may exceed height limits by a maximum of 5 feet.*



**Section 17.105.135: Development and Design Standards Applicable to Single-Family Dwellings in Certain Zones.** *The following additional development and design standards shall be applicable to the development, enlargement, or alteration of single-family dwellings in the R-1, R-2, R-3, R-4, and R-R zones, except for the Pismo Heights Planning Area as defined in the Pismo Beach General Plan / Local Coastal Plan:*

*(1) To avoid "boxy" structures that have unrelieved exterior wall planes extending in height for two or more stories and to promote vertical articulation of wall planes, the amount of gross floor area on any second floor shall not exceed eighty (80) percent of the amount of gross floor area on the ground floor. Any "stepbacks" of the second floor living area from the building footprint on the ground level shall be required to be provided at least in part on the street-side of the house unless infeasible.*

### **Analysis and Conclusion**

The proposed project site is located at the end of Boeker Street on the coastal bluff. There are currently one-story and two-story residences on Boeker Street both large and small, though as one gets closer to the ocean, the houses tend to be larger. All along Shell Beach the blufftop residences are much larger than the homes further landward in the subdivision. As noted above, the proposed residence would be fairly large at 3,336 square feet, but not unlike many of the existing residences along the bluff. The proposed house is designed at 25 feet and has two chimney elements that are all within the standards of coastal zoning ordinance sections 17.102(1) and 17.102(6). What does differentiate this project from others in this neighborhood are the constraints on the lot. The City's sewer main traverses the western third of the lot and as such, the applicant is required to convey a public utility easement over this area and cannot place permanent structures in the easement area. As a result, the amount of buildable area on the lot has been reduced. In response, the applicant incorporated a redesign of the structure that has a second story element, which is 80.5% the size of the ground-level floor area.

The policies and ordinances cited above provide the standards for new development proposed for areas designated Single Family Residential in Shell Beach and were addressed in the course of the City's coastal development permit deliberations. As proposed and approved, the development proposal exceeds the standard requiring second stories to be no larger than 80% of the ground level. The City made a finding for a variance approving a second story element that was 80.5% or 8 square feet greater than the rule. The City's permitting procedures allows for variances from the structural development standards if, because of special circumstances, the strict application of the zoning ordinance would deprive the subject property of development potential available to other properties in the vicinity. While it may be argued whether the constraints on the lot are sufficient for the City to approve a variance which is specifically reserved for unusual hardships derived from strict application of the standards, the difference of 8 square feet simply does not rise to a level of significance with regard to LCP conformance. Therefore, the Commission finds no substantial issue.



## 2. Bluff Setbacks

### Appellant Contentions

With regard to the prescribed bluff setbacks, the appellant contends that the approved project did not adequately require bluff setbacks to the proposed house, sewer main, and pedestrian path. Additionally, the appellant argues that the approval did not include an emergency services vehicle easement or properly identify the edge of bluff and is therefore, inconsistent with certified LCP's bluff setback policies.

### Relevant LCP Policies

The LCP standards applicable to this contention can be found in the Shell Beach Planning Area section of the LUP and the certified Zoning Ordinance of the City of Pismo Beach LCP.

**LU-H-5 Bluff Setback and Protection:** *Development along the bluffs shall be set back a minimum of 25 feet or greater from the top of the bluff. Geology reports to determine bluff retreat shall be required for any development near the top of the bluff to ensure that adequate bluff setbacks and protective measures area provided.*

**LU-H-9 Lateral Access at Boeker Street:** *The City should pursue opportunities to create lateral pedestrian pathways connecting Boeker Street to Placentia Avenue or Ocean Boulevard to the north and to Windward Avenue or Ocean Boulevard to the south. This requirement shall be implemented as part of project approval, private gifts or dedications or possibly through public acquisition.*

**S-3 Bluff Setbacks:** *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.*

*The City shall determine the required setback based on the following criteria:*

*(a) 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...*

**17.078.050 Bluff Hazard, Erosion, and Bluff Retreat Criteria and Standards:** *1. New structures shall be set back a sufficient distance from the bluff edge to the safe from the threat of bluff erosion for a minimum of 100 years. (a) 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...*



## Analysis and Conclusion

The proposed development is located at the end of Boeker Street on a coastal blufftop lot. A geologic investigation was submitted for the proposed development at this location. The investigation and subsequent peer review evaluated historical bluff conditions and established the current edge of bluff. Staff's analysis of the geologic reports concurs that the bluff edge was adequately defined. Based on the site-specific geologic evidence, the amount of bluff retreat over the next 100 years is estimated at approximately 17 feet. The estimate is less than the minimum 25 foot bluff setback for development called for in the City's LCP. The City approval, however, required a 30'+ bluff setback for the proposed single-family structure -more than 5' greater than the 25' minimum required setback. The additional setback was required to accommodate a public utility easement for existing utilities and future undergrounding of all utilities at the site.

Consistent with the land use plan requirement for a lateral access easement, the approval also required an 8' wide public lateral access easement at this location. The easement will be approximately 17' from the top of the bluff. Although the LCP is silent on the siting of the easement, one could conclude from the policy language that *all* development would need to be at least 25 feet from the bluff edge. The City approval includes improvements to the easement such as installing a decomposed granite path and removing a portion of stone walls at both ends of the property to "open" access to the path. Though within the required 25' minimum bluff setback, development of the public access route was required to be setback beyond the 100-year erosion/bluff retreat line. As noted in the site-specific geologist report, the underlying bluff materials are made of erosion resistant rock, volcanic in nature. The resultant 100-year setback was based on an estimated rate of erosion of 2" per year for the exposed rock at this location.

Clearly, the intent of the LCP policies are to ensure that structures be adequately setback from the bluff edge to ensure a useful life of 100-years. In order to accomplish that goal, the LCP provides additional guidance by requiring all development to be setback a minimum of 25' and possibly more based on site-specific geologic evidence. In this case, the approved house is more than adequately setback, however, the lateral public access easement does not meet the LCP 25' bluff setback standard. This does not raise a substantial issue in this instance for several reasons, the first being the site-specific evidence provided by the applicant demonstrating bluff stability at this location. The bluff is mainly comprised of erosion resistant materials that can withstand many years of erosive forces. Based on the site-specific erosion analysis, the required public access improvements will not be threatened by erosion for approximately 120 years. Secondly, the slight slope to the site creates a natural separation for the placement of the accessway. There are a series of small benches or steps leading out towards the bluff edge at this location. The alignment of the required access improvements corresponds with the first break in topography along the bluff and would provide additional privacy for the homeowners and a better pathway experience for the public. Third, in the event that bluff retreat threatens the lateral public access at this location, the bluff path could be realigned landward of its current proposed position. The ability to relocate the easement is facilitated by the presence of the public utility easement, which is currently 30'+ from the existing edge of bluff.





