

CALIFORNIA COASTAL COMMISSION

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

www.coastal.ca.gov

F3

CENTRAL COAST DISTRICT (SANTA CRUZ) DEPUTY DIRECTOR'S REPORT

For the

February Meeting of the California Coastal Commission

MEMORANDUM

Date: February 10, 2006

TO: Commissioners and Interested Parties
FROM: Charles Lester, Central Coast District Deputy Director
SUBJECT: *Deputy Director's Report*

Following is a listing for the waivers, emergency permits, immaterial amendments and extensions issued by the Central Coast District Office for the February 10, 2006 Coastal Commission hearing. Copies of the applicable items are attached for your review. Each item includes a listing of the applicants involved, a description of the proposed development, and a project location.

Pursuant to the Commission's direction and adopted procedures, appropriate notice materials were sent to all applicants for posting at the project site. Additionally, these items have been posted at the District office and are available for public review and comment.

This report may also contain additional correspondence and/or any additional staff memorandum concerning the items to be heard on today's agenda for the Central Coast District.

EXTENSION - IMMATERIAL

3-03-029-E1 Ed & Mary Anne Kwiatkowski (Pacific Grove, Monterey County)

TOTAL OF 1 ITEM

DETAIL OF ATTACHED MATERIALS

REPORT OF EXTENSION - IMMATERIAL

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
3-03-029-E1 Ed & Mary Anne Kwiatkowski	Replace existing 1,776 square foot residence and 861 square foot garage on a 26,215 square foot lot with residence having 5,257 square feet of floor area and 3,793 square feet of footprint (not including driveway and outdoor uses), involving approximately 500 cubic yards of grading. As approved by the City of Pacific Grove, the project also includes restoration and maintenance of all areas of the site outside the development envelope as native dune habitat.	1805 Sunset Drive (Asilomar Dunes area), Pacific Grove (Monterey County)

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January 30, 2006

NOTICE OF EXTENSION REQUEST FOR COASTAL DEVELOPMENT PERMIT

Notice is hereby given that: **Ed & Mary Anne Kwiatkowski**
has applied for a one year extension of Permit No: **3-03-029-E1**
granted by the California Coastal Commission on: June 9, 2004

for **Replace existing 1,776 square foot residence and 861 square foot garage on a 26,215 square foot lot with residence having 5,257 square feet of floor area and 3,793 square feet of footprint (not including driveway and outdoor uses), involving approximately 500 cubic yards of grading. As approved by the City of Pacific Grove, the project also includes restoration and maintenance of all areas of the site outside the development envelope as native dune habitat.**

at **1805 Sunset Drive (Asilomar Dunes area), Pacific Grove (Monterey County)**

Pursuant to Section 13169 of the Commission Regulations the Executive Director has determined that there are no changed circumstances affecting the proposed development's consistency with the Coastal Act. The Commission Regulations state that "if no objection is received at the Commission office within ten (10) working days of publishing notice, this determination of consistency shall be conclusive. . . and the Executive Director shall issue the extension." If an objection is received, the extension application shall be reported to the Commission for possible hearing.

Persons wishing to object or having questions concerning this extension application should contact the district office of the Commission at the above address or phone number.

Sincerely,
PETER M. DOUGLAS
Executive Director


By: STEVE MONOWITZ
District Manager

cc: Local Planning Dept.

Case + Associates, Attn: Jerry Case

CALIFORNIA COASTAL COMMISSION

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

**Memorandum****February 9, 2006**

To: Commissioners and Interested Parties

From: Charles Lester, Deputy Director, Central Coast District

Re: **Additional Information for Commission Meeting Friday, February 10, 2006**

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
F5b, CLRDP	UCSC	Correspondence Staff Report Addendum (separate enclosure)	1
F6a, A-3-06-2 & F6b, A-3-06-3	Yadow	Correspondence	31
F7a, 3-05-71	City of Morro Bay	Request for Postponement	94



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Santa Cruz County Group of the Ventana Chapter
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February 3, 2006

FEB 06 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

California Coastal Commission
Central Coast District Office
725 Front Street
Santa Cruz, CA 95060

Re: UCSC Marine Science Campus at Terrace Point, Santa Cruz
Coastal Long Range Development Plan (CLRDP)

Dear Coastal Commissioners:

Please consider the following comments **against the certification** of this Coastal Plan. Although there are many issues that we would like to comment upon, we limit ourselves to the most significant ones.

In general, the amount of development proposed by the CLRDP is of the same magnitude as was previously proposed by Wells Fargo, the commercial developer that sold the land to UCSC when its proposal was rejected by the City because it was grossly out of character with the surroundings. While we understand that the Commission can authorize coastal dependent projects in coastal areas, the public expects a greater degree of moderation and sensitivity than can be expected from a commercial developer. The magnitude of the proposed development is insensitive to the character of the site, of its surroundings, and of its surrounding neighbors. We urge the Commission to vote against a project of such large scope and scale on such an environmentally sensitive site.

More specifically, we want to draw your attention to these major items in the proposal.

Land Use.

1. The CLRDP contends that the proposed 120-unit housing development proposed for this site is a "coastal related development" because the staff and visitors who will be using the site need to be housed in proximity of the research facilities.

Coastal Act Section 30255 provides that: *"When appropriate, coastal-related development should be accommodated within reasonable proximity to the coastal-dependent uses they support."*

It is quite a stretch to contend that "reasonable proximity" means that the housing has to be adjacent to the research/teaching facilities. The campus site is environmentally fragile; it

has multiple ESHAs, wetlands, and important viewsheds which must be protected, first and foremost. Housing to serve the campus can be located on nearby sites and still be in "reasonable proximity" without burdening the campus site itself. The point of departure in this evaluation should be that the campus should contain only the minimum indispensable amount of development that is truly coastal dependent. Housing does not fit this standard.

Eliminating the housing units will reduce the excessive scale and scope of development that has been proposed for this site. Also, it will avoid distorting the plain meaning of the Coastal Act words: "reasonable proximity." Under no circumstance can "reasonable proximity" be interpreted to mean adjacency, especially when there are alternative sites for the housing in nearby, proximate locations.

Public Viewshed.

The magnitude of the proposed development is excessive. It will have an enormous impact on the scenic character of this major coastal site which is highly visible from several, nearby, prominent viewing points, including Natural Bridges Park overlook, Wilder Ranch Park, all of the uphill area of the Westside of Santa Cruz, as well as from the Ocean. The proposed development will transform the site into an industrial/office park which will dominate and overwhelm its surroundings.

The few tall buildings (36-40 feet high) that are presently on the site already stand out as sore thumbs. The CLRDP proposes five sites on the campus where buildings 30 feet high, plus roof-top mechanical space, will be sited. (Fig. 5.4)

CLRDP Exhibit E, p. 137, Fig. 5.4, Development Subareas, shows that the total Allowed Footprint of all buildings on campus will be 346,388 sq.ft.. Contemplated buildings in Subareas No. 1, 3, 4, 5, and 11 are designated to reach 30 feet or more in height. The Allowed Footprint of these buildings, cumulatively, will be 170,360 sq.ft., or 49% of the total building footprint. In short, about half of the building area on campus will house tall structures. Their cumulative impact will be overwhelming, transforming the last coastal meadow in Santa Cruz into something that, from a visual standpoint, will resemble a large mall of box stores.

The proposed development does not meet the clear requirements of Coastal Act Section 30251 which states, in part:

"Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, . . ."

Because of its scope, mass, and height, the proposed campus will not achieve any of the visual protection goals of the Coastal Act. To fit into the character of the surrounding areas, any further campus development must be kept at one story in height.

The contention that a low density, low height development would impact UCSC's ability to develop a major marine research campus is like the lament of every commercial developer who is prevented from cramming an excessive amount of floor area on any given site. In fact, UCSC is acting like a commercial developer in this case, allocating or selling parts of the campus to other organizations who build their own buildings. There is no compelling public need for this to happen, as there is no compelling need for such a large marine campus here, when there are several other, major marine institutions further south, along the coast.

UCSC owns other large facilities in reasonable proximity of the Terrace Point site, including a large facility on Delaware Avenue formerly owned by Texas Instruments. This facility is within walking distance of Terrace Point. There are other available sites in the immediate vicinity of Terrace Point which would also allow for expansion of the Marine Campus activities without impacting the coastal plain.

Wetlands.

The record before you includes a significant challenge to the definition of wetlands used by UCSC's consultants and the Commission's staff. The challenge is in a letter by Robert Curry, Ph.D., an eminent, local hydrologist and geologist. Many of our own Sierra Club members who have visited, used and observed the Terrace Point site over time attest to the fact that the wetlands on the site are far more extensive than claimed in the UCSC report.

As pointed out by Commission members in the past, the Coastal Act definition of wetlands is different from the definition used by other entities. Coastal Act Section 30121 defines a wetland as follows:

"Wetland means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, or fens." (emphasis added).

The Commission's Procedural Guidance for the Review of Wetland Projects in California's Coastal Zone, Chapter 1, Sec. IV, states that:

"In the coastal zone, the CCC, with assistance from the DFG, is responsible for determining the presence and size of wetlands subject to regulation under the Coastal Act. . . . the DFG wetland definition and classification system (described in chapter three) is the delineation methodology generally followed by the CCC."

Chapter 3 of the Guide, cited in the paragraph above, reads as follows:

*" . . . the DFG only requires the presence of **one** attribute (e.g., hydrology, hydric soils, or hydrophytic vegetation) for an area to qualify as a wetland (Environmental Services Division, 1987)."*

Neither the staff report nor the CLRDP seem to contain any reference to the use of the DFG wetland definition system called for in the Procedural Guide noted above. It would appear that CLRDP consultants and the Commission staff have conducted an analysis based on standards for defining wetlands which do not comply with the "only one attribute" requirement of the DFG.

The empirical evidence coming from members of the public who have observed the site over long periods, as well as the experts' comments in the record, lead to the conclusion that, based on the presence of any one of the 3 attributes quoted above, there is an extensive system of interacting wetlands, much larger than that identified in the CLRDP, which will be substantially fragmented and impaired by the massive scope of development proposed for the site.

The proposed mitigation measures/best management practices have no credibility given the persistent failure of UCSC to implement mitigation measures called for in the 1988 LRDP for the main campus. A more meaningful mitigation would be the substantial reduction of the development activity on this site to provide a far larger amount of open space for wetlands and the species that rely on them for survival.

The CCC Procedural Guide, Chapter 1, Sec. III, states in part that:

"Wetlands must be viewed as a complete ecosystem that require a full complement of critical components in order to function. Some of these components are proper soil and hydrology, an unpolluted water source, and adequate buffer areas. Additionally, the wetland may contain one or more habitat types (e.g., upland, vegetated marsh, mudflat, and open water) within its boundaries. These components and habitats interact to form a complex ecosystem that supports a diverse and abundant assemblage of plants and animals, and performs numerous beneficial functions."

The CLRDP splits up the site into distinct pieces that seem to conflict with the ecosystem interactions called for in the Procedural Guide.

The same CCC Procedural Guide, in Sec III, Figure 2, Par. 2) states:

"An alternatives analysis is required if the proposed wetland development project is determined to qualify as one of the eight allowable uses (Coastal Act, Section 30233). Completion of an alternatives analysis is extremely valuable, as it requires the analyst and the applicant to view the project from a different perspective, which can result in the synthesis of creative designs that significantly reduce or minimize project impacts."

No alternative analysis has been conducted to determine whether a significant part of the activities planned at the Terrace Point site (especially support spaces) could be located in reasonable proximity, at other sites which are not as environmentally sensitive.

We also draw the Commission's attention to the communication, in the record, from the US Department of the Interior, Fish and Wildlife Service, dated December 8, 2005, which

deals with the impact of the proposed development on the California red-legged frog, an endangered species. Page 4 of the letter contains the following conclusion:

"Therefore, because the proposed project involves construction and operational activities within 100 meters of the site where the species has been documented at the northern edge of the project area, we believe these activities may result in take of California red-legged frogs."

The CLRDP, in its quest to maximize development of the site, proposes an inadequate buffer for this species' habitat, significantly below the 100 meters (330 feet) recommended by the Fish and Wildlife Service. It would be particularly distressing to allow a public research institution, to further impair an endangered species for the sake of its own aggrandizement through an excessively intense development.

Conclusion.

We encourage the Commission to deny certification of the CLRDP in its present form because of the significant environmental problems that it presents in relation to the prominence of this major coastal site. The development is excessive in its overall scope. Housing uses must be eliminated from the site. The size and height of the research facilities must be reduced. The visual qualities of the site must be preserved, the environmentally sensitive wetlands must be better delineated and protected, and sufficient buffers to protect endangered species must be required.

Thank you for the opportunity to submit these comments.

Sincerely,



Aldo Giacchino
Chair, Executive Committee
Sierra Club-Santa Cruz County Group

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February 6, 2006

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California Coastal Commission
Central Coast District Office
725 Front Street
Santa Cruz, CA 95060

FEB 07 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Coastal Long Range Development Plan (CLRDP) for
UCSC Marine Science Campus at Terrace Point, Santa Cruz

Dear Coastal Commissioners:

I respectfully request that you consider the following comments **against the certification** of the UCSC Development Plan for the Marine Science Campus.

The CLRDP proposes an excessive amount of development on the last remaining open coastal plain in Santa Cruz. The intensity of development equals what was once proposed for this site by a commercial developer (Wells Fargo) and was rejected by the City, at the urging of voters, for being grossly excessive.

The campus proposal does not fit into the low density character of the surrounding area. About half of the proposed building footprint will be developed with buildings that are multi story and out of scale with the one story development to the east (DeAnza neighborhood), and the farmland and parkland to the west.

Because of its scope, mass, and height, the proposed campus will not meet the visual protection goals of the Coastal Act which call for development to fit into the character of the surrounding areas. To meet these goals, it would seem any further development there should be avoided and this rare open space preserved in perpetuity, and in the very least any proposed campus development should significantly minimized, and should not exceed one story in height.

The campus plan allows massive development in a small area, and the little remaining open space is not protected from possible future development proposals by UCSC. Absent all current open space being protected, at the very least, the remaining open space should be protected in perpetuity.

Prime coastal sites should not be developed with uses that are not coastal dependent. Although the 120 units of housing may be related to the functioning of the Marine Campus, they will contribute unnecessarily to the visual mass and the building density of the site. This housing could be located in proximity of the campus, but in a less visible and less impacted site. Similarly, some of the support facilities which are not directly necessary for research activities should be located in other property that UCSC already owns in proximity of the Terrace Point site. (The former Texas Instruments site.)

The CLRDP does not address the traffic impact of the campus development on the surrounding neighborhoods. Traffic impacts will be severe and need to be mitigated.

Thank you for the opportunity to present these comments in opposition to excessive amount of development proposed by UCSC at Terrace Point.

Sincerely,
Anita Webb
170 W. Cliff #12
Santa Cruz, CA

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FEB 06 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

H. Reed Searle
114 Swift Street
Santa Cruz, CA 95060
Phone and Fax 831-425-8721
5 February 2006

California Coastal Commission
Central Coast District Office
725 Front Street
Santa Cruz, CA 95060

Re: Coastal Long Range Development Plan (CLRDP) for
UCSC Marine Science Campus at Terrace Point, Santa Cruz
Meeting date: Feb 10, Item 5B

Comment requesting mitigation of traffic impact

Dear Coastal Commissioners:

I write with reference to the impact of automobile traffic which undoubtedly will be generated by the Terrace Point project. A substantial part of this traffic will use West Cliff Drive and adjacent streets unless appropriate traffic calming measures are installed. The CLRDP does not address this issue.

The proposed development includes quadrupling the existing buildings and adding 112 housing units plus 10 "overnight units". No traffic studies are part of the CLRDP, but it is obvious that substantial traffic will be generated by the project. Adverse impacts will be greatly increased by proposed UCSC expansion, 2300 Delaware and other changes to the Westside industrial areas.. We have seen increasing commuter use of West Cliff in recent years and this trend will certainly continue unless appropriate traffic calming measures are installed.

It would be much better if this traffic were diverted north on Shafer Road to Highway 1, but this option is unavailable, at least at present. That being the case, all traffic will use Delaware St, and much of that traffic will spill over onto Swanton, Swift, Fair, Almar in order to access West Cliff Drive.

West Cliff is a recreational route. Its major value, the one to be protected, is its use for recreational and not for commuter purposes. It contains a section of the Monterey Bay Sanctuary Trail, the Pacific Bicycle Trail and is a major recreational bicycle/pedestrian route benefitting a

hrsearle@sbcglobal.net

steadily increasing number of local residents and tourists. It provides a cliff top walkway connecting two major State Parks and access to major surfing and sunbathing areas and beaches.

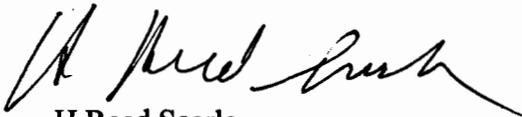
West Cliff Drive probably attracts as many people for recreational purposes as does Wilder Ranch, Moore Creek or Natural Bridges. It is both appropriate and necessary that West Cliff be protected from commuter automobile traffic.

Coastal Act section 30253(5) requires that "New development shall...protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses." Section 30240(b) requires that "Development in areas adjacent to...recreational areas shall be...designed to prevent impacts which would significantly degrade those areas...."

Appropriate traffic calming measures at the intersections of Delaware with the named streets, probably neighborhood entry points, could help. These streets and West Cliff substantially could be protected by chokers, chicanes, possibly speed humps, road closures, additional stop signs, and other measures which would reduce effective speed to 20 M.P.H.. This would materially reduce noise and numbers of automobiles, improve safety, and encourage recreational use.

I request that the Coastal Commission consider imposing the design and installation of measures, approved by the City of Santa Cruz, as an appropriate mitigation measure attendant upon approval of the project. "Fair Share" may be applicable, but most of the reasonably anticipated traffic will be generated by UCSC facilities; consequently UCSC should, in the first instance at least, bear the entire responsibility.

Sincerely,



H Reed Searle

Huffman-Broadway Group, Inc.

Environmental Regulatory Consultants
828 Mission Avenue, San Rafael, California 94901 USA • (415) 925-2000 • Fax (415) 925-2006
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RECEIVED

February 7, 2006

FEB 08 2006

Mr. Charles Lester
Deputy Director
Central Coast District
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, California 95060-4508

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Subject: Terrace Point Coastal LRDP-UCSC

Dear Mr. Lester:

This letter responds to comments made in a letter forwarded to your office on November 23, 2005, from Robert R. Curry. Mr. Curry's letter raises several concerns regarding the wetland delineation prepared by the Huffman-Broadway Group (HBG). These issues are repeated for clarity below followed by our response. Attachment 1 provides literature citations for the publications cited in this letter.

Comment by Robert Curry. *"HBG rejects soil color (hue and chroma) as a criterion for hydric soil classification because they contend that the dark colors of some of the soils that my investigations found to be seasonally reducing in eH was a condition inherited from prior agricultural use of the site. The three-agency federal rules do allow the delineator to reject soil color as diagnostic tool where the naturally dark colors mask soil organic content. The most common site condition for dark soils that are not dark because of organic matter is that of soils high in dark volcanic glass. Other dark minerals can also mask organic accumulations in soil. But HBG believes these Terrace Point soils are dark because of accumulations of agricultural crop residues, presumably left from the 1960's when this site was a brussel-sprout field. I mapped these soils in the 1960's and dug many pits to verify that they were organic rich where seasonally ponded water drained slowly due to perched water tables.*

It matters not at all what the source of the dark organic matter is, so long as it is reducing and so long as those reducing conditions are reflected in the seasonal vegetation. If the soils are reducing, have standing or shallow groundwater and some season, and if plants are growing at that season, then the three criteria are present for wetland classification. I believe that at least a major portion of the soil organic matter is inherited from long-standing seasonal wetland conditions prior to agricultural use. HBG believes it is agriculturally induced. But in either case, the soils meet the criterion for seasonally reducing".

Mr. Charles Lester
California Coastal Commission
February 7, 2006
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HBG Response. Mr. Curry has taken out of context a sentence in our January 2004 delineation report (HBG 2004), which states, "Soils on the property developed under crop cover or grasslands and consequently have organic-rich, dark brown surface layers with low chroma values, which inhibit the use of soil color as an indicator." Mr. Curry mistakenly assumed that the word "grasslands" in the above-quoted sentence of our report is associated with agricultural crops. In contrast we are referring to native grassland that once occupied the coastal landscape prior to agricultural crops being grown at Terrace Point. Soils found at the Terrace Point site exhibit a rich-dark organic horizon and are classified by soil scientists as Mollisols. Mollisols develop under grassland vegetation, and develop dark brown to black organic rich surface layers. Because this dark color obscures accurate observation of colors resulting from reduced conditions, the Terrace Point site was treated as a problem area with respect to determining wetland / hydric soil indicators. The Corps' 1987 *Wetlands Delineation Manual* (Corps 1987) does not require the use of soil color in satisfying the wetland soil criterion. To use soil color as an indicator of wetland soil at the site would yield a false positive result; both upland (well-drained) and hydric (ponded) soils found at the Terrace Point site exhibited dark soil colors in the upper 12 inches of the soil surface. Furthermore, the Corps' 1987 *Manual* (pg. 8) allows for flexibility in applying the methodology, as "site conditions may require modification of field procedures."

Although soil color can be a valid indicator of hydric soil conditions, it is not as reliable as other indicators and its reliability needs to be questioned based on site conditions (Corps 1987, footnote 1). HBG initially evaluated using soil color as a potential indicator of hydric soils, but determined that it would not be a reliable indicator given that the soils at the site are Mollisols. In addition, even if soil color were used, it would only provide an indication of what has happened as a result of historical soil formation processes and would not represent current conditions. For these reasons, the wetland delineation at Terrace Point did not rely on the occurrence of a dark soil color, but considered other factors that influence the distribution of wetlands, with emphasis during the study being placed on evaluation of soil moisture and drainage conditions during the rainy season.

Mr. Curry's statement regarding "soil color (hue and chroma) as a criterion for hydric soil classification" is incorrect; soil color is not used by the Corps 1987 *Manual* as a criterion for hydric soil classification, but an indicator, and as such is either used, or, as in the above problem situation, not used. Furthermore, the hydric soils criteria developed by the National Hydric Soils Committee (NTCHS), which the Corps 1987 methodology follows, do not rely on soil color as a criterion for determining the presence of hydric soils. The NTCHS, a working group organized by the USDA Natural Resources Conservation Service, has developed criteria in identifying and mapping hydric soils throughout the United States. These criteria for determining the presence of hydric soils in the field are accepted by most state and federal agencies, include the following:

- (1) All Histosols, except Folists; or

- (2) Soils in Aquic suborders, great groups, or subgroups, Albolls suborder, Aquisalids, Pachic subgroups, or Cumulic subgroups that are:
 - (a) Somewhat poorly drained with a water table equal to 0.0 foot from the surface during the growing season; or
 - (b) Poorly drained or very poorly drained and have either:
 - (i) water table equal to 0.0 foot during the growing season if textures are coarse sand, sand, or fine sand in all layers within 20 inches, or for other soils;
 - (ii) water table at less than or equal to 0.5 foot from the surface during the growing season if permeability is equal to or greater than 6.0 inches/hour in all layers within 20 inches; or
 - (iii) water table at less than or equal to 1.0 foot from the surface during the growing season if permeability is less than 6.0 inches/hour in any layer within 20 inches; or
- (3) Soils that are frequently ponded for long duration (7 to 30 days) or very long duration (30+ days) during the growing season; or
- (4) Soils that are frequently flooded for long duration (7 to 30 days) or very long duration (30+ days) during the growing season.

