

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
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W34b

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STAFF REPORT: APPEAL DE NOVO REVIEW

LOCAL GOVERNMENT: County of Santa Barbara

LOCAL DECISION: Approval with Conditions

APPEAL NO.: A-4-STB-14-0016

APPLICANTS: Lee Carr

APPELLANTS: Commissioner Jana Zimmer and Commissioner Dayna Bochco

PROJECT LOCATION: 4353 Marina Drive, Santa Barbara County (APN 063-220-023)

PROJECT DESCRIPTION: Development associated with a 789 sq. ft. cabana, including: 1) as-built foundation reinforcement work including installation of five 18-inch diameter by 35-foot deep concrete caissons and five “dead-man” counter-weights; 2) as-built deck and deck stairway repairs; 3) as-built addition of 34 sq. ft. to the cabana including a ¾ bathroom; 4) as-built addition of 9.5 ft. long wetbar; 5) as-built addition of a sanitary waste connection from the cabana to the existing septic system serving the existing single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. grading.

MOTION & RESOLUTION: Page 5

SUMMARY OF STAFF RECOMMENDATION: DENIAL

Staff recommends that the Commission **DENY** the Coastal Development Permit. The **motion** and **resolution** for denial are found on **page 5**.

The existing cabana was originally constructed on the steeply sloping face of the coastal bluff in 1956. According to geologic reports in the record, landslides and erosion have previously occurred on the bluff in the vicinity of the cabana. The proposed project includes the request for after-the-fact approval of unpermitted foundation reinforcement work for the cabana and other improvements which were conducted by the previous owner of the property in 2005. The unpermitted work includes the installation of three 18-inch diameter concrete caissons beneath the footings of the cabana, the installation of two 18-inch diameter caissons under a retaining wall adjacent to the cabana, and the replacement of several footings and posts

below the deck portion of the structure with cantilevered beams. The caissons extend approximately 35 feet deep into the bedrock off the bluff.

In cases where different LCP policies and provisions apply to a project in a conflicting manner, the Land Use Plan (LUP) solves the conflict through a clear hierarchy system to determine the controlling policy/provision. LUP Policy 1-2 states that where policies within the land use plan overlap, the policy which is the most protective of coastal resources shall take precedence. Policy 1-3 states that where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County's Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence. Accordingly, when an Implementation Plan (IP) provision conflicts with an LUP Policy, the LUP takes precedence.

The proposed project raises a conflict between the non-conforming building and use provisions of Santa Barbara County's certified Coastal Zoning Ordinance (Article II) and the provisions of the County's certified Land Use Plan regarding geologic hazard and shoreline/bluff development.

Coastal Zoning Ordinance Article II, Section 35-162.1.a.1 (part of the Local Coastal IP) allows improvements to non-conforming structures designated as historic landmarks. The cabana and its setting were designated as County Historical Landmark #49 by the County Board of Supervisors on March 6, 2012. Accordingly, the IP Section 35-162.1.a.1 exception for improvements to non-conforming buildings designated historic landmarks would allow such improvements to be made to the cabana. LCP Policy 3-7 prohibits bluff development, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Accordingly, LUP Policy 3-7 prohibits bluff development in conflict with the IP provision, and thus LUP Policy 3-7 is more protective of coastal resources (in this case a coastal bluff). Therefore, LUP Policy 3-7 and other provisions of the LCP regarding bluff development outweigh other LCP provisions regarding historic resources in this case (see pgs.19-24, below). Therefore, the proposed project must comply with geologic hazard and bluff development standards.

Where the policies and provisions of the LCP raise a conflict, LUP Policies 1-2 and 1-3 require that the policy most protective of coastal resource shall prevail. Although the LCP encourages new development to be sited and designed to avoid impacts to historic structures, the LCP does not include specific policies requiring the affirmative protection and retention of historic structures. However, the LCP includes specific policies regarding geologic hazards and the protection of coastal bluffs as describe more fully in Section III.C.2 of this staff report. Therefore, the construction of additions and improvements to a nonconforming structure (regardless of historic status) that adversely impact coastal resources inconsistent with other policies and provisions of the LCP would not approvable pursuant to Policies 1-2 and 1-3.

Regarding geologic hazards and bluff development standards, LCP policies require development to be sited to avoid areas of geologic hazard, landform alteration, and reliance on future shoreline or bluff protection devices because the development, which extends the life of the non-conforming structure, is located on a geologically unstable bluff unsuitable for development. Moreover, Policy 3-7 of the certified LUP prohibits development on the bluff face except for beach accessways and pipelines for scientific research or coastal dependent

industry and LCP Policy 3-14 requires development to be sited to avoid areas of known soils, geologic, flood, or erosion hazards. The applicant asserts that the proposed improvements to the foundation of the cabana should be allowed pursuant to Policy 3-7 because the as-built piles and cantilevered support system for the cabana that the applicant is requesting after-the-fact approval for also supports the deck for the cabana which the applicant uses as a segment of their private bluff slope path. However, according to County engineers from the Building and Safety Division and information contained in the geologic reports prepared for the project, the unpermitted work was undertaken in order to reinforce the foundation of the cabana due to geologic instability and will extend the life of the structure. Thus, the subject development associated with the bluff cabana is inconsistent with the relevant provisions, including because the subject proposal exceeds the acceptable exceptions to the prohibition on bluff development.

Next, regarding visual resources, the proposed work has the effect of extending the life of the bluff side cabana in a highly scenic coastal area of Santa Barbara County and altering the natural bluff landform in conflict with Coastal Act Section 30251 (incorporated into the certified LCP) and LUP Policy 4-5.

Therefore, the project must be denied because it is inconsistent with the Santa Barbara County certified Local Coastal Plan, including incorporated Coastal Act Policies.

TABLE OF CONTENTS

I. MOTION AND RESOLUTION	5
II. STANDARD OF REVIEW	5
III. FINDINGS AND DECLARATIONS FOR DENOVO REVIEW	6
A. PROJECT DESCRIPTION AND PHYSICAL SETTING	6
B. BACKGROUND AND LOCAL PERMIT HISTORY	7
C. DE NOVO REVIEW OF COASTAL DEVELOPMENT PERMIT	8
1. NON-CONFORMING USE COASTAL ZONING ORDINANCE PROVISION AND LAND USE PLAN POLICY CONFLICTS	9
2. GEOLOGIC HAZARDS AND COASTAL BLUFF DEVELOPMENT.....	14
3. VISUAL RESOURCES.....	19
D. UNPERMITTED DEVELOPMENT.....	21
E. CONCLUSION	21

APPENDIX A: Substantive File Documents

APPENDIX B: Substantial Issue Staff Report (May 2014)

EXHIBITS

- Exhibit 1.** Vicinity Map
- Exhibit 2.** Parcel Map
- Exhibit 3.** Site Plan
- Exhibit 4.** Geologic Cross Section
- Exhibit 5.** Elevations and Floor Plans
- Exhibit 6.** Cabana and Deck Floor Plan
- Exhibit 7.** South Elevation
- Exhibit 8.** North Elevation
- Exhibit 9.** East Elevation
- Exhibit 10.** West Elevation
- Exhibit 11.** Final Local Action Notice
- Exhibit 12.** Appeal Form
- Exhibit 13.** Board of Supervisors Resolution No. 12-45
- Exhibit 14.** Site Photographs

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve coastal development permit Number A-4-STB-14-0016 pursuant to the staff recommendation.

Staff recommends a **NO** vote on the following motion. Failure of this motion will result in denial of the CDP and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny a CDP:

The Commission hereby denies Coastal Development Permit Number A-4-STB-14-0016 and adopts the findings set forth below on grounds that the development does not conform with the policies of the Santa Barbara County certified Local Coastal Program and/or with the public access policies of Chapter 3 of the Coastal Act.

II. STANDARD OF REVIEW

After certification of a Local Coastal Program (LCP), Section 30603 of the Coastal Act provides for appeals to the Coastal Commission of a local government's actions on certain types of coastal development permits (including any new development which occurs between the first public road and the sea, such as the proposed project sites). In this case, the proposed development was appealed to the Commission, which found during a public meeting on May 14, 2014, that a substantial issue was raised.

For the Commission's "de novo" review of the application, the standard of review for the proposed development is, in part, the policies and provisions of the County of Santa Barbara Local Coastal Program. In addition, pursuant to Section 30604(c) of the Coastal Act, all proposed development located between the first public road and the sea (such as the project site) including those areas where a certified LCP has been prepared, must also be reviewed for consistency with the Chapter 3 policies of the Coastal Act with respect to public access and public recreation. In addition, all Chapter 3 policies of the Coastal Act have been incorporated in their entirety in the certified LCP as guiding policies pursuant to Policy 1-1 of the LUP.

Furthermore, although the standard of review is provided by the certified Local Coastal Program, the Commission must ensure that the LCP is interpreted in a manner consistent with the Coastal Act. As the Court of Appeal explains:

"The Commission has the ultimate authority to ensure that coastal development conforms to the policies embodied in the state's Coastal Act. In fact, a fundamental purpose of the Coastal Act is to ensure that state policies prevail over the concerns of local government. ...The Commission applies state law and policies to determine whether the development permit complies with the LCP."

III. FINDINGS AND DECLARATIONS FOR DENOVO REVIEW

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND PHYSICAL SETTING

The project includes development associated with an existing 789 sq. ft. cabana (Santa Barbara County Landmark #49, (“the Irene and Frances Rich Beach Cabana”) located on a steep coastal bluff face, including: 1) as-built foundation reinforcement work including the request for after-the-fact approval of the installation of five 18-inch diameter by 35-foot deep concrete caissons and five “dead-man” counter-weights; 2) as-built deck and deck stairway repairs; 3) as-built addition of 34 sq. ft. (enclosure of a portion of the existing deck and outdoor shower area) to allow for a ¾ bathroom; 4) as-built addition of 9.5 ft. long wetbar to the interior of the cabana; 5) as-built addition of a sanitary waste connection from the cabana to the existing septic system serving the single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and new drainage improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. grading for drainage improvements. (**Exhibits 3-10**).

The project site is located at 4353 Marina Drive in the Hope Ranch area of Santa Barbara County (APN 063-220-023), a developed residential neighborhood. The subject parcel is 4.2 acres in size and bounded on the north by Marina Drive and bounded on the south by a steep coastal bluff and the Pacific Ocean. (**Exhibits 1-3**). The bluff slope on the south facing side of the subject site is approximately 120 ft. in height. The subject cabana is located on the steep bluff slope approximately 50 ft. above the elevation of the beach. Development on the subject site consists of an approximately 4,270 sq. ft. single-family residence, swimming pool, single-story guest house and associated development, constructed in 1969-1970, which is setback from the bluff top. Additionally, the site includes an approximately 789 sq. ft. cabana and deck built into the steep coastal bluff face, a switch-back golf cart path down the bluff face for access to the cabana, a retaining wall between the bluff and the cabana, a sanitary waste connection from the cabana to the septic system for the main residence, and a private beach stairway. (**Exhibit 3**) The elevation of the cabana foundation is approximately 50 ft. above mean sea level (msl). (**Exhibit 4**)

The steep bluff slope on site is vegetated with a mixture of native and non-native vegetation, including non-native ivy and invasive iceplant. Several non-native mature trees are located to the west of the cabana near the beach access stairway. Site drainage for the north portion of the property is generally directed towards the south and southwest of the main residence and pool location.

A shallow active landslide exists on the southwest bluff portion of the property within the lower portion of the re-entrant canyon. The landslide reportedly occurred in the summer of 1998 following the rupture of an irrigation line on the slope above. The failure area measures approximately 165 ft. long and 15 ft. to 50 ft. wide. The head scarp is approximately 10 ft. high. At the time of the slope failure, approximately 10 ft. to 15 ft. of landslide debris was present at the toe of the slide. However, likely due to erosion and wave action, landslide debris has washed away and only bedrock is now exposed at the toe of the slide above the beach. Additionally, a second active landslide is present at the extreme southeast corner of the property. This active

landslide is located on the bluff face and extends offsite to the east. A small area of surficial solid erosion/slumping is present below the western portion of the wood deck south of the beach cabana. This failure reportedly occurred in 2004 as the result of a broken water pipe that saturated the near surface residual soil above the bedrock. (Grover Hollingsworth, 11/9/11, pgs. 4-5)

B. BACKGROUND AND LOCAL PERMIT HISTORY

Cabana Permit History

The existing cabana was constructed on the steep bluff slope on site in 1956 (Building Permit No. 876) which included a 735 sq. ft. structure with a 386 sq. ft. porch, outdoor shower, outhouse, and no electrical service. According to the County's December 15, 2013 Zoning Administrator Staff Report, at some point between 1956 and 1990, without the benefit of permits, the beach cabana was enlarged to 789 sq. ft. and a $\frac{3}{4}$ bath was installed.

In 1989, the County approved emergency permit (89-EMP-002) for shotcrete injections into the caverns and undercut areas of the bluff below the cabana. According to County, the approval was specifically based upon a determination by the County's Building and Safety staff that the eroded bluff presented a safety hazard to the public on the beach below the structure and not to protect the cabana structure. The shotcrete extends horizontally along the base of the bluff approximately 180 ft. and is approximately 8 to 10 feet high. A follow-up Special Use Permit (89-SUP-072) for the shotcrete was issued by the County in 1990. This permit would have been appealable to the Commission; however, it is unclear whether a Notice of Final Action for CDP was received by the Commission at that time.

A Coastal Development Permit (Case No. 01CDH-00000-00015) was approved by the County on June 21, 2004, for an engineered beach access stairway on the property after unpermitted stairway work was cited as a violation. The Commission received the County's Notice of Final Action for the stairway on July 8, 2004 and no appeal was filed for the stairway.

According to a December 6, 2013 Santa Barbara County Zoning Administrator Staff Report, in 2004 and early 2005, the former property owner undertook additional work on the cabana structure without obtaining the required County coastal development permits. The unpermitted work included the installation of three 18-inch diameter caissons beneath the footings of the cabana, the installation of two 18-inch diameter caissons under a retaining wall adjacent to the cabana, and the replacement of several footings and posts below the deck portion of the structure with a cantilevered beam. Other footings and posts supporting parts of the deck and adjacent stairs were relocated and reconstructed. The County's December 6, 2013 staff report indicates that the unpermitted work was undertaken to reinforce the foundation of the cabana and its deck in response to erosion and subsequent damage to the support structures of the cabana due to damage from a broken water line based on information obtained from a letter prepared by an engineering firm to the previous owner, dated August 15, 2005. (12/6/13 Staff Report, pgs.5-6)

The County opened building violation Case No. 05BDV-00000-00093 on March 9, 2005 for the unpermitted installation of structural improvements to the cabana. A Coastal Development Permit application was submitted by the former owner on August 23, 2005 to authorize the

unpermitted development. The County recommended denial of that permit and the application was withdrawn by the former owner on March 26, 2006 prior to final action. A zoning violation, Case No. 06ZEV-00000-00057, was opened on March 31, 2006 after withdrawal of that application. A Notice and Order to Vacate was sent to the current property owner on September 5, 2007.

Subsequently, on August 20, 2009, the current owners submitted an application for after-the-fact approval of the as-built construction. This application was withdrawn on March 30, 2011, in response to the staff recommendation to the Zoning Administrator for denial of the application and to require demolition of the cabana. Another permit application to retain the as-built development was submitted by the current owner to the County on July 28, 2011. Although County staff again recommended denial of that application, the application was approved by the County Planning Commission on March 5, 2014, against the recommendation of its staff. On April 3, 2014, an appeal of the March 5, 2014 County approval was filed in the Coastal Commission's Ventura Office. The project approved by the Planning Commission is the subject of the present appeal. On May 14, 2014, the Coastal Commission heard an appeal of that March 5, 2014 County approval, wherein the Commission determined the appeal contentions raised a substantial issue of the approval's conformance with Santa Barbara County's certified Local Coastal Plan.

