

## CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
(831) 427-4863 FAX (831) 427-4877  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**W9**

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

*For the*

*January Meeting of the California Coastal Commission*

MEMORANDUM

Date: January 7, 2009

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 January 7, 2009 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.

***REGULAR WAIVERS***

1. 3-08-026-W City of Seaside, Attn: Tim O'Halloran, City Engineer (Seaside, Monterey County)
2. 3-08-059-W San Luis Obispo County Public Works Department, Attn: Doug Bird, Hydraulic Operations Administrator (Oceano, San Luis Obispo County)

***DE MINIMIS WAIVERS***

1. 3-08-057-W San Luis Obispo County Public Works Department, Attn: Dave Flynn, Deputy Director (Los Osos, San Luis Obispo County)

***IMMATERIAL AMENDMENTS***

1. A-255-78-A1 Pat Devaney (Pismo Beach, San Luis Obispo County)

**TOTAL OF 4 ITEMS**

## DETAIL OF ATTACHED MATERIALS

### REPORT OF REGULAR WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 13250(c) and/or Section 13253(c) of the California Code of Regulations.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>3-08-026-W</b> City Of Seaside, Attn: Tim O'Halloran, City Engineer	Request for a long-term (5-year) ongoing maintenance permit for regular periodic maintenance to the existing Roberts Lake and Laguna Grande storm water outfall opening.	Humboldt Avenue (end of Humboldt Avenue, adjacent to Monterey State Beach and Monterey Beach Hotel), Seaside (Monterey County)
<b>3-08-059-W</b> San Luis Obispo County Public Works Department, Attn: Doug Bird, Hydraulic Operations Administrator	Install a bubbler system for flood warning in the lagoon at the base of Arroyo Grande Creek.	Arroyo Grande Creek Lagoon, Oceano (San Luis Obispo County)

### REPORT OF DE MINIMIS WAIVERS

The Executive Director has determined that the following developments do not require a coastal development permit pursuant to Section 30624.7 of the California Coastal Act of 1976.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>3-08-057-W</b> San Luis Obispo County Public Works Department, Attn: Dave Flynn, Deputy Director	Wrap two deteriorated pilings on the South Bay Boulevard Bridge with a with a 1-inch thick fiberglass and polyester resin jacket.	South Bay Boulevard (within county right-of-way), Los Osos (San Luis Obispo County)

### REPORT OF IMMATERIAL AMENDMENTS

The Executive Director has determined that there are no changes in circumstances affecting the conformity of the subject development with the California Coastal Act of 1976. No objections to this determination have been received at this office. Therefore, the Executive Director grants the requested Immaterial Amendment, subject to the same conditions, if any, approved by the Commission.

<i>Applicant</i>	<i>Project Description</i>	<i>Project Location</i>
<b>A-255-78-A1</b> Pat Devaney	Allow modification and improvement of the existing shoreline protection devices	2101 Shoreline Drive, Pismo Beach (San Luis Obispo County)

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV

**NOTICE OF PROPOSED PERMIT WAIVER**

**Date:** December 22, 2008  
**To:** All Interested Parties  
**From:** Dan Carl, Central Coast District Manager *DCarl*  
Mike Watson, Coastal Planner *MW*  
**Subject:** Coastal Development Permit (CDP) Waiver 3-08-026-W  
Applicant: City of Seaside; Attn: Tim O'Halloran

**Proposed Development**

5-year stormwater outfall maintenance including periodic clearing and removal of sand and debris from the head of the Robert's Lake outfall to maintain stormwater flows and to prevent flooding adjacent to the inland lagoons that otherwise could result in hazardous conditions and property damage. Activities include moving material by hand from the head of the outfall and occasional breaching of the sand berm with a backhoe to facilitate stormwater flows. The site of the proposed development is at the foot of Humboldt Street and in the seawall immediately adjacent to the Monterey Beach Hotel.

**Executive Director's Waiver Determination**

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed 5-year stormwater outfall maintenance authorization is necessary to prevent flooding and damage of inland roadway, parking, and public access infrastructure, and to avoid hazards. The City is committed to implementing all of the BMPs contained in its Stormwater Master Plan including street sweeping, vacuuming storm drain catch basins, elimination of illicit discharges, etc., to reduce impacts and improve water quality of the stormwater discharge. Additional construction BMPs/commitments are included to minimize disturbance of the beach and to reduce interference with public access and recreational activities in the vicinity of the development, including minimizing beach disturbance by using hand tools where possible and using mechanical equipment only when necessary; utilizing Humboldt Street as the point of access for maintenance activities; maintaining/monitoring stormwater data at the outfall for each year of the permit beginning with 2008; and committing to apply for a permit extension 6 months prior to the expiration date, such submittal to include a reevaluation of alternatives based on maintenance and fieldwork experience and the results of stormwater monitoring. Accordingly, the project will not have any significant adverse impacts on coastal resources, including public access to the shoreline.

**Coastal Commission Review Procedure**

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, January 7, 2009, in Oceanside. If four



**NOTICE OF PROPOSED PERMIT WAIVER**  
**CDP Waiver 3-08-026-W (Robert's Lake Outfall Maintenance)**  
**Page 2**

Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

**If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.**



**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV



## NOTICE OF PROPOSED PERMIT WAIVER

**Date:** December 22, 2008  
**To:** All Interested Parties  
**From:** Dan Carl, Central Coast District Manager *DCarl*  
Jonathan Bishop, Coastal Planner *JB*  
**Subject:** Coastal Development Permit (CDP) Waiver 3-08-059-W  
Applicant: San Luis Obispo County Public Works Department

### Proposed Development

Install a bubbler system for flood warning at the base of Arroyo Grande Creek. The bubbler system would be installed on top of the creek levee and would extend between existing flood gates. The system includes a 30" by 30" control box attached to two 2" galvanized steel posts (approximately 10' tall, with 4' buried below ground on the levee). One post is equipped with a 6'3/4" galvanized steel pipe to act as an antenna. The structure will measure 12' in height on top of the levee. One 3/4" galvanized steel pipe will run from the control box to the control gates where the bubbler orifice will be installed.

### Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed bubbler system is intended to aid in on-going maintenance of the flood control facility by tracking flood events. The information gathered by the system will assist flood control activities and management decisions, as well as ensure the stability of the creek levees and improve public safety. The system will be installed with minimal site disturbance, and has been designed to avoid resource impacts to Arroyo Grande Creek. The project includes measures to ensure that coastal resources are clearly protected during installation (including pre-installation surveys and biological monitoring during all work activities). The system is located in an area on the levee not visible from major public view. Accordingly, this project avoids the potential for adverse effects on coastal resources, including public access. As such, the project is consistent with Chapter 3 of the Coastal Act.

### Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, January 7, 2008, in Oceanside. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

**If you have any questions about the proposal or wish to register an objection, please contact Jonathan Bishop in the Central Coast District office.**



**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV



## NOTICE OF PROPOSED PERMIT WAIVER

**Date:** December 22, 2008  
**To:** All Interested Parties  
**From:** Dan Carl, Central Coast District Manager *DCarl*  
Jonathan Bishop, Coastal Planner *JB*  
**Subject:** Coastal Development Permit (CDP) Waiver 3-08-057-W  
Applicant: San Luis Obispo County Public Works Department

### Proposed Development

Wrap two deteriorated pilings on the South Bay Boulevard Bridge over Los Osos Creek in San Luis Obispo County with 1-inch thick fiberglass and polyester resin jackets approximately 8 feet in height.

### Executive Director's Waiver Determination

Pursuant to Title 14, Section 13238 of the California Code of Regulations, and based on project plans and information submitted by the applicant(s) regarding the proposed development, the Executive Director of the California Coastal Commission hereby waives the requirement for a CDP for the following reasons:

The proposed wrapping of two deteriorated pilings on the South Bay Boulevard Bridge with fiberglass and polyester resin jackets is intended to improve the structural integrity of the bridge with minimal site disturbance, and has been designed to avoid resource impacts to Los Osos Creek. The project includes built-in measures to ensure that coastal resources are clearly protected during site preparation and installation (including pre-construction surveys, implementation of BMP's during construction, and the use of specialized equipment to minimize encroachment into the creek channel). All work will be conducted during low tide to avoid standing water under the bridge and only hand held equipment will be used in the creek channel when necessary. Accordingly, this project avoids the potential for adverse effects on coastal resources, including public access. As such, the project is consistent with Chapter 3 of the Coastal Act.