Comment by Robert Curry. *“Further confounding the HBG delineation of statutory wetlands at Terrace Point is their contention that some of the sites that had surface saturation or shallow saturation during winter months, and would otherwise be classed as meeting the wetland hydrology criterion, were simply perched water tables or sites of very slow infiltration capacity where water accumulated near the surface but not at depth. In fact, that is exactly correct and is, indeed, a valid criterion for wetland hydrology. The Terrace Point soils are derived from deposits on a marine terrace cut by waves on the Santa Cruz Mudstone. That shallow underlying bedrock deposit is virtually impermeable to seasonal precipitation. The overlying beach deposits are thus subject to seasonal standing water that slowly moves seaward along the 0.5-degree gradient on the wave-cut bedrock surface and that saturates much of the terrace deposit and leads to rapid weathering of the beach sands to form clay minerals that plug and restrict water movement. This is what creates local perched water tables or zones of slow downward percolation. That is precisely the condition that is considered wetland hydrology.*

Mr. Charles Lester
California Coastal Commission
February 7, 2006
Page 4 of 6

The local wetlands are not isolated as defined under the SWANCC decision¹ because the waters are interconnecting and flow to the sea during large storm events in wet years. Further the California Coastal Act rules protect isolated wetlands in the Coastal Zone”.

HBG Response. The shallow bedrock that Mr. Curry refers to occurs farther down the soil profile, at depths greater than 12 inches from the soil surface except for wetland “W5”. Mr. Curry mistakenly implies that the presence of any soil saturation within the soil column satisfies the Corps 1987 *Manual* and the associated hydric soils definition and criteria developed by the National Hydric Soils Committee. The determination of the presence or absence of hydric soil conditions and wetland hydrology was based on observed soil moisture conditions following Corps 1987 *Manual* guidelines. The *Manual* indicates that the majority of the root zone (usually within 12 inches of the surface) of the prevalent species be saturated for the wetland indicator of soil saturation to be present. Soils found to contain saturated layers during the rainy season rarely were saturated throughout the majority of the root zone, which would be >6 inches within the upper 12 inches of the soil surface. Typically only 2 to 4 inches of the upper 12 inches of the soil profile were found to be saturated. If groundwater were driving soil moisture levels on Terrace Point, one would expect continuous saturation through the soil column or a “moist to wet to saturated” gradient from the top to the bottom of the soil column. On the basis of the occurrence of moist and wet soils *below* saturated soil layers, soil moisture levels on Terrace Point are believed to be driven by downward and lateral movement of water through the soil column, rather than by rising groundwater. Forces acting on the soil moisture in the root zone – including transpiration, evaporation, and drainage – maintain the majority of the soils in an unsaturated condition. Because of this condition, the majority of soils at Terrace Point do not exhibit either hydric soil or wetland hydrology conditions.

Mr. Curry refers to the SWANCC Supreme Court decision and the fact that the Terrace Point site drains to the sea. It is unclear what this statement has to do with the Coastal Act jurisdiction, except to say that with the exception of wetland “W7”, all wetlands on the Terrace Point during extreme stormwater events have surface flow that drains to the Pacific Ocean through manmade drainages.

Comment by Robert Curry. *“Finally, Huffman proposes that some of the plants that exist in wetland pockets and areas on the Terrace Point site are not all wetland indicators because, although so classified, they also exist in uplands or are not indicators in this particular site.*

¹ Based on the Supreme Court ruling in *Solid Waste Agency for Northern Cook County v. U. S. Army Corps of Engineers* (SWANCC) concerning the Clean Water Act jurisdiction over isolated waters (January 9, 2001), nonnavigable, isolated, intrastate waters based solely on the use of such waters by migratory birds are no longer defined as waters of the United States. Jurisdiction of non-navigable, isolated, intrastate waters may be possible if their use, degradation, or destruction could affect other waters of the United States, or interstate or foreign commerce.

Mr. Charles Lester
California Coastal Commission
February 7, 2006
Page 5 of 6

HBG can, under the three-element rules currently in force, dismiss one or more criteria for special reasons. Indeed, plants can be false indicators. The plants that are wetland indicators on the 1st (lowest) marine terrace throughout coastal Monterey Bay and San Mateo County are widespread and tolerant of many conditions. But the bottom line question that the Coastal Commission must ask is "Do the conditions at Terrace Point reflect seasonal reducing conditions that improve or maintain water quality?" With high organic matter in soils and seasonally reduced infiltration of ample rainfall, are the wetland-indicator native plants found at Terrace Point indicators of wetland conditions?

HBG proposes special conditions for Terrace Point. The site was once agricultural fields. The soils are high in clay content. The clay content varies laterally, possibly due to past land uses. Saturated or near saturated soil conditions within the rooting zone vary from site to site and year to year. Some of the indicator species found on site clearly grow in non-saturated sites. The dark surface soils may reflect past conditions. The growing season is 365 days long so the coincidence of the three criteria may not reflect conditions throughout the year. But none of these are valid excuses for abrogating the wetland classification rules. HBG does not justify ignoring the standard methodology. That methodology is carefully crafted to preserve sites where seasonal or permanent water quality enhancement is possible because of local site conditions".

HBG Response. The approach taken by HBG followed the methodology in the Corps' 1987 *Manual* (Corps 1987) and subsequent guidance documents. HBG did not dismiss any criteria or parameter. Certain soil indicators (soil color and presence/absence of redoximorphic features) were not relied on due to problem dark soil conditions that interfered with meaningful interpretation and were replaced with more definitive ones, as is allowed for by the Corps' 1987 *Manual* (pg 8). Furthermore, for comprehensive determinations, the Corps' 1987 *Manual* allows for the alteration of the sample design and/or data collection procedures (pg. 61). In addition, HBG coordinated with California Coastal Commission staff and representatives of the Terrace Point Action Network (TPAN) during the course of the investigation. The coordination was for the purpose of reviewing of methodology and for making adjustments to the delineation approach given that the site has problem soil and vegetation conditions that are not readily interpretable without the collection of quantitative data (e.g., soil moisture).

Comment by Robert Curry. *"In my professional opinion, the HBG delineation should be reexamined and the oxy-redox status of the soils should be assessed electronically, without using carcinogenic alpha-alpha' dipiradryl, to determine wetland status under wintertime saturated conditions where plant species indicate potential wetland status."*

HBG Response. The redox probe and the α, α' dipyridyl method suggested by Mr. Curry have significant problems that may affect the readings (Tiner 1999). The former measures redox potential with platinum probes inserted into the soil, while the latter is a colorimetric test using a

Mr. Charles Lester
California Coastal Commission
February 7, 2006
Page 6 of 6

chemical applied to a selected soil sample to detect ferrous iron (indicative of soil anaerobic conditions). The technique proposed by Mr. Curry is prone to particular problems. The probe only measures the immediate point the probe comes into contact with in the soil and soils such as those found Terrace Point, which exhibit spatial variability in terms of texture, level of compaction, presence of animal burrows, and macropores filled with water, can significantly affect readings depending on where the probe is placed. The α, α' dipyridyl method is prone to false positives based on a number of problems associated with soil chemistry, timing of observation, photochemical reaction, and reactions with soil that has been in contact with metal (e.g., steel shovel, auger, metal probe or knife). On the basis of these documented problems with the two approaches mentioned by Mr. Curry, HBG believes that either approach will yield inconclusive results at the Terrace Point site.

In contrast, the method HBG used to measure soil moisture in the field during the rainy season was based on direct field observation of the soil at each sample site on an inch by inch basis within 12 inches of the soil surface with observations made using qualitative soil moisture descriptors (moist, wet, very wet and saturated) and with these descriptive soil moisture classifications quantified following the quantitative water content analysis procedures described by Hillel (1982) and Klute (1986). HBG therefore believes that the method used produced conclusive results.

Sincerely,



Terry Huffman, PhD
Wetlands Regulatory Scientist

cc: Mr. Dan Carl
Dr. John Dixon

Attachment 1. Literature Cited

ATTACHMENT 1. LITERATURE CITED

Hillel, D. 1982. *Introduction to Soil Physics*. Academic Press, Inc. San Diego, CA, pp. 57-60

Huffman-Broadway Group, Inc. (HBG). 2004. *Investigation of the Presence and Geographic Extent of Wetlands on the Terrace Point and Younger Lagoon Reserve, University of California, Santa Cruz*. January.

Klute, A. 1986. *Methods of Soil Analysis, Part I-Physical and Mineralogical Methods*. Soil Science Society of America, Inc.

Tiner, Ralph W. 1999. *Wetland Indicators: A Guide to Wetlands Identification, Delineation, Classification and Mapping*. Lewis Publishers.

U.S. Army Corps of Engineers (Corps). 1987. *Corps of Engineers Wetlands Delineation Manual*. Wetlands Research Program Technical Report Y-87-1. U.S. Army Corps of Engineers, Waterways Experiment Station, Environmental Laboratory. Vicksburg, MS.

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FEB 07 2006

F5a
F5b

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

shirley Murphy
opposed

Dear Commissioners:

I still do not understand why subjects that affect Santa Cruz cannot be held here in Santa Cruz so that more people can attend.

As stated in my first letter; no one else was allowed to build on this property, and this last letter does not indicate housing, however we know that in the plan housing is included.

If only research facilities are built, even though they seem rather large I cannot oppose them; however if as I suspect, housing is included I am opposed to the construction of homes for staff. UCSC, has in the past, indicated it would build homes and if staff did not buy them they would sell to the general public. There are many areas on the UCSC campus where "pods" of homes could be built, keeping everyone on campus and allowing staff to travel to work via the campus bus system; thereby eliminating more traffic problems.

I would love to see more public access trails as this is a great area for birders. The area could use some habitat restoration also.

Again, I am opposed to housing and even though the buildings seem a little large to me, if it is for research I cannot be opposed.

Sincerley



Shirley Murphy
1780 Lois Lane
Santa Cruz Ca 95062

February 6, 2006

Chairwoman Meg Caldwell and Commissioners
c/o Central Coast District

Re: UC Santa Cruz CLRDP

Dear Chairwoman Caldwell and Commissioners:

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FEB 07 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

I want to bring a controversial matter directly to your attention concerning the adequacy of the wetlands delineation that was used for the UCSC CLRDP.

Dr. Robert Curry, a recognized hydrology and wetlands expert, recently submitted a letter to your staff challenging the delineation. To summarize, he contends that the public and the Coastal Commission are being asked to accept a completely non-standard definition of wetlands for this project and that wetlands are likely more prevalent than what UCSC has delineated.

I sent a copy of Dr. Curry's letter to Dr. Robert Leidy who is with the Environmental Protection Agency. Dr. Leidy is an ecologist with EPA and is a national expert in wetland delineation. He said that since this controversy exists, it might make sense to have the delineation verified by the Army Corps of Engineers and/or the EPA first, before the Coastal Commission approves the project, since this will have to be done in any event to ensure compliance with Section 404 of the CWA. He also said that the EPA does have staff available to jointly come out with the Army Corps to verify any wetlands delineation.

Given the uncertainty in the environmental community about the delineation and the lack of a wetlands support study, I hope that the Commission will exercise caution and allow time to at least obtain a peer review of the delineation before making a decision on the project application. My understanding is that a peer review could be accomplished in approximately 4-6 weeks.

The accuracy of the delineation is crucial and directly related to ESHA issues, storm water management strategy, design and adequate functioning of detentions ponds, and viability of a successful Reserve Management Plan including the following:

1. UCSC has not conducted a hydrologic sufficiency of wetlands support study. Even if the delineation was accepted as being accurate, no thorough analysis has been done on what will happen to any remaining wetlands and Younger Lagoon if this project is built.
2. UCSC did not develop a complete hydrologic model that incorporates and integrates both surface and subsurface flow and how it relates to storm water management plans.

3. Storm water detention ponds may become wetlands and habitat for the California Red-legged frog over time. UCSC states in Implementation Measure 7.2.2 “natural drainage features to be created per the Drainage Concept Plan may exhibit wetland and/or habitat characteristics over time, but their primary function is for water filtration and treatment, flow control, and infiltration. As such, maintenance within them on a regular basis is expected and necessary in this respect, and is allowed per this CLRDP.”

This statement is misleading. Simply asserting that the CLRDP will allow regular maintenance of ponds ignores that USFWS has already stated to the Commission that a red-legged frog take permit and Habitat Conservation Plan will likely be required for these ponds. A key campus study by outside consultants, the 2004 UCSC Stormwater & Drainage Master Plan by Kennedy-Jenks, stated: "In 1988 the University attempted to detain flows from College 8 and Family Student Housing by constructing a detention basin. Shortly after construction, the detention basin filled with sediment and became habitat for the California re-legged frog. The presence of a special-status species such as the California red-legged frog expands the effort and time required to obtain permits to clean out the basin. Therefore, the basin has not been routinely cleared of sediment and debris and, as a result, the basin no longer functions to detain flows."

4. UCSC does not make definite commitments for storm water mitigations so we do not really know what environmental impacts will occur (even if adequate hydrologic analysis had been completed). UCSC uses terms such as “to the degree feasible”, “to the maximum extent practicable”, and “with the exception that”. This is inconsistent with what the Central Coast Regional Water Quality Control Board will require. For example, the water board sent comments on the main campus 2005 LRDP EIR which are attached to this letter including:

“Water Board staff is concerned with UCSC’s history of failure to comply with mitigation requirements due to “lack of funding.” UCSC’s 2004 Mitigation Monitoring Program Report repeatedly states that mitigation measures were not implemented due to “lack of funding” and “budget constraints.” Such terms are unacceptable. Water Board staff would like to reiterate that **mitigation funding is not to be budget dependent.**”

UCSC has a long history of ignoring environmental degradation caused by inadequate storm water management. This history dates back at least to 1988 when the Long Range Development Plan (LRDP) was adopted, in which storm water and erosion problems were identified and mitigations proposed. However, most of these promised mitigations were never implemented. As a result, the situation has been allowed to deteriorate and is now at a critical state. As a result, the situation on the main has been allowed to deteriorate and is now at a critical state. The Kennedy-Jenks study concluded in the executive summary:

"The UCSC campus is currently at a turning point. Accelerated drainage and erosion problems need to be addressed now to ensure continued protection of the campus' natural landscape. . . The ecological integrity of campus watersheds will be irrevocably altered if such rates continue."

In summary, the CLRDP before you is flawed in many respects. I respectfully request that the Coastal Commission should require peer review of the wetlands delineation, a hydrologic sufficiency of wetlands support study, an updated storm water management plan that is consistent with other agency policies and requirements, definite commitments on what storm water mitigations will be implemented, and binding commitments on mitigation funding.

Thank you very much for your kind attention.

Sincerely,

A handwritten signature in cursive script that reads "Don Stevens". The signature is written in black ink and is positioned above the typed name and address.

Don Stevens
320 Cave Gulch
Santa Cruz, CA 95060
Tel: 831-425-4721



Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board Central Coast Region



Arnold Schwarzenegger
Governor

Internet Address: <http://www.waterboards.ca.gov/centralcoast>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

January 6, 2006

John Barnes
Director of Campus Planning
University of California, Santa Cruz
Physical Planning and Construction
1156 High Street
Santa Cruz, CA 95064

SUPPLEMENTARY COMMENTS – UC SANTA CRUZ 2005 LONG RANGE DEVELOPMENT PLAN DRAFT EIR, INFRASTRUCTURE IMPROVEMENT PROJECT, 2300 DELAWARE AV., FAMILY STUDENT HOUSING REDEVELOPMENT, SCH# 2005012113

Mr. Barnes:

Upon further review, the Central Coast Regional Water Quality Control Board (Water Board) offers these additional comments to the comment letter dated December 19, 2005, for your review.

Wetland Delineation

It has been brought to the Water Boards attention that portions of the north campus, which are proposed for development under the 2005 LRDP DEIR, contain jurisdictional wetlands. Section 4.4.1.7 of the LRDP DEIR contains a brief discussion of wetland habitat at UCSC. However, Section 4.8 (Hydrology and Water Quality) of the DEIR makes no mention of wetland habitat or mitigation for potential loss of wetlands. As noted in the previous letter, the Water Board, under the CWA Section 401, must certify any permit issued by the Army Corps of Engineers per Section 404 of the CWA. Where the Army Corps determines they have no jurisdiction, the Water Board may issue Waste Discharge Requirements or conditional waivers of WDRs to address discharges to wetlands per the Porter Cologne Water Quality Act. A formal, campus-wide wetland delineation should be performed and incorporated into the 2005 LRDP EIR prior to specific development project proposals and before further evaluation of the 2005 LRDP DEIR. For additional information regarding section 401 Water Quality Certification, please contact Dominic Roques at (805) 542-4780, droques@waterboards.ca.gov.

Mitigation Funding

Water Board staff is concerned with UCSC's history of failure to comply with mitigation requirements due to "lack of funding." UCSC's 2004 Mitigation Monitoring Program Report repeatedly states that mitigation measures were not implemented due to "lack of funding" and "budget constraints." Such terms are unacceptable. Water Board staff

would like to reiterate that **mitigation funding is not to be budget dependent**. Funding for development mitigation design must be a priority and should receive adequate funding before project design begins. Water Board staff previously noted this concern in our comment letter to the Notice of Preparation for the 2005 LRDP dated February 25, 2005. However, the 2005 LRDP DEIR provides no assurance that mitigation funding will be a priority. Water Board staff does not want to see this problem repeated for the 2005 LRDP's prescribed mitigation. Water Board staff requires the 2005 LRDP EIR to address how UCSC will ensure that mitigation will be a priority and receive adequate funding.

If you have questions regarding this matter, please contact Brandon Sanderson at (805) 549-3868, bsanderson@waterboards.ca.gov, or Donette Dunaway at (805) 549-3698, ddunaway@waterboards.ca.gov.

Sincerely,

Roger W. Briggs
Executive Officer

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044

File: SCH 2005012113 - UCSC LRDP DEIR Supplementary Comment Letter 2006_1
S:\CEQA\CEQA Tracking\Santa Cruz County
Task: Storm Water EIR Review





Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board Central Coast Region



Arnold Schwarzenegger
Governor

Internet Address: <http://www.waterboards.ca.gov/centralcoast>
895 Aerovista Place, Suite 101, San Luis Obispo, California 93401-7906
Phone (805) 549-3147 • FAX (805) 543-0397

December 19, 2005

John Barnes
Director of Campus Planning
University of California, Santa Cruz
Physical Planning and Construction
1156 High Street
Santa Cruz, CA 95064

COMMENTS – UC SANTA CRUZ 2005 LONG RANGE DEVELOPMENT PLAN DRAFT EIR, INFRASTRUCTURE IMPROVEMENT PROJECT, 2300 DELAWARE AV., FAMILY STUDENT HOUSING REDEVELOPMENT, SCH# 2005012113

Mr. Barnes:

Thank you for the opportunity to review and comment on the October, 2005 Draft Environmental Impact Report (EIR). We understand that the project is a land use plan that supports projected population growth and physical development of the UC Santa Cruz campus and offsite facilities over the next 15 years. It also evaluates the Infrastructure Improvement Project, 2300 Delaware Av. Project, and Family Student Housing Redevelopment Project, which will be tiered from the LRDP EIR.

As you may be aware, the Central Coast Regional Water Quality Control Board (Water Board) is a responsible agency charged with the protection of the Waters of the State of California in the Central Coast Region. Waters of the State include surface waters, ground waters, and wetlands. The Regional Board is responsible for administering regulations established by the Federal Clean Water Act and the California Water Code (Porter-Cologne Water Quality Control Act). The regulations cover discharges to surface water, groundwater, and discharges to land that may affect ground water quality, and may apply to this project.

We find the information provided in the Draft EIR to be inconsistent with the NPDES General Permit for construction activity and inadequate at addressing source control of stormwater runoff, which would ultimately affect water quality. **To facilitate the regulatory review process, we offer the following suggestions for your review.**

NPDES Construction General Permit

Section 4.8.2.4 (LRDP Impact HYD-2) states that construction on sites smaller than one acre are not subject to the requirement for construction-phase SWPPPs. This statement is inconsistent

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with the General Permit. Construction activity that results in soil disturbance of less than one acre is subject to the NPDES General Permit regulations, including the SWPPP, if the construction activity is part of a larger common plan of development (UCSC LRDP) that encompasses one or more acres of soil disturbance (Fact sheet for Water Quality Order 99-08-DWQ, NPDES Construction General Permit). For further reference please see:

<http://www.swrcb.ca.gov/stormwtr/docs/finalconstpermit.pdf>

Stormwater Source Control

Water Board staff is concerned that existing and foreseeable future erosion and sedimentation issues are not being addressed at the source of the problem as development continues through the proposed expansion of the UCSC campus. UCSC has experienced extensive erosion and excessive sedimentation to its natural drainage system that is largely due to increased runoff from impervious surfaces. Future development will add more impervious surface to the UCSC campus, thus exacerbating the erosion and sediment problems. Water Board staff has concerns with regards to erosion, sedimentation, urban pollutants, and the lack of source stormwater controls. The following are some specific examples that validate these concerns:

1. The Stormwater and Drainage Master Plan states, "On-going channel incision is so severe in many campus drainages that it is a significant consideration with regard to the use of natural drainage channels for stormwater conveyance, and limits future development options" (Kennedy/Jenks Consultants 2004).
2. Many of the campus sinkholes used for stormwater discharge conveyance are at capacity from increased sedimentation, resulting in downstream flooding, increased sediment, and urban pollutant loads to creeks and other water bodies.
3. The eastern portion of campus that drains to the San Lorenzo River Watershed is currently receiving concentrated stormwater runoff, contributing to deep incision, channel bank failure, and erosion to the San Lorenzo Watershed. This raises a particular concern since the San Lorenzo River is currently listed under the Clean Water Act 303(d) list for sediment impairment.
4. The Stormwater and Drainage Master Plan states, "Any future development to the North Campus area is prohibited due to heavy erosion from increase in surface runoff as a result of increased impervious area" (Kennedy/Jenks Consultants 2004). This area is described as having highly erosive soil that relies on natural infiltration to accommodate stormwater flow. However, the Draft EIR proposes an increase from 7 acres to 54 acres of impervious surface, resulting in a 31 percent increase in runoff.
5. Section 4.8.2.4 of the Draft EIR (LRDP Impact HYD-3) is determined significant yet unavoidable. This is not an acceptable determination under current conditions. These conditions only exist under conventional stormwater management design and therefore, can be resolved by implementing design standards that control stormwater at the source.

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Attachment to Stevens letter,
Page 4 of 10

As the University expands, the amount of impervious area that is projected to be added to the campus almost doubles. Along with this comes higher flow rates, greater volume, and increased urban pollutant levels. We feel that a preventative approach must be taken to address these issues so that extensive erosion and sedimentation do not persist.

Proposed stormwater drainage system improvements focus on channel alteration, detention, and diversion of stormwater flows. These improvements may help with existing erosion and sedimentation issues. However, they will not prevent the problem from reoccurring in the future. UCSC Campus Standards Handbook repeatedly states, "Storm drainage design shall provide for detention of stormwater runoff so that the post-development runoff rate does not exceed the pre-development runoff rate." The University is currently not meeting these pre-development runoff standards, resulting in extensive erosion to the campus natural drainage system. Subsequently, stormwater runoff detention addresses peak flow rates but does not address overall volume of stormwater flows. Increased volume still contributes to downstream erosion even when runoff is released at smaller amounts over longer periods of time. In addition, we are concerned that stormwater drainage system improvements may not be implemented before new buildings and other impervious surfaces are constructed, as stated in the Draft EIR section 4.8.2.4 page 33.

We highly suggest that the University takes a preventative approach to erosion control, sedimentation, and urban pollutants by controlling stormwater at the source. To accomplish this we suggest implementing Low Impact Development (LID) Design Standards to all new development and to existing development where feasible. LID captures stormwater at the source, allows stormwater to infiltrate, and prevents further water quality impacts (erosion, sedimentation, and urban pollutant loads) from occurring downstream.

Low Impact Development (LID)

LID is an alternative site design strategy that uses natural and engineered infiltration and storage techniques to control stormwater runoff where it is generated. LID combines conservation practices with distributed stormwater source controls and pollution prevention to maintain or restore watershed functions. The objective is to disperse LID devices uniformly across a site to minimize runoff (Anne Guillette, Whole Building Design Guide).