Historic Landmark Designation

The cabana and its setting were first nominated for Landmark status by the Historical Landmarks Advisory Commission (HLAC) on October 11, 2010. After the first nomination by the HLAC, the Santa Barbara County Board of Supervisors denied the Historic Landmark designation for the cabana on December 7, 2010. The applicants then filed suit against the Board of Supervisors, claiming denial of landmark status after the HLAC had recommended such status constituted abuse of discretion. (Lee Carr v Board of Supervisors of Santa Barbara County, civil case 1374320, filed Mar 3, 2011.) Subsequently, after the HLAC re-nominated the cabana for Landmark Status again on December 12, 2011, the County Board of Supervisors approved the cabana and its setting as County Historical Landmark #49 ("Irene and Frances Rich Beach Cabana") on March 6, 2012. (Exhibit 13) The Historic Landmark designation was based on standards and criteria contained in County Code, Chapter 18A, which not part of the County's certified LCP. According to Board of Supervisors Resolution No. 12-45, the cabana was determined to be historically significant, in part, because it "exemplifies or reflects special elements of the County's cultural, social or aesthetic history, as it is a small surviving remnant of the California Dream that flourished on the coast of Southern California in the mid-Twentieth Century and was part of a notable arts colony that flourished on the property in the late 1950's...". (Exhibit 13)

C. DE NOVO REVIEW OF COASTAL DEVELOPMENT PERMIT

In this case, for the reasons discussed below, the Commission hereby denies the Coastal Development Permit as it is inconsistent with geologic hazards and bluff development standards, visual resources, and non-conforming structures, including Land Use Plan (LUP) Policies 1-2, 1-3, 2-6, 3-4, 3-7, 3-14, 4-5, GEO-GV-1, GEO-GV-3, Coastal Act Sections 30251 and 30253 (as

incorporated into the LCP pursuant to Policy 1-1), and Coastal Zoning Ordinance Sections 35-67, 35-160, and 35-161. In interpreting the LCP Policies in a manner that ensures the LCP is consistent with the Coastal Act (see *Pratt, supra*, 162 Cal. App. 4th at 1075-76), the Commission is guided by the general rule of construction contained in the Coastal Act and also applicable to the LCP that its provisions “shall be liberally construed to accomplish its purposes and objectives.” (Pub. Res. Code Section 30009.) As a corollary, exemptions or exceptions that tend to defeat the application of certified policies must be construed narrowly. The LCP echoes these rules of construction by mandating that in the case of overlap between policies, the policy most protective of coastal resources prevails. (LUP Policy 1-2).

1. NON-CONFORMING USE COASTAL ZONING ORDINANCE PROVISION AND LAND USE PLAN POLICY CONFLICTS

LUP Policy 1-2 states:

Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.

LUP Policy 1-3 states:

Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County’s Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence.

Coastal Zoning Ordinance, Article II, Section 35-85. Definitions states, in part:

Development: On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511). [Emphasis added]

Nonconforming Structure: A building or structure which was lawful prior to the effective date of this Article or any amendments hereto, or previously adopted County Zoning Ordinances and which does not conform to the present regulations of this Article including but not limited to height, location, lot coverage or setbacks. [Emphasis added]

Nonconforming Use: Any use of land, building, or structure which was lawful prior to the effective date of this Article or any amendment hereto, or previously adopted County Ordinances, and which does not conform to the present regulations on use of this Article including but not limited to (1) a use of land established where the use is not identified as a permitted use by the zoning district applicable to the lot on which the use is located, (2) a use of land that is identified as a permitted use by the zoning district applicable to the lot on which the use is located but is not allowable on the particular site because of planning area standards of a Community and Area Plan Overlay commencing with Division 12, (3) a use of land that was lawfully established without the Coastal Development Permit or other entitlement (e.g., Conditional Use Permit, development plan) now required by this Article, (4) a use of land that is operated or conducted in a manner that does not now conform with the standards of this Article including but not limited to floor area ratios, minimum site area, limitations on use, or location criteria, or (5) a residential use that exceeds the number of dwelling units or bedrooms allowed on the lot by this Article.

Coastal Zoning Ordinance, Article II, Sec. 35-160. Purpose and Intent [of Division 10 Nonconforming Structures and Uses]:

...It is the intent of this Article to permit these nonconformities to continue until they are removed, but not to encourage their survival...

Coastal Zoning Ordinance, Article II, Sec. 35-162. Nonconforming Buildings and Structures:

If a building or structure is conforming as to use but nonconforming as to setbacks, height, lot coverage, or other requirements concerning the building or structure, such structure may remain so long as it is otherwise lawful, subject to the following regulations.

1. Structural Change. A nonconforming structure may be enlarged, extended, moved, or structurally altered provided that any such extension, enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article. Seismic retrofits, as defined in Section 35-58 and pursuant to Section 35-169.2.1.m are allowed throughout conforming and nonconforming portions of the structure or building. No living quarters may be extended into an accessory building located in the required front, side, or rear yards by such addition or enlargement.

a. Exceptions: A nonconforming structure may be enlarged, extended, reconstructed, moved, and/or structurally altered, subject to the following criteria:

1) The structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors may be structurally altered provided that the County Historical Landmarks Advisory Commission has determined that the proposed structural alterations will help to preserve and maintain the landmark in the long term and has reviewed and approved the proposed structural alterations.

...

Archeological and Historical Resources Policies

LUP Policy 10-1 states:

All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites.

LUP Policy 10-2 states:

When developments are proposed for parcels where archeological or other cultural sites are located, project design shall be required which avoids impacts to such cultural sites if possible.

LUP Policy 10-3 states:

When sufficient planning flexibility does not permit avoiding construction on archeological or other types of cultural sites, adequate mitigation shall be required. Mitigation shall be designed in accord with guidelines of the State Office of Historic Preservation and the State of California Native Heritage Commission.

LUP Policy 10-4 states:

Off-road vehicle use, unauthorized collecting of artifacts, or other activities other than development which could destroy or damage archeological or cultural sites shall be prohibited.

LUP Policy 10-5 states:

Native Americans shall be consulted when development proposals are submitted which impact significant archaeological or cultural sites.

LUP Policy 1-2 states that where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence. LUP Policy 1-3 states that where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County's Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence. Accordingly, where LUP policies conflict with other County ordinances, the Commission must apply LUP and those LUP policies most protective of coastal resources.

One such ordinance, encapsulated within the Local Implementation Plan (Coastal zoning ordinance), is Coastal Zoning Ordinance, Article II, Sec. 35-162, which allows for a nonconforming structure to be enlarged, extended, reconstructed, moved, and/or structurally altered where the structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors.

LUP Policy 3-7 prohibits bluff face development, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry.

Coastal Zoning Ordinance, Article II Section 35-160 allows nonconforming structures and uses to continue until they are removed, but seeks to prohibit improvements that would extend the life of the non-conforming structure. Policy 3-7 and Coastal Zoning Ordinance, Article II Section 35-160 are more protective of coastal resources and therefore apply where in conflict with a coastal zoning ordinance regulation such as Section 35-162 (Historic Landmark exception to certain zoning ordinance limitations).

As mentioned above, Section 35-162 lifts the strict application of the nonconforming structure policy by allowing an exception that “a nonconforming structure may be enlarged, extended, reconstructed, moved, and/or structurally altered...[where] [t]he structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors ... provided that the ...proposed structural alterations will help to preserve and maintain the landmark in the long term...” The language indicates that these types of historic structures “may be” modified in addition to being retained; however, there is no language that indicates that such modifications or alterations would take precedence in the event of a conflict with the protection of other coastal resources such as bluffs. LUP Policies 1-2 and 1-3 are specifically intended to provide the basis to resolve internal conflicts with regard to interpreting the policies and provisions of the LCP. Where conflicts arise with regard to interpretation of the policies and provisions of the LCP, LUP Policies 1-2 and 1-3 require that the policy most protective of coastal resource shall prevail. Although the LCP encourages new development to be sited and designed to avoid impacts to historic structures, the LCP does not include specific policies requiring the affirmative protection and retention of historic structures. However, the LCP includes specific policies regarding geologic hazards and the protection of coastal bluffs as describe more fully in Section III.C.2 of this staff report. Therefore, the construction of additions and improvements to a nonconforming structure (regardless of historic status) that adversely impact coastal resources inconsistent with other policies and provisions of the LCP would not be approvable pursuant to Policies 1-2 and 1-3.

The LCP defines a nonconforming structure as a building or structure which was lawful prior to the effective date of this Article or any amendments hereto, or previously adopted County Zoning Ordinances and which does not conform to the present regulations of this Article including but not limited to height, location, lot coverage or setbacks. The cabana was legally constructed in 1956, prior to passage of the Coastal Act (1972) and the Local Coastal Plan (1982). Following the passage and certification of these development regulations, there are policies and standards that would now apply to new development at the cabana site. LUP Policy 3-7 of the certified LUP prohibits development on the bluff face except for beach accessways and pipelines for scientific research or coastal dependent industry and LCP Policy 3-14 requires development to be sited to avoid areas of known soils, geologic, flood, or erosion hazards. If proposed today, however, the subject cabana is located on the edge/slope of an unstable coastal bluff. Therefore, the existing cabana is a legal non-conforming structure, because it was constructed legally prior to the Coastal Act, but it is inconsistent with current LCP provisions regarding the placement of development on or near coastal bluffs (as discussed further below).

Coastal Zoning Ordinance Section 35-162 governs the alteration of non-conforming structures and states that a nonconforming structure may be enlarged, extended, moved, or structurally altered provided that any such extension, enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article. The applicants propose a new foundation that stabilizes the entirety of the cabana, in addition to the proposed deck addition. Therefore, the

proposed work constitutes substantial redevelopment via a deepened supporting foundation and would not be allowed pursuant to the non-conforming structure provisions of the LCP.

The structural improvements to the bluff slope cabana extend the life of the non-conforming cabana located in a geologically unstable area unsuitable for development. Article II, Section 35-162.1.a.1 provides an exception to the rule and allows a non-conforming structure to be improved provided that the structure has been declared a historical landmark pursuant to a resolution of the Board of Supervisors. Article II, Section 35-162.1 specifically states that “[a] non-conforming structure may be enlarged, extended, moved, or structurally altered provided that any such extension, enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article.” The exception for structures that have been declared a historical landmark by the Board of Supervisors provides an exception for “setback, height, lot coverage, and other requirements *of this Article*” (emphasis added) and not an exception to the wider policies and provisions of the entire Local Coastal Plan, including the LUP. Therefore, the exception for improvements to a non-conforming structure designated as a historic landmark is an exception only to the other requirements of “this Article,” which refers to Article II of the Coastal Zoning Ordinance. It is not an exception that would allow contravention of all other LCP policies, including LUP provisions strictly regulating development on bluffs and in geologically hazardous areas, and generally prohibiting such development with narrow exceptions not applicable here. Thus, a project must be consistent not only with the Coastal Zoning Ordinance provisions of the LCP but also with all policies and provisions of the certified LUP. Therefore, while Section 35-162.1.a.1 of the Coastal Zoning Ordinance may allow for exceptions to other provisions of the Coastal Zoning Ordinance, the project must still comply with all provisions of the certified LCP.

Any other construction would allow for the exception for historic landmarks contained in the LIP to negate the policies of the LUP regarding bluff development, hazards, public services, and visual resources. Such an interpretation would run contrary to Policy 1-2, which requires any “overlap” be decided in favor of policies most protective of coastal resources. Such an interpretation would also run counter to Section 30009 of the Coastal Act. As the Commission applies state law and state policies to guide its interpretation of the LCP, the Commission finds the exception to certain standards for county historic landmarks does not extend beyond Article II of the Coastal Zoning Ordinance, and does not encompass any of the certified policies of the LUP.

The LUP requires bluff setbacks, prohibits development on bluff faces with limited exceptions, require development to be sited to avoid areas of geologic hazard, to avoid landform alteration, and to avoid reliance on future shoreline or bluff protection devices. These policies are more protective of coastal resources than provisions of the LCP regarding historic resources. On the other hand, LUP provisions related to historic sites are more general in nature, do not provide specific protections for historic landmarks, and are focused on protections for archeological and cultural sites as opposed to sites designated as historic landmarks by the County (see Policies 10-1, 10-2, 10-3, 10-4, and 10-5).

Although the LUP lists 20 historic sites in Santa Barbara County¹, the LUP does not include specific policies that protect these resources, but rather only “recommendations” in LUP Section 3.10.5 (Historical Resources), cited above. For example, recommendation 2 in Section 3.10.5 states: “[t]he significant sites should be designated as landmarks by the County Advisory Landmark Committee and restrictions imposed as currently permitted by County Ordinance No.1716.” Ordinance No.1716 is not certified as part of the LCP, nevertheless, applying LCP Policy 1-3, policies of the certified LUP would take precedence over any standards within that Ordinance related to historic landmarks. Further, the County Code which provides for a Historical Landmarks Advisory Committee and outlines historic landmark criteria, Santa Barbara County Code Section 18A, is not certified as part of the County’s Coastal Zoning Ordinance (Article II). Thus, LCP policies regarding bluff development restrictions and siting to avoid geologic hazards would take precedence over other County Comprehensive Plan provisions or existing ordinances regarding historic landmark designations. Therefore, as applied to the development in this case, per Policy 1-2 and Policy 1-3, LUP policies regarding bluff development and siting to avoid geologically hazardous areas are more protective of coastal resources and outweigh LCP provisions regarding historic resources.

Therefore, the Commission finds that the LCP policies and provisions regarding geologic hazard and coastal bluff protection must take precedence over the nonconforming structure policies related to the historic landmark provision because the geologic hazard and coastal bluff protection provisions are more protective of coastal resources than the Coastal Zoning Ordinance’s historic landmark provision.

2. GEOLOGIC HAZARDS AND COASTAL BLUFF DEVELOPMENT

Coastal Act Section 30253 (incorporated into the LCP by Policy 1-1) states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.

¹ The twenty historic sites include the following: Vicente Ortega Adobe, Point Sal, Point Perdernales, Point Conception Lighthouse, Gaviota Landing, Gaviota Pass (State Historical Landmark), Baron Adobe, La Vigia, Refugio Beach Park, Erro Pepper Tree, Ygnacio Ortega Adobe, Bruno Orella Adobe, El Capitan Beach Park, Dos Pueblos (Historic Site, Cabrillo Anchorage), Whaling Camp (Goleta Point Area), Asphaltum Mine (Goleta-UCSB Area), Massini Adobe (Montecito), First Oil Well (Summerland), Fleishman House (Lambert Road), and Shepard’s Inn (Carpinteria Valley)

(4) Minimize energy consumption and vehicle miles traveled.

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

LUP Policy 1-1 states:

The County shall adopt the policies of the Coastal Act (PRC Sections 30210 through 30263) as the guiding policies of the land use plan.

LUP Policy 3-4 states:

In areas of new development, above-ground structures shall be set back a sufficient distances from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such County shall determine the required setback. A geologic report shall be required by the County in order to make this determination...

LUP Policy 3-7 states:

No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.

LUP Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

LUP (Goleta Community Plan) Policy GEO-GV-1 states:

All new development on ocean bluff-top property shall be sited to avoid areas subject to erosion and designed to avoid reliance on future shoreline and/or bluff protection devices.

LUP (Goleta Community Plan) Policy GEO-GV-3 states:

Where feasible and where consistent with Local Coastal Plan Policies, relocation of structures threatened by bluff retreat shall be required for development on existing legal parcels, rather than installation of coastal protection structures.

Coastal Zoning Ordinance, Article II, Sec. 35-67. Bluff Development Standards:

...
5. *No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted in the property can be drained away from the bluff face.*

As described above, the development includes the request for after-the-fact approval of structural improvements to an approximately 789 sq. ft. cabana, including installation of five 18-inch diameter by 35-foot deep concrete caissons and five “dead-man” counter-weights under the cabana and deck; deck and deck stairway repairs; addition of 34 sq. ft. (enclosure of a portion of the existing deck and outdoor shower area) including a $\frac{3}{4}$ bathroom to the cabana; addition of 9.5 ft. long wetbar to the interior of the cabana; and, addition of a sanitary waste connection from the cabana to the existing septic system serving the single-family dwelling, including a grinder pump and waste water lines. The approved project also includes drainage repairs and drainage improvements on the bluff face (i.e., repairs on the walkway leading to the cabana) and approximately 50 cu. yds. grading, which has not yet been completed.