### Coastal Commission Review Procedure

This waiver is not valid until the waiver has been reported to the Coastal Commission. This waiver is proposed to be reported to the Commission on Wednesday, January 7, 2008, in Oceanside. If four Commissioners object to this waiver at that time, then the application shall be processed as a regular CDP application.

**If you have any questions about the proposal or wish to register an objection, please contact Jonathan Bishop in the Central Coast District office.**



**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 427-4863  
FAX: (831) 427-4877  
WEB: WWW.COASTAL.CA.GOV

**NOTICE OF PROPOSED PERMIT AMENDMENT**

**Date:** December 22, 2008  
**To:** All Interested Parties  
**From:** Dan Carl, Central Coast District Manager *DCARL*  
Mike Watson, Coastal Planner *MW*  
**Subject:** Proposed Amendment to Coastal Development Permit (CDP) A-255-78  
Applicant: Pat Devaney

**Original CDP Approval**

CDP A-255-78 was approved by the Coastal Commission on July 18, 1978, and provided for construction of shoreline protection devices (i.e., retaining and crib walls) on the bluffs immediately seaward of an existing residence to stem erosion and protect endangered structures at 2101 Shoreline Drive in the City of Pismo Beach.

**Proposed CDP Amendment**

CDP A-255-78 would be amended to modify and improve the existing shoreline protection devices, primarily to address erosion of the seawall footing that has led to a loss of bluff material behind the retaining wall. The proposed modifications include pouring a new concrete footing, replacing the retaining wall timbers, installing a drain pipe, and backfilling the wall with fill material and drain rock. At the top of the bluff, the crib wall would be restacked and back-filled with soil. The base and frontage of the lower wall would be resurfaced and aligned, and native landscaping would be planted behind the walls. The Commission's reference number for the proposed amendment is A-255-78-A1.

**Executive Director's Immateriality Determination**

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations, the Executive Director of the California Coastal Commission has determined that the proposed CDP amendment is immaterial for the following reasons:

The modifications and improvements proposed are minor in scope, and mitigation measures are proposed that minimize the footprint of the improvements, enhance aesthetics, prevent construction materials and debris from migrating off-site, and revegetate the reconstructed bluff area with native plants. In sum, the proposed amendment is consistent with the Commission's original approval and will improve aesthetics along the shoreline.

**Coastal Commission Review Procedure**

The CDP will be amended as proposed if no written objections are received in the Central Coast District office within ten working days of the date of this notice. If such an objection is received, the objection and the Executive Director's response to it will be reported to the Commission. If three Commissioners object to the Executive Director's determination of immateriality, then the application shall be processed as a material CDP amendment.





**NOTICE OF PROPOSED PERMIT AMENDMENT**

**CDP A-255-78 (Devaney Seawall Improvements)**

**Proposed Amendment A-255-78-A1**

**Page 2**

If you have any questions about the proposal or wish to register an objection, please contact Mike Watson in the Central Coast District office.



**California Coastal Commission**

**CALIFORNIA COASTAL COMMISSION**

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



January 5, 2009

To: Commissioners and Interested Parties

From: Charles Lester, Senior Deputy Director, Central Coast District

Re: Additional Information for Commission Meeting Wednesday, January 7, 2009

<u>Agenda Item</u>	<u>Applicant</u>	<u>Description</u>	<u>Page</u>
W11c, SLO-MAJ-1-05 Pt.2	San Luis Obispo County	Correspondence	1
W12a, A-3-SCO-08-040	Santa Cruz County Public Works	Correspondence	3
W13a, 3-01-039-A2	Seymour	Correspondence	7

*W/C*

**RECEIVED**

JAN 05 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

December 31, 2008

Mr. Jonathan Bishop, Coastal Planner  
California Coastal Commission  
Central Coast District Office  
725 Front Street, Ste. 300  
Santa Cruz, CA 95060

Subject: San Luis Obispo County LCP Amendment No. SLO-MAJ-1-05 Part 2 (DeVincenzo)

Dear Mr. Bishop:

I received your recent notice of the hearing on January 7, 2009 regarding the time extension on the subject LCP Amendment. I am happy to provide any additional information and clarification as you proceed with the proposed amendment review.

I certainly appreciate and understand that your staff will need adequate time to review the information and to bring back to the Commission an action on the proposal at a later time. I have no objection to the extension of time for your review.

I do not anticipate any public objection to your request for this extension, but should any occur, would you please request a postponement on final action until your next meeting. I would like to avoid attending this meeting but would definitely make the next one should an objection be raised.

Please contact me or my representative, Mr. John Wallace, if you have any questions.

Sincerely,



John DeVincenzo  
2899 See Canyon Road  
San Luis Obispo, CA 93405

cc: James Caruso, County Planning Department  
John Wallace, Wallace Group

**This page is blank.**

---

W12a

## Coastal Access Program

# Prescriptive Rights Program

### What is a public prescriptive right of access?

Along the California coast the general public has historically used numerous coastal areas. Trails to the beach, informal parking areas, beaches, and bluff tops have provided recreational opportunities for hiking, picnicking, fishing, swimming, surfing, diving, viewing and nature study. California law provides that under certain conditions, long term public access across private property may result in the establishment of a permanent public easement. This is called a public prescriptive right of access.

To: California Coastal Commissioners  
CC: Mr. Arnold Schwarzenegger, Governor  
Date: December 23, 2008  
RE: Commission Appeal No. A-3-SCO-08-040  
Hearing Date and Location:  
Date: Wednesday January 7, 2009  
Time: Meeting begins at 10:00am Item NO:W12a  
Place: City of Oceanside, City Council Chambers  
300 North Coast Hwy., Oceanside, CA

**RECEIVED**

DEC 31 2008

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Good day,

This is my second letter to all 12 Commissioners. I previously mailed you all a letter with a couple of photos in regard to the above appeal.

Recently a notice was sent out about the above Public Hearing. Since all of the appellants live in Northern California and we do not have the luxury of affording an attorney I hope this letter will suffice.

Santa Cruz county approved a CDP authorizing a recreational vehicle parking ban along East Cliff Drive. This appeal was spearheaded and petitioned by a few of the wealthy home owners that live across the street from the beach. They have hired an attorney and were able to convince those that needed convincing that the reason the ban should be put in place was because RV's created an unsafe situation with pedestrians and bicycles.

This is false.

I am not sure why the wealthy home owners were in such fear for these pedestrians that they needed to hire an attorney to get this ban approved. One can only guess what the real intentions are.

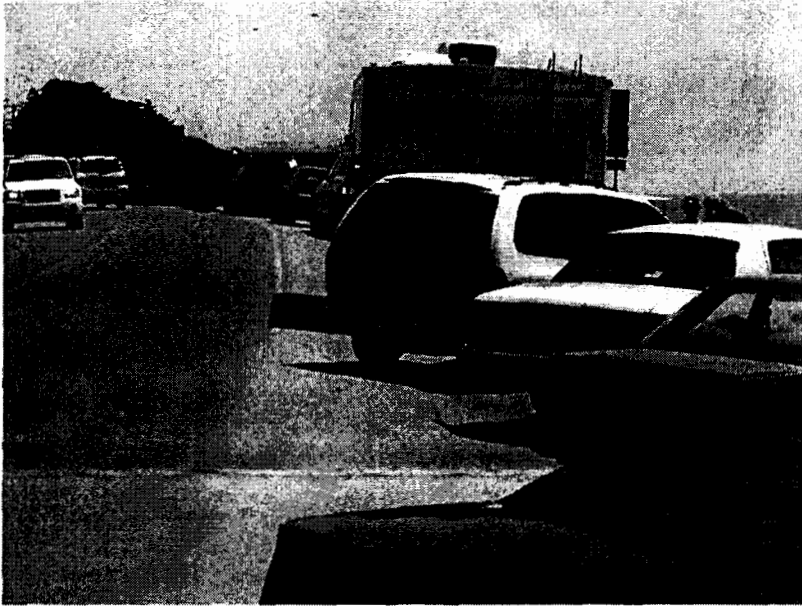
The simple truth is the RV's that occasionally park here always park parallel and well off the white line generally used as a bike or walking path. (Please note the photos.)  
It is the cars and Ice Cream vendors that park "nose in" toward the beach that create a hazard.

RV owners such as the dozen or so listed as appellants are courteous beach users like the majority of the population and deserve the right to park on East Cliff drive providing we are following the rules and not creating a hazardous situation for pedestrians.