LID reintroduces the hydrologic and environmental functions that are altered with conventional stormwater management. LID helps to maintain the water balance on a site and reduces the detrimental effects that traditional end-of-pipe systems have on waterways and the groundwater supply. LID devices provide temporary retention areas; increase infiltration; allow for nutrient (pollutant) removal; and control the release of stormwater into adjacent waterways (Anne Guillette, Whole Building Design Guide). For further reference please see:

<http://www.epa.gov/owow/nps/lid/>

Ten Common LID Practices Include:

1. Site Design Layout to Reduce and Disconnect Impervious Surfaces
2. Rain Gardens and Bioretention

California Environmenta



3. Rooftop Gardens
4. Tree Boxes to Capture and Infiltrate Street Runoff
5. Vegetated Swales, Buffers, and Strips; Native Vegetation Preservation
6. Roof Leader Flows Directed to Rain Gardens
7. Rain Barrels and Cisterns
8. Permeable Pavers
9. Soil Amendements
10. Pollution Prevention and Good Housekeeping

Water Quality Certification

The Water Board must certify that any permit issued by the Army Corps of Engineers per Section 404 of the Clean Water Act complies with state water quality standards, or deny certification. Section 401 Water Quality Certification is necessary for all Section 404 permits, including reporting and non-reporting Nationwide permits. Proponents of any project requiring a Section 404 permit from the Army Corps of Engineers should apply for Section 401 Water Quality Certification. Applications are available on-line at:

<http://www.waterboards.ca.gov/centralcoast/401WQCert/Index.htm>.

For Water Quality Certification, the Water Board requires that alternatives be considered for projects resulting in impacts on streams and wetlands. We also require mitigation of wetland impacts at a ratio of 3:1, mitigation of riparian impacts at a ratio of 1:1, and mitigation of streambed impacts at a ratio of 2:1 (through enhancement of riparian habitat).

Additionally, any project that involves disturbance of a streambank or riparian area must also obtain a Streambed Alteration Agreement from California Department of Fish and Game. *Evidence of CEQA compliance must be available before CWA Section 401 Water Quality Certification can be obtained.*

If you have questions regarding this matter, please contact Brandon Sanderson at (805) 549-3868, bsanderson@waterboards.ca.gov, or Donette Dunaway at (805) 549-3698, ddunaway@waterboards.ca.gov.

Sincerely,

Roger W. Briggs
Executive Officer

cc: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044

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Attachment to Stevens letter,
Page 6 of 10

File: SCH 2005012113 - UCSC LRDP EIR Comment Letter 2005_12
S:\CEQA\CEQA Tracking\Santa Cruz County
Task: Storm Water EIR Review

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Attachment to Stevens letter,
Page 7 of 10



Watershed Systems

Robert

Curry, Ph.D., P.G.

Hydrology - Geology - Soil Science

600 Twin Lanes, Soquel, Calif. 95073

831 426-6131; FAX 426-9604; curry@ucsc.edu

field: 760 932-7700

Nov 23, 2005

Charles Lester, Deputy Director of the Central Coast District
Office, California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

By FAX (831) 427-4877

Re: Terrace Point Coastal LRDP– UCSC

Gentlepeople:

I am addressing a single issue among the many controversial points that you must evaluate for your staff recommendations. That issue is the definition of wetlands used by UCSC's consultants.

The public is being asked by UCSC through its Coastal LRDP EIR to accept a completely non-standard definition of wetlands. Non-standard definitions are allowed under the federal interagency rules where there are special conditions and where the exceptions can be justified. It is imperative that the applicants accurately justify their request for any exceptions to the standard 3-element rule.

The Huffman-Broadway Group (HBG) who conducted the wetland delineation for UCSC developed a painfully obtuse justification for their decision to eliminate several areas of potential wetland from consideration either under what they term the "Corps of Engineers rules" and those subject to the California Coastal Act¹. In my opinion, based on my work with the U.S. Environmental Protection Agency and the State of California Water Quality Control Boards on matters of wetland delineation, the conclusions of the HBG have not met the criteria for justification and cannot meet that criteria. I believe that the Coastal Commission would be in error if they accept the final delineation as proposed by HBG.

¹ Huffman-Broadway Group, Inc., *Investigation of the Geographic Extent of Wetlands and Other Environmental Sensitive Habitat Areas on Terrace Point and Younger Lagoon Reserve*, University of California, Santa Cruz. Prepared for the University of California, Santa Cruz. April 2002. Larkspur, California 46 pp. plus

Specifically, HBG rejects soil color (hue and chroma) as a criterion for hydric soil classification because they contend that the dark colors of some of the soils that my investigations found to be seasonally reducing in eH was a condition inherited from prior agricultural use of the site. The three-agency federal rules do allow the delineator to reject soil color as diagnostic tool where the naturally dark colors mask soil organic content. The most common site condition for dark soils that are not dark because of organic matter is that of soils high in dark volcanic glass. Other dark minerals can also mask organic accumulations in soil. But HBG believes these Terrace Point soils are dark because of accumulations of agricultural crop residues, presumably left from the 1960's when this site was a brussel-sprout field. I mapped these soils in the 1960's and dug many pits to verify that they were organic rich where seasonally ponded water drained slowly due to perched water tables.

It matters not at all what the source of the dark organic matter is, so long as it is reducing and so long as those reducing conditions are reflected in the seasonal vegetation. If the soils are reducing, have standing or shallow groundwater and some season, and if plants are growing at that season, then the three criteria are present for wetland classification. I believe that at least a major portion of the soil organic matter is inherited from long-standing seasonal wetland conditions prior to agricultural use. HBG believes it is agriculturally induced. But in either case, the soils meet the criterion for seasonally reducing.

Further confounding the HBG delineation of statutory wetlands at Terrace Point is their contention that some of the sites that had surface saturation or shallow saturation during winter months, and would otherwise be classed as meeting the wetland hydrology criterion, were simply perched water tables or sites of very slow infiltration capacity where water accumulated near the surface but not at depth. In fact, that is exactly correct and is, indeed, a valid criterion for wetland hydrology. The Terrace Point soils are derived from deposits on a marine terrace cut by waves on the Santa Cruz Mudstone. That shallow underlying bedrock deposit is virtually impermeable to seasonal precipitation. The overlying beach deposits are thus subject to seasonal standing water that slowly moves seaward along the 0.5-degree gradient on the wave-cut bedrock surface and that saturates much of the terrace deposit and leads to rapid weathering of the beach sands to form clay minerals that plug and restrict water movement. This is what creates local perched water tables or zones of slow downward percolation. That is precisely the condition that is considered wetland hydrology. The local wetlands are not isolated as defined under the SWANCC decision² because the waters are interconnecting and flow to the sea during large storm events in wet

² Based on the Supreme Court ruling in *Solid Waste Agency for Northern Cook County v. U. S. Army Corps of Engineers* (SWANCC) concerning the Clean Water Act jurisdiction over isolated waters (January 9, 2001), nonnavigable, isolated, intrastate waters based solely on the use of such waters by migratory birds are no longer defined as waters of the United States. Jurisdiction of non-navigable, isolated, intrastate waters may be possible if their use, degradation, or destruction could affect other waters of the United States, or interstate or foreign commerce.

years. Further the California Coastal Act rules protect isolated wetlands in the Coastal Zone.

Finally, Huffman proposes that some of the plants that exist in wetland pockets and areas on the Terrace Point site are not all wetland indicators because, although so classified, they also exist in uplands or are not indicators in this particular site.

HBG can, under the three-element rules currently in force, dismiss one or more criteria for special reasons. Indeed, plants can be false indicators. The plants that are wetland indicators on the 1st (lowest) marine terrace throughout coastal Monterey Bay and San Mateo County are widespread and tolerant of many conditions. But the bottom line question that the Coastal Commission must ask is "Do the conditions at Terrace Point reflect seasonal reducing conditions that improve or maintain water quality?". With high organic matter in soils and seasonally reduced infiltration of ample rainfall, are the wetland-indicator native plants found at Terrace Point indicators of wetland conditions?

HBG proposes special conditions for Terrace Point. The site was once agricultural fields. The soils are high in clay content. The clay content varies laterally, possibly due to past land uses. Saturated or near saturated soil conditions within the rooting zone vary from site to site and year to year. Some of the indicator species found on site clearly grow in non-saturated sites. The dark surface soils may reflect past conditions. The growing season is 365 days long so the coincidence of the three criteria may not reflect conditions throughout the year. But none of these are valid excuses for abrogating the wetland classification rules. HBG does not justify ignoring the standard methodology. That methodology is carefully crafted to preserve sites where seasonal or permanent water quality enhancement is possible because of local site conditions.

In my professional opinion, the HBG delineation should be reexamined and the oxy-redox status of the soils should be assessed electronically, without using carcinogenic alpha-alpha' dipiradryl, to determine wetland status under wintertime saturated conditions where plant species indicate potential wetland status.

Sincerely,

Robert R. Curry

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FEB 06 2006

Memorandum

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

To: Peter Douglas, Executive Director
CC: Charles Lester, Deputy Director; Steve Monowitz, District Manager; Mike Watson
From: Mark S. Yandow
Date: 1/31/2006

Subject: CCC Appeal #A-3-PSB-06-003, Pismo Beach Permit 05-0146A
Yandow Residence APN 010-505-014
188 Seacliff Drive, Pismo Beach, California
San Luis Obispo County

This letter is in response to an "Appeal from Coastal Permit Decision of Local Government" submitted by Tim Page on December 20, 2005, and Coastal Commissioners Caldwell and Wan postmarked January 6, 2006. I am writing you, to see if you can provide some sense of reason to Coastal Commission actions related to my home. At this point, I feel victimized. I have adhered to the process every step of the way, met all requirements and am currently seeking to complete the final steps recommended by licensed professionals that will provide the best available option to protect my family and property.

Background

The City of Pismo Beach identified, discussed and approved two projects, Permit #05-0146A and Permit 05-0146B. The Coastal Commission generated two Notifications of Appeal, A-3-PSB-06-002 for permit 05-0146B, and A-3-PSB-06-003 for permit #05-0146A.

This letter addresses A-3-PSB-06-003, the project to install a safety fence, of wrought iron, approximately 70' long and 30" high. The fence would parallel the bluff, a minimum of 6' from the bluff edge, run between the existing side fences located at 188 and 194 Seacliff, and provide a barrier to keep humans and animals off the blufftop. This elimination of traffic, in conjunction with the Ceanothus, implements the project recommendations for erosion control and safety.

The "Proper Grounds for an Appeal" (per P.R.C. Section 30603 as amended 1/1/92)

A. The grounds for an appeal ... of an approval project, shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth.

The appeals submitted by Tim Page, Commissioner Caldwell and Commissioner Wan do not address the two permit decisions made by the City of Pismo Beach individually, nor do they meet the proper grounds for an appeal documented on the Appeal Information Sheet published by the California Coastal Commission. The appeals group the two projects together, and as such provide incorrect data and misrepresent both projects. The appeal filed by the commissioners on January 5, 2006 was outside of the prescribed timeline.

The appeals filed by Commission Caldwell and Wan were identical for both projects, although the projects are unique and materially different. The appeals consist of an opening paragraph and four bullet points.

In the opening paragraph the appeal asserts that the “*fencing encroaches upon and/or obstructs an existing coastal access path*”. This is an inaccurate statement, it simply does not. The proposed safety fence has no impact, or physical overlap, to the area defined in the text of the expired offer to dedicate, and current private litigation action. To the four bullet points:

1. First point (section 17.066.010 PB Zoning Ordinance) – irrelevant, does not discuss, and has no bearing to this safety fence approved by Pismo Beach City Council.
2. Second point (Coastal Act Section 30211) – irrelevant, does not discuss, and has no bearing to this safety fence approved by Pismo Beach City Council.
3. Third point (section 17.066.010 PB Zoning Ordinance) – irrelevant, no bearing to this safety fence approved by Pismo Beach City Council.
4. Fourth & Last point (GP/LUP Policy PR-33) – appellants fail to state the entire land use policy, which stipulates that fences that conforms with guidelines are allowed within the blufftop retreat zone, no nearer than 5’ from the edge, as long as the fence is movable, under 42” high, and 90% transparent, and supported by a geologist report.

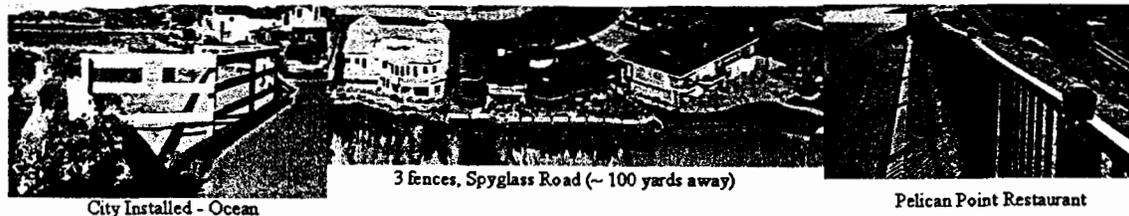
The fence proposed and discussed in this appeal is in full compliance with the certified LCP, local zoning ordinances and the general plan (*Attachment 1*). The Pismo Beach Staff Report of approximately 100 pages discussed the above policies. Four members of the Pismo Beach City Council made site visits to the property to ensure they understood the project scope and alleged issues. The result of the due diligence was the fence was approved by the Pismo Beach Planning Commission 5-0 in October 2005, and by the Pismo Beach City Council 5-0 on December 6, 2005. This fence is:

- in accordance with local zoning and buildings codes (materials, setbacks)
- in accordance with the certified LCP (geologist report)
- recommended by licensed geologist for safety measures and erosion control

The primary geologist, GeoSolutions, made recommendations related to erosion control that were peer reviewed and approved by Earth Pacific Systems. The reports are undisputed by any professional geologist. *Attachment 2* shows two letters on point to the Safety Fence, that were supported by the project report published August 2003 and the addendum in December 2003.

The requested safety fence is consistent and similar with those throughout Shell Beach, Pismo Beach, and for that matter the State of California. Below are just a few examples of safety fences in the immediate area.

Street	Homes on Ocean	# with Safety Fence
Indio	30	27
Spyglass	14	13
Seacliff	7	4
Shoreline	10	7
Total	61	51



This safety fence, (CCC Appeal #A-3-PSB-06-003, Pismo Beach Permit #05-0146A) fully conforms to the standards set forth in the Pismo Beach certified local coastal program, and has no impact on public access. I consider the appeal of this fence as an inappropriate action that fosters an unsafe environment and jeopardizes safety. There will be legal action if any injuries or losses are sustained as a result. In the past two months, there have been five nearby blufftop slides (Reference *Attachment 3*).

Safety is a major concern, and after the long and costly process that I have gone through, cannot help but feel victimized by these recent acts. I do not understand how the commissioners have appealed a project that has adhered to all documented and published guidelines for fences within the bluff retreat zone. The time has come for the Commission to step aside and allow me to immediately install the safety fence approved by the local government per the certified LCP, and to protect people, pets and property.

Respectfully,



Mark S. Yandow, Property Owner
188 Seacliff, Shell Beach, CA

cc: Commission Staff: Mike Watson

Pismo Beach Planning: Randy Bloom, Carolyn Johnson

Marshall E. Ochylski, Attorney
1026 Palm Street, Suite 210
San Luis Obispo, CA 93406

Kenneth Bornholdt, Law Offices of Bornholdt & Associates
1035 Peach Street, Suite 202
San Luis Obispo, CA 93401

J. David Breemer, Esq.
Pacific Legal Foundation
Sacramento, CA 95834

Attachments:

1. Geologist Recommendations (August 18, 2005 and October 5, 2005)
2. Shell Beach Slide Activity (Nov 2005 to Jan 2006)

Attachment 1 – Pismo Beach Code

Slide presented at Pismo Beach City Council Meeting December 6, 2005

(Finding 1 referenced the City Planning Staff denial of the other fence (Commission appeal #A-3-PSB-06-002, this decision was overturned 5-0 by City Council)

Finding #1: Land Use

1983 Code

17.102.050 Exceptions to Minimum Side or Rear Yard Setback Requirements for Coastal Blufftop Developments

All uses in any zone with side or rear yards abutting coastal bluffs and beaches are subject to the standards adopted in the Local Coastal Program Land Use Plan Policies and Programs. Development permitted in the areas reserved for public beach access or recreation shall be limited to structures and facilities designed to accommodate passive recreational use of the area, including but not limited to stairways, benches, tables, refuse containers, bicycle racks, and public parking facilities. In no case shall any development except public access paths and public stairways be permitted within the bluff retreat

setbacks identified in site specific geologic studies, *except as follows for R-1 zones:* (emphasis added)

1. Ninety percent (90%) see-through, non-permanent, 42 inch maximum height fences may be permitted with a Coastal Permit, per Section 17.102.120.

2. Fences described above shall be designed and sited in such a manner as to permit the easy removal or relocation of the structure in order to continually maintain a five (5) foot minimum setback from the top edge of the bluff. A document to this effect shall be recorded with the title of the property in a manner and format approved by the City Attorney.

3. A site specific geologic study by a registered geologist shall be prepared for structures permitted by section #1 above. This report shall assess the impact of the development in the retreat area on the stability and erosion of the bluff and shall make a finding that the proposed location would not contribute to the erosion or failure of the bluff, or propose alternative locations to achieve this result.

4. It shall be the duty of the Building Official to periodically review such fences, in bluff retreat areas to ensure that minimum bluff top setbacks are maintained. Owners of properties receiving permits for these improvements shall permit continuous, announced entry by the Building Official to permit these periodic inspections.

- Pismo Beach Planning Staff has determined this fence is consistent with Land Use Policy and Code
- Code allows safety fences within bluff retreat zone, to within 5' of blufftop
- Proposed fence approximately 10' to 11' from the bluff edge
- Proposed fence complies with design parameters
 - ✓ 42" max height
 - ✓ 90% transparent
 - ✓ Easy removal
- GeoSolutions Reports satisfies condition 3, and in fact recommends installation of fence as part of erosion control measures
- Condition 4 was included as part of conditions drafted by Planning Staff

Attachment 2 – Geologist Recommended Safety Fence (supported by previous full reports 2003 & 2004)

GeoSolutions, INC.
 220 High Street, Suite 100, Orange, CA 92668
 (949) 544-8539, 544-2171 Fax
 info@geosolutions.net

August 18, 2005
 Project No. SL03296-5

Mark Yendow
 793 Tonnin Drive
 San Luis Obispo, California 93405

Subject: Proposed Landscape Improvements
 188 Seadrift Drive
 Shell Beach Area, Pismo Beach, California

Reference:

1. Geologic Assessment of Coastal Bluff, 188 Seadrift Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated August 12, 2003. Project No. SL03296-2.
2. Addendum Response to Comments and Slope Stability Analysis, 188 Seadrift Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated December 15, 2003. Project No. SL03296-3.

Dear Mr. Yendow:

It is our understanding that landscape improvements are proposed for the property located at 188 Seadrift Drive in the Shell Beach area of the City of Pismo Beach, California. Proposed improvements include installation of landscape landscaping, fencing, and control of surface water. The following are comments regarding landscaping improvements:

1. As stated in the August 12, 2003 Geologic Assessment of Coastal Bluff, recommendation 3.5 states "irrigation of landscaping at the Site should be kept to a minimum to avoid unnecessary erosion or increased surcharge to the bluff. We do not advocate planting ice plant or water loving plants (i.e. grass) along the top of bluff." It is our understanding that the owner and landscaper have chosen vegetation that requires no direct irrigation. GeoSolutions, Inc. recommends installation of plant material to help "land" surface soil with roots and to install plants that require minimal irrigation.
2. Fencing is proposed along the bluff edge. Due to the steep configuration of the bluff face, GeoSolutions, Inc. recommends installation of fencing for human safety reasons and to minimize reduce the amount of human disturbance at the bluff edge. Human activity at the bluff edge increases erosion of the bluff.

Section 2.6 of the December 15, 2003 Addendum states, "It is recommended that human activity be severely restricted at the top of bluff and on the face of the bluff." If fencing is to be installed, applicable specifications within the City's Local Coastal Plan should be followed.

3. Control of surface water has been specified in Section 3.1 and 3.2 of the August 12, 2003 Geologic Assessment report. Site observation on August 17, 2005 show that a

Project No. SL03296-5 August 18, 2005

drop inlet has been installed at the southeast corner of the property. Although landscaping is still under construction the majority of the rear yard surface drainage is directed to the drop inlet in the southeast corner.

4. The far southwest corner of the property currently has no landscape improvements. Reduced vegetation (some cryptanth and low native grasses), lack of control of human activity on the bluff edge, and uncontrolled surface drainage at this southwest corner exacerbate erosion on the coastal bluff in this area. An existing short-length safety fence in the area is approximately 7-feet from the bluff edge.

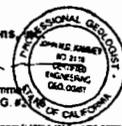
The following are recommended to be implemented in the southwest corner of the property:

- a) Minimize or reduce foot traffic at the bluff in this area
- b) Direct surface drainage away from the bluff edge and toward drop inlets
- c) Install landscaping in the southwest corner similar to that proposed along the mid- and east-bluff area of the property

5. It is understood that the owner of the property intends to establish a small fence in the far southwest corner of the property. To secure fencing, the following alternatives are recommended:
 - a) Utilize existing fence posts/structures to support new fencing
 - b) Dig post-holes and fill with concrete to support new posts and fencing.
 - c) Drive posts/rebar as supports for new fencing.

The use of existing fence posts is the preferred alternative because it causes the least disturbance to the surface/subsurface materials.

If you have any questions or require additional assistance, please feel free to contact the undersigned at (905) 543-8539.

Sincerely,
 GeoSolutions, Inc.

 John M.D. Kammer
 Principal, C.E.G. # 27118
 State of California

2

GeoSolutions, INC.
 220 High Street, Suite 100, Orange, CA 92668
 (949) 544-8539, 544-2171 Fax
 info@geosolutions.net

October 5, 2005
 Project No. SL03296-5

Mark Yendow
 793 Tonnin Drive
 San Luis Obispo, California 93405

Subject: Proposed Fence Improvements
 188 Seadrift Drive
 Shell Beach Area, Pismo Beach, California

Reference:

1. Geologic Assessment of Coastal Bluff, 188 Seadrift Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated August 12, 2003. Project No. SL03296-2.
2. Addendum Response to Comments and Slope Stability Analysis, 188 Seadrift Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated December 15, 2003. Project No. SL03296-3.
3. Addendum Proposed Landscape Improvements, 188 Seadrift Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated August 18, 2005. Project No. SL03296-5.

Dear Mr. Yendow:

I. INTRODUCTION

It is GeoSolutions understanding that two fences are proposed within the rear yard of the property located at 188 Seadrift, Pismo Beach, CA. The letter offers an opinion regarding the proposed fence installation with reference to safety and erosion of the bluff. For ease of discussion, Fence #1 is to be constructed approximately 8 feet from the top edge of the bluff and extend along the bluff of the property. Fence #2 is planned to be approximately 42-inch high and approximately 48-inch long fence that will be a contractor between two existing fence posts on the southwest side of the property, one post is located at 188 Seadrift Drive and the other fence post is located at 182 Seadrift Drive.

II. Fence #1

It is understood that the owner intends to pour rebar into the ground to be utilized as a support anchor for a 42-inch high, approximately 70-foot long concrete fence. The fence will be located near the bluff edge. The fence will be very close to the bluff in the immediate vicinity of the ground near the

Project No. SL03296-5 October 6, 2005

rather than the fence support method. However, the minimal disturbance will be far outweighed by the benefits of the fence to the bluff. The fence will be approximately 8 feet from the bluff edge. The fence will be approximately 42-inch high and approximately 48-inch long fence that will be a contractor between two existing fence posts on the southwest side of the property, one post is located at 188 Seadrift Drive and the other fence post is located at 182 Seadrift Drive.