Coastal Act Section 30253, as incorporated into the LCP by Policy 1-1, LCP Policy 3-14, LCP Policy GEO-GV-1 and LCP Policy GEO-GV-3, require development to be sited to avoid areas of geologic hazard, to avoid landform alteration, and to avoid reliance on future shoreline or bluff protection devices. LCP Policy 3-7 and Article II Section 35-67 specifically prohibit development on a bluff face, except in limited circumstances for beach access stairways and pipelines for scientific research or coastal dependent industry.

The question is whether the project conforms to Coastal Act Section 30253, as incorporated into the LCP by Policy 1-1, LCP Policy 3-14, LCP 3-14, LCP Policy GEO-GV-1 and LCP Policy GEO-GV-3, which require bluff setbacks, prohibit development on bluff faces with limited exceptions, require development to be sited to avoid areas of geologic hazard, to avoid landform alteration, and to avoid reliance on future shoreline or bluff protection devices.

Geological and geotechnical engineering studies and letters were prepared to evaluate the site and are included in the County’s administrative record. (See Appendix A) These studies and letters indicate that the project site is an unstable bluff subject to landslides and erosion and that the unpermitted caisson foundation repairs were undertaken in order to extend the life of the cabana and have the effect of extending the life of the cabana.

As noted above, landslide activity has occurred on the bluff in the vicinity of the cabana. A shallow active landslide exists on the southwest bluff portion of the property. A second active landslide is also present at the extreme southeast corner of the property. This active

landslide is located on the bluff face and extends offsite to the east. A small area of surficial solid erosion/slumping is present below the western portion of the wood deck south of the beach cabana. (Grover Hollingsworth, 11/9/11, p.4)

A comprehensive Geologic and Soils Engineering Exploration report was prepared in 1999 by Grover Hollingsworth and Associates, Inc. showing that the development is located in a “potentially unstable” area. According to the report, the purpose of the exploration was “to evaluate the nature, distribution, engineering properties, relative stability, and geologic structure of the earth materials underling the property with respect to the evaluation of an existing landslide on the lower, southern portion of the site, the assessment of the stability of other slopes on the site, assessment of the stability of the beach cabana structure, and possible future development.” (Grover Hollingsworth, 8/9/99, p.1) The report evaluated data from field exploration, which included excavating twelve test pits, drilling three borings, mapping outcrops adjacent to and within the property, and obtaining samples from the site and concluded that:

The southern slope and seacliff areas are potentially unstable. The beach cabana is located on or above bedrock which is unfavorably oriented with respect to the seacliff. This bedrock orientation has led to landsliding along the seacliff east of the subject property. We believe that the bluff and slope in the area of the beach cabana are marginally unstable. Failure of the beach cabana could occur during a period of heavy rainfall, wave attack, or strong seismic shaking. (Grover Hollingsworth, 8/9/99, p.13)

Although a letter prepared by the same engineering firm in 2011 states that “there are no landslides in the area of the cabana that represent a risk to its stability,” this 2011 assessment was prepared after the unpermitted caisson placement to reinforce the foundation of the structure was conducted in 2005 to stabilize the structure. (Grover Hollingsworth, 11/9/11, p. 5)

Further, three separate letters prepared in 2005 by Braun & Associates, an engineering firm, indicate that structural stability of the bluff slope cabana was at issue and the friction pile foundation system was designed to support the cabana and deck in order to extend the life of the structure. A January 17, 2005 letter prepared by Braun & Associates states that “[d]ue to the desire of the owner to provide an increased life for the structure it was decided the use of caissons extending into the bedrock and supporting the existing foundation system would be the most feasible.” (Braun & Associates 1/17/05, p.1) A subsequent letter prepared by Braun & Associates, dated December 7, 2005, reiterates that “[t]he work conducted on the Beach House was done in order to extend the life or usefulness of the structure while at the same time providing additional stabilization of the slope within this area.” (Braun & Associates, 12/7/05, p.1)

Further, an August 15, 2005 letter prepared by Braun & Associates also discusses the structural foundation of the cabana. This letter states:

The owner had significant concerns as to the stability of the Beach House. Based on discussions with the owner and review of the Grover Hollingsworth report, I was in agreement with the concerns of the owner. Within the geotechnical review by Grover Hollingsworth discussions as to stabilizing the Beach House and deck were provided. Mr. Capone was most concerned with loss of the structure and deck from seismic activity. Based on our discussion this firm designed a cast in place friction pile foundation system to support the structure and remove the loads from the deck. (Braun & Associates 8/15/05, p.1)

The August 15, 2005 Braun & Associates letter concluded that “[b]ased on the work it is my opinion the Beach House has been strengthened by this new foundation system in a method consistent with typical underpinning procedures for the area” and “the structure is now supported by a deep foundation system with footings that extend well into the bedrock in accordance with the Grover Hollingsworth report and proper engineering procedures.” (Braun & Associates 8/15/05, p.2) A letter provided by a third engineering firm, Coastal Geology & Soil, Inc., also specifically states that “[t]he foundation system appears to be well designed and adequate to provide support for the beach house against foundation failure due to the poor surficial stability of the upper Qc type materials.” (Coastal Geology & Soil, Inc. 2005, p.3)

Therefore, the reports and letters prepared by three separate engineering firms make clear that the project site, a coastal bluff, is not geologically stable and the work was conducted in order to stabilize the foundation of the cabana and extend the life of the non-conforming cabana structure and the work has the intended effect of prolonging the life of the cabana.

As discussed above, the LCP defines a nonconforming structure as a building or structure which was lawful prior to the effective date of this Article or any amendments hereto, or previously adopted County Zoning Ordinances and which does not conform to the present regulations of this Article including but not limited to height, location, lot coverage or setbacks. The cabana was legally constructed in 1956, prior to passage of the Coastal Act (1972) and the Local Coastal Plan (1982). Following the passage and certification of these development regulations, there are policies and standards that would now apply to new development at the cabana site. If proposed today, however, the subject cabana is located on the edge/slope of an unstable coastal bluff. Therefore, the existing cabana is a legal non-conforming structure, because it was constructed legally prior to the Coastal Act, but it is inconsistent with current LCP provisions regarding the placement of development on or near coastal bluffs (as discussed further below).

Coastal Zoning Ordinance Section 35-162 governs the alteration of non-conforming structures and states that a nonconforming structure may be enlarged, extended, moved, or structurally altered provided that any such extension, enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article. The applicants propose a new foundation that stabilizes the entirety of the cabana, in addition to the proposed deck addition. Therefore, the proposed work constitutes substantial redevelopment via a deepened supporting foundation and would not be allowed pursuant to the non-conforming structure provisions of the LCP.

The development would serve to prolong the life of a non-conforming structure located on an unstable coastal bluff in an area of known geologic and erosional hazards and has caused additional alteration to the natural bluff landform. Further, due to the geologic and erosional hazards present at the bluff on the subject site, prolonging the life of the structure will foreseeably result in the request for additional shoreline or bluff protective devices to protect the development in direct conflict with Coastal Act Section 30253 and LCP Policies GEO-GV-1 and GEO-GV-3. The proposed development is not a beach access stairway or pipeline for scientific research. Further, the development does not comply with LCP Policy 3-4, which requires development to be set back from the bluff edge to be safe from the threat of erosion, because the development prolongs the life of the structure that is located directly on the bluff and has no bluff setback.

During meetings with Commission staff on 4/22/14 and 12/1/14, the applicants and their representatives asserted that the foundation improvements were not intended or required to support the cabana itself but instead conducted in order to provide support to the deck and deck stairway leading to the approved beach access stairway. Regardless of this assertion, it is clear, based on the record evidence discussed above, that the foundation improvements provide support to both the cabana and attached deck (Exhibits 4-7) and have the effect of extending the life of the cabana. Indeed, as noted above, the previous owner who initiated the unpermitted repairs had the intent of extending the life of the cabana by performing the structural repairs.

Therefore, the project is not consistent with Coastal Act Section 30253, as incorporated into the LCP by Policy 1-1, LCP Policy 3-7, LCP 3-14, LCP Policy GEO-GV-1 and LCP Policy GEO-GV-3 because the development, which extends the life of the non-conforming structure, is located on a geologically unstable bluff unsuitable for development. Additionally, the project is inconsistent with LCP Policy 3-7 (which prohibits development on the bluff face except for beach accessways and pipelines for scientific research or coastal dependent industry) and LCP Policy 3-14 (which requires development to be sited to avoid areas of known soils, geologic, flood, or erosion hazards).

Therefore, the project must be denied as it is inconsistent with the policies and provisions of the LCP with regard to coastal bluff protection and geologic hazards. Specifically, the project is inconsistent with the policies and provisions that prohibit the subject type of development on bluff faces and the provisions that require development to be sited to avoid areas of geologic hazard, landform alteration, and reliance on future shoreline or bluff protection devices

3. VISUAL RESOURCES

Coastal Act Section 30251 (incorporated into the LCP by Policy 1-1) states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. 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, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

LUP Policy 4-5 states:

In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Bluff top structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already

impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.

The proposed development includes the request for after-the-fact approval of structural improvements to an approximately 789 sq. ft. cabana, including installation of five 18-inch diameter by 35-foot deep concrete caissons and five "dead-man" counter-weights under the cabana and deck; deck and deck stairway repairs; addition of 34 sq. ft. (enclosure of a portion of the existing deck and outdoor shower area). The project also includes approximately 50 cu. yds. grading, which has not yet been completed. The proposed work will extend the life of a structure located on the steep face of an unstable coastal bluff, visible from up and down coast along the beach of the subject property.

Coastal Act Section 30251, as incorporated into the LCP by Policy 1-1 and LUP Policy 4-5, requires development to be sited to protect scenic coastal areas, to minimize alteration of natural landforms, to be compatible with the character of the surrounding area, to restore and enhance visual quality where feasible and to be setback from bluffs to minimize or avoid impacts of public views from the beach.

The coastal bluff in the project area is generally undeveloped except for private beach access stairways. The project has the effect of extending the life of a cabana, located on the a coastal bluff edge/face in a highly scenic coastal area of Santa Barbara County in conflict with Coastal Act Section 30251 and Policy 4-5. The proposed foundation work and additional grading on the bluff edge will also alter the natural bluff landform inconsistent with Coastal Act Section 30251 and Policy 4-5.

As discussed above in the previous two sections, the LCP defines a nonconforming structure as a building or structure which was lawful prior to the effective date of this Article or any amendments hereto, or previously adopted County Zoning Ordinances and which does not conform to the present regulations of this Article including but not limited to height, location, lot coverage or setbacks. The cabana was legally constructed in 1956, prior to passage of the Coastal Act (1972) and the Local Coastal Plan (1982). Following the passage and certification of these development regulations, there are policies and standards that would now apply to new development at the cabana site. If proposed today, however, the subject cabana is located on the edge/slope of an unstable coastal bluff. Therefore, the existing cabana is a legal non-conforming structure, because it was constructed legally prior to the Coastal Act, but it is inconsistent with current LCP provisions regarding the placement of development on or near coastal bluffs (as discussed further below).

Coastal Zoning Ordinance Section 35-162 governs the alteration of non-conforming structures and states that a nonconforming structure may be enlarged, extended, moved, or structurally altered provided that any such extension, enlargement, etc., complies with the setback, height, lot coverage, and other requirements of this Article. The applicants propose a new foundation that stabilizes the entirety of the cabana, in addition to the proposed deck addition. Therefore, the proposed work constitutes substantial redevelopment via a deepened supporting foundation and would not be allowed pursuant to the non-conforming structure provisions of the LCP. Therefore, the project must be denied because it is inconsistent with the Santa Barbara County certified Local Coastal Plan visual resources policies and incorporated Coastal Act Policy.

D. UNPERMITTED DEVELOPMENT

As described in the background section above, unpermitted development took place sometime between 2004 and 2006, including: 1) as-built foundation reinforcement work including the request for after-the-fact approval of the installation of five 18-inch diameter by 35-foot deep concrete caissons and five “dead-man” counter-weights; 2) as-built deck and deck stairway repairs; 3) as-built addition of 34 sq. ft. (enclosure of a portion of the existing deck and outdoor shower area) to allow for a ¾ bathroom; 4) as-built addition of 9.5 ft. long wetbar to the interior of the cabana; 5) as-built addition of a sanitary waste connection from the cabana to the existing septic system serving the single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and new drainage improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. of grading for drainage improvements. This CDP application proposes to allow the unpermitted structural development and other related bluff development to remain.

For the reasons outlined above in previous sections, the proposed after-the-fact development must be denied as it is inconsistent with the County’s certified LCP. The County’s enforcement staff is pursuing methods to address the existing unpermitted development. Additionally, the Commission’s enforcement staff will work with the County’s staff to pursue options available to address the ongoing violation at the subject site.

E. CONCLUSION

For the reasons discussed above, the proposed development must be denied as it is inconsistent with the policies of the County’s certified LCP. As discussed above, the development is inconsistent with LCP provisions regarding geologic hazards and bluff development standards, and visual resources, including Land Use Plan (LUP) Policies 1-2, 1-3, 2-6, 3-4, 3-7, 3-14, 4-5, GEO-GV-1, GEO-GV-3, Coastal Act Sections 30251 and 30253 (as incorporated into the LCP pursuant to Policy 1-1), and Coastal Zoning Ordinance Sections 35-67, and 35-160. In addition, the limited exception with regard to the modification of nonconforming structures does not apply in this case because the conflict with other resource protection provisions must be weighted toward application of the policy which is most protective of coastal resources.

APPENDIX A

Substantive File Documents

Certified Santa Barbara County Local Coastal Plan; Santa Barbara County Planning Commission Staff Report dated February 13, 2014 (Case Nos. 13-APL-00000-00030 and 11CDH-00000-00032) and attachments thereto; Santa Barbara County Zoning Administrator Staff Report dated December 6, 2013 (Case No. 11CDH-00000-00032) and attachments thereto; Resolution of the Santa Barbara County Board of Supervisors, Resolution No. 12-45 Designation of the Irene and Francis Rich Cabana Located at 4353 Marina Drive as County Landmark #49; Santa Barbara County Notice of Final Action for Coastal Development Permit 11CDH-00000-00032 and attachments, dated March 5, 2014; County of Santa Barbara Planning and Development Department Notice of Noncompliance to Mr. Peter Capone, dated May 6, 2005; Soils Report prepared by Grover-Hollingsworth & Assoc., dated August 9, 1999; Letter regarding seismic stabilization for guesthouse at 4353 Marina Drive, prepared by Braun & Associates, dated January 15, 2005; Letter regarding work performed on Capone Beach House, 4353 Marina Drive, prepared by Braun & Associates, dated August 15, 2005; Letter to address the safety issue of the Capone Beach House, 4353 Marina Drive, Santa Barbara, CA, prepared by Braun & Associates, dated December 7, 2005; Geologic Investigation for the Capone Beach House, Located at 4353 Marina Drive, Hope Ranch, Santa Barbara County, prepared by Coastal Geology & Soil Inc., dated August 17, 2005; Geologic and Geotechnical Assessment, prepared by Grover Hollingsworth & Assoc., Inc., dated November 9, 2011; Letter regarding Structural Assessment, Beach Cabana & Deck, 4353 Marina Drive, Santa Barbara, CA, prepared by Braun & Associates, Inc., dated December 12, 2011; Geotechnical Engineering Memorandum prepared by Fugro West, Inc. to County of Santa Barbara, dated December 2, 2005; Historic Report prepared by San Buenaventura Research Associates, dated June 2, 2010.

