

CALIFORNIA COASTAL COMMISSION

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

W12a-c**RECORD PACKET COPY**

Filed: 08/08/02
49th day: 09/26/02
Staff: M. Watson
Staff report: 08/29/02
Hearing date: 09/11/02

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE DETERMINATION

Local government.....	City of Pismo Beach
Local decision.....	Approved with conditions (Exhibit A)
Appeal number.....	A-3-PSB-02-63; A-3-PSB-02-64; A-3-PSB-02-65
Applicant.....	John King
Agents.....	David Watson
Appellants.....	California Coastal Commission, Commissioners Sara Wan & Pedro Nava
Project location.....	124, 128, 132 Addie Street, City of Pismo Beach, San Luis Obispo County; APN 005-163-030, 031, 032 (Exhibits B & C).
Project description.....	Issuance of a CDP, construction of two vacation rental homes, shared raised access driveway, street widening, and rip-rap at the terminus of Addie Street (Exhibits D & E)
Substantive file documents.....	City local permit files 02-0122, 02-0135, 02-0136; City of Pismo Beach Local Coastal Program; and the Coastal Act.

Summary: The City of Pismo Beach approved three permits to construct two vacation rental homes, a shared, raised access driveway, related improvements, street widening, and rip-rap at the terminus of Addie Street and the confluence of Pismo Creek and the Pacific Ocean in Pismo Beach. The Commission contends that the City- approved project violates both LCP and Coastal Act provisions for the issuance of CDPs. There are also substantive issues that stem from the proposed development within the Pismo Creek floodplain, a coastal hazard zone, and requirements for shoreline protection, as well as biological and visual impacts associated with construction adjacent to riparian habitat and on the bare sandy beach.

A boundary determination was performed in December 1992 by the Commission's Technical Mapping Staff and concluded that nearly 100% of the proposed site and similar percentage of the proposed project lies entirely within the Commission's retained permitting authority. Another boundary determination was done on August 26, 2002. The results of the more recent determination are the same. As a result, the



**California Coastal Commission
September 11, 2001 Meeting in Los Angeles**

Staff: Mike Watson Approved by: *MSL*

standard of review is the Coastal Act, and the issuance of the Coastal Development Permit by the City is invalid and not consistent with the LCP. However, if circumstances have changed leading to the City having authority to issue Coastal Development Permits, the project presents inconsistencies with the LCP as well and the substantive issues would be evaluated under the applicable certified LCP policies and standards in a de novo report.

As mentioned above, the appellants contend that the project is not within the City's retained permitting authority for issuing coastal development permits and furthermore, is inconsistent with Chapter 17.124 of the City's LCP and Chapter 6 of the Coastal Act for coastal permitting procedures. As also noted above, even if the City did retain permitting jurisdiction, the proposed project would be found to be inconsistent with LCP policies for conservation of open space, avoidance of coastal hazards, construction of shoreline protective devices, development in a floodplain, and protection of biological and visual resources. **Therefore, staff recommends that the Commission find that a substantial issue is raised by the appellants' contentions.** If the Commission finds substantial issue, based on the fact that the project is not under the City's jurisdiction for the purpose of the coastal permit, staff will advise the City and the applicant that in order to process a CDP for the project, an application must be filed with the Coastal Commission for that portion of the project in the Commission's original jurisdiction. For that small portion of the project in the City's jurisdiction, the appeal will be continued until it can be heard with the CDP application filed with the Commission.



Staff Report Contents

I. Local Government Action.....	3
II. Summary of Appellants' Contentions.....	4
III. Standard of Review for Appeals.....	4
IV. Staff Recommendation on Substantial Issue.....	5
V. Recommended Findings and Declarations.....	5
A. Project Description.....	5
1. Project Location.....	5
2. Project Description.....	6
B. Substantial Issue Determination.....	6
1. Jurisdictional Issue.....	6
a. Appellants' Contentions.....	6
b. Relevant LCP Provisions.....	7
c. City Action.....	8
d. Analysis.....	9
IV. Exhibits	
Exhibit A: Notices of Final Local Action for King 02-0122, 02-0135, 02-0136	
Exhibit B: Regional Location Map	
Exhibit C: Site Location	
Exhibit D: Project Plans	
Exhibit E: Boundary Determinations	

I. Local Government Action

The City of Pismo Beach approved a coastal development permit for development most of which is within the Commission's retained permitting jurisdiction. The approval includes construction of two vacation rental homes and a raised, shared driveway on a flat form over the sandy beach adjacent to Pismo Creek and the Pacific Ocean. The action further includes widening the street right-of-way and placement of rip-rap along the western terminus of Addie Street. A variance from zoning ordinance requirements regarding setbacks from property lines and minimum vegetation areas was also approved. The Planning Commission approved the project on July 9, 2002, subject to 54 conditions. (See Exhibit A for detail). The City also approved a Mitigated Negative Declaration under the California Environmental Quality Act.



II. Summary of Appellants' Contentions

The appellants, Commissioners Wan and Nava, have appealed the final action taken by the City on the basis that it does not have authority to issue Coast Development Permits in the Commissions retained permitting jurisdiction. Approval of the project is also inconsistent with policies of the City of Pismo Beach Local Coastal Program regarding permitting procedures as well as those policies protecting open space, minimizing hazards, construction of shoreline protection devices, and protection of biological and visual resources. The complete text of the appellants' contentions is cited in the findings.

III. Standard of Review for Appeals

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 located on potential public trust lands.

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 in order to approve a coastal development permit for the project. 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 first public road and the sea, which is the case with this project.

A boundary determination was performed in December 1992 by the Commission's Technical Mapping Staff and concluded that nearly 100% of the proposed site and similar percentage of the proposed project lies entirely within the Commission's retained permitting authority. Another boundary determination was done on August 26, 2002. The results of the more recent determination are the same. As a result, the standard of review is the Coastal Act, and the issuance of the Coastal Development Permit by the City is invalid and not consistent with the LCP. However, if circumstances have changed leading to the City having authority to issue Coastal Development Permits, the project presents inconsistencies with the



LCP as well and the substantive issues would be evaluated under the applicable certified LCP policies and standards in a de novo report. The required street improvements including right-of-way widening and rip-rap along and at the end of Addie Street are also within the Commission's retained permit jurisdiction as is the required public access and recreation improvements at this location. The standard of review for this aspect of the project is the Coastal Act.

IV. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that a substantial issue exists with respect to some of the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

MOTION: Staff recommends a "NO" vote on the following motion:

"I move that the Commission determine that Appeal Nos. A-3-PSB-02-063, A-3-PSB-02-064, and A-3-PSB-02-065 raises **no** substantial issue with respect to the grounds on which the appeal has been filed."

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a de novo hearing on the application, and adoption of the following resolution and findings.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal Nos. A-3-PSB-02-063, A-3-PSB-02-064, and A-3-PSB-02-065 presents a substantial issue with respect to some of the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The proposed development is located on three lots at the terminus of Addie Street in the City of Pismo Beach (see Exhibits B, C & D) and within the Addie Street right-of-way and rip-rap at the base of Addie Street. Addie Street dead ends at the Pacific Ocean and is hemmed in by Pismo Creek directly adjacent to the south. The project site consists of sandy beach dunes on the alluvial fan of Pismo Creek. Located



south of Morro Bay and Point Buchon, Pismo Beach is a seaside town characterized by a series of coastal terraces and eroding bluffs in the north and wide-berm beaches to the south. Addie Street is located in the downtown area south of Pismo Pier, perpendicular to the beach and parallel to Pismo Creek as it makes its final run to the Pacific.

The subject site consists of three parcels totaling approximately 10,990 square feet in size, all of it bare sandy beach and located within the floodplain of Pismo Creek. The two seaward parcels are entirely within the Commission's retained permitting authority and the City approval acknowledges this by requiring as a condition of the permit, a CDP from the Commission. The permit jurisdiction of the landward parcel is split along the northeast corner, however, and the City has issued a CDP for the entire development on this parcel. The City approval does not require a CDP from the Commission. The seaward parcels appear to be zoned open space/recreation, while the landward parcel is designated for Hotel-Motel Visitor Serving in the City of Pismo Beach certified local coastal program.

