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Staff: Kevin Kahn - SC
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Hearing Date: 11/5/2015

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION & DE NOVO HEARING

Appeal Number: A-3-PSB-15-0037

Applicant: Nexus Development Corporation

Appellants: Ted Case, Nancy Hampton, David Riggle, Fred and Mitzie Ruiz, and Regina and Cary Tanner

Local Government: City of Pismo Beach

Local Decision: City of Pismo Beach Coastal Development Permit Application Number P14-000192 approved by the City of Pismo Beach City Council on June 2, 2015 (on appeal from a City of Pismo Beach Planning Commission approval on April 28, 2015).

Project Location: 1.43 acres of beach-fronting land located immediately inland of Pismo State Beach and the Pismo State Beach Boardwalk at 147 Stimson Avenue (APNs 005-152-027 and -032) and 150 Hinds Avenue (APN 005-152-033) in downtown Pismo Beach, San Luis Obispo County.

Project Description: Demolition of five existing buildings, lot merger and lot line adjustment, and construction of a new 128-room hotel with conference rooms, fitness center, swimming pool, jacuzzi, spa, meeting rooms, restaurant/bar, public access courtyard, deck connection to Pismo Beach Boardwalk, 166-space underground parking structure, and related improvements.

Staff Recommendation: Substantial Issue Exists; Approval with Conditions

IMPORTANT HEARING PROCEDURE NOTE

The Commission will not take testimony on this “substantial issue” recommendation unless at least three Commissioners request it. The Commission may ask questions of the Applicant, any aggrieved person, the Attorney General, or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally (and at the discretion of the Chair) limited to three minutes total per side. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will follow, unless it has been postponed, during which the Commission will take public testimony.

SUMMARY OF STAFF RECOMMENDATION

The City of Pismo Beach approved a coastal development permit (CDP) to allow the demolition of five existing buildings, a lot merger and lot line adjustment affecting eight lots, and construction of a new 128-room hotel facility on three oceanfront parcels totaling 1.43 acres located immediately landward of Pismo State Beach and the Pismo Beach Boardwalk at 147 Stimson Avenue and 150 Hinds Avenue within downtown Pismo Beach. The approved hotel includes conference rooms, a fitness center, restaurant/bar, publicly-accessible interior courtyard, and a 166-space underground parking structure. The City conditioned its approval to require restoration of the adjacent beach area, the preparation and approval of a public access management plan and landscape plan, improvements to the adjacent Boardwalk, water usage offsets, a payment of \$300,000 to the City for future public access improvements at the adjacent City-owned parking lot, another payment of \$300,000 to the City for future cul-de-sac improvements at Hinds Avenue, a payment of \$200,000 to the City for the development of low-cost accommodations, a payment of \$48,000 to the City to provide public parking, and a prohibition on future shoreline protection.

Five appeals of the City’s CDP decision were filed with the Commission, alleging that the City’s approval is inconsistent with the certified City of Pismo Beach Local Coastal Program (LCP) and, because the project is located between the sea and first public road, the public access and recreation policies of the Coastal Act. Specifically, the Appellants contend that project is inconsistent with LCP and Coastal Act requirements to: 1) site and design development fronting coastal bluffs and beaches to reduce bulk and scale and protect views of the ocean from identified street ends; 2) ensure that there is a guaranteed supply of water to serve the development; 3) provide for lower-cost visitor serving accommodations and cater to visitors of all income levels; 4) maximize public access, including the provision of public parking opportunities; and 5) ensure that development withstands natural and man-made hazards, including flood hazards from storm surges and long-term sea level rise, to an acceptable level of risk.

Staff recommends that the Commission find that the appeals raise a substantial issue of LCP

conformance with respect to lower cost visitor serving accommodations, coastal hazards, and public access and recreation, and that the Commission take jurisdiction over the CDP application. Staff further recommends that the Commission approve a CDP, subject to conditions, for a modified project.

The proposed project represents a large resort facility located along Pismo Beach's beachfront in its downtown commercial core. As such, it has the potential to raise LCP and Coastal Act coastal resource protection issues, including potential coastal hazards risk from flood impacts and wave activity, all potentially exacerbated by sea level rise, as well as issues related to the provision of lower cost visitor accommodations, including in terms of the ability of the proposed project to provide accommodations in a manner that is inclusive to people of different income levels.

In terms of the Appellants' primary appeal contentions, namely those surrounding size, scale, and character, it is clear that the proposed project would introduce a significant structure along the shoreline at this location. At the same time, that structure would not be dissimilar from surrounding development, and would meet applicable LCP requirements as a result. While it is true that a smaller structure would lead to less public view impacts, it appears that primary shoreline view corridors, including along the Boardwalk itself and where the adjacent streets meet the Boardwalk, would not be significantly adversely affected by the project. The project will certainly change the existing public viewshed, including because the site is currently developed with much smaller structures, but it would appear to fit within the established downtown character, and be adequately protective of public views from the Boardwalk.

With respect to coastal hazards, the proposed project is located in an area that is currently appropriate for development. The site may be subject to coastal hazards over time due to the inherent nature of its beachfront location; however, such potential future hazards don't mean that the site represents a more than ordinary risk, and don't rise to the level that the site should be deemed hazardous (and therefore unsafe for development) under the LCP. The project site meets LCP requirements with respect to siting new development outside of hazardous areas. Provided it is appropriately conditioned to ensure that it doesn't result in shoreline armoring over time, including requiring modifications to it should project components start to function that way in the future, the project can be found consistent with LCP hazards policies.

With respect to the provision of lower cost accommodations, the Applicant proposes a plan to create a 9-unit lower cost offsite hotel as opposed to providing 32 lower cost hotel units (i.e., 25% of the overall 128 high cost units) onsite. Although staff appreciates the Applicant's proposal, including as it is intended to provide on-the-ground, in-kind mitigation, staff does not believe that it appropriately offsets the lack of on-site lower cost units consistent with Coastal Act requirements. On this point, it is not clear that on-site units are infeasible in the first place, as the Applicant did not provide the requested information to allow such evaluation, and 9 units offsite is not equivalent to the 32 units on-site for which they are trying to mitigate. In addition, the proposal raises a series of complicated questions regarding how to best ensure that the proposed offsite hotel units would remain lower cost units, and would function that way over time. That said, staff is supportive of the innovative approach being presented, and recommends that the Applicant be given a credit for the 9 units, but be required to pay an in-lieu mitigation fee, pursuant to the Commission's methodology, for the remaining 23 units not being provided (i.e., a fee of \$1,161,540). In the event that the offsite hotel option proves infeasible, then the

Applicant would be required to pay a fee commensurate with the full amount attributable to 32 units, or \$1,654,020. In both cases, the fee would be prioritized to go to California State Parks to support their Big Sur Cabins project in Big Sur, an area with a dearth of lower cost accommodation options, and State Parks is excited about the prospect of initiating that project in the near future.

In terms of public recreational access, the proposed project includes a series of public access features, including public use of the hotel courtyard area and improvements to the Pismo Beach Boardwalk fronting the site. These are positive additions to the public access landscape in the City's urban core. At the same time, a project of this scale and magnitude results in a series of individual and cumulative impacts on the public's ability to access and recreate at this location, including in terms of increased traffic and overall congestion on local streets, the beach, the Boardwalk, the Pier, and surrounding areas. These impacts require mitigation. Fortunately, the mitigations payments identified by the City and described above can appropriately offset such impacts, and the Applicant has indicated that they are amenable to providing such mitigations in this case. As conditioned to implement these requirements, and to require a Public Access Management Plan that can appropriately govern public access at the site, the project can be found Coastal Act and LCP consistent on these points.

Other conditions ensure LCP and Coastal Act consistency with respect to ensuring that the hotel product remains a standard operating hotel, and is not allowed to convert to limited-use overnight visitor accommodation units (e.g., timeshare, fractional ownership, etc.); requiring building heights, setbacks, landscaping, and utilities to protect public views; water offset requirements to ensure that the project does not usurp scarce water supplies; drainage requirements to protect water quality; archaeological monitoring and protection; assumption of risk and indemnification for the Commission; and construction BMPs to protect coastal resources as much as possible during construction.

In sum, the project as conditioned represents a significant visitor-serving addition to Pismo Beach's downtown core, one that will result in numerous public benefits, and one that includes innovative tools to meet core LCP and Coastal Act objectives, including in terms of responding and addressing to coastal hazards, providing lower cost visitor accommodations, and appropriately offsetting public recreational access impacts, including to maximize public recreational access opportunities as required by the Coastal Act.

Thus, staff recommends that the Commission approve a conditioned CDP for the proposed project. The motion is found on page 6, below.

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EXHIBITS

- Exhibit 1 – Location Maps and Site Photos
- Exhibit 2 – City-Approved Project Plans
- Exhibit 3 – City-Approved Project Renderings
- Exhibit 4 – City CDP Action and Conditions of Approval
- Exhibit 5 – Appeals of City CDP Action
- Exhibit 6 – Applicable LCP Policies
- Exhibit 7 – Applicant’s Wave Run-up Analyses
- Exhibit 8 – Applicant’s Lower Cost Accommodations Analysis
- Exhibit 9 – Applicant’s Offsite Lower Cost Hotel Proposal

I. MOTIONS AND RESOLUTIONS

A. Substantial Issue Determination

Staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the CDP application for the proposed project under the jurisdiction of the Commission for de novo hearing and action. To implement this recommendation, staff recommends a **NO** vote on the following motion. Failure of this motion will result in a de novo hearing on the CDP application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-PSB-15-0037 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act, and I recommend a no vote.*

***Resolution to Find Substantial Issue:** The Commission hereby finds that Appeal Number A-3-PSB-15-0037 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified City of Pismo Beach Local Coastal Program and the public access and recreation policies of the Coastal Act.*

B. CDP Determination

Staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in approval of the CDP as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission approve Coastal Development Permit Number A-3-PSB-15-0037 pursuant to the staff recommendation, and I recommend a yes vote.*

***Resolution to Approve CDP:** The Commission hereby approves Coastal Development Permit Number A-3-PSB-15-0037 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with City of Pismo Beach Local Coastal Program policies and Coastal Act access and recreation policies. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittees or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittees to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Plans.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two full size sets of Revised Plans to the Executive Director for review and approval. The Revised Plans shall be prepared by a licensed professional or professionals (i.e., architect, surveyor, geotechnical engineer, etc.), shall be based on current professionally surveyed and certified topographic elevations for the entire site, and shall include a graphic scale. The Revised Plans shall clearly show the development's siting and design, including through elevation and site plan views, and shall be substantially in conformance with the project plans submitted to the Commission (titled Pismo Beach Hotel dated January 23, 2014 (and dated revised on April 1, 2015 and April 15, 2015) and dated received in the Commission's Central Coast District Office on June 5, 2015; see Exhibit 2), but shall be revised and supplemented to comply with the following requirements:
 - (a) **Building Heights.** The maximum building height for all ocean fronting lots, as shown on Exhibit 2, shall be 25 feet from existing natural grade. The maximum building height for all other lots shall not exceed 35 feet from existing natural grade. These height limits may be exceeded by 15% (i.e., by 3.75 feet and 5.25 feet, respectively) for building appurtenances (e.g., cupolas, flag poles, elevator shafts, and tower features).
 - (b) **Building Setbacks.** All structural development, including the underground

garage/basement level but excluding driveway ingress/egress and the connection from the public access courtyard to the public boardwalk, shall be set back from the property lines according to the following minimum distances:

1. At least 15 feet from the ocean-side property line;
2. At least 5 feet from the interior/landward property line; and
3. At least 10 feet from the property line along Hinds and Stimson Avenues.

In addition, building floors shall be set back from the landward edge of the Pismo Beach Boardwalk according to the following minimum distances:

1. For development located at 147 Stimson Avenue (APNs 005-152-027 and 005-152-032), at least 34 feet for the first floor and at least 35 feet for the second floor; and
2. For development located at 150 Hinds Avenue (APN 005-152-033), at least 36 feet for the first floor and at least 42 feet for the second floor.

(c) Lot Coverage/Planting Area and Floor Area.

1. For development located at 147 Stimson Avenue (APNs 005-152-027 and 005-152-032), the maximum lot coverage (as defined by Pismo Beach Implementation Plan Section 17.006.0680) shall be at most 55%, and the minimum planting area shall be at least 20%;
2. For development located at 150 Hinds Avenue (APN 005-152-033), the maximum lot coverage (as defined by Pismo Beach Implementation Plan Section 17.006.0680) shall be at most 80%, and the minimum planting area shall be at least 10%;
3. For development located at 147 Stimson Avenue (APNs 005-152-027 and 005-152-032), the maximum floor area (as defined by Pismo Beach Implementation Plan Section 17.006.0485) shall be at most 125%; and
4. For development located at 150 Hinds Avenue (APN 005-152-033), the maximum floor area (as defined by Pismo Beach Implementation Plan Section 17.006.0485) shall be at most 200%.

(d) Public Access Amenities. The Revised Plans shall clearly identify all public access amenities to be provided as part of the approved development as specified in Special Condition 5.

(e) Landscaping. All non-native and/or invasive plants on the site, including iceplant, shall be removed and the site kept free of such plants for as long as any portion of the approved development exists at this site (see also Special Condition 1(f)). All landscaping shall be drought resistant native and non-invasive species, and all landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition. All irrigation systems shall limit water use to the maximum extent

feasible, including using irrigation measures designed to facilitate reduced water use (e.g., micro-spray and drip irrigation). No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

- (f) Debris Removal.** All rock, debris, and iceplant between the approved development and the seaward edge of the Pismo Beach Boardwalk shall be removed and the area restored to sandy beach.
- (g) Utilities.** The Revised Plans shall clearly identify all utilities (e.g., sewer, water, stormwater, gas, electrical, telephone, data, etc.) and the way in which they are connected to inland distribution networks. All utilities, mechanical equipment, and related development shall be located underground, including that the Revised Plans shall provide for removal or undergrounding of all existing overhead utilities on the site.
- (h) Drainage and Runoff Control.** A post-construction drainage and runoff control system shall be provided that is sited and designed: to collect, filter, treat, and direct all site drainage and runoff in a manner intended to protect and enhance coastal resources as much as possible; to prevent pollutants, including increased sediments, from entering coastal waters as much as possible; to filter and treat all collected drainage and runoff to minimize pollutants as much as possible prior to infiltration or discharge from the site; to retain runoff from roofs, driveways, decks, and other impervious surfaces onsite as much as possible; to use low impact development (LID) best management practices (BMPs) as much as possible; to be sized and designed to accommodate drainage and runoff for storm events up to and including at least the 85th percentile 24-hour runoff event (allowing for drainage and runoff above that level to be likewise retained and/or conveyed in as non-erosive a manner as feasible); to direct all drainage and runoff not infiltrated on site per the approved system to inland infrastructure able to handle the flows; and to include ongoing maintenance and management procedures (including at the least provisions for annual pre-storm season and post-storm event evaluation and repair/maintenance) that meet professional standards for maintenance of such systems, and that will apply the life of the project.
- (i) Foundations and Retaining Walls.** Foundation and retaining wall plans shall be prepared in consultation with a licensed civil and structural engineer (or engineers as appropriate), and such structures shall be sited and designed consistent with standard engineering and construction practices in such a way as to best meet the objectives and performance standards of these conditions (including to facilitate removal as required). The building foundation shall consist of a mat foundation system and shall not be designed or engineered to address ocean-related forces (e.g., wave attack, ocean flooding, erosion, etc.) except to the extent that such design may facilitate removal of the foundation and associated structures, given that ocean-related forces will be addressed through appropriate development setbacks and removal of foundations and associated structures over time (see below and see Special Conditions 6 and 7). The use of deep caisson piers shall be prohibited. All foundation elements shall be sited and designed to

be removable, including in terms of limiting extent of excavation or disturbance beyond the immediate development footprint, and including providing for modularity to the extent that it may facilitate removal of the foundation and associated structural development in response to an eroding shoreline (see also Special Condition 7).

- (j) **Geotechnical Signoff.** The Revised Plans shall be submitted with evidence that they have been reviewed and approved by a licensed geotechnical and/or structural engineer (or engineers, as appropriate) as meeting applicable regulations for site stability (i.e., seismic and liquefaction) and the requirements of these conditions, including in terms of foundations and retaining walls (see above).

The Permittee shall undertake development in accordance with the approved Revised Plans. All requirements above and all requirements of the approved Revised Plans shall be enforceable components of this CDP.

2. **Construction Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit two copies of a Construction Plan to the Executive Director for review and approval. The Construction Plan shall, at a minimum, include the following:
- a. **Construction Areas.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. All such areas within which construction activities and/or staging are to take place shall be minimized to the maximum extent feasible in order to have the least impact on public access and ocean resources, including by using inland areas for staging and storing construction equipment and materials as feasible.
 - b. **Construction Methods.** The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. Construction and staging zones shall be limited to the minimum area required to implement the approved project, and the Construction Plan shall ensure that construction activities do not encroach onto the public beach area, by, among other means, using inland areas for staging and storing construction equipment and materials. The Plans shall limit construction activities to avoid coastal resource impacts as much as possible, including verification that equipment operation and equipment and material storage will not significantly degrade public views during construction to the maximum extent feasible.
 - c. **Construction BMPs.** The Construction Plan shall also identify the type and location of erosion control/water quality best management practices that will be implemented during construction to protect coastal resources, including the following:
 - 1. **Runoff Protection.** Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging onto the beach.
 - 2. **Storage.** All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exception shall be for approved temporary erosion and sediment controls.

3. **Beach Grading Prohibited.** Grading or alteration of the beach outside of the approved construction zone is prohibited, except for required cleanup and restoration activities post-construction.
 4. **Equipment BMPs.** Equipment washing, refueling, and/or servicing shall not take place on the beach. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.
 5. **Good Housekeeping.** The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach; etc.).
 6. **Erosion and sediment Controls.** All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
 7. **Post-Construction Cleanup and Restoration.** All public recreational use areas and all beach access points impacted by construction activities shall be restored to their pre-construction condition or better within three days of completion of construction. Any native materials impacted shall be filtered as necessary to remove all construction debris.
- d. **Construction Site Documents.** The Construction Plan shall provide that copies of the signed CDP and the approved Construction Plan be maintained in a conspicuous location at the construction job site at all times, and that such copies are available for public review on request. All persons involved with the construction shall be briefed on the content and meaning of the CDP and the approved Construction Plan, and the public review requirements applicable to them, prior to commencement of construction.
 - e. **Construction Coordinator.** The Construction Plan shall provide that a construction coordinator be designated to be contacted during construction should questions arise regarding the construction (in case of both regular inquiries and emergencies), and that their contact information (i.e., address, phone numbers, email address, etc.) including, at a minimum, a telephone number and an email that will be made available 24 hours a day for the duration of construction, is conspicuously posted at the entrance to the job site where such contact information is readily visible from public viewing areas while still protecting public views as much as possible, along with indication that the construction coordinator should be contacted in the case of questions regarding the construction (in case of both regular inquiries and emergencies). The construction coordinator shall record the contact information (address, email, phone number, etc.) and nature of all complaints received regarding the construction, and shall investigate complaints and take remedial action, if necessary, within 24 hours of receipt of the complaint or inquiry.

- f. Notification.** The Permittee shall notify planning staff of the Coastal Commission's Central Coast District Office at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.
- g. Daylight Work Only.** All work shall take place during daylight hours (i.e., from one hour before sunrise to one hour after sunset). Nighttime work and lighting of the work area are prohibited.

Minor adjustments to the above construction requirements may be allowed by the Executive Director in the approved Construction Plan if such adjustments: (1) are deemed reasonable and necessary; and (2) do not adversely impact coastal resources. The Permittee shall undertake construction in accordance with the approved Construction Plan. All requirements above and all requirements of the approved Construction Plan shall be enforceable components of this CDP.

- 3. Cultural Resources.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the Permittee shall retain a qualified archaeologist and/or Native American monitor to act as the project's Archaeological Monitor(s). The Archaeological Monitor(s) shall monitor all project-related earth-disturbing activities, including trenching and excavation necessary to construct footings and foundations. Should human remains or archaeological or cultural resources be encountered during construction, work shall be immediately halted within 50 feet of the find, and appropriate mitigation measures and a mitigation plan shall be formulated and submitted for Executive Director review and approval. The mitigation plan shall be prepared at the Permittee's expense by an archaeologist with local expertise, and shall contain preservation measures including, but not limited to, full data recovery by a qualified archaeologist or Native American, in accordance with the guidelines of the State Office of Historic Preservation and the State of California Native American Heritage Commission. Work shall not recommence in this area until the approved mitigation plan is implemented.
- 4. Water Supply and Offsets.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit, for the review and approval of the Executive Director, evidence that adequate long-term and sustainable water and sewer services are available to serve the development, and that the City of Pismo Beach will serve the property with such water and sewer services. The Permittee shall also submit for Executive Director review and approval two copies of a Water Offset Reduction Plan (Offset Plan), the purpose for which is to offset the project's water usage by at least 125%. The Offset Plan shall include the following:
 - a. Water Usage.** A quantification of the approved project's projected water usage in gallons per day, including a list of all water fixtures to be installed, including for outside landscaping, and their associated water flow. The hotel facility shall make maximum use of water conservation fixtures and equipment (including but not limited to high-efficiency low-flow toilets, high-efficiency washing machines and dishwashers, recirculating pumps, low-flow showerheads, shower shut-off valves, faucet aerators, drip and/or micro-spray irrigation, etc.).
 - b. Retrofits.** A list of all retrofits that will be undertaken by the Permittee to offset water usage by at least 125%, including a breakdown of the number and type of fixtures and/or

appliances to be retrofitted, and the amount of water savings achieved as a result. The retrofits must occur in the same water service area as the approved project.