APPENDIX B

The staff report and addendum for the Commission's substantial issue determination on Appeal A-4-STB-14-016 (May 2014) are available on the Coastal Commission website at:
<http://documents.coastal.ca.gov/reports/2014/5/W21a-5-2014.pdf>



PROJECT LOCATION

OCEAN

CITY OF SANTA BARBARA

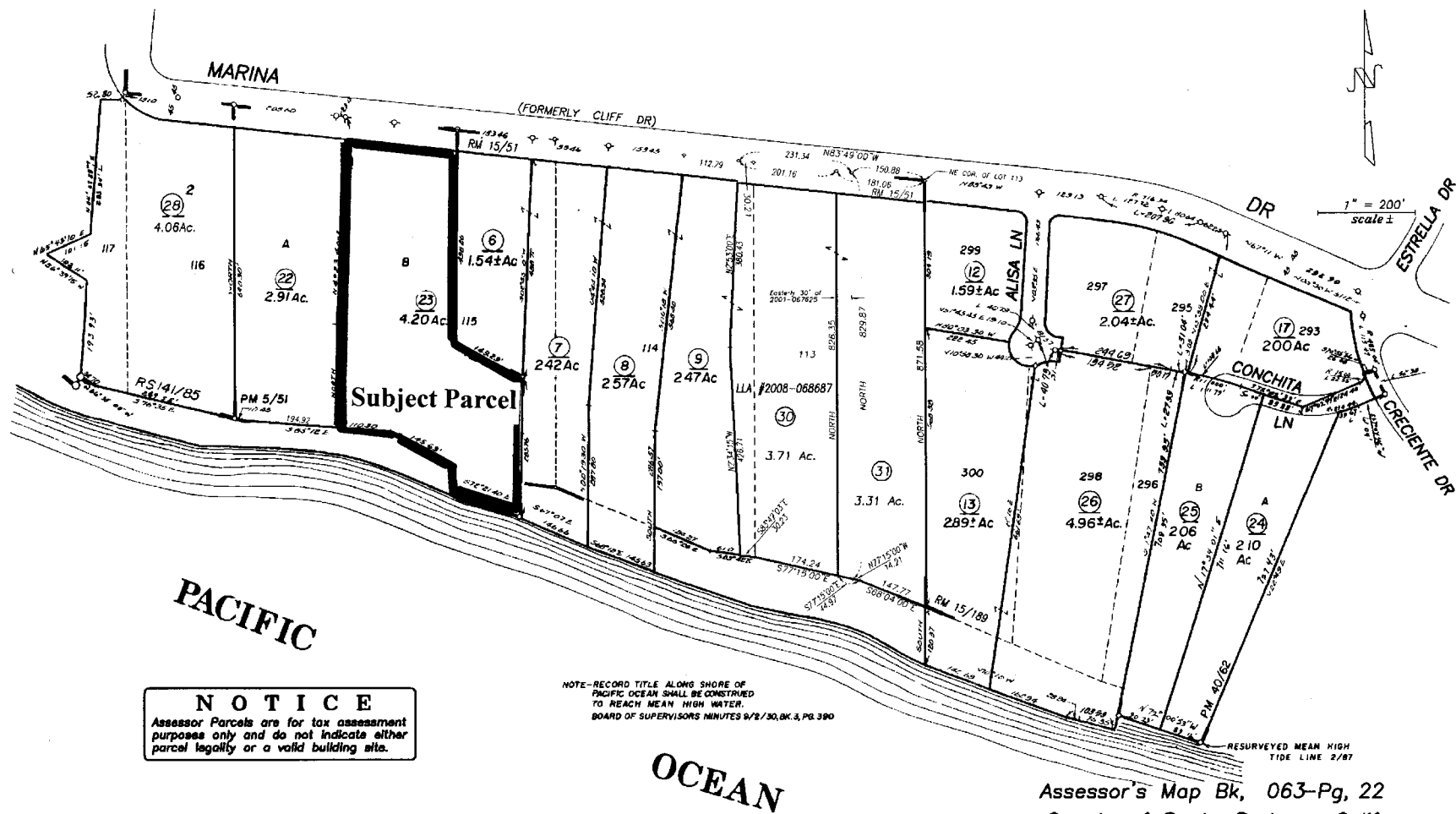
EXHIBIT 1

A-4-STB-14-0016 (Carr)

Vicinity Map

POR. RANCHO LAS POSITAS

063-22



NOTICE
 Assessor Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

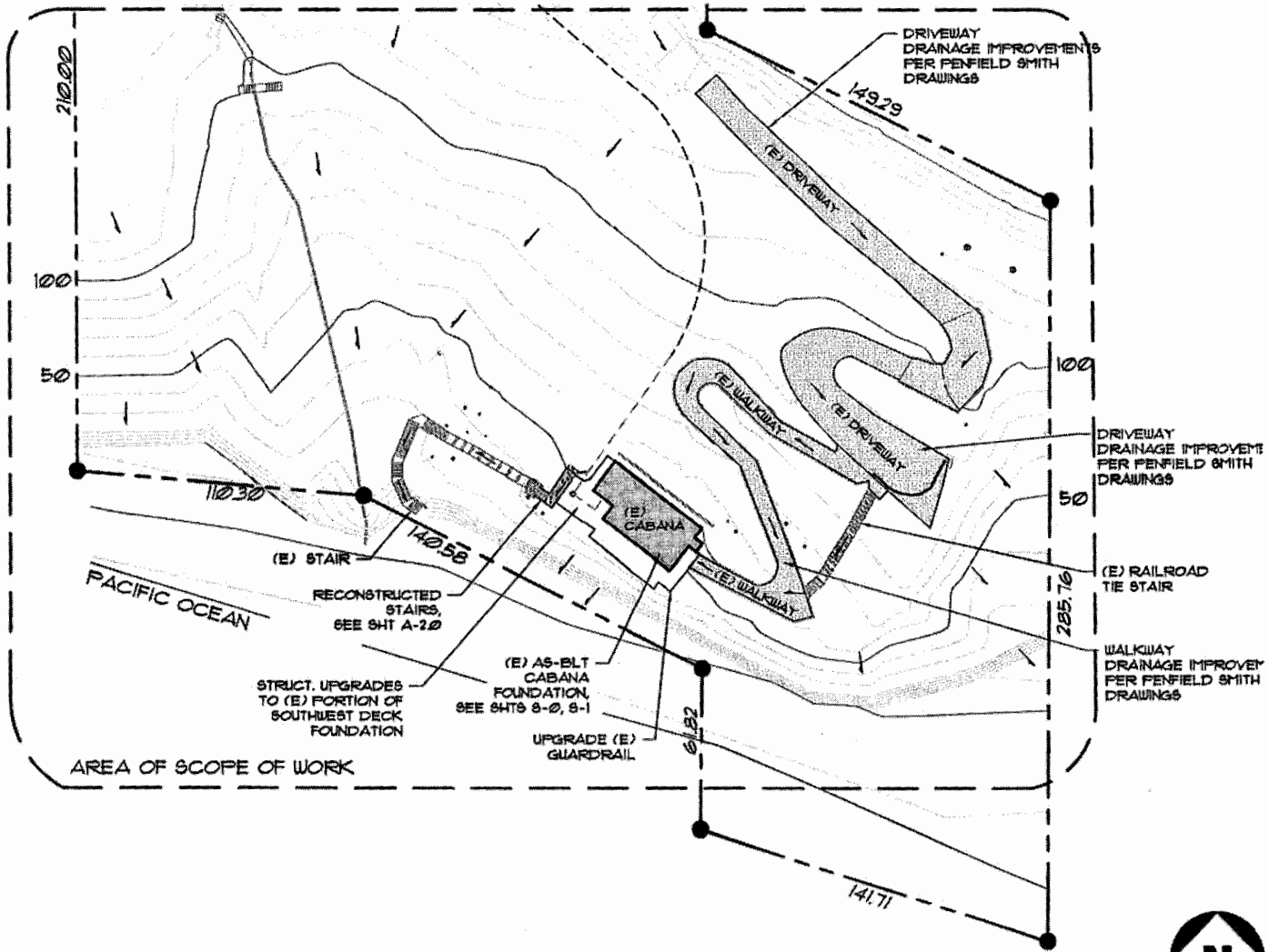
NOTE-RECORD TITLE ALONG SHORE OF PACIFIC OCEAN SHALL BE CONSTRUED TO REACH MEAN HIGH WATER.
 BOARD OF SUPERVISORS MINUTES 9/2/30, 0K.3, PG. 390

Assessor's Map Bk, 063-Pg, 22
 County of Santa Barbara, Calif.

09/04/1928 R.M. Bk. 15 , Pg. 189-201, Tract "Map of Resubdivision of a Portion of Santa Barbara Estates"
 05/18/1924 R.M. Bk. 15 , Pg. 51-56 , Tract "Map of Santa Barbara Estates"

LD/09 10 & 11 into 30 & 31

EXHIBIT 2
A-4-STB-14-0016 (Carr)
Parcel Map

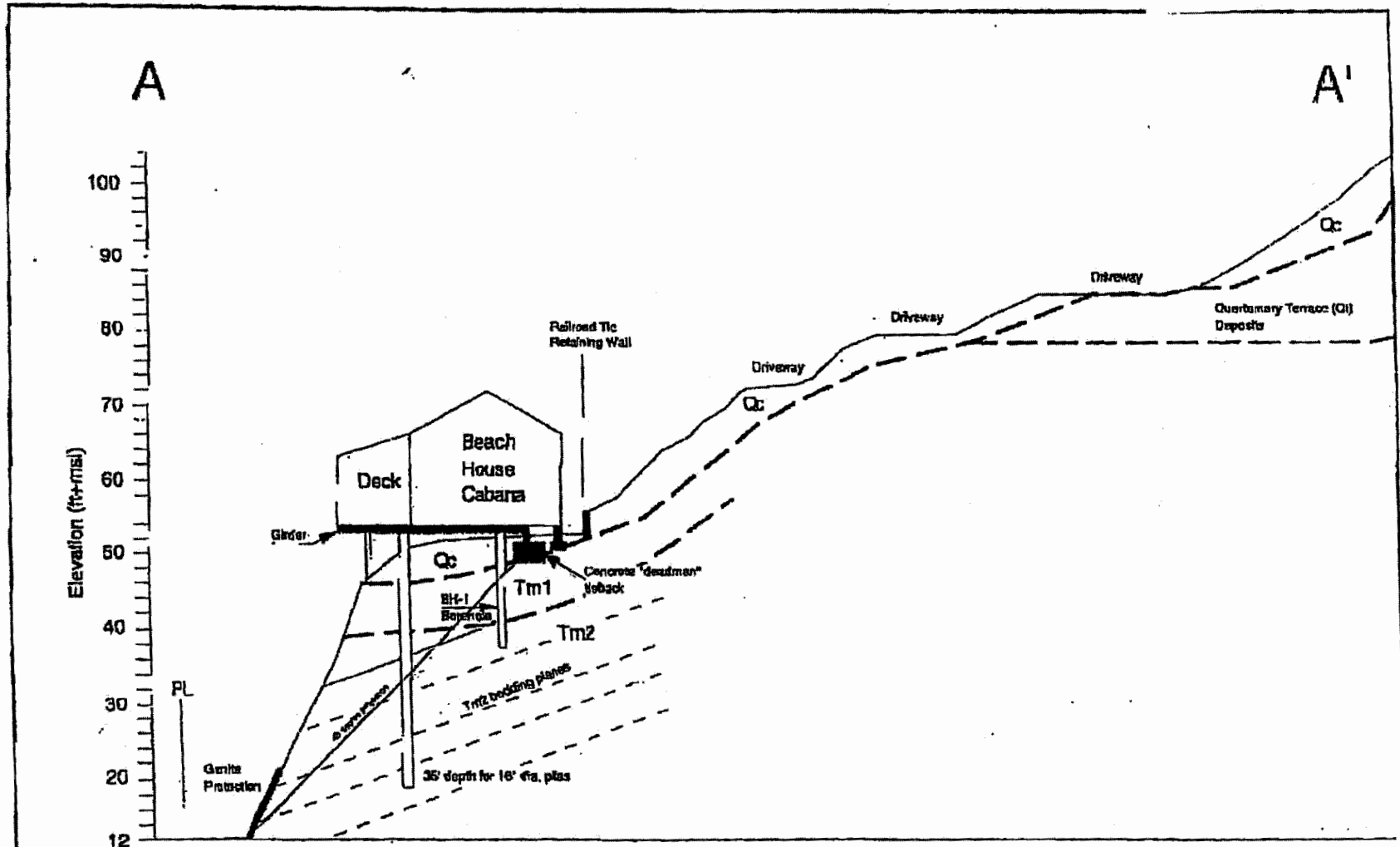


1" = 40'-0"

SITE PLAN

EXHIBIT 3
A-4-STB-14-0016 (Carr)
Site Plan

SECTION A



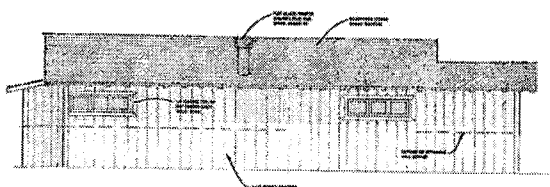
Scale 1" = 20'
Horizontal = Vertical

Legend

- Qc - Quaternary Colluvium
- Qt - Quaternary Terrace Deposits
- Tm1 - Monterey formation, severely weathered.
- Tm2 - Monterey formation, moderately to unweathered.

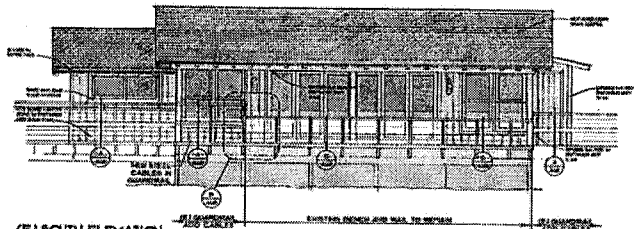
Geologic Cross Section A - A'
Capone Beach House

EXHIBIT 4
A-4-STB-14-0016 (Carr)
Geologic Cross Section



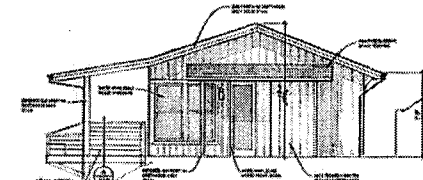
(E) SOUTH ELEVATION

1/4" = 1'-0"



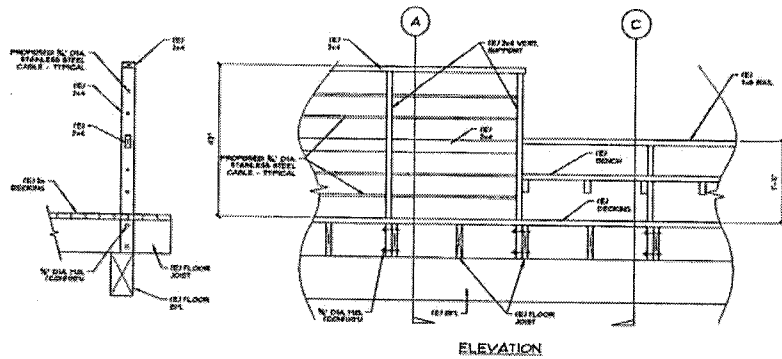
(E) SOUTH ELEVATION

1/4" = 1'-0"



(E) EAST ELEVATION

1/4" = 1'-0"

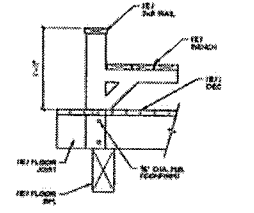


A EXISTING GUARDRAIL MODIFICATION

1" = 1'-0"

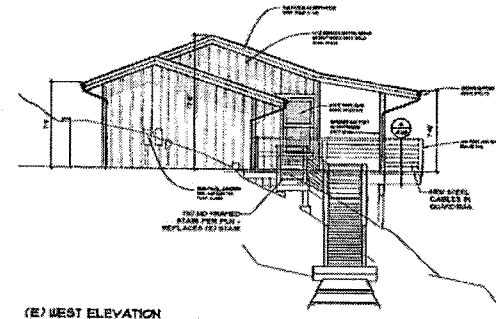
B EXISTING GUARDRAIL MODIFICATION

1" = 1'-0"



C EXISTING BENCH TO REMAIN

1" = 1'-0"

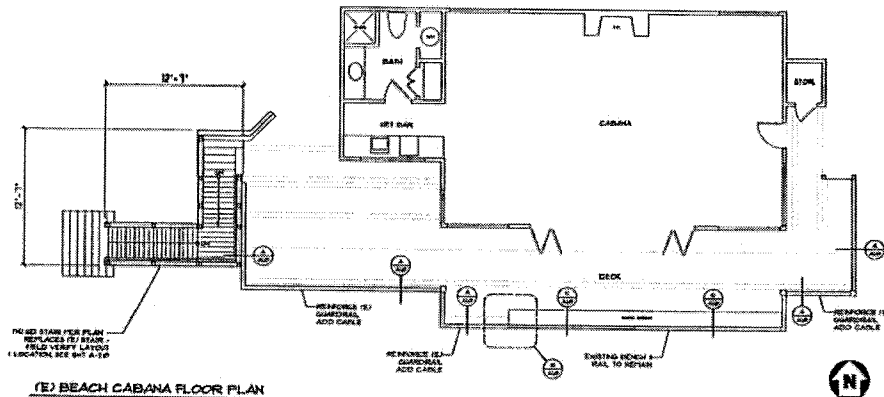


(E) WEST ELEVATION

1/4" = 1'-0"