Finally, the appellant contends that the City approval did not include an easement for ingress and egress of emergency service vehicles. Staff notes that the proposal represents infill on a blufftop lot for which there is no need for emergency services seaward of the proposed home. Adequate emergency access is available from Boeker Street and Ocean Boulevard to the north.

Thus, though the proposed bluff setback for a public access easement would not be technically consistent with the LCP policy standards for a 25' minimum bluff setback at this location, the proposal includes a 100-year setback and therefore does not rise to a level of significance for the reasons discussed above. The main structure is adequately setback, the bluff edge has been properly defined and there is no LCP requirement for an emergency services vehicle easement at this location. Therefore, these concerns do not raise a substantial issue in terms of the project's conformance with the certified LCP's bluff setback policies.

### 3. Archeological Resources

#### Appellant Contentions

The appellant contends that the project is located within a known recorded archeological site and that additional studies are required to "map" the resources.

#### Relevant LCP Policies

Chapter 17.063 of the certified zoning ordinance provides standards and guidance to preserve, protect, and maintain sites, which have significant historical, archeological, or cultural importance.

**17.063.020 Criteria and Standards. 2.** *An archeological surface survey of each site shall be conducted by a qualified archeologist as a condition of development review for any proposed project within the Archaeology-Historic Sites Overlay Zone in areas of known significance based upon a written determination of the Public Services Department. The results of this survey shall be submitted as a part of the development application. Included with this survey will be an evaluation as to the presence of cultural resources based on supportable evidence and shall also include appropriate mitigation measures, as necessary, for the project. Any site which is surveyed pursuant to the requirements of this ordinance shall not be required to be further surveyed unless specified by the findings of the survey.*

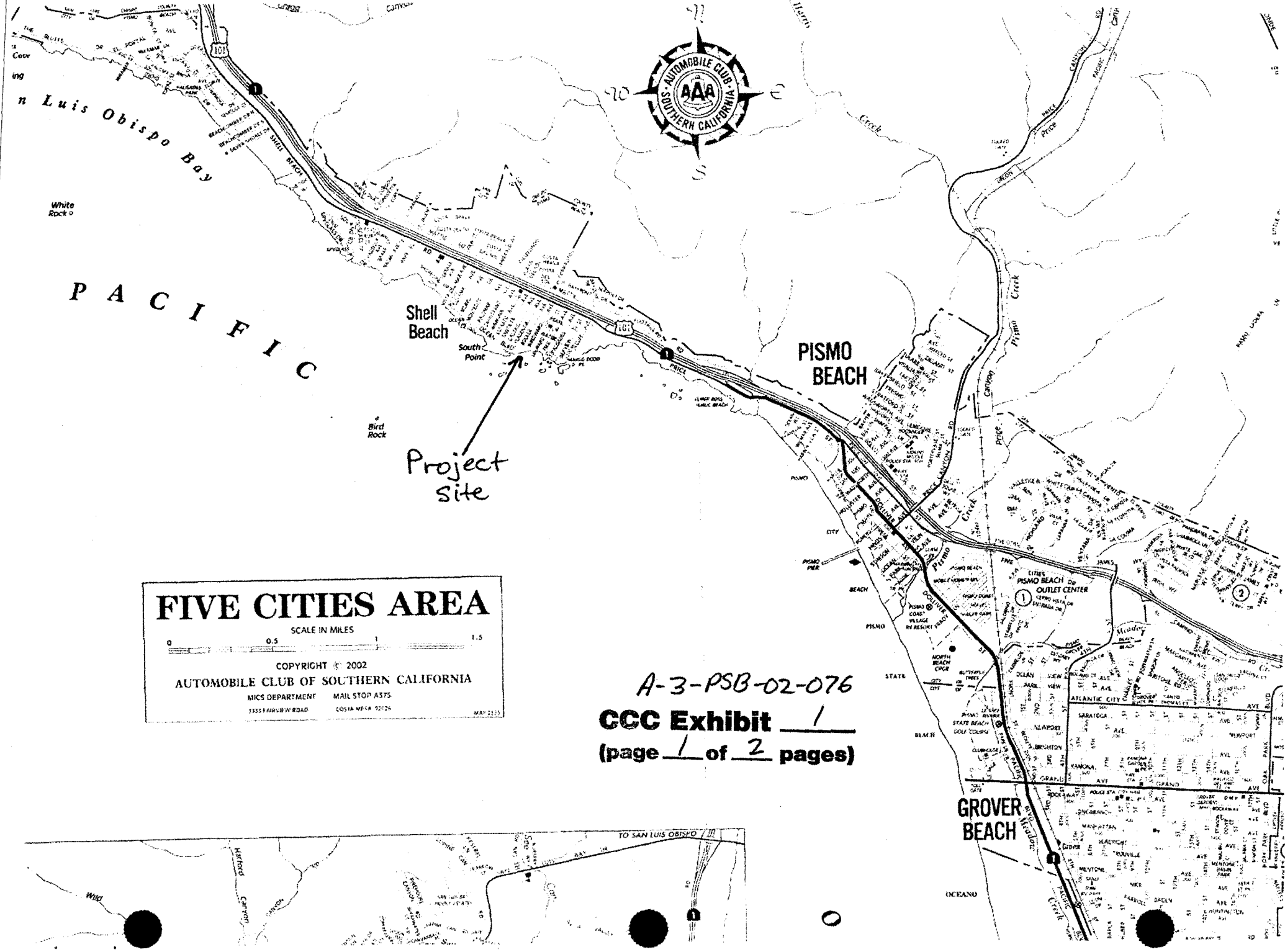
#### Analysis and Conclusion

The entire project area as well as several lots in the neighborhood are located within a large recorded prehistoric site. The prehistoric site was recorded in 1970 and has been determined to be the location of a Chumash Indian village. Many of these lots have been developed with single family residences. Different parts of this site contain the "full range of cultural materials" according to the archeologist who performed the surface survey as required by the LCP. Because the proposed project is located within a recorded archeological site and has the potential to harm prehistoric cultural materials, an environmental initial study was completed and mitigation measure proposed which require further testing and follow-up actions during grading. These mitigation measures are included in the conditions of the City approval for this project. The Conditions require subsurface testing of the project site after



the project receives planning approvals and at the owner's expense/risk. If the additional surveys conclude that the site contains unique archeological resources and that the project will have an adverse impact on those resources, the resources must be protected and impacts mitigated as described in Public Resources Code 21083.2. Mitigation measures may include revisions to project design, granting of a permanent easement over the resource area, capping or covering the site, or offering to sell or give the project site to a governmental or non-profit agency that will preserve and protect the resource. See the Exhibit 5 for the conditions of approval. These requirements satisfy LCP standards for protecting and preserving historical, cultural, and archeological resources. Therefore, no substantial issue is raised.