I am wondering how many of the Commissioners have actually had the opportunity to visit this sight to see for themselves what the situation really is.

Please do not ban RV's from East Cliff drive. We are lawful citizens hoping to spend a beautiful day at the beach and Northern California does not have that many locations where cars and RV's can enjoy the scenic California Coast.





Thank you,  
Gary Marcum  
15560 El Gato Lane  
Los Gatos, CA 95032  
[gbmarcum@aol.com](mailto:gbmarcum@aol.com)

**This page is blank.**

---



W13a

**RECEIVED**

FRONT STREET INN & SPA JAN 02 2009

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

December 27, 2008

California Coastal Commission  
725 Front Street Suite 300  
Santa Cruz, CA 95060-4508

Thomas Laurie Applicant's agent  
Permit #3-01-39-A2  
W 13-A

Morro Bay 3-01-039-A2 1140 Front Street Seymour

Hon. Commissioners

This is a draft of my comments as the applicant's agent. The applicant is my wife.

**PROJECT HISTORY**

We received our Coastal Development Permit for 1140 Front Street in August of 2001. Our concept for the project was a shell commercial building designed for a large restaurant upstairs and two mid-sized lease spaces downstairs.

Our project was the first new construction on the block since 1960. The Tyler commercial building on the right (as you face the building) and the Bayfront Inn to the left were built in 1960 to provide lodging and commercial facilities for the men and women working to triple the size of the Morro Bay Power Plant. [please refer to exh. #1]

There was no opposition to our 2001 application. We didn't even attend the hearing at which the entire project was approved.

We got our construction permit and a building loan nearly a year later in the fall of 2002. We started construction immediately.

For the restaurant space we installed a 12-passenger elevator, equipment screening on the roof, a large grease interceptor and enough parking for a 100 chairs. We outfitted the north lease space downstairs with two bathrooms and enough floor sinks for a small deli or bakery operation.

In February of 2004 we got a lucky break and leased the north unit to a French Bakery, La Parisienne, which had 20 years of experience under its belt. Since the bakery opened, it has been a huge success with visitors as well as locals. Before La Parisienne, Morro Bay hadn't had a real bakery for 18 years.

We moved Bay Beauty Spa into the south, ground floor unit. Bay Beauty Spa is a business we've owned since 1989. Front Street is our third and most successful location in Morro Bay. Beauty product sales are off because of a national restructuring of that business, but our day spa business grows every year. Eighty percent or more of our day spa guests are visitors to Morro Bay.

1140 Front Street, Morro Bay California 93442  
Phone: 805 772-5038 Fax: 805 772-6430

frontstreetinn.net

Page 1 of 5

# FRONT STREET INN & SPA

## RESTAURANT UPSTAIRS ELIMINATED

When the bakery signed up, we abandoned the large restaurant scheme and redesigned the second floor for a two bedroom apartment, two hotel guest rooms and three spa treatment rooms. [Please refer to Exh. #2] We did this for three reasons:

1. We weren't able to attract a restaurant willing to lease the entire second floor.
2. We needed the revenue to pay down the building loan.
3. We needed a place to live when we sold our Morro Bay home.

Morro Bay approved our second floor redesign concept without us having to revisit our conditional approvals. [please refer to Exh #3]

The Coastal Commission approved our second floor changes as a de minimus waiver. [please refer to Exh #4] Our application was properly noticed to adjoining property owners, but no party opposed the amendment and no party commented on the process.

## FOUR GUEST ROOMS UPSTAIRS

When we submitted building plans to the city of morro bay for the redesign, the apartment was flagged in plan check, because the bedrooms as drawn had no legal fire escape. In our building, with no rear or side access, all sleeping room fire escapes had to exit to Front Street through windows.

Because of the window fire escape requirement, we were left with a studio apartment, basically, where one large room contained kitchen, living and sleeping facilities. At the time, we couldn't live in that situation, because we still had family living with us at home. We opted to convert the apartment to two guestrooms. We felt like we could make more money dividing the apartment into two guest rooms than we could using the large, 1500 square foot studio as a vacation rental. Vacation renters are typically families with children who need more than one bedroom.

We put off selling our home on the bet that the guest rooms would pay the bills.

Three years have passed since the guest rooms went on line in 2005. We continue to operate Bay Beauty Spa and the Four-room Front Street Inn. We get good reviews from Inn guests, and the Inn's occupancy gradually increased until the 8-room Anderson Inn opened in the Spring of 2008. Our occupancy has been flat to dropping since then.

## MORRO BAY'S ECONOMY

The economy may be responsible for some lost business, but Morro Bay's addiction to bed tax revenue is responsible, also. Since the Morro Bay power plant began to fade away, Morro Bay relies heavily on bed tax for general fund revenue. Bed tax last year was Morro Bay's second largest general fund revenue source after sales tax. Morro Bay's average motel occupancy hovers at 50% for the last 20 years, according to the San Luis Obispo County Visitor's conference Bureau. The fact that very few guest rooms have been built during the last 20 years indicates that the level of visitors to Morro Bay has

1140 Front Street, Morro Bay California 93442

Phone: 805 772-5038

Fax: 805 772-6430

frontstreetinn.net

Page 2 of 5

# FRONT STREET INN & SPA

been essentially flat for the period. When the quantity of visitors is flat, new motel rooms pick the pockets of existing motel rooms.

We believe that conditions will improve over time, and we think that the eventual closing of the Morro Bay Power Plant, next door to us will change the way tourists think about Morro Bay. The power plant property encompasses acreage larger than Morro Bay's entire embarcadero. Eventually this rare, prime property will be redeveloped to visitor serving uses, but since the economy seems to be tanking to depths not seen since the depression, many years will pass before such a turnaround.

## OUR FINANCIAL SITUATION

We're running out of time on our building loan. The inn and spa and the bakery are paying the bills, but a large balloon payment is due in a year. We would like to sell our home, pay some of this building loan down, move into the building and continue to run our two businesses, Bay Beauty Spa and a two-room Front Street Inn. Our banker tells us that we can refinance on more generous terms if we live in our commercial building. We are empty nesters now, and the studio apartment as we submitted it, would work fine for us. The two guest rooms remaining are the most popular rooms, and we have no plans to use them for anything but daily rentals. We need the income from these rooms. Valerie retired as a school teacher for the Lucia Mar School district after 20 years there, and I retired as a general contractor when I finished the building.

We honestly didn't expect the conversion from four guest rooms to two guest rooms to cause the fuss it did in Morro Bay and here at the Coastal Commission.

## COASTAL COMMISSION PRIORITIES

We understand and appreciate how the Coastal Commission has to adjust its focus as development priorities change with the economic climate and with shoreline demographics, but we received a permit from the Coastal Commission in 2004 to do just what we're asking for now. If the first permit was right, why is this one wrong now? Morro Bay's LCP hasn't changed and the Coastal Act hasn't changed since then. The economy has changed. It's tanking. Morro Bay needs less lodging, not more lodging.

The difference between now and the permission we received in 2004 appears to be the opposition of our neighbors, Frank and Judy Smith and Dean and Bertha Tyer. Our neighbors are dead set against us putting anything behind our building except landscaping which they can enjoy, but which the public can't.

One of the three neighbors above us, Mike Hischer, supports our project. Mr. Hischer gave us a letter to that effect. The letter is addressed to Morro Bay planning commissioners. [please see Exh. #5]

The irony here is that when we first planned this building, the initial design of the second floor restaurant included a deck on our roof, which would allow restaurant guests to enjoy the panoramic views from the bluff-top.

## FRANK AND JUDY SMITH AND DEAN AND BERTHA TYLER SUE US

1140 Front Street, Morro Bay California 93442  
Phone: 805 772-5038 Fax: 805 772-6430

frontstreetinn.net

# FRONT STREET INN & SPA

While we designed the building, Frank and Judy Smith and Dean and Bertha Tyler sued us for adverse possession of a portion of our lot. They were fiercely against our entire building project and they were fiercely against any access of any kind, to our back yard, and they had a lot more money than we did.

The Tyler's claimed 10 inches of our South Boundary because they wouldn't allow us to modify a small accessory building so that it rested entirely on Tyler's property. [please see Exh. #6]

The Smith's claimed a 500 square foot pie-shaped portion on the south side of the top of the bluff which Smith homesteaded with a concrete retaining wall and an irrigated lawn. Smith didn't acquire any building permits from Morro Bay. Had he done so, he would have had to get permission of the property owner, my wife, Valerie. Regardless, Morro Bay couldn't have allowed the project, because the improvements were on the bluff top and the improvements would have extended Smith's residential use into a commercial zone.