2. Project Description

The City staff report describes the proposed project as follows:

The project consists of site preparation, minor widening of Addie Street adjacent to lots 1, 2, and 3 and construction of a raised "deck" joint driveway platform for lots 1, 2, and 3 and construction of two detached two level visitor serving units with a seaside architectural theme on 124 Addie (Lot 1; 1,587 s.f.) and 128 Addie (lot 2; 1,751 s.f.) and a 1,611 s.f. deck facility at 132 Addie. The proposal also includes construction of a public plaza and beach accessway along with rip-rap installed on the slope at the end of Addie Street.

The proposed rental units would be constructed on wood or concrete pilings elevated to comply with Federal Emergency Management Agency (FEMA) flood plain regulations to a finished floor elevation of +14.0 above mean sea level. There will also be perimeter protection from high wave action and surges in flood conditions for lots 1 and 2 to an elevation of +17.0 above mean sea level. Access to the proposed residences would be via a shared raised driveway platform from 132 Addie Street. The street would be widened to a 40 foot right-of-way as part of the project with rip-rap constructed to protect the road from wave attack.

B. Substantial Issue Determination

The appellants' contentions can be grouped into two categories: 1) procedural issues; and 2) substantive issues, which are discussed in the following findings.

1. Jurisdictional Issue

a. Appellants' Contentions

With regard to the procedural issue, the appellants contend in full:



The local government agency did not have the authority to issue a coastal development permit for the proposed development at this location, as it is in the Commission's retained coastal permit jurisdiction. As a result, the City-approval is inconsistent with LCP policies for coastal permitting procedures.

b. Relevant LCP Provisions

The following policies from the City of Pismo Beach's Local Coastal Plan govern:

Chapter 17.124 Coastal Permitting Procedures.

17.124.020 Authority-Conflict. This Chapter is adopted to implement the City's certified Land Use Plan and the California Coastal Act. In the case of any conflict between this Chapter and any other Chapter of this Ordinance, or other provisions of the City's code, the provisions of the Chapter shall apply.

17.124.030 Permits Required. Developments, as defined in subsection 17.006.0365 of this Ordinance, require a Coastal Development Permit except as otherwise provided in this chapter. Such permits are subject to the provisions of the Certified Land Use Plan, Certified Zoning Ordinance, Subdivision Regulations, Grading and Erosion Control Ordinance and the procedural requirements for coastal development permits as described herein.

17.124.040 Boundaries of the Coastal Zone. The boundary of the Coastal Zone shall be established by the California Legislature and as described on official maps maintained by the California Coastal Commission. Developments outside this zone shall not be subject to the provisions of this chapter.

Chapter 17.075 Floodplain Overlay Zone

17.075.020(4) No structures shall be located within the creek corridors except (a) those structures necessary for flood control purposes which are found to be the only possible alternative to protect existing structures and property from flood hazards in the floodplain; (b) bridges when supports are located outside critical habitat areas; and (c) pipelines, when no alternative route is feasible; and (d) new underground utility transmission lines, when no alternative route is feasible.

17.075.020(6) No new development shall be allowed in the Flood Plain Overlay Zone which will contribute to flood hazards on the same or other properties, or require flood control works for flood protection.

Chapter 17.078 Hazards and Protection Overlay Zone

17.078.060(5) 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.

Land Use Plan Policies



CO-14 Riparian Habitats -Riparian habitat is the environment associated with lands adjacent to freshwater sources -perennial and intermittent streams, estuaries, marshes, springs, seeps. The habitat is characterized by plant and animal communities that require high soil moisture in excess of that available from precipitation. Among the major plants associated with riparian habitat in the Pismo Beach area are sycamore, cottonwood, willow and occasionally oak. Large riparian areas occur along the banks of Pismo Creek, Meadow Creek, and Pismo Marsh, although smaller areas can be found in the planning area. It is the policy of the City to preserve riparian habitat under the following conditions:

- 1. As part of discretionary planning permits, a biotic resources management plan shall be required.*
- 2. The biotic resources management plan shall include standards for project development which will avoid habitat disturbance.*
- 3. The standards specified in the biotic resource management plan shall be utilized to determine the extent of development.*

CO-21(b) Open Space -The sandspit and channel where Pismo Creek enters the ocean and those portions of parcels located within the creek channel shall remain as open space and no structures or fill shall be permitted thereon.

CO-21(e) Limitations on Development -All development, including dredging, filling, and grading, within the stream corridor shall be limited to activities necessary for flood control purposes, bridge construction, water supply projects, or laying of pipelines, when no alternative route is feasible. When such activities require removal of riparian plant species, re-vegetation with local native plants shall be required. Minor clearing of vegetation shall be permitted for hiking and equestrian trails, bike trails, view points, etc.

CO-21(f) Resource Protection Plan -A Resource Protection Assessment and Protection Plan shall be required and approved concurrent with City action on projects located on parcels which have a portion within the streamside protection zone. The plan shall include appropriate measures to protect the creeks biological and visual aspects.

c. City Action

Believing that the proposed project on lot 3 of the development was within its retained permitting authority, the City of Pismo Beach evaluated the proposed development and issued a Coastal Development Permit per the requirements of section 17.124.030 of the certified zoning ordinance. The following text is taken from the City's staff report and initial study.

Lots 1 and 2 are located in the Coastal Commission's original jurisdiction. Lot 3 and the Addie Street right of way and the proposed public plaza area is located in the City's jurisdiction authority area. City development approvals on Lot 3 can be appealed to the Coastal Commission.



d. Analysis

The Coastal Act (§30519) and the California Code of Regulations identifies a process for delegating coastal development permit authority in the coastal zone back to local jurisdictions. CCR Section 13576 requires that in conjunction with the final Local Coastal Program certification, a map or maps of the coastal zone of the affected jurisdiction that portrays the areas where the Commission retains permit authority be adopted. The maps identify the Commission's permit and appeal jurisdiction and are referred to as post-certification maps. Generally, the local jurisdictions maintain a copy of the "post-cert" maps in its offices but are not required to attach the maps to the certified LCP. Sections 17.124.030 and 17.124.040 of the City's zoning ordinance acknowledge this arrangement and concur that the jurisdictional boundaries were predetermined prior to certification of the City's LCP. When questions arise regarding the precise location of the boundary of any area defined in the coastal zone, a formal "Boundary Determination" may be requested of the Commission's Technical Mapping Unit to resolve any disputes.

In this particular case, the City of Pismo Beach made an informal request for a boundary determination in January of 1992 to determine the precise location of Commission retained and appeal authority on the affected area of the development. The Commission's Technical Services Mapping Unit concluded that all of Lots 1 and 2 and approximately 95% of Lot 3 were located in Commission retained permitting jurisdiction. About 5% was located in the City's retained permitting authority. Furthermore, it was evident from the proposed project plans that nearly 100% of the proposed project was in the Commission's retained authority. A copy of the boundary determination was provided to the City clearly defining the permitting authority on the parcels. Subsequently, a more recent boundary determination performed by the Technical Services Mapping Unit concluded that the jurisdictional boundaries have not changed since the original boundary determination in 1992. See Exhibit E. The City was correct to issue a coastal development permit for that portion of the development within its retained permitting authority at 132 Addie Street (APN 005-163-032), however, its approval should have included a condition requiring the applicant to obtain a CDP from the California Coastal Commission for the balance of development on the parcel. With respect to 124 and 128 Addie Street (APNs 005-163-030 and 031), although there was a special condition requiring a Coastal Development Permit from the California Coastal Commission, the City of Pismo Beach noticed its Final Local Action (FLAN) as an appealable CDP when in fact the project lies within the Commission's original permit jurisdiction. See Exhibit A. Though a cumbersome process for all involved, the applicant must obtain a permit from both agencies before the project is deemed approved for split jurisdiction development.

If, by chance, the jurisdiction issue is resolved in favor of the City having authority to issue the CDP, staff still could not find the project, as proposed, consistent with the above referenced LCP policies for conservation of open space, avoidance of coastal hazards, construction of shoreline protective devices, development in a floodplain, and protection of biological and visual resources.