D (N) 2" BRASS GUARDRAIL ON (E) GUARDRAIL

1" = 1'-0"



(E) BEACH CABANA FLOOR PLAN

1/4" = 1'-0"

THOMAS DCHINEE
ARCHITECT



Thomas Dchinee
ARCHITECT

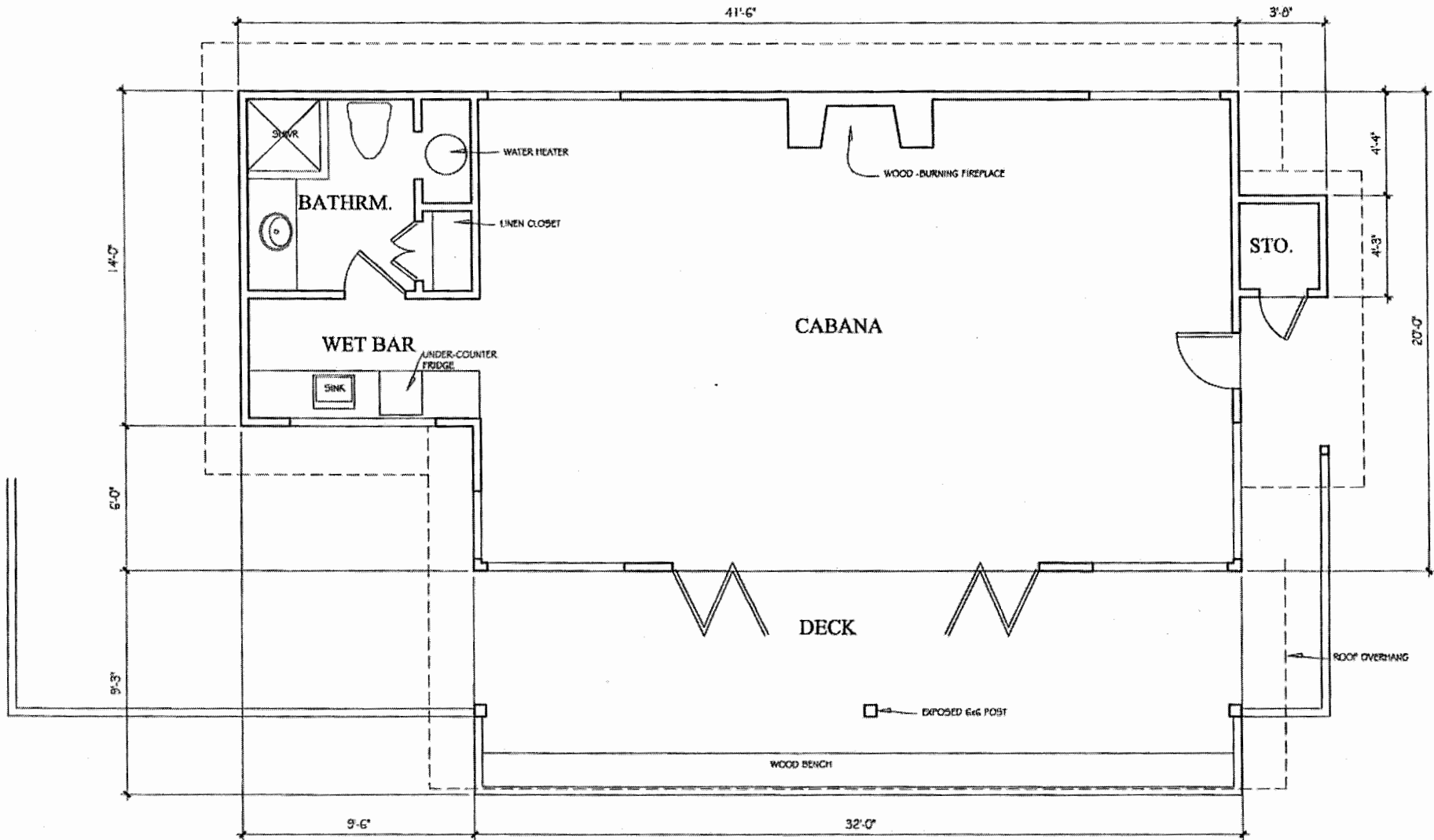
BEACH CABANA IMPROVEMENTS
1000 S. GARDNER AVE.
ANAHEIM, CA 92805
(714) 771-1111
WWW.TDCHINEE.COM



DATE: 08/14/14
SCALE: AS SHOWN
PROJECT: BEACH CABANA IMPROVEMENTS
SHEET: A-10

A-10

EXHIBIT 5
A-4-STB-14-0016 (Carr)
Elevations and Floor Plans



AS-BUILT CABANA
 4353 MARINA DRIVE, SANTA BARBARA, CA 93110
 APN: 063-220-023

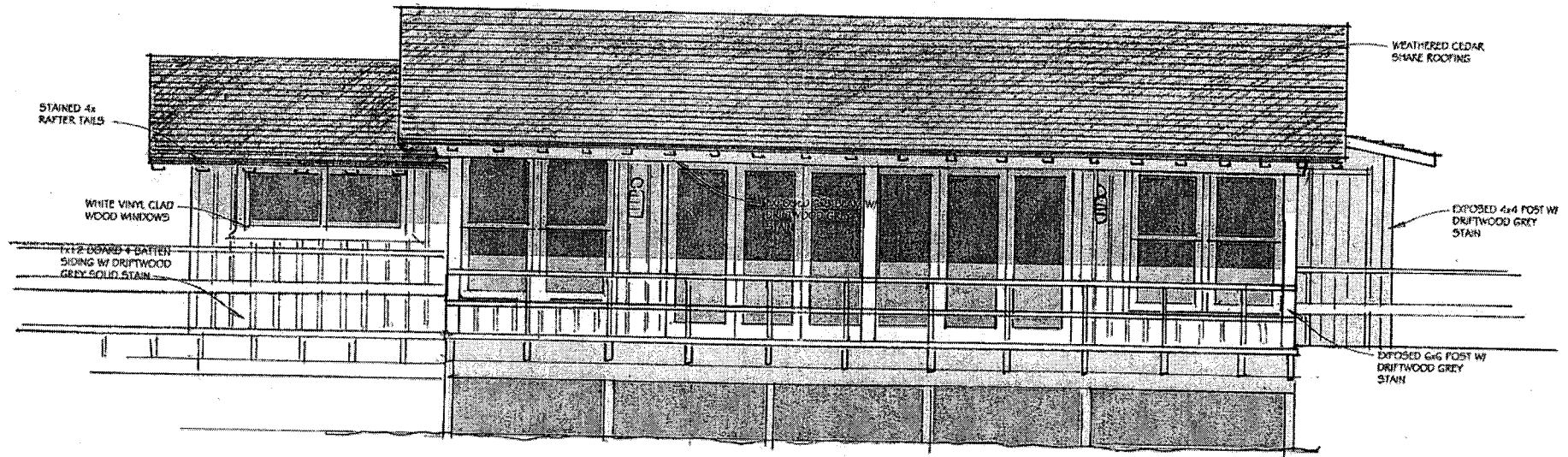
NORTH

SCALE: 1/4" = 1'-0"

FLOOR PLAN

EXHIBIT 6
A-4-STB-14-0016 (Carr)
Floor Plan

2011-12-04-1129



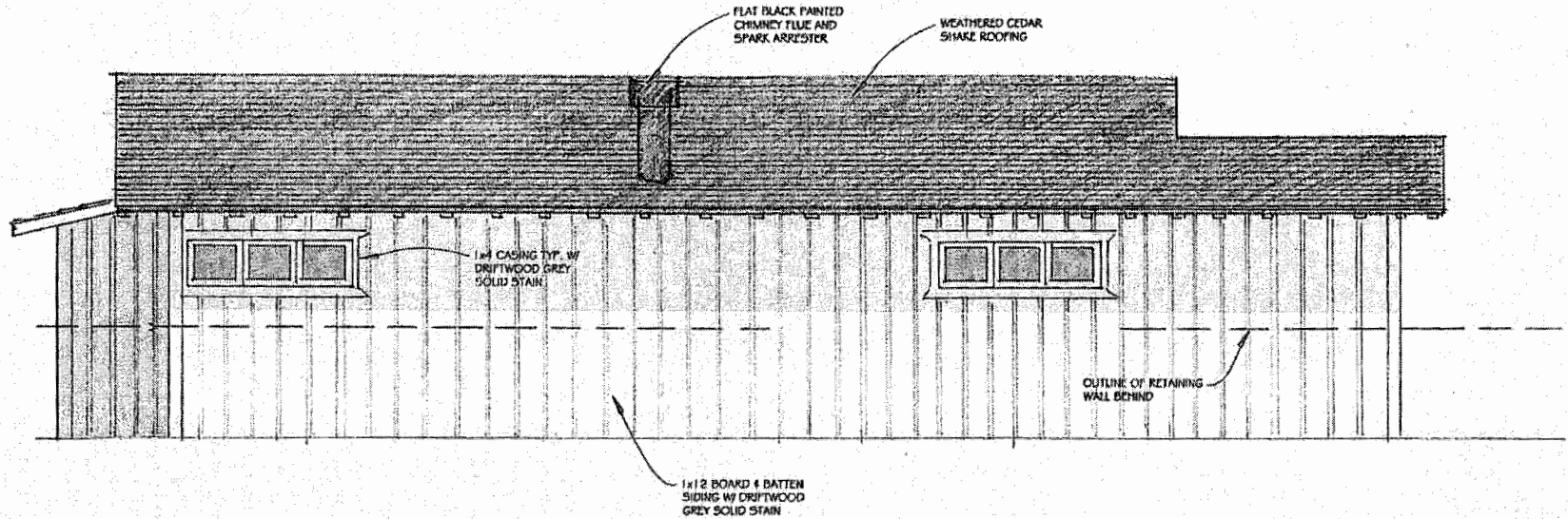
AS-BUILT CABANA
 4353 MARINA DRIVE, SANTA BARBARA, CA 93110
 APN: 063-220-023

SCALE: 1/2" = 1'-0"

SOUTH ELEVATION

RECEIVED
 DEC 09 2011
 S.B. COUNTY
 PLANNING & DEVELOPMENT

EXHIBIT 7
A-4-STB-14-0016 (Carr)
South Elevation



AS-BUILT CABANA
4353 MARINA DRIVE, SANTA BARBARA, CA 93110
APN: 063-220-023

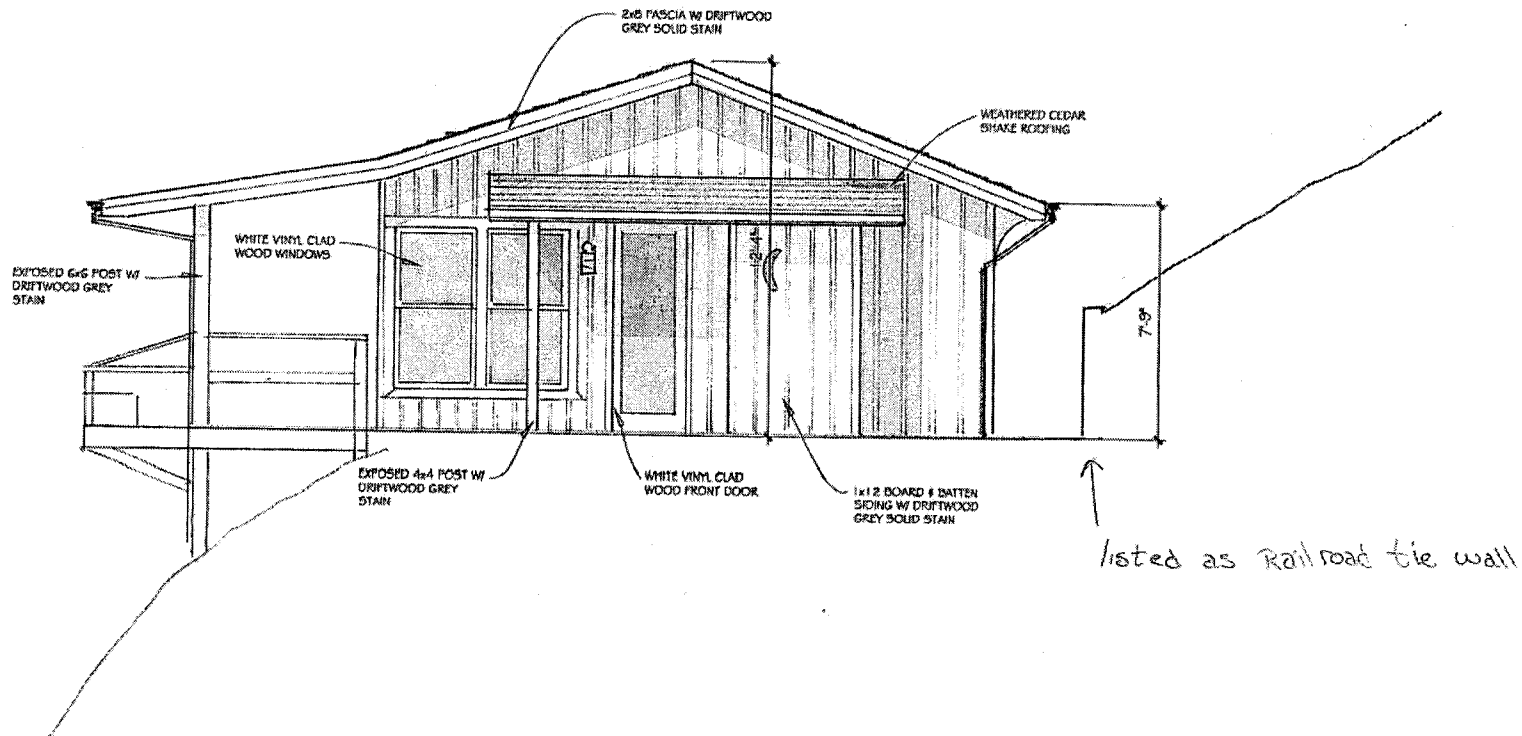
SCALE: 1/4" = 1'-0"

NORTH ELEVATION

EXHIBIT 8

A-4-STB-14-0016 (Carr)