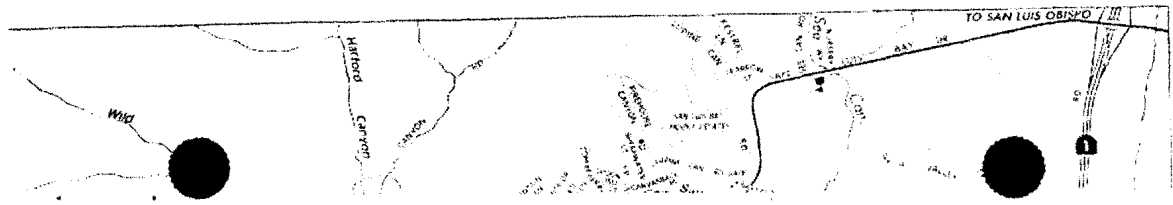
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SCALE IN MILES  
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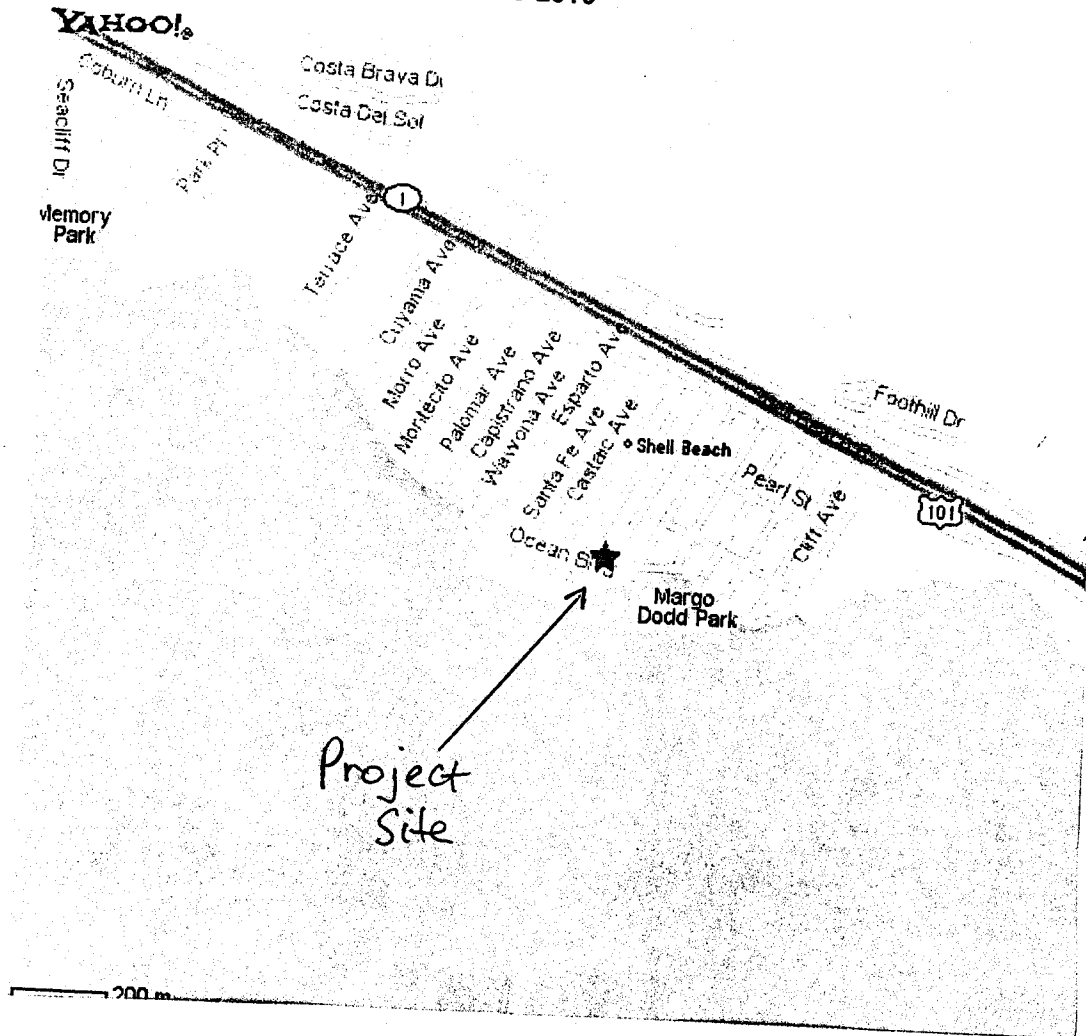
COPYRIGHT © 2002  
 AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA  
 MICS DEPARTMENT MAIL STOP A375  
 1335 FAIRVIEW ROAD COSTA MESA 92626 MAP 2135

**A-3-PSB-02-076**  
**CCC Exhibit 1**  
 (page 1 of 2 pages)

Project site



7 374 Boeker Ave, Pismo Beach, CA 93449-2016

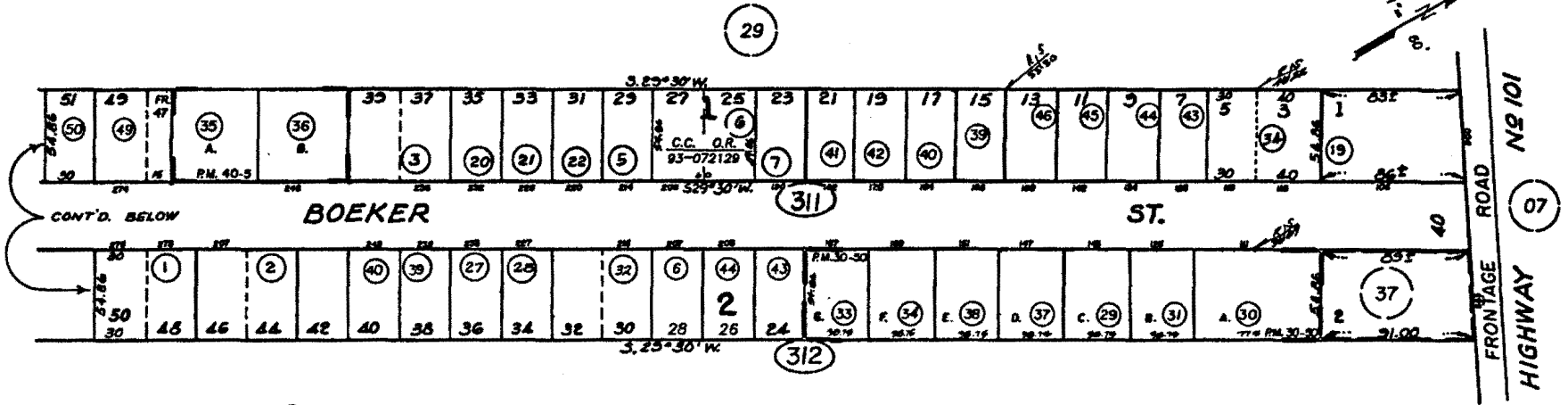


Project Site

A-3-PSB-02-076  
CCC Exhibit 1  
(page 2 of 2 pages)