The proposed driveway and two vacation homes accessed by the driveway are located on bare-sand open space area at the confluence of Pismo Creek and the Pacific Ocean. The initial study identified the area of development as containing fragile dune plant communities, --fragile because of the constantly



changing narrow strip of dunes between the beach and secondary dune formation. According to the Initial Study, there are four plant species with special listed status that occur in nearby locations within the dune plant community. Similarly, there are more than a dozen other rare or threatened species (e.g., bird, animal, reptile, fish, etc.) that utilize the terrestrial and aquatic environment found on or immediately adjacent to the project site. The Protection Plan and mitigation measures submitted by the applicant do not provide the level of information necessary to determine whether or not it would adequately mitigate the impacts of the proposed project. Specifically, the most recent site-specific survey was performed in 1994 and is not reflective of the current site conditions. Secondly, the impacts of the project have not been quantified and it is unlikely that the mitigation measures proposed would adequately off-set the impacts. In general, biological surveys according to protocols must be conducted in order to map the plant communities on the project site, determine if special-status plant species occur on the site, and to determine if special-status wildlife species occur on the site. Once this baseline data has been collected the impacts from the project must be analyzed, quantified, avoided, and minimized.

Therefore, staff cannot find at this time, that the development as proposed is consistent with maintaining open space at this location, protective of riparian and dune scrub habitats, or consistent with limiting development to activities necessary for flood control purposes, bridges, or dams. The type of development proposed will significantly disrupt the habitat values at the site and reduce the amount of fragile dune habitat available on and immediately adjacent to the development site.

Similarly, development at this site is inconsistent with City policies for minimizing hazards from floods and wave attack at the site. The proposed development is located within the 100-year floodplain and is well within the reach of storm-driven surf from the Pacific Ocean. The parcels are inundated during winter storm events coinciding with high tides and heavy surf. Development at this site, in and of itself, contributes to additional flood hazards as it places the development in harms way during these events. Debris from up-stream may back up against the structures and pose a significant flood and safety hazard to persons and property. There were no geological reports or plans depicting the depth of piers or identifying the type of base soils the piers would be founded on. Additionally, in order to accommodate the improvements such as street widening required by condition of the permit, rip-rap will need to be installed across the width of Addie Street to minimize the threat of wave attack and flood. Again, staff cannot find, the current proposal to be consistent with LUP and IP policies prohibiting flood control measures for new development or consistent with policies regarding seawalls and revetments.

In conclusion, the City action on that portion of the project within the Commission's jurisdiction is invalid because it did not have the authority to issue a Coastal Development Permit. To obtain a Coastal Development Permit for this portion of the project, the applicant must apply to the California Coastal Commission. For the small portion of the proposed project in the City's jurisdiction, the project is inconsistent with the applicable LCP policies and should be addressed in the de novo staff report. **Therefore, a substantial issue is raised by the appellants' contention.**



CC

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

DATE: 07/16/02

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

RECEIVED

JUL 26 2002

ATTN: MIKE WATSON

FROM: City of Pismo Beach
Community Development Department
760 Mattie Road
Pismo Beach, CA 93449

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

APPLICANT:

Name: John King
Address: 2241 Santa Ynez; San Luis Obispo, CA 93401-
Telephone No.

Application File No.: 02-0122

Site Address/APN 124 ADDIE APN: 005-163-030

Project Summary: Environmental review for a platform driveway structure over lots and two single family homes for use as vacation rentals. Variance application and architectural review for 124 and 128 Addie and a Coastal Development Permit, Architectural review and Variance application for a driveway platform and garage at 132 Addie. The site is located at the end of Addie Street adjacent to the Addie St. parking lot, Pismo Creek and the beach.

Date of Action: 07/09/02

Action by: ☒ Planning Commission ☐ City Council ☐ Staff

Action: Approved with changes. cj

Attachments: ☒ Conditions of Approval
☒ Findings
☒ Staff Report

Appeal Status: ☒ Appealable to the Coastal Commission (see note)

**FINAL LOCAL
ACTION NOTICE**

REFERENCE # 3-PSB-02-373
APPEAL PERIOD 7/29-8/9/02

CCC Exhibit A
(page 1 of 11 pages)

A-3-PSB-02-063, 064, 06

NOTE: Appealable to the California Coastal Commission pursuant to Coastal Act Section 30503. An aggrieved person may appeal this decision to the Coastal Commission within ten working days following Coastal Commission receipt of this notice. Any appeal of this action must be filed in writing to the Coastal Commission using forms obtainable from the Santa Cruz district office at the address identified above.

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

DATE: 07/16/02

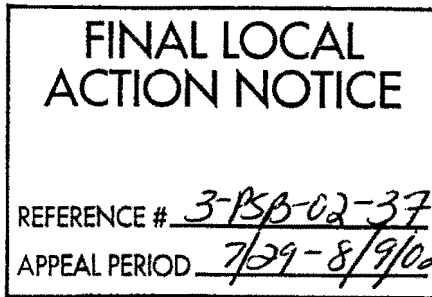
TO: California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

ATTN: MIKE WATSON

FROM: City of Pismo Beach
Community Development Department
760 Mattie Road
Pismo Beach, CA 93449

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

APPLICANT:



Name: John King
Address: 2241 Santa Ynez; San Luis Obispo, CA 93401-
Telephone No.

RECEIVED

JUL 26 2002

Application File No.: 02-0135

Site Address/APN 128 ADDIE APN: 005-163-031

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Project Summary: Environmental review for a platform driveway structure over lots and two single family homes for use as vacation rentals. Variance application and architectural review for 124 and 128 Addie and a Coastal Development Permit, Architectural review and Variance application for a driveway platform and garage at 132 Addie. The site is located at the end of Addie Street adjacent to the Addie St. parking lot, Pismo Creek and the beach.

Date of Action: 07/09/02

Action by: X Planning Commission City Council Staff

Action: Approved with changes. cj

Attachments: X Conditions of Approval

X Findings

X Staff Report

Appeal Status: X Appealable to the Coastal Commission (see note)

CCC Exhibit A
(page 2 of 11 pages)

A-3-PSB-02-063, 064, 065

NOTE: Appealable to the California Coastal Commission pursuant to Coastal Act Section 30503. An aggrieved person may appeal this decision to the Coastal Commission within ten working days following Coastal Commission receipt of this notice. Any appeal of this action must be filed in writing to the Coastal Commission using forms obtainable from the Santa Cruz district office at the address identified above.

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

DATE: 07/16/02

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

ATTN: MIKE WATSON

FROM: City of Pismo Beach
Community Development Department
760 Mattie Road
Pismo Beach, CA 93449

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

APPLICANT:

Name: John King
Address: 2241 Santa Ynez; San Luis Obispo, CA 93401-
Telephone No.

Application File No.: 02-0136

Site Address/APN 132 ADDIE APN: 005-163-032

Project Summary: Environmental review for a platform driveway structure over lots and two single family homes for use as vacation rentals. Variance application and architectural review for 124 and 128 Addie and a Coastal Development Permit, Architectural review and Variance application for a driveway platform and garage at 132 Addie. The site is located at the end of Addie Street adjacent to the Addie St. parking lot, Pismo Creek and the beach.

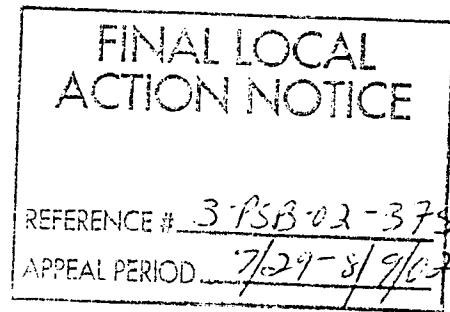
Date of Action: 07/09/02

Action by: ☒ Planning Commission ☐ City Council ☐ Staff

Action: Approved with changes. cj

Attachments: ☒ Conditions of Approval
☒ Findings
☒ Staff Report

Appeal Status: ☒ Appealable to the Coastal Commission (see note)



RECEIVED

JUL 26 2002

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

CCC Exhibit A
(page 3 of 11 pages)
A-3-PSB-02-063, 064, 065

NOTE: Appealable to the California Coastal Commission pursuant to Coastal Act Section 30503. An aggrieved person may appeal this decision to the Coastal Commission within ten working days following Coastal Commission receipt of this notice. Any appeal of this action must be filed in writing to the Coastal Commission using forms obtainable from the Santa Cruz district office at the address identified above.