North Elevation



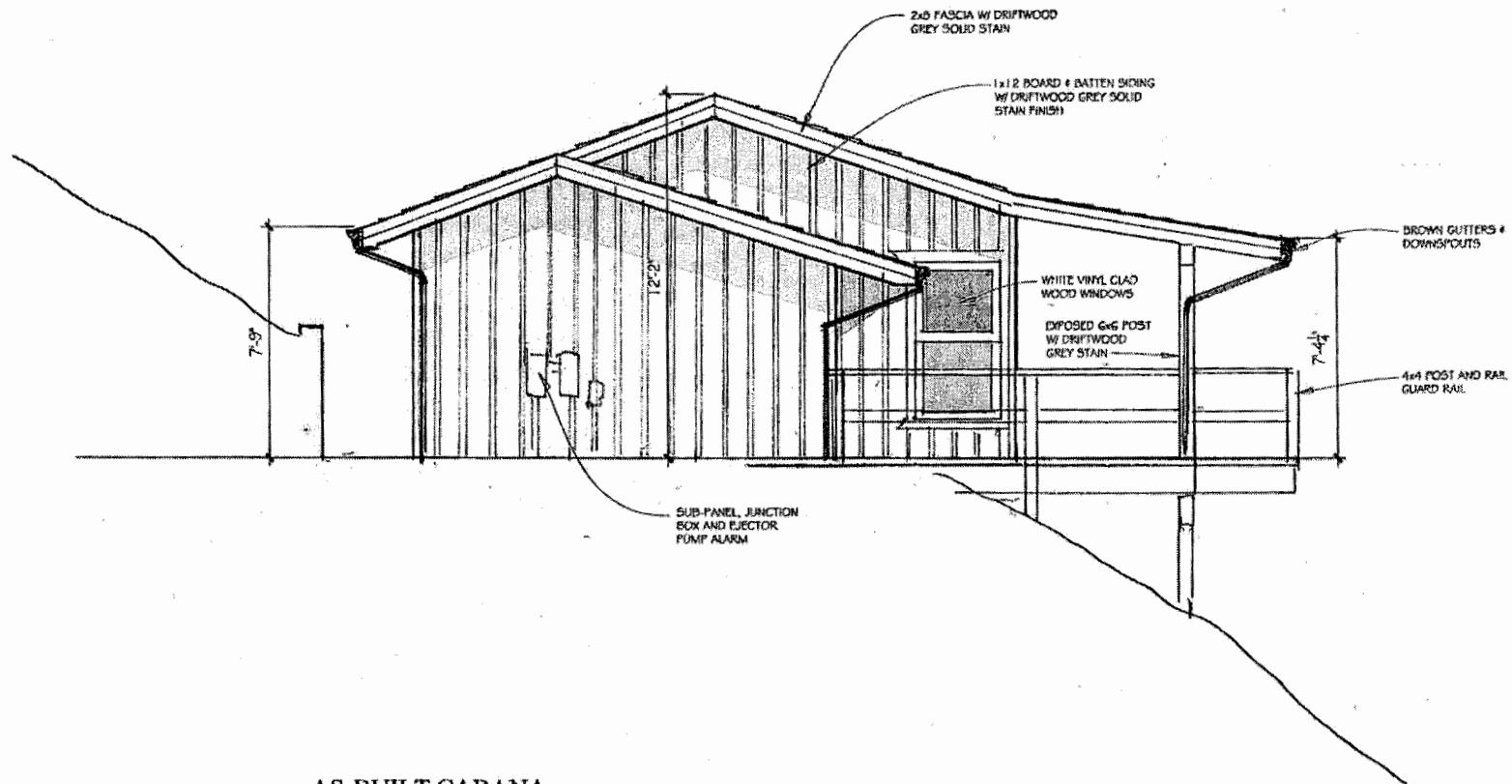
listed as Railroad tie wall

AS-BUILT CABANA
 4353 MARINA DRIVE, SANTA BARBARA, CA 93110
 APN: 063-220-023

SCALE: 1/4" = 1'-0"

EAST ELEVATION

EXHIBIT 9
A-4-STB-14-0016 (Carr)
East Elevation



AS-BUILT CABANA
 4353 MARINA DRIVE, SANTA BARBARA, CA 93110
 APN: 063-220-023

SCALE: 1/2" = 1'-0"

WEST ELEVATION

EXHIBIT 10
A-4-STB-14-0016 (Carr)
West Elevation

4-STB-14-0246

County of Santa Barbara
Planning and Development



Glenn S. Russell, Ph.D., Director
Dianne Black, Assistant Director

RECEIVED

NOTICE OF FINAL ACTION

MAR 19 2014

March 18, 2014

California
Coastal Commission

On March 5, 2014 Santa Barbara County took final action on the appealable development described below:

Appealable Coastal Development Permit [11CDH-00000-00032]

Project Agent:
Chip Wullbrandt
Price, Postel & Parma
200 E. Carrillo Street, Suite 400
Santa Barbara, CA 93101
(805) 962-0011

Property Applicant/Owner:
Lee Carr
4353 Marina Drive
Santa Barbara, CA 93110
(805) 894-8955

Project Description: The proposed project on appeal is for a Coastal Development Permit, Case No. 11CDH-00000-00032, to allow the following development as related to Santa Barbara County Landmark #49, the "Irene and Frances Rich Beach Cabaña":

1. As-built approval of the existing reinforcement work done to the foundation of the historic cabaña, including the installation of five 35-foot deep caissons and five "dead-man" counter-weights;
2. As-built approval of the repairs made to the existing deck and deck stairway;
3. As-built approval of the enclosure of a portion of the deck and previous outdoor shower area, creation of internal access to this enclosed area and installation of a 3/4 bathroom. The as-built enclosure adds an additional 34 sq. ft. to the historic 740 sq. ft. cabaña originally permitted in 1956 [ref. Building Permit #876];
4. As-built approval of a wetbar in the cabaña with a maximum counter length of 9'-6";
5. As-built zoning approval of the sanitary waste connection from the historic cabaña to the existing septic system on the parcel serving the existing single-family dwelling, including the grinder pump and waste water lines; and
6. Approval of drainage repairs and improvements on the bluff face (i.e., located on the walkway leading to the cabaña).

Location: The application involves APN 063-220-023, located at 4353 Marina Drive, in the Hope Ranch area of the Goleta Community Plan, Second Supervisorial District, Santa Barbara County, California.

The receipt of this letter and the attached materials start the 10 working day appeal period during which the County's decision may be appealed to the Coastal Commission. Appeals must be in writing to the appropriate Coastal Commission district office.

Please contact J. Ritterbeck, the case planner at (805) 568-3509 if you have any questions regarding the County's action or this notice.

J. Ritterbeck, Project Planner

March 18, 2014
Date

Attachments: Final Action Letter dated March 10, 2014

cc: Lee Carr, 4353 Marina Drive, Santa Barbara, CA 93110
Chip Wullbrandt, Price, Postel & Parma, 200 E. Carrillo Street, Suite 400, Santa Barbara, CA 93101

123 E. Anapamu Street, Santa Barbara, CA 93101 • Phone: (805) 568-3509
624 West Foster Road, Santa Maria, CA 93455 • Phone: (805) 568-3509

www.sbcountyplanning.org

EXHIBIT 11
A-4-STB-14-0016 (Carr)
County Notice of Final Action



COUNTY OF SANTA BARBARA CALIFORNIA

PLANNING COMMISSION

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU ST.
SANTA BARBARA, CALIF. 93101-2058
PHONE: (805) 568-2000
FAX: (805) 568-2030

March 10, 2014

Chip Wullbrandt
Price, Postel & Parma
200 E. Carrillo Street, Suite 400
Santa Barbara, CA 93101

PLANNING COMMISSION
HEARING OF MARCH 5, 2014

***RE: Carr Appeal of the Zoning Administrator's Denial of the Irene and Frances Rich Beach Cabana;
13APL-00000-00030***

Hearing on the request of Chip Wullbrandt, agent/attorney for the applicant, Lee Carr to consider Case No. 13APL-00000-00030 [application filed on December 24, 2013], appealing the Zoning Administrator's denial on December 16, 2013, of Coastal Development Permit 11CDH-00000-00032, in compliance with Section 35-169 of the Article II Coastal Zoning Ordinance, on property zoned 1.5-EX-1; and to determine the project is exempt from CEQA pursuant to Section 15270 of the State Guidelines for the Implementation of the California Environmental Quality Act. The application involves AP No. 063-220-023, located at 4353 Marina Drive, in the Hope Ranch area of the Goleta Community Plan area, Second Supervisorial District.

Dear Mr. Wullbrandt:

At the Planning Commission hearing of March 5, 2014, Commissioner Blough moved, seconded by Commissioner Brown and carried by a vote of 5 to 0 to accept the late submittal from Kellam de Forest into the record.

Commissioner Brown moved, seconded by Commissioner Ferini and carried by a vote of 4 to 1 (Blough no) to accept the late submittal from C.E. Chip Wullbrandt into the record.

Commissioner Brown moved, seconded by Commissioner Ferini and carried by a vote of 4 to 1 (Cooney no) to:

1. Make the required findings for approval of the project, including California Environmental Quality Act (CEQA) findings, provided as Attachment A of the packet presented at the hearing of March 5, 2014;
2. Determine the project is exempt from CEQA pursuant to Guidelines Section 15301 [Existing Facilities], provided as Attachment C of the packet presented at the hearing of March 5, 2014;
3. Approve the appeal, case no. 13APL-00000-00030; and

4. Approve , *de novo*, case no. 11CDH-00000-00032, subject to the Conditions of Approval, provided as Attachment B of the packet presented at the hearing of March 5, 2014 and as amended by the Commission.

The following changes were made at the County Planning Commission Hearing:

- 1) Attachment A [Findings for Denial] to the staff report, dated February 13, 2014 was replaced by Attachment A [Findings for Approval] presented to the Commission at the hearing and dated March 5, 2014;
- 2) Attachment B [Notice of Exemption] to the staff report, dated February 13, 2014 was replaced by Attachment B [Draft CDP with Conditions] presented to the Commission at the hearing and dated March 5, 2014;
- 3) Attachment C [Zoning Administrator Staff Report] to the staff report, dated February 13, 2014 was replaced by Attachment C [Environmental Document] presented to the Commission at the hearing and dated March 5, 2014;

The following changes were made to the Conditions of Approval at the County Planning Commission Hearing:

1. **Proj Des-01 Project Description:** This Coastal Development Permit is based upon and limited to compliance with the project description, the hearing exhibits, the plans prepared by Tom Ochsner, dated 1/18/13, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations. The project description is as follows:

The proposed project is for a Coastal Development Permit, Case No. 11CDH-00000-00032, to allow the following development as related to Santa Barbara County Landmark #49, the "Irene and Frances Rich Beach Cabaña":

1. As-built approval of the existing reinforcement work done to the foundation of the historic cabaña, including the installation of five 35-foot deep caissons and five "dead-man" counterweights;
 2. As-built approval of the repairs made to the existing deck and deck stairway;
 3. As-built approval of the enclosure of a portion of the deck and previous outdoor shower area, creation of internal access to this enclosed area and installation of a ¾ bathroom. The as-built enclosure adds an additional 34 sq. ft. to the historic 740 sq. ft. cabaña originally permitted in 1956 [ref. Building Permit #876];
 4. As-built approval of a wetbar in the cabaña with a maximum counter length of ~~7'-0"~~ 9'-6";
 5. As-built zoning approval of the sanitary waste connection from the historic cabaña to the existing septic system on the parcel serving the existing single-family dwelling, including the grinder pump and waste water lines; and
 6. Approval of new drainage repairs and improvements on the bluff face (i.e., located on the walkway leading to the cabaña).
6. **Rules-03 Additional Permits Required:** The use and/or construction of any structures or improvements authorized by this approval, including as-built improvements and new drainage repairs, shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the

Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.

- 11. Rules-28 NTPO Condition:** A recorded Notice to Property Owner document is necessary to ensure that the Cabaña shall be used only for its permitted use and include the limitations listed below:
- a. The Cabaña shall not be used as temporary sleeping quarters, a guesthouse, or a dwelling unit.
 - b. The Cabaña shall not contain cooking facilities.
 - c. The Cabaña may have a wetbar area subject to the following conditions:
 - Any counter shall have a maximum length of ~~seven feet~~ 9'-6".
 - The counter area may include a bar sink and an under counter refrigerator.
 - The counter area may include an overhead cupboard area not to exceed ~~seven feet~~ 9'-6" in length.
 - The counter area shall be located against a wall or, if removed from the wall, it shall not create a space more than four feet in depth. The ~~seven feet~~ 9'-6" counter shall be in one unit. The intent of this provision is to avoid creation of a kitchen room.

TIMING: The property owner shall sign and record the document prior to issuance of the Coastal Development Permit.

The attached findings reflect the Planning Commission's actions of March 5, 2014

The action of the Planning Commission on this project may be appealed to the Board of Supervisors by the applicant or any aggrieved person adversely affected by such decision. To qualify as an aggrieved persons the appellant, in person or through a representative, must have informed the Planning Commission by appropriate means prior to the decision on this project of the nature of their concerns, or, for good cause, was unable to do so.

Appeal applications may be obtained at the Clerk of the Board's office. The appeal form must be filed along with any attachments to the Clerk of the Board. In addition to the appeal form a concise summary of fifty words or less, stating the reasons for the appeal, must be submitted with the appeal. The summary statement will be used for public noticing of your appeal before the Board of Supervisors. The appeal, which shall be in writing together with the accompanying applicable fee must be filed with the Clerk of the Board of Supervisors within the 10 calendar days following the date of the Planning Commission's decision. In the event that the last day for filing an appeal falls on a non-business of the County, the appeal may be timely filed on the next business day. This letter or a copy should be taken to the Clerk of the Board of Supervisors in order to determine that the appeal is filed within the allowed appeal period. **The appeal period for this project ends on Monday, March 17, 2014 at 5:00 p.m.**

Final action by the County on this project may be appealed to the Coastal Commission by the applicant, an aggrieved person, as defined above, or any two members of the Coastal Commission within the 10 working days following the date the County's Notice of Final Action is received by the Coastal Commission.

Sincerely,



Dianne M. Black
Secretary to the Planning Commission

Planning Commission Hearing of March 5, 2014
Carr Appeal of the Zoning Administrator's Denial of the Irene and Frances Rich Beach Cabana
13APL-00000-00030 and 11CDH-00000-00032
Page 4

CC: Case Files: 13APL-00000-00030 & 11CDH-00000-00032
Planning Commission File
California Coastal Commission, 89 S. California Street, Suite 200, Ventura, CA 93001
Owner: Lee Carr, 4353 Marina Drive, Santa Barbara, CA 93110
County Chief Appraiser
County Surveyor
Fire Department
Flood Control
Park Department
Public Works
Environmental Health Services
APCD
Janet Wolf, Second District Supervisor
Cecilia Brown, Second District Planning Commissioner
Jenna Richardson, Deputy County Counsel
J. Ritterbeck, Planner

Attachments:

Attachment A – Findings for Approval
Attachment B – Approved Coastal Development Permit w/Conditions of approval

DMB/dmv

G:\GROUP\PERMITTING\Case Files\CDH\11 Cases\11CDH-00000-00032 Carr\Current Project\Co.PC\03-05-14actltr.doc

ATTACHMENT A

FINDINGS OF APPROVAL

PLANNING COMMISSION HEARING, MARCH 5, 2014

1.0 CEQA FINDINGS

The proposed project is found to be exempt from environmental review pursuant to CEQA Section 15301 [Existing Facilities] of the Guidelines for Implementation of the California Environmental Quality Act (CEQA). Please see Attachment C, Notice of Exemption.

2.0 ADMINISTRATIVE FINDINGS

Those findings specified in Section 35-169.5.2

- 2.1 The proposed development conforms to the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan and with the applicable provisions of this Article or falls within the limited exceptions allowed under Section 35-161 (Nonconforming Use of Land, Buildings and Structures).**

As noted in Chip Wullbrant's letter, dated March 4, 2014, the proposed project conforms to the applicable policies of the Comprehensive Plan including the Coastal Land Use Plan and the Goleta Community Plan in respect to protection of coastal resources, including Historic Landmarks and bluff face protection. The project is consistent with Coastal Land Use Policy (CLUP) 3.7, which limits development on bluff faces except for engineered stairways and access. Insofar as the cabana is a designated County Historic Landmark it may be located on the bluff along with its deck access pathway to the beach. The project is also consistent with CLUP Policy 3-14, which requires that development be designed to fit the site topography, geology, hydrology etc. The cabana has been located on the bluff face since 1956 and is part of the landscape. Finally, the project is consistent with CLUP Policy 1-2 which allows the policies most protective of coastal resources to take precedence. In the instant case, the Historic Landmark, located on the bluff face, takes precedence over any concerns about bluff face development; it would be damaging to the bluff to remove the structure and structural alterations from the bluff. Additionally, the project conforms to the Article II development standards for nonconforming structures. Specifically, because the cabaña is an historic landmark, it benefits from the exception to the nonconforming development standards afforded historic landmarks, and thus can be improved. As such, this finding can be made.

- 2.2 The proposed development is located on a legally created lot.**

The subject parcel is considered a legally created lot for purposes of planning as it is developed with an existing single-family residence and has been validated by prior issuance of County Permits. Therefore, this finding can be made.