- c. **Water Savings.** A quantification of the estimated water usage savings from the retrofits identified in subsection (b) of this special condition, including specifying water usage before and after the retrofit. The water savings must total at least 125% of the total specified in subsection (a) of this special condition.

ONE YEAR AFTER OCCUPANCY, the Permittee shall submit to the Executive Director evidence of the project's actual water usage and evidence that the actual water savings from performed retrofits equals or exceeds 125% of the project's actual water usage. If the total is less than 125%, the report shall describe the additional measures necessary to meet the required water reduction target. Annual reporting shall continue for at least three years or until the project's water usage is offset by at least 125% as documented in two consecutive annual reports, whichever is later.

5. **Public Access Management Plan.** PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit a Public Access Management Plan (Access Plan) to the Executive Director for review and approval. The Access Plan shall at a minimum include and provide for the following:

- a. **General Parameters.** The Access Plan shall clearly describe the manner in which general public access associated with the approved project is to be provided and managed, with the objective of maximizing public access and recreational use of all public access areas associated with the approved project (including but not limited to the public outdoor courtyard area, Boardwalk connection, Boardwalk enhancements, and the beach) and all related areas and public access amenities (e.g., bench seating, bike parking, signs, etc.) as described in this special condition. All public access areas and amenities of the approved project shall be constructed and available for public use prior to occupancy of the approved development.
- b. **Identification.** All public access areas and amenities, including all of the areas and amenities described above in this condition, shall be clearly identified as such on the Access Plan (including with hatching and closed polygons so that it is clear what areas are available for public access use).
- c. **Signage.** The Access Plan shall identify all signs and any other project elements that will be used to facilitate, manage, and provide public access to the approved project, including identification of all public education/interpretation features that will be provided on the site (i.e., educational displays, interpretive signage, etc.). Sign details showing the location, materials, design, and text of all public access signs shall be provided. The signs shall be designed so as to provide clear information without impacting public views and site character. At a minimum, public access directional signs shall be placed at all Boardwalk connections with the project (including at Stimson and Hinds Avenues), along Stimson and Hinds Avenues, and within the designated public access areas. At a minimum, at least one public access interpretive sign (appropriate to City of Pismo Beach shoreline issues, information, and/or history) shall be located at an appropriate location at

the site. Signs shall include the California Coastal Trail and California Coastal Commission emblems and recognition of the Coastal Commission's role in providing public access at this location.

- d. Courtyard Public Access Use Hours.** At a minimum, public access and recreational use of the outdoor courtyard area (and the boardwalk and other connections to it from public areas) shall be open and available for free public access and recreational use from one hour before sunrise until 10pm, 365 days a year, for the life of the development, except where limited private events are allowed in accordance with the approved Access Plan. Such private events may occupy up to 50% of the outdoor courtyard area at the most, and shall be limited to no more than 50 events (limited to a maximum of a single day) per year, where not more than 20 events are allowed between the Saturday of Memorial Day weekend and Labor Day inclusive.
- e. All Other Public Access Use Hours.** All public access areas and amenities other than those associated with the outdoor courtyard area (detailed in subsection d of this special condition) shall be available to the general public free of charge 24 hours per day.
- f. No Disruption of Public Access.** No development or use of the property governed by this CDP may disrupt and/or degrade public access or recreational use of any public access areas and amenities associated with the approved project, such as by setting aside areas for private uses or installing barriers to public access (e.g., furniture, planters, temporary structures, private use signs, fences, barriers, ropes, etc.). Any development, as defined in Section 30106 of the Coastal Act, that diminishes public access and recreational use of the access areas and amenities required by this CDP shall be prohibited.
- g. Public Access Areas and Amenities Maintained.** All project public access areas and amenities shall be maintained in their approved state in perpetuity consistent with the terms and conditions of this CDP.

The Permittee shall undertake development in accordance with the approved Access Plan, which shall govern all general public access to the site pursuant to this CDP. All requirements above and all requirements of the approved Access Plan shall be enforceable components of this CDP.

- 6. Coastal Hazards Risk.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, to all of the following:
 - a. Coastal Hazards.** That the site is subject to coastal hazards including but not limited to episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, coastal flooding, liquefaction and the interaction of same.
 - b. Assume Risks.** To assume the risks to the Permittee and the property that is the subject of this CDP of injury and damage from such coastal hazards in connection with this permitted development.

- c. **Waive Liability.** To unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such coastal hazards.
 - d. **Indemnification.** To indemnify and hold harmless the Coastal Commission, its officers, agents, and employees with respect to the Commission’s approval of the development against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such coastal hazards.
 - e. **Property Owners Responsible.** That any adverse effects to property caused by the permitted development shall be fully the responsibility of the property owners.
7. **Coastal Hazards Response.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:
- a. **CDP Intent.** The intent of this CDP is to allow for the approved development to be constructed and used consistent with the terms and conditions of this permit for only as long as it remains safe for occupancy and use without additional measures beyond ordinary repair and/or maintenance (all as articulated in this condition below) to protect it from coastal hazards. The intent is also to ensure that development is removed and the affected area restored under certain circumstances (including as further described and required in this condition), including that development is required to be removed, consistent with the Removal and Restoration Plan required in subsection (d) of this special condition.
 - b. **Shoreline Protective Structures Prohibited.** Shoreline protective structures (including but not limited to seawalls, revetments, retaining walls, tie backs, piers, groins, etc.) that protect the approved development shall be prohibited.
 - c. **Shoreline Protective Structure Waiver.** Any rights to construct such shoreline protective structures, including rights that may exist under the Pismo Beach Local Coastal Program, or any other applicable law, are waived.
 - d. **Removal and Restoration Plan.** The Permittee shall immediately submit two copies of a Removal and Restoration Plan (RRP) to the Executive Director for review and approval when any of the following criteria are met, which RRP shall also be implemented subject to all of the following:
 - 1. **Unsafe Conditions.** If any portion of the approved development (including but not limited to buildings, roads, utility infrastructure, subsurface elements, etc.) is damaged by coastal hazards (as defined by Special Condition 6(a)), and if a government agency has ordered that the damaged portion of the approved development is not to be occupied or used, and if such government agency concerns cannot be abated by ordinary repair and/or maintenance, the RRP shall provide that all development meeting the “do not occupy or use” criteria is removed to the degree necessary to allow for such government agency to allow occupancy to the remainder of the development, after implementation of the approved RRP. For purposes of this

special condition, “ordinary repair and/or maintenance” shall include sealing and waterproofing and repair and/or maintenance that does not involve significant alteration to the building’s major structural components, including exterior walls, floor and roof structures, and foundation (as those terms are defined in Special Condition 7(e)(2), below).

- 2. Major Structural Components.** If any portion of the approved development’s major structural components (including exterior walls, floor and roof structures, and foundation) are subject to coastal hazards and must be significantly altered (including renovation and/or replacement) to abate those coastal hazards, then the RRP shall provide that such structural components be removed. For purposes of this special condition, “exterior wall major structural components” shall include exterior cladding and/or framing, beams, sheer walls, and studs; “floor and roof structure major structural components” shall include trusses, joists, and rafters; and “foundation major structural components” shall include any portion of the mat foundation, retaining walls, columns, and grade beams.
- 3. Daylighting.** If any portion of the approved foundation and/or subsurface elements (including but not limited to mat foundations, grade beams, retaining walls, etc.) becomes visible at or below 8 feet above MLLW, then the RRP shall provide that all development supported by these foundation elements, as well as the foundation elements themselves, be immediately removed.

In cases where one or more of the above criteria is met, the RRP shall be required to meet all requirements for all triggered criteria. In all cases, the RRP shall also ensure that: (a) all non-building development necessary for the functioning of the approved development (including but not limited to emergency access roads and utilities) is relocated as part of the removal episode; (b) all removal areas are restored as natural areas consistent with adjacent natural areas; and (c) all modifications necessary to maintain compliance with the terms and conditions of this CDP, including the objectives and performance standards of these conditions, are implemented as part of the RRP.

If the Executive Director determines that an amendment to this CDP or a separate CDP is legally required to implement the approved RRP, then the Permittee shall submit and complete the required application within 30 days. The RRP shall be implemented immediately upon Executive Director approval of the RRP, unless the Executive Director has identified that a CDP or CDP amendment is required for implementation. The Permittee shall undertake development in accordance with the approved RRP.

- 8. Hotel Overnight Units.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns, that:
 - a. Hotel Length of Stay Provisions.** All hotel rooms (including suites) shall be open and available to the general public. Rooms shall not be rented to any individual, family, or group for more than 29 consecutive days, and not for more than 14 days between the Friday of Memorial Day weekend and Labor Day inclusive. No individual ownership or long-term occupancy of hotel rooms shall be allowed.

b. Conversion Prohibited. The conversion of any of the hotel overnight rooms (including suites) to limited use overnight visitor accommodation units (e.g., timeshare, fractional ownership, etc.) or to full-time occupancy condominium units or to any other units with use arrangements that differ from the approved project shall be prohibited.

9. Lower Cost Visitor Serving Accommodations Mitigation. The Permittee shall provide mitigation for lower cost visitor serving accommodations as described below in Special Condition 9(a), unless the Executive Director deems that compliance with Special Condition 9(a) is infeasible, in which case the Permittee shall instead comply Special Condition 9(b).

(a) Offsite Lower Cost Hotel and In-Lieu Fee.

- 1. Offsite Hotel.** PRIOR TO CONSTRUCTION, the Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that the Applicant's proposed offsite lower cost hotel (as described in the proposal titled Pismo Beach Low Cost Accommodation Overview and dated received in the Coastal Commission's Central Coast District Office on October 7, 2015, see also Exhibit 9) has been purchased, modified as directed in this special condition, and will be opened for general public visitor use substantially in conformance with the Applicant's proposal as modified herein at the least prior to occupancy of the Pismo Beach Hotel.
- 2. Offsite Hotel Improvements.** PRIOR TO CONSTRUCTION, the Permittee shall provide, for Executive Director review and approval, two copies of an improvement plan that shows all improvements to be undertaken to the offsite hotel to meet the terms and conditions of this CDP.
- 3. Relocation Assistance.** PRIOR TO CONSTRUCTION, the Permittee shall provide evidence that the Permittee has provided relocation assistance for all existing residential renters at the offsite hotel site, including with respect to affordable housing parameters, consistent with the City of Pismo Beach's affordable housing and relocation parameters, and shall provide evidence of the City's approval of same.
- 4. Deed Restrictions.** PRIOR TO CONSTRUCTION, the Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that the Permittee has executed and recorded against both the offsite hotel property and the Pismo Beach Hotel property deed restrictions, in a form and content acceptable to the Executive Director, that requires subsections (a) through (g), below, to be recorded against the offsite hotel property, and subsection (g) to be recorded against the Pismo Beach Hotel property, all of which shall constitute covenants, conditions and restrictions on the use and enjoyment of the respective properties:
 - a. Nine Lower Cost Units.** At least nine offsite lower cost hotel units shall be made available continuously for as long as a hotel is operating in any way at the Pismo Beach Hotel property.

- b. Lower Cost Units Maintained.** All offsite hotel units shall be maintained in a state of good repair, including, at a minimum, in a physical condition comparable to an American Automobile Association (AAA)-rated 1 or 2 diamond rating.
- c. Occupancy Maintained.** Offsite hotel occupancy shall be maintained at an annual average of no less than 50%.
- d. Lower Cost Requirements.** The rates as proposed by the Applicant (as described in the proposal titled Pismo Beach Low Cost Accommodation Overview and dated received in the Coastal Commission's Central Coast District Office on October 7, 2015, see also Exhibit 9) shall apply to the offsite hotel units as follows (which shall be allowed to increase at no more than the annual Consumer Price Index each year):

 - 1. January.** Average daily rate (ADR) of no more than \$58.50
 - 2. February.** ADR of no more than \$63.50.
 - 3. March.** ADR of no more than \$67.70.
 - 4. April.** ADR of no more than \$77.06.
 - 5. May.** ADR of no more than \$87.11.
 - 6. June.** ADR of no more than \$95.70.
 - 7. July.** ADR of no more than \$104.26.
 - 8. August.** ADR of no more than \$96.78.
 - 9. September.** ADR of no more than \$70.82.
 - 10. October.** ADR of no more than \$72.45.
 - 11. November.** ADR of no more than \$69.89.
 - 12. December.** ADR of no more than \$63.76.
- e. Length of Stay Provisions.** All hotel units shall be open and available to the general public, and shall not be rented to any individual, family, or group for more than 29 consecutive days, and not for more than 14 days between the Friday of Memorial Day weekend and Labor Day inclusive.
- f. Conversion Prohibited.** The conversion of any of the hotel units to limited use overnight visitor accommodation units (e.g., timeshare, fractional ownership, etc.) or to full-time occupancy condominium units or to any other units with use arrangements that differ from the approved project shall be prohibited.

- g. On-Site Lower Cost Units at the Pismo Beach Hotel.** If, for whatever reason, the offsite lower cost hotel required under Special Condition 9(a) is not in compliance with the provisions therein, the owner of the Pismo Beach Hotel shall provide at least nine lower cost hotel units at the Pismo Beach Hotel site that meet all of the requirements for the offsite hotel units identified in Special Condition 9(a)(4)(a-f).

The deed restrictions shall include legal descriptions of all of the legal parcels associated with the offsite hotel and the Pismo Beach Hotel sites; shall be recorded free of prior liens and encumbrances, except for tax liens, which the Executive Director determines may affect the enforceability of the restrictions; shall run with the land, binding the Permittee and all successors and assigns of the Permittee; and shall indicate that the deed restrictions shall not be removed or changed without a Commission approved amendment to this CDP.

- 5. Offsite Hotel Operations.** PRIOR TO OPERATION OF THE OFFSITE HOTEL, the Permittee (or its affiliated designee) shall provide, for Executive Director review and approval, two copies of an operations plan for the offsite hotel that will describe all ways in which the hotel units are to be made available to the general public (including but not limited to in terms of managing bookings and reservations, check-in and check-out parameters, obtaining keys, “front desk” function, 24-hour response, etc.). The offsite hotel shall be made available to the general public consistent with the approved operations plan and this CDP.
- 6. Offsite Hotel CDP.** PRIOR TO OCCUPANCY OF THE PISMO BEACH HOTEL, the Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that the Permittee (or its affiliated designee) has obtained a CDP from the City of Pismo Beach authorizing the conversion of the offsite hotel property to lower cost hotel as described in this Special Condition.
- 7. Offsite Hotel Units Available.** PRIOR TO OCCUPANCY OF THE PISMO BEACH HOTEL, the Permittee (or its affiliated designee) shall open and begin operating the offsite hotel offering lower-cost overnight visitor accommodations to the general public in accordance with Special Condition 9(a). The offsite hotel shall be operated and maintained in good condition and consistent with the terms and conditions of this CDP for as long as a hotel is operating at the site of the Pismo Beach Hotel.
- 8. Monitoring Reports.** The Permittee (or its affiliated designee) shall annually provide, for Executive Director review and approval, two copies of a monitoring report, beginning one year after occupancy of the offsite hotel, and annually thereafter. The monitoring reports shall include, at a minimum, a description of the average daily rate charged each month during the preceding year, the occupancy rate for each month, a description of the physical state of the facility, including a description of needed repair and maintenance work to maintain at least a AAA 1 or 2 diamond rating, a description of proposed rates for the upcoming year (which shall be allowed to increase at no more than the annual Consumer Price Index each year), and an assessment of compliance with the terms and conditions of this CDP. The

Permittee (or its affiliated designee) shall be required to make changes as identified in any approved monitoring report as required by the Executive Director to maintain consistency with the terms and conditions of this CDP.

- 9. In-Lieu Fee.** PRIOR TO CONSTRUCTION, the Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that a payment of \$1,161,540¹ has been paid in lieu of providing 23 lower cost units on the Pismo Beach Hotel site. The required payment shall be deposited into an interest bearing account, to be established and managed by one of the following entities as approved by the Executive Director: the City of Pismo Beach, San Luis Obispo County, the California Department of Parks and Recreation (DPR), Hostelling International, or similar entity, with an initial preference that the account be established with DPR to facilitate the Big Sur Lodge Cabins Project. The purpose of the account shall be to establish new lower cost overnight visitor-serving accommodations (such as hostel beds, tent campsites, cabins, or campground units) at appropriate locations within the coastal zone portions of San Luis Obispo County, Monterey County, or Santa Cruz County, including the coastal zones of all incorporated cities therein, with an initial preference that the account be utilized to develop cabins associated with DPR's Big Sur Lodge Cabins Project. The entire mitigation payment and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of it being deposited into the account. If any portion of the fee remains ten years after it is deposited into the interest-bearing account required by this condition, the Executive Director may require that the funds be transferred to another entity to provide lower cost visitor amenities in the coastal zone.

PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT, the Executive Director must review and approve the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, the entity accepting the funds required by this condition shall be required to enter into a memorandum of understanding (MOU) with the Commission, which shall include, but not be limited to, the following: (1) a requirement that the entity accepting the funds must preserve the newly created accommodations as lower cost accommodations in perpetuity, and a mechanism to do so; and (2) an agreement that the entity accepting the funds will obtain all necessary permits and approvals, including but not limited to a CDP, for development of the lower cost accommodations. Subject to Executive Director review of approval of information from the accepting entity documenting necessary administrative overhead to successfully develop projects that meet the stated purpose of the fund, the Permittee shall be required to provide an additional payment to the fund account not to exceed 10% of the fund amount (i.e., \$116,154), where the additional payment amount shall be established by the Executive Director based on the information provided by the accepting entity. The Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that such additional payment

¹ \$54,720 per each of the 23 units minus a \$97,020 credit for the amount already paid to the City of Pismo Beach as a lower-cost accommodation in-lieu fee as a condition of approval for CDP A-3-PSB-06-001.

has been deposited into the fund within 30 days of being informed that such a payment is necessary by the Executive Director.

- (b) In-Lieu Fee.** If the Executive Director deems that compliance with Special Condition 9(a) is infeasible, then PRIOR TO CONSTRUCTION, the Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that a payment of \$1,654,020² has been paid in lieu of providing 32 lower cost units on Pismo Beach Hotel site. The required payment shall be deposited into an interest bearing account, to be established and managed by one of the following entities as approved by the Executive Director: the City of Pismo Beach, San Luis Obispo County, the California Department of Parks and Recreation (DPR), Hostelling International, or similar entity, with an initial preference that the account be established with DPR to facilitate the Big Sur Lodge Cabins Project. The purpose of the account shall be to establish new lower cost overnight visitor-serving accommodations (such as hostel beds, tent campsites, cabins, or campground units) at appropriate locations within the coastal zone portions of San Luis Obispo County, Monterey County, or Santa Cruz County, including the coastal zones of all incorporated cities therein, with an initial preference that the account be utilized to develop cabins associated with DPR's Big Sur Lodge Cabins Project. The entire mitigation payment and any accrued interest shall be used for the above-stated purpose, in consultation with the Executive Director, within ten years of it being deposited into the account. If any portion of the fee remains ten years after it is deposited into the interest-bearing account required by this condition, the Executive Director may require that the funds be transferred to another entity to provide lower cost visitor amenities in the coastal zone.

PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THIS ACCOUNT, the Executive Director must review and approve the proposed use of the funds as being consistent with the intent and purpose of this condition. In addition, the entity accepting the funds required by this condition shall be required to enter into a memorandum of understanding (MOU) with the Executive Director, which shall include, but not be limited to, the following: (1) a requirement that the entity accepting the funds must preserve the newly created accommodations as lower cost accommodations in perpetuity, and a mechanism to do so; and (2) an agreement that the entity accepting the funds will obtain all necessary permits and approvals, including but not limited to a CDP, for development of the lower cost accommodations. Subject to Executive Director review of approval of information from the accepting entity documenting necessary administrative overhead to successfully develop projects that meet the stated purpose of the fund, the Permittee shall be required to provide an additional payment to the fund account not to exceed 10% of the fund amount (i.e., \$165,402), where the additional payment amount shall be established by the Executive Director based on the information provided by the accepting entity. The Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that such additional payment has been deposited into the fund within 30 days of being informed that such a payment is necessary by the Executive Director.

² \$54,720 per each of the 32 units minus a \$97,020 credit for the amount already paid to the City of Pismo Beach as a lower-cost accommodation in-lieu fee as a condition of approval for CDP A-3-PSB-06-001.

10. Public Access and Recreation Mitigation Fees. PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit evidence to the Executive Director, in a form and content acceptable to the Executive Director, that all the following have been done:

- a. Public Parking Space Improvements.** The Permittee shall deposit into an interest bearing account, managed by the City of Pismo Beach, \$48,000 to construct at least five new free public parking spaces within Planning Area K as mapped in the certified LCP.
- b. Public Plaza and Parking Lot Improvements.** The Permittee shall deposit into an interest bearing account, managed by the City of Pismo Beach, \$300,000 for future public plaza and parking improvements at the base of the Pismo Beach Pier, including the portion of the City's public parking lot.
- c. Public Street Improvements.** The Permittee shall deposit into an interest bearing account, managed by the City of Pismo Beach, \$300,000 for street improvements within Planning Area K as mapped in the certified LCP. The improvements may include, but not be limited to, the construction of a cul-de-sac at the end of Hinds Avenue, streetscape improvements, bicycle lanes, undergrounding of offsite utilities, widening of sidewalks, additional access points to Pismo State Beach, plaza and walkway improvements, etc., but in no case shall the funds be spent on sidewalk and streetscape improvements required by Engineering Condition 11 of Pismo Beach's Conditional Use Permit and Architectural Review Permit P14-000192.