PERMIT NO. 02-0136:
Coastal Development Permit, Architectural Review and Variance
PLANNING COMMISSION MEETING OF July 9, 2002
132 Addie; APN: 005-163-032

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 02-0136 grants a variance and architectural review for a vacation rental structure and related improvements, as shown on the approved plans with City of Pismo Beach stamp of July 9, 2002 and as described in the staff reports of June 11 and July 9, 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. Should a vacation rental prove infeasible at this location, a Conditional Use Permit pursuant to Zoning Code section 17.027.040(1) shall be required.

EFFECTIVE DATE: This permit shall become effective ten working days from the date of the Commission's action to approve the project. An appeal to the City Council may be filed within 10 working days of the Planning Commission's project approval or to the California 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 to July 9, 2004. 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 the California Coastal Commission, or from any claim to attack, set aside, void, or annul this approval by the City of project #02-0136 located at 132 Addie; 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

CCC Exhibit A
(page 4 of 11 pages)

A-3-PSB-02-063,064,065

CONDITIONS, POLICIES, SELECTED CODE REQUIREMENTS, AND MITIGATION MEASURES FOR PROJECT 02-0136

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:

1. The project approval includes a platform on piers for the driveway and vacation units over 124, 128 and 132 Addie, the platform shall be constructed over all three lots at one time. Failure of the California Coastal Commission to approve the Coastal Development Permit for the 124 and 128 Addie applications will constitute a major modification of the subject approval at 132 Addie and require Planning Commission review for modification of the project for exclusive use and design of a platform structure to access 132 Addie Street.

PRIOR TO ISSUANCE OF A GRADING PERMIT

City Council

2. The Addie street frontage leading to the Promenade and the public plaza adjacent to the promenade shall be further defined and approved by the City Council upon recommendation of the Planning Commission.

Planning Division

3. A minimum riparian buffer area shall be identified on the project plans for any riparian habitat area and shall not be less than 25'. (Compliance with GP/LCP Policy CO-14) The recommendations of the Resource Assessment and Protection Plan and the Dune Restoration Plan shall be included in a scope of work for implementation by a qualified biologist. Funding for the biologist shall be provided by the applicant, and a contract shall be developed and in place between the City and the biologist prior to issuance of a grading permit.

4. "Pursuant to Zoning Code section 17.102.060(11), appropriate easements, the language and form of which is approved by the City Attorney prior to the issuance of a building permit, shall be required between the subject site and the two adjoining lots to adequately tie all common uses of the elevated platform which crosses property lines.. Recordation of the easements shall be required prior to the project's final inspection." *(Added by Planning Commission 07/09/02)*
~~The lot shall be merged with the adjacent two lots in common ownership~~ *(Deleted by Planning Commission 07/09/02)*

CCC Exhibit A
(page 5 of 11 pages)

A-3-PSB-02-003,064,065

AUG-21-2002 10:46 PUBLIC SERVICE PISMO BEACH PAGE
5. An offer to dedicate to the City that portion of the property landward edge of the 25' riparian buffer adjacent to Pismo Creek shall be recorded prior to issuance of a grading permit. (GP/LCP policies LU- K2(b), LU-L-2 and GP/LCP tables PR 1 and 3 and Zoning Code Section 17.066.020.)

Building Division

6. A grading permit application is required.

Engineering Division

7. The project contractor shall strictly adhere to APCD guidelines regarding dust and combustion emissions from construction and grading. The grading site shall be frequently watered, and netting will be used until new vegetation is established.

8. All access easements need to be clearly defined. Remove all encroachments into the access easements. Common access easements shall be clearly identified, including how the project will tie into the existing promenade project.

9. Identify all dedications to the City and improvements for a 40' right of way on Addie Street. All proposed improvements into the Right of Way shall require an encroachment agreement.

Fire Department

10. **Access Roadways (For Fire Apparatus)** – access roads shall have all-weather driving surface capable of supporting fire apparatus weighing 40,000 lbs.

- No combustible construction will occur prior to all-weather access being provided, and combustible construction may be stopped anytime these conditions are not met.
- Combustible materials used to construct the pier and platform shall be protected by an automatic fire sprinkler system.

11. **Waterlines and Hydrant Distribution** – Prior to construction, plans for waterlines and hydrant locations shall be submitted to the Fire Department for approval. No combustible construction shall be allowed until required hydrants and waterlines are in and serviceable. Water mains should be a minimum of 8" in size. Hydrants spaced maximum 400' residential.

12. **Fire Hydrants** – All fire hydrants shall conform to the Pismo Beach water distribution system materials list.

- Each hydrant to have one 4.5" outlet and two 2.5" outlets (wet barrel).
- Each hydrant shall be painted OSHA yellow.
- No rolled curbs will be allowed within 15" of a hydrant. Sidewalks to be a minimum of 40" wide behind hydrant center line.
- Curb to be painted red 15" both sides of hydrant.

13. A blue reflective marker shall be installed 6" off center of street in line with hydrant.

CCC Exhibit A
(page 6 **of** 11 **pages)**

A-3-PSB-02-063,064,065

PRIOR TO ISSUANCE OF A BUILDING PERMIT**Planning Division**

14. Any graded areas within or immediately adjacent to riparian areas should be revegetated as soon after construction as feasible with appropriate native species. This activity will lessen the potential for erosion and siltation problems to occur. Grading and construction activities shall be carried out in such a manner that sediments and debris do not enter Pismo Creek. (GP/LCP policy CO-14 compliance, requirement from Dec 1994 biology report from V.L. Holland) The applicant shall fund and the City shall manage a biologist to monitor the project site.

15. One street tree shall be provided to be located at the end of the Addie Street right of way adjacent to or close to Promenade II. (GP/LCP policy Policy D- 7 compliance)

16. An interpretive panel shall be designed and placed on Promenade 2. (Compliance with Policy LU- K2(c).)

Building Division

17. Project plans shall identify ability to withstand the force of a Richter Scale 8.5 magnitude earthquake in conformance with the Uniform Building Code Seismic Zone requirements. (Zoning Code 17.078.040 (5 and 6).)The title sheet of the plans shall include:

- Street address, lot, block, track and Assessor Parcel number.
- Description of use
- Type of construction
- Height of the building
- Floor area of building (s)
- Vicinity map

18. The Title sheet of the plans shall indicate that all construction will conform to the 1997 UBC, UMC & UPC, the 1996 NEC, 2001 California Title 19 & 24, California Energy Conservation Standards and Accessibility Standards where applicable and all City codes as they apply to this project.

19. Code adoption dates are subject to change. The code adoption year is established by application date of plans submitted to Building Division for plan review.

20. Plans shall be submitted by a California licensed architect and/or engineer.

21. A separate grading plans complying with Appendix Chapter 33, UBC, and Title 15 PMBC, may be required.

22. A soils investigation shall be required for this project.

23. The location of the building should be identified on an established flood hazard map (most recent flood insurance rate map published by FEMA may be considered).