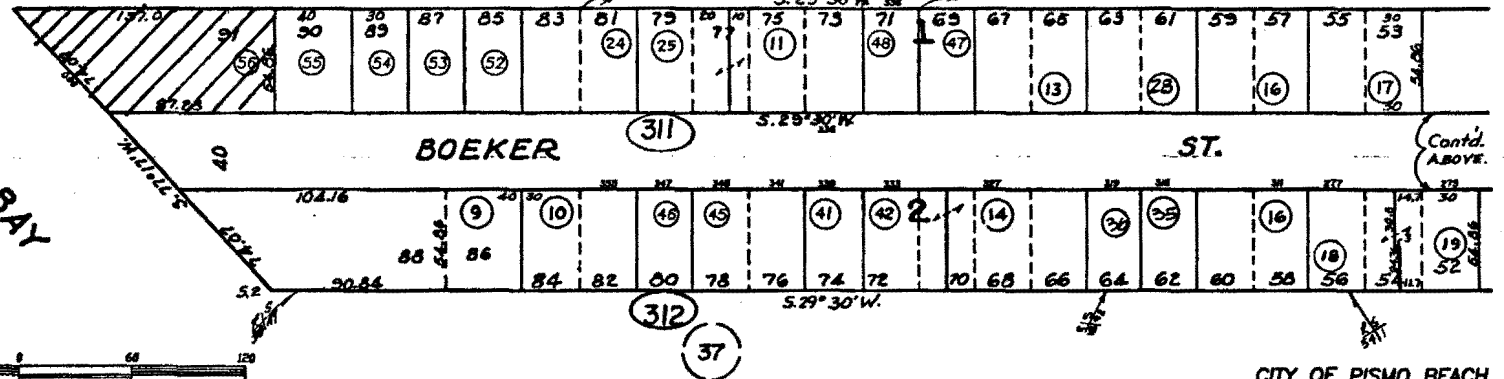
A-3-PSB-02-076  
**CCC Exhibit 2**  
 (page 1 of 1 pages)

010-31



Project Site

SAN LUIS BAY



REVISIONS	
TECH	DATE
GM	07-15-98
JAW	07-30-99
ER	02-14-00
JAW	04-18-01
GB	04-30-01

THIS MAP IS PREPARED FOR ASSESSMENT PURPOSES ONLY.

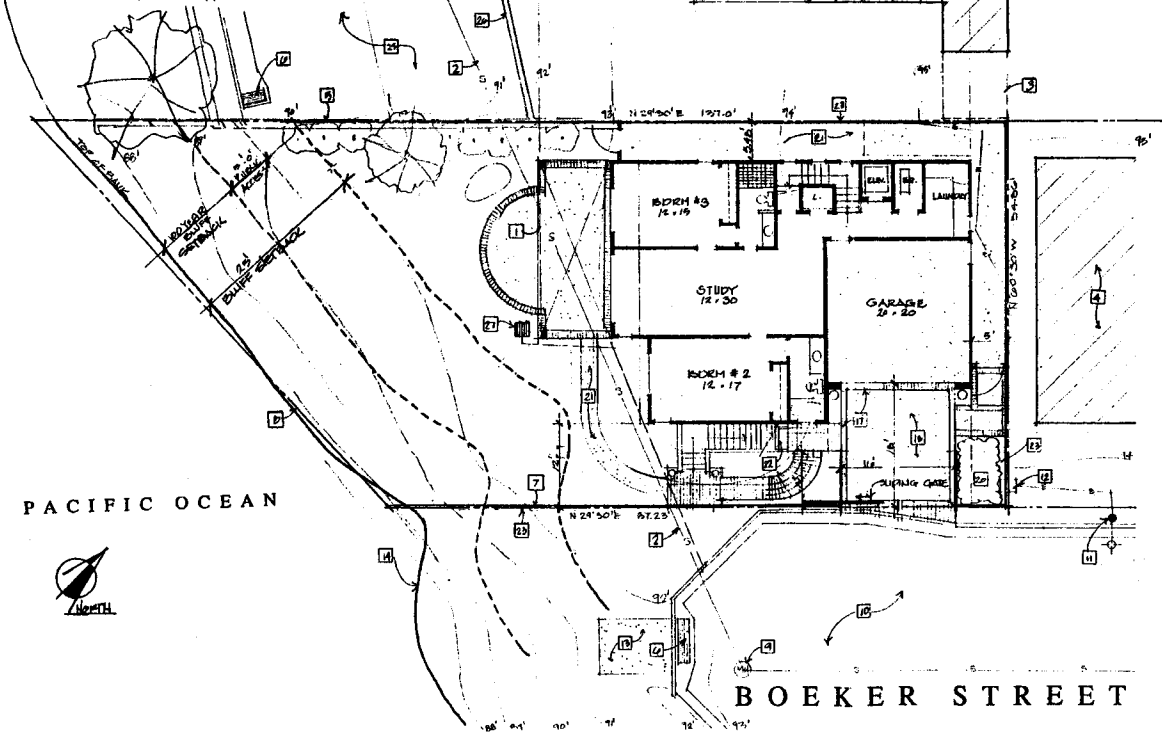
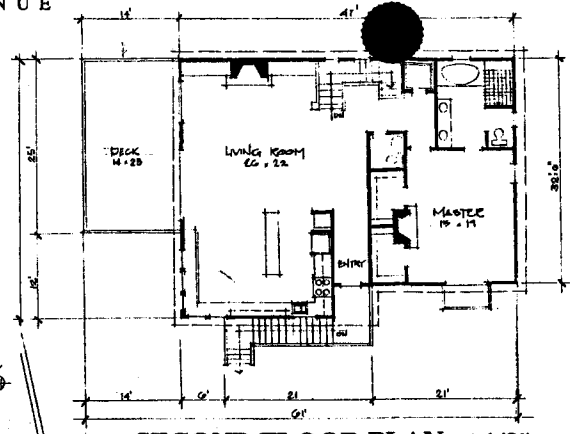
SHELL BEACH SUBDMISION, R.M. Bk. 3 , Pg. 53