PRIOR TO EXPENDITURE OF ANY FUNDS CONTAINED IN THE ABOVE-DESCRIBED ACCOUNTS, the Executive Director shall review and approve the proposed use of the funds as being consistent with the intent and purpose of this condition. The use of these funds does not obviate the need for a CDP consistent with the LCP and, if applicable, the Coastal Act.

11. City of Pismo Beach Conditions. The proposed development was approved by the City of Pismo Beach through its action on the City of Pismo Beach Conditional Use Permit and Architectural Review Permit Number P14-000192. Any City conditions associated with that action that are imposed pursuant to an authority other than the Coastal Act remain in effect. In the event of conflict between any such conditions imposed by the City and the terms and conditions of this CDP, the terms and conditions of this CDP shall prevail.

12. Indemnification by Permittee/Liability for Costs and Attorneys' Fees. By acceptance of this CDP, the Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP. The Coastal Commission retains complete authority to conduct and direct the Commission's defense of any such action against the Coastal Commission.

13. Deed Restriction. PRIOR TO ISSUANCE OF THE CDP, the Permittee shall submit to the Executive Director for review and approval documentation demonstrating that the Permittee has executed and recorded against the properties governed by this CDP (including the offsite hotel property and the Pismo Beach Hotel property; see also Special Condition 9) a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this CDP, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this CDP as covenants, conditions and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the legal parcels governed by this CDP. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this CDP shall continue to restrict the use and enjoyment of the property so long as either this CDP or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the property.

IV. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT LOCATION

The proposed project is located on three parcels comprised of 18 individual lots that total 1.43 acres immediately fronting Pismo State Beach and the Pismo State Beach Boardwalk at 147 Stimson Avenue and 150 Hinds Avenue within downtown Pismo Beach. Upcoast is a City-owned public parking lot serving the Pismo Beach Pier, downcoast is a three-story hotel, and immediately inland are higher-density mixed-use residential and commercial structures. The surrounding area within which the project is located, identified as Planning Area K-Downtown Core in the LCPs Land Use Plan (LUP), is improved with hotel/motels, restaurants, beach access and parking, and a swath of other urban development built directly adjacent to the sandy beach.

The downcoast portion of the project site, 147 Stimson Avenue, consists of two assessor's parcel numbers (APNs 005-152-027 and -032) comprised of ten lots totaling 34,582 square feet. Upcoast and immediately adjacent is the 150 Hinds Avenue parcel (APN 005-152-033), which consists of eight lots totaling 28,475 square feet. All three parcels are designated "Central Commercial" in the certified LUP. The purpose of the "Central Commercial" land use designation is to foster pedestrian-oriented commercial, recreational, and cultural uses. The 147 Stimson Avenue parcels are zoned Hotel and Motel Visitor Serving (R-4) in the certified LCP Implementation Plan (IP). The R-4 zoning allows for hotels and other uses designed to accommodate and cater to the needs of tourists. The 150 Hinds Avenue parcel is zoned Retail Commercial (C-1), which allows for hotels and retail uses for the convenience of the public.

The parcels are located within Pismo Beach's highly-visited visitor-serving mixed-use downtown core. The two parcels that comprise the 147 Stimson Avenue site are currently vacant, but most recently housed a thirteen-unit residence on the parcels' inland side, which was recently demolished per a previous CDP authorizing such removal (CDP A-3-PSB-06-001, see "Project Background" discussion below). The demolished structure's concrete foundation remains on the eastern/inland side of these parcels. The inland portion of the singular parcel at 150 Hinds Avenue currently contains five small, single-story buildings with both residential and commercial uses. The western/oceanfront portions of all three parcels do not have any structural development but instead are comprised mainly of sand and ice plant and are partly covered by unpermitted rock and debris. See Exhibit 1 for location maps and site photos.

B. PROJECT BACKGROUND

In 2007, the Commission approved CDP A-3-PSB-06-001, which authorized the demolition of thirteen then-existing small residential cabins and a 7,000-square-foot commercial warehouse structure, and construction of a three-story, 67-room hotel with conference rooms, fitness center, underground parking, and public access courtyard on the 147 Stimson Avenue site (APNs 005-152-027 and -032).³ Among other requirements, the CDP was conditioned to include 25-foot height limits on the parcels' seaward side, stepping up to a maximum height of 35 feet on the

³ The project did not propose, and the CDP did not authorize, any development on the 150 Hinds parcel (APN 005-152-033).

inland side; removal of the unpermitted rock and debris located landward of the Pismo Beach Boardwalk immediately fronting the project site; preparation and subsequent approval of a Public Access Management Plan to detail public access parameters within the project's interior courtyard; and the payment of a \$97,020 Lower Cost Overnight Accommodations in-lieu fee for the establishment of new lower-cost visitor-serving overnight accommodations in the San Luis Obispo County coastal zone. That CDP expiration was extended four times, most recently in November 2012. Since the last permit extension, the Permittee demolished the existing residential structures and paid the required lower cost accommodations in-lieu fee to the City. Thus, CDP A-3-PSB-06-001 has been exercised. However, the City conditioned its approval of CDP P14-000192 to prohibit the Applicant from "activating both permits on the property" (see "Project Description" section below).

C. PROJECT DESCRIPTION

The City-approved project replaces⁴ the Commission's previously approved project in its entirety with a new project that encompasses both the 147 Stimson Avenue site and the adjacent upcoast 150 Hinds Avenue site. The approval authorizes the demolition of the existing structures located on the 150 Hinds Avenue site, which include multiple single-story residences and a commercial bike rental facility, and construction of a 128-room hotel resort with conference rooms, fitness center, restaurant/bar, publicly-accessible interior courtyard, a 166-space underground parking structure, and related improvements. The hotel would be located on three separate parcels comprised of eighteen lots. The City's approval authorized the merger of the eight lots comprising Assessor's Parcel Number (APN) 005-152-033 (the 150 Hinds Avenue parcel) into two lots, and a lot line adjustment moving the boundary between those two lots 59 feet seaward.⁵ The hotel would rise 25 feet above existing natural grade on the ocean-fronting lots, and 35 feet above existing natural grade on the inland lots. The facility would be underlain by a 24-inch thick mat slab foundation reaching to an elevation of 8 feet above mean lower low water (MLLW), or roughly 12 feet deep from existing grade. The underground parking structure's oceanfront side will consist of a wave-porous louvered wall meant to open and close to accommodate potential flood waters. The City placed numerous conditions on its approval, including requirements to restore the adjacent beach; the preparation and approval of a Public Access Management Plan detailing required public access parameters in the interior courtyard; and the preparation and approval of a Landscape Plan requiring the use of native, drought-tolerant plants in the hotel's landscaping. The City's approval also requires improvements to the adjacent Boardwalk; water usage offsets in an amount equal to 125% of the project's estimated anticipated water consumption; payment of \$300,000 to the City for future public access improvements at the adjacent City-owned parking lot; payment of \$200,000 to the City for the development of low-cost accommodations; and a prohibition on future shoreline protection, all as described in more detail subsequently in this report.

See Exhibit 2 for the City-approved project plans and Exhibit 4 for the City's conditions of approval.

⁴ Planning Division Condition 6 of the City's CDP requires that CDP A-3-PSB-06-001 be withdrawn and considered null and void prior to obtaining any Building Permits for the City-approved project that is the subject of this appeal. The Condition reads, in part: "The applicant is prohibited from activating both permits on the subject property."

⁵ The resultant two lots will still be under one parcel: APN 005-152-033.

D. CITY OF PISMO BEACH APPROVAL

On April 28, 2015, the City of Pismo Beach Planning Commission approved CDP P14-000192. The Planning Commission's approval was appealed to the City Council by seven appellants who contended that the approved project was inconsistent with the LCP with respect to design, visual resource protection, parking/public access, water availability, and hazards/flooding. On June 2, 2015, the City Council voted 4-1 to deny the appeals and approve the CDP. Notice of the City's action on the CDP was received in the Coastal Commission's Central Coast District Office on June 5, 2015. The Coastal Commission's ten-working day appeal period for this action began on June 8, 2015 and concluded at 5 p.m. on June 19, 2015. Five valid appeals were received during the appeal period.

E. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. The City's approval of this project is appealable because it is located between the sea and first public road paralleling the sea (Cypress Street), and it is within 300 feet of the beach.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct the de novo portion of the hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission considers the CDP de novo and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is located between the nearest public road and the sea, and thus this additional finding would need to be made if the Commission approves the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question is the Applicant (or its representatives), persons opposed to the project who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo CDP determination stage of an appeal.

F. SUMMARY OF APPEAL CONTENTIONS

The Appellants contend that the City's action is inconsistent with the Pismo Beach LCP and the public access and recreation policies of the Coastal Act because: 1) the project's siting and design does not complement the area's surrounding architecture, including that the approved project lacks LCP-required building articulation and pedestrian orientation, does not protect existing views of the ocean and surrounding upcoast bluffs from the ends of Stimson and Hinds Avenues, and is of a bulky design that will dominate the surrounding downtown when viewed from the beach, Boardwalk, and pier; 2) the City cannot ensure that there is a guaranteed supply of water to serve the development, particularly in light of the City's recent drought declaration; 3) the project does not provide for lower-cost visitor serving accommodations and does not cater to visitors of all income levels; 4) the project does not maximize public access, including by reducing existing on-street public parking due to a City-required condition to construct a new cul-de-sac at the terminus of Hinds Avenue; and 5) the project will not withstand natural and man-made hazards, including flood hazards from storm surges and long-term sea-level rise, to an acceptable level of risk. See Exhibit 5 for the full text of the appeals.

G. SUBSTANTIAL ISSUE DETERMINATION

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (California Code of Regulations, Title 14, Section 13115(b)). In previous decisions on appeals, the Commission has been guided by the following factors in making such determinations: (1) the degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act; (2) the extent and scope of the development as approved or denied by the local government; (3) the significance of the coastal resources affected by the decision; (4) the precedential value of the local government's decision for future interpretation of its LCP; and (5) whether the appeal raises only local issues, or those of regional or statewide significance. Even where the Commission chooses not to hear an appeal, Appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5

In this case, for the reasons discussed further below, the Commission determines that the City's approval of a CDP for the project presents a substantial issue.

1. Visual Resources

Applicable LCP Policies

The Pismo Beach LCP contains numerous policies aimed at protecting views of the ocean, bluffs, and foothills throughout the coastal zone, with particular prescriptions for such view protection within the City's downtown commercial core. Specifically, LUP Design Element Policy D-2 sets forth the general criteria by which development within the coastal zone must be sited and designed, including requirements: 1) to prevent monolithic buildings by encouraging building articulation to promote visual interest; 2) that larger structures, such as hotels, be contained within several smaller massed buildings to promote the City's small-scale image and be of a pedestrian scale; and 3) to preserve and enhance views to the ocean and surrounding hills whenever possible. Other LCP policies articulate these overarching view and design

considerations for particular neighborhoods and for particular locations. For example, Design Element Policies D-40 and D-41 describe particular requirements for the preservation of ocean views from street ends, including that streets perpendicular to the ocean should be open at their ocean terminus and not blocked with landscaping or buildings. These policies also require that new structures at identified street ends (including the ends of Stimson and Hinds Avenues as shown in Design Element Figure D-3 (see Exhibit 6)) shall be sited and designed so as not to block views or shall minimize view impairment when no feasible siting alternative exists. Finally, the LCP has additional requirements for ocean-fronting parcels, including both quantitative metrics: a maximum height allowance of 25 feet (the rest of Planning Area K (the Downtown Core neighborhood in which the approved project is located) has a 35-foot height limit); required building story setbacks from the City's public beach Boardwalk (i.e. progressively wider setbacks from the Boardwalk for each successive building story); and qualitative performance standards, including IP Section 17.102.010(G)'s requirement that "all development fronting coastal bluffs and beach be sited and designed so as to reduce the impact of bulk and scale." See Exhibit 6 for the above-cited LCP policies and standards.

Appellants' Contentions

The Appellants contend that the approved project is inconsistent with the aforementioned LCP policies and standards because the project's bulk and scale, consisting of a large "U"-shaped structure with the eastern rear of the building rising 35 feet and two wings protruding along Stimson and Hinds Avenues at 25 feet, is too large for the surrounding area and will dominate the landscape, particularly from public viewing points at the beach, Boardwalk, and Pier. Specifically, they claim that the entire structure should be subject to the LCP's 25-foot height limit for development on ocean-fronting lots because the project is located upon three oceanfront parcels. They claim that the approved project does not respect the LCP's explicit prescription for development at street ends abutting the shoreline, including the requirement that development be set back from the end of the street in order to not block existing public views of the ocean and foothills. The Appellants claim that the two hotel wings will extend far beyond the edge of the existing cul-de-sac along Stimson Avenue and the proposed cul-de-sac along Hinds Avenue (see additional discussion on the Hinds Avenue cul-de-sac in the "Parking and Public Access" section below), thereby substantially blocking existing expansive ocean and bluff views from these areas with 25-foot tall structures. Finally, the Appellants contend that the hotel's design doesn't contain enough building articulation and visual interest, including as evidenced by the eastern wall's flat 35-foot tall facade.

Analysis

The City-approved project is located in a high-density, active, mixed-use downtown core, where visitor-serving hotel accommodations are envisioned and encouraged. The approved project is an allowable use in both the C-1 and R-4 zoning districts, which are intended to accommodate uses that serve and cater to the needs of tourists and the general public. In order to shape the siting and design of this particular use, the LCP describes the visual resource and design parameters that the development must meet. In other words, the LCP states that visitor-serving accommodations are encouraged uses within the downtown beachfront core, and then describes the particular manner in which such development is to be built, including directives on its design, limits on height, and requirements for building setbacks, all with the goal of protecting public views and ensuring that development reflects the area's aesthetic character.

Specifically, with respect to building height, all development within the Downtown Core planning area (Planning Area K) is required to have a maximum building height of 35 feet per Design Element Policy D-2(a). IP Section 17.102.010(I)(3) (see Exhibit 6) further limits all structures on ocean-fronting parcels within this area to 25 feet in height. The purpose of these standards is to provide quantitative metrics to ensure that allowed development contains appropriate massing and scale, including so that development gradually steps up in height farther away from the beach so that the beachfront is not walled off by large domineering structures. The City-approved project allows for 25-foot heights on the hotel's two seaward wings that project along Stimson and Hinds Avenues, stepping up to 35 feet in height on its inland side⁶ (see page 7 of Exhibit 2 for project elevations). The City's approval⁷ also authorizes a merger of the eight lots that comprise the 150 Hinds Avenue parcel into two lots, and authorizes a lot line adjustment of those two lots 59 feet westward (see Exhibit 2). The purpose of the lot line adjustment is to allow the two 35-foot tall wings be symmetrical on both the northern and southern ends. The Appellants claim that the entire structure should be limited to 25 feet because it is located on three assessor's parcels that each abut Pismo State Beach; therefore, those parcels would all be considered "beachfront" and subject to the IP's 25-foot limit.

However, while the Applicants are correct in that the project is located on three *assessor's* parcels, those three parcels contain multiple lots within them. In the current lot configuration, there are 18 lots, 10 lots fronting the beach and 8 lots located inland of that (see Exhibit 2). The City approved a lot line adjustment that changes those 18 lots into 12 lots. The effect of this change in lot configuration is to allow taller building elements (up to 35 feet tall) to be moved closer to the beach by some 50 feet on the Hinds Avenue side of the property by virtue of "shrinking" the ocean fronting lots in this part of the site, leading to additional mass and bulk being allowed closer to the ocean under the adjusted lot lines.

The fact that the City did not evaluate the effect of this change on allowable heights is problematic. However, the result of the change is a structure with heights that are consistent with existing structures adjacent to the project site (see Exhibit 3), including at 160 Hinds Avenue (located immediately inland from the approved project on Hinds Avenue), 100 Stimson Avenue (the Sandcastle Inn, located immediately across Stimson Avenue), and the recently-approved hotel facility⁸ to be constructed on the adjacent open lot bounded by Hinds Avenue, Cypress Street, Pomeroy Avenue, and the City's public parking lot. Therefore, the City-approved project's heights are similar to the heights of surrounding development and are consistent with the LCP's height limits. And, given that after the lot line adjustment the project is located on 12 lots⁹ with the six oceanfront lots all conditioned for a 25-foot maximum, and the six landward

⁶ IP Section 17.102.010(E) (Exhibit 6) allows for building appurtenances, including elevator shafts and tower features, to exceed applicable height limits by fifteen percent. The City's approval allows for this height exceedance.

⁷ Some of the Appellants contend that the City approved a subdivision of the 150 Hinds Avenue parcel (APN 005-152-033) in order to have one "inland" parcel and one "oceanfront" parcel, and thus increased heights compared to what is currently allowed. However, as discussed in the report, the parcel was comprised of eight lots of record, five of which were oceanfront and three of which were inland. The City's approval merged those eight lots into two. The resultant configuration is one parcel, APN 005-152-033, which consists of two legal lots of record, one oceanfront and one inland.

⁸ City of Pismo Beach CDP P13-000032, approved by the City in 2014, authorized The Inn at the Pier, including construction of a 104-unit hotel and related amenities.

⁹ For tax purposes only, these 12 lots are contained within three APNs: 005-152-027, -032, and -033.

lots conditioned for a 35-foot height limit, the resultant project meets all height limits in this respect. In other words, although the City's lack of analysis associated with the lot line adjustment raises an issue, the fact that it provides for substantially similar scale and massing in relation to the surrounding area implies that, in this case, the lot line adjustment issues don't raise a substantial LCP conformance issue.

Thus, the appeal contentions do not raise a substantial LCP conformance issue with respect to allowable building height.

With respect to setbacks, the LCP has specific requirements to ensure adequate separation between structures and the City's public Boardwalk, all with the goal of ensuring that development does not detract from the Boardwalk's scenic qualities, as well ensure that development is set back a minimum distance from the Boardwalk so as to not obstruct ocean views. IP Section 17.081.030(C) (Exhibit 6) requires oceanfront development located within the City's Commercial Core to be set back specific distances from the Boardwalk. The standard states that first floors are allowed to be built directly abutting the Boardwalk (i.e., with a zero setback), but each successive floor must be set back a minimum of seven to ten feet from the Boardwalk (i.e., the second floor must be set back at least seven feet from the Boardwalk, and the third floor must be set back at least 14 feet from the Boardwalk). It is important to note that the standard requires the "minimum setbacks from the inland extent of the public Boardwalk;" it does not require setbacks from the floor below. For example, the provision does not require a structure's third floor to be set back seven feet from its second floor. It simply requires that the third floor be at least 14 feet from the Boardwalk, and the second floor to be a minimum of seven feet from the Boardwalk; therefore, the second and third floors could both be set back 14 feet. Again, this IP standard is meant to ensure that development protects public coastal views by setting a minimum structural setback distance from the Boardwalk pedestrian promenade; the aforementioned standards for varied building heights (i.e., 25 feet for oceanfront parcels and 35 feet for inland parcels) help to implement LUP policies that encourage building articulation and limit building massing.

The City-approved project meets all applicable Boardwalk setback requirements. The City's approval requires the structure to be set back 15 feet from the property line (see page 7 of Exhibit 2). The property line varies from about five feet from the landward edge of the Boardwalk near Stimson Avenue to about 20 feet from the Boardwalk along Hinds Avenue. Therefore, the structure will be set back roughly 20-35 feet from the Boardwalk, and no development will be located in this area.¹⁰ This required 15-foot property line setback alone would meet the IP's required minimum Boardwalk setback of seven feet. However, the City's approval requires even greater setbacks from the Boardwalk (see Exhibit 4 for the City's approved conditions). Along its Stimson Avenue portion, the City-approved project requires a 34-foot setback from the Boardwalk for the first floor and 35 feet for the second floor (or roughly 20 feet from the property line). Along Hinds Avenue, the first floor is conditioned to be set back 36 feet from the Boardwalk, or roughly 16 feet from the property line, and the second floor is conditioned to be

¹⁰ Planning Condition 15 requires this area to be restored.

set back 42 feet.¹¹ These City-required Boardwalk setbacks exceed the minimum required per the IP, offering adequate separation between the Boardwalk and the approved hotel facility. In addition, the setbacks are actually greater than that required per the Commission's previous hotel approval along Stimson Avenue in A-3-PSB-06-001.¹²

While the City-approved project exceeds the IP's minimum required setbacks, the Appellants assert the project must be set back farther, citing the project's inconsistency with Design Element Policies D-40 and D-41. These policies describe particular requirements for the preservation of ocean views from street ends, including that streets perpendicular to the ocean should be open at their ocean terminus and not blocked with landscaping or buildings (as shown in Design Element Figure D-4, see Exhibit 6), and requiring that new structures at identified street ends (including the ends of Stimson and Hinds Avenues as shown in Design Element Figure D-3) be sited and designed so as not to block views, or to minimize view impairment when no feasible siting alternative exists. The Appellants argue that Figure D-4 shows the encouraged layout configuration of buildings' relationship with street ends, including that any structures should be sited landward of a cul-de-sac. In other words, according to the Appellants, Figure D-4 encourages buildings to not extend adjacent to a cul-de-sac so as to ensure consistency with the above-cited policies' overarching goal of maintaining open street ends for unobstructed ocean views.