24. Certification that the actual elevation of structures in relation to mean high sea level by a licensed surveyor/engineer.
25. Well-established engineering principles should consider the effect of hydrostatic and hydrodynamic forces.
26. Erosion control of the site shall be clearly identified and mitigated.
27. Spaces below the base flood elevation in a coastal high zone shall be free of obstruction.
28. Projects shall comply with current City and State water conservation regulations.
29. Dust and erosion control shall be in conformance with standards and regulation of the City of Pismo Beach.
30. The permittee shall put into effect and maintain all precautionary measures necessary to protect adjacent water courses and public or private property from damage by erosion, flooding, deposition of mud or debris originating from the site.
31. A licensed surveyor/engineer shall verify pad elevations, setbacks, and roof elevations.
32. All cut and fill slopes shall be provided with subsurface drainage as necessary for stability; details shall be provided.
33. Certification of compliance with the grading plans and soils report shall be submitted to the Building Division prior to final approvals.
34. Title 24, Energy Conservation Documentation shall be prepared and submitted with the Building application.
35. Project shall comply with Section 101.17.11 DSA/AC-Access Compliance, Division of the State Architect.
36. Anchoring: All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. The piling and column supported configurations elevated as recommended should be designed and constructed to protect the project from floatation, collapse or lateral movement of structures. The platform on which the structures shall be built should be designed for uplift forces from wave energy. (PBM Section 15.44.150(A1) and Zoning Code section 17.075.20(11))
37. Construction Materials and Methods:
 - All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to, flood damage.

- All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- All new construction and substantial improvements shall be constructed with electrical,
- heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

38. Standard construction practices and building materials can be utilized for structures as long as the project is elevated above flood hazards as recommended. If the project is constructed on a wooden pier platform the deck should be sealed to prevent ocean spray from damaging flooring and lower walls.

39. The project will be elevated above the base flood elevation, however, electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities should be designed and located to prevent water from accumulating within these components. (PBM Section 15.44.150(BI, 2, and 3).

40. Elevation and Floodproofing: New construction and substantial improvement of any structure shall have the lowest floor, including basement, elevated to or above the base flood elevation. Upon the completion of the structure the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, or verified by the Building inspector to be properly elevated. Such certification or verification shall be provided to the floodplain administrator. (PBM Section 15.44.150(CI).

41. All new construction and substantial improvements shall have the space below the lowest floor free of obstructions or constructed with breakaway walls. Such temporarily enclosed space shall not be used for human habitation. (PBM Section 15.44)

42. Fill shall not be used for structural support of buildings. There will be no fill placed for the project. (PBM Section 15.44.200(D).

43. Runoff from any project that drains to Pismo Creek is not to exceed volume rate of flow or particulate content that would occur from the property in its natural undisturbed state. Surface runoff water from the proposed project will be directed toward the city curb and gutter which flows to an existing City storm drain on Addie Street. The size of the existing storm drain will need to be increased and shown on the building plans to provide for all potential runoff from the project and the immediate surrounding area. Instead of falling directly onto the ground, rain waters falling onto the project will be concentrated and directed to storm drain facilities which flow into Pismo Creek. (Zoning Code section 17.075.20(9)).

44. Flood proofing is required for all new construction and shall be shown on the building plans (Zoning Code section 17.075.20(12,13))

45. The new replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from systems into floodwaters. The project will tie into existing City water and sewer systems at Addie Street.

Elevation of the project on columns or piling will eliminate the potential for infiltration of floodwaters or of discharge of sewage into floodwaters. The specific utility hook-ups shall be identified on the building plans (Zoning Code section 17.075.20(14))

46. On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding. The required curb and gutter with properly designed and constructed onsite drainage shall be shown on the building plans. (Zoning Code section 17.075.20(15))

Engineering Division

47. In order to maintain adequate porosity, undeveloped areas should not be overcompacted. Any soil removed in areas, which will not be developed, should be replaced in the same. (GP/LCP policy CO-14 compliance, requirement from Dec 1994 biology report from V.L. Holland)

48. The design and construction of revetment devices and other shoreline structures shall be prepared by qualified engineers in accordance with city standards which will avoid or minimize disturbance of sensitive coastal ecological resources.

49. The 1990 Terratech report shall be updated to provide a current liquefaction analysis. The project shall comply with all recommendations of the updated report . (Zoning Code Section 17.078.040 (2).)

PRIOR TO FINAL INSPECTION

Planning Division

50. A public beach access sign shall be provided. (GP/LCP policy PR-24)

Engineering Division

51. Street improvements will be required to be consistent with the city's adopted street improvement standards and the April 30, 1998 City Council's determination as to the design of Addie Street for a 40' right of way, including access through the Addie Street parking lot, meeting the intent of GP/LCP policy LU-K2(d)

52. The applicant shall provide for the floodplain administrator's records the following:

- Certification by a registered civil engineer or architect that the proposed structure complies with Section 15.44.200(A)
- Certification of the project elevations, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor, excluding pilings or columns.
- Certification that compliance with the criteria set forth in the GTA study of April 1995 including the EDA report has been followed. Many other elements including site specific geotechnical investigations and building code requirements that shall be incorporated in

the design and construction of the project. (PBM Section 15.44 and Zoning Code Section 15.44.200(F))

DURING CONSTRUCTION

Planning Division

53. "Should archaeological or paleontological resources be disclosed during any construction activity, all activity that could damage or destroy the resources shall be suspended until the site has been examined by a qualified archaeologist. Construction shall not resume until mitigation measures have been developed and carried out to address the impacts of the project on these resources. (Compliance with GP/LCP policy CO-5 and CO-6 and Zoning Code section 17.063)

ENVIRONMENTAL DETERMINATION

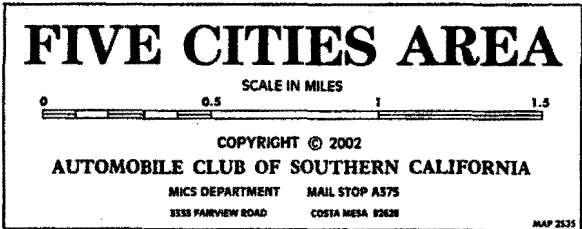
54. The mitigation measures specified in the Mitigation Monitoring program for the Mitigated Negative Declaration adopted by the Planning Commission on July 9, 2002, are hereby incorporated by reference and attached hereto as project conditions.

White
xck 0

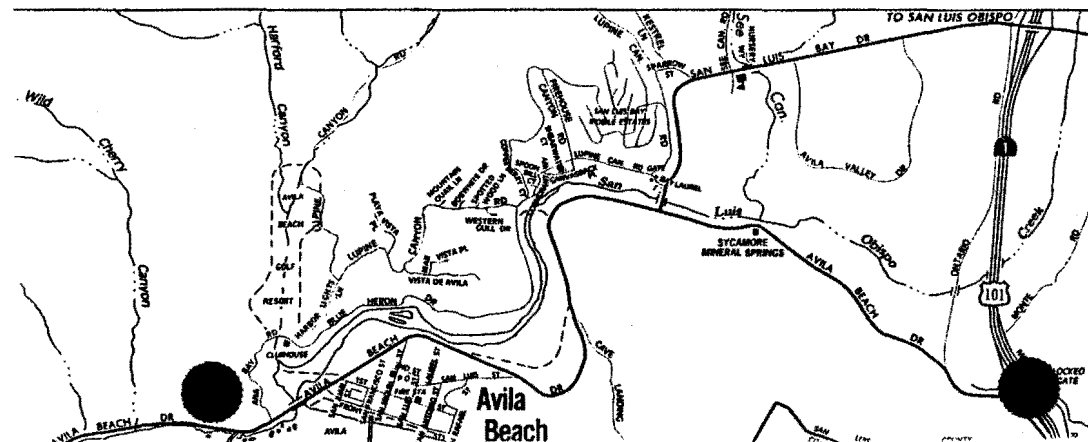
PACIFIC

CCC Exhibit B
(page 1 of 1 pages)