Section 2.6 of the December 15, 2003 Addendum states, "It is recommended that human activity be severely restricted at the top of bluff and on the face of the bluff" and human disturbance of the edge of bluff should be severely limited. Human and animal activity along the bluff would be severely limited by the installation of Fence #1. The impact of the installation of support for Fence #1 on the present area and on the stability and erosion of the bluff is minimal. The installation of Fence #1 will provide significant protection of the bluff edge by reducing human and animal disturbance. The proposed location of Fence #1 should not contribute to the erosion or failure of the bluff. Fence #2 will provide similar protection to the bluff edge.

III. Fence #2

It is understood that the property owner intends to establish a small fence in the far southwest corner of the property. As stated in the GeoSolutions, Inc. August 18, 2005 letter, three alternatives to secure the fence were offered. The use of existing fence posts to secure the new fence is the preferred alternative because there is negligible to no impact on the rebar area. The effect of the alternative regarding erosion or failure of the bluff is negligible.

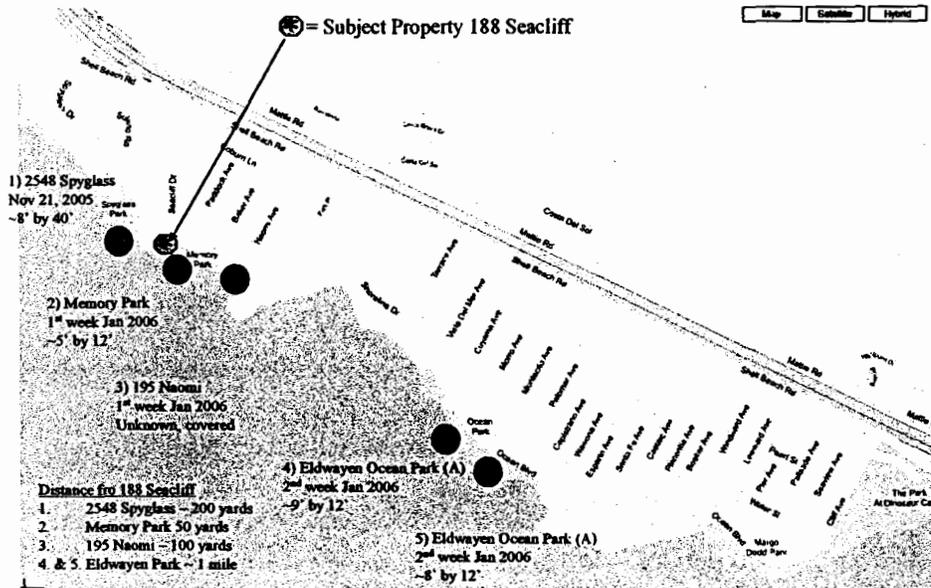
If you have any questions or require additional assistance, please feel free to contact the undersigned at (905) 543-8539.

Sincerely,
 GeoSolutions, Inc.

 John M.D. Kammer
 Principal, C.E.G. # 27118
 State of California

Attachment 3 – Nearby Slide Activity

Shell Beach Slides: Nov 22, 2005 to Jan 10, 2006



RECEIVED

F6a
F6b

FEB 06 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Memorandum

To: Peter Douglas, Executive Director
CC: Charles Lester, Deputy Director; Steve Monowitz, District Manager; Mike Watson
From: Mark S. Yandow
Date: 1/31/2006

Subject: CCC Appeal #A-3-PSB-06-002, Pismo Beach Permit 05-0146B
Yandow Residence APN 010-505-014
188 Seacliff Drive, Pismo Beach, California
San Luis Obispo County

This letter is in response to an "Appeal from Coastal Permit Decision of Local Government" submitted by Tim Page on December 20, 2005, and Coastal Commissioners Caldwell and Wan postmarked January 6, 2006. Just as on the other project, and I seeking to understand how this project to install a small section of fence is being appealed after I have followed the detailed and costly process to obtain a CDP.

Background

The City of Pismo Beach identified, discussed and approved two projects, Permit #05-0146A and Permit 05-0146B. The Coastal Commission generated two Notifications of Appeal, A-3-PSB-06-002 for permit 05-0146B, and A-3-PSB-06-003 for permit #05-0146A. This letter addresses A-3-PSB-06-002, the project to install a wrought fence, approximately 5' long and 42" high, and set back from the bluff top approximately 11 feet. The fence would connect to two existing fences and enclose the back yard.

On October 11, 2005, this fence was discussed at the Pismo Beach Planning Commission meeting. Pismo Beach Planning Staff determined this fence was consistent with the certified LCP and recommended project approval. This position was backed up by a 54 page project summary. The public discussion on this fence, which included the public hearing, commission question and answer section, lasted approximately one hour. The planning commissioners denied the project 3-2, with four findings: one related to land use and three related to missing geology data.

The project was scheduled for the Pismo Beach City Council Meeting on December 6, 2005. To prepare for the meeting, four City Council Members, including the Mayor, visited the project site to physically and first hand view the property, the fence location near the eroding blufftop (*marked hazardous, stay off* by the City of Pismo Beach), and investigate the raised issues.

On November 28, 2005 GeoSolutions conducted a site visit to review the status of the geologic recommendations. On December 1, 2005 GeoSolutions submitted a letter (*Attachment 1*) that outlined the project geology background, project status, and refuted the three negative findings from the October Pismo Beach Planning Commission meeting.

The Pismo City Council heard this project at the meeting on December 6, 2005. This meeting was also attended by the Pismo Beach City Attorney, GeoSolutions (primary geologist), and Earth Pacific Systems (Pismo Beach geologist hired for peer review). After a brief public comment period (less than 20 minutes), the project was discussed by City Council, and then approved on a 5-0 vote, with special conditions, since it is:

- in accordance with local zoning and buildings codes (materials, setbacks)
- in accordance with the certified LCP (geologist report)
- recommended by licensed geologist for safety measures and erosion control

General Discussion:

- In 1978 and offer to dedicate created for a 5' wide path. Permit and OTD conditions:
 - Side fence required to be constructed 5' from the property edge
 - If an agency accepted the OTD, they would pay for the installation of the fence, provide ongoing maintenance of the path, and a liability insurance policy.
- In June 1979, the property owner contacted the City of Pismo Beach, and the Coastal Commission to request payment for the fence and evidence of the liability insurance.
- In July 1979, Coastal Commission Executive Director Karl Hetrick outlined that the CCC, nor any public agency was required to accept the OTD, therefore no obligation existed for them to meet the conditions (*Attachment 2*).
- December 1990 – OTD expires with no acceptance
- January 2004 Remodel project of home approved
- February 2004 CCC appeal period ends – no appeals filed on project

This background leads to this letter, and to express that I do not understand how this being appealed by the Coastal Commission.

The "Proper Grounds for an Appeal" (per P.R.C. Section 30603 as amended 1/1/92)

- A. *The grounds for an appeal ... of an approval project, shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth.*

Appeals:

Appeals have been submitted by Tim Page, Commissioner Caldwell and Commissioner Wan. These appeals do not address the two permit approvals made by the City of Pismo Beach individually, nor do they meet the proper grounds for an appeal documented on the Appeal Information Sheet published by the California Coastal Commission. The appeals group the two projects together, and as such provide incorrect data and misrepresent both projects. The appeals filed by the commissioners were outside of the prescribed timeline.

The following points from the appeals need to be clarified.

1. The property has a lot size of 8,900 square feet (*Attachment 3*), materially less than the 10,976 incorrectly stated in the appeal. Lots less than 10,000 square feet are excluded from any requirement of vertical access.
2. The appeals state there is no nearby public access, and no access between the planning areas of St. Annes and Spyglass. This is incorrect, and the following diagram shows that there are four access points. Number 3, Memory Park is less than 50 yards away and provides ongoing surfer access. Number 2, the Seacliff Drive Easement, a city

maintained paved pedestrian walkway is 100 yards from my property, and connects the planning area and provides safe access to Spyglass Park. This paved walkway is closer to Spyglass Park for the majority of the planning area.

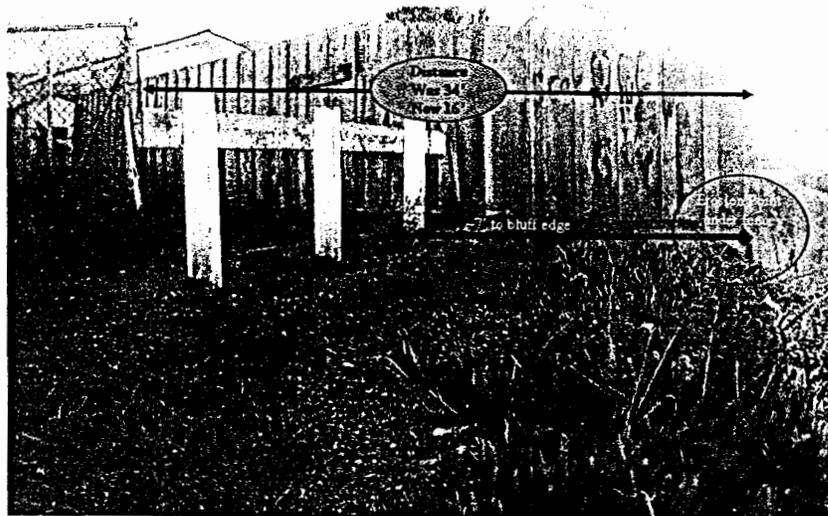
There are four areas in the immediate area that provide public access to the bluff. The only access to the beach is by climbing down potentially hazard paths, that are marked in several area by the City of Pismo as "hazardous"

- 1 Spyglass Park - paved parking lot, bathroom, playground, park benches, lawn area, safety fence (surfer access)
- 2 Paved Road parallel to Seacliff, maintained by the City of Pismo Beach. Starts about 50 yards from Shell Beach Road, and runs down to Spyglass Park (surfer access)
- 3 Memory Park - on the bluff, park benches, safety fence (surfer access)
- 4 Naomi Platform - viewing platform



3. Section 30212 of the coastal act identifies public safety as a requirement. The appeals state there are no fragile resources. It seems that the active erosion of the bluff, as measured by the surveyor, and referenced in multiple geology reports, and marked as hazardous, stay off" by the city of Pismo Beach indicates otherwise.

- Wood fence - perspective of nearness to bluff
- City installed barricade (on property) 7' to edge
- Soil instability - GeoSolutions - 12' Past chain link corner, back toward the house

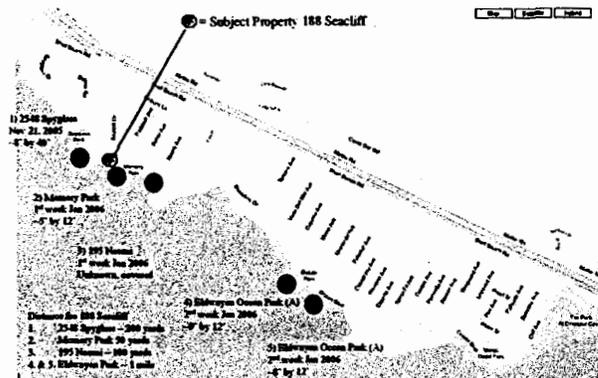


To summarize, the appeal by the commissions do not meet the requirements for a valid appeal. This proposed fence is consistent with the certified LCP, there is adequate nearby coastal access, the area is actively eroding and unsafe - hence the reason for the fencing.

The primary geologist (GeoSolutions) made multiple recommendations to address the erosion concerns, which was a requirement of the CDP process. These findings were peer reviewed by Earth Pacific Systems, and are undisputed by professional geologists.

The five blufftop slides in Shell Beach over the past two months are consistent with the geologist recommendations, and the city posting the area as hazardous.

Shell Beach Slides: Nov 22, 2005 to Jan 10, 2006



This property protection fence, (CCC Appeal #A-3-PSB-06-003, Pismo Beach Permit #05-0146A) fully conforms to the standards set forth in the certified local coastal program, and has no impact on public access. The small lot size under 9,000 square feet precludes it from access requirements. This project has adhered to all documented and published guidelines for fences within the bluff retreat zone. This fence is required to implement the erosion control measures and provide safety to people and pets.

Respectfully,

Mark S. Yandow, Property Owner
188 Seacliff, Shell Beach, CA

cc: Pismo Beach Planning: Randy Bloom, Carolyn Johnson

Marshall E. Ochylski, Attorney
1026 Palm Street, Suite 210
San Luis Obispo, CA 93406

Kenneth Bornholdt, Law Offices of Bornholdt & Associates
1035 Peach Street, Suite 202
San Luis Obispo, CA 93401

J. David Breemer, Esq.
Pacific Legal Foundation
Sacramento, CA 95834

Attachments:

- 1) GeoSolutions letter dated 12-1-2005
- 2) Hetrick (CCC) to home owner, dated 07-05-1979, no acceptance of OTD
- 3) Twin Cities Surveying, Letter dated 03-10-2005, lot size ~8,900

Attachment 1 – Geologic – Project Summary & Status



December 1, 2005
 Project No. S'03290-5
 Max Yarnoff
 1163 Torrey Drive
 San Luis Obispo, CA 93426

Subject: Proposed Landscape Improvements
 188 Seacliff Drive
 Shell Beach Area, Pismo Beach, California

Reference:

1. Geologic Assessment of Coastal Bluff 188 Seacliff Drive, Shell Beach Area, Pismo Beach, California by GeoSolutions, Inc. dated August 12, 2003. Project No. S'03290-5
2. Addendum: Response to Comments and Slope Stability Analysis, 188 Seacliff Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated November 15, 2003. Project No. S'03290-5
3. Addendum: Proposed Landscape Improvements, 188 Seacliff Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated August 18, 2005. Project No. S'03290-5
4. Addendum: Proposed Landscape Improvements, 188 Seacliff Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc. dated October 5, 2005. Project No. S'03290-5
5. Pismo Beach Planning Commission Meeting Minutes, October 11, 2005.

Dear Mr. Yarnoff:

1.0 INTRODUCTION

GeoSolutions, Inc. is the consulting Geologist of record for the remodel of the residence located at 188 Seacliff, Pismo Beach, CA. This letter addresses comments, findings, and approvals of the two proposed rear yard fences, Fence 1 and Fence 2, which are on the agenda for the December 5th Pismo Beach City Council Meeting.

For ease of discussion, Fence 1 is to be constructed approximately 5 feet from the top edge of the bluff and extends along the bluff of the property. Fence 2 is planned to be an approximate 42 inch high and approximately 48 inch long fence that will be a connector between two existing fence posts on the southern side of the property. One post is located at 188 Seacliff Drive and the other fence post is located at 182 Seacliff Drive.

1.1 Backyard Area

The backyard has a layer of compacted pea gravel with an additional 3/4 inch thick layer of rocks on top. The water in this area is not directed away from the bluff and toward the street.

- No automatic irrigation was installed. As a safety precaution, watering must be performed manually.
- Block of control, drought resistant landscaping, Clearwater, has been installed across the bump up fence area in the main backyard, and on the southwest corner of Fence 2 area.

The remaining GeoSolutions, Inc. recommendations to be completed include Fence 1 and Fence 2.

2.0 DISCUSSION OF FENCING

2.1 Fence 1

Fence 1, the safety fence, is to be constructed a minimum of 5 feet from the top edge of the bluff and extends along the bluff of the property. In areas, the distance from the bluff edge may be up to 3-10 feet. It is understood that the owner intends to drive retaining the ground to be utilized as a support system for a 30-inch high, 12-foot long retaining fence.

Section 2.6 of the December 10, 2003 Addendum states, "It is recommended that human activity be severely restricted at the top of bluff and on the face of the bluff and human disturbance of the edge of bluff should be minimized."

The August 18, 2005 GeoSolutions, Inc. letter states "Due to the steep configuration of the bluff face, GeoSolutions, Inc. recommends installation of fencing for human safety reasons and to minimize the amount of human disturbance at the bluff edge. Human activity at the bluff edge increases erosion of the bluff."

To minimize GeoSolutions, Inc. position:

- The impact to rear yard supports for Fence 1 for the retreat area and on the stability and erosion of the bluff is minimal.
- Once installed, Fence 1 will provide significant protection of the bluff edge by reducing human and animal disturbance. The fence crosses safety and helps preserve the bluff.
- The proposed location of Fence 1 should not contribute to the erosion or failure of the bluff. Fence 1 should offer a physical barrier to the bluff edge (October 5, 2005 letter).

We have read the "Cause for Approval" filed by the Page on 10-17-05. In the last paragraph Mr. Page states "There is an appropriate safety barrier in place to crown the bluff top for the project. We believe that with the recommended (Comments and Addendum) a study for, conducted and formal plan is in place to protect the bluff from erosion. The documents reviewed from GeoSolutions do not meet these requirements and is contrary to administrative of a type of development and is taken place on the bluff itself."

GeoSolutions, Inc. has submitted geologic reports, addendums, and letters consistent with Coastal Development as described in the opening of this letter. GeoSolutions, Inc. generated a set of recommendations to address the protection of the bluff. These were sent reviewed by Earth Systems Pacific as part of the development cycle and then approved by the Pismo Beach Planning Staff and Planning Commission. It is our understanding that these were forwarded to the California Coastal Commission as part of the approval process and accepted without comment.

This GeoSolutions, Inc. opinion that fragile bluff top should be protected and a key remaining step is to minimize or reduce the human and animal activity at the top of bluff, which will be accomplished

Project No. S'03290-5
 December 1, 2005
2.0 COMMENTS

GeoSolutions, Inc. initial report dated August 12, 2003 was in accordance with requirements outlined in the State of California Coastal Commission, "Seawall Interpretive Guide" (dated May 5, 1991) as well as in accordance with requirements of Section 17776.05C, D, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VV, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YY, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ.

In our understanding that the Pismo Beach Planning Commission voted on the two fences at the Planning Commission meeting conducted October 11, 2005. The commission approved Fence 1. Safety Fence on a 5-0 vote. Fence 2 was denied 3-2 based primarily on geologic findings.

3.0 GEOLOGIC RECOMMENDATIONS

GeoSolutions, Inc. made recommendations to address erosion concerns and discussed problem areas. These recommendations have been reviewed throughout the development process from the initial report published in 2003 to site visits as recent as November 28th. The recommendations are:

- Control surface water runoff.
- Minimize or reduce footfall at the bluff top area.
- It is recommended that human activity be severely restricted at the top of the bluff and on the face of the bluff (Report addendum dated December 12, 2003).
- Due to steep configuration of the bluff, GeoSolutions, Inc. recommends installation of fencing for human safety reasons and to minimize the amount of human disturbance at the bluff edge (letter dated August 18, 2005).
- The far southwest corner of the property currently has no landscape improvements. Reduced vegetation, lack of control of human activity on the bluff edge and uncontrolled surface drainage in the southwest corner, exacerbates erosion of the coastal bluff in the area (letter dated August 18, 2005). This corner where fence 2 is proposed to reduce erosion and help protect the bluff top.

4.0 RELEVANT FINDINGS

GeoSolutions, Inc. conducted two recent site visits to 188 Seacliff as noted in the referenced information and reports that the owner has implemented solutions to address our recommendations. We have noted the following:

- Control surface water runoff.
 - Three drop pits have been installed. One in the back yard, one in the garage area, and one in the front side yard of the house. These drop pits collect water, and pump the water out to the street. These pits are fed from gutters, downspouts and drains located at various locations on the property.
 - At the bluff top, the water has been directed away from the bluff top and towards an approximately two-foot wide section of compacted DG (4-6" thick), that runs approximately parallel to the bluff edge and leads to the backyard drop pit.

5.1 Fence #1

As the fence was installed, there is anticipated very minimal disturbance in the immediate vicinity of the ground near the retaining fence support method. However, this minimal disturbance will be fully mitigated by the protection of the fence itself by limiting human and animal disturbance on the edge of bluff.

5.2 Fence #2

Fence #2 is planned to be a minimum 42-inch high and approximately 48-inch long fence that will be a connector between two existing fence posts on the southern side of the property, one post is located at 188 Seacliff Drive and the other fence post is located at 182 Seacliff Drive. This area has been recommended as the "southwest corner" in GeoSolutions, Inc. documents.

As GeoSolutions, Inc. understanding that four findings were documented at the October 11th Planning Commission denial of Fence 2 (vote of 3-2). The following are comments with respect to three of the four findings:

- Finding #2:** No maintenance method for fence was not specified. This fence section will attach to two existing fence posts on the bluff edge and soil disturbance is required. The only maintenance method is needed is to replace the fence as required over time. No other maintenance method is needed.
- Finding #3:** Appropriate erosion controls not specified and
- Finding #4:** Geologic information presented for maintenance and erosion control was insufficient.

As outlined in this letter and previous reports, GeoSolutions, Inc. provided a series of recommendations for erosion control. Relative to Fence 2, the erosion control measures recommended were to:

- Minimize or reduce footfall at the bluff top area.
- Direct surface drainage away from the bluff edge and toward the drop pits.
- Install a drop pit at the southwest corner similar to that proposed along the middle and west sections of the property.

In this area for fence 2, the southwest corner, it was noted during GeoSolutions, Inc. site visit on November 28th that surface water has been directed away from the bluff top and that landscaping (DG works) has been installed. The remaining recommendation to be completed is to replace the fence and then install the drop pit. It is noted that fence 2 is to be installed to reduce human and animal disturbance at the bluff edge and fence 2 is needed to complete the erosion control recommendations that have been identified.

If you have any questions or require additional assistance, please feel free to contact the undersigned at 545-8558.



Attachment 2 – Coastal Commission – No acceptance

STATE OF CALIFORNIA

EDMUND G. BROWN II, Governor

California Coastal Commission
SOUTH CENTRAL COAST REGIONAL COMMISSION
735 STATE STREET
BALBOA BUILDING, SUITE A12
SANTA BARBARA, CA 93101



July 5, 1979

Mrs. Regina Pricco
188 Seacliff Drive
Shell Beach, California 93449

This is in response to your letter of June 19, 1979 regarding your Coastal Development Permit #152-01 for the construction of a single family residence in Shell Beach.

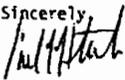
You have asked what recourse you may have if the City of Pismo Beach does not follow through with the provisions of the easement condition imposed by the Regional Commission, and if it is permissible to move the fence which you have erected to your original westerly boundary line.

Judging from the questions you have posed, it appears that there is a misunderstanding regarding the easement condition imposed by the Regional Commission. This condition required you as an applicant to offer to dedicate, for a period of ten years, a five foot wide easement along the western boundary of the subject property to the People of the State of California. The Offer-to-Dedicate form which you prepared and the Commission accepted provided that the easement could be accepted by either a public agency or private association. However, neither the easement condition imposed by the Regional Commission or the terms of the approved Offer-to-Dedicate required any public agency or private association to accept the offer. The only requirement was that you as the applicant should make such an offer for a period of ten years.

To our knowledge, no public agency or private association has accepted your offer. Only at such time as a public agency or private association has accepted the Offer-to-Dedicate will such agency or association be responsible for maintenance and liability of the access way.

Regarding your question if it is permissible to move the fence which you have erected to your original westerly boundary line, we have checked the plans approved for this project and found that the Regional Commission only permitted the construction of a six foot fence set back five (5) feet from the western boundary of the property and running from the southwest corner of the parcel to the southwest corner of the single family residence. Any modification or addition to this fence would require a Coastal Development Permit.

I hope this answers your questions and clears up any misunderstanding regarding your obligations regarding the access condition. If you should have any further questions regarding this matter, please feel free to contact our office.

Sincerely,

CARL C. HETRICK
Executive Director

CITY OF PISMO BEACH
RECEIVED
JUL 6 1979
CITY CLERK

CCP/MHC/ms

Attachment 3 – Lot Size

Mar 11, 2005 10:55AM No 0741 P. 1

TWIN CITIES SURVEYING, INC.