It is true that Figures D-3 and D-4 identify preferred outcomes with respect to the location of buildings in relation to cul-de-sacs, but they do not require same. In this case, the proposal maintains expansive views where the public street ends meet the Boardwalk. This is consistent with the approach in the Commission's prior action in A-3-PSB-06-001.¹³ Here, the City's approval for this project pulls the structure landward an additional distance of 13 feet (from the previously approved hotel's 21-foot setback) for a 34-foot Boardwalk setback, thereby providing enhanced view protection as compared to the previously approved project in that respect. This setback distance is also consistent with the building patterns of other development located at street ends in the downtown core, including the Sandcastle Inn hotel facility located immediately adjacent to the project site on the downcoast side of Stimson Avenue (see Exhibit 1).

The Appellants' assertions that the project should be pulled back even farther landward so as to not extend beyond the beginning of the cul-de-sac is not inconsistent with the LCP's view protection policies. On the contrary, doing so would offer additional views of the ocean, Pier, and upcoast coastal bluffs from Stimson Avenue. However, the cited policies and figures do not

¹¹ IP Sections 17.081.030(C) and 17.102.150 (Exhibit 6) allow for open and uncovered balconies and decks that are elevated 30 inches or more above existing grade to encroach up to 20 percent into a required setback. The City's approval authorized this allowance.

¹² In that approval, the Commission required the first floor to be set back 21 feet from the Boardwalk and the second floor to be set back 35 feet from the Boardwalk, compared with the City's requirement in this approval for 34- and 35-foot setbacks for the first and second floors, respectively. In its approval of A-3-PSB-06-001, the Commission found that by setting back the first floor 21 feet and allowing the oceanfront portion of the first floor to extend 25 feet in height (with the inland portion of the hotel rising to 35 feet), the resultant configuration would break up the hotel's mass, reduce shadowing of the Boardwalk, and improve views of the coast from Stimson Avenue, thereby meeting LCP requirements in these respects.

¹³ Where the Commission found that the primary view corridors necessitating protection from view blockage were those from the Boardwalk located near the end of the Stimson Avenue cul-de-sac. The Commission required a 21-foot setback from the Boardwalk.

require the structure to be set back landward of the cul-de-sac. In this case, it appears that the approved project offers adequate setback from the City's public Boardwalk to allow unobstructed upcoast and downcoast views at the Boardwalk, and that it generally conforms to the existing pattern of development in this respect. For these reasons, the City-approved project does not raise a substantial LCP compliance issue with respect to its setbacks from the Boardwalk and street.

Finally, with respect to the project's design, the LCP does not specify a preferred architectural style. Rather, the LCP describes general requirements for building articulation and massing, setbacks, height, and view protection, as has been described previously. The City-approved project uses architectural elements including balconies, verandas, shingle roofs, and wood and stone siding materials so as to meet LCP requirements for building articulation and visual texture and to provide architectural interest (see Exhibit 3 for visual simulations of the project). The downtown area includes numerous examples of different types of architectural aesthetics, including Spanish-style with shingled roofs at the adjacent 1600 Hinds Avenue building, and modern contemporary style at the recently-approved Inn at the Pier. Therefore, there is no single design aesthetic in downtown Pismo Beach, and thus the approved project will blend into the area's urban fabric.

Finally, the Appellants contend that the project's eastern wall has a flat 35-foot facade that is not consistent with LCP design policies that call for visual articulation and interest, even for portions of a structure not visible from public vantage points (the eastern wall will abut adjacent development and therefore will not be readily visible from adjacent streets). However, the City Council added Planning Division Condition 23, which required a redesign of said wall to provide additional building articulation. To satisfy the condition, the Applicant prepared a revised eastern wall design that includes additional landscaping and stone finishes, pulled the building facade back 12 feet at the elevator locations to break up building lines, and added additional window overhangs (see Exhibit 3). The approved project represents a building that employs a variety of architectural elements to ensure visual interest, and it appears that it will fit in with the eclectic design character found in the City's downtown urban core. Thus, the approved project does not raise a substantial LCP conformance issue with respect to architectural design.

In conclusion, the City-approved project meets applicable LCP requirements for building heights and the protection of public ocean views, including the LCP's requirements for siting development at the end of ocean fronting streets. The project is set back from the Boardwalk a distance that exceeds that which the LCP requires, thereby ensuring appropriate separation between the Boardwalk and the hotel facility. Finally, the hotel's architectural facade employs details such as the use of decks and balconies, as well as height and setback differentiation, so as to ensure consistency with LCP requirements for building articulation and avoidance of architectural monotony. Thus, the City's approval does not raise a substantial LCP conformance issue with respect to visual resources.

2. Coastal Hazards

Applicable LCP Policies

The Pismo Beach LCP requires new development to be located outside of areas subject to coastal hazards, particularly areas that may require future shoreline protection. First, LUP Safety

Element Policy S-6 states that protective devices, such as seawalls, revetments, groins, breakwaters, and riprap, shall be permitted only when necessary to protect *existing* principal structures, coastal dependent uses, and public beaches in danger of erosion. Since only existing development is allowed structural protection against erosion and other flood hazard impacts, new development must therefore be sited and designed in a manner that the need for such protective devices. The LUP contains additional policies targeted towards development proposed in low-lying areas, namely the Federal Emergency Management Agency's (FEMA's) mapped 100-year floodplain. For development proposed in this specifically-demarcated zone, Policy S-9 prohibits development unless the finished floor elevation is at least one foot above the projected 100-year flood elevation level, the project will not obstruct passing floodwaters, and the project will not contribute to or increase flood hazards.

The IP further refines these policies, including establishing two zoning overlay districts that apply to specifically mapped areas of the coastal zone: the Floodplain Overlay Zone and the Hazard Protection Overlay Zone. The Floodplain Overlay Zone applies to those portions of the City located within FEMA's 100-year flood area, and generally requires conformance with building standards promulgated by FEMA for development within such low-lying areas. The Hazards and Protection Overlay Zone applies to a broader swath of the City's coastal zone, including nearly the entire area located seaward of the first public road, as well as all blufftop and shoreline parcels. IP Section 17.078 describes the Zone's overarching goals, including: 1) to prevent unsafe development in hazardous areas; 2) to minimize damage to public and private property; 3) to minimize social and economic dislocations resulting from injuries, loss of life, and property damage; and 4) to ensure that allowed development protects and enhances the City's beaches from both visual as well as physical deterioration and erosion. IP Section 17.078.060(E) states that new development shall not be permitted where it is determined that shoreline protection will be necessary for structural protection now or in the future based on a 100-year geologic projection.

In sum, the LCP sets up a structure by which new development must be located outside of hazardous areas based upon a 100-year projection, and cannot rely on shoreline armoring to do so. The IP then includes additional parameters for specifically mapped portions of the coastal zone, including those areas mapped within the 100-year floodplain and all areas along the City's bluffs and beaches. See Exhibit 6 for the relevant LCP policies and IP standards.

Appellants' Contentions

The Appellants claim the project is inconsistent with the LCP's hazards avoidance policies, including Policy S-2 (which requires new development to avoid sites with high hazard levels), Policy S-6 (which only allows shoreline protection for existing structures in danger from erosion), Policy S-9 (which prohibits new development within the FEMA 100-year floodplain unless it is built consistent with FEMA building regulations), and Coastal Act Section 30253,¹⁴ which requires new development to minimize risks in high hazard areas and be built without shoreline protective devices. They state that the project site is located in a high hazard area that is

¹⁴ Although the Appellants cite Coastal Act Section 30253, the grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified City of Pismo Beach LCP or the public access policies of the Coastal Act. Section 30253 is not a public access policy, and, thus, is not a proper ground for the appeal. That said, the City LCP policies identified implement Section 30253, and thus these contentions are addressed via that analysis.

periodically subject to wave attack, wave runup, and inundation by tsunami. These hazards were identified in the Applicant's geotechnical and wave runup analyses, which concluded that the project's underground parking structure may be flooded in the future.

Analysis

The project site is located immediately landward of the Pismo Beach public Boardwalk and Pismo State Beach. The site is located within Pismo Beach's urbanized downtown core and is surrounded by development on three sides, including a three-story hotel facility on its downcoast side, a single-story structure on its landward side along Stimson Avenue, a three-story structure on its Hinds Avenue landward side, and the City's public parking lot on its upcoast boundary along Hinds Avenue. The approved project is set back roughly 500-600 feet from the current mean tide level¹⁵ (see Exhibit 1 for photos of the project site and the surrounding area) and the finished floor elevation of the first floor would be located at an elevation of 19.75 feet above today's mean lower low water (MLLW). Because of the wide nature of the sandy beach, the site is not mapped as being within FEMA's 100-year floodplain in the IP's Floodplain Overlay Zone Map, nor in FEMA's updated 2012 100-year floodplain map. Those maps, however, reflect past hazards conditions and do not take into account future changes in flood hazard areas, particularly as a product of future sea level rise.

To understand the potential future hazards at this site due to sea-level rise and storm surges, the Applicant prepared a wave runup and sea level rise analysis (see Exhibit 7). The analysis reviewed historic flooding impacts, as well as long-term potential flood impacts due to accelerated sea-level rise, storm surges, and wave uprush. The analysis included assumptions consistent with the recommendations specified in the Commission's Sea-Level Rise Policy Guidance, including understanding future storm surges and flood impacts using conservative hazards scenarios such as a 100-year projected sea level increase of 5.48 feet¹⁶ (the highest sea level projection per the Commission's Guidance) on top of today's 100-year storm event. Using the 5.48 feet sea level rise projection, and based on future beach scour of three feet (i.e., the beach would erode three feet from today's elevation because the shoreline would be subject to additional wave energy forces caused by the increase in sea level), the analysis estimated the mean tide line would move inland by 274 feet on the project's upcoast side near Hinds Avenue, and by 295 feet on its south side near Stimson Avenue. Therefore, under "normal" tide conditions, the analysis concluded that the mean tide line in 100 years would be roughly 260 feet from the proposed building envelope. To calculate the maximum potential extent of wave runup during a 100-year storm event, the analysis then added the sea level during a January 18, 1973 El Nino storm event, which was used as a proxy for the 100-year storm. The water level during this

¹⁵ A proxy for identifying the beach's edge in this case, and an average of the mean high and low tides.

¹⁶ The Sea-Level Rise Policy Guidance states that the best available science with respect to future sea levels is the National Research Council's 2012 report *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future*. That report and the Commission's Guidance document state that by 2100 sea levels south of Cape Mendocino may rise 66 inches, or 5.5 feet, over sea levels in the year 2000. The approved-project's analysis assumed a 5.48 feet sea level increase, or 65.76 inches, projected to the year 2115. The authors stated that this number was appropriate because it is the highest projection listed in the NRC report and Commission Guidance document, and therefore was consistent with the inherent uncertainty for any sea-level rise projections after the year 2050. In other words, the analysis concluded that using 2100's highest level of projected sea-level rise was appropriate to use to estimate 2115's estimated future sea levels. However, at the Commission's Senior Engineer's request, the Applicant also prepared a revised analysis using 6.9 feet of sea level rise, extrapolating sea levels to the year 2115. That analysis, shown in Exhibit 7, similarly concluded that the approved structure would be located landward of ocean waves in 2115 by up to 30 feet.

storm was determined to be 7.65 feet above today's MLLW, which is the highest historically observed water level in the project area. Adding a 5.48-foot sea level rise increase to the 7.65-foot 100-year storm event yields a 100-year stillwater elevation (i.e., the water level's projected height absent any waves) of 13.13 feet in the year 2115. The analysis then added wave heights from a January 1983 storm event. When added to the 100-year stillwater elevation, the analysis estimated the highest wave runup from a 100-year storm event on top of 5.48 feet in sea level rise to be an elevation of 14.08 feet above today's MLLW. The approved project's finished floor elevation of the first floor will be located at an elevation of 19.75 feet MLLW. Thus, the analysis found that under a scenario in which there is a 100-year storm event along with a 5.48-foot increase in sea level, ocean waves would reach nine feet seaward of the approved project's northern side and 34 feet seaward on its south side. Nevertheless, because of the inherent uncertainty with sea level rise and storm surge projections, particularly for a timeframe as long as 100 years, the analysis concludes: "Despite this analysis, recognizing the overall lack of precision in the analytical method, particularly in the years later than 2050, in our opinion there is a potential for relatively small waves to impact the parking level of the structure in the future." Thus, the analysis concludes that the mostly below-grade parking level may become subject to wave energy in the future.

To address potential flooding and hazards concerns, and to ensure consistency with LCP policies that only allow existing development to use shoreline protective devices to abate those hazards, the structure is designed with a conventionally reinforced mat foundation.¹⁷ The foundation will lie at eight feet above MLLW, or roughly twelve feet below existing grade elevation, and consist of 24-inch thick concrete surrounded by 12-foot tall perimeter concrete retaining walls. The retaining walls would be supplemented by columns rising from the foundation to help support the structure's three floors. The parking structure's seaward facing side includes a set of louvers that, during potential flood events, would allow for ocean waters to enter the basement level.

While the Appellants cite the project's inconsistency with numerous LCP policies, some of the listed policies are not applicable to this particular project. For example, Safety Element Policy S-2, which requires new development to avoid sites with high hazard levels, is not part of the LCP.¹⁸ Policy S-9, which addresses development proposed within FEMA's mapped 100-year floodplain, is also not applicable due the project's location outside of such a mapped flood area. Finally, Appellants cite inconsistency with Coastal Act Section 30253, which is the Act's primary policy requiring hazards avoidance for new development. However, because Pismo Beach has a Commission-certified LCP, the applicable standard of review is not the Coastal Act's hazards avoidance policies, but rather the LCP's certified hazards policies that implement those policies within the City. The LCP standards applicable for this project are Safety Element Policy S-6, which allows the construction of shoreline protective devices only for existing development in danger from erosion, and the IP's Hazardous and Protection Overlay Zone requirements, which seek to prevent unsafe development in hazardous areas, due to the project site being located within this mapped Zone area (see Exhibit 6).

¹⁷ Mat foundations are common in areas with loose, moist soils because they ensure stability and structural integrity in the face of liquefaction, slumping, and other hazards that may compromise the relatively weak underlying land.

¹⁸ Pismo Beach maintains a combined General Plan/Land Use Plan that includes some General Plan policies that are not applicable standards of review for the review and issuance of CDPs. Policy S-2 is a General Plan policy that is not part of the LCP.

The first applicable LCP test is whether the project site should be deemed a “hazardous area” that is unsafe for development. The LCP doesn’t include a specific definition for what does and does not qualify a site to be deemed hazardous. However, per IP Section 17.078.060(E), since new development is prohibited in areas where shoreline protection is needed for structural protection now or in 100 years, a location that necessitates this type of LCP inconsistent protection would logically be deemed “hazardous.” Therefore, if a site was located in an area that was subject to flooding and wave energy at a magnitude and/or a frequency at which structural integrity would be compromised without some type of shoreline armoring apparatus, the site would be deemed hazardous and unsafe for development.

As described above, the project is located on beachfront parcels within the City’s urban core, surrounded by development on three sides and set back 500-600 feet from the mean tide line. The Applicant’s sea-level rise and wave runup study concluded that, based upon conservative scenarios including a 100-year storm event on top of 5.48 feet of sea-level rise, waves would still be seaward of the approved project’s building footprint. However, because of the uncertainty with such projections, the analysis concedes that it is possible that flood impacts could occur in the future. The Commission’s Senior Coastal Engineer, Dr. Lesley Ewing, has reviewed the project materials and concurs with the analysis’ conclusions. Specifically, Dr. Ewing found that the approved hotel could experience infrequent flooding of its basement over the 100-year timeframe, similar to what was identified for the Commission-approved hotel facility at 147 Stimson Avenue in A-3-PSB-06-001.¹⁹ The Applicant’s sea level rise and wave runup analysis and the Commission’s Senior Coastal Engineer conclude that this site is no different: the area is subject to some potential flood risk, but that risk does not rise to a level of the site being deemed unsafe to be developed under the LCP. In other words, the site is suitable for development absent any shoreline protection device, and approval of such development will not subject life and property to impending danger. The site is therefore not deemed “hazardous” as that term is understood in the LCP.

The next test is whether the proposed project meets LCP requirements prohibiting new development from using shoreline protective devices, both now and in the future. To meet this requirement, the project must be consistent with two requirements: it must not include shoreline armoring in its approved design and configuration, and it must include appropriate restrictions prohibiting armoring in the future. With respect to the former, in addition to more traditional armoring measures such as rock revetments and seawalls, the Commission has seen proposals for foundations and other structural elements designed to withstand hazards in a manner that the structural elements themselves would constitute shoreline protection. Typically, these “superstructures” are made up of deep pier/caisson foundations. This type of support is commonly required by FEMA requirements when building within flood hazard areas, whereby components of structures are required to be elevated in such a way that habitable space is kept some distance above expected maximum flood elevations, and areas below that are not allowed

¹⁹ That approval found that the degree of flood potential did not rise to a determination of the site being deemed hazardous and unsafe for development. Rather, the site is located in an area that is subject to potential risk, as is inherently the situation for all development located at or near the ocean-sand interface. All development along California’s immediate shoreline is subject to some level of hazard risk, including episodic and long-term shoreline retreat and coastal erosion, high seas, ocean waves, tsunami, tidal scour, flooding, liquefaction, and the interaction of same, all potentially exacerbated by sea level rise.

to be habitable. For purposes of the Pismo Beach LCP, which does not allow shoreline protection for new development, when piers/caissons or any other type of structure serve to elevate a new structure above ocean waters and protect against erosion risks, this type of elevation allowance serves shoreline protection, inconsistent with LCP Policy S-6. In other words, elevation can be a type of shoreline protection, and elevation strategies aimed at protecting new development from erosion and hazards would therefore be inconsistent with LCP requirements that do not allow such protection for new development and that prevent new development in hazardous locations.

In this case, the approved project uses a mat foundation. The project's mat foundation was selected due to its ability to address stability and structural integrity on the site's moist sandy soils, including with respect to liquefaction and dynamic settlement. This type of foundation is commonly used when building on sandy, loose surfaces, and is an alternative to a foundation consisting of deep piers and caissons that anchor a structure to the ground by tying into subsurface bedrock. As discussed above, the proposed development is located inland from current erosion and hazards threat. The proposed mat foundation is located 12 feet below grade, and the first habitable floor is at grade. Thus, as proposed, there is no structural element serving to elevate the hotel facility above erosion and hazard risk. Furthermore, there is no proposed seawall or other armoring device meant to protect against wave energy. In sum, the approved project does not include any form of impermissible shoreline protection in its design and engineering, and is consistent with LCP requirements in this respect.

With respect to whether the approved project includes appropriate restrictions against future armoring, the City's CDP prohibits the use of shoreline armoring. Specifically, Planning Condition 22 (see Exhibit 4) prohibits shoreline armoring from protecting the approved development, and waives any potential entitlement to such armoring that may otherwise be allowed per the Pismo Beach LCP, Coastal Act Section 30235, and any other law or regulation. In lieu of armoring, the condition states that if an appropriate government agency determines that any portion of the approved development is not to be occupied or used due to any coastal hazards, and such hazard concerns cannot be abated by ordinary repair and/or maintenance, that portion of the development must be relocated and/or removed outside of the area subject to coastal hazards. Prior to removal/restoration, the Applicant must prepare a Removal and Restoration Plan for City review and approval, which must describe the manner in which the development is to be relocated and/or removed and the affected area restored so as to best protect coastal resources. The condition language is very similar to that which the Commission has placed on development for other CDP approvals.²⁰ However, those approvals also contained detailed defined trigger points that articulated when the structures were considered hazardous and when the structure may function as shoreline armoring (in the manner described above) and therefore when the Removal and Restoration Plan would need to be prepared. Clear and unambiguous language defining these trigger points is particularly important for determining when a structure is at risk, particularly when it implicates the removal of portions, or even all, of a 128-room hotel resort facility. The condition must define the specific trigger points to determine when the site is deemed hazardous, what the allowable repair and maintenance actions are to address any potential damage from coastal hazards, and when the facility's structural elements serve as shoreline armoring. In essence, while the City's condition meets LCP tests so

²⁰ Including for recent CDPs A-3-SNC-98-114 (Monterey Bay Shores Resort) and A-3-SCO-09-001 and A-3-SCO-09-002 (Frank et al SFDs).

as to ensure that the development does not include shoreline armoring for hazards abatement now or in the future, the condition does not go into sufficient detail to ensure that its requirements will be actually carried out. Again, when the structure in question is a major visitor-serving facility, it is imperative that the conditions be written in a manner that contains sufficient detail so as to ensure that terms and trigger points are unambiguously defined. Thus, the approved project raises a substantial LCP conformance issue in this respect.

In sum, the approved project is located in an area that is currently appropriate for development. The site may be subject to coastal hazards due to the inherent nature of its beachfront location. Due to storm surges, future sea-level rise, and other potential uncertainties, the site may be vulnerable to infrequent flood episodes. However, such flooding potential does not mean that the site comprises a level of risk that would put life and property in imminent danger necessitating a determination that the site be deemed hazardous and therefore unsafe for development. The project site meets LCP requirements with respect to siting new development outside of hazardous areas. Furthermore, the approved project is consistent with LCP requirements prohibiting the use of shoreline armoring for the protection of new development against coastal hazards. However, the City's approval does not contain sufficient detail to implement its armoring prohibition, including defining when the structure is deemed hazardous, when it functions as shoreline protection, and the allowed repair/maintenance or removal and restoration parameters. In essence, the City's approval is not fundamentally inconsistent with the LCP's hazards policies. On the contrary, the approval is LCP compliant with respect to the project's siting and design, and instead only requires additional detail to further articulate the steps to be taken if and when the hotel structure or portions of it become threatened. For this reason, the City's approval raises a substantial LCP conformance issue with respect to coastal hazards.