- 2.3 The subject property and development on the property is in compliance with all laws, rules and regulations pertaining to zoning uses, subdivisions, setbacks and any other applicable provisions of this Article and such zoning violation enforcement fees have been paid. This subsection shall not be interpreted to impose new requirements on legal nonconforming uses and structures in compliance with Division 10 (Nonconforming Structures and Uses).**

Upon approval of the subject Coastal Development Permit, Case No. 11CDH-00000-00032, the subject property will comply with all laws, rules and regulations pertaining to zoning uses, setbacks, and other applicable provisions of Article II. Although the project does not comply with current requirements prohibiting development on or near coastal bluffs, the cabaña was constructed prior to these requirements and is therefore a legal, nonconforming structure. Furthermore, as a County Landmark, improvements to the cabaña are permissible. Therefore, this finding can be made.

2.4 The development will not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.

The cabaña has been located on the bluff face and has been a part of the local landscape since 1956. The proposed project, including both foundation repairs and enclosure of the wetbar area, was designed so as to not alter the view of the cabaña by the public from the public beach or along the coast in any significant way. While the caissons are minimally visible, they do not detract from the public views along the coast. Moreover, the project does not impact public views of the coastline or of the mountains as seen from the beach. Therefore, this finding can be made.

2.5 The development is compatible with the established physical scale of the area.

As noted above, the cabaña has been a part of the beach and bluff face landscape since 1956. Improvements made under this Coastal Development Permit (11CDH-00000-00032) to improve the foundation of the cabaña and enclose the wetbar area will not alter the appearance of the cabaña as viewed from the beach. Therefore, the proposed as built development is compatible with the established physical scale of the area. Therefore, this finding can be made.

2.6 The development will comply with public access and recreation policies of this Article and the Comprehensive Plan, including the Coastal Land Use Plan.

The proposed project will not affect public access and recreation along the beach. Therefore, the proposed development is in conformance with all applicable policies of the Article II Coastal Zoning Ordinance as well as all of the applicable policies of the Coastal Land Use Plan as they relate to public coastal access and recreation, and this finding can be made.



COASTAL DEVELOPMENT PERMIT NO: 11CDH-00000-00032

Project Name: IRENE AND FRANCES RICH BEACH CABANA
Project Address: 4353 MARINA DR, SANTA BARBARA, CA 93110
A.P.N.: 063-220-023
Zone: 1.5-EX-1

The County Planning Commission hereby approves and intends to issue this Coastal Development Permit for the development described below, based upon the required findings and subject to the attached terms and conditions.

APPROVAL DATE: 3/5/2014
LOCAL APPEAL PERIOD BEGINS: 3/6/2014
LOCAL APPEAL PERIOD ENDS: 3/17/2014

APPEALS: The approval of this Coastal Development Permit may be appealed to the Board of Supervisors by the applicant, or an aggrieved person. The written and accompanying fee must be filed with the Planning and Development Department at either at 123 East Anapamu Street, Santa Barbara or 624 West Foster Road, Suite C, Santa Maria, or the Clerk of the Board of Supervisors at 105 Anapamu Street, Santa Barbara, by 5:00 p.m. on or before the appeal period end date identified above.

The final action by the County on this Coastal Development Permit may be appealed to the California Coastal Commission after the appellant has exhausted all local appeals. Therefore a fee is not required to file an appeal of this Coastal Development Permit.

To receive additional information regarding this project and/or to view the application and plans, please contact J. Ritterbeck at 123 East Anapamu Street, Santa Barbara, 93101, by email at jritterb@co.santa-barbara.ca.us, or by phone at (805)568-3509.

PERMIT ISSUANCE: This permit shall not issue prior to the expiration of the appeal period, or if appealed, prior to the final action on the appeal by the decision-maker (see Article II, Section 35-182 (Appeals)); nor shall this permit issue until all prior-to-issuance conditions have been satisfied or any other necessary approvals have been obtained. If final action is appealable to the California Coastal Commission, this permit shall not issue until 10 working days following the date of receipt by the California Coastal Commission of the County's Notice of Final Action during which time an appeal of the action may be filed in compliance with Article II, Section 35-182 (Appeals). If an appeal is filed with the California Coastal Commission, this permit shall not issue prior to the final action on the appeal by the California Coastal Commission.

PROJECT DESCRIPTION SUMMARY: As-built foundation repair and improvements to the existing nonconforming cabana (County Landmark #49), deck repairs and drainage improvements.

PROJECT SPECIFIC CONDITIONS: See Attachment "A"

ASSOCIATED CASE NUMBERS: 13APL-00000-00030

PERMIT COMPLIANCE CASE: Not Applicable

BOARD OF ARCHITECTURAL REVIEW (BAR): Not Applicable

WARNING! THIS IS NOT A BUILDING/GRADING PERMIT.

TERMS OF PERMIT ISSUANCE:

Work Prohibited Prior to Permit Issuance. No work, development, or use intended to be authorized pursuant to this approval shall commence prior to issuance of the Coastal Development Permit and/or any other required permit. (e.g., building permit).

Date of Permit Issuance. This permit shall be issued and deemed effective on the date signed and indicated below.

Time Limit. The approval of this Coastal Development Permit shall be valid for one year from the date of approval. Failure to obtain a required construction, demolition, or grading permit and to lawfully commence development within two years of permit issuance shall render this Coastal Development Permit null and void.

NOTE: Issuance of a permit for this project does not allow construction or use outside of the project description, or terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any County policy, ordinance or other governmental regulation.

OWNER/APPLICANT ACKNOWLEDGMENT: Undersigned permittee acknowledges receipt of this approval and agrees to abide by all terms and conditions thereof.

LEE CARR _____ J. Carr _____ MARCH 6, 2014
Print Name Signature Date

Planning and Development Department Approval by:

J. Ritterbeck Planner _____ 1 MARCH 5, 2014
FOR THE CO. PLANNING COMMISSION. Date

Planning and Development Department Issuance by:

Planner Date

ATTACHMENT A: CONDITIONS OF APPROVAL

Project Description

1. **Proj Des-01 Project Description:** This Coastal Development Permit is based upon and limited to compliance with the project description, the hearing exhibits, the plans prepared by Tom Ochsner, dated 1/18/13, and all conditions of approval set forth below, including mitigation measures and specified plans and agreements included by reference, as well as all applicable County rules and regulations.

The project description is as follows:

The proposed project is for a Coastal Development Permit, Case No. 11CDH-00000-00032, to allow the following development as related to Santa Barbara County Landmark #49, the "Irene and Frances Rich Beach Cabaña":

1. As-built approval of the existing reinforcement work done to the foundation of the historic cabaña, including the installation of five 35-foot deep caissons and five "dead-man" counter-weights;
2. As-built approval of the repairs made to the existing deck and deck stairway;
3. As-built approval of the enclosure of a portion of the deck and previous outdoor shower area, creation of internal access to this enclosed area and installation of a ¾ bathroom. The as-built enclosure adds an additional 34 sq. ft. to the historic 740 sq. ft. cabaña originally permitted in 1956 [ref. Building Permit #876];
4. As-built approval of a wetbar in the cabaña with a maximum counter length of 9'-6";
5. As-built zoning approval of the sanitary waste connection from the historic cabaña to the existing septic system on the parcel serving the existing single-family dwelling, including the grinder pump and waste water lines; and
6. Approval of drainage repairs and improvements on the bluff face (i.e., located on the walkway leading to the cabaña).

No trees will be removed as a part of this project and only minimal additional grading is required (less than 50 cubic yards for proposed drainage improvements). The parcel will continue to be served by the La Cumbre Mutual Water District, an existing private on-site septic system, and the Santa Barbara County Fire Department. Access will continue to be provided off of Marina Drive. The property is a 4.2-acre parcel zoned 1.5-EX-1 and identified as Assessor's Parcel Number 063-220-023, located at 4353 Marina Drive in the Hope Ranch area of the Goleta Community Plan, Second Supervisorial District.

Any deviations from the project description, exhibits or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

2. **Proj Des-02 Project Conformity:** The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of the structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval thereto. All plans (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.

Conditions By Issue Area

3. **Aest-04 HLAC Required:** The Owner/Applicant shall obtain Historic Landmark Advisory Committee (HLAC) approval for project design. All project elements (e.g., design, colors, materials and landscaping) shall be approved for all areas subject to and falling within the extent of County Landmark #49, The Irene and Frances Rich Beach Cabana.
TIMING: The Owner/Applicant shall submit architectural/structural drawings of the project for review and shall obtain HLAC approval prior to issuance of this Coastal Development Permit.
MONITORING: The Owner/Applicant shall demonstrate to B&S inspection staff that the project has been built consistent with approved HLAC plans prior to Final Building Inspection Clearance.
4. **Noise-02 Construction Hours:** The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m. Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating construction activities such as interior plumbing, electrical, drywall and painting (depending on compressor noise levels) are not subject to these restrictions. Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein.
PLAN REQUIREMENTS: The Owner/Applicant shall provide and post a sign stating these restrictions at all construction site entries.
TIMING: Signs shall be posted prior to commencement of construction and maintained throughout construction.
MONITORING: The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors and permit compliance staff shall spot check and respond to complaints.

County Rules and Regulations

5. **Rules-02 Effective Date-Appealable to CCC:** This Coastal Development Permit shall become effective upon the expiration of the applicable appeal period provided an appeal has not been filed. If an appeal has been filed, the planning permit shall not be deemed effective until final action by the review authority on the appeal, including action by the California Coastal Commission if the planning permit is appealed to the Coastal Commission. [ARTICLE II § 35-169].
6. **Rules-03 Additional Permits Required:** The use and/or construction of any structures or improvements authorized by this approval, including as-built improvements and drainage repairs, shall not commence until the all necessary planning and building permits are obtained. Before any Permit will be issued by Planning and Development, the Owner/Applicant must obtain written clearance from all departments having conditions; such clearance shall indicate that the Owner/Applicant has satisfied all pre-construction conditions. A form for such clearance is available from Planning and Development.
7. **Rules-05 Acceptance of Conditions:** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant.
8. **Rules-10 CDP Expiration:** The approval or conditional approval of a Coastal Development Permit

shall be valid for one year from the date of action by the Planning Commission. Prior to the expiration of the approval, the review authority who approved the Coastal Development Permit may extend the approval one time for one year if good cause is shown and the applicable findings for the approval required in compliance with Section 35-169.5 can still be made. A Coastal Development Permit shall expire two years from the date of issuance if the use, building or structure for which the permit was issued has not been established or commenced in conformance with the effective permit. Prior to the expiration of such two year period the Director may extend such period one time for one year for good cause shown, provided that the findings for approval required in compliance with Section 35-169.5, as applicable, can still be made.

9. **Rules-20 Revisions to Related Plans:** The Owner/Applicant shall request a revision for any proposed changes to approved plans that shall be reviewed and approved by the County Historic Landmark Advisory Committee (HLAC). Substantial conformity shall be determined by the Director subsequent to the approval by the HLAC.
10. **Rules-23 Processing Fees Required:** Prior to issuance of this Coastal Development Permit, the Owner/Applicant shall pay all applicable P&D permit processing fees in full as required by County ordinances and resolutions.
11. **Rules-28 NTPO Condition:** A recorded Notice to Property Owner document is necessary to ensure that the Cabaña shall be used only for its permitted use and include the limitations listed below:
 - a. The Cabaña shall not be used as temporary sleeping quarters, a guesthouse, or a dwelling unit.
 - b. The Cabaña shall not contain cooking facilities.
 - c. The Cabaña may have a wetbar area subject to the following conditions:
 - Any counter shall have a maximum length of seven feet 9'-6" .
 - The counter area may include a bar sink and an under counter refrigerator.
 - The counter area may include an overhead cupboard area not to exceed seven feet 9'-6" in length.
 - The counter area shall be located against a wall or, if removed from the wall, it shall not create a space more than four feet in depth. The seven foot 9'-6" counter shall be in one unit. The intent of this provision is to avoid creation of a kitchen room.

TIMING: The property owner shall sign and record the document prior to issuance of the Coastal Development Permit.
12. **Rules-30 Plans Requirements:** The Owner/Applicant shall ensure all applicable final conditions of approval are printed in their entirety on applicable pages of grading/construction or building plans submitted to P&D or Building and Safety Division. These shall be graphically illustrated where feasible.
13. **Rules-32 Contractor and Subcontractor Notification:** The Owner/Applicant shall ensure that potential contractors are aware of County requirements. Owner / Applicant shall notify all contractors and subcontractors in writing of the site rules, restrictions, and Conditions of Approval and submit a copy of the notice to P&D compliance monitoring staff.
14. **Rules-33 Indemnity and Separation:** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project. In the event that the County fails promptly to notify the Owner / Applicant of any such claim, action or proceeding, or that the County fails to cooperate fully in the defense of said claim, this condition shall thereafter be of no further force or effect.

15. **Rules-35 Limits:** This approval does not confer legal status on any existing structures(s) or use(s) on the property unless specifically authorized by this approval.
16. **Rules-37 Time Extensions:** The Owner / Applicant may request a time extension prior to the expiration of the permit or entitlement for development. The review authority with jurisdiction over the project may, upon good cause shown, grant a time extension in compliance with County rules and regulations, which include reflecting changed circumstances and ensuring compliance with CEQA. If the Owner / Applicant requests a time extension for this permit, the permit may be revised to include updated language to standard conditions and/or mitigation measures and additional conditions and/or mitigation measures which reflect changed circumstances or additional identified project impacts.

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST DISTRICT OFFICE
89 SOUTH CALIFORNIA STREET, SUITE 200
VENTURA, CA 93001-4508
VOICE (805) 585-1801 FAX (805) 641-1732

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Commissioner Jana Zimmer and Commissioner Dayna Bochco

Mailing Address: 45 Fremont St. Suite 2000

City: San Francisco, CA

Zip Code: 94105

Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Approval of Coastal Development Permit for as-built development associated with a 740 sq. ft. cabana on a bluff face, including: 1) foundation reinforcement work including installation of five 18-inch diameter by 35-foot deep concrete caissons and five "dead-man" counter-weights; 2) deck and deck stairway repairs; 3) addition of 34 sq. ft. and a ¼ bathroom; 4) addition of 9.5 ft. long wetbar; 5) addition of a sanitary waste connection from the cabana to the existing septic system serving the existing single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. grading, located at 4353 Marina Drive, Santa Barbara County.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

4353 Marina Drive
Santa Barbara, CA 93110 (APN 063-220-023)

4. Description of decision being appealed (check one.):

- Approval; no special conditions
 Approval with special conditions:
 Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-4-STB-14-0016

DATE FILED:

4-3-14

DISTRICT:

South Central Coast

EXHIBIT 12

A-4-STB-14-0016 (Carr)

Appeal

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: March 5, 2014

7. Local government's file number (if any): _____

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Lee Carr
4353 Marina Drive
Santa Barbara, CA 93110

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Project Agent: Chip Wullbrandt
Price, Postel, & Parma
200 E. Carrillo Street, Suite 400
Santa Barbara, CA 93101

(2)

(3)

(4)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

See attached

Appeal of decision by Santa Barbara County granting a Coastal Development Permit (CDP) for as-built development associated with a 740 sq. ft. cabana, including: 1) foundation reinforcement work including installation of five 18-inch diameter by 35-foot deep concrete caissons and five "dead-man" counter-weights; 2) deck and deck stairway repairs; 3) addition of 34 sq. ft. and a ¼ bathroom; 4) addition of 9.5 ft. long wetbar; 5) addition of a sanitary waste connection from the cabana to the existing septic system serving the existing single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. grading, located at 4353 Marina Drive, in the Hope Ranch area of Santa Barbara County (APN 063-220-023).

The project is appealed on the grounds that the approved development is inconsistent with the County of Santa Barbara's Local Coastal Program (LCP) regarding geologic hazards and bluff development standards, visual resources, and non-conforming structures, including Land Use Plan (LUP) Policies 1-1, 1-2, 1-3, 2-6, 3-4, 3-7, 3-14, 4-5, GEO-GV-1, GEO-GV-3, Coastal Act Sections 30251 and 30253 (as incorporated into the LCP pursuant to Policy 1-1), and Coastal Zoning Ordinance Sections 35-67, 35-160, and 35-161.

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. 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, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30253 states:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*
- (3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.*
- (4) Minimize energy consumption and vehicle miles traveled.*
- (5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

LUP Policy 1-1 states:

The County shall adopt the policies of the Coastal Act (PRC Sections 30210 through 30263) as the guiding policies of the land use plan.