Smith's structures and Tyler's encroachments were in place long enough for them to make a claim of adverse possession. Smith and Tyler sued us in concert. Valerie and I couldn't afford to fight them all the way through court. We settled with Smith and Tyler and we gave them non-exclusive easements to the portions they claimed. As part of Smith's settlement, we agreed that only us and our guests and invitees would be allowed behind the building.

## THE HOT TUB AND THE SHED

When we submitted for the hot tub and the shed, we believed that since no commercial or visitor serving use was allowable in our back yard because of the lawsuits, then our own private use of the area was acceptable, especially since none of the improvements we contemplated were visible to the public. Morro Bay's LCP addresses the need for private open space for mixed use commercial/residential development, and Morro Bay's LCP also addresses the need for buffering between commercial and residential. We thought our use of this back yard was consistent with the LCP by providing private outdoor space and by buffering our commercial operations with low-impact residential use. [please see Exh. #7]

## **PUBLIC VIEWS OF OUR BACK YARD**

As for public views of our back yard, there are peekaboo views of the bluff behind our building from a few points on the compass, but I would call them just that. Those views might work for an assassin, who could squeeze off a head shot under perfect conditions, but we don't think these are the kind of views the Coastal Commission is in business to protect.

When our building was approved by Morro Bay and your Commission in 2001, our building height, to the top of the bluff, was considered appropriate, because our project was called "infill" and the assumption was that if the projects to either side of us were rebuilt, they would be as high, also. Last year, however, your staff found fault with our building, because it was too high. [staff report for "front street hotel" 3- 07-003, Martella and Leage]. This project is two lots to the north of us.

1140 Front Street, Morro Bay California 93442  
Phone: 805 772-5038 Fax: 805 772-6430

frontstreetinn.net

Page 4 of 5

# FRONT STREET INN & SPA

***“There are 3 existing developments north of Beach Street (between Beach Street and the subject site), two of which are more modest in design and scale. Structural height is limited to 6 to 10 feet below the bluff top edge, which is clearly visible above the structures. These structures also incorporate setbacks and building articulation to break up massing along the western (primary) elevation. The third (middle) structure is greater in overall height, scale and mass than the other two. There is no setback from Front Street and very little articulation to break up massing along the western (primary) elevation. The structure also exceeds the the height of the bluff and thus totally obscures views of the bluff and the bluff top edge.”***

This staff assessment of the three existing buildings on Front Street is a symptom of institutional memory loss. We are completely legal. We are not higher than the bluff. Our ground floor is set back 18 inches from the front. We have the widest sidewalk on the entire embarcadero. Seventy percent of the Bayfront Inn to the North is on the front property line, and Tyler’s entire building to the south encroaches over the front property line by 2 feet.

I think we have a right to be confused about your staff’s current displeasure with the improvements we contemplate behind our building. Staff found that our building completely obstructed public views of the bluff top behind us a year ago, but staff now finds that public views are available behind our building. Please help us here.

Morro Bay has contemplated building a view platform at the terminus of Surf Street, since their LCP was certified in 1986. If this view platform cantilevered out far enough from the bluff top sufficiently, you might be able to see behind our building. Without such a view platform, public views of our back yard are not available at the terminus of Surf Street. This view platform may never be built. I attach three photos taken from Surf Street The first photo taken at the top of the wooden stairs, the second photo two steps down and the third photo from 4 steps down. [please see Exh #8]

## **SUMMARY**

We believe that our application to live in the building we own and operate two businesses there is reasonable and fair. We believe that two guestrooms remain a viable lodging business. We believe that we perfectly fit the description of ‘caretaker’ as contemplated by Morro Bay’s LCP. We know that living in the building will be a big boost to our financial wellbeing.

With the caretaker residence proposed, 1140 Front Street remains 80% visitor serving. The caretaker residence is on the second floor and it is secondary to the commercial uses. The residential improvements behind the building are allowable through Morro Bay’s conditional permit process. We secured a conditional use permit from Morro Bay to place the hot tub, deck and accessory shed there.

It is our hope that this project is approved as we submitted it, rather than as it is conditioned by staff.

1140 Front Street, Morro Bay California 93442  
Phone: 805 772-5038 Fax: 805 772-6430

frontstreetinn.net

Page 5 of 5

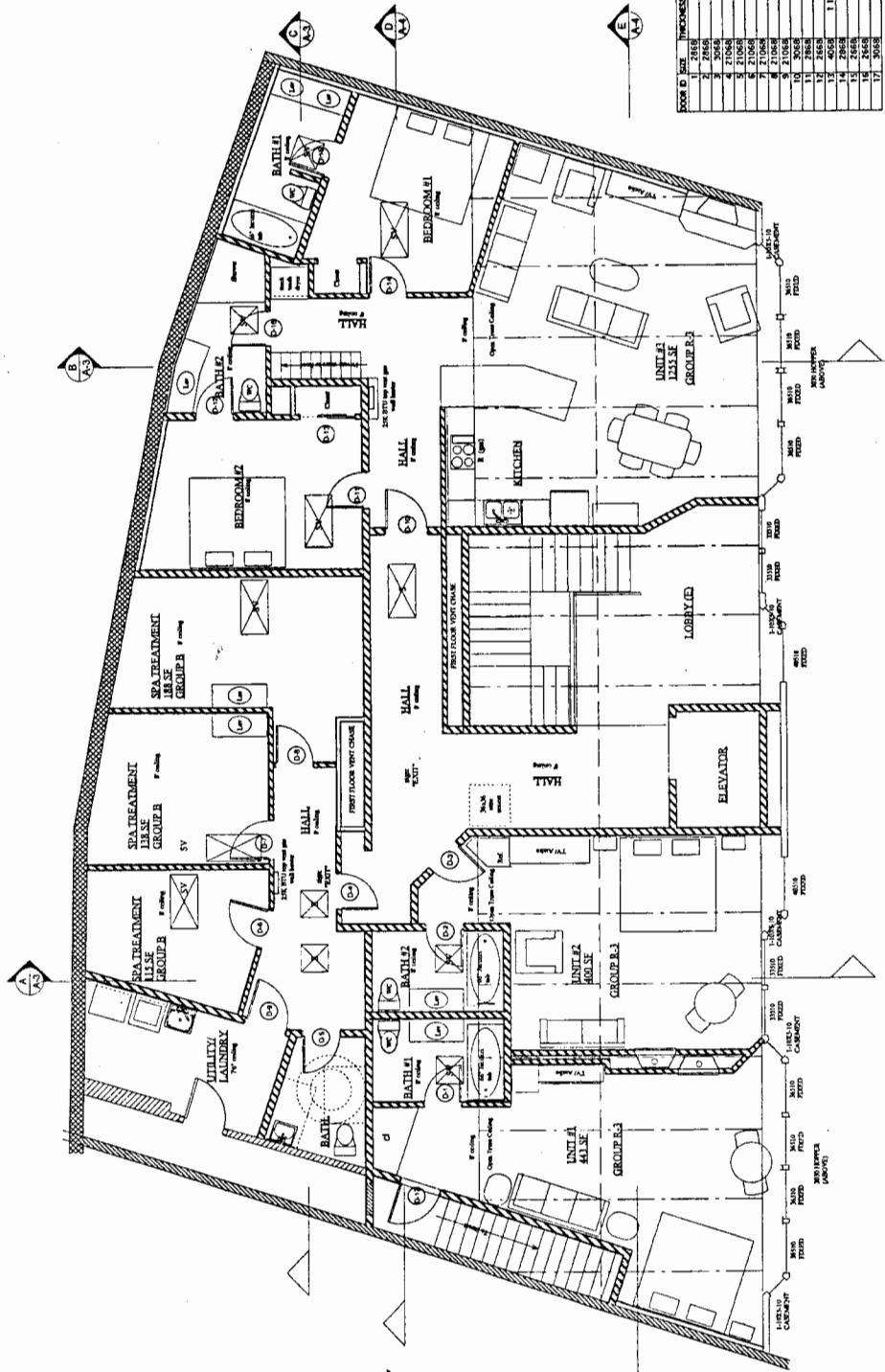
**This page is blank.**

---

EXH. #1



EXH # 2



WALL LEGEND

- 2 1/2" x 4" Top 2" wide studs
- 2 1/2" x 4" Top 2" wide studs
- 6" x 6" CMU
- 6" x 6" poured in place concrete
- (1) wood frame, studs on 8" wall center
- FLOOR IN SUITE, Thickness 4" and 1/2", 2015 to 2023
- VENT TRAY/SLIT, Thickness 4" and 1/2", 2015 to 2023