SURVEYING 615-C S. Main Street (805) 434-1834	LAND PLANNING P.O. Box 777 shroeder@twincitiesurveying.com	CONSULTING Tempton, CA 93405 FAX (805) 434-3681
--	---	--

March 10, 2005

Mark & Sandra Yandow
 1793 Tunin Drive
 San Luis Obispo, CA 93405
 FAX: 786-4978
 Phone: 550-7288

Subject: Boundary Survey for your property at 188 Seaciff Drive in the City of Pismo Beach, CA

Dear Mark & Sandra:

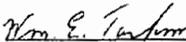
Per your request, I will attempt to summarize our survey work in regards to the boundary of your property. We were contacted in late October or early November of 2003 by your architect, Randy Detmer, to perform a topo survey of your property and prepare a topographic map for design purposes. I prepared a proposal to you at that time, which was accepted and returned to me on November 1, 2003. We then performed our topo survey and prepared a topo map in November - December, 2003. We did perform a monument search of the property at that time, but did not find any of the four property corners. We did survey the centerline of Seaciff Drive at that time and showed the approximate boundary based on it's centerline on the topo map.

We were again contacted in August of 2004 to verify boundary and set property corners. We performed this work, set property corners, and prepared, processed, and recorded a Record of Survey (recorded in Book 90, Page 15, of Licensed Surveys) with the County of San Luis Obispo on September 28, 2004. We also located additional topo information of the location of a portion of your house as well as the adjacent neighbor's house (Lot 15) to the southeast of your lot. This was included on the Record of Survey. Based on our survey, we found the northerly property line to be approximately 6 feet northerly of your wooden fence at the rear of the property, and on the south, your property line was determined to be approximately 3 to 4 feet northerly of the physically occupied property line (old fencing and landscaping).

Based on our topo survey in 2003, and our boundary work in 2004, we have now calculated the area of the lot above the top of bluff as of November 2003 to be approximately **8,200 square feet**. This is smaller than the area that could be determined based on the original map, as the top of bluff has receded.

If you have any questions regarding this verification, please call me at 434-1834.

Respectfully,


 Wm. F. (Skip) Touchon, President
 PLS 4845 - EXPIRES 9/30/2006



cc: Randy Detmer JWB3211

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Memorandum

F6a
F6b

RECEIVED

To: Mike Watson, Coastal Planner

FEB 06 2006

CC: Distribution List

From: Mark S. Yandow

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Date: 1/29/2006

Subject: CCC Appeal #A-3-PSB-06-003 and A-3-PSB-06-002
Yandow Residence APN 010-505-014
188 Seacliff Drive, Pismo Beach, California
San Luis Obispo County

Marshall Ochylski is authorized to act on my behalf relative to these actions (*Attachment 1*). Please direct all correspondence to both Mr. Ochylski and myself.

In our phone conversation on January 6, 2005, I indicated that the Commission Report on my property dated 1-18-05, relative to a garage expansion, contained factual errors. Your current staff report, dated 1-19-06 contains similar errors. To assist your efforts to present factual and truthful data, these are addressed in this letter.

- (1) Staff Report states property lot size is 10,976 square feet. *Attachment 2* is a letter from Twin City Survey dated March 10, 2005, references a Record of Survey dated September 28, 2004 that documents the lot size as approximately 8,900 square feet.
- (2) Staff report states there is no formal access "between Seacliff neighborhood and Spyglass Park". This is incorrect, and ignores the public access documented in the Pismo Beach Land Use Element (*Attachment 3*) that was certified by the Coastal Commission in 1993. This document describes the "Seacliff Drive Access" (LU-E4). In your email (*Attachment 4*) to Pismo Beach dated January 27, 2005 you acknowledge this easement, although it is referred to in the email as the Nagy Easement.
- (3) Related to access, the staff report quoted "nor did they contemplate denying the project to ensure that access would continue" (they referred to Pismo Beach City Council). If you review the minutes, this was discussed, and the Pismo Beach City attorney recommended against this, his legal opinion was there was no nexus.
- (4) The report states that "the development will permanently preclude public access to the park and beach below". This is an inaccurate statement, daily observations reflect Memory Park (100 feet), Naomi Platform (500'), Seacliff Drive Access Easement (600') and Spyglass Park (600') provide adequate access to the surf below.

I hope that this information assists you in your due diligence to provide factually correct data in the staff report.

Respectfully,



Mark S. Yandow, Property Owner
188 Seacliff, Shell Beach, CA

Distribution List:

Marshall E. Ochylski, Attorney
1026 Palm Street, Suite 210
San Luis Obispo, CA 93406

Kenneth Bornholdt, Law Offices of Bornholdt & Associates
1035 Peach Street, Suite 202
San Luis Obispo, CA 93401

J. David Breemer, Esq.
Pacific Legal Foundation
Sacramento, CA 95834

Attachments:

- (1) Authorization for representation – Marshall Ochylski
- (2) Twin City Survey – letter dated March 10, 2005, lot size = ~ 8,900 square feet
- (3) Pismo Beach General Plan excerpt – “Seacliff Drive Access, AKA Nagy Easement
- (4) Email: Mike Watson (CCC) to Carolyn Johnson (Pismo Beach) - Nagy Easement

CALIFORNIA COASTAL COMMISSION

Yandow
A-3-PSB-06-002
A-3-PSB-06-002

Memorandum

To: Persons whose City or County Development Permit has been Applied to the Coastal Commission.

From: Coastal Commission

Re: Notice Concerning Important Disclosure Requirements

On January 1, 1991, a new California law required that all persons who apply to the Coastal Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be representing with the Commission or Commission staff on their behalf." (Public Resources Code section 26010) On January 1, 1994, the law also required that applicants disclose the names of "persons who will represent or communicate, for compensation, on behalf of their business partners. This law also applies to persons whose permits have been applied to the Coastal Commission. The law provides that failure to comply with the disclosure requirements prior to the time that a recommendation is made is a misdemeanor that is punishable by a fine or imprisonment, or both, or a combination of a fine and imprisonment.

In order to implement this requirement, you are required to do two things. The first is that you must fill in the enclosed form and submit it to the appropriate Coastal Commission office as soon as possible. Please list all representatives of all businesses you will be representing on your behalf or on the behalf of your business partners for compensation with the Commission or its staff. This list must be received before the recommendation session.

Second, if you determine after you have submitted the enclosed form that one or more people will be representing you or your business partners for compensation who were not listed on the completed form, you must provide a list in writing of those people and their addresses to the Coastal Commission office. This list must be received before the recommendation session.

List of Persons Who Will Communicate or Act on Behalf of Applicant or Applicant's Business Partners to Represent Applicant to the Coastal Commission

Name of Person Who is Represented: _____
Project and Location: _____
City and State: _____

Communication Agent's Name: _____

Persons who will Communicate for Compensation on Behalf of Applicant or Applicant's Business Partners with Commission or Staff:

Name	Address
_____	_____
_____	_____
_____	_____

Signature of Permit Applicant: _____ Date: _____

Attachment 2 – Property Lot Size ~ 8,900

Mar 11 2005 10:56AM No 1741 P. 2

TWIN CITIES SURVEYING, INC.

SURVEYING 615-C 5, Main Street (805) 434-1834
LAND PLANNING P.O. Box 777 shundras@twincitiesurveying.com
CONSULTING Templeton, CA 93465 FAX (805) 434-3684

March 10, 2005

Mark & Sandra Yandow
1793 Tunin Drive
San Luis Obispo, CA 93405
Phone: 786-4978
FAX: 550-7388

Subject: Boundary Survey for your property at 188 Seaciff Drive in the City of Pismo Beach, CA

Dear Mark & Sandra:

Per your request, I will attempt to summarize our survey work in regards to the boundary of your property. We were contacted in late October or early November of 2003 by your architect, Randy Dettmer, to perform a topographic survey of your property and prepare a topographic map for design purposes. I prepared a proposal to you at that time, which was accepted and returned to me on November 1, 2003. We then performed our topographic survey and prepared a topographic map in November - December, 2003. We did perform a monument search of the property at that time, but did not find any of the four property corners. We did survey the centerline of Seaciff Drive at that time and showed the approximate boundary based on the centerline on the topographic map.

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Based on our topographic survey in 2003, and our boundary work in 2004, we have now calculated the area of the lot above the top of bluff as of November 2003 to be approximately **8,900 square feet**. This is smaller than the area that could be determined based on the original map, as the top of bluff has receded.

If you have any questions regarding this verification, please call me at 434-1834.

Respectfully,

Wm. F. Touchon
Wm. F. (Skip) Touchon, President
P.L.S. 4845 - FAX 4902006

cc: Randy Dettmer

LICENSED LAND SURVEYOR
* L.S. 4845 *
* EXP. 9/30/06 *
* STATE OF CALIFORNIA *

JN03213

Record of Survey
September 28, 2004

Current lot size
~ 8,900 sq ft

Attachment 3 – Pismo Beach Land Use (Seacliff Drive Access – AKA Nagy Easement)

St. Andrews Tract Planning Area E

Background
The St. Andrews Planning Area is almost completely developed with single-family homes, apartments and a city fire station.
The center frontage consists of high multi-story, multi-unit residential and small pocket business buildings. Large open lots are scattered throughout the area. There is a bluff access from N. Adams Avenue dedicated to the city, and considered a city easement south of the planning area in the Spinnoff Planning Area. This access leads to a specific viewpoint which is under public ownership.

Policies

LU - Concept
F-1 The St. Andrews Tract Planning Area shall be maintained as a residential neighborhood with Low and High Density residential uses. The focus is on conserving the existing housing stock and ensuring that newer stock types and replacements are compatible with the scale and character of the existing development.

LU - Bluff setback and Protection
F-2 Development along the bluff shall be set back a minimum of 25 feet from the top of the bluff. A geology study and report shall be prepared for any development along the bluff and a geology method may be required based on the findings of the report. Appropriate erosion control measures shall be required for any project along the bluff and shall specify methods for maintenance.

LU - Viewpoint Marking
F-3 The bluff access from Marine Street and the Messery Park area should be clearly signed for public viewing access.



Figure 184
St. Andrews Tract
Viewing Access from Marine Street

LU-21

Seacliff Drive Access
F-4 In 1957 the city acquired an easement for constructing and maintaining an access road from Coburn Lane to Spinnoff Park. The city shall clarify or renegotiate this easement to allow pedestrians and bicycles. The sign marked "Private Road - Keep Off" should be replaced with a sign that says "Public Pedestrian and Bicycle Access - No Vehicles".

LU - Side Yard Views
F-5 Properties on the west side of Seacliff Beach shall be subject to the Design Element, Policy D-36 Side Yard View Corridor.

LU - Lateral Buffering Access and Required
F-6 The lateral buffering access and/or requirements set forth in Policy PR-23 shall not be applicable in this planning area.

LU - Concept
F-1 The Spinnoff Planning Area shall be retained and developed as a Medium Density Residential area. Any development shall occur at a public park located at the end of the bluff.

LU - Bluffing Protection
F-2 Appropriate erosion control measures shall be required for any project along the bluff and shall specify methods for maintenance.

LU - Lateral Buffering Open Space and Access
F-3 The lateral buffering easement/open space and/or other similar requirements set forth in Policy PR-23 shall be increased to a distance equal to the 100-year bluff retreat line plus 10 ft. for this planning area.

LU-21

Attachment 4 – Email: CCC to Pismo Beach acknowledges easement

Johnson, Carolyn

From: Michael Watson [mailto:mwatson@accounts.ca.gov]
To: Carolyn Johnson [mailto:cjohnson@pismo-beach.org]
Subject: RE: 188 Seacliff

many thanks for the quick response, it is very helpful. When you get a copy of the easement agreement, please let me know. By the way, I'm planning on making a trip to Pismo and Morro next week, possibly Tue or Wed. Maybe we could meet out on the site if you are free. I'll let you know when I nail down the date. Thanks again

-----Original Message-----
From: Johnson, Carolyn [mailto:cjohnson@pismo-beach.org]
Sent: Thursday, January 27, 2005 8:55 AM
To: Michael Watson
Subject: RE: 188 Seacliff

Back to you, Mike.

From the intersection of Coburn and Seacliff, it appears the City has an easement over 010-051-007 owned by Verita Nagy that extends back behind all the even numbered houses on Seacliff, see page LU-21, figure LU-7 and page LU-23, figure LU-8. Also see page LU-24, policy LU-E-4 Seacliff Drive Access. In 1957 the city acquired an easement for constructing and maintaining an access road from Coburn Lane to Spinnoff Park. The city shall clarify or renegotiate this easement to allow pedestrians and bicycles. The sign marked "Private Road - Keep Off" should be replaced with a sign that says "Public Pedestrian and Bicycle Access - No vehicles". That sign has been placed per the direction of this policy, and the old sign removed. I have been looking for the easement agreement referenced in the policy but haven't located it yet. I'll keep looking. The City has been using this easement for years to get to the park.

Also for your reference, Table PR-4, page PR-19 item D, corresponding to #5 in Figure PR-3 on page PR-20 notes under the comments "Barranca natur

F6a
F6b

The Law Office of Marshall E. Ochylski
Post Office Box 14327
1026 Palm Street, Suite 210
San Luis Obispo, California 93406

Telephone: (805) 544-4546
Facsimile: (805) 544-4594
E-mail: MOchylski@SLOlegal.com

RECEIVED

FEB 03 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Overnight Delivery via FedEx
Coastal Commissioners and Coastal Commission Staff

February 2, 2006

Mr. Mike Watson
Central Coast Area Office
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060

Subject: California Coastal Commission
Appeal Numbers A-3-PSB-06-002 and A-3-PSB-06-003
Yandow Residence,
188 Seacliff Drive
Pismo Beach, California
(APN 010-505-014)
February 2006 Agenda Item F6a-b

This office represents Mark S. Yandow and Sandra Yandow regarding the above-referenced Coastal Commission Appeal.

We respectfully request that the California Coastal Commission find that no "substantial issue" exists because the final actions taken by the City in this matter are consistent with the access policies of the certified Local Coastal Plan of the City of Pismo Beach and the public access policies of the Coastal Act.

The Applicant has a number of concerns regarding both the facts and the analysis contained in the Staff Report since there are a number of conclusions which lack a basis in either fact or law.

The following analysis identifies those concerns, directly relates them back to the Staff Report, and addresses what we believe are factual discrepancies in the Staff Report.

Relevant Coastal Act and Local Coastal Program Provisions:

Staff cites Coastal Act Sections 30210, 30211, and 30212 in support of its recommendation that the Commission find “substantial issue.” However, further analysis clearly shows that none of those policies have been violated and therefore do not support a finding of “substantial issue.”

Coastal Act Policy 30210

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

In this appeal, it is clear from the facts and the findings made by the City of Pismo Beach in approving the fences that are the subject of this appeal that the fences are in fact “consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.” For further support of that position, please see attached Exhibit “A” which clearly documents the safety issues involved in the Pismo Beach coastal blufftop areas.

Coastal Act Policy 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization ...

The public has not acquired any such “right of access” through “use or legislative authorization” under the facts of the approved project. In fact, contrary to staff’s assertion that “[T]he City’s approval dismissed evidence of the historical use of the site and did not include any measures/conditions to ensure that access would be provided or preserved,” the Conditions of Approval specifically include a provision that if any such rights are determined to be valid that the Applicant would remove the offending fence. It should also be noted that although Appellants contend the City approved project is inconsistent with this section of the Coastal Act by interfering with the public’s right to gain access to the sea when acquired by use (i.e., implied dedication), there is no implied dedication and in fact there was an actual Offer to Dedicate that expired after it was formally rejected for acceptance by the City of Pismo Beach.

Coastal Act Policy 30212

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in all new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) Adequate access exists nearby, or (3) Agriculture would be adversely affected ...

As discussed below, this policy cannot support a finding of “substantial issue” because such a finding would be “inconsistent with public safety ... or the protection of fragile coastal resources,” and “adequate access exists nearby.”

GP/LUP Policy PR-24: Perpendicular Access to Shoreline Required:

There is no “substantial issue” because **GP/LUP Policy PR-24: Perpendicular Access to Shoreline Required**, which staff cites as the basis for much of its analysis, simply does not apply.

GP/LUP Policy PR-24: Perpendicular Access to Shoreline Required, Public access perpendicularly from the nearest public roadway to the shoreline shall be provided in new development projects except where protection of fragile coastal resources prevents access or adequate public access already exists nearby (generally 500 feet). Existing blufftop single-family lots less than 10,000 square feet in area exempted from this requirement. [Emphasis Added.]

The actual lot size of 188 Seacliff is approximately 8,900 s.f. and not the 10,976 square feet noted in the Staff Report. Twin Cities Surveying, William Touchin, California Licensed Surveyor #4845, completed and recorded a Record of Survey with the County of San Luis Obispo for 188 Seacliff on September 28, 2004 that reflects that lot size. Because the size of the lot exempts from access requirements cited in the Staff report, no “substantial issue” can exist.

The property is also exempt from this requirement by the presence of both of the listed exceptions, because “protection of fragile coastal resources prevent[s] access” and “adequate public access exists nearby.”

Despite staff’s representations to the contrary, there are fragile coastal resources necessitating the installation of fencing. In addition, such an access path would create and pose safety hazards.

A geologic opinion prepared by John Kammer from GeoSolutions, Inc., recommends minimizing surface drainage, irrigation, and foot traffic in the area of the coastal bluff to forestall erosion. (Attached Exhibit “B.”) Although staff states that this report has not yet been reviewed by the Commission’s staff geologist, it was peer reviewed by Earth Systems Pacific, Inc., which concurs with the recommendation that pedestrian traffic be precluded from the area that would be protected by the approved fences.

Even the Staff Report itself acknowledges that

"The planning area geology is comprised of unconsolidated marine terrace deposits overlayed on top of more consolidated bedrock materials such as Monterey Shale and Obispo Tuff. The bluff face in the vicinity of the project is rather steep, rising nearly vertically to 50'+ above sea level. As a consequence, there is no improved shoreline access to the pocket cove beach or surf area below."

In addition, "adequate public access exists nearby" at three (3) nearby locations that are documented in the City of Pismo Beach Land Use Element. Public access exists at Memory Park, approximately 100 feet away; at the Naomi platform, approximately 400' feet away; and at Spyglass Park, approximately 500 feet away.

Public access also exists between Spyglass Park and the Seacliff Neighborhood via the "Seacliff Drive Access", also referred to as the Nagy Easement further negates the need for access to be provided at 188 Seacliff Drive. This paved path intersects Seacliff Drive at Coburn, approximately 600 feet away from 188 Seacliff, and runs directly into Spyglass Park. This access is documented in the City of Pismo Beach Land Use Element certified by the California Coastal Commission in 1993.

GP/LUP Policy PR-33: Permitted Development in Blufftop Access Area:

There is no "substantial issue" because **GP/LUP Policy PR-33: Permitted Development in Blufftop Access Area** as implemented in Local Coastal Plan Section 17.102.050 (Exceptions to Minimum Side or Rear Yard Requirements for Coastal Blufftop Developments) does not preclude development of the approved fences.

Although the partial text contained in the appeal ended with "In no case shall any development except public access paths and access facilities and public stairways be permitted within the bluff retreat setbacks identified in site specific geological studies."

The full text of implementing Section 17.102.050 (Exceptions to Minimum Side or Rear Yard Requirements for Coastal Blufftop Developments) of the certified Local Coastal Plan reads as follows:

"In no case shall any development except public access paths and public stairways be permitted within the bluff retreat setbacks identified in site specific studies, except as follows for R-1 zones:

- 1. Ninety percent see-through, non-permanent, 42 inch maximum height fences may be permitted with a Coastal Permit, per section 17.102.120.*

2. Fence should be designed for easy removal to maintain 5' buffer to bluff top

Since two approved fences have been determined by the Pismo Beach Planning Staff, City Attorney and City Council to be consistent with this Section of the Local Coastal Plan, no "substantial issue" exists.

Attached Exhibit "C" clearly illustrates that homes with safety fences are the standard in Pismo Beach and Applicants request that they be treated equal to all the other residents in like situations. There is no "substantial issue" created by the approval of the fences in accordance with this City policy.

Zoning Ordinance Standard 17.066.020.10:

Zoning Ordinance Standard 17.066.020.10 requires that vertical accessways within existing or proposed developments or subdivisions should be a minimum of ten feet in width, and no access path shall be sited closer than ten feet to any existing or proposed residential structure.

The access path discussed by staff would violate these standards since it would be approximately five (5) feet from the existing residential structure located at 182 Seacliff that is owned by David and Jackie Williams and less than five (5) feet from the existing residential structure located at 188 Seacliff that is the location of the approved fences that are the subject of this appeal. In addition, the existing side yard is only eight (8) feet wide, measured from the existing residential structure to the existing property line fence.

Since the pre-conditions for an accessway required by this Standard cannot be met, there can be no "substantial issue" on this basis.

Unpermitted Development:

The Staff Report makes two references to "unpermitted development." These statements are misleading, and create the impression that the Applicant has acted in violation of the permitting requirements of the City of Pismo Beach. Since no permits were required for either of the fences that staff characterizes as "unpermitted development, these references are unnecessarily prejudicial and must be disregarded by the Commission.

The first reference occurs on page 10 at the end of the top paragraph which identifies "an unpermitted fence was installed in 2004." However, the City of Pismo Beach has stated in writing that this fence, a construction fence installed to provide safety and protection, was within accepted practice and did not require a permit.

The second reference appears on page 13 where the Staff Report states "there is currently unpermitted development (i.e. fencing at the front of the house)." The development that is referenced in this statement is a front gate that was installed, after the City of Pismo Beach wrote the Applicants a letter indicating that this fence did not require a permit in accordance with the City of Pismo Beach certified Local Coastal Plan and Zoning Ordinance.

Unfair Staff Report Characterization:

Although not directly related to the finding of "substantial issue," there is an additional item included in the Staff Report on page 10, paragraph 4 that has the effect of unfairly attacking the credibility of the primary project geologist, John Kammer, Certified Engineering Geologist, California Licensed Geologist #2118, of GeoSolutions, Inc. Contrary to the comments included in the Staff Report and attributed to Appellant Mr. Page, Mr. Kammer's license is categorized as "clear" by the State of California.

In addition, all the recommendations contained in that report were peer reviewed by Rick Gorman, Certified Engineering Geologist, California Licensed Geologist #1325, Earth Systems Pacific, Inc., who was employed by the City of Pismo Beach.

Any bias created against Mr. Kammer's report by this insinuation is wholly unfounded and should be discounted, and cannot be used to support a finding of "substantial issue."

3-PSB-06-003 City Coastal Permit 05-0146A Safety Fence:

The Staff Report contains the following statement:

"Authorized construction of a 30" high, 70' long fence setback a minimum of 6' from the bluff top. Conditions require applicant to maintain a minimum 5' setback. For the most part, there aren't significant issues with installation of protective fencing at the rear of the property. However, the site plan provided by the City does not clearly delineate the northern extent of the propose fencing or how it may encroach within historically available path."

The permit request outlines that the fence will run between two existing side fences. One is at the property line at 194 Seacliff, the other is the six (6) foot high, double-sided wood fence installed during the home's original construction in 1978. The new protective fence will stop at the existing fence, and would not encroach on alleged access path. (Attached Exhibit "D.")

As the Staff Report Exhibit 5 on page 10 of 10 confirms, the Pismo Beach City Council incorporated the following two special conditions into the permit signed by the owner related to fence location

"#2) I agree that the city may periodically review the bluff top fence with continuous announced entry."

"#5) I agree that the approved fence will not be expanded outside the area specified on the project plans."

In accordance with staff's conclusion that there "aren't significant issues with the installation of protective fencing at the rear of the property," given that the fence is located in accordance with the City's policies land use policy, and given that verification and monitors for the fence location were provided by two special conditions required by Pismo Beach City Council on Permit #05-0146A, the Commission cannot find "substantial issue."

Validity of Appeals:

Neither of the appeals filed by Commissioners Wan and Caldwell is valid since they fall outside of the timeframe required under the California Administrative Regulations.