CITY OF PISMO BEACH  
 ASSESSOR'S MAP COUNTY OF  
 SAN LUIS OBISPO, CA  
 BOOK 010 PAGE 31

JUN 05 2001

**REFERENCE NOTES**

1. Line of deck. Deck to be removable for possible future sewer replacement.
2. Existing (E) 8" sewer line (V.C.R.)
3. (E) rampart at adjacent property
4. (E) fence presently under construction
5. (E) stone wall to remain
6. (E) concrete gutter and drain inlet
7. (E) fence
8. (E) chain link fence to be removed and replaced with picket fence. refer to landscape plans.
9. (E) man hole
10. (E) A.C. paving
11. (E) utility pole
12. (E) PG&E box
13. (E) concrete apron
14. (E) top of bank
15. (E) contour
16. (E) 5' wide public access path
17. New (N) brick paving or borders at concrete slab.
18. New concrete driveway
19. New gate
20. Planter, refer to landscape plans for additional information
21. Pea gravel pathway, refer to landscape plan for additional information.
22. Garden bench, refer to landscape plan for additional information
23. New fence at property line, refer to landscape plans for additional information
24. (E) fire hydrant
25. (E) A.C. pavement
26. (E) concrete curb and gutter
27. Storm collector drain, all gutters and downspouts to drain to collector drain, collector drain pipe to curb.

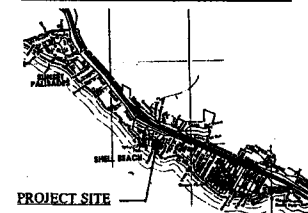


**THE PINHEIRO RESIDENCE**  
**327 BOEKER STREET**  
**PISMO BEACH, CALIFORNIA**

**STATISTICS**

CLIENT:	Frank and Arlene Pinheiro 20971 Road 180 Sebastopol, Calif. 95677 1597 086-2093	
PROJECT ADDRESS:	327 Boeker Street Pismo Beach, California	
PROJECT DESCRIPTION:	A Single Family Residence	
ZONING:	R-1	
GENERAL PLAN DESIGNATIONS:	Shell Beach Planning Area Archaeological and Historic Control Access Architectural Review Control Approval Hazardous and Protection	
ASSESSORS PARCEL NUMBER:	010-311-051	
LOT AREA:	6150.63 sf	
BUILDING HEIGHT:	25'	PROPOSED 25'
MAX. BUILDING AREA:	4392.6 sf	3336 sf
2ND FLOOR ALLOW:	1386 sf	1604 sf
LOT COVERAGE RATIO:	3383 sf	2053 sf
PLANTING RATIO:	1230 sf	
GARAGE SETBACK:	20'	18'
FRONT YARD SETBACK:	10'	8'
SIDE YARD SETBACK:	5'	5'
REAR YARD SETBACK:	5.48'	5.48'

**VICINITY MAP**



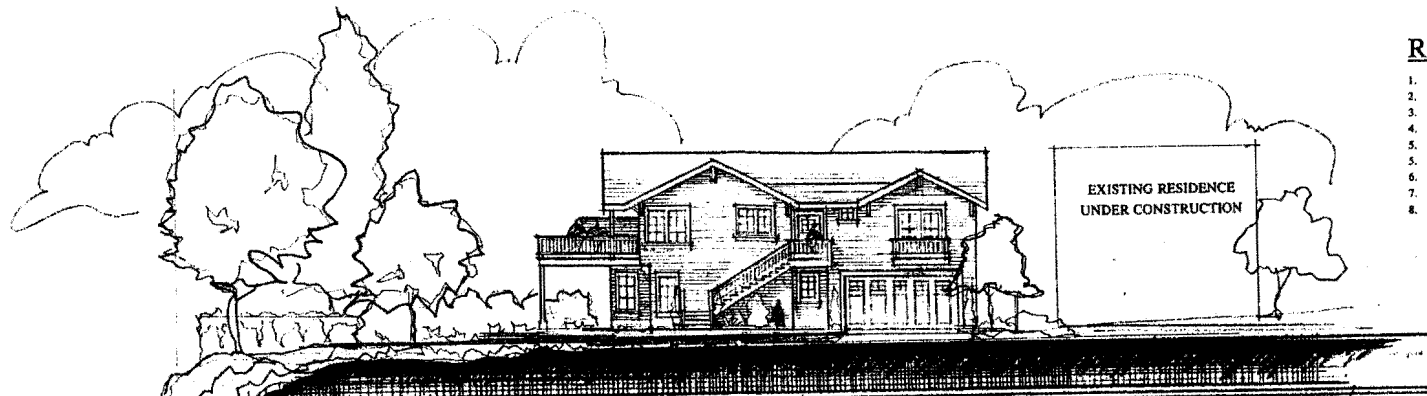
**RECEIVED**  
 OCT 25 2001  
 CITY OF PISMO BEACH  
 Community Development Department  
 Planning Division

simon puglisi co.  
 ARCHITECT  
 228 ESCOBADO AVENUE, SHELLE BEACH, CA 93948

A-3-PSB-02-076  
**CCC Exhibit 3**  
 (page 1 of 3 pages)

**REFERENCE NOTES**

1. Composition shingle roof
2. 2 x cave with wood trim
3. 4 x shaped corbel
4. Chimney
5. 4 x 4 post
6. 36" high guard rail at deck and balcony
7. Horizontal lap siding
8. stairs
9. New landscaping, refer to landscape plans for additional information



**STREET ELEVATION**

1/8"

**THE PINHEIRO RESIDENCE**

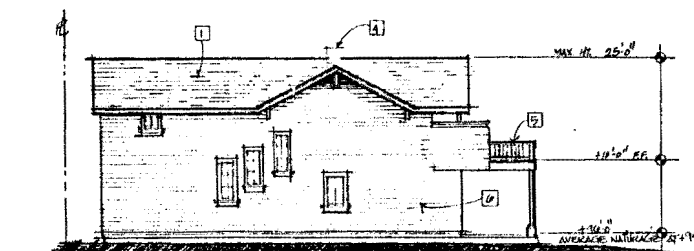
327 BOEKER STREET  
PISMO BEACH, CALIFORNIA

PACIFIC OCEAN



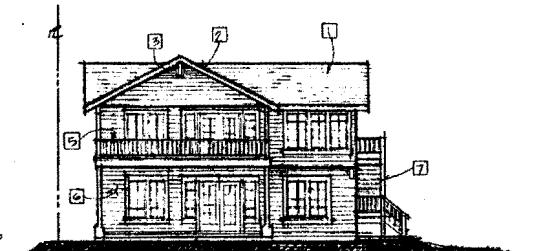
**EAST ELEVATION**

1/8"



**NORTH ELEVATION**

1/8"



**WEST ELEVATION**

1/8"