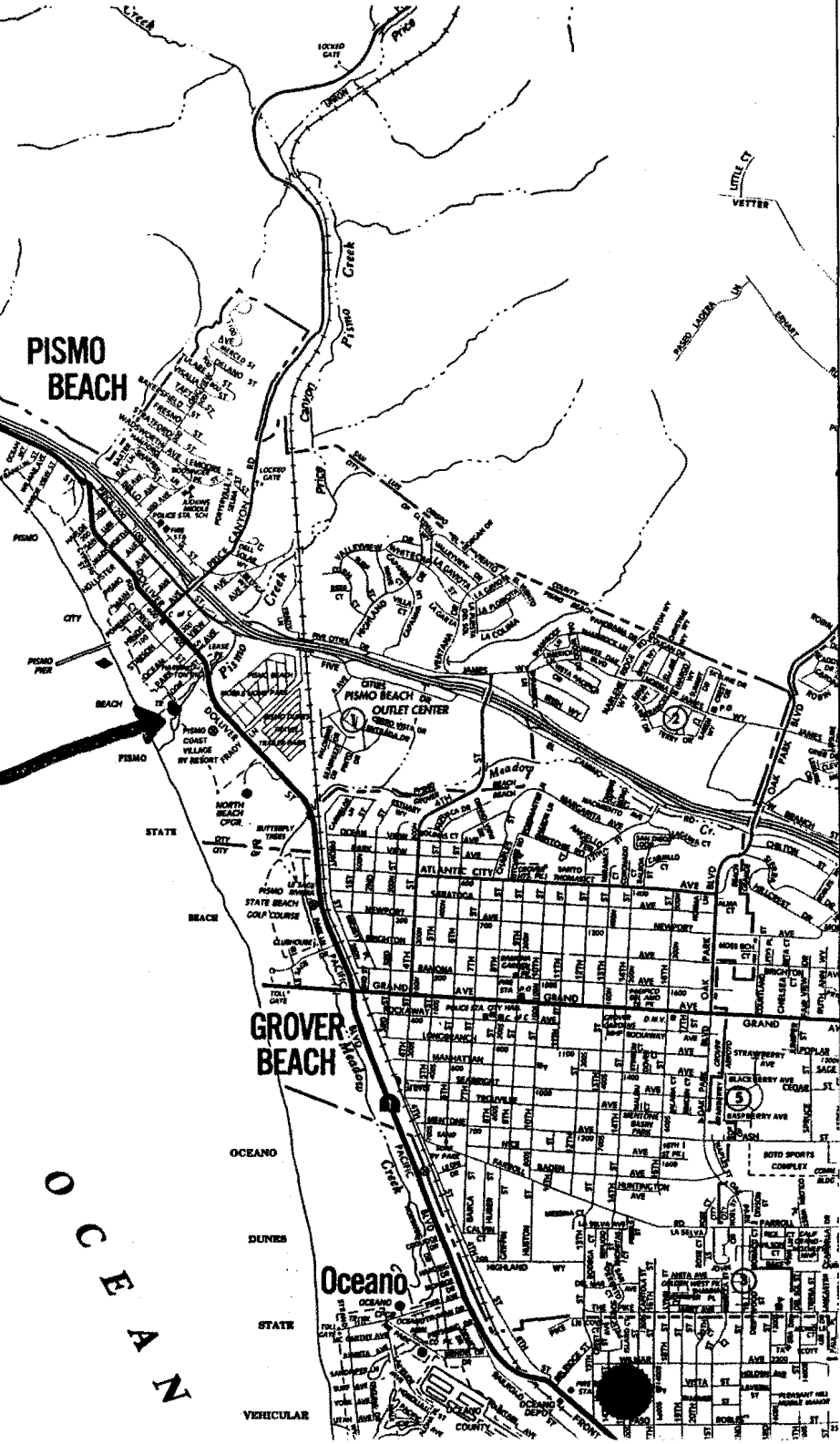
A-3-PSB-02-063, 064, 065



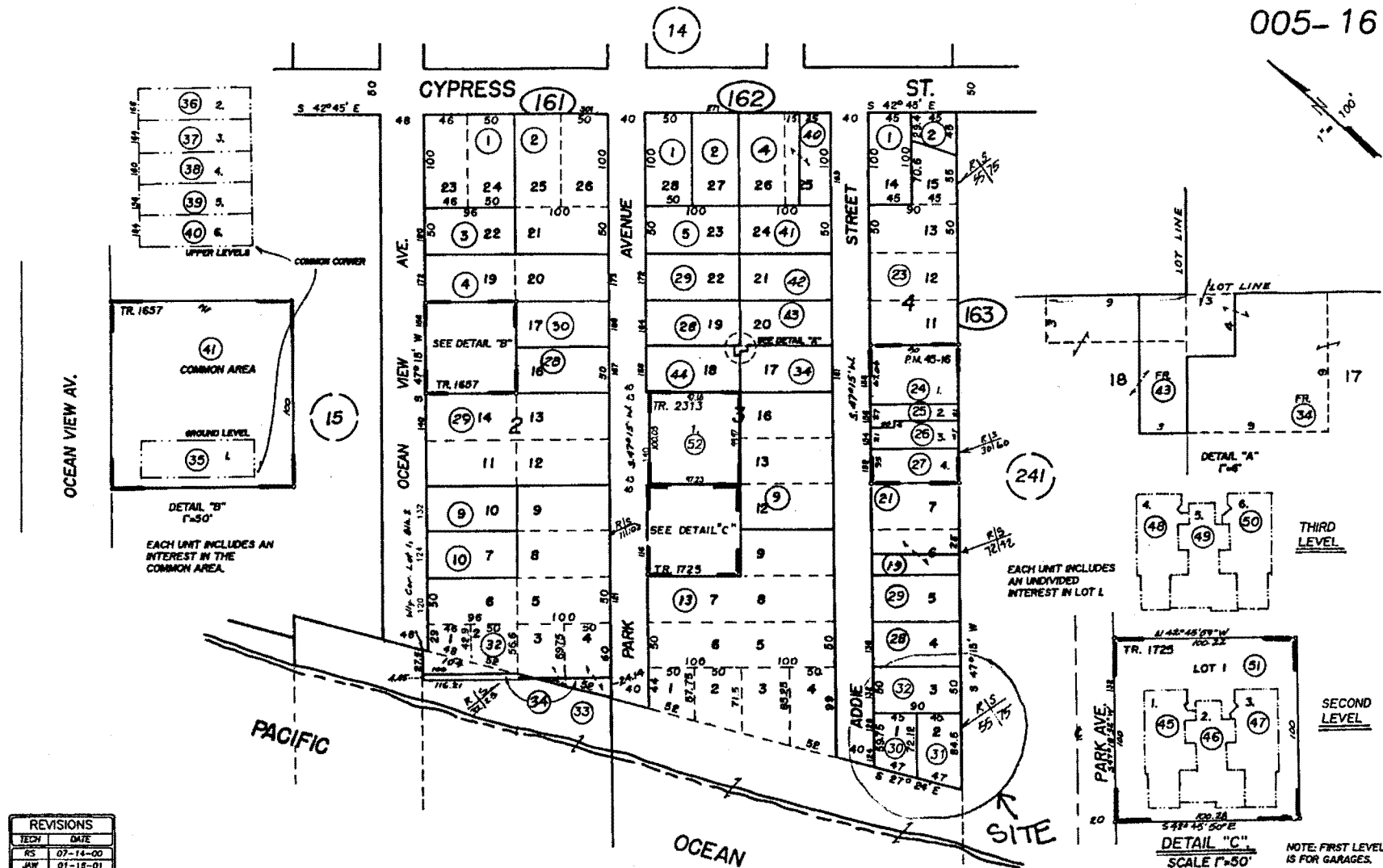
Project
Location



OCEAN

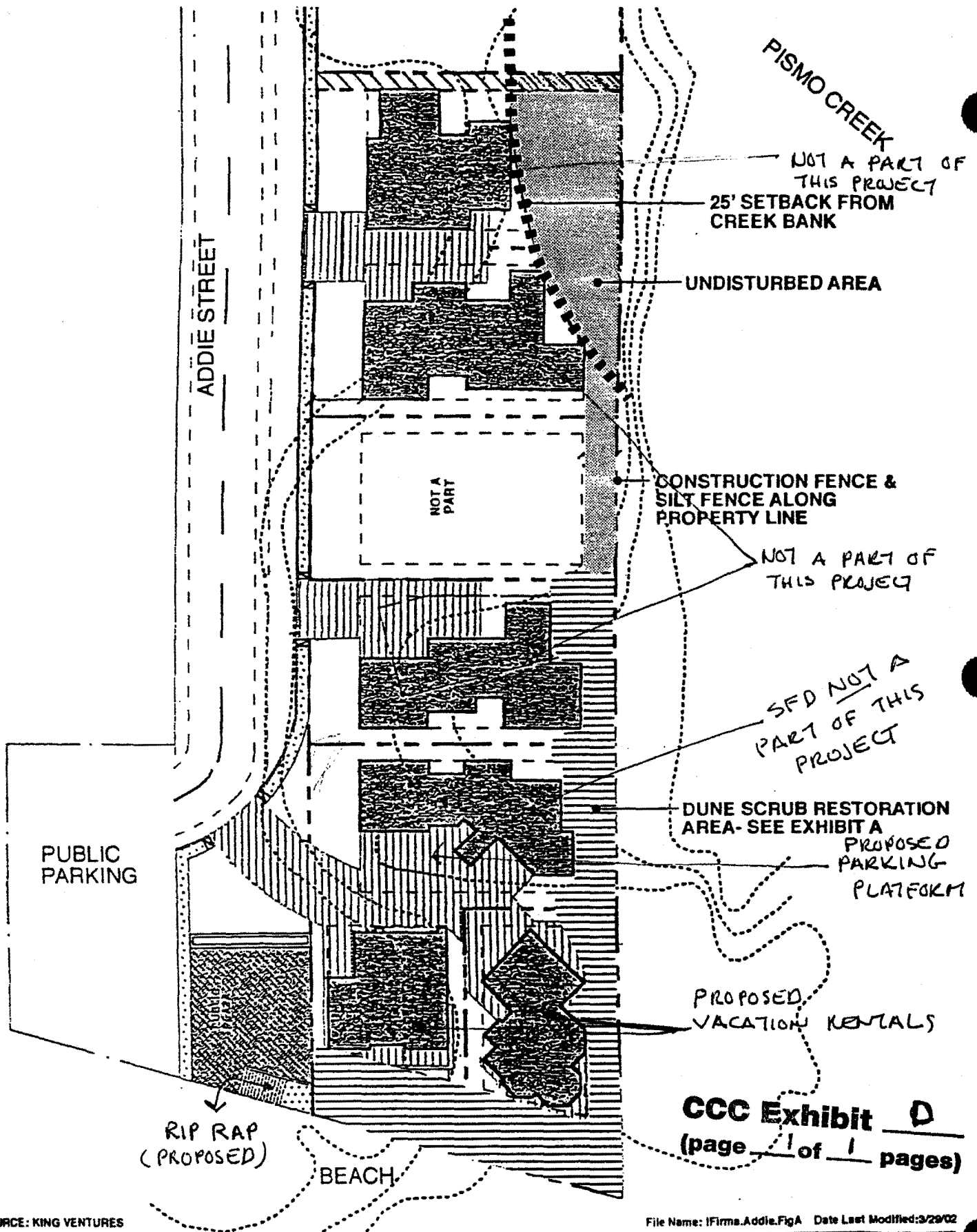


005-16



CCC Exhibit C
 (page 1 of 1 pages)

A-3-PSB-02-063, 064, 065



MAP SOURCE: KING VENTURES

File Name: IFirma.Addie.FigA Date Last Modified: 3/29/02



RESOURCE ASSESSMENT PROTECTION PLAN **ADDIE BEACH HOMES PROJECT**

SCALE 1"=40'

FIGURE

A

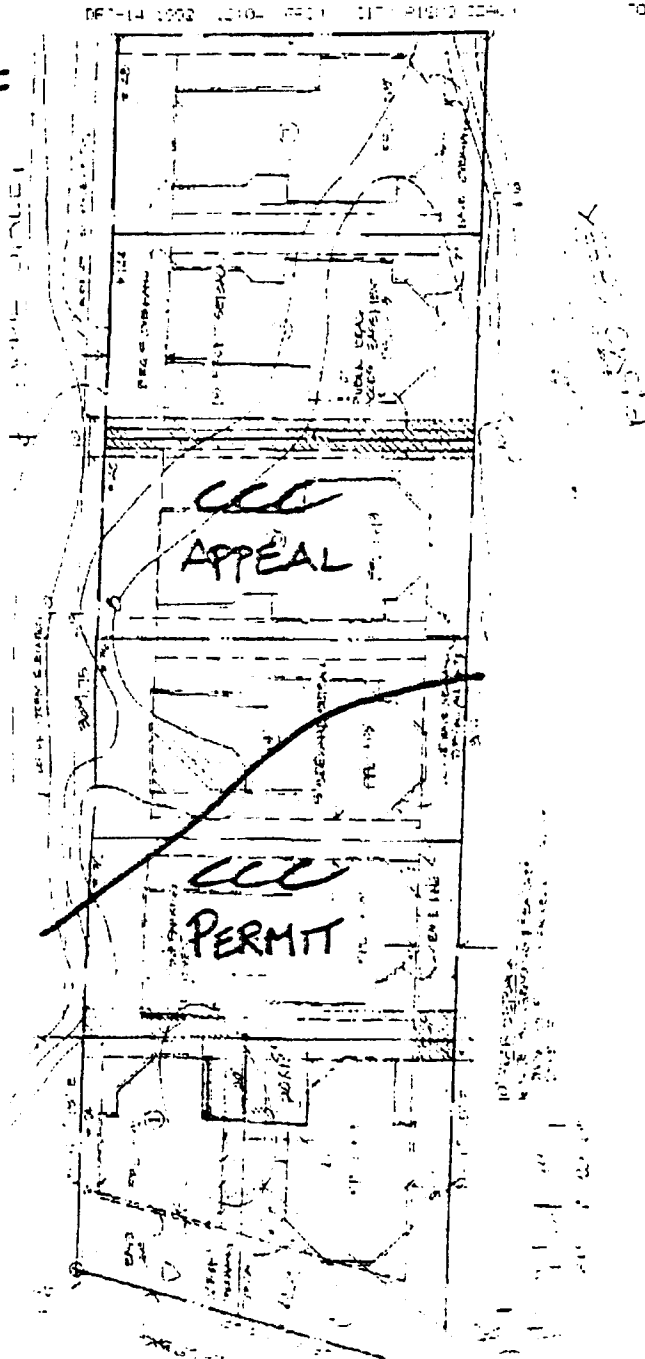
(EARLIER PROJECT)
BUT ONLY SITE PLAN AVAILABLE)

12/16/92

To: LEE OTTER
CAROLYN JOHNSON

FROM: JAN VAN COOPS

RE: INFORMAL
BOUNDARY
DETERMINATION
REQUEST, SLO
CO. APR 5-16-13,
19, 21 & 22



LOT PLAN

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



August 26, 2002

To: Mike Watson, Central Coast District Office

From: Darryl Rance, Mapping/GIS Program

Cc: Diane Landry, Central Coast District Office

Subject: Coastal Zone Boundary Determination No. 39-2002, APNs 005-163-28, 30, 31 & 32, City of Pismo Beach, San Luis Obispo County.