Pismo Beach sent the Notice of Action certified mail, return receipt, on December 16, 2005. To date, no confirmation of receipt has been provided to Pismo Beach, and the alleged date of receipt typical delivery between Pismo Beach and Santa Cruz, therefore the appeals by Wan and Caldwell are outside the mandated appeal period. Further, these appeals were not postmarked until January 6, 2006, after the appeal period had lapsed even under staff's generated frame.

Since neither of these appeals is valid and none of the issues raised by Mr. Page in his appeal support a finding of "substantial issue," no such finding can be made.

Substantial Issue Summary:

The Commission cannot find "substantial issue" if it considers the following facts in making its determination.

Coastal Act Sections 30210, 30211, and 30212 have not been violated and do not support the Commission finding "substantial issue" because the approved project is consistent with public safety, the protection of fragile coastal resources, and adequate access exists nearby.

GP/LUP Policy PR-24: Perpendicular Access to Shoreline Required does not apply because the size of the lot exempts it from vertical access requirements. However, even if it did apply, it does not require that perpendicular access be

provided since the blufftop is a “fragile coastal resource” and “adequate public access exists nearby” at four locations.

GP/LUP Policy PR-33: Permitted Development in Blufftop Access Area does not apply because fences are allowed within the bluff retreat zone per section Pismo Beach Local Coastal Plan Section 17.102.120. Further, both of the two approved fences have been determined by the Pismo Beach Planning Staff, City Attorney and City Council to be consistent with all related policies.

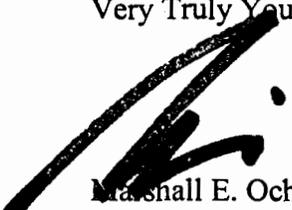
A finding of “substantial issue” conflicts with **Zoning Ordinance Standard 17.066.020.10** because the proposed coastal access conflicts with setback requirements that coastal access pathways be located at least ten (10) feet from existing structures.

Conclusion:

In conclusion, there can be no doubt that the final actions taken by the City in this matter are consistent with the access policies of the Pismo Beach certified Local Coastal Program and the public access policies of the Coastal Act, and that no “substantial issue” exists.

Thank you for your consideration.

Very Truly Yours,



Marshall E. Ochylski,
Attorney at Law

MEO/mf
Exhibits

cc: Mike Watson
Central Coast District Office
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060-4508

Meg Caldwell, Director
Environmental and Natural Resources Law & Policy Program
Stanford Law School, 559 Nathan Abbott Way,
Owen House Room 6,
Stanford, CA 94305-8610

Patrick Kruer
The Monarch Group
7727 Herschel Ave.
La Jolla, CA 92037

Dr. William A. Burke
11110 West Ohio Ave., Suite 100
Los Angeles, CA 90025

Larry E. Clark
City of Rancho Palos Verdes
30940 Hawthorne Blvd.
Rancho Palos Verdes, CA 90275

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Board of Supervisors
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Mayor & Council's Office
City of Chula Vista
276 4th Ave.
Chula Vista, CA 91910

Dave Potter, Supervisor
County of Monterey, District 5
1200 Aguajito Road, Suite 001
Monterey, CA 93940

Mike Reilly, Supervisor
County of Sonoma
575 Administration Drive, Rm. 100
Santa Rosa, CA 95403-2887

Dan Secord, M.D.
3335 Cliff Drive
Santa Barbara, CA 93109

Mary K. Shallenberger
3309 East Curtis Drive
Sacramento, CA 95818

Sara Wan
22350 Carbon Mesa Rd.
Malibu, CA 90265

Mark and Sandra Yandow
188 Seacliff Drive
Pismo Beach, CA 93449

David and Jackie Williams
182 Seacliff Drive
Pismo Beach, CA 93449

Randy Bloom, Community Development Director
Carolyn Johnson, Planning Manager
Community Development Department
City of Pismo Beach
760 Mattie Road
Pismo Beach, CA 93449

Kenneth Bornholdt, Esq.
Offices of Bornholdt & Associates
1035 Peach Street, Suite 202
San Luis Obispo, CA 93401

J. David Breemer, Esq.
Pacific Legal Foundation
3900 Lennane Drive, Suite 200
Sacramento, CA 95834

Tribune
2-1-06

County Roundup

SHELL BEACH

Man found dead after apparent fall off cliff

A man in his mid-40s was found dead at the base of a small cliff in Shell Beach on Tuesday evening.

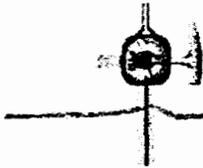
Workers at a home under construction in the 1200 block of Indio Drive spotted the man on the beach below and called authorities at 5:09 p.m., said Pismo Beach Police Cmdr. Scott Smith. The man was lying face-up and not moving.

The man possibly suffered head trauma when he fell and struck his head on a rock, Smith said. Police do not believe anyone else was involved in the fall. The man's body had not been on the beach for long when it was

seen by the workers, he said.

The man's identity has not been released, pending notification of his family.

— Cynthia Neff



GeoSolutions, Inc.

220 High Street, San Luis Obispo, CA 93401
(805) 543-8539, 543-2171 fax
info@GeoSolutions.net

August 18, 2005
Project No. SL03296-5

RECEIVED

AUG 18 2005

CITY OF PISMO BEACH
Community Development Department
Planning Division

Mark Yandow
1793 Tonini Drive
San Luis Obispo, California 93405

Subject: Proposed Landscape Improvements
188 Seacliff Drive
Shell Beach Area, Pismo Beach, California

- Reference:**
1. Geologic Assessment of Coastal Bluff, 188 Seacliff Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc., dated August 12, 2003. Project No. SL03296-2.
 2. Addendum: Response to Comments and Slope Stability Analysis, 188 Seacliff Drive, Shell Beach Area, Pismo Beach, California, by GeoSolutions, Inc., dated December 15, 2003. Project No. SL03296-3.

Dear Mr. Yandow:

It is our understanding that landscape improvements are proposed for the property located at 188 Seacliff Drive in the Shell Beach area of the City of Pismo Beach, California. Proposed improvements include installation of xeriscape landscaping, fencing, and control of surface water. The following are comments regarding landscaping improvements.

1. As stated in the August 12, 2003 Geologic Assessment of Coastal Bluff, recommendation 3.5 states "Irrigation of landscaping at the Site should be kept to a minimum to avoid unnecessary erosion or increased surcharge to the bluff. We do not advocate planting ice plant or water loving plants (i.e. grass) along the top of bluff." It is our understanding that the owner and landscaper have chosen vegetation that requires no direct irrigation. GeoSolutions, Inc. recommends installation of plant material to help "bind" surface soil with roots and to install plants that require minimal irrigation.
2. Fencing is proposed along the bluff edge. Due to the steep configuration of the bluff face, GeoSolutions, Inc. recommends installation of fencing for human safety reasons and to minimize/reduce the amount of human disturbance at the bluff edge. Human activity at the bluff edge increases erosion of the bluff.

Section 2.6 of the December 15, 2003 Addendum states, "It is recommended that human activity be severely restricted at the top of bluff and on the face of the bluff." If fencing is to be installed, applicable specifications within the City's Local Coastal Plan should be followed.

3. Control of surface water has been specified in Section 3.1 and 3.2 of the August 12, 2003 Geologic Assessment report. Site observation on August 17, 2005 show that a

drop inlet has been installed at the southeast corner of the property. Although landscaping is still under construction, the majority of the rear yard surface drainage is directed to the drop inlet in the southeast corner.

4. The far southwest corner of the property currently has no landscape improvements. Reduced vegetation (some iceplant and few native grasses), lack of control of human activity on the bluff edge, and uncontrolled surface drainage in this southwest corner exacerbate erosion on the coastal bluff in this area. An existing short-length safety fence in the area is approximately 7-feet from the bluff edge.

The following are recommended to be implemented in the southwest corner of the property:

- a) Minimize or reduce foot traffic at the bluff in this area.
 - b) Direct surface drainage away from the bluff edge and toward drop inlets.
 - c) Install landscaping in the southwest corner similar to that proposed along the mid- and east-bluff area of the property.
5. It is understood that the owner of the property intends to establish a small fence in the far southwest corner of the property. To secure fencing, the following alternatives are recommended:
 - a) Utilize existing fence posts/structures to support new fencing.
 - b) Dig post-holes and fill with concrete to support new posts and fencing.
 - c) Drive posts/rebar as supports for new fencing.

The use of existing fence posts is the preferred alternative because it causes the least disturbance to the surface/subsurface materials.

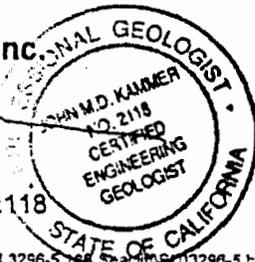
If you have any questions or require additional assistance, please feel free to contact the undersigned at (805) 543-8539.

Sincerely,

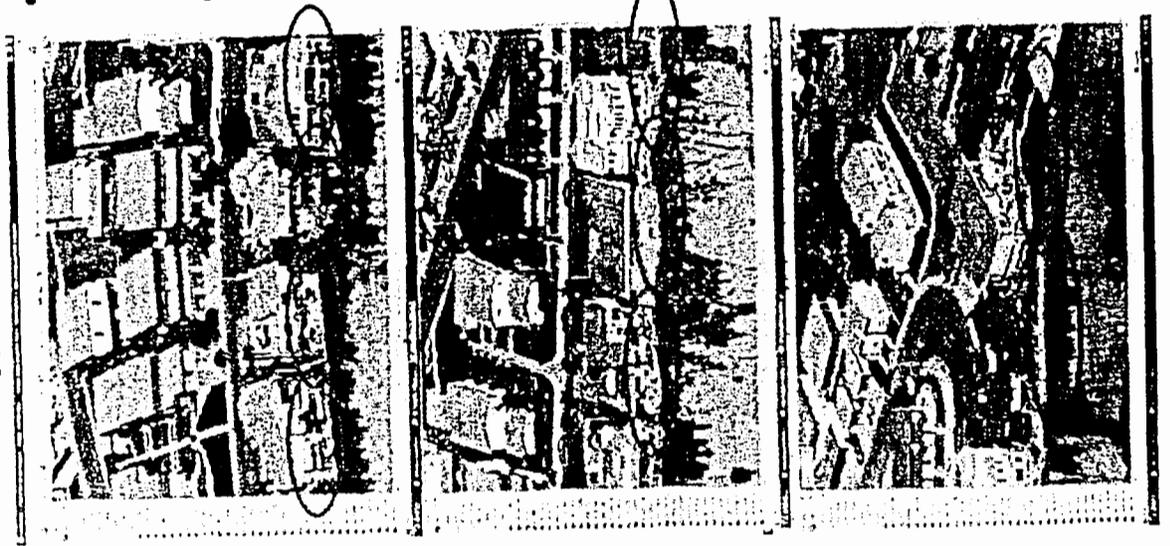
GeoSolutions, Inc.



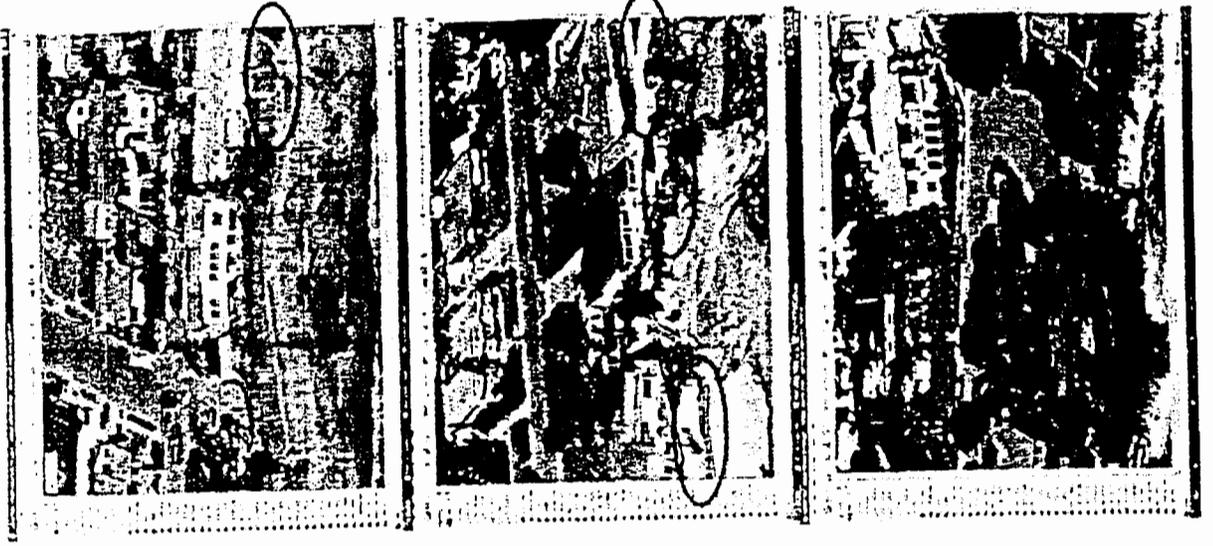
John M.D. Kammer
Principal, C.E.G. #2118



Houses
On Spyglass



Houses
On Indio



Using the Coastal Records website and site visits, the ocean front homes on Indio, Spyglass, Seaciff and Shoreline were reviewed for back safety fences

Close streets selected for their proximity to Seaciff Drive, and similar bluff top height

Street	Homes on Ocean	# with Safety Fence
Indio	30	27
Spyglass	14	13
Seaciff	7	4
Shoreline	10	7
Total	61	51

Safety fences are prevalent throughout the Pismo Beach Planning area.

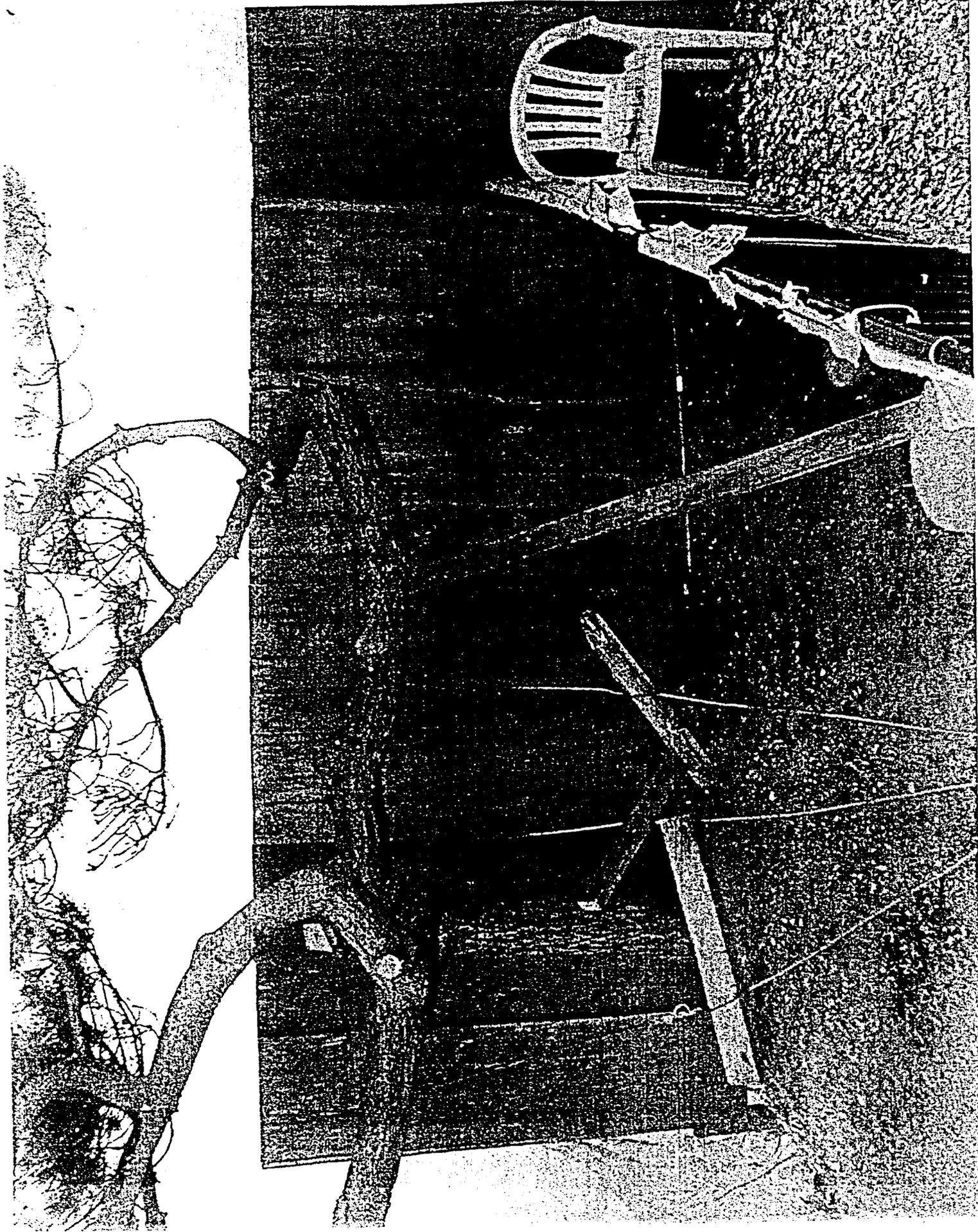


EXHIBIT "D" 63

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There are only 6 ocean front bluff top homes in the tract. Only one of them has a rear fence and it is falling over the bluff, and is not allowed to be replaced. The applicants and the City of Pismo Beach say that these types of rear fences are in character with the community. That is NOT correct.

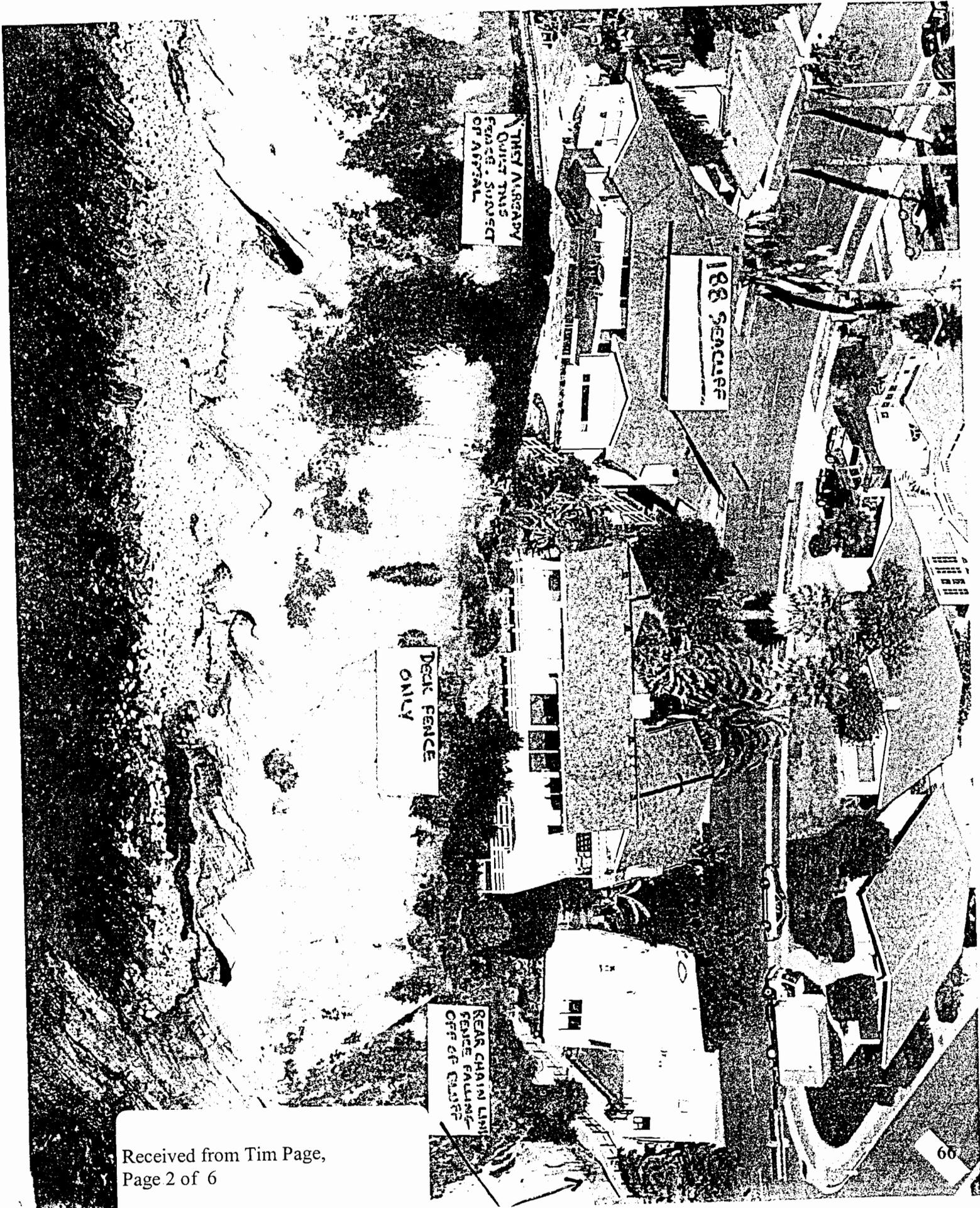
F6a
F6b

See Attached Pictures of the 6 ocean front bluff top homes.