**EXTERIOR ELEVATIONS**

simon puglisi co.  
ARCHITECTS  
200 S. GARDEN STREET, PISMO BEACH, CA 92081

2

A-3-PSB-02-076

**CCC Exhibit** 3  
(page 2 of 3 pages)

**THE PINHEIRO RESIDENCE**  
**327 BOEKER STREET**  
**PISMO BEACH CALIFORNIA**

**PLANT PALETTE**

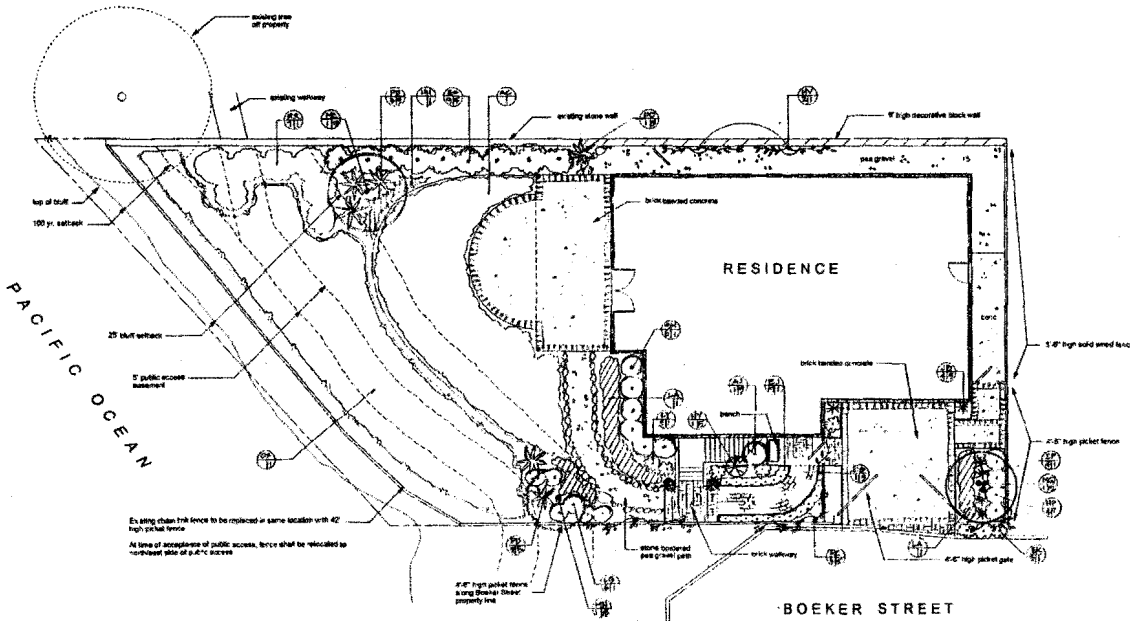
CODE	BOTANICAL NAME	COMMON NAME
<b>TREES</b>		
ME	METROXERODOR BOEDELII	NEW ZEALAND CHRISTMAS TREE
MH	MELALEUCA NEOPHYLLA	PIKE MELALEUCA
MQ	MELALEUCA QUINQUENERVIA	CAJUPUT TREE - MALLOTRUM
<b>SHRUBS AND PERENNIALS</b>		
AJ	AUCUBA JAPONICA 'Variegata'	GOLD DUST PLANT
BF	ERICALONIA FRONSA	PIKE ERICALONIA
EU	EUCALYPTUS JAP. 'Dorvillei'	BOXWOOD EUCALYPTUS
ER	ERIGONON HAWAIIANUS	SANTA BARBARA DAISY
HI	HEMEROCALLIS SPP.	DAYLILIES (variously 4 yellow)
HP	HEBE 'Pine's Pledge'	NCH
HY	HYDRANGEA MACROPHYLLA	BIGLEAF HYDRANGEA
IP	RUB PALLIDA 'Variegata'	ZEBRA REE
JP	JUNIPERUS 'Blue Point'	BLUE POINT JUNIPER
LB	LAVANDULA STOECHAS	SPANISH LAVENDER
LY	LANTANA CAMARUA 'Sweet Yambu'	YELLOW BUSH LANTANA
PC	PITTIOSPORUM CRASSIFOLIUM 'Compacta'	NCH
PD	PHORADENDRON TENAX 'Dorvillei'	FLAME
BH	BOLLYA HETEROPHYLLA	AUSTRALIAN BLUEBELL GREEPER
<b>GROUNDCOVERS &amp; VINES</b>		
AC	APTENIA CORDIFOLIA 'Pink Apple'	NCH
CB	ROSA 'Coral Blush'	CLIMBING ROSE - pink
HV	HARDEBERGIA VIOLACEA	HAPPY WANDERER
LA	LANTANA MONTEVIDEENSIS 'White'	WHITE TRAILING LANTANA
DF	DIPTEROCARPUS FRUTICOSUM	FIREBERRY DASHY - mixed
RC	ROSA 'Cherry Chime'	CLIMBING ROSE - red
RI	ROSA RUCCOSA	SEA SPRAY ROSE

Plant Code  
 Quant/Spec (opt)



**CONCEPTUAL LANDSCAPE PLAN**

SCALE 1/8" = 1'-0"



**NOTES:**

- Landscape design considers the sensitive bluff-top location of this residence. Final landscape plans will show a berm near bluff top and sloped finish grade away from bluff to an approved collection point.
- Planting within the 25' bluff setback will require only minimal drip irrigation for establishment. No turf within the setback.
- Plant palette has been selected for low water usage, aesthetic value, ease of maintenance, Cape Cod cottage style, and ability to thrive in coastal conditions. Existing landscape at bluff-top to remain undisturbed.
- Irrigation system shall incorporate an automatic controller with rain sensor and drip irrigation wherever feasible.
- Construction drawings shall include a Certificate of Substantial Compliance and Water Conservation Statement.

**Debbie Black**  
 Landscape Architect  
 California Lic. No. 1947  
 8009 and P.O. Box 1045 94710  
 8427 P.O. Box 2108 Pismo Beach, CA 93420

**simon puglisi co.**  
 ARCHITECTS  
 224 E. CALIFORNIA AVENUE  
 SUITE 1000  
 SAN FRANCISCO, CA 94102

A-3-PSB-02-076  
**CCC Exhibit 3**  
 (page 3 of 3 pages)





City of Pismo Beach  
760 Mattie Road  
Pismo Beach, CA 93449  
(805)773-4657 Fax: (805) 773-7006

RECEIVED

AUG 14 2002

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

APPEAL OF A PLANNING COMMISSION DECISION

An appeal of the City of Pismo Beach Planning Commission decision may be filed by paying a fee set by the Pismo Beach City Council. Appeals must be filed in the Office of the City Clerk within 10 working days of the Planning Commission decision. Appeals of all permits for projects within the Coastal Appeal Zone can be made at no charge. See Section 17.121.250 of the Municipal Code for general information on appeals. See Section 17.124.130-180 for Coastal Permit Appeal information.