3. Parking and Public Access

Applicable Coastal Act and LCP Policies

The LCP requires new development to provide an adequate supply of parking for both residents and visitors, including potentially requiring additional parking spaces for beach access for oceanfront hotels. The LCP also requires new development within a quarter mile of the beach to evaluate the impact on beach parking availability, and states that additional public access parking spaces may be required if the project may reduce existing parking opportunities. In the Central Commercial downtown area, the LCP encourages in-lieu fees for hotel and other commercial uses rather than on-site parking, encouraging parking to be located at the north or south end of downtown rather than at the Pier. With respect to the Coastal Act's public access policies, they require development to provide maximum access and recreational opportunities, including public parking opportunities, and prohibit development from interfering with the public's right of access to the sea. Furthermore, the Coastal Act requires new development located between the nearest public roadway and the shoreline to provide public access to and along the shoreline. See Exhibit 6 for the applicable LCP and Coastal Act policies and standards.

Appellants' Contentions

The Appellants contend that the approved project is inconsistent with LCP beach parking and access policies because it will reduce existing public parking opportunities, including spaces along Stimson Avenue due to construction of new hotel garage access entries, and also along Hinds Avenue due to a required City CDP condition to construct a new cul-de-sac at the end of

Hinds Avenue. The cul-de-sac would extend into the adjacent City-owned public parking lot, resulting in the loss of five existing public parking spaces. The Appellants contend that the cul-de-sac should be located on the Applicant's property, not on public property. Additionally, the Appellants state that the approved project will generate a level of traffic beyond which the site's roads can handle, thereby increasing traffic congestion and adversely impacting public access.

Analysis

The primary vehicular access route to the hotel and its 166-space parking structure will be from Stimson Avenue, a two-way, two-lane street running perpendicular to the ocean on the project's southern, downcoast side. Egress is offered on both Stimson Avenue and also along Hinds Avenue, a one-way road along the project's northern, upcoast border that also runs perpendicular to the ocean. See Exhibit 1 for road configurations.

The Applicant prepared a traffic analysis to determine the project's potential traffic impacts. The analysis assumed a daily trip rate of 8.92 vehicular trips per hotel room per day,²¹ for a total of 1,142 daily vehicular trips, 86 of which would take place during morning peak hour and 90 during afternoon peak hour. Since Stimson Avenue offers both access and egress (as opposed to Hinds Avenue providing only egress due to its one-way configuration), the analysis assumed that all trips accessing the project site would come via Stimson Avenue, and three-quarters would exit the site via Stimson Avenue and the remaining one-quarter via Hinds Avenue. Based on these trip generation numbers and assumptions, the analysis found that the project would add an estimated 79 vehicle trips to Stimson Avenue during the afternoon peak period (44 inbound and 35 outbound), and 11 outbound trips via Hinds. The 90 peak period trips represent only eight percent of the total average daily traffic (ADT) that these two roads handle. Furthermore, even with the project's estimated traffic, the two intersections closest to the project site (Stimson Avenue at Cypress Street, and Hinds Avenue at Cypress Street) are estimated to remain at Level of Service (LOS) A and B (i.e. 15 seconds or less delay per vehicle to get through the intersection). The analysis concludes that because the project is located within downtown Pismo Beach, which is a dense, urbanized community that already handles a large amount of vehicular traffic, the approved project will have a negligible impact on the area's overall traffic patterns. The approved hotel is located in a mixed-use area where most patrons' needs and destinations, including the beach, Boardwalk, Pier, and visitor-serving attractions (including restaurants and shops) are located within walking distance. Recognizing this, City Engineering Condition 11 (Exhibit 4) requires the Applicant to construct street improvements along Stimson and Hinds Avenues, including six-foot-wide sidewalks along Stimson Avenue and ten-foot-wide sidewalks along Hinds, with new curbs, gutters, street trees, and lighting, all with the goal of improving pedestrian infrastructure and maximizing hotel patrons' "park and walk" travel behavior (i.e., parking once upon checking into the hotel, and then walking to most destinations during their length of stay). In short, the approved project constitutes infill development within an active, mixed-use area that offers multi-modal transportation options. The project introduces a relatively small number of additional vehicles onto already highly-used public streets, and therefore should not have a significant cumulative impact on traffic congestion in the area. The City's approval does not raise a significant LCP conformance issue with respect to traffic.

²¹ From the Institute of Transportation Engineers "Trip Generation Manual" 9th Edition, 2012.

With respect to the new Hinds Avenue cul-de-sac and the resultant loss of public parking opportunities, Engineering Condition 12 of the City's approved CDP requires the Applicant to construct a cul-de-sac at the seaward end of Hinds Avenue if the City determines, within three years after the issuance of the certificate of occupancy, that such a cul-de-sac is necessary for public safety and traffic circulation. Currently, Hinds Avenue is a one-way street that primarily serves vehicles exiting the adjacent City-owned public parking lot. Where the road meets the beach is an emergency vehicle ramp that offers access onto the sand. The City is currently developing the Downtown Strategic Plan, a long-range planning document that seeks to guide the area's future growth and development in a way that reflects the community's history and values. A major study component of the Strategic Plan is the future of the City's public parking lot. The lot is currently a surface lot located in perhaps the premiere location in all of Pismo Beach: a focal point located at the intersection of the Pier, beach, and downtown. The study currently envisions the lot transforming into an active public plaza with underground parking. While still conceptual at this time, the Plan calls for creating a performance stage, public seating, lawn areas, public art displays, a Ferris wheel, and additional public recreational amenities including restrooms, showers, and enhanced beach access points. The Plan also calls for Pomeroy Avenue, currently the only vehicular accessway into the parking lot, to be turned into a pedestrian-only promenade, with Hinds Avenue transformed into a two-way street offering ingress and egress, as well as the construction of a new cul-de-sac adjacent to the existing emergency beach access ramp. City CDP Engineering Condition 12 requires the Applicant to pay for the construction of this potentially envisioned cul-de-sac. In addition, Engineering Condition 10 requires the Applicant to pay \$300,000 to the City for future public improvements at the parking lot to help implement the Downtown Plan's envisioned improvements.

The Appellants claim that construction of the cul-de-sac will encroach into the public parking lot, and therefore will result in the loss of five existing public parking spaces. However, the condition does not specify the exact location and configuration of the cul-de-sac; instead, the condition simply requires the Applicant to pay for its cost should the City deem it necessary in the future. The City ultimately would be the Applicant for this project and would be the entity proposing a specific configuration at that time. The cul-de-sac's construction would require separate CDP approval (i.e., the CDP for the hotel facility does not authorize the construction of the cul-de-sac), where potential impacts to public access and parking will be evaluated and addressed. Furthermore, as explained above, the cul-de-sac's construction is part of a master plan for the redevelopment of the entire parking lot, including potentially placing all parking underground, whereby no parking spaces would be removed because they would all be relocated in an entirely new configuration. Thus, it is premature to claim that the City's approval will result in the loss of public parking, as well as claim that it will encroach into the parking lot at all because both the road and the parking lot itself are the subject of a substantial future public works project that will potentially dramatically change the area's design and configuration. In short, the City's approval requires the Applicant to contribute money to pay for construction of a future cul-de-sac and to help fund the City's future public improvements of City-owned property, but those public improvements are still being formulated and refined and will themselves be subject to future CDP review and approval. Thus, the appeal contentions do not raise a substantial LCP conformance issue with respect to the future cul-de-sac's parking impacts.

However, while the City's approval contains numerous public access and recreation

requirements, including the aforementioned \$300,000 payment to the City for its future improvements at the public parking lot, all of which are meant to ensure consistency with the LCP's and Coastal Act's public access and recreation policies, some of the City's conditions lack specificity with respect to how they will be effectively implemented to ensure that public access is maximized. For example, while the Applicant is required to pay for the cul-de-sac's construction,²² the condition does not specify what mitigations would be required should the City decide against the cul-de-sac's construction, or what will happen if the condition's prescribed three-year time limit lapses before the City has made a determination of the cul-de-sac's necessity. In other words, it is unclear what, if anything, would replace this required public improvement. Furthermore, while Planning Condition 24 (see Exhibit 4) requires the payment of an in-lieu parking fee for five visitor parking spaces, the condition does not specify the amount to be paid, the location of the spaces, or whether there would be any requirement for the City to actually construct the five spaces. The City-approved project is located in a prime location at the intersection of the City's downtown core, municipal pier, Boardwalk, and Pismo State Beach. Therefore, ensuring that the project maximizes public access and recreational opportunities, including through clearly articulated standards for required infrastructure improvements and access requirements, is of paramount concern. The City's conditions attempt to address critical public access and recreation impacts, but do not adequately ensure that such improvements will be effectively carried out. Addressing the conditions' lack of specificity can be as simple as clearer implementing language that further refines the conditions' requirements. In other words, the City's approval on this issue does not appear to require a fundamental overhaul of its basic access/recreation condition tenets, but rather a more clear elaboration and expansion on core concepts the City's CDP already requires. However, because of these deficiencies, the City's approval raises substantial LCP and Coastal Act conformance issues with respect to public access and recreation.

4. Lower-Cost Visitor Accommodations

Applicable LCP and Coastal Act Policies

The Pismo Beach LCP requires new development located within the Resort Commercial land use designation to provide activities that cater to visitors of all income levels (LUP Land Use Element Policy LU-4(a)). In addition, because the approved project is located between the sea and first public road, the project must be found in conformity with the public access and recreation policies of the Coastal Act, including Coastal Act Section 30213, which requires the protection, encouragement, and, where feasible, provision of lower-cost visitor and recreational facilities, including lower-cost visitor accommodations.

In implementing Coastal Act Section 30213, although the provision of lower cost accommodations in conjunction with a specific project is preferable, including directly providing lower cost units on the same site as a proposed accommodations facility, in past action the Commission has also found that when this approach is infeasible, the requirement to provide funds to construct new lower cost accommodations off-site constitutes adequate mitigation for the loss, reduction, and/or lack of provision of affordable overnight accommodations. For high-cost overnight visitor accommodations where low-cost alternatives are not included onsite, the

²² The cul-de-sac's construction is estimated to be \$300,000. This money is in addition to the \$300,000 required for the public plaza improvements at the Pier parking lot.

Commission in past actions has required a mitigation fee to cover the cost of constructing one hostel bed per room for twenty-five percent (25%) of the high-cost rooms constructed.²³ The funds are paid into an account managed by an appropriate entity, including the local government, California State Parks, Hostelling International, or similar agency familiar with low cost accommodations management to ensure that such funds are spent on new lower cost units, including new campground and hostel facilities. Most recently on the Monterey Peninsula, the Commission required, using this formula, a \$1.8 million mitigation payment from the Pebble Beach Company as mitigation for lack of lower-cost options in the development of a new high-end resort hotel and additional rooms at the existing Inn at Spanish Bay and Lodge at Pebble Beach.²⁴

In order to ensure that mitigation payments are commensurate with the actual cost to construct a lower cost unit, thereby ensuring that the monies levied on project applicants are adequate to fully mitigate for a project's lack of onsite lower cost units, the Commission has sought guidance from those most familiar with these accommodation types' construction and/or operation. The \$30,000 per high cost hotel room in-lieu mitigation fee amount was established based on figures identified by a 2007 study provided for the Commission by Hostelling International. The figures were based on two models for the construction of a 100-bed, 15,000-square-foot hostel facility in the coastal zone, and utilized experience from the existing 153-bed Hostelling International San Diego Downtown Hostel. Both models included construction costs for the rehabilitation of an existing hostel structure and factored in both direct and "soft" construction and startup costs, but did not include costs associated with ongoing operations.²⁵ Based on these figures, the total cost per hostel bed ranged from \$18,300 for a leased facility to \$44,989 for a facility on purchased land. However, the models were not based on an actual project, and therefore the actual cost of the land/building could vary significantly. In order to take this into account, the Commission found that a cost per bed located between the two model results was most supportable and conservative, and used the \$30,000 per hostel bed estimate for this purpose. Thus, the Commission mitigated for the lack of onsite lower cost hotel rooms by requiring a payment equivalent to the construction of new hostel beds.

More recently, in 2014 the construction cost estimate was updated to provide additional support to ascertain the current cost of establishing hostels as a form of lower cost overnight accommodations in the coastal zone. Again, Hostelling International provided the Commission with the estimate, which assumed the construction of a new 100-bed, two-story, reinforced masonry hostel facility built on a 12,000 square foot vacant parcel in southern California. Construction costs (including assuming prevailing wages) were estimated at \$4,212,000, or \$42,212 per bed, while land costs were estimated at \$1,200,000, or \$12,000 per bed. The combined cost estimate totaled \$5,412,000, or \$54,120 per bed. The analysis concluded that the \$54,120 per bed estimate fairly reflected new hostel construction costs and provided a reasonable estimate with respect to potential mitigation payments so as to ensure that fees were sufficient to

²³ See, for example, CDP amendment 5-98-156-A17 and LCP amendment LOB-MAJ-1-10.

²⁴ Monterey County LCP Amendment MCO-1-12 Part 1 (Del Monte Forest Update and Pebble Beach Company Concept Plan), approved by the Commission in May 2012.

²⁵ Where "hard" costs include, among other things, the costs of purchasing the building and land and construction costs, and "soft" costs include closing costs, architectural and engineering contracts, construction management, permitting fees, legal fees, furniture and other equipment costs.

actually construct the number of beds required to be built per the condition of approval. However, the analysis did warn that costs per bed can vary substantially, including because the analysis's assumption of a land purchase price of \$1,200,000 for the 12,000 square foot parcel, or \$100 per square foot, can vary depending on the location in question.

In 2015, the Commission hired a consultant with expertise in the hotel resort development field to again review the hostel cost estimate so as to better understand the variables present in determining the price to develop a hostel bed. The consultant reviewed Hostelling International's 2014 report, and concluded that the report's cost estimates to construct the actual hostel structure are well developed. The consultant concluded that the 2014 analysis's \$42,120 per bed building cost estimate would be appropriate throughout the coastal zone, as the assumed construction costs would be relatively uniform statewide. However, the consultant also indicated that the land cost component is tremendously variable across the State. Therefore, the consultant's recommendation was that for each application, a search for vacant land sales should be done to derive an estimate of the cost for an appropriately sized parcel of land in the subject area. The land cost at the particular location would then be added to the fixed \$42,120 construction cost. In other words, the consultant recommended that the cost to develop a hostel bed should be \$42,120 plus land costs, with land costs defined as the price per square foot times 120 square feet (the assumed size of a hostel bed). This methodology would most accurately reflect the price to develop a hostel bed in a particular location, and would therefore be the most accurate mitigation fee to ensure the fees were sufficient to pay for lower cost units' construction. Thus, the Commission has consistently addressed lower cost visitor accommodations under Coastal Act Section 30213 using a variety of tools, including the methodologies described above.

Appellants' Contentions

The Appellants contend that the City-approved project is inconsistent with these aforementioned lower-cost visitor accommodations policies. Specifically, they contend that the project constitutes a luxury hotel that does not provide any on-site lower-cost accommodations. Additionally, the Appellants contend that the project will result in the displacement of thirteen existing lower-cost motel units on the Stimson Avenue side, as well as five existing motel rooms on the Hinds Avenue side.

Analysis

With respect to the project's conformance with LUP Policy LU-4(a), the project is located in an area with a land use designation of Central Commercial; therefore, that particular policy's requirements for development within Resort Commercial land use designations to provide for activities catering to various income levels is inapplicable for this project and does not raise a substantial LCP conformance issue. Furthermore, contrary to the Appellants' claim, the project will not remove eighteen existing lower-cost motel units. The cited thirteen motel cabins along Stimson Avenue were not motel units meant for transient use, but instead were permanent residential uses. In addition, those units' demolition was legally authorized by the Commission's approval in CDP A-3-PSB-06-001; thus, the site is currently vacant and the City-approved project will not eliminate any existing lower-cost accommodations. Similarly, along Hinds Avenue, the City-approved project will result in the demolition of five residences, not motel

units.²⁶ The City-approved project will not result in the loss of existing low-cost overnight units, and thus the Appellants' contentions on this point do not raise LCP conformance issues in that regard.

With respect to the Appellants' assertions that the project is inconsistent with Coastal Act Section 30213, while the City-approved project will not provide any lower cost units onsite, the City conditioned its approval to require a \$200,000 payment into a City account for the development of low-cost accommodations in southern San Luis Obispo County (Planning Division Condition 25). This in-lieu fee is meant to ensure that new lower cost units are built in the Pismo Beach area as mitigation for the approved project's lack of onsite affordable units.

The approved project allows for 128 hotel units. While no specific room rates have been identified, the Applicants have stated that no lower cost units will be accommodated on site, and that the rates for all 128 units will be higher cost and commensurate to those charged at similar full service beachfront resorts within Pismo Beach.²⁷ Per the Commission's typical approach, described above, the 128 hotel rooms would necessitate at least 32 (25%) of them being reserved as lower cost. The Applicant did not provide the information necessary to evaluate whether it was feasible in this case to provide 32 units at the subject site, and the City did not evaluate this question either. This lack of information and analysis means that the primary feasibility question was not resolved in the City's action, and represents a substantial issue.

If determined to be infeasible to provide 32 lower cost units onsite, then an offsite mitigation fee could be levied, based on the cost to build 32 hostel beds. Relying on Hostelling International's cost estimate, a standard amount could be used of \$42,120 per hostel bed to estimate all construction costs, excepting out land costs. To estimate the cost of land for a commercial parcel with similar amenities as the approved project (to most accurately reflect what the land cost would be for providing lower cost units onsite), the Applicant provided an assessment of land costs in the vicinity. That assessment indicated that commercial land averages roughly \$40 per square foot. However, that assessment relied on land well away from the beach and visitor attractions, including several sites located outside of the coastal zone altogether.

The Applicant also noted that the 2015 purchase price for APN 005-152-033, the 28,475 square foot Hinds Avenue parcel, was \$3,000,000, equating to \$105 per square foot.²⁸ Given the primary objective is to provide lower cost options at that very site, it seems an appropriate land value to use in this case. Multiplying \$105/square foot by 120 square feet per hostel bed (the standard size provided for each hostel bed) yields a land cost of \$12,600 per hostel bed. Adding this land cost to the building cost yields a grand total of \$54,720 per hostel bed (\$42,120 construction cost plus \$12,600 land cost). Therefore, a lower cost accommodations in-lieu mitigation fee based on the Commission's methodology and these figures would total \$1,751,040

²⁶ As a condition of approval in order to demolish the existing residential units, the City required the payment of an affordable housing in-lieu fee, per the requirements of Pismo Beach Municipal Code Section 17.26 (Inclusionary Housing Requirements and Affordable Housing Incentives – not a component of the City's certified LCP). Furthermore, the City required relocation assistance for existing tenants and replacement housing for all lost affordable units.

²⁷ The estimated 2014 average daily room rates (ADRs) at comparable Pismo Beach beachfront resort hotels ranged from \$208 to \$375, with monthly ADRs at these same hotels ranging from a low of \$156 in January to \$489 in July.

²⁸ Note that the 2009 purchase price for the same property was \$6,500,000, resulting in a \$228 per square foot value.

(128 proposed hotel rooms x 0.25 = 32 lower cost rooms x \$54,720 = \$1,751,040).

While the City's approval does represent a good faith effort to ensure that the project provides lower cost accommodations, the required \$200,000 fee is not adequate. While the fee is certainly a significant sum of money and could be used to support lower cost accommodations to accommodate a broader segment of society to access the City's coastal zone, it is not enough to sufficiently mitigate for a project of this size and magnitude. The City's fee would be a sufficient amount to construct a maximum of five hostel beds based upon the cost of \$42,120 to construct one hostel bed if there were no land costs implicated, or four beds using the \$54,720 per bed number with land included, well below the 32 beds that represent 25% of the new units. Furthermore, it is not clear how the City came to the \$200,000 fee amount, or what those funds could be used for.

In conclusion, the City did not determine whether lower cost units could feasibly be provided at this location. In addition, even if it is presumed that such units on site would be infeasible, the City's mitigation fee is inadequate to offset impacts. While the City-approved project does require a lower cost mitigation fee to pay for new units, the fee is insufficient mitigation to address the approved project's lack of onsite affordable, low cost accommodations units. The approved project raises a substantial issue with respect to the provision of lower-cost visitor accommodations.

5. Water Availability

Appellants' Contentions and Applicable LCP Policies

The Appellants contend that the approved project is inconsistent with Pismo Beach LCP water supply policies because it cannot be served by a guaranteed water supply in perpetuity, particularly in light of the City's current drought declaration. The LCP requires new development to be served by an adequate and available supply of water, establishes specific quantities to be reserved, prioritizes certain types of development when specific water availability thresholds are met, and requires all development to conserve water. Specifically, the LUP's Facilities and Services Element requires all new development to have water conserving features, including drought tolerant landscaping and low-flow fixtures, and prohibits new development when such development would individually or cumulatively exceed the capacity of the City's water supply. The LUP requires the City to maintain water reserves at 5% over average daily demand at all times and maintain a summer peaking supply of 130% over average weekly demand. Finally, when total annual water use reaches 90% of projected available supplies, the LCP requires that approval of developments that increase water usage shall be limited to essential public services, public recreation, commercial recreation, and visitor-serving land uses. See Exhibit 6 for the applicable LCP policies and standards.