DOOR ID	SIZE	TYPE	MATERIAL	LOCKSET
1	2'0" x 8'0"	2	2" solid reinforced	Privacy
2	2'0" x 8'0"	2	2" solid reinforced	Privacy
3	2'0" x 8'0"	2	2" solid reinforced	Privacy
4	2'0" x 8'0"	2	2" solid reinforced	Privacy
5	2'0" x 8'0"	2	2" solid reinforced	Privacy
6	2'0" x 8'0"	2	2" solid reinforced	Privacy
7	2'0" x 8'0"	2	2" solid reinforced	Privacy
8	2'0" x 8'0"	2	2" solid reinforced	Privacy
9	2'0" x 8'0"	2	2" solid reinforced	Privacy
10	2'0" x 8'0"	2	2" solid reinforced	Privacy
11	2'0" x 8'0"	2	2" solid reinforced	Privacy
12	2'0" x 8'0"	2	2" solid reinforced	Privacy
13	2'0" x 8'0"	2	2" solid reinforced	Privacy
14	2'0" x 8'0"	2	2" solid reinforced	Privacy
15	2'0" x 8'0"	2	2" solid reinforced	Privacy
16	2'0" x 8'0"	2	2" solid reinforced	Privacy
17	2'0" x 8'0"	2	2" solid reinforced	Privacy

FLOOR PLAN 1/4"

1140 FRONT STREET  
MORRO BAY

JONATHAN BECKER MACALON  
780 MONTEREY AVENUE, SUITE B  
MORRO BAY CA 93442  
PHONE: (805) 772-8960

12/26/03 TO CITY

1140 (Rev. 04/197)

14





# City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200  
www.morro-bay.ca.us

ExH # 3

September 24, 2003

Mr. Tom Laurie  
780 Monterey Avenue, Suite B  
Morro Bay, CA 93442

**SUBJECT: Your New Commercial Building @ 1140 Front Street (066-034-012)  
CUP 47-00 & MUP 15-99**

Dear Mr. Laurie:

It was a pleasure meeting with you yesterday afternoon to discuss tenant improvement options for interior spaces/uses within the new commercial building that is currently under construction at the above-referenced location. This is intended as a follow-up to that meeting, and to give you written confirmation of the information exchanged.

First, the construction that is ongoing today is proceeding in accordance with your approved building permit that, in turn, was issued because it was consistent with the concept and precise plans approved by the City Council and Planning Commission (CUP 47-00 & MUP 15-99). Because individual tenants were unknown at time of those approvals, and in fact are still unknown, you are building what is referred to in our profession as a commercial "shell." When individual tenants are identified and the tenant spaces are leased, they must secure necessary building permits for "tenant improvements."

During the City's review process thus far, it was assumed that the ground floor would consist of two (2) visitor-serving retail establishments and that the upper floor would be occupied by a restaurant and full-bar. This confirms that a different combination of uses listed as allowed in the Commercial Visitor-Serving zone district would be allowable and considered in substantial conformance with concept and precise plan approvals (CUP 47-00 & MUP 15-99) provided there is no (or negligible) alteration of the building's exterior and that there is no (or negligible) increase in the intensity of uses (i.e., increased parking demand, noise, water consumption, etcetera). Your idea to replace the restaurant with vacation rentals with or without an apartment unit or security quarters, for example, would be allowed without having to revisit said discretionary entitlements (i.e., without having to return to the Planning Commission or City Council). Please note, however, that the length of stay within vacation rentals would be restricted pursuant to Section 17.12.460 of the Zoning Ordinance (30 day maximum, with nightly or weekly compensation).

FINANCE  
595 Harbor Street  
HARBOR DEPARTMENT  
1275 Embarcadero Road

ADMINISTRATION  
595 Harbor Street  
CITY ATTORNEY  
955 Shasta Avenue

FIRE DEPARTMENT  
715 Harbor Street  
POLICE DEPARTMENT  
850 Morro Bay Boulevard

PUBLIC SERVICES  
955 Shasta Street  
RECREATION AND PARKS  
1001 Kennedy Way

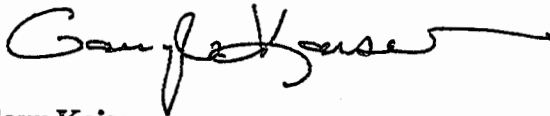
Mr. Tom Laurie  
September 24, 2003  
Page 2

Second, the subject site is located in the California Coastal Commission's permit jurisdiction. Your Coastal Development Permit (CDP) was therefore issued by the Coastal Commission and only the Coastal Commission can rule as to the need for a new or modified CDP to reflect modifications of the project description. You are therefore advised to contact the Coastal Commission at (831) 427-4863 and secure any necessary approvals.

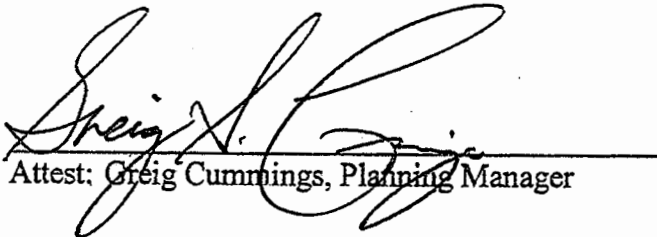
EXH.#3

Thank you again for the chat yesterday and for having the courtesy to call ahead of time and schedule an appointment. I hope this letter is helpful and please don't hesitate to contact me at (805) 772-6270 if you have any further questions.

Sincerely,



**Gary Kaiser**  
Senior Planner



Attest: Greig Cummings, Planning Manager

cc: Valerie Seymour  
530 Estero Street  
Morro Bay, CA 93442

**CALIFORNIA COASTAL COMMISSION**

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

EXH #4

**AMENDMENT TO COASTAL DEVELOPMENT PERMIT**

DATE: May 13, 2004

Permit No: 3-01-039-A1

issued to: Valerie Seymour

mailed 6/7/04.

for **Construct a 7,665 sq.ft., two-story commercial building at the base of the bluff along Front Street in Morro Bay.**at **1140 Front Street, Morro Bay (San Luis Obispo County)**

has been amended to include the following changes:

**Request to amend previously approved permit for a restaurant and bar on second floor portion of multi-use building to two Motel room suites and one 2-bedroom apartment / caretaker unit. Original approval included ground floor commercial retail space with second floor restaurant and bar.**

This amendment was determined by the Executive Director to be immaterial, was duly noticed, and no objections were received or the Commission concurred with the Executive Director's determination of immateriality (Sec. 13166 (b)(2)).

This amendment will become effective upon return of a signed copy of this form to the Central Coast District office. Please note that the original permit conditions are still in effect.

Sincerely,  
PETER M. DOUGLAS  
Executive Director

*Steve Monowitz*  
By: STEVE MONOWITZ  
Permit Supervisor

**ACKNOWLEDGMENT:**

I have read and understand the above amendment and agree to be bound by its conditions and the remaining conditions of Permit No: 3-01-039-A1.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

EXH #5

3/13/08

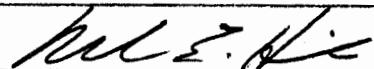
TO: MORRIS BAY PLANNING COMMISSION  
RE: 1140 FRONT ST. CARPENTER UNIT

AS AN ADJACENT PROPERTY OWNER  
TO 1140 FRONT ST., I HAVE NO PROBLEM WITH  
THE PROPOSED PLAN. I WOULD LIKE TO SEE THE  
HOT-TUB AREA PROPERLY SCREENED FOR PRIVACY.

I HAVE KNOWN BOTH APPLICANTS, TOM LAURIE  
AND VALERIE SEYMOUR, FOR A NUMBER OF YEARS.  
THEY ARE BOTH GOOD CITIZENS AND GOOD NEIGHBORS.

IDEALLY, THIS MATTER CAN BE RESOLVED  
WITHOUT THE CITY DENYING A PROPERTY OWNER  
TO UTILIZE HIS PROPERTY IN ACCORDANCE TO  
EXISTING CITY LAWS.