Person Filing Appeal: FRANK BERTOTTI  
Print Name

372 BOEKER SHELL BEACH CA 93449  
Address City/State/Zip

374 BOEKER APN # 010-311-051  
Project Address/Parcel Number

Project # 01-0251  
Project Name

What permits are being appealed?\*

PLANNING DEPT STAFF APPROVAL ; COUNCIL APPROVAL

\*List all applicable case number(s):

01-0251

Date heard by Planning Commission: 5-28-02 Date Appeal Filed: 7-9-02

Fee Paid: N/A Date: \_\_\_\_\_ Receipt No.: \_\_\_\_\_

(Attach copy of receipt)

CAUSE FOR APPEAL: (Please be specific; attach additional sheets if necessary, reference any inconsistency with specific city statutes; the General Plan/Local Coastal Plan and Zoning Ordinance is available for review):

- ① BLUFF SETBACK TO WALKWAY LU-H-5
- ② BLUFF SETBACK TO SEWAGE LINE LU-H-5
- ③ BLUFF SETBACK TO PROPOSED HOUSE LU-H-5

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CCC Exhibit 4  
(page 1 of 2 pages)

Appeal of a Planning Commission Decision

- ④ EMERGENCY SERVICES EASEMENT - NONE ALLOWED.
- ⑤ DEDICATION OF THE BLUFF TO CITY - IS A SEAWALL EMINENT?
- ⑥ PROJECT IS WITHIN RECORDED ARCHEOLOGICAL SITE - ADDITIONAL STUDIES REQUIRED TO "MAP" THE RESOURCE.
- ⑦ ROOF TOP, FIREPLACE STACK AND GABLES ARE NOT COMPATIBLE WITH THE SCALE, BULK & CHARACTER OF THE EXISTING NEIGHBORHOOD.
- ⑧ PROPERTY LINES DEFINITION - SETBACK MEASUREMENTS FROM WHAT POINT OF BLUFF AND STONEWALL. DETERMINATION NOT CLEAR?

*Frank Belete*  
 \_\_\_\_\_  
 Signature(s)

ATTEST:  
 \_\_\_\_\_  
 City Clerk

8-14-02  
 \_\_\_\_\_  
 Date

\*Definitions of permit initials:

- SD..... Subdivision Tentative Map
- CUP..... Conditional Use Permit
- CP..... Coastal Permit
- AR..... Architectural Review Permit
- ED..... Environmental Determination
- V..... Variance

A-3-PSB-02-076  
**CCC Exhibit 4**  
 (page 2 of 2 pages)

**EXHIBIT 3**  
**RESOLUTION NO. 01-0251**  
**A Resolution of the Planning Commission of the City of Pismo Beach**  
**Approving Project No. 01-0251**  
New Residence  
374 Boeker; APN: 010-311-051

WHEREAS, Arlene and Frank Pinheiro ("Applicants") submitted an application for a Coastal Development Permit, Architectural Review, Landscape Review, and Variance permits to allow construction of a residence on a blufftop lot; and

WHEREAS, the project site is within a recorded archaeological site and therefore a sensitive site culturally; and

WHEREAS, staff completed an environmental Initial Study because of the archaeological significance of the site and recommends a Mitigated Negative Declaration; and

WHEREAS, the Initial Study was sent to relevant agencies for review and was advertised in a local newspaper, in accordance with the California Environmental Quality Act (CEQA) Guidelines, and no comments were received; and

WHEREAS, the Planning Commission held duly-noticed public hearings on May 28, 2002 and June 25, 2002, at which all interested persons were given the opportunity to be heard; and

WHEREAS, the Planning Commission considered the draft Mitigated Negative Declaration of Environmental Impact and Initial Study, in accordance with section 15074(a) of the Government Code (CEQA Guidelines).

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

**A. FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

1. The project consists of construction of a new residence on a blufftop lot.
2. There are no site constraints or other factors that would create the potential for significant environmental impacts as a result of the project except as mitigated through this project approval.
3. The Initial Study is a complete and adequate informational document.

**B. FINDINGS FOR APPROVAL OF THE COASTAL DEVELOPMENT PERMIT AND ARCHITECTURAL REVIEW PERMIT:**

1. The project improvements comply with the public access and public recreation policies of Chapter 3 (commencing with Section 30220) of the California Coastal Act of 1976.
2. The architectural and general appearance of the new residence is in keeping with the character of the neighborhood. The proposed new residence is compatible with the visual quality and character of the surrounding area and is compatible with the immediate neighborhood.
3. The proposed new residence is consistent with the General Plan, Local Coastal Plan and General Plan Land Use Plan category of Low-Density Residential.
4. The proposed new residence is compatible with the nearby existing uses and not detrimental to the health, safety, morals, comfort and general welfare of persons residing or working in the surrounding area of the proposed project.
5. The proposed new residence will not be detrimental to the orderly development of improvements in the surrounding area, and will not be detrimental to the orderly and harmonious development of the City.
6. The proposed new residence will not impair the desirability of investment or occupation in the neighborhood.

**C. FINDINGS FOR APPROVAL OF A VARIANCE FOR THE "80% RULE"**

1. The variance shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity in the same zone in which such property is located, because the conditions in this permit allow development only as prescribed by the zoning ordinance, with the exception of the upper/lower level proportion, and such privileges are available to the owners of other property in the vicinity if they demonstrate similar circumstances on their property.
2. Special circumstances apply to the property, specifically its depth of 54.86' and the existence of a public sewer line through the center of the property that is not under the owners' control, such that the strict application of the zoning ordinance: specifically the requirements to reduce the upper level to 80% of the size of the lower, would deprive the property of privileges enjoyed by other property in the vicinity and under identical zoning classification, because the special circumstances and upper level restrictions deprive the property owner of the full development potential of the site, compared to the potential on property in the vicinity that does not share similar circumstances.
3. The variance does not authorize a use or activity that is not otherwise permitted by the zone, because the zoning permits residential uses.