Preliminary
DRAFT

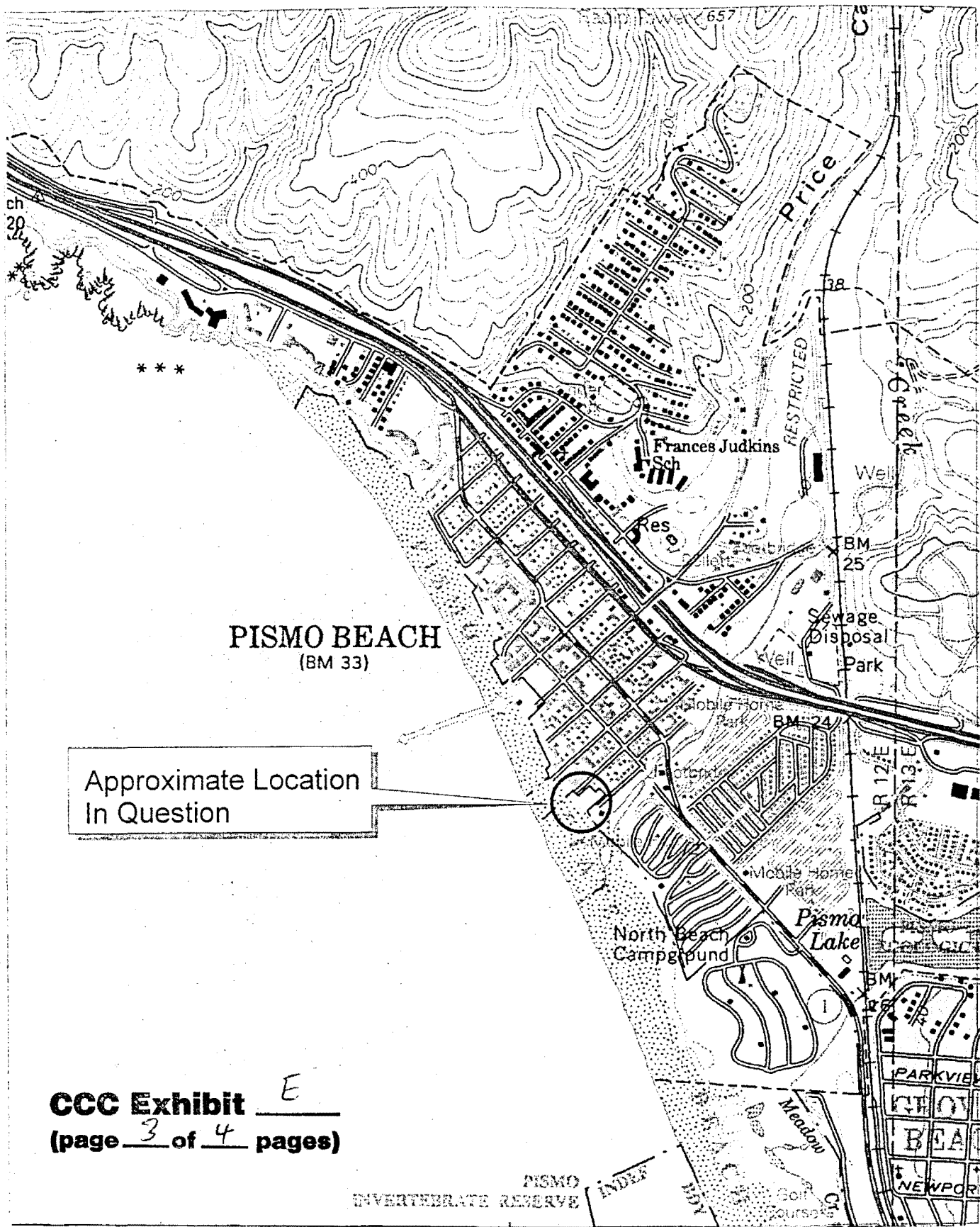
You have requested that we provide you with a Coastal Zone Boundary Determination for San Luis Obispo County Assessor Parcel Numbers (APNs) 005-163-28, 30, 31 & 32. Enclosed is a copy of a portion of Coastal Zone Boundary Map No. 107 (Pismo Beach Quadrangle) with the approximate location of the subject property indicated. See Exhibit 1. Also included is an assessor parcel map exhibit that depicts the subject properties with the Coastal Commission's permit and appeal jurisdiction identified. See Exhibit 2.

Based on the information provided and available in our office, San Luis Obispo County APNs 005-163-28 & 32 are located entirely within the coastal zone and are bisected by the permit and appeal jurisdiction boundary in the manner indicated on Exhibit 2. Any development that is proposed within the crosshatched area, as depicted on Exhibit 2, would require coastal development permit authorization from the Coastal Commission. APNs 005-163-30 & 31 are located entirely within the coastal zone and entirely within the Coastal Commission's permit jurisdiction. Any development proposed on APNs 005-163-30 & 31 would require coastal development permit authorization from the Coastal Commission.

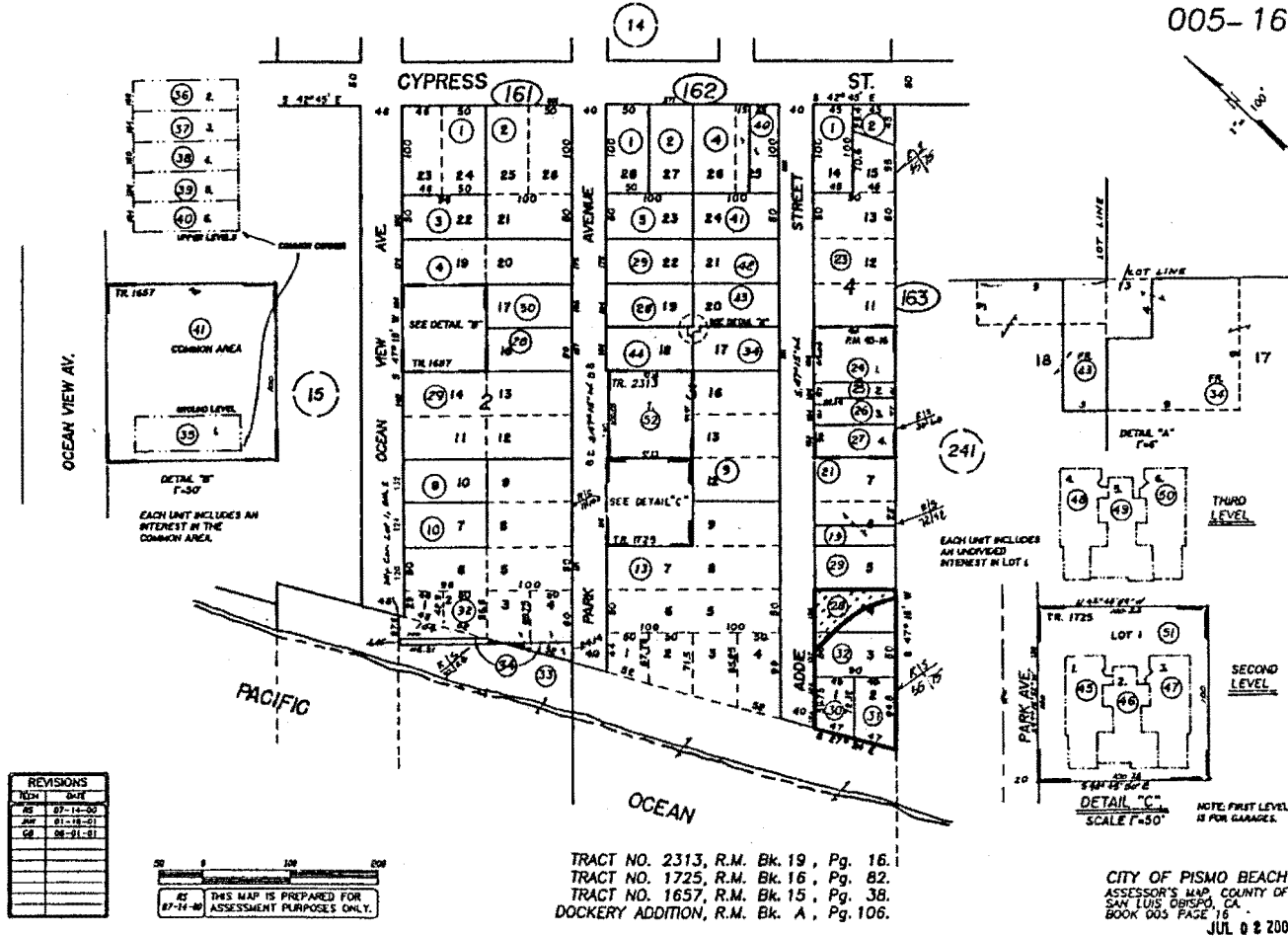
Please contact me at (415) 904-5335 if you have any questions regarding this determination.

Attachments

CCC Exhibit E
(page 2 of 4 pages)

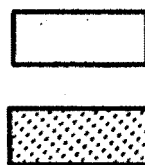


005-16



CCC Exhibit 1
(page 1 of 4 pages)

BD No. 39-2002
APNs 005-163-28, 30, 31 & 32
City of Pismo Beach
San Luis Obispo County



Coastal Commission
Permit Jurisdiction

Coastal Commission
Appeal Jurisdiction

Preliminary
DRAFT Exhibit 2