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FEB 08 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA





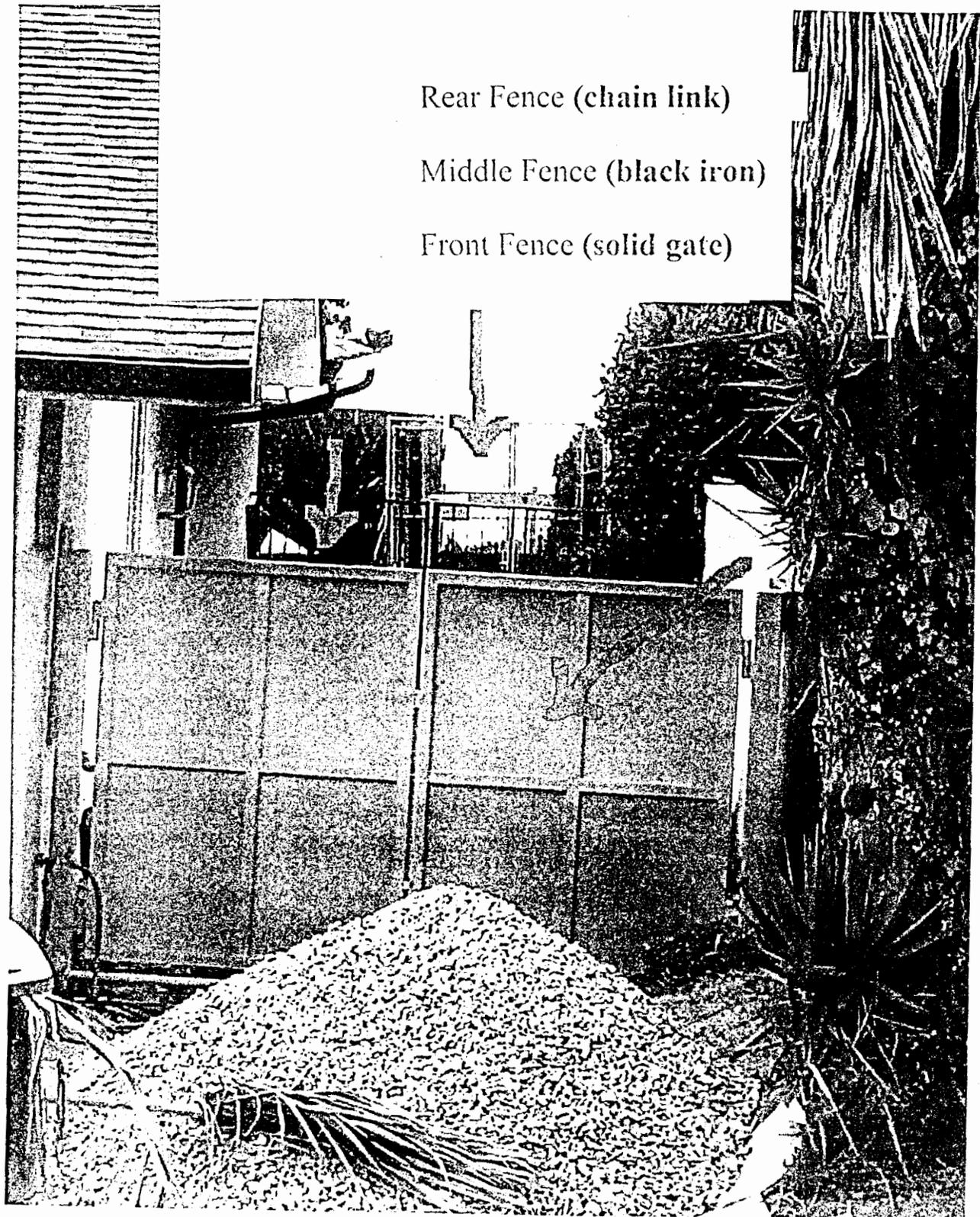
Received from Tim Page,
Page 3 of 6



THE PERMIT IS UNDER APPEAL AND IS AGENDA ITEM F 6 b

Received from Tim Page,
Page 4 of 6

3 Nonpermitted Fences Installed Across Access Path



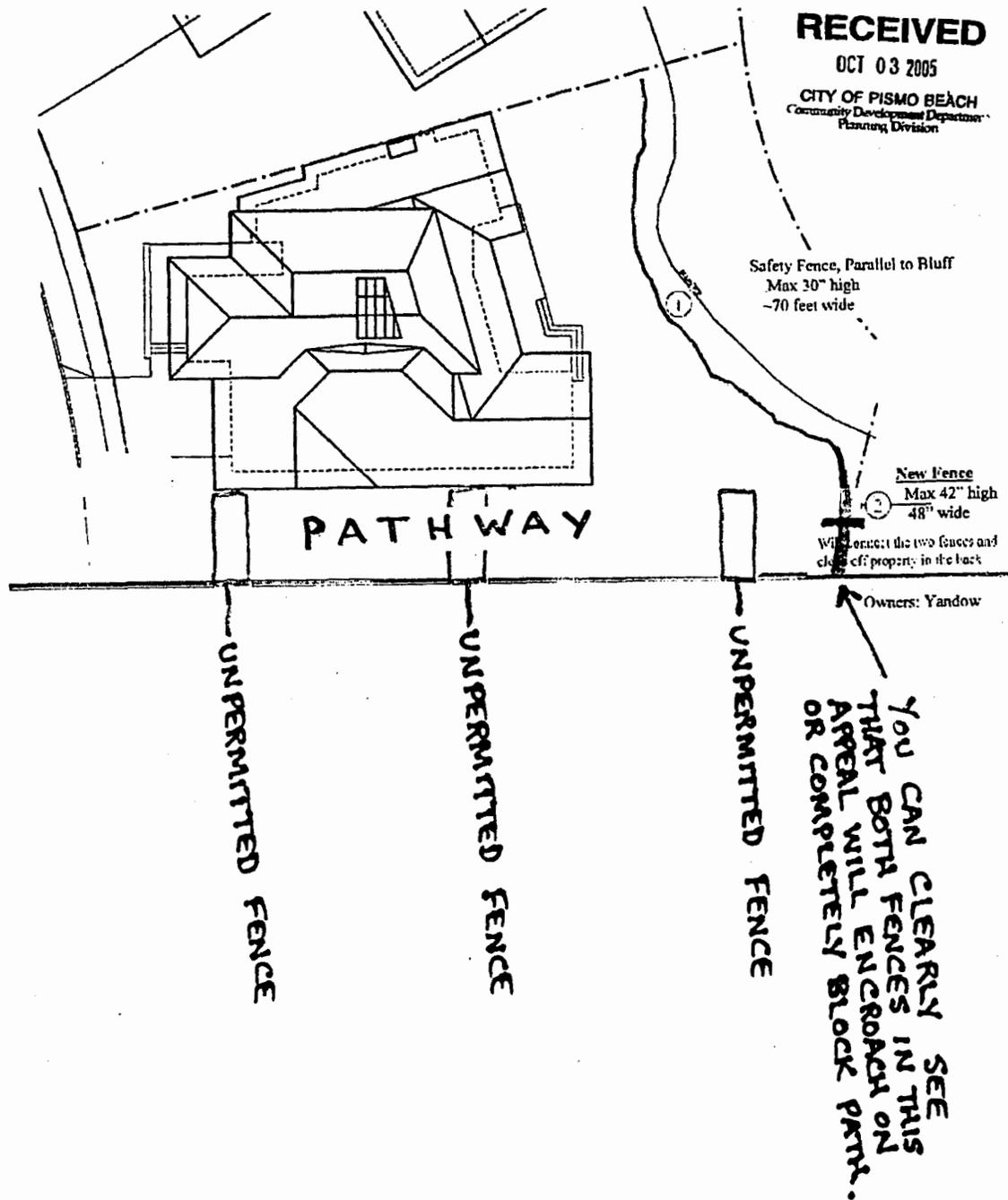
Rear Fence (chain link)

Middle Fence (black iron)

Front Fence (solid gate)

Exhibit 8 – Plans

Site Plan – Fence Locations



This Diagram is in your Staff Report as Exhibit #3. (Your copies do not contain any reference to the Public Pathway or the unpermitted fences, it is listed as a Dog Run for the applicants St. Bernard Dogs).

F6a
F6b

February 5, 2006

OPPOSE CDP's

To: California Coastal Commission
Re: Permit #'s A-PSB-06-002 and A-PSB-06-003
Agenda Item #'s F6a and F6b on the 2-10-06 Chula Vista meeting

I am adamantly opposed to the Coastal Commission granting permits for additional fencing at 188 Seacliff Dr., Shell Beach, CA, 93449. The owners of this property have continuously shown callous disregard and disrespect to the rights and feelings of our neighborhood and the community. There are currently 3 fences that were erected at this property which block access to a well established pathway leading from the front of the property to the bluff tops, a sandy beach below and to Spyglass Park. These fences are not only against the LCP and Pismo Beach GP, they were installed without permits. These unpermitted fences are currently the subject of an Enforcement Action by the Coastal Commission. Please rule to have immediate monetary sanctions placed on the property owners as long as they continue to block vertical access, or, recommend that a cease and desist order be issued by the Commission to have the unpermitted fencing removed and access to the shoreline restored.

Additionally, we feel very strongly that either Prescriptive Rights or Implied Dedication should exist for the path property that has been fenced off and closed by these selfish property owners. We know that hundreds of people have submitted questionnaires to the Coastal Commission specifying that the above path has been used, without ever having asked or received permission from any of the owners over the past 40 years. Please expedite a request to have these rights granted.

The City of Pismo Beach has refused to support the community in any actions against these property owners, citing on many occasions fear of litigation and costs. They told the community that we should pursue legal action on our own, and we have filed a lawsuit requesting that the courts grant us "Quiet Title" to the path property. This legal action is not only expensive for us, it creates an opportunity for the Yandows (property owners) who seem to have unlimited financial resources to drag this items through the courts for what will probably be years to come.

Your denial on the requested permits should at least prevent us from having to spend more unnecessary money of our own. You know once something is built, it is much more difficult to get it removed. Please help us.

Respectfully,

Pamela Page

Pamela Page
129 Baker Ave, Shell Beach, CA, 93449

RECEIVED

FEB 08 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

F6a
F6b**Michael Watson**

From: TIMPAGE@aol.com
Sent: Tuesday, February 07, 2006 12:43 PM
To: Michael Watson
Subject: Mike.... could you also attach this to the info for the Commissioners

This is references in the appeal I sent in. Not sure if anyone checked this out or not, but basically, the Geologist that Yandow hired is currently under sanctions for providing mis-leading information regarding another bluff top residence. At the time he prepared his report for Yandow, AND the City of Pismo Beach, his licenses had already been disciplined. The City said that his report from GeoSolutions was just a "peer review" of another geologic firm, but essentially, much of the information that the city based their conclusions on came from this guy (John Kammer). One of his quotes in the Staff report for Pismo said "human foot traffic on and around the path need to be discontinued to prevent Erosion on the path". That information is so ridiculous.... it's not how erosion happens, but the City of Pismo used it as a basis to approve the fences.

Thanks,

Tim

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FEB 07 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Received from Tim Page,
Page 1 of 7



BOARD FOR GEOLOGISTS AND GEOPHYSICISTS
 2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926
 TELEPHONE: (916) 263-2113
 FAX: (916) 263-2099
 E-mail: geology@dca.ca.gov
 Website: www.geology.ca.gov



Enforcement Action

John M.D. Kammer
Professional Geologist No. 6295
Certified Hydrogeologist No. 502
Certified Engineering Geologist No. 2118

The Board for Geologists and Geophysicists (Board) imposed discipline on Professional Geologist (PG) license No. 6295, Certified Hydrogeologist (CHG) No. 502, and Certified Engineering Geologist (CEG) license No. 2118 issued to Mr. John M.D. Kammer. Mr. Kammer's licenses were disciplined as part of the "Stipulated Settlement and Disciplinary Order", dated March 9, 2005 in resolution of Accusation Number No. 01-2002-10 that charged Mr. Kammer with acts of misrepresentation, negligence and unprofessional conduct and therefore, subjected his licenses to discipline.

Professional Geologist John Kammer failed to provide fundamental geologic data, proper site-specific geologic mapping and sufficient documentation to establish an appropriate setback for the geologic conditions for a proposed single-family residence site (site). Mr. Kammer also failed to provide sufficient geologic documentation or analyses concerning the current Factor of Safety (FS) of landslides that are present adjacent to the slopes on the site and to describe the extent the proposed sub-drains and minimal grading would increase the FS to an acceptable level. In addition, Mr. Kammer failed to provide geologic documentation regarding the nature of possible movement within the bedrock, impacts on slope FS and to utilize the findings from earlier geologists' report for the site that documents a prominent site bedrock shearzone. Kammer's undefined proposed building site, inaccurate descriptions and misrepresentations of the geologic conditions at the site are significant deviations from professional standards of practice and are critical to accurately evaluating the geologic/construction safety conditions at the site.

Mr. Kammer has agreed to have his licenses placed on probation for a three-year period. He is required to pay \$7,500.00 to the Board for costs of investigation and enforcement of Accusation No. 01-2002-10. In addition, Mr. Kammer agreed to the following conditions: 1) to obey all federal, state and local laws, and all rules and regulations of the Board governing the practice of geology and geophysics in California; 2) a full and detailed account of any and all violations of law to be reported by Mr. Kammer to the Board in writing within 72 hours of occurrence; 3) fully cooperate with representatives of the Board in its monitoring and investigation of Mr. Kammer's on-going Stipulated Settlement and Disciplinary Order compliance; 4) submit such declarations and verification of actions relative to compliance and provide copies of all written professional reports and immediately release all information forms as are required by the Board; and 5) a peer review process to be paid by Mr. Kammer to evaluate his professional work products for compliance with local and state standards as may be directed by the Board. It is understood by Mr. Kammer that if he violates any aspect of probation, the Board will revoke his probation-stayed license revocation and therefore revoke Mr. Kammer's PG, CHG and CEG licenses.

For the purpose of resolving the Accusation 01-2002-10, Mr. John M.D. Kammer agreed that, at a hearing, the Board could establish a factual basis for the charges in Accusation 01-2002-10 and thereby gave up his right to contest those charges and agreed to the above-referenced conditions. The case was closed on May 25, 2005 by Board adoption of the Stipulated Settlement and Disciplinary Order.

The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California

CALIFORNIA COASTAL COMMISSION

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



SENT VIA REGULAR AND CERTIFIED MAIL (7000 1670 0007 7215 7017)

September 13, 2005

Randy Bloom, Community Development Director
City of Pismo Beach
760 Mattie Rd.
Pismo Beach, CA 93449

Property Location: 188 Seacliff Dr., APN 010-505-014, Pismo Beach, San Luis Obispo County, (Property owners: Mark and Sandra Yandow)

Violation File No.: V-3-05-008

Subject Activity: Placement of Permanent Fence Blocking Access Path Without a Coastal Development Permit

Dear Mr. Bloom,

On June 20, 2005, Carolyn Johnson from the City of Pismo Beach (City) sent a letter (copy enclosed) to Mr. Yandow stating that historically the City doesn't require coastal development permits (CDPs) for fences located outside of an established bluff retreat area, and that the Yandows proposal to construct a 6-foot fence extending from the garage behind the PG&E meter across to the stucco wall on the common property line with property located at 182 Seacliff Drive is exempt from CDP requirements. On August 24, 2005, Nancy Cave of Commission enforcement staff wrote to acknowledge receipt of Ms. Johnson's 20 June 2005 letter to Mr. Yandow, and to express her dismay that no mention was made of the exemption letter at a site visit conducted on August 11, 2005 involving Mr. Bloom, Mr. Yandow, Mr. Yandow's attorney, Mr. Ochylski, Ms. Cave and Sharif Traylor.

The June 20, 2005 letter from Ms. Johnson states that fences are considered development, defined by Zoning Code Section 17.006.0365 which states, "on land,...the placement or erection of any solid material or structure ...change in intensity of use of water, or of access thereto..." Zoning Code Section 17.124.030 notes that: Developments, as defined in Subsection 17.006.0365 require a CDP except as otherwise provided in this Chapter..." As stated earlier, the letter also states that historically the City has not required CDPs for fences located outside of the established bluff retreat area.

Commission enforcement and planning staff have thoroughly reviewed the City's Zoning Ordinances and Local Coastal Program (LCP) policies, including sections 17.121.050 and 17.124.030 of the LCP, and discussed our review with Commission legal counsel. We disagree with Ms. Johnson's conclusion that the Yandows proposal to construct a

Received from Tim Page,
Page 3 of 7

Randy Bloom
Yandow Unpermitted Fence
9/13/05

permanent fence extending from the garage across to the stucco wall on the common property line with property located at 182 Seacliff Drive is exempt from CDP requirements pursuant to the City's certified Local Coastal Program (LCP).

Sections 17.121.050 and 17.124.030 of the City's LCP each require a CDP for "development" as defined in LCP section 17.006.0365. That definition (identical to that in the Coastal Act section 30106) clearly includes the subject fence. Section 17.006.0280 of the City LCP defines "coastal development permit" to mean the permit required by Coastal Act section 30600(a). However, a CDP is not "required" by section 30600(a) for a particular development proposal if the Coastal Act, in light of regulations duly adopted by the Coastal Commission, provides for an exemption from the requirement in 30600(a) for that proposal. Coastal Act section 30610, as qualified by the regulations the Coastal Commission has adopted to implement that provision, in fact provides for exemptions from the requirement of section 30600(a). Thus, the exemptions provided for in section 30610, as well as the qualifications to those exemptions in sections 13250-13253 of the Coastal Commission's administrative regulations, are by necessary implication incorporated into the requirement of section 30600(a), and thus into the definition of "coastal development permit" contained in the City's LCP. As a result, any development that requires a permit under the Coastal Act also requires a permit under the City's LCP. Since the subject fence is located between the first public road and the sea it does not qualify for a section 30610(a) exemption and thus requires a CDP under both the Coastal Act and the LCP (14 CCR sec.13250(b)(4)).

Section 17.130.010 of the City's LCP ("Compatibility with Existing Regulations") reinforces the foregoing conclusion. It provides that "the ordinance [Article 17 of City of Pismo Beach zoning ordinances] shall not be interpreted to repeal, abrogate, annul or in any way affect any other existing provision of any law...or regulation..." An interpretation of the LCP pursuant to which the subject fence would not be required to obtain a CDP would be in conflict with and would effectively "repeal, abrogate and annul" section 13250(b)(4) of the Coastal Commission's administrative regulations and section 30600(a) of the Coastal Act insofar as such provisions apply to the subject fence. Such a result would be in direct conflict with LCP section 17.130.010.

The Commission therefore recommends that the City process a CDP for the fence. Such a CDP is appealable to the Commission. The Commission considers the exemption granted by the City to violate the terms of the City's LCP. Given that the fence adversely impacts a public pathway historically used by the public to reach the beach, the Commission is prepared to initiate enforcement action to remove the unpermitted fencing and restore public use of the trail. Section 30810 (a)(2) of the Coastal Act allows the Commission to directly enforce unpermitted development activities located within the City's primary permit jurisdiction:

- (a) If the Commission, after public hearing, determines that any person or governmental agency has undertaken, or is threatening to undertake, any activity that (1) requires a permit from the Commission without securing the permit or (2) is inconsistent with any permit previously

Randy Bloom
Yandow Unpermitted Fence
9/13/05

issued by the Commission, the Commission may issue an order directing that person or governmental agency to cease and desist...under any of the following circumstances:

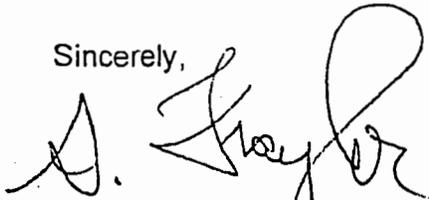
- (2) The Commission requests and the local government or port governing body declines to act, or does not take action in a timely manner, regarding an alleged violation which could cause significant damage to coastal resources.

It is our understanding from the June 20, 2005 that the City has not required a coastal development permit for the fencing, and to date has not taken action to remove the unpermitted development. Under 30810 of the Coastal Act, we are prepared to take enforcement action to resolve this situation at the Yandow property, and this letter serves as notification of our intention. Please provide written evidence by **September 23, 2005** that:

- 1) the June 20, 2005 exemption letter has been rescinded or voided by the City;
- 2) the Yandows have applied to the City for a CDP for the fence; and
- 3) the City is processing a CDP for the subject fence.

If you have any questions concerning this letter or our violation investigation, please contact me at the phone number or address above.

Sincerely,



Sharif Traylor
Enforcement Officer



Michael Watson
Coastal Planner

Enclosures

cc:

Steve Monowitz, Central Coast District Office Manager

Received from Tim Page,
Page 5 of 7

CALIFORNIA COASTAL COMMISSION

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



August 24, 2005

Mark Yandow
1793 Tonini Drive
San Luis Obispo, CA 93420

Randy Bloom
City of Pismo Beach
760 Mattie Road
Pismo Beach, CA 93449

RECEIVED

AUG 25 2005

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: Yandow property located at 188 Seacliff, Pismo Beach

Dear Mr. Yandow and Mr. Bloom:

I write to express my concern regarding permit and project information that was not discussed with me at a site visit on August 11, 2005 at 188 Seacliff. In a letter dated June 20, 2005, written by Carolyn Johnson, Planning Manager for the City of Pismo Beach to Mr. Yandow, Ms. Johnson states that Mr. Yandow's request to construct a six-foot fence extending from his garage across to the existing stucco wall on the common property line with 182 Seacliff is exempt from coastal development permit requirements.

I note that Ms. Johnson's letter was not copied to any Coastal Commission staff in either San Francisco or the Central Coast Commission office. I received a copy of the letter from a member of the public today.

On August 11, 2005, Sharif Traylor, Central Coast Enforcement Officer and I conducted a site visit at 188 Seacliff. As you both know, the Coastal Commission enforcement program has an open case for 188 Seacliff, regarding the construction of a "temporary" construction fence on the property. The temporary fence blocks public use of a trail located between 188 and 182 Seacliff. This trail has demonstrated historic public use and allows vertical public access between the properties to a bluff top trail, which leads to the shoreline. The purpose of Mr. Traylor and my visit was to meet with the property owner, his attorney and representatives of the City, to assess the existing access trail situation, the status of construction and to find out when the temporary fence would be taken down. While at the site, I specifically asked Mr. Bloom about the City's approved landscaping plan and asked for a copy. Obviously, I wanted the copy to see if the approved landscaping would conflict with the historically used trail.

Even though both of you knew about the request to construct a permanent fence across the historically used trail, and both of you knew about the City's decision to exempt the request from coastal permit requirements, neither of you discussed this information with Mr. Traylor or myself during the site visit. The exempted fence was constructed after we had conducted the

site visit. It was clear at the time this letter was written on June 20, 2005 and during our site visit on August 11, 2005 that the Commission staff has an existing concern about development at 188 Seacliff that obstructs this historically used trail. It was also clear that the Commission's enforcement case involves the construction of a fence that also blocks this trail. I do not understand why this information was withheld from us at the site visit. I also do not understand why the City did not send a copy of the June 20, 2005 letter exempting this fence from City coastal permit requirements to the Commission's Central Coast staff.

I can assure you that additional correspondence from the Commission to both of you regarding the June 20, 2005 exemption letter and the underlying exempted project will be sent.

Sincerely,



Nancy L. Cave
Northern California Supervisor
Enforcement Program

Cc: Sharif Traylor, Central Coast Enforcement Officer
Steve Monowitz, Central Coast District Director
Michael Watson, Central Coast District Planner

F6a
F6b

Evelyn Delany
128 Seacliff Drive

Pismo Beach, California

RECEIVED

January 30, 2006

FEB 08 2006

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Permit Numbers & Applicant: A-3-PSB-06-002, A-3-PSB-06-003 Mark S. Yadow

Appellant: Commissioners Meg Caldwell and Sara Wan
Save our Access Path Inc., Tim Page

Hearing Date and Location: Friday, February 10, 2006, Chula Vista
Agenda Items: F6a, F6b

Please do not approve the fence proposed by the applicant. The fence proposed by the applicant will permanently block an access to the beach that has been used by hundreds (maybe thousands) of people each year.

I have lived in the neighborhood since 1970. When I first moved there the Yadow house did not exist and beach users and surfers walked across that lot to get to the beach to use the ocean and to Spyglass Park. When the house was built in the late 1970s, the owner graciously allowed the beach users and surfers to walk to the beach and the park over a path between the Yadow house and that of the neighbor.

The property owner offered an easement to the City of Pismo Beach across that land for the purpose of beach access. Through some oversight, error, or omission, the city failed to act on the offer in the time allotted. Even after that time interval passed, people continued to walk on the path to get to the beach and the park. Everyone respected the privacy of the property owners. There was no vandalism, no noise, no inappropriate behavior, and no trash. No one used the path in the middle of the night. No one filed any claims for injuries. There were absolutely no problems with members of the public using that access path.

Now we have a new owner who wants to ruin all of that.

Please do not allow the fences that will block public access. We have been good neighbors in the past, and hope the Yadow family will be good neighbors now.

Sincerely,
Evelyn Delany

F6a
F6b

RECEIVED

FEB 08 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

RE: A-3-PSB-06-002 – MARK S. YANDOW
A-3-PSB-06-003 – MARK S. YANDOW
188 Seacliff Drive
Pismo Beach, CA

My name is Emilie Koff-Martin.
My husband's name is Gregory Martin.
We both **OPPOSE** the project.
Our address is 152 Naomi Ave.
Pismo Beach, CA. 93449

February 6, 2006

Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

TO WHOM IT MAY CONCERN:

I am writing to share my concerns regarding Mr. Yandow's request to install a 30-inch high, 70-foot long chain link fence parallel to the coastal bluff at the rear of his site. My concern is regarding the portion of this fence, which will block off an existing vertical path to Spyglass Park and the beach.

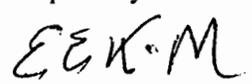
The reason that I feel the cut off of the "backside" of the access path should not be approved is:

- The Yandow's are presently in litigation regarding the access path. Our neighborhood has a lawyer who represents our committee called Save Our Access Path (SOAP). Our lawyer is working with the Yandow's regarding the legality of closing this path.
- It is my understanding the Pismo Beach City Council has determined that Mr. Yandow may not legally close off this access path until the lawsuit is settled.
- Very importantly, Mr. Yandow has disregarded the direction of the City Council and already closed off the path ILLEGALLY. The path has been closed to the neighborhood for months.
- If I understand the information that is regularly shared with me, the Yandow's (at an earlier date) requested permission from the Coastal Commission to close off the access path and their request was denied. If this is true then Mr. Yandow is defying the earlier ruling of the Coastal Commission.