RESPECTFULLY,



MICHAEL HISCHER

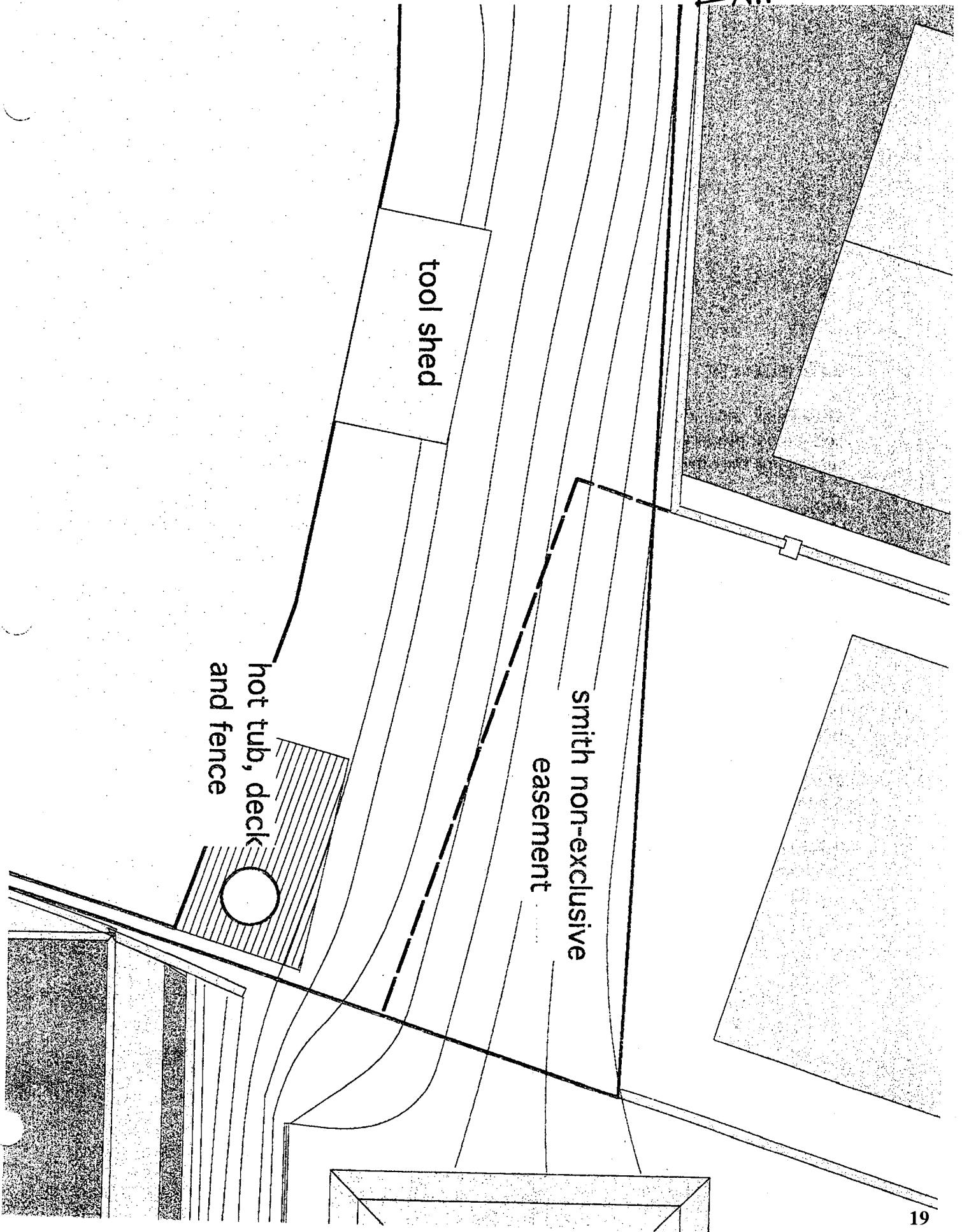
(805) 549-8371

EXH #6.

tool shed

hot tub, deck  
and fence

smith non-exclusive  
easement



## FRONT STREET INN &amp; SPA

**PRIVATE OUTDOOR SPACE: LCP CITATIONS**

Policy LU-18: Mixed uses involving residential and commercial land uses on the same parcel should focus particular attention to providing private outdoor space for the residences, maintaining separate access, and generally insuring that residences are well insulated from the commercial activities.

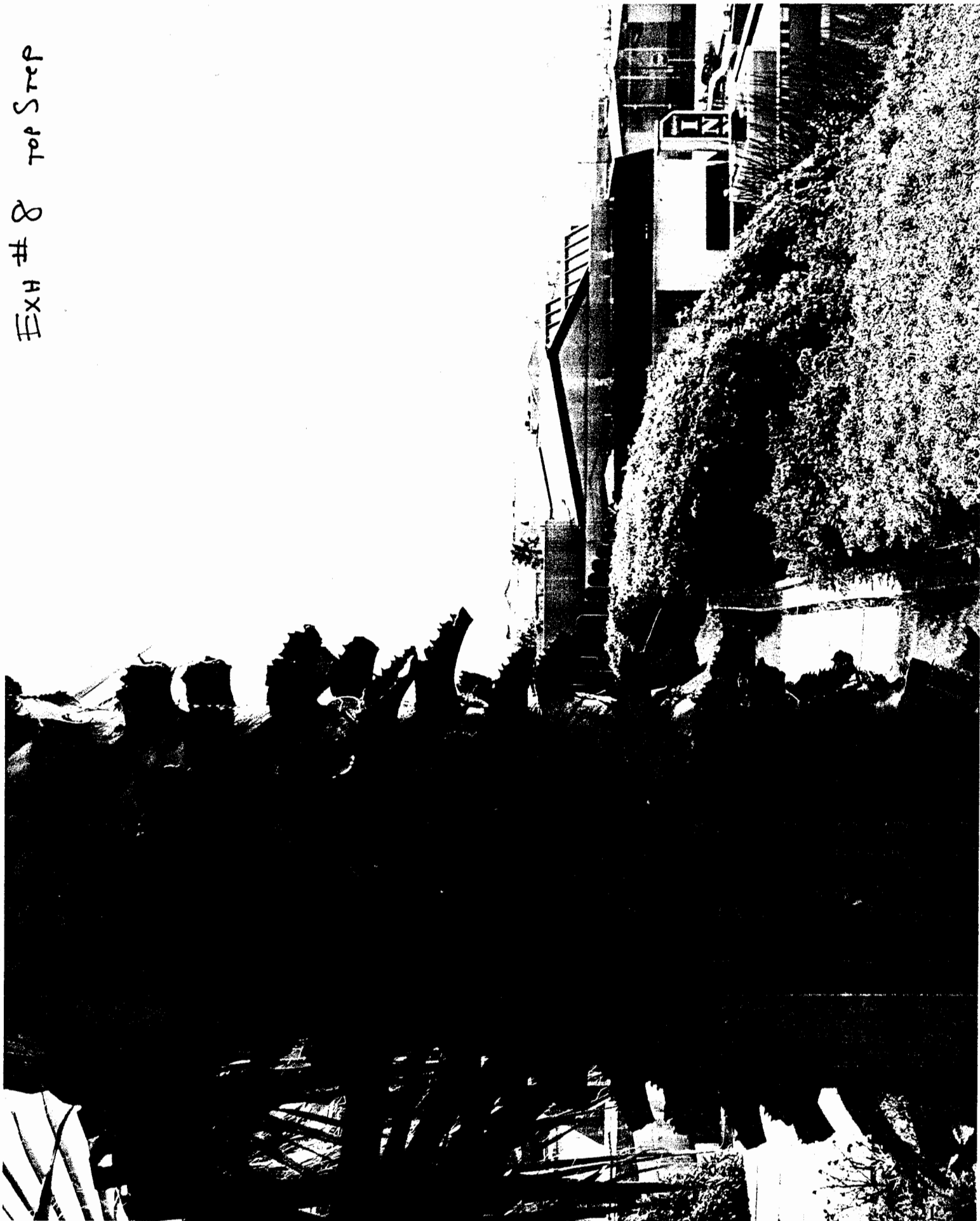
Implementation Program LU-18A: Amend the Zoning Ordinance and establish requirements for private outdoor space, separate access and insulation from commercial activities for residents in mixed-use development.