Analysis

The City receives its drinking water supply from a complex mix of sources, including local groundwater from the Arroyo Grande Groundwater Basin, surface water from Lake Lopez reservoir, and imported water from the State Water Project (SWP). The City has a contractual SWP allocation of 1,100 acre-feet (AF) of water per year as its base allocation, and purchases an additional 1,240 AF/year as a drought buffer. The drought buffer is additional purchased State

water that can only be used when the City's primary base allocation falls below 100% (i.e., when the State does not deliver the City with all 1,100 AF of its base allocation). The total amount of delivered drought buffer water cannot exceed the base allocation; it is purely meant as insurance water to make up for any base allocation shortfalls. Additionally, San Luis Obispo County receives 25,000 AF/year (AFY) of State water, 15,273 AF of which is unallocated. The County traditionally has allocated this excess water to other water providers in years of drought and/or when the State is not providing those providers with 100% of their yearly base allotment. Pismo Beach is currently receiving 772 AF from the County to help augment its water supply. Finally, the City has an allocation of 892 AFY of water from Lake Lopez, and 700 AFY of groundwater. Therefore, the City has a total water allocation of 3,932 AF of water per year;²⁹ however, since the amount of drought buffer water cannot exceed that which is authorized via the base allocation, the amount of water the City can actually use each year is 2,692 AF. These numbers do not, however, include the additional water the City receives from the County, or any unused carryover water stored in reserves from previous years' allocations.

According to the City's Public Works Department, the City's 2015 water supply and usage calculations showed that supply totaled 3,228 AF. The City is currently only receiving 20% of both its base SWP allocation of 1,100 AF (220 AF) and its drought buffer allocation (248 AF), as well as 90% of its allocated water from Lake Lopez (803 AF). The City is receiving 772 AF of water from San Luis Obispo County's unallocated excess State water, and also has 1,477 AF of unused reserves from previous years' Lake Lopez and State water deliveries. The City's typical water demand is 1,950 AF, and its required water usage due to the State Water Resources Control Board's mandatory 24% water curtailment requirement to address the current drought situation is 1,482 AF.³⁰ Based on these numbers, the City is currently consuming roughly 46% of its available water supply.

The proposed project is estimated to use 17.1 AFY of water, based on assumptions including 128 hotel rooms, two guests per room, and a 75% average yearly occupancy rate. These assumptions result in an anticipated water usage of roughly 0.134 AF per hotel room.³¹ The facility's 192 guests are estimated to each use 53 gallons of water per day, and its 25 employees are estimated to each use eight gallons/day, for a total indoor water usage of 10,376 gallons/day, or 11.6 AFY. Hotel landscaping and restaurant usage adds a projected additional 1.2 and 4.3 AFY, respectively, for the grand total of 17.1 AF. In order to address the project's water consumption, the City placed numerous conditions on the approved CDP, including requirements for drip and low-water-using irrigation (Planning Division Condition 3) and drought-tolerant landscaping (Planning Division Condition 14) (see Exhibit 4). Furthermore, Engineering Condition 9 requires the Applicant to offset the project's anticipated water usage in an amount equal to 125% of its estimated water demand. In other words, the Applicant must offset 21.375 AFY of water within

²⁹ 1,100 AF of State Water, 1,240 AF of State Water Drought Buffer, 892 AF from Lopez Lake, and 700 AF of groundwater.

³⁰ According to the City, in June 2015 the City reduced water consumption by 24%, and in July 2015 reduced consumption by 29%.

³¹ The City estimates that historically City hotels have consumed an average of 0.2 AFY. However, that number is based off of hotels without any water conservation requirements. With required conservation measures, the City estimated the proposed project would consume roughly 33% less water, and therefore estimated the approved project's water consumption at 0.134 AFY.

the City, including through such potential measures as retrofitting existing water fixtures and appliances, and ensure that such offsetting remains in perpetuity.

As described above, the City currently consumes 1,482 AF out of its available total water supply of 3,228 AF. Even conservatively using the City's typical usage metric of 1,950 AF, adding the 78.84 AF that is estimated to be consumed by already approved development,³² and disregarding the 772 AF interim supply from San Luis Obispo County for drought buffer augmentation, the City's water usage would still be below its available supply (2,029 AF demand and 2,456 available supply). The City-approved project is estimated to use 17.1 AFY; however, as conditioned, the approved project would reduce water consumption in Pismo Beach by 21.375 AFY through required water offsets. In areas with water supply limitations, the Commission finds that simply offsetting a proposed development's estimated water usage is not an appropriate means to find that it can meet LCP or Coastal Act water availability requirements (e.g., if a project is proposed in an over-drafted groundwater basin where the demand is already greater than its supply, it is not appropriate for the reviewing authority to find that public services are available to serve the development just because the project is required to offset, or even reduce, its water usage). Instead, a reviewing authority must affirmatively show that long-term and sustainable water supplies are ready and available to serve the proposed development.

In this case, the City has shown that its water demand, inclusive of the approved project's estimated usage, is well below its available supply, thereby ensuring consistency with LCP policies that only allow development when such development's water usage won't individually or cumulatively exceed the City's available supply. Furthermore, the project's water offset requirement represents a proactive measure to ensure that the City's water supply remains available over time. In other words, City Engineering Condition 9 represents a proactive, water conserving measure to prolong and economize the City's existing water supplies, as opposed to a tool meant to overcome known existing water deficiencies.

Therefore, because the City appears to have an adequate and available supply of water, including because its supply currently exceeds its demand even under conservative scenarios, and because the City appropriately conditioned the approved project to require water conservation measures (including drought-tolerant landscaping, drip irrigation, and onsite water-saving fixtures), and to offset and reduce its water consumption in perpetuity so as to ensure that the project does not usurp and overwhelm scarce supplies in the future, the Commission finds that the approved project is consistent with LCP water availability requirements, and that the appeal contentions do not raise a substantial LCP conformance issue with respect to water supply availability.

Substantial Issue Conclusion

The City-approved project raises substantial LCP conformance issues in terms of lower-cost visitor accommodations, coastal hazards, and public access and recreation. Therefore, the Commission finds that **a substantial issue** exists with respect to the City-approved project's conformance with the certified City of Pismo Beach LCP and the public access and recreation

³² The approved projects include 128 multifamily residential units, 119 single-family residential units, 232 hotel rooms, and two commercial facilities. These approved projects' estimated water usage does not include conservation measures.

policies of the Coastal Act, and takes jurisdiction over the CDP application for the proposed project.

H. COASTAL DEVELOPMENT PERMIT DETERMINATION

The standard of review for this CDP determination is the City of Pismo Beach certified LCP and, because the proposed project is located between the first public road and the sea, the access and recreation policies of the Coastal Act. All Substantial Issue Determination findings above are incorporated herein by reference.

1. Land Use and Visual Resources

Applicable Policies

Land Use Plan Design Element Policy D-2 Building and Site Design Criteria (in relevant part)

a. Small Scale

New development should be designed to reflect the small-scale image of the city rather than create large monolithic buildings. Apartment, condominium and hotel buildings should preferably be contained in several smaller massed buildings rather than one large building. Building mass and building surfaces such as roofs and exterior walls shall be highly articulated to maintain a rich visual texture and an intimate building scale. Maximum height, setback, and site coverage standards to achieve the desired small-scale character will be regulated by City ordinance. Except where specified otherwise by this Plan or further limited by the implementing ordinance, the maximum height standard for new buildings shall not be more than 25 feet above existing natural grade in Neighborhood Planning Areas A through J, and Q; and not more than 35 feet above existing natural grade in the remaining portions of the Coastal Zone.

...

c. Views

Views to the ocean, creeks, marsh, and surrounding hills should be preserved and enhanced whenever possible. The feeling of being near the sea should be emphasized, even when it is not visible.

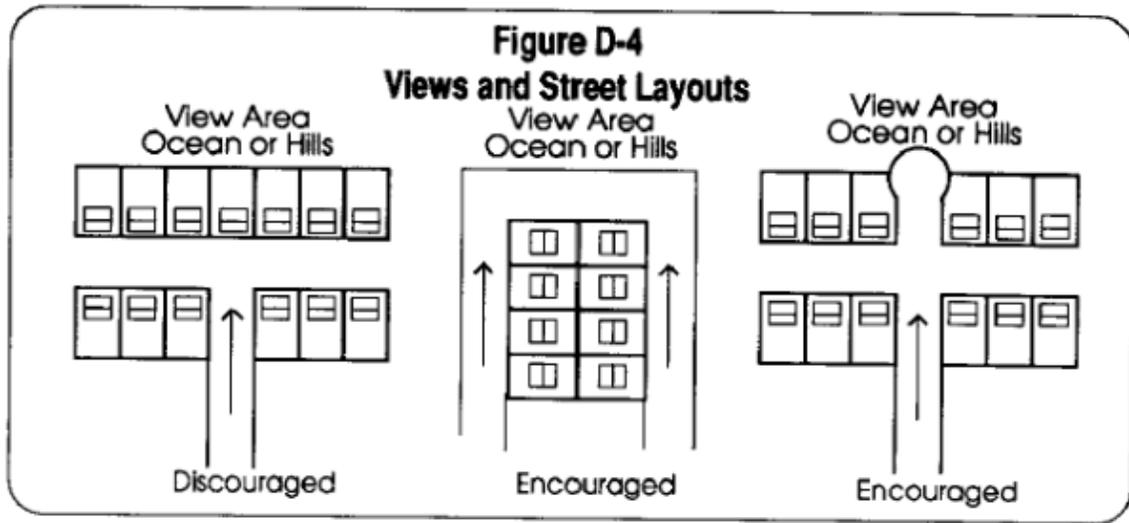
d. All Facades

Architectural features shall be consistent throughout a development, even when a portion of the development is hidden from public view.

Policy D-40 Street Layouts

New streets shall be laid out so as to emphasize views. In many cases this means streets should be perpendicular to the view as shown in Figure D-4. For example, streets perpendicular to the ocean should be open at the end toward the ocean and not blocked with landscaping or buildings.

Figure D-4:



Policy D-41 Special Design Concerns (in relevant part)

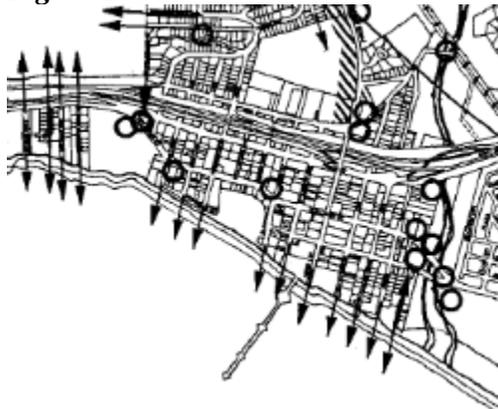
Figure D-3 maps areas of the city where special concern for urban design is necessary. These sites and features shall be included in the Zoning Ordinance, Architectural Review Overlay Zone. Categories of concern include:

...

c. Street Ends

New buildings or structures on parcels at these street ends shall be sited so as to not block views, or to minimize view impairment when no feasible siting alternative exists.

Figure D-3:



Implementation Plan Section 17.102.010(I)(3) (in relevant part)

Special Height Limitations--Ocean Fronting Parcels. Special height limitations for ocean fronting parcels in the following planning areas shall be as described below:

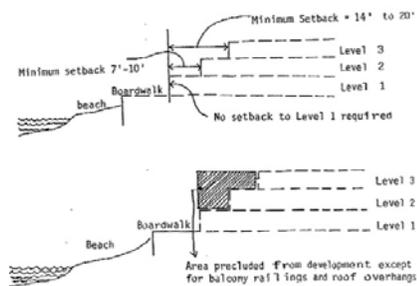
...

3. Commercial Core Planning Area. All structures on ocean fronting parcels shall be limited to twenty-five feet in height above site grade.

Implementation Plan Section 17.081.030(C) Special Height Limits—Ocean Fronting Parcels (in relevant part)

C. Commercial Core Planning Area. Beginning at the inland extent of the public boardwalk identified in the city’s local coastal program, one story facades no higher than twelve feet in height above site grade (including roofs) shall be permitted immediately adjacent to the boardwalk. Additional story facades beyond the first level shall maintain the following minimum setbacks from the inland extent of the public boardwalk:

Level	Setback from Boardwalk
<i>1st level</i>	<i>None required</i>
<i>2nd level</i>	<i>7' - 10' minimum setback</i>
<i>3rd level</i>	<i>14' - 20' minimum setback</i>
<i>4th level</i>	<i>21' - 30' minimum setback</i>



As described in the Substantial Issue portion of this report, the Pismo Beach LCP contains numerous policies requiring development to be sited and designed in a manner that protect views of the ocean, bluffs, beaches, and foothills throughout the coastal zone, with particular prescriptions for such view protection within the City’s downtown commercial core. LUP Design Element Policy D-2 sets forth the general criteria by which development within the coastal zone must be sited and designed, including requirements: 1) to prevent monolithic buildings by encouraging building articulation to promote visual interest; 2) that larger structures, such as hotels, be contained within several smaller massed buildings to promote the City’s small-scale image and be of a pedestrian scale, and; 3) to preserve and enhance views to the ocean and surrounding hills whenever possible. These overarching view protection objectives are met through policies that dictate allowable building height, bulk, and setbacks. With respect to building height, all development within the Downtown Core planning area (Planning Area K) is required to have a maximum building height of 35 feet per Design Element Policy D-2(a). IP Section 17.102.010(I)(3) further limits all structures on ocean-fronting parcels within this area to 25 feet in height. The purpose of these standards is to provide quantitative metrics to ensure that allowed development contains appropriate massing and scale, including so that development gradually steps up in height farther away from the beach so that the beachfront is not walled off by large domineering structures. In terms of required setbacks, Design Element Policies D-40 and D-41 describe particular requirements for the preservation of ocean views from street ends, including that streets perpendicular to the ocean should be open at their ocean terminus and not blocked with landscaping or buildings. These policies also require that new structures at identified street ends (including the ends of Stimson and Hinds Avenues as shown in Design Element Figure D-3) be sited and designed so as not to block views or shall minimize view impairment when no feasible siting alternative exists. Finally, in terms of required building story setbacks from the City’s public beach Boardwalk, IP Section 17.081.030(C) requires oceanfront development located within the City’s Commercial Core to be set back specific distances from the Boardwalk. The standard states that first floors are allowed to be built directly abutting the Boardwalk (i.e., zero setback), but each successive floor must be set back a minimum of seven to

ten feet from the Boardwalk (i.e., the second floor must be set back at least seven feet from the Boardwalk, and the third floor must be set back at least 14 feet from the Boardwalk).

Analysis

As previously described, the proposed project is consistent with LCP policies that address the use, siting, and design of development in this particular location, including policies protecting public coastal views, building heights, setbacks from the City's public Boardwalk, and architectural design. To memorialize the Applicant's proposals, **Special Condition 1** requires final site plans showing full consistency with all applicable LCP policies relating to building heights, setbacks, articulation, lot coverage, floor area, and landscaping area. In addition, the Plans must also show other project components proposed and/or required for other reasons, including that the Plans are also required to show, in both elevation and site plan view, all public access amenities associated with the project (see also see discussion of public access and recreation requirements subsequently in this report); all landscaped areas, including using drought-resistant native and non-invasive plant species; the location of utilities, and requiring them to be placed underground; the siting and design of all stormwater and drainage infrastructure so as to ensure water quality protection (see also see discussion of water quality protection subsequently in this report); and, finally, the configuration of the mat foundation.

With respect to construction activities, **Special Condition 2** requires submission and maintenance of a Construction Plan to ensure Best Management Practices (BMPs) are implemented during construction to avoid water quality and other coastal resource impacts during construction, to minimize construction encroachment on the beach, and to require a construction coordinator to be available to respond to any inquiries that arise during construction. Finally, after construction, **Special Condition 1** requires all beach and public access areas impacted by construction be restored, as well as removal of all ice plant, rock, and debris located between the Boardwalk and the hotel facility.

As conditioned, the proposed project can be found consistent with all applicable LCP policies and standards with respect to land use and visual resources.

2. Coastal Hazards

Applicable Policies

Land Use Plan Safety Element Policy S-6 Shoreline Protective Devices

Shoreline protective devices, such as seawalls, revetments, groins, breakwaters, and riprap shall be permitted only when necessary to protect existing principal structures, coastal dependent uses, and public beaches in danger of erosion. If no feasible alternative is available, shoreline protection structures shall be designed and constructed in conformance with Section 30235 of the Coastal Act and all other policies and standards of the City's Local Coastal Program. Devices must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, and to maintain public access to and along the shoreline. Design and construction of protective devices shall minimize alteration of natural landforms, and shall be constructed to minimize visual impacts. The city shall develop detailed standards for the construction of new and repair of existing

shoreline protective structures and devices. As funding is available, the city will inventory all existing shoreline protective structures within its boundaries.

Implementation Plan Section 17.078.010 Purpose of Zone.

The hazards and protection (H) overlay zone is intended to prevent unsafe development of hazardous areas; to minimize damages to public and private property; and to minimize social and economic dislocations resulting from injuries, loss of life, and property damage. This overlay zone includes those area unsafe for development which are (1) prone to downslope movement or severe land slippage (i.e. slump, landslide areas); (2) in direct contact with known active or potentially active faults or fault zones; and (3) located in areas of high liquefaction potential, unstable slopes, retreating ocean bluffs or easily erodible areas. This overlay zone is intended to maintain and enhance land and watershed management, control storm drainage and erosion and control the water quality of both urban runoff and natural water bodies by regulating development within those areas with slopes of ten percent or greater. Also included in this overlay zone is the city's hillside regulations. This overlay zone is intended to also protect and enhance the shoreline bluffs and beaches of the city from visual as well as physical deterioration or erosion.

IP Section 17.078.060(E) Shoreline protection criteria and standards (in relevant part)

New development shall not be permitted where it is determined that shoreline protection will be necessary for protection of the new structures now or in the future based on a one hundred year geologic projection.

The Pismo Beach LCP requires new development to be located outside of areas subject to coastal hazards, particularly areas that may require future shoreline protection. First, LUP Safety Element Policy S-6 states that protective devices, such as seawalls, revetments, groins, breakwaters, and riprap shall be permitted only when necessary to protect *existing* principal structures, coastal dependent uses, and public beaches in danger of erosion. Since only existing development is allowed protective devices, new development must therefore be built without the use of protective devices. The Implementation Plan (IP) further refines these policies, including establishing the Hazard Protection Overlay Zone (Zone) to a broad swath of the City's coastal zone, including nearly the entire area located seaward of the first public road, as well as all bluff-top and shoreline parcels. IP Section 17.078.010 describes the Zone's overarching goals, including to: 1) prevent unsafe development in hazardous areas; 2) minimize damages to public and private property; 3) minimize social and economic dislocations resulting from injuries, loss of life, and property damage; and 4) ensure that allowed development protects and enhances the City's beaches from both visual as well as physical deterioration and erosion. IP Section 17.078.060(E) states that new development shall not be permitted where it is determined that shoreline protection will be necessary for structural protection now or in the future based on a 100-year geologic projection. In sum, the LCP sets up a structure by which new development must be located outside of hazardous areas based upon a 100-year projection, and cannot rely on shoreline armoring to do so. The IP then includes additional parameters for specifically mapped portions of the coastal zone, including those areas along the City's bluffs and beaches.

Analysis

As described previously, the site³³ meets LCP requirements with respect to siting new development outside of hazardous areas. However, that does not mean the site is not without hazards risk. The proposed project is located in an area that is subject to coastal hazards due to the inherent nature of its beachfront location. Due to storm surges, future sea-level rise, and other potential uncertainties, the site may be vulnerable to infrequent flood episodes. In terms of recognizing and assuming the hazard risks for shoreline development, the Commission's experience in evaluating proposed developments in areas subject to hazards has been that development has continued to occur despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low interest loans, grants, subsidies, direct assistance, etc.) in the millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, Applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, this approval is conditioned for the Applicant to assume all risks for developing at this location (see **Special Condition 6**).

Furthermore, the proposed project is consistent with LCP requirements prohibiting the use of shoreline armoring for the protection of new development against coastal hazards. The proposed project utilizes a mat foundation due to its ability to address stability and structural integrity on the site's moist sandy soils, including with respect to liquefaction and dynamic settlement. The proposed development is located inland from current erosion and hazards threat. The proposed mat foundation is located 12 feet below grade, and the first habitable floor is at grade. Thus, as proposed, there is no structural element serving to elevate the hotel facility above erosion and hazard risk. Furthermore, there is no proposed seawall or other armoring device meant to deflect potential wave energy. In sum, the approved project does not include any form of impermissible shoreline protection in its design and engineering, and is consistent with LCP requirements in this respect. **Special Condition 1(i)** thus authorizes the construction of a mat foundation, and prohibits the use of piers and caissons and any other foundation elements that are designed or engineered to address ocean and related forces, including wave attack, ocean flooding, or erosion. Instead these ocean-related forces are to be addressed through the project's setbacks and removal over time, as described below.