**ACTION:**

**The Planning Commission does hereby adopt the Mitigated Negative Declaration attached as Exhibit 3A and approve the Coastal Development Permit, Architectural Review Permit, Landscaping Permit, and Variance for the upper/lower level ratio, subject to the Conditions attached as Exhibit 3B.**

UPON MOTION of Commissioner Ehring, seconded by Commissioner King, the foregoing Resolution is hereby approved and adopted the 25<sup>th</sup> day of June, 2002, by the following role call vote, to wit:

AYES: Commissioners Ehring, King, Sorgenfrei and Chair Halldin  
NOES: None  
ABSTAIN: None  
ABSENT: Commissioner Carson

*Hal Halldin*  
Chair Halldin

ATTEST: *Vicki Davenport*  
Vicki Davenport

**EXHIBIT 3B**  
**PERMIT NO. 01-0251: CDP / ARP / V**  
**PLANNING COMMISSION MEETING OF June 25, 2002**  
**374 Boeker; APN: 010-311-051**

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

The conditions set forth in this permit affect the title and possession of the real property that 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 and applicant, 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 01-0251 grants planning permits to build a residence, as shown on the approved plans with City of Pismo Beach stamp of June 25, 2002. 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 10 days following the receipt of the Notice of Action by the California Coastal Commission, provided that an appeal has not been filed to the City Council within 10 working days of the action or to the Coastal Commission within ten days of receipt of the Notice of Action. The filing of an appeal shall stay the effective date until an action is taken on the appeal.

**EXPIRATION DATE:** The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on June 25, 2004 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160 (2).

**AGREEMENT:** I have read and understood, and I will comply with all required standard and special conditions of this permit. I hereby agree 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 project #01-0251 located at 374 Boeker; or my failure to comply with conditions of approval. This agreement shall be binding on all my successors and heirs, administrators, executors, successors and assigns.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Date

A-3-PSB-02-07  
**CCC Exhibit** 5  
**(page** 4 **of** 7 **pages)**

**CONDITIONS, POLICIES, SELECTED CODE REQUIREMENTS, AND MITIGATION MEASURES FOR**

**PROJECT 01-0251  
374 Boeker, APN #010-311-051**

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. STANDARD CITY CONDITIONS:**

Project shall comply with all standard conditions and selected code requirements on file at the Community Development Department, Planning Division at 760 Mattie Road.

**B. SPECIAL CONDITIONS:**

**PRIOR TO ISSUANCE OF A BUILDING PERMIT**

**Building 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.

**Planning 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 these conditions. Project shall comply with these standards:

<b>ITEM</b>	<b>APPROVED</b>
Lot Area	6151 s.f.
Building Height	25' above the center of bldg footprint at site grade
Building Floor Area	3232 s.f.
2 <sup>nd</sup> /1 <sup>st</sup> floor ratio	80.5%*
Lot Coverage	1890 s.f. (33%)
Planting Area	1230 s.f. (20%)
Front Setback	10.97'
Garage Setback	20'
Side Setback	30'+ (ocean side); 5' (right side)
Rear Setback	5.49'
Parking Spaces	2 spaces in garage (20' X 20' min.)
Driveway Width	16' wide at street
Fence height	Max. 42" in front yard (Boeker)

\* Variance to standard approved through this permit

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3. **Public access easement or offer of land.** The applicants shall dedicate an easement, eight feet wide, at least 16'-8" from the top of bluff, for public access purposes. Such easement shall be described and illustrated in a format acceptable to the Engineering and Planning Divisions, and shall be recorded. The applicants may offer a dedication of land instead of an easement, to the approval of the Community Development Department.

A pathway within the easement or dedicated land area, at least five feet wide, shall be improved with decomposed granite as part of the project construction, to the approval of the Public Works Department. A portion of the stone walls on both streets shall be removed to allow access to the path, to the approval of the Parks and Community Development Departments. Signs identifying the public pathway shall be posted on Boeker and Ocean Blvd. Wording, design, and placement of signs shall be to the approval of the Community Development Department during the building plan check process. A sign permit will not be required for these signs.

4. **Erosion control measures:**

- Irrigation of landscaping shall be kept to a minimum to avoid unnecessary erosion or increased surcharge to the bluff.
- Ice plant shall not be used on the site.
- Rain gutters and downspouts shall be installed and maintained on the residence and shall connect to a central drain that diverts water to the base of the bluff or an approved alternative.
- Runoff collected from hardscape and vegetated areas shall be collected in drains and plumbed into a central drain.
- Ponding of water is not allowed. No surface water is allowed to flow unchecked over the top of the bluff.
- All drains must be properly maintained to assure proper function.

**Engineering division:**

5. **Easements.** The property owners must offer for dedication to the public the following easements, to the satisfaction of the City Engineer:
- i. Public utility easements, for existing utilities and future undergrounding of all utilities.
  - ii. Easement for City water and sewer lines, ingress, egress, installation, and maintenance between Boeker and Ocean Blvd.
6. All existing above-ground utilities located on the property and property frontages shall be relocated underground, or arrangements made for future undergrounding.
7. The applicant is responsible for securing Public Utility signature for proposed utility relocations. Utility comments shall be forwarded to the City Engineer for approval.
8. Vehicular access shall be denied to property from Ocean Blvd. Such denial shall be offered by the property owner and recorded, to the approval of the City Engineer.
9. A preliminary grading soils and geology report for the project shall be prepared by a registered professional and supported by adequate test borings. The report shall address the need for slope protection measures and shall identify requirements for grading and structural footings. All earthwork design and grading shall be performed in accordance with the approved soils report.



10. A bluff top geologic hazards report shall be submitted in accordance with the City Zoning Ordinance.

### MITIGATION MEASURES

1. **Measure:** A qualified archaeologist must conduct a phase 2 archaeological study of the project site after the project receives planning approvals. At the owner's expense and risk, the testing may be conducted after a building permit has been issued. If this study is inconclusive, a phase 3 study shall be conducted. If the phase 2 study or any subsequent study concludes that the site contains unique archaeological resources, and that the project will have an adverse impact on those resources, the resources must be protected and impacts mitigated as described in Public Resources Code 21083.2. Mitigation may include revisions to the project design, granting of a permanent easement over the resource area, capping or covering of the site, or offering to sell or give the project site to a governmental or nonprofit agency that will protect the resource. Excavation of unique artifacts may be conducted only where they would otherwise be damaged or destroyed by the construction. The Community Development Director will make the determination of appropriate mitigation, after reviewing the archaeological studies and the options in the Public Resources Code.

**Monitoring:** During building plan check, the planning division will require a copy of the owner's contract with an archaeologist outlining the additional study or studies to be undertaken. The contract will include monitoring of all grading activities and analysis of any resources found on the site, and presentation in writing of these finds to the planning division. If significant resources are found, the archaeologist will make recommendations on their protection, in accordance with Public Resources Code 21083.2.

2. **Measure:** Recommendations in the geology report shall be followed in the construction of the residence, unless alternative construction techniques are shown to provide adequate protection, to the approval of the building division.

**Monitoring:** Mitigation measures will be included with conditions in the permit requirements.

END

A-3-PSB-02-076

CCC Exhibit 5  
(page 7 of 7 pages)



Project Site