This path has been in existence for neighborhood use for over 25 years.

- Although there is access to Spyglass Park at the top of our enclave, people like my husband (who has polio) cannot make the trek to the top of the enclave.
- It is safer for the surfers to surf from Spyglass area to our enclave and then walk back to their cars through the Spyglass park access path. Otherwise they have to fight the ocean current back to their original entry point or walk to the top of our enclave when exhausted.
- The Yandow's were aware that this access path existed when they purchased the property.
- Again, the Yandows have illegally close off the access path at this time.

Respectfully Submitted,



 Emilie E. Koff-Martin and Gregory Lynn Martin

F6a
F6b

Name:	Sally J. Krenn	
Agenda No.	Application	Position
F6a	A-3-PSB-06-002	Opposed
F6b	A-3-PSB-06-003	Opposed

7 February 2006

Sally J. Krenn
158 Baker
Shell Beach, CA 93449

RECEIVED

FEB 08 2006

California Coastal Commission
Central Coast District Office
Front Street, Suite 300
Santa Cruz, CA

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Commissioners,

I wish to state my **opposition** to the 10 February 2006 meeting Agenda items **F6a** and **F6b**, applications by Mark S. Yandow for permit to build two fences on his property at 188 Seacliff Drive, Pismo Beach CA. One of the fences (A-3-PSB-06-002) will permanently block a coastal access pathway that we, the public, have enjoyed for over 40 years. The legal status of Mr. Yandow's action to prohibit the public's use of this historic coastal access is contested by our local citizens group, Save Our Access Path, Inc. I feel the permitting of these fences is premature pending a court ruling on our (SOAP, Inc.) claim of prescriptive rights for access along this coastal access path.

I am personally grateful, and many people I know who are familiar with and have used this coastal access for years, both neighbors and members of the public at large, are grateful as well, for the continued support by the California Coastal Commission, commissioners and staff, in this fight to regain what is rightfully the public's right to this coastal access point.

Respectfully,



Sally J. Krenn
158 Baker
Shell Beach, CA 93449

F6a
F6b

Agenda No.	Application	Position
F6a	A-3-PSB-06-002	Opposed
F6b	A-3-PSB-06-003	Opposed

7 February 2006

Jim Blecha
158 Baker
Shell Beach, CA 93449

RECEIVED

FEB 08 2006

California Coastal Commission
Central Coast District Office
Front Street, Suite 300.
Santa Cruz, CA

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Commissioners

I wish to state my **opposition** to the 10 February 2006 meeting Agenda items **F6a** and **F6b**, applications by Mark S. Yandow for permit to build two fences on his property at 188 Seacliff Drive, Pismo Beach CA. One of the fences (A-3-PSB-06-002) will permanently block a coastal access pathway that we, the public, have enjoyed for over 40 years. The legal status of Mr. Yandow's action to prohibit the public's use of this historic coastal access is contested by our local citizens group, Save Our Access Path, Inc. I feel the permitting of these fences is premature pending a court ruling on our (SOAP, Inc.) claim of prescriptive rights for access along this coastal access path.

It is a pretty sad state of affairs that our elected officials at the Pismo Beach City Council did not require Yandow to preserve the public's continued enjoyment of this historic coastal access as a requirement of his permit to remodel his house, thus requiring action by citizens at our own expense to rectify this situation. I myself am grateful for the continued support by the California Coastal Commission, commissioners and staff, in this fight to regain what is rightfully the public's right to this coastal access point.

Respectfully,



Jim Blecha
158 Baker
Shell Beach, CA 93449

Commissioner,
Port San Luis Harbor District
Pier 3, Box 249
Avila Beach, CA 93424

F6a
F6b

February 7, 2006

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

RECEIVED

FEB 08 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Attention: Mike Watson

Dear Mr. Watson and Commissioners,

I have lived at 161 Paddock Avenue in Shell Beach since May 15, 1969.

Shortly after moving in, a friendly new neighbor showed me a foot path across the street from her home that would allow access to then-named Sewer Beach.

It was a vacant lot and continued access was allowed when houses were built adjacent to the footpath.

My family and I used the path many times a week as the area changed from pea fields to a playground park and picnic area over time.

Our children became adults. Our grandchildren are now added to those who have used and enjoyed the footpath to the park, playground and beach..

In 2005 the path was blocked by temporary and then permanent fencing as the Yadow family remodeled their home at 188 Sea Cliff.

Currently, we are no longer able to walk our neighborhood as we have done for the past nearly 35 years.

In those years, my husband has experienced post-polio syndrome that has reduced his mobility. He is unable to walk to the park and must drive up the street and around the block because the short-cut footpath is blocked.

I protest this closure. I ask that you consider Prescriptive Rights, Moral right and just plain right as you study this issue.

Please restore our neighborhood footpath.

Sincerely,



Darlene Tunney
161 Paddock Ave.
Shell Beach, CA
93449

F6a
RECEIVED F6b

FEB 06 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Dear Mr. Watson-

For 47 years I have owned a home at 171 Seaciff Dr. During that time we have always had access directly to ^{the} area which eventually became our beautiful park.

My sons enjoyed climbing down to the beach even when the sewer smelled bad. We were thankful when the sewer "smell" problem was fixed. Now the time has come for my grandchildren. They would run down to the beach - come back with shells and sand in their clothes and plugged up the washing machines. Now my great grandchildren come up here and want to know they can't get down to the beach! Son 84 - Dattie is 82.

Please fix this problem as soon as you can! With respect-

Thomas C. Ellingson

SOAP!!!

Thomas Ellingson
171 Seaciff Dr.
Shell Beach, CA
93449-1766

F6a, F6b

This letter is in regards to the Yandow property and the closing of the path on there property at Seacliff Drive in Pismo Beach (Shell Beach). It is funny that people buy property here beacuse it is such a beautifull are. Once they are here they start taking away the things that make it so nice.

I live in Arroyo Grande, I have been using the path for more than 30 years. Please do not let Pismo become another Malibu or Hollister Ranch (private access). This area is not only used buy neighbours, but also used by hikers, surfers, fisherman, beach goers and nature lovers that all live in the surrounding area. Please get the path reopend.

Mark Jones
1014 Ash St
Arroyo Grande Ca 93420
805-481-3640



RECEIVED

FEB 06 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

F6a
F6b

CATHY CASE

1363 Hendrix Ave. Thousand Oaks, CA 91360

January 24, 2006

California Coastal Commission
Central Coast Area Office
725 Front St., Ste. 300
Santa Cruz, CA 95060

RE: Permit # A-3-PSB-06-002, A-3-PSB-06-003, Mark S. Yandow (Public Hearing, February 10, 2006, Items F6a, F6b)

Dear Coastal Commissioners,

I addressed the commissioners by mail a year ago expressing my dismay that the homeowner, Mr. Mark Yandow had blocked my access to the beach from the front of his property at 188 Seacliff, Shell Beach. Having used this path on my visits to Shell Beach over a period of over 20 years, I was outraged that this homeowner had barricaded a much used public access path and I assumed the Coastal Commission would act quickly to remedy the situation and restore access.

It is now clear that Mr. Yandow is engaging in obstructionist tactics to avoid his obligation to reinstate access to the public and relinquish to the public their right to traverse an established access path on his newly purchased property. Mr. Yandow's petition to erect fencing on this property is but one more defiant gesture to deny the people of California access to what he obviously considers his personal beach.

I strongly urge you to act in favor of the appellants, with regard to the finding of a substantial issue on this appeal and continue to pursue the reopening of the access path at 188 Seacliff Dr.

Sincerely,



Cathy E. Case

RECEIVED

JAN 27 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

F6a
F6b

Evelyn Delany

128 Seacliff Drive

Pismo Beach, California

RECEIVED

January 30, 2006

FEB 01 2006

California Coastal Commission
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Permit Numbers & Applicant: A-3-PSB-06-002, A-3-PSB-06-003 Mark S. Yandow

Appellant: Commissioners Meg Caldwell and Sara Wan
Save our Access Path Inc., Tim Page

Hearing Date and Location: Friday, February 10, 2006, Chula Vista
Agenda Items: F6a, F6b

Please do not approve the fence proposed by the applicant. The fence proposed by the applicant will permanently block an access to the beach that has been used by hundreds (maybe thousands) of people each year.

I have lived in the neighborhood since 1970. When I first moved there the Yandow house did not exist and beach users and surfers walked across that lot to get to the beach to use the ocean and to Spyglass Park. When the house was built in the late 1970s, the owner graciously allowed the beach users and surfers to walk to the beach and the park over a path between the Yandow house and that of the neighbor.

The property owner offered an easement to the City of Pismo Beach across that land for the purpose of beach access. Through some oversight, error, or omission, the city failed to act on the offer in the time allotted. Even after that time interval passed, people continued to walk on the path to get to the beach and the park. Everyone respected the privacy of the property owners. There was no vandalism, no noise, no inappropriate behavior, and no trash. No one used the path in the middle of the night. No one filed any claims for injuries. There were absolutely no problems with members of the public using that access path.

Now we have a new owner who wants to ruin all of that.

Please do not allow the fences that will block public access. We have been good neighbors in the past, and hope the Yandow family will be good neighbors now.

Sincerely,

Evelyn Delany

RECEIVED

February 5, 2006

FEB 07 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Agenda Item F6a
Application A-3-PSB-06-002
John Steinbeck
Opposed to Application

California Coastal Commission
Central Coast District Office
725 Front St., Suite 300
Santa Cruz, CA 95060

Re: Item F6a on Agenda for February 10, 2006 Meeting of California Coastal Commission for Application A-3-PSB-06-002

Dear Commission Members,

I am writing this letter to urge you to deny Application A-3-PSB-06-002 from Mr. Mark S. Yandow for installation of a 42-inch, 48-inch wide chain link fence across an existing vertical access path to Spyglass Park and the beach that is located next to the residence at 188 Seacliff Drive, Pismo Beach, CA. Local residents of the neighborhood and area surfers have used this access path for at least 30 years. I have lived in the Shell Beach area since 1978 and have used the path next to 188 Seacliff Drive to access the beach since the access to the south along Seacliff Drive at Memory Park is extremely steep and unsafe. Over these many years I have never asked the previous homeowners at 188 Seacliff Drive for permission to use the path, although the homeowners saw me accessing the path on several occasions. It was my assumption that the path was a public right-of-way.

The long history of use of the pathway is also documented in photos dating back to 1972 that are available at the website, www.californiacoastline.org. The photo from 1972 clearly shows a path to the bluff area before the house at 188 Seacliff Drive was built (Figure 1). Subsequent photos from 1979 (Figure 2) and 1989 (Figure 3) also clearly show that the access path was present and actively used as evidenced by the well worn foottrail through the brush on the top of the bluff. Shading from the tree next to the path slightly obscures the view of the path in the photo from Monday September 2, 2002 (Figure 4). The website titles the photo "St. Andrews Tract. Shell Beach. Pathway to popular local surfing spot" clearly showing that the path was a well-known access to the beach. These aerial photographs clearly show continued use of the path since the time that the house at 188 Seacliff Drive was built.

Mr. Yandow's action in blocking the access path has alienated his neighbors and local residents. Immediate legal actions to block the installation of the barriers to the path would have been initiated if Mr. Yandow's ultimate intentions regarding the access path had been known. Instead he and his representatives lead everyone to believe that the barriers were temporary and would be removed following construction. As a result,

pursuing legal action to remove the barriers was delayed because of Mr. Yandow's misrepresentations.

One of the important functions of the California Coastal Commission is maintaining public access to coastal areas. The long history of public use of the access path at 188 Seacliff Drive clearly meets all of the criteria for prescriptive rights to continued public use of the path. I would urge you to deny Application A-3-PSB-06-002 from Mr. Mark S. Yandow for installation of a 42-inch, 48-inch wide chain link fence across an existing vertical access path located next to 188 Seacliff Drive, Pismo Beach, CA and ensure that the path remains open to the public.

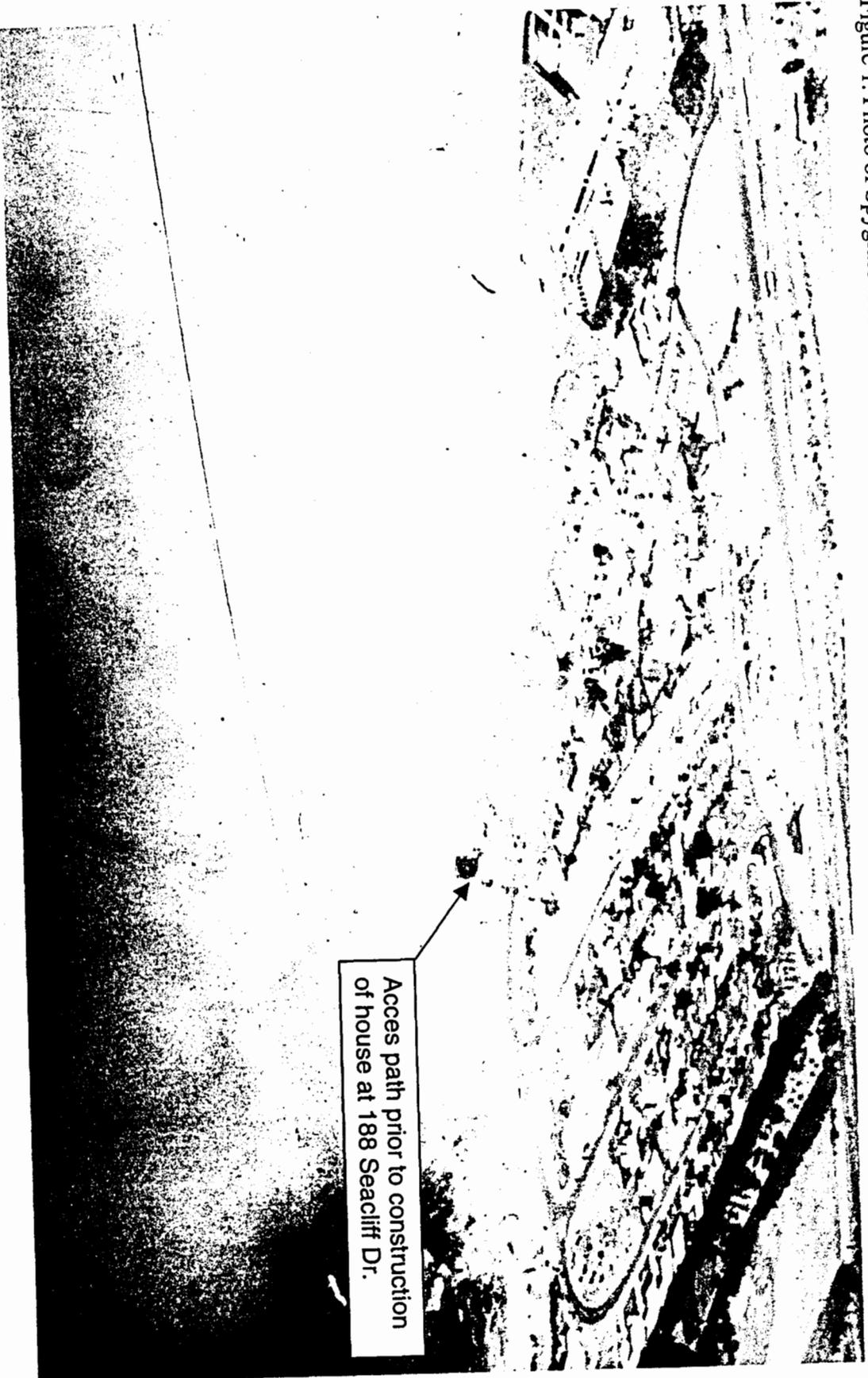
Sincerely,

A handwritten signature in black ink, appearing to read 'John Steinbeck', with a long horizontal flourish extending to the right.

John Steinbeck
356 Miramar Ln.
Pismo Beach, CA 93449

w/four figures

Figure 1. Photo of Spyglass area of Shell Beach from 1972. Source www.californiacoastline.org.



Agenda Item F6a
Application A-3-PSB-06-002
John Steinbeck



Figure 2. Photo of Spyglass area of Shell Beach from 1979. Source www.californiacoastline.org.



Figure 3. Photo of Spyglass area of Shell Beach from 1989. Source www.californiacoastline.org.

Figure 4. Photo of Spyglass area of Shell Beach from 2002. Source www.californiaconsistline.org.



Letter received after DD's report prepared, but was included in materials give to the Commission on 2/9/06.

F6a, F6b

January 31, 2006

To: California Coastal Commission
Attn.: Mike Watson

We have been residents of the St. Andrews tract of homes in Shell Beach since 1987. Our children were raised using the beach access in question as the quickest and most scenic way to the neighborhood park. We purchased our home expecting that this beautiful access to the park would remain. Without the access under discussion, there is only one route to Spyglass Park, which has a small playground, picnic tables, barbecue facilities, and a beach access. The alternative access is about 100 yards from the ocean.

We strongly support the right for the public to have accessible beaches in small neighborhoods like ours. We feel that this access is well established as belonging to all. We are extremely upset that the current homeowner adjacent to the access has chosen to close it to his neighbors and build fences without consent. Please rectify this situation.

Thank you.

Heidi Paciano
Frank Paciano

Paciano
109 Naomi Ave.
Shell Beach, CA
93449

RECEIVED

FEB 08 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Letter received after DD's report prepared, but was included in materials give to the Commission on 2/9/06.

F6C

February 8, 2006

Susan Craig
CALIFORNIA COASTAL COMMISSION
Central Coast District Office
725 Front Street, Suite 300
Santa Cruz, CA 95060

RECEIVED

FEB 09 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Re: Appeal No.: A-3-SCO-06-006, Willmott SFD

Dear Ms. Craig:

We strongly disagree with the three issues raised by the Substantial Issue Staff Report. The County of Santa Cruz Staff Report to the Zoning Administrator clearly and completely addresses these issues, and accordingly it is respectfully requested that the Coastal Commission determine that this appeal raises no substantial issue.

Substantial Issue Regarding Consistency with the LUP's Natural Hazard Policies.

This was addressed and approved by the Santa Cruz Zoning Administrator and can be found in Exhibit 3, pages 7 and 8 in the Staff Report to the Zoning Administrator, Geological and Soils Review.

Substantial Issue Regarding Consistency with the LCP's Visual Resources Open Space and Recreation Provisions.

This was addressed and approved by the Santa Cruz Zoning Administrator and can be found in Exhibit 3, pages 7 and 8, Design Review.

Substantial Issue Regarding Consistency with the Coastal Act's Public Access and Recreation Policies.

This was addressed and approved by the Santa Cruz Zoning Administrator and can be found in Exhibit 3, page 5, Local Coastal Program Consistency and Zoning and General Plan Consistency.

It is important to point out that our proposed home, although visible from the beach, does not block the public view of any beach, water, or coastal land form.

NB All the substantial issues are addressed in the Development Permit Findings in Exhibit 3, pages 12 and 13.

Background

Our application to demolish our existing home and construct a new two story home consisting of approximately 5,600 square feet, was made with the County of Santa Cruz on October 31, 2002. After three years of analysis and review, this application was approved by the Santa Cruz Zoning Administrator on December 2, 2005.

The planning process conducted by the County of Santa Cruz Planning Department was comprehensive and the issues posed by the Coastal Commission Staff have been thoroughly addressed by the Santa Cruz County Planning Department. Lawrence Kasparowitz, the Senior Planner and Urban Designer was the staff planner on this project. Mr. Kasparowitz' Staff Report to the Zoning Administrator is attached to the Appeal Staff Report as Exhibit 3.

During the three year period our application was pending, Mr. Kasparowitz requested and was provided extensive geotechnical studies and reports from Haro, Kasunich & Associates, and Neilsen & Associates. The footprint of the proposed residence has been conformed to the findings and recommendations of the geotechnical engineer and geologist. (See Exhibit 3, pages 7 and 8)

The residence was sited to address the geotechnical recommendations as well as the visual impact of the residence. Storypoles and photo simulations were made to assess the visual impact of the residence from the public beaches. The final renderings of the proposed residence have been completely reviewed by planning staff, the district supervisor, and the surrounding neighbors. By the time this proposed residence was approved by the Santa Cruz Zoning Administrator, it had the complete support of all. No one appeared at this hearing in opposition to any of

the substantial issues. (See Exhibit 3, page 8)

We disagree with the contention of staff that the proposed residence will adversely impact public views of Black's Point and the ocean by increasing the size, mass, and seaward encroachment of residential development at this sensitive location. This appeal contends that these impacts are inconsistent with LCP requirements that protect bluffs, viewsheds, recreational uses, and geological/natural landforms.

Santa Cruz County General Plan 5.10.7 provides as follows:

Open Beaches and Blufftops. Prohibit the placement of new permanent structures which would be visible from a public beach, except where allowed on existing parcels of record, or for shoreline protection and for public beach access. Use the following criteria for allowed structures:

(A) Allow infill structures (typically residences on existing lots of record) where compatible with the pattern of existing development.

(B) Require shoreline protection and access structures to use natural materials and finishes to blend with the character of the area to integrate with the landform.

The Staff Report to Zoning Administrator (Exhibit 3, page 5) makes the following findings:

The proposed single family dwelling is in conformance with the County's certified Local Coastal Program, in that the structure is sited and designed to be visually compatible, in scale with, and integrated with the character of the surrounding neighborhood. Developed parcels in the area contain single-family dwellings. Size and architectural styles vary widely in the area, and the design submitted is not inconsistent with the existing range.

Additionally, residential uses are allowed uses in the R-1-6/ Parks, Recreation and Open Space District (6,000 sq. ft. min. site area) zone district of the area, as well

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as the General Plan and Local Coastal Program land use designation.

The proposed residence is an infill structure, to be constructed on an existing lot of record. The proposed residence is compatible with the pattern of existing development and does not extent further seaward that the existing structure.

According to your staff report, the grounds for an appeal of an approved project shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act. Mr. Kasparowitz specifically finds that the proposed single family dwelling is in conformance with the County's certified Local Coastal Program (Exhibit 3, page 5); and makes Coastal Development Permit Findings (Exhibit 3, pages 10 and 11).

It is our vigorous contention, and that of our consultants, and County of Santa Cruz staff including the Staff Planners, County Geologist, and Zoning Administrator, that our proposed residence is in complete compliance with the local coastal program and accordingly the appeal raises no substantial issue with respect to the grounds on which this appeal has been filed.

The motion that this appeal raises no substantial issue clearly deserves a yes vote from the Coastal Commission.

Sincerely,



Graham and Pamela Willmott
c/o Reid P. Schantz, Esq.
133 Mission Street, Suite 230
Santa Cruz, CA 95060

cc: Wayne Miller
Reid P. Schantz, Esq.
Les Strnad



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 900
SANTA CRUZ, CA 95060
(831) 427-4863



RECEIVED

FEB 08 2006

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Request for Postponement

Re: Application No. 3-05-071

I hereby request a postponement of the referenced application from its scheduled Commission public hearing date. I do so as a matter of right pursuant to Public Resource Code 13073(a), and acknowledge that I may be granted only one right to postponement. I also agree to waive any applicable time limits for Commission action pursuant to Public Resources Code 13073(c) on the above-referenced application. I understand I must provide another set of stamped, addressed envelopes to meet public notice requirement consistency with CCR 14 Section 13054. These must be received in the District Office by _____. I request that the referenced application be scheduled:

- for consideration at the next possible Southern California Commission meeting.
- for consideration at the next possible Northern California Commission meeting. March 2006.

(I understand that the application may need to be scheduled without regard to the Southern/Northern California preference, for reasons beyond the control of the Commission.)

- for consideration after staff and I have had additional time to discuss the project.
- Other (explain) *CITY COUNCIL CONSIDERATION OF BEDROCK CONDITIONS + PROJECT MODIFICATIONS

2/8/06
Date

[Signature]
Signature of applicant or authorized agent

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