In order to ensure that the proposed development maintains its prohibition on shoreline armoring in the future, **Special Conditions 7(b) and (c)** prohibit all shoreline protective structures, including but not limited to seawalls, revetments, and groins in the event the development is threatened. The condition extinguishes any rights that may exist to construct such shoreline protective devices, including any rights under LCP LUP Policy S-6 and IP Section 17.078.060(E). **Special Condition 7(a)** articulates that the intent of the CDP is to ensure that

³³ The Commission's ecologists, Dr. Laurie Koteen and Dr. John Dixon, have reviewed the project materials and concluded that the site was most likely part of a former dune field. However, due to existing development on the site's eastern/inland side, and the development patterns surrounding the site that isolate the property from the natural wind and wave processes that characterize dune habitat formation, they conclude that the site should not be considered dune ESHA. While the Commission ordinarily considers dune, even degraded dune habitat, to be ESHA, because of the unique circumstances at this project site, including its location within the urban core of Pismo Beach that precludes any possible natural dune formation, the Commission finds that this particular location should not be considered dune ESHA.

development does not use structural armoring as a mechanism to cope with any potential coastal hazards, and that, in lieu of armoring, the response to abate such hazards is through removal and restoration over time. **Special Condition 7(d)** ensures that the development will only be allowed to remain onsite if it is safe for occupancy and use without additional measures beyond ordinary repair and maintenance and without shoreline protection. The condition is meant to precisely define when the project (or a portion of the project) is impermissibly located within a hazardous location necessitating shoreline protection and when the project (or a portion of the project) itself is impermissibly functioning as shoreline armoring. When either or both of these situations arise, the project will then be inconsistent with LCP requirements that prevent development within hazardous locations (IP Sections 17.078.010 and 17.078.060) and that do not allow new development from using shoreline protective devices to abate any coastal hazards (IP Section 17.078.060 and LUP Policy S-6). Specifically, the condition requires the Applicant to submit a plan for removal of development if any of three triggers is met: (1) if a government agency has ordered that any portion of the approved development (including but not limited to buildings, roads, utility infrastructure, subsurface elements, etc.) are not to be occupied or used due to one or more coastal hazards, and such government agency concerns cannot be abated by ordinary repair and/or maintenance;³⁴ (2) if any portions of the facility's major structural components, including exterior walls, floor and roof structures, and foundation, must be significantly altered (including renovation and/or replacement) to abate coastal hazards³⁵; or (3) if any portion of the approved foundation and/or subsurface elements (including but not limited to mat foundations, grade beams, retaining walls, etc.) become visible at or below +8 feet MLLW (the elevation at which the facility's mat foundation will be located).

Special Condition 7(d) emanates from recent Commission actions for large shoreline resort hotel facilities³⁶ that seek to define when a development is located in a hazardous location and would need armoring, and/or when the structure itself is impermissibly acting as shoreline armoring. For example, in this case, if the beach has receded to elevation +8 feet MLLW, the erosion will have been so deep that it will expose the foundation and cause the first floor's habitable space to be 12 feet above grade, and thus the foundation and its open louver system will serve to elevate the structure above ocean waters and protect against erosion risk. As previously discussed, elevation is a form of shoreline protection when it functions in this way; that is, when it is meant to protect against erosion and other coastal hazards. Therefore, Special Condition 7(d)(3) articulates the trigger point for when the structure is acting as impermissible shoreline armoring, ensuring that if this situation arises, that portion of the structure functioning as such must be removed and the site restored. Furthermore, Special Conditions 7(d)(1) and (2) define when the project site is subject to hazards at a frequency and/or magnitude at which the site would be deemed hazardous and therefore when it would require shoreline protection. The condition defines the point at which this determination would be made by the extent of damage, and the

³⁴ The condition defines "ordinary repair and maintenance" as including sealing and waterproofing repair, and/or maintenance that does not involve significant alteration to the building's major structural components, including exterior walls, floor and roof structures, and foundation.

³⁵ The condition defines "exterior wall major structural components" as including exterior cladding and/or framing, beams, sheer walls, and studs; "floor and roof structure major structural components" as including trusses, joists, and rafters; and "foundation major structural components" as including any portion of the mat foundation, retaining walls, columns, and grade beams.

³⁶ Including for A-3-SNC-98-114 (Monterey Bay Shores Resort), approved by the Commission in April 2014.

resultant type of necessary repair work, caused by coastal hazards. The condition specifies that ordinary repair work, including waterproofing and alterations to non-structural components, would be authorized. Thus, if high seas and waves from a large storm caused some minor damage to the facility, but that damage was very minimal and addressed by simple repair work, then such a situation does not rise to the threshold for deeming the site hazardous and unsafe for continued use and/or requiring shoreline protection. However, when the hazard causes enough damage that significant alteration, including replacement, of the hotel facility's major structural components is necessary, then the site is subject to hazards at a level unsafe for continued human use and occupancy without some type of shoreline protection. Essentially, the repair work defines the point at which the site is deemed hazardous. When hazards are infrequent and/or weak enough to where simple repair work is needed, such work is allowed. Conversely, if such hazards are strong and/or frequent enough in which major repair work to fix damaged structural elements is necessary, the trigger point for determining that the development is located in an LCP impermissible hazardous site has been reached, and therefore removal of the affected portion of the development must take place. Allowing for repair work from a coastal hazard event(s) that is strong/frequent enough in which the facility's major structural elements, including its foundation and/or wall studs, are damaged to an extent at which such elements would need to be replaced is a trigger point that defines when allowing such work would inappropriately perpetuate structural development and human occupancy within a hazardous location absent some type of shoreline protection. With respect to what defines and differentiates ordinary repair and/or maintenance versus major structural alteration, the condition is modelled after language approved in recent LCP updates, including for both Marin County and Solana Beach,³⁷ that differentiated between these two types of repair work, including by specifying the types of building components that would be considered structural. Therefore, Special Condition 7(d) relies on recent Commission actions on both LCPs and CDPs to define when the site is hazardous and would need structural protection, and/or when the structure itself is acting as impermissible shoreline protection, and thus, in either case, when the structure must be removed and the site restored.

Finally, to ensure that future property owners are properly informed regarding the terms and conditions of this approval, this approval is also conditioned for a deed restriction to be recorded against the property involved in the application (see **Special Condition 13**). This deed restriction will record the conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

With these conditions, the development will not utilize shoreline protection now or in future, and will instead abate potential future hazards through removal and site restoration when defined trigger points are reached. Therefore, with respect to shoreline erosion and related coastal hazards, the project, as conditioned, can be found consistent with applicable LCP hazard policies.

3. Lower Cost Visitor Serving Facilities

Applicable Policies

³⁷ Marin County LCP Amendment LCP-2-MAR-13-0224-1 Part A (Marin LUP Update), approved by the Commission in May 2014; City of Solana Beach Land Use Plan, approved by the Commission in March 2012; and City of Solana Beach LCP Amendment SOL-MAJ-1-13, approved by the Commission in January 2014.

The Pismo Beach LCP does not explicitly include specific policies aimed at protecting existing, or requiring new, lower cost visitor serving facilities in this area. However, because the proposed project is located seaward of the first through public road and the sea, the Coastal Act's access and recreation policies also apply to any proposed development at this location. Section 30213 of the Coastal Act protects lower cost visitor-serving facilities and states:

Section 30213. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

The commission shall not: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other similar visitor-serving facility located on either public or private lands;...

Coastal Act Section 30213, which protects lower cost visitor-serving recreational land uses and facilities, has its genesis in the 1975 California Coastal Plan. Based on extensive public input in the early 1970s, the Coastal Plan found that few tourist facilities for persons of low and moderate income were being built in many parts of the coastal zone, and that many such low and moderate cost facilities were being replaced by facilities that had higher costs, including particularly in terms of overnight accommodations. The Coastal Act addressed these findings in part by including the specific Section 30213 mandate to protect, encourage, and where feasible provide lower cost visitor and recreational facilities.

Over the years, the low-cost facilities issue has been primarily focused on overnight accommodations because permit applicants have typically requested that the Coastal Commission and LCP-certified local governments approve higher-end overnight accommodations on land zoned for visitor-serving uses, and in some cases on land already containing lower cost accommodations, rather than pursuing lower cost accommodations. Other applicants have proposed non-visitor-serving accommodation uses on sites of existing lower cost accommodations. Additionally, applications for the conversion of hotels and motels to, or the construction of hotels and motels as, time shares, condominium ownership, and similar ownership frameworks and combinations have generally increased. Often such facilities are more akin to residential uses – sometimes they are categorized as “quasi-visitor-serving” or “quasi-residential” or “limited use overnight visitor accommodation” or “visitor serving residential” – and thus these types of developments can reduce opportunities for publicly available overnight accommodations, especially lower cost facilities. Overall, the Commission's permit experience confirms the need to guard against the loss or preclusion of lower cost overnight accommodations along the coast.

The Commission has also addressed the changing marketplace for visitor-serving and residential land uses. By the 2000s, the concern for the impact of condominium hotels and hotel conversions was growing. On August 9, 2006 the Commission held a workshop on condo-hotel construction and conversion that encompassed the topic of overnight visitor affordability. Background research for the workshop showed that only 7.9% of the overnight accommodations in nine popular coastal counties were considered lower cost, affirming the ongoing need for more effective implementation of Coastal Act Section 30213.

The Commission has implemented Section 30213 by requiring that lower cost accommodations be provided onsite as part of a project or by requiring funds to be paid for new lower cost accommodations to be constructed elsewhere.³⁸ With respect to the provision of onsite lower cost accommodations, the first step is to identify and define what constitutes a lower cost unit. In a constantly changing market, it can be difficult to define what price point constitutes low-cost and high-cost accommodations for a given area. In its previous actions, the Commission has addressed what are appropriate terms for defining low-cost and high-cost hotels, including applying a quantitative methodology for determining what is considered “lower cost” in the geographic area in question.³⁹ More recent Commission actions have used a formula to determine low and high-cost overnight accommodations for a specific part of the coast.⁴⁰ The formula is based on California hotel and motel accommodations (single room up to double occupancy), and does not incorporate hostels, RV parks, campgrounds or other alternative accommodations into the equation, as these facilities do not typically provide the same level of accommodation as hotels and motels. Rather, hostels and campgrounds are generally inherently lower cost, and are the type of facilities that a mitigation charge for the loss of affordable overnight accommodations would generally support.

The formula compares the average daily peak rate (generally July and August) of lower cost hotels and motels in a specific coastal zone area (e.g., a city or defined urban area) with the average daily rates of hotels and motels across the entire State of California. Under this formula, low-cost is defined as the average daily room rate for all hotels within a specific area that have a room rate less than the statewide average daily room rate. To obtain data inputs for the formula, statewide average daily room rates are collected monthly by Smith Travel Research (STR),⁴¹ and are available on the California Travel and Tourism Commission’s website under the heading “California Lodging Reports”.⁴² To be most meaningful, peak season (summer) rates are utilized for the formula, and to ensure that the lower cost hotels and motels surveyed meet an acceptable level of quality, including safety and cleanliness, the formula recommends only AAA Auto Club rated properties to be included in any search. According to the AAA website, “to apply for (AAA) evaluation, properties must first meet 27 essential requirements based on member expectations – cleanliness, comfort, security and safety.” AAA assigns hotels ratings of one through five diamonds.

Thus, the Commission has implemented Coastal Act 30213 by defining what is and is not a lower cost unit, determining how many units per a given proposed project should be reserved as lower cost, ensuring that such units are provided onsite where feasible, and, if not feasible, providing ways to mitigate for the lack of onsite lower cost units by paying specified in-lieu fees for those units construction elsewhere.

³⁸ See the discussion of the Commission’s past actions in determining the required lower cost accommodations in-lieu fees in the Substantial Issue Determination section of this report. As discussed therein, the Commission has generally required that 25% of new hotel units be reserved as lower cost units onsite, or, if not feasible to do so, to pay an in-lieu fee sufficient to pay for the construction of the same number units offsite.

³⁹ Including CDPs 5-04-291, 5-88-062, 5-84-866, 5-81-554, 5-94-172, 5-06-328, A-253-80, A-69-76, A-6-IMB-07-131, 3-07-002, and 3-07-003.

⁴⁰ Including LCP amendment SBV-MAJ-2-08 and CDP amendment 5-98-156-A17.

⁴¹ Smith Travel Research data is widely used by public and private organizations.

⁴² See <http://www.visitcalifornia.com>.

Proposed Project

As part of this permit application, the Applicant determined lower cost accommodations units within the Pismo Beach area to charge no more than \$130 per night in the July peak season. This number was derived from a slight variation on the Commission's typical methodology, including by reviewing the five-year average California statewide peak July rate and the average rate of all hotel rooms in the Pismo Beach area that are below that five-year California statewide rate. Their analysis identified the five year average statewide July rate (2011-2015) at \$142.95.⁴³ The Applicant then searched for hotel rooms in Pismo Beach and surrounding areas whose average daily rates were below \$142.95. Based on a review of seventeen properties totaling 927 hotel rooms located within five miles of the coast in Pismo Beach, Morro Bay, Cambria, Arroyo Grande, and Grover Beach, six properties, totaling 357 rooms, had average rates below \$142.95. The average price of these hotel units was \$130.32. See Exhibit 8 for the Applicant's analysis in determining lower cost accommodations rates.

The proposed project provides for 128 hotel units. While no specific room rates have been identified, the Applicant has stated that no lower cost units will be accommodated on site, and that the rates for all 128 units will be commensurate to those charged at similar full service beachfront resorts within Pismo Beach.⁴⁴ Because those resorts' July average daily rates range from \$271 to \$489, all above the area's \$130/night lower cost threshold, and given that the project will be a full-service beachfront resort hotel including a spa, fitness center, valet parking, etc., the Commission understands that all 128 rooms will be high cost. Therefore, no lower cost accommodations units are proposed onsite.

However, in lieu of onsite hotel accommodations, and in lieu of paying offsite hostel mitigation fees, the Applicant proposes to provide low cost hotel units in an offsite location. Specifically, the Applicant proposes purchasing and operating a hotel within Pismo Beach and placing a deed restriction on the property requiring the rates to be lower cost in perpetuity. The Applicant proposes one of three identified properties, two of which are existing hotels and one that is currently a residential property. One of the existing hotel properties is located in Pismo Beach's Shell Beach neighborhood, upcoast of the proposed project site, and includes 13 rooms plus a manager's unit. The facility is single-story, and the rooms all have small kitchenettes. The hotel's existing average daily rate is \$105, ranging from a low of \$76 in January to a high of \$136 in July. Because these units essentially are already lower cost (based on the defined \$130/night threshold), the Applicant proposes to reduce these existing rates by 20%, ensuring that all 13 units would be priced at a maximum July rate of \$109.

The second existing hotel is also located in Shell Beach, consisting of 10 rooms plus an on-site manager's unit. It too is a single-story facility with small kitchenettes, and currently charges an average daily room rate of \$100, ranging from a low of \$73 in January to a high of \$130 in July. As such, these 10 units would also be considered existing lower cost units, and the Applicant

⁴³ The Applicant reviewed the five year average in order to be more representative of longer term hotel rate averages. According to STR, the California statewide average daily room rate in July 2015 was \$164.05 (see http://industry.visitcalifornia.com/media/uploads/files/editor/VisitCalifornia_201507.pdf). The five-year average rate is \$142.95. Thus, the five-year rate is lower than the 2015 rate, reflective of the yearly fluctuations in hotel rates.

⁴⁴ The estimated 2014 average daily room rates (ADRs) at comparable Pismo Beach beachfront resort hotels ranged from \$208 to \$375, with monthly ADRs at these same hotels ranging from a low of \$156 in January to \$489 in July.

similarly proposes to reduce the existing rates 20%, to a July maximum of \$104/night.

Finally, the third site is an existing 10-unit residential property located within downtown Pismo Beach and a few blocks away from the proposed hotel site. The property was built in 1965 and has been operating with month-to-month residential leases for the past 25 years. All units have small kitchens, and all but one unit is single-story. The Applicant proposes to convert nine of the units as new hotel units, and convert the two-story unit to a manager's unit. The Applicant proposes to charge monthly rates at 20% lower than what is currently charged at one of the existing hotel sites, with a defined July cap rate of \$104 and a January cap of \$58. Again, in all three sites, the Applicant proposes to purchase the property, perform all necessary repair/maintenance work,⁴⁵ and operate the hotel with deed restricted lower cost rates (increasing at no more than the Consumer Price Index (CPI) yearly) for the life of the Pismo Beach Hotel. See Exhibit 9 for the Applicant's offsite lower cost hotel proposal.

Analysis

As described previously, in implementing Coastal Act Section 30213, past Commission actions have either ensured that lower cost units are provided onsite, or required an in-lieu fee for an equivalent number of lower cost units to be built offsite. The Commission has typically required at least 25% of new proposed higher cost accommodations units to be lower cost, and, if found to be infeasible to provide those units onsite, has required mitigation payments for the construction of an equivalent number of lower cost units (including hostel beds) offsite.

In this case, the Applicants did not provide information, including the proposed hotel's revenue and operating proforma assumptions, indicating that reserving 32 of the hotel's 128 proposed units as lower cost (e.g., charging no more than \$130 per night for 32 rooms, or including other onsite lower cost accommodations such as small cabins or shared/group facilities) is infeasible. Thus, there is no evidence to conclude the infeasibility of providing onsite lower cost accommodations. As such, it is possible that it is feasible to provide such units onsite.

Bracketing that question, when onsite lower cost units are not provided, the Commission has typically required an in-lieu fee based on the cost to build an equivalent number of hostel beds. In this case, the required fee to pay for the construction of 32 offsite hostel beds would be \$1,751,040.⁴⁶ This money generally would go to California State Parks, Hostelling International, or another reputable organization to be used to build and operate lower cost accommodations within the coastal zone. However, in lieu of this typical mitigation approach, the Applicant proposes to provide lower cost hotel units in one of three offsite locations by deed restricting those units as lower cost in perpetuity. The proposal represents a mechanism for the provision of lower cost accommodations different from that which the Commission has traditionally seen and has traditionally been part of the Commission's lower cost accommodations provision arsenal. As with any novel approach, the proposal contains some elements that might be able to meet Coastal Act requirements, and some elements that are more questionable in this respect.

First, one of the Commission's overarching objectives in Coastal Act Section 30213 implementation is to provide *new* lower cost accommodations units. Two of the Applicant's

⁴⁵ Including CDP approval from the City of Pismo Beach for any associated development.

⁴⁶ Again, see the Substantial Issue Determination section of this report for a discussion of the in-lieu fee's calculation.

proposed sites already provide lower cost hotel units. While the Applicant proposes to reduce those units' rates even further, it is unclear how this would mitigate for impacts to lower cost visitor serving resources when these units are already lower cost. In addition, the Commission's goal is to provide *new* lower cost units, and, while there is some public benefit in making existing lower cost units even more lower cost, it is difficult to analytically compare this approach with the more traditional framework that calls for the provision of new units. That is not to say that there may not be utility in this approach,⁴⁷ rather, the approach does not comport with the Commission's objective of providing *new* lower cost units, and in this case, the benefit to lower cost visitor serving resources appears minor. Thus, the Applicant's proposal to mitigate for the project's impacts to lower cost visitor serving resources by deed restricting existing lower cost hotel units to 20% below that which those units already charge is not adequate to achieve consistency with Coastal Act Section 30213, and is not considered an appropriate mitigation strategy for this proposed project.

The Applicant's identified third potential site is the existing 10-unit residential property. This proposal overcomes the existing hotel sites' inherent flaw because it would provide nine *new* units (plus one manager's unit), as opposed to retaining existing lower cost units. The next test, however, is whether it would provide a number of units sufficient to mitigate for the 128 new high cost rooms available at the proposed Pismo Beach Hotel site (i.e., 32 onsite hotel units or the payment of an in-lieu fee sufficient to create 32 new hostel beds). Again, the proposal represents a difficulty in simple comparison, including because it mixes aspects of both of the Commission's traditional practices: as opposed to either hotel units onsite or hostel beds offsite, this proposal is for *hotel* units in an *offsite* location. When comparing solely based on the number of hotel units and disregarding their location (onsite vs. offsite), the proposal's hotel units are fewer than the 32 that would ordinarily be required. Thus, when solely based on this metric, the proposed mitigation insufficiently mitigates for the Pismo Beach Hotel's 128 high cost rooms.

The next evaluation is comparing the proposed nine offsite lower cost hotel units with 32 offsite hostel beds. This comparison is even more difficult to analyze, including because hotel units and hostel beds are much different accommodations commodities. A hostel bed can vary from a single bed in group quarters with shared bathroom facilities, to a bed in a private room, sometimes with private bathrooms. Generally, however, a hostel bed serves one person, has shared bathrooms, and requires an average of 120 square feet of land area to accommodate all necessary amenities and infrastructure (hence the 120 square feet metric used in the Commission's in-lieu fee calculation). Hotel rooms, conversely, generally are larger and more private. The Applicant's proposed offsite hotel rooms average 337 square feet in size, and all currently have kitchens and private bathrooms. Because these units are larger in size than standard hostel beds, and because of the additional privacy and amenities they provide, it could be reasoned that a hotel unit in the offsite facility can contain two beds and serve two people.

⁴⁷ Indeed, the Commission has previously found that in some parts of the coastal zone the few remaining low to moderately priced hotel and motel accommodations tend to be older structures that become less economically viable as time passes. As more redevelopment occurs, including upgrades to those lower cost hotels, the stock of low-cost overnight accommodations tends to be reduced, since it is generally not economically feasible to replace these structures with accommodations that will maintain the same lower rates. However, in this case, the Applicant did not provide analysis documenting such a conversion threat within Pismo Beach, including for the two proposed existing hotel facilities. In order to prove that retaining existing lower cost units is equivalent to providing new units, at a minimum, the Applicant must demonstrate that the high cost conversion threat is acute and imminent.