**PRIVATE OUTDOOR SPACE: TITLE 17 CITATIONS****17.40.070 Combining Mixed Use Overlay Zone****B. Mixed Use Overlay Zone Standards**

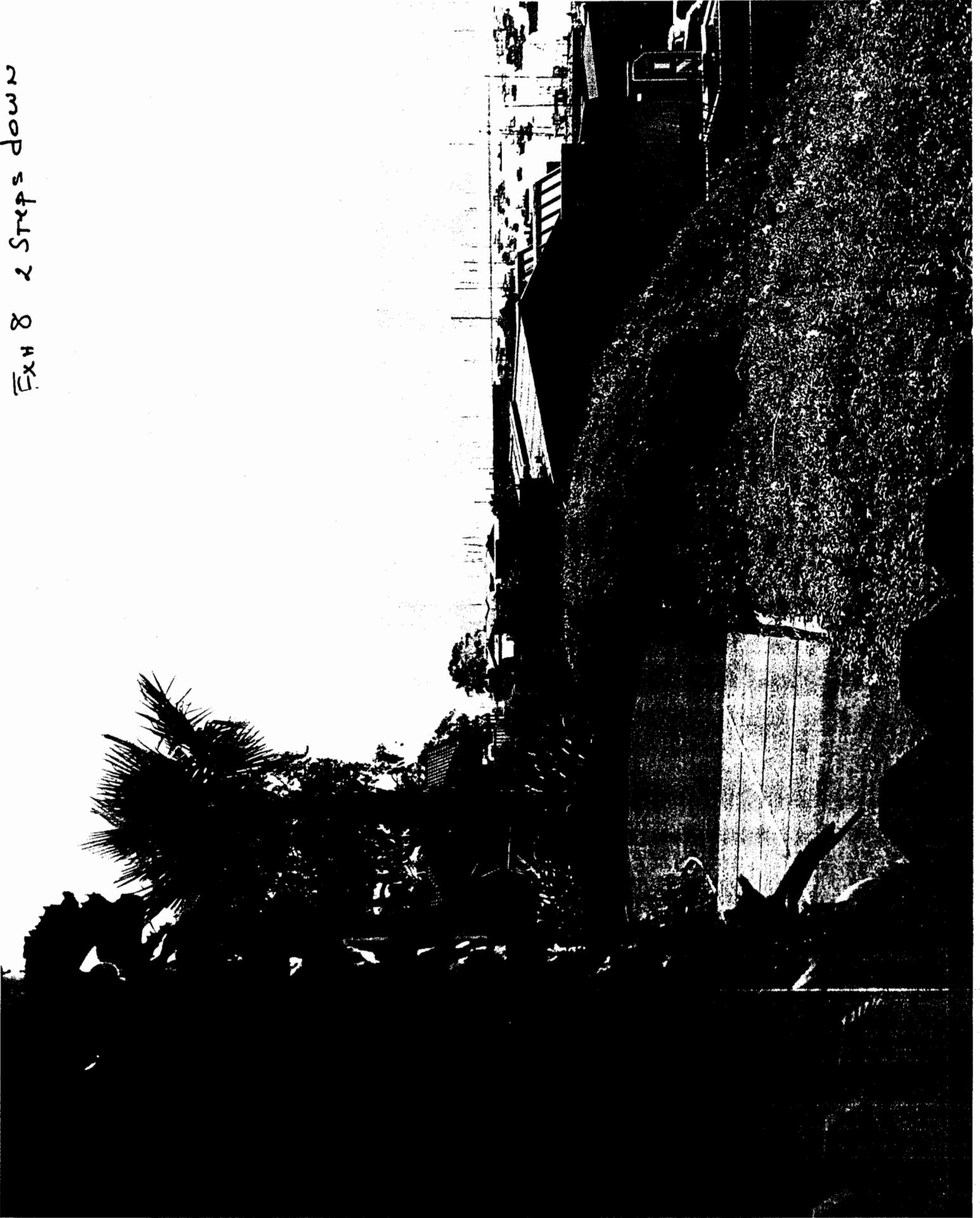
In those areas of the City where the Local Coastal Land Use Plan has indicated that combinations of different, but compatible, uses may be appropriate, two or more zoning districts may be applied to the same property. In such cases, new developments may be permitted in accordance with the zoning districts and with the following provisions:

1. In mixed use areas combining two or more commercial designations, the area shall be devoted to approximately equal areas of the uses permitted in the respective commercial designations.
2. In mixed use areas combining commercial and residential designations, the commercial District shall be the primary District and at least fifty percent of the gross floor area of the project shall be devoted to commercial or office uses. An exception is for those areas in which the Coastal Land Use Plan text specifically describes the mixed use relationship that shall be allowed.
3. Residential uses may be permitted in conjunction with the primary use, and shall be located on upper stories or to the rear of the primary use, but may be placed in separate buildings as part of an overall integrated plan for large parcels.
4. All residential uses shall be subject to a Conditional Use Permit as provided in Chapter 17.60 of this Title. The following criteria shall be considered in review of Conditional Use Permit applications for such developments:
  - a. Provisions of private outdoor space for residences
  - b. Provisions of separate access for residences
  - c. Compatibility of the commercial use component with the residential use and the surrounding neighborhood.

EXH # 8 Top Step



EXH 8 2 STEPS DOWN





EXH #8 4 STEPS DOWN



**This page is blank.**

---

W13a

# FRONT STREET INN & SPA

December 27, 2008

# RECEIVED

DEC 31 2008

Mr Mike Watson  
California Coastal Commission  
725 Front Street Suite 300  
Santa Cruz, CA 95060-4508

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

Morro Bay Seymour 3-01-039-A2 item W13A Jan 7, 2008

Dear Mr. Watson

Please consider the following comments to your staff report of 12/18/08.

1. Your occupancy calculation for the Morro Bay lodging we sent you is incorrect. You can't simply average percentages. You must weigh the occupancy percentages by the number of rooms for each facility by multiplying the occupancy percentage times 365 days times the number of rooms and then dividing by the total number of rooms in all the facilities considered times 365. In the case of the data we sent you, which included occupancy data for four motels from January through July, 2008, the occupancy calculation is 58%, not 79%. The Anderson Inn didn't come on line until the middle of the year. Anderson may have claimed 100% occupancy at the time we polled him, but he'd be lying to claim 100% for the rest of the year. If Anderson is to be included in your calculations, and if you accept Anderson's claim of 100% occupancy, then Anderson's annual occupancy can't be more than 50% since he was only open the last half of the year.

We don't believe it is reasonable for you to testify that planning and building of more motels on the embarcadero are testimony to unfilled demand. The same logic was applied to the housing bubble, which has now burst.

Since the Morro Bay Power Plant has ceased regular operation and will shut down in a few years, Morro Bay falls on motel projects like hungry dogs, because of the potential for Transient Occupancy Tax revenue. Morro Bay doesn't consider that new lodging picks the pockets of existing lodging. Occupancy here is tanking, tax revenue here is declining and some of the embarcadero projects now permitted may not be built.

2. You stated in your staff summary and your analysis that "...conversion of more than one unit would create a residential use that is roughly equivalent in size to the visitor serving use on the site, which would convert the project focus overall to residential, as opposed to visitor-serving."

This is simply wrong. The entire building including the French bakery, the spa and the spa treatment rooms upstairs is visitor serving. I gave you the square footage calculations for all uses. Even if you allocated a percentage of lobby space to the proposed residential component, your calculation would still be over 80% visitor serving commercial for the site.

3. Morro Bay's LCP and CZLUO provides for a caretaker residence at the rear or the upper floor of a project, not "at the rear and the upper floor", as you stated. Our proposed residence is legally situated on the site.

1140 Front Street, Morro Bay California 93442  
Phone: 805 772-5038 Fax: 805 772-6430

frontstreetinn.net

# FRONT STREET INN & SPA

4. Neither the Coastal Act nor Morro Bay's LCP addresses the size of guest rooms. Your 400 sq ft special condition is a poison pill, which kills the project. Since there is no back yard or side yard fire escape, all guest rooms and sleeping rooms must have fire escape windows, which face Front Street. Enlarging unit 3 to 400 sq feet chokes off the hall behind it, which is the only access to unit 4, or it chokes unit 4 into a narrow alley. All four of our guest rooms are above average in size. We suspect that you decided we should live in Unit 3.