4-STB-14-0246 (Carr, Santa Barbara County)
Grounds for Appeal
Case No.11CDH-00000-00032

LUP Policy 1-2 states:

Where policies within the land use plan overlap, the policy which is most protective of coastal resources shall take precedence.

LUP Policy 1-3 states:

Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County's Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence.

LUP Policy 2-6 states:

Prior to the issuance of a development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available to serve the proposed development. The applicant shall assume full responsibility for costs incurred in service extensions or improvements that are required as a result of the proposed project. Lack of available public or private services or resources shall be grounds for denial of the project or reduction in the density otherwise indicated in the land use plan...

LUP Policy 3-4 states:

In areas of new development, above-ground structures shall be set back a sufficient distances from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years, unless such standard will make a lot unbuildable, in which case a standard of 50 years shall be used. The County shall determine the required setback. A geologic report shall be required by the County in order to make this determination...

LUP Policy 3-7 states:

No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe and beach. Drainage devices extending over the bluff face shall not be permitted in the property can be drained away from the bluff face.

LUP Policy 3-14 states:

All development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible. Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

LUP Policy 4-5 states:

In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Bluff top structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the

4-STB-14-0246 (Carr, Santa Barbara County)
Grounds for Appeal
Case No.11CDH-00000-00032

proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.

LUP (Goleta Community Plan) Policy GEO-GV-1 states:

All new development on ocean bluff-top property shall be sited to avoid areas subject to erosion and designed to avoid reliance on future shoreline and/or bluff protection devices.

LUP (Goleta Community Plan) Policy GEO-GV-3 states:

Where feasible and where consistent with Local Coastal Plan Policies, relocation of structures threatened by bluff retreat shall be required for development on existing legal parcels, rather than installation of coastal protection structures.

Coastal Zoning Ordinance, Article II, Sec. 35-67. Bluff Development Standards:

...
5. No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed and placed to minimize impacts to the bluff face, toe, and beach. Drainage devices extending over the bluff face shall not be permitted in the property can be drained away from the bluff face.

Coastal Zoning Ordinance, Article II, Sec. 35-160. Purpose and Intent:

...It is the intent of this Article to permit these nonconformities to continue until they are removed, but not to encourage their survival...

Coastal Zoning Ordinance, Article II, Sec. 35-161. Nonconforming Use of Land, Buildings and Structures:

A nonconforming use may be continued subject to the following regulations, so long as such use remains otherwise lawful.

1. Structural Change. Except as otherwise provided in this article...no existing building or structure devoted to a nonconforming use under this Article shall be enlarged, extended, reconstructed, moved, or structurally altered...

The development approved by the County includes after-the-fact approval of previously unpermitted structural improvements to a 740 sq. ft. cabana (originally constructed in 1956). The cabana is located on a bluff face and is considered a nonconforming structure due to its location. According to the County's staff report, the as-built cantilever support system was designed and constructed to provide support for the existing deck and to provide support to the cabana itself and will prolong the life of the cabana according to the County's engineers.

The approved development is inconsistent with LUP Policy 3-7 and Coastal Zoning Ordinance Section 35-67 because the development is located on a bluff face. LCP Policy 3-7 and CZO Section 35-67 specifically prohibit development on a bluff face, except only in very limited circumstances for beach access stairways and pipelines for scientific research or coastal dependent industry. Additionally, the approved development is inconsistent with Coastal Act Sections 30251 and 30253, LUP Policy 3-14, and Goleta Community Plan Policies GEO-GV-1

Grounds for Appeal

Case No.11CDH-00000-00032

and GEO-GV-2 because the development is not sited and designed to minimize the alteration of natural landforms and will not minimize risks to life and property because the project is sited on a geologically unstable bluff face subject to erosion which is unsuitable for development. Further, the approved development prolongs the life of the structure and may eventually lead to requests for repairs to the existing shotcrete, placed on the bluff below in 1989 (February 13, 2013 County Staff Report), which would be inconsistent with Coastal Act Section 30253 and LUP Policies GEO-GV-1 and GEO-GV-3 requiring development to be sited to avoid the need for shoreline protective devices.

Further, the approved development is inconsistent with LUP Policy 3-4 which requires structures to be set back a sufficient distance from the bluff edge to be safe from the threat of bluff erosion for a minimum of 75 years. Also, the project is inconsistent with Coastal Act Section 30251 and LUP Policy 4-5 protecting scenic and visual resources because the development is located on a highly visible bluff face and public views from the beach will be adversely impacted by prolonging the life of the nonconforming structure.

Next, LUP Policy 2-6 requires the County to make a finding, prior to issuance of a development permit, that adequate public or private services and resources (i.e., water, sewer, roads, etc.) are available and provides that lack of available services shall be grounds for denial of a project. According to the County's February 13, 2014 staff report, the development does not meet Santa Barbara County Fire Department access requirements because the cabana on the bluff is beyond the reach of fire department equipment. Therefore, the County is not able to make findings consistent with LUP Policy 2-6.

The approved development is also inconsistent with the intent of provisions of the Coastal Zoning Ordinance to only allow nonconforming structures and uses to continue until they are removed, but not to encourage their survival. (Article II, Section 35-160). The County found the project to be consistent with the LCP and based its findings for approval, in part, on an exception in the County's Coastal Zoning Ordinance which allows structural improvements to non-conforming structures if the structure has been declared a historical landmark pursuant to a resolution of the Board of Supervisors (see Article II, Section 35-162). The County Board of Supervisors declared the cabana a historical landmark on March 6, 2012 (County Historic Landmark #49). However, the County's findings for approval pursuant to Article II, Section 35-162 are invalid and insufficient because the County's LCP specifically provides that the LUP policy most protective of coastal resources shall take precedence (LUP Policy 1-2); further, where conflicts exist between the policies set forth in the LUP and those set forth in the County's Coastal Zoning Ordinance, the policies of the LUP shall take precedence (LUP Policy 1-3). Here, the LUP policies identified above, which prohibit development on a bluff face (except in only very limited circumstances) and provide that development shall be sited and designed to minimize landform alteration, erosional hazards, and visual impacts, take precedence over policies that are less protective of coastal resources and Coastal Zoning Ordinance provisions, including those protecting historic landmarks.

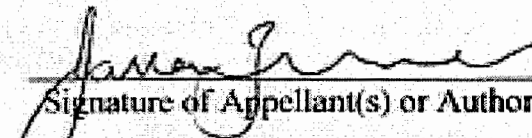
Therefore, the approved project raises a substantial issue with respect to the Coastal Act and LCP policies cited above.

CARR CABANA

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 4-2-2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize _____
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.) *See Attached*

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

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

Signed: *J. Bochee*
Appellant or Agent

Date: 4-2-2014

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT A

RESOLUTION OF THE SANTA BARBARA COUNTY
BOARD OF SUPERVISORS

DETERMINATION OF THE SANTA BARBARA COUNTY BOARD OF SUPERVISORS THAT THE IRENE AND FRANCES RICH BEACH CABANA LOCATED AT 4353 MARINA DRIVE, SANTA BARBARA, CALIFORNIA, ASSESSOR'S PARCEL NO. 063-220-023 MEETS THE ELIGIBILITY CRITERIA FOR A COUNTY HISTORIC LANDMARK AND IS WORTHY OF PROTECTION UNDER CHAPTER 18A OF THE SANTA BARBARA COUNTY CODE; AND DESIGNATION OF THE CABANA AS COUNTY LANDMARK #49 PRESCRIBING CONDITIONS TO PROTECT AND PRESERVE IT

RESOLUTION NO. 12-45

WHEREAS, the Santa Barbara County Board of Supervisors (hereinafter "Board") has considered the historical significance of a certain portion of the property located at 4353 Marina Drive, Santa Barbara, California, (hereinafter "IRENE AND FRANCES RICH BEACH CABANA") on Assessor's Parcel No. 063-220-023 and as shown on the map and legal description attached hereto as Exhibit A, in accordance with the requirements, standards and criteria contained in County Code, Chapter 18A, and has determined that it is worthy of protection as a County Historic Landmark; and

WHEREAS, IRENE AND FRANCES RICH BEACH CABANA is historically significant because:

1. It exemplifies or reflects special elements of the County's cultural, social or aesthetic history, as it is a small, surviving remnant of the California Dream that flourished on the coast of Southern California in the mid-Twentieth Century and was part of a notable arts colony that flourished on the property in the 1950's; and
2. It is identified with persons or events significant in local, state or national history, including famed actress Irene rich, her daughter and renowned artist Frances Rich, Santa Barbara Mayor and State Assemblyman W. Don MacGillivray, and numerous notables from the worlds of art and

EXHIBIT 13

A-4-STB-14-0016 (Carr)

Board of Supervisors Resolution No.
12-45 Historic Landmark Designation

entertainment such as artist Diego Rivera, actress Katharine Hepburn, opera singer Lottie Lehman and many others; and

3. It has a location on an ocean-front bluff with unique physical characteristics and a view or vista representing an established and familiar visual feature of the Hope Ranch community; and
4. It is one of the few remaining examples in the county, region, state or nation possessing distinguishing characteristics of a historical type or specimen, as it is one of only a handful of beach cabanas surviving in the County of Santa Barbara.

NOW, THEREFORE IT IS FOUND, DETERMINED AND RESOLVED as follows:

1. The IRENE AND FRANCES RICH BEACH CABANA meets the eligibility requirements for a County Historic Landmark as described in County Code, Chapter 18A, Section 18A-3, and is worthy of protection.
2. The Board of Supervisors hereby designates the IRENE AND FRANCES RICH BEACH CABANA, including landscaping and pathways, as an Historic Landmark, subject to the following conditions:
 - a. Demolition, removal or destruction, partially or entirely, is prohibited unless an application has been submitted to the Historic Landmarks Advisory Commission and express consent in writing is first obtained from the Commission. Such consent may impose all reasonable conditions deemed appropriate by the Commission to accomplish the purposes of County Code, Chapter 18A.
 - b. No alterations, repairs, additions or changes (other than normal maintenance and repair work) shall be made unless and until an application has been submitted to the Historic Landmarks Advisory Commission and all plans therefor have first been reviewed by the Commission and approved or modified, and reasonable conditions imposed as deemed necessary, and that all such work shall be done under the direction and control of the Commission or other qualified person designated by it.
 - c. The foregoing conditions shall not be imposed in such a way as to infringe upon the right of the owners of the IRENE AND FRANCES RICH BEACH CABANA to make any and all reasonable use of the property that is not in conflict with County Code Chapter 18A.

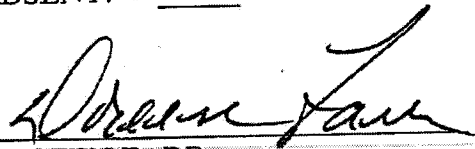
PASSED, APPROVED AND ADOPTED by the Santa Barbara County Board of Supervisors at Santa Barbara, California, this 6th day of March, 2012 by the following vote:

AYES: Supervisor Carbajal, Supervisor Farr, Supervisor Gray, Supervisor Lavagnino

NOES: Supervisor Wolf

ABSTAIN: None

ABSENT: None



DOREEN FARR
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA WALLAR
Clerk of the Board of Supervisors

By 
Deputy Clerk

APPROVED AS TO FORM:

DENNIS MARSHALL
County Counsel

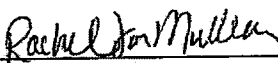
By 
Deputy County Counsel

Exhibit A
Rich Cabana Historic Area

A portion of land in the County of Santa Barbara, State of California, being a portion of Parcel B of Parcel Map 10,994 according to the map recorded May 20, 1969 in Book 5, Page 51 of Parcel Maps, in the Office of the County Recorder of said County.

Said portion of land is described as follows:

Beginning at the northwesterly terminus of that certain course along the southerly boundary of said Parcel B labeled N 63° 00' W, 146.63; thence,

- 1st along said southerly boundary S 63° 00' 00" E, 117.57 feet; thence,
- 2nd N 39° 04' 36" E, 70.29 feet; thence,
- 3rd N 55° 18' 34" W, 127.53 feet; thence,
- 4th S 30° 56' 03" W, 86.00 feet to the point of beginning.

This real property description was prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: 
Mark E. Reinhardt, PLS

Date: 9/28/10



PARCEL B
OF PARCEL MAP 10,994
FILED IN BOOK 5, PAGE 51
OF PARCEL MAPS

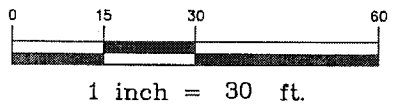
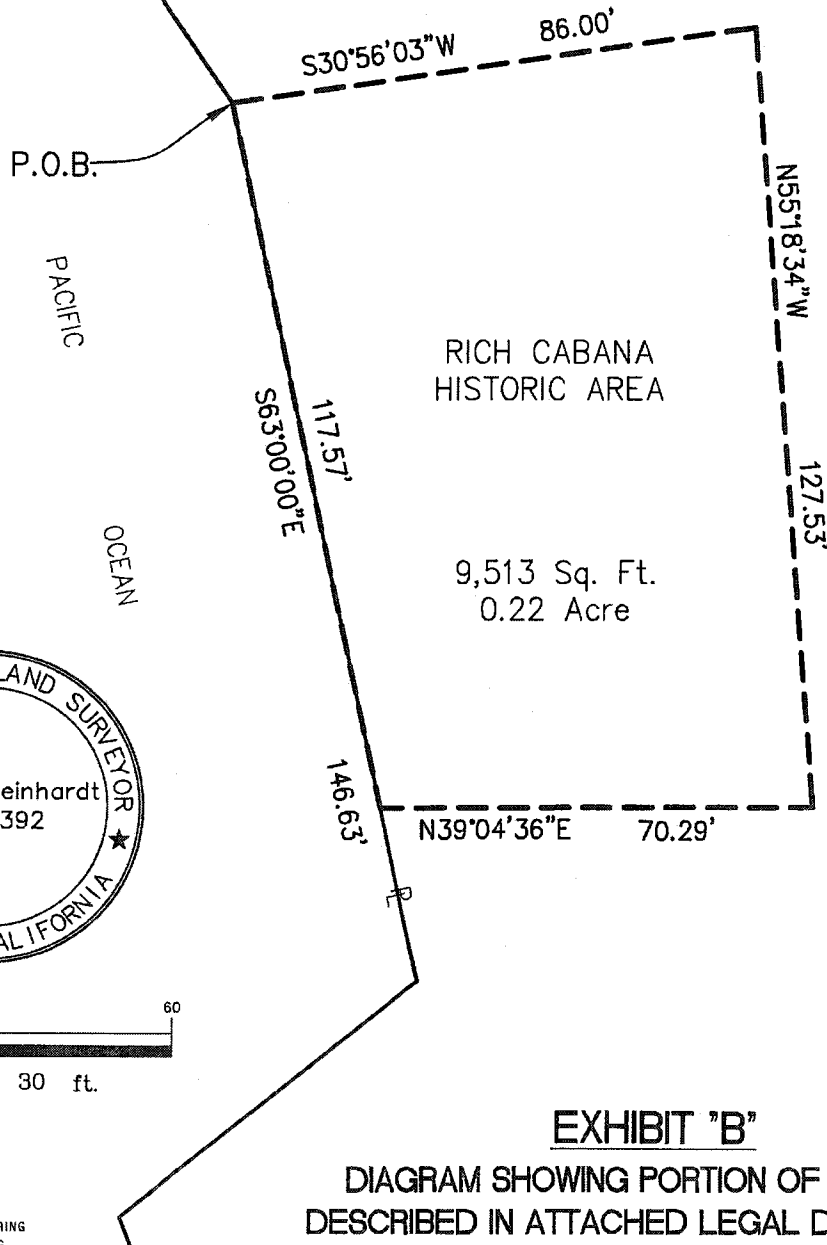


EXHIBIT "B"
DIAGRAM SHOWING PORTION OF LAND AS
DESCRIBED IN ATTACHED LEGAL DESCRIPTION
(EXHIBIT "A")

MNS
ENGINEERS INC
201 N. Caesar Chavez, Ste. 300
Santa Barbara, CA 93103
805.992.6921 Phone

ENGINEERING
PLANNING
SURVEYING
CONSTRUCTION MANAGEMENT



Cabana

Exhibit 14
Appeal No.: A-4-STB-14-0016
Site Photos