5. Our project is legal conforming, not legal, nonconforming. Our project conforms to every requirement of the underlying zone as adjusted by the Planned Development Overlay and the Beach Street Specific Plan [see MB 17.40.100], which allows adjustment to lot size and setbacks in the interest of a greater public benefit [see MB 17.40.030]. Our building conforms to all current LCP requirements for developing on this block, including height limit. [see MB 17.12.463 "non-conforming structure" definition]

If you insist that our project as built is non-conforming, please be aware that Morro Bay's LCP allows for additions to nonconforming structures or uses with a conditional use permit, which we obtained from the City of Morro Bay. [see MB chap. 17.56]

The hot tub deck proposed is 30 inches or less above grade. This deck elevation above grade is excluded from Building Lot Coverage [see MB 17.12.092]. Moreover, this deck does not encroach into setback areas.

The storage shed proposed is a "temporary structure", without a foundation, which doesn't require a building permit in Morro Bay. Temporary structures are exempt from lot coverage calculations. As a stand-alone project, Morro Bay requires a Minor Use Permit to place the temporary structure in the PD overlay Zone. We have a conditional use permit to place this temporary structure and the hot tub and the deck behind our building.

6. We have been unable to produce any photographic evidence that the improvements we proposed behind our building are visible to the public. If you have photos submitted by others, which claim to show our back yard from public vantage points, they are either doctored or they are taken from private property. Could you share these photos with us?

Morro Bay's title 17 is on line at their website, <http://morro-bay.ca.us/zone/zone.htm>

Thanks for considering our issues with your report.

Sincerely

  
Tom Laurie and Valerie Seymour

1140 Front Street, Morro Bay California 93442  
Phone: 805 772-5038 Fax: 805 772-6430  
[frontstreetinn.net](http://frontstreetinn.net)

December 26, 2008

Project Hearing Item Number: W13a  
Letter of Opposition  
For Distribution to all Commissioners

**RECEIVED**

DEC 29 2008

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

CALIFORNIA  
COASTAL COMMISSION  
CENTRAL COAST AREA

RE: Permit Number 3-01-039-A2 – Valerie Seymour – Front Street Inn and Spa  
Project Hearing Item Number: W13a

Dear Chair Neely and Commissioners,

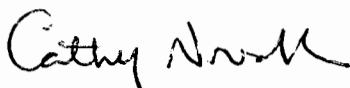
This letter is being sent on behalf of Mr. and Mrs. Frank Smith who live adjacent to and overlooking the proposed project at 1140 Front Street, Morro Bay. The Smith's have voiced their objection to numerous project components beginning with the City of Morro Bay Planning Commission.

As staff has articulately described in their report, this project "would convert the project focus overall to residential, as opposed to visitor-serving." And the additional requests for a hot tub, deck, fencing, etc at the bluff interface will exacerbate the residential conversion as well as create adverse visual impacts inconsistent with Policy 17.45.110 C (Staff Report page 7).

As a matter of fact, the residences overlooking this site have been subjected to visual blight for some time now. I have attached photographs taken between March and October 2008 from the Smith's house that shows accumulating weeds, brush and debris. Furthermore, the project applicants have started construction on the fence and hot tub/deck footings for which they are seeking Coastal Commission approval of.

At this time the Smith's still find the project objectionable however, at the very least we urge the Commission to retain all of the conditions of approval as provided in the Staff Report.

Sincerely,



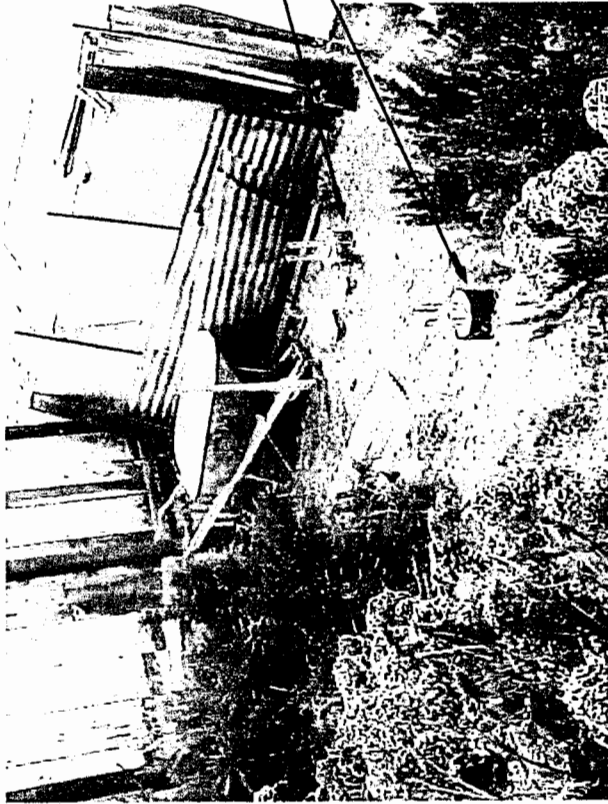
Cathy Novak  
Representative for Mr. and Mrs. Frank Smith

Cathy Novak Consulting  
PO Box 296 Morro Bay, CA 93443  
Phone/Fax: (805) 772-9499 Email: NovakConsulting@charter.net

**This page is blank.**

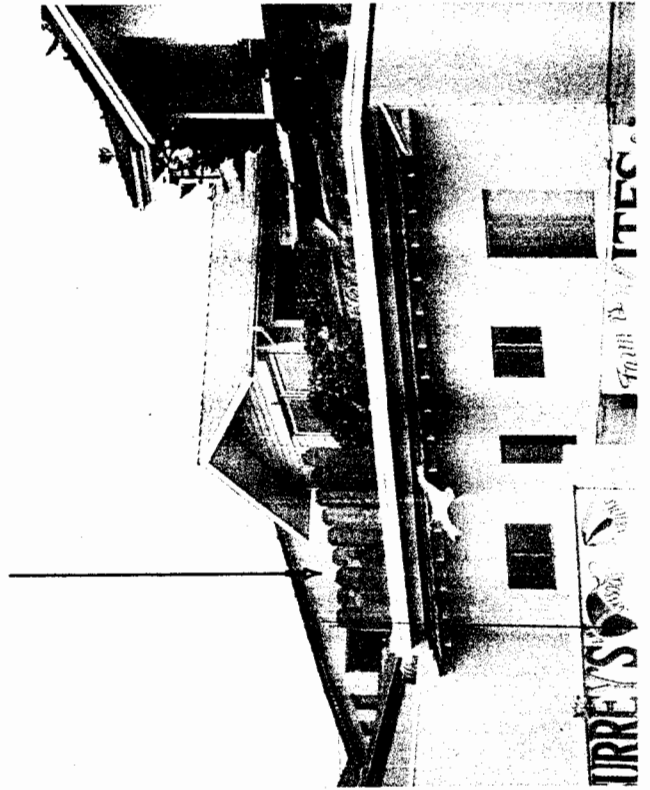
---

Photos from July 2008

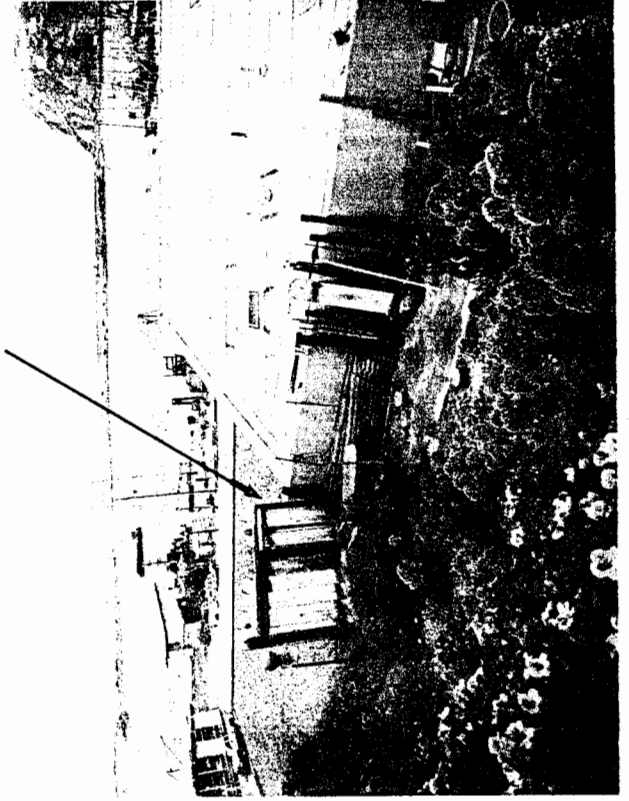


Hot tub/deck footing construction started

Fence seen from Embarcadero Road.



Fence has partially been constructed.



Photos from October 2008

Construction and other debris continue to pile up  
creating a very unsightly mess