However, even under this assumption, the 18 beds in the nine offsite hotel rooms would still be lower than the 32 hostel beds required of the Commission's methodology, and thus is insufficient mitigation in this regard. Further, hostels in the coastal zone typically have higher occupancy than hotels, and therefore, the offsite hotel rooms would likely be less used than a typical hostel bed.

Finally, beyond the insufficient number of units, there are other concerns with the Applicant's proposal. Ensuring that the charged rates remain within their proposed cap is a difficult endeavor, including because hotel room rates change daily reflecting market conditions. Thus, enforceability over time may be problematic. While enforcement is difficult in any lower cost accommodation project, traditionally those units are owned and managed by a public agency, such as California State Parks, or a nonprofit entity, such as Hostelling International. These entities are familiar with lower cost accommodations operations and management, and their missions are to provide public benefits in terms of lower cost accommodations, thereby ensuring that such units remain viable and occupied over time. In this case, the hotel would be owned and operated by a private, for-profit entity, which elicits potential issues that ordinarily aren't concerns when dealing with an entity whose business model to provide for lower cost accommodations. For example, it is unclear how the offsite hotel would remain viable over time, including if the property is sold to another hotel operator, or if the revenues are insufficient to cover necessary maintenance and upkeep to keep the units in an operable/occupied state when the rates are deed restricted to a specified below market rate. That is not to say that such an entity can't and wouldn't ensure the units remain lower cost, in a state of good repair, and available for occupancy over time. Rather, it is more an acknowledgement that the Commission doesn't have the same experience with such an entity as it does with more traditional lower cost accommodations providers, and thus the proposed project contains a new paradigm of enforceability issues. Finally, while the Pismo Beach LCP zones this property R-R—Resort Residential Zone, which envisions and prioritizes lodging and other commercial uses, these units are still currently serving as affordable⁴⁸ residences for nine households. Thus, at a minimum, there is a logistical concern with removing and relocating nine households.

However, that is not to say that the proposed offsite mitigation is without merit and benefit. As opposed to paying an in-lieu fee that, in some cases, is not earmarked for a specific project (or, even if it is, that project may be many years from actually being built) and therefore remains in an account without any public benefit being provided, the Applicant's proposal is a known, tangible, on-the-ground mitigation project that will provide bona fide lower cost hotel rooms. As proposed, the rates will be 20% lower than those charged at comparable lower cost hotels in Pismo Beach, and will remain so for the life of the Pismo Beach Hotel. The proposal also mitigates high cost hotels with low cost hotels, thereby mitigating in-kind, as opposed to the standard mitigation of high cost hotels with low cost hostel beds. Although the Commission has previously mitigated the lack of onsite lower cost hotel rooms with an in-lieu fee equivalent to the construction of the same number of hostel beds, this approach may not adequately offset the project's impacts. For all of the reasons described above (e.g. privacy, space, amenities), while some visitors may be willing to stay in the type of shared accommodations provided by hostels, some may choose not to stay in such an environment. The Applicant's proposal thus represents an opportunity to build new lower cost hotel rooms, and keep those rooms lower cost into the

⁴⁸ The Applicant indicates that the rents charged for the nine units range from \$725 to \$1,350 per month.

future. As discussed above, since the hotel units are larger and more private than a standard hostel bed, including their in-unit kitchens and bathrooms, these units may function to serve as a low cost option for an entire family to access Pismo Beach's amenities. Finally, the proposed offsite units represent mitigation that is within walking distance of the Pismo Beach Hotel, the project being mitigated. Thus, as opposed to building new lower cost units in a more distant locale, such as a State Park, this mitigation is more directly linked with the project being mitigated.

Clearly, as articulated above, there are positives and negatives of the Applicant's offsite lower cost hotel proposal. The units represent an innovative, identifiable, mitigation in-kind project. However, the nine units fall short of the 32 that are required. There is also difficulty in comparing the efficacy of nine offsite hotel units with 32 offsite hostel beds or 32 onsite hotel units. Indeed, determining what constitutes a lower cost "unit" has proven difficult. While the primary goal of the Commission's approach has been to ensure that 25% of the total number of proposed high cost units are lower cost, there have been multiple iterations of the Commission's definition what constitutes a "unit", including onsite hotels, offsite campgrounds, and offsite hostels. In the Commission's 2007 approval of A-3-PSB-06-001, the required \$97,020 in-lieu fee was based on mitigating 25% of the approved project's 69 high cost units (13 units) by charging \$7,463 per unit, which was based on the cost to build a camping unit in the Pismo Beach area. Thus, in that approval, the Commission required mitigation for the lack of onsite lower cost hotel units by charging a fee equivalent to the cost to build the same number of camping units. At this point in time, based upon a better understanding of the need for a broader range of lower cost accommodations that serve the public, the Commission focuses first on provided onsite lower cost hotel units, thereby mitigating in-kind. When that is not feasible, then the methodology allows for an in-lieu fee equivalent to build the same number of hostel beds. The Commission has sought the expertise from those most familiar with hostel construction and operation to ascertain the in-lieu fee that is most representative of the true cost to build and operate a hostel, thereby ensuring that the requisite in-lieu fees are proportional to the impact. This is where this project's \$54,720/hostel bed calculation emerged, which reflects the most up-to-date understanding of this issue. However, that is not to say that this approach is without limitation, including for the reasons previously articulated, in that it does not mitigate in-kind. Mitigation in-kind would require an in-lieu fee sufficient to create 32 offsite hotel units. Estimates place the cost of building new low cost hotel/motel rooms at a construction cost of \$100,000 per room, with each room requiring 250 square feet of land area. Based on this project's \$105 per square foot land cost, the total cost per room would be \$126,250 (\$26,250 land cost [$\$105 \times 250$ square feet] + \$100,000 construction cost). With 32 units required, the total in-lieu fee would be \$4,040,000. Thus, a potential mitigation fee, mitigating hotel room with hotel room, would be \$4,040,000.

Thus, in essence, the Commission's approach at this point in time is based on the premise of this proposed project providing 32 units of lower cost accommodations. The Applicant is proposing nine lower cost hotel rooms and, due to their larger size and amenities as compared with a standard hostel room, believes that such a proposal adequately mitigates for the proposed hotel's 32 high cost rooms. In essence, the Applicant argues that providing nine offsite hotel rooms is equivalent to 32 onsite hotel rooms or 32 offsite hostel beds. However, as described previously, comparing different types of accommodations units is inherently complicated and unequal, including because a hotel, campground, hostel, yurt, and cabin are all different accommodations

types, with different construction costs, different locations, different clientele, different amenities, and thus different experiences provided. The common denominator in the Commission's approach over time has been the requirement to ensure that 25% of the proposed *units* are lower cost. The Commission has defined a "unit" to be multiple accommodations types (e.g. hotel room, hostel bed, camping unit, etc.), but has not considered different accommodations types to hold different weight. In other words the Commission has not found one hotel room to count as four hostel beds, or one hostel bed to count as five campgrounds. Instead, the Commission has considered a lower cost unit not necessarily to be equal cost (providing a new hotel room is generally more expensive than providing a new hostel bed), but to be a unit nonetheless. In this case, the Applicant is providing nine offsite hotel units. Thus, at its core, the Applicant's proposal does not provide 32 units. Therefore, the proposal alone represents insufficient mitigation. In order to make it sufficient mitigation, the Applicant must also pay an offsite in-lieu fee sufficient to create 23 hostel beds.

Thus, in order to approve the Applicant's novel nine unit offsite lower cost hotel proposal, but also in recognition of its identified inadequacies, including the need to provide 23 additional units, **Special Condition 9** is imposed which mitigates for lower cost visitor serving accommodations as described in Special Condition 9(a), described below, unless the Executive Director deems that compliance with Special Condition 9(a) is infeasible (including if the Permittee is unable to secure necessary CDPs for conversion of the offsite facility from residential to hotel), in which case the Permittee shall instead comply with Special Condition 9(b). Special Condition 9(a) authorizes the Applicant's proposal to convert the existing residential property to visitor accommodations, thus providing nine units of off-site lower-cost hotel units within the Pismo Beach coastal zone. The units are to be deed restricted to the monthly rates proposed by the Applicant and shown in Exhibit 9, with annual increases allowed at no more than the CPI annually, and made available to the general public prior to occupancy of the Pismo Beach Hotel. To clearly understand the parameters for how the offsite hotel will operate and function, Special Condition 9(a)(5) requires an offsite hotel operations plan detailing all ways in which the hotel units will be made available to the general public (including but not limited to in terms of managing bookings and reservations, check-in and check-out parameters, obtaining keys, "front desk" function, 24-hour response, etc.). To ensure that all improvements and necessary repairs are undertaken, including understanding the current physical condition of the property and requisite improvements to convert it to hotel use, Special Condition 9(a)(2) requires an improvement plan to show all necessary improvements. In order to assist any existing residents in finding replacement housing, Special Condition 9(a)(3) requires evidence that the Permittee has provided relocation assistance for all existing renters at the property, including compliance with all City of Pismo Beach affordable housing and relocation parameters. Finally, Special Condition 9(a)(4) requires the offsite hotel property to be deed restricted to ensure that the nine units will always be made available to the public for as long as a hotel is operating at the Pismo Beach Hotel site; that all offsite units shall be maintained in a state of good repair, including at a minimum, in a physical condition comparable to an American Automobile Association (AAA)-rated 1 or 2 diamond rating; that hotel occupancy shall be maintained at an annual average of no less than 50%; and that all hotel units shall be open and available to the general public. Finally, to ensure that lower cost units are continuously provided, if, for whatever reason, they are not being provided at the offsite facility, Special Condition 9(a)(4)(g) requires the owner of the Pismo Beach Hotel to provide at least nine lower cost hotel units at the Pismo Beach Hotel site. Finally, to ensure that all of the above requirements are effectively being

implemented over time, Special Condition 9(a)(8) requires annual monitoring reports, beginning one year after occupancy and annually thereafter. The monitoring reports shall include, at a minimum, a description of the average daily rate charged each month during the preceding year, the occupancy rate for each month, a description of the physical state of the facility, including a description of needed repair and maintenance work to maintain at least a AAA 1 or 2 diamond rating, a description of proposed rates for the upcoming year (which shall be allowed to increase at no more than the annual Consumer Price Index each year), and an assessment of compliance with the terms and conditions of this CDP. The Permittee (or its affiliated designee) shall be required to make changes as identified in any approved monitoring report as required by the Executive Director to maintain consistency with the terms and conditions of this CDP.

Finally, to mitigate for the remaining 23 lower cost units not being provided (i.e., 32 required, but only 9 being provided in the offsite hotel), Special Condition 9(a) requires an in-lieu fee in amount of \$1,161,540. This number is derived from paying a \$54,720 per hostel bed fee for 23 such units to be provided, minus a \$97,020 credit already paid to the City of Pismo Beach for lower-cost accommodations in-lieu fees as a condition of approval for CDP A-3-PSB-06-001. The required payment shall be deposited into an interest bearing account, to be established and managed by one of the following entities as approved by the Executive Director: the City of Pismo Beach, San Luis Obispo County, the California Department of Parks and Recreation (DPR), Hostelling International, or similar entity, with an initial preference that the account be established with DPR to facilitate the Big Sur Lodge Cabins Project.⁴⁹ The purpose of the account shall be to establish new lower cost overnight visitor-serving accommodations (such as hostel beds, tent campsites, cabins, or campground units) at appropriate locations within the coastal zone portions of San Luis Obispo County, Monterey County, or Santa Cruz County, including the coastal zones of all incorporated cities therein, with an initial preference that the account be utilized to develop cabins associated with DPR's Big Sur Lodge Cabins Project. Furthermore, in order to ensure that any required administrative overhead costs are accounted for, if the accepting entity can conclusively demonstrate to the Executive Director's satisfaction that it requires administrative overhead to successfully develop projects that meet the stated purpose of the fund, then the Permittee shall be required to provide an additional payment to the fund account not to exceed 10% of the fund amount (i.e., \$116,154), where the actual additional payment amount shall be established by the Executive Director based on the evidence provided by the accepting entity. The Permittee shall provide evidence to the Executive Director, in a form and content acceptable to the Executive Director, that such additional payment has been deposited into the fund within 30 days of being informed that such a payment is necessary by the Executive Director.

The above-described mitigation is the preferred way to address lower cost visitor accommodations in this approval. However, if the Executive Director deems that compliance with Special Condition 9(a) is infeasible, the Applicant must comply with Special Condition 9(b), instead. Special Condition 9(b) requires the Permittee to pay \$54,720 per hostel bed for the 32 units, minus a credit in an amount equal to that already paid to the City of Pismo Beach for lower-cost accommodations in-lieu fees as a condition of approval for CDP A-3-PSB-06-001. In this case, the payment would be \$1,654,020 (i.e., 32 x \$54,720 minus \$97,020 = \$1,654,020).

⁴⁹ DPR has indicated that it is prepared to accept this fee for that project, and is excited to be able to pursue it. The dearth of lower cost accommodations in Big Sur makes such a project particularly attractive.

The condition reads the same as that required in Special Condition 9(a)(9), but for the monetary amount, reflecting Special Condition 9(b)'s requirement to mitigate for all 32 lower cost units (i.e., there would be no offsite hotel component under Special Condition 9(b)).

Thus, Special Condition 9(a) mitigates for 32 lower cost units by authorizing the Applicant's proposal to provide a minimum of nine offsite hotel units as deed restricted lower cost accommodations, while also paying an in-lieu fee for the remaining 23 units. If this requirement is deemed infeasible, Special Condition 9(b) requires the in-lieu fee for all 32 units. The preferred portion of the condition will enable on-the-ground, deed restricted lower cost hotel units, thereby offering an innovative mechanism for the provision and protection of lower cost overnight accommodations in the coastal zone and a new tool in the Commission's palette of potential options for implementing Coastal Act Section 30213. The condition also ensures that 32 lower cost units are provided, including by combining the Applicant's novel offsite approach with the Commission's more traditional in-lieu fee approach. If that is deemed infeasible, a fee for all 32 units will be provided. As conditioned, the proposed project can be found consistent with Coastal Act Section 30213 with respect to the protection and provision of lower cost accommodations.

4. Public Access and Recreation

Applicable Policies

Land Use Plan Circulation Element Policy C-14 Parking

Parking for both residents and visitors shall be provided as part of new development. Additional designated parking spaces for beach access may be required as a condition of approval of new hotel or other commercial development adjacent to the oceanfront. In-lieu fees for commercial uses shall be encouraged rather than on-site parking in the central commercial area. In-lieu fees may also be considered for residential uses in order to encourage ground floor, street facing residential dwellings. Parking shall be provided within the vicinity of the coastline for recreational uses. However, within the downtown area, day use parking for the beach shall primarily be located at the north or south end of downtown rather than at the pier.

In order to assure that development projects will not adversely affect the availability of existing parking for shoreline access, an adequate quantity of on-site parking spaces to serve the full needs of the development shall be required, except as noted above for the down-town area.

...

New development projects located within one-quarter mile of the beach or bluff edge shall be evaluated to assess their impact on the availability of parking for public access to the coast. If a project would result in a reduction of shoreline access parking, the project may be required to provide additional parking spaces to accommodate public access.

Land Use Plan Policy PR-28 Access Signs Required. *Signs should be located at all access points and streets leading to access points to assist the public in recognizing and*

using major coastal access points. Such signs should be designed and located for easy recognition.

As described earlier, the LCP requires new development to provide an adequate supply of parking for both residents and visitors, including potentially requiring additional parking spaces for beach access for oceanfront hotels. The LCP also requires new development within a quarter mile of the beach to evaluate the impact on beach parking availability, and if the project may reduce existing parking opportunities, additional public access parking spaces may be required. However, in the Central Commercial area downtown, the LCP encourages in-lieu fees for hotel and other commercial uses rather than onsite parking, instead encouraging parking to be located at the north or south end of downtown rather than at the pier.

In addition, because the proposed project is located seaward of the first through public road and the sea, the Coastal Act's public access and recreation policies also apply to any proposed development at this location. Applicable Coastal Act access and recreation policies include:

Section 30210. *In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

Section 30211. *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Section 30212(a). *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. ...*

Section 30212.5. *Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.*

Section 30213. *Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

Section 30214. *(a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following: (1) Topographic and geologic site characteristics. (2) The capacity of the site to sustain use and at what level of intensity. (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent*

residential uses. (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.

Section 30220. *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Section 30221. *Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

Section 30222. *The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Section 30223. *Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.*

Analysis

The Coastal Act requires maximum public access, which, in this context, the Commission has historically interpreted to mean minimal use limitations on the public's ability to access the beach, day or night. The term "maximum," as distinct from "provide," "encourage" or even "protect," requires that coastal zone development affirmatively seek to provide the maximum public recreational opportunities possible, consistent with other resource constraints and the protection of public and private rights. As part of the City's CDP approval, the City placed numerous conditions on the project in order to find it consistent with the LCP's and Coastal Act's public access and recreation policies. These conditions included that the facility's interior courtyard be available for public use and connected to the adjacent Boardwalk and beach via a new pedestrian bridge. The Boardwalk itself would include new access improvements, including required interpretive panels. The City's conditions also required the preparation and approval of an Access Management Plan⁵⁰ that described the site's public access provisions and required that

⁵⁰ The City's required Access Management Plan was nearly identical to that which the Commission required as a condition of approval in A-3-PSB-06-001.

the courtyard's seating areas and deck, the adjacent dune area, and all access connections to the Boardwalk would need to be open and available for free public access and passive recreation use. Private events could be allowed subject to parameters set forth in the Access Plan, which were not to exceed seven events on weekends between Memorial Day and Labor Day, and were not to occupy more than 50% of the courtyard area. The Access Plan also required all details of all signage, including their design, content, and location, in order to clearly demarcate to the general public those areas open to public recreational use. The Applicants are amenable to including the above-mentioned public access components as part of the project.

Therefore, with respect to onsite public access, to meet the Coastal Act's and LCP's access and recreation requirements, and to retain the aforementioned City approval requirements that sought to accomplish same, **Special Condition 5** is imposed to require that all areas discussed in the previous paragraph be available for public recreational use. The condition requires the preparation and approval of a Public Access Management Plan, the purpose for which is to maximize public access and recreational use of all such areas associated with project. The Access Plan is to identify all access parameters for the project's public access areas, including allowed signage, private events, and the location of amenities, including seating areas and interpretive panels. As conditioned, the approved project includes requisite provisions to ensure maximum public access and recreational opportunities onsite.

In terms of access to the site and the project's potential impacts on the public's ability to access the beach and other downtown locales, including the additional usage of public roads, sidewalks, the Boardwalk, and other public infrastructure that the proposed project would bring, the City again placed numerous conditions as part of its previous approval to ensure that the project improves and maximizes such access. These conditions included a \$300,000 payment for future public recreational improvements at the adjacent Pier parking lot, as well as an additional \$300,000 for the construction of a cul-de-sac at the end of Hinds Avenue if the City determines within three years that such cul-de-sac is necessary for public safety and traffic circulation. Furthermore, consistent with LCP requirements that encourage parking in-lieu fees for hotel and other commercial uses in the Central Commercial area rather than onsite parking downtown, the City required a \$48,000 payment sufficient to create five public parking spaces (thereby mitigating for the loss of on-street parking spaces along Stimson Avenue due to the project's requisite ingress/egress driveway. Again, the Applicants are amenable to including these public access components as part of the project.

The proposed project will result in the loss of public parking spaces along Stimson Avenue due to the construction of requisite ingress/egress. Furthermore, the project will introduce additional vehicular and pedestrian traffic along Pismo Beach's public road and sidewalk infrastructure, including additional people accessing beach and other coastal resources in the project area. In order to ensure that the project maximizes public recreational opportunities and improves access to and around the project site, including to the numerous public recreational amenities in the project vicinity (including Pismo State Beach, the Boardwalk, and Pier), to ensure no loss of public parking opportunities, and to retain these previous City requirements aimed at ensuring bona fide public access benefits, **Special Condition 10** requires the payment of Public Access and Recreation Fees. This condition requires the Applicant to deposit the following into an interest bearing account (or accounts), to be managed by the City of Pismo Beach: 1) \$48,000 to

fund construction of five new public parking spaces within Planning Area K (the downtown core) as mapped in the City's LUP; 2) \$300,000 for future improvements at the City's Pier plaza and public parking lot; and 3) \$300,000 for additional road and access improvements, which may include, but not be limited to, a cul-de-sac at Hinds Avenue, streetscape improvements, widening of sidewalks, and additional public access connections to Pismo State Beach, ensuring that the payment can be used for a multitude of potential public infrastructure improvements. Furthermore, the condition specifies that in no case shall such funds be spent on Hinds and Stimson Avenue sidewalk and streetscape improvements, since those improvements are already required by Engineering Condition 11 of the City's Conditional Use Permit and Architectural Review Permit P14-000192. Thus, the road and access improvements required by Special Condition 11(c) are in addition to the City's required infrastructure improvements located immediately adjacent to the project site. As conditioned, the approved project will ensure maximum public access and recreational amenities to the project site and the adjacent beach and downtown area.

Finally, the proposed project includes 128 traditional visitor-serving hotel units, providing a new coastal priority, visitor-serving use that will also include amenities to support public access and recreation. The Commission must ensure, however, that there are protections in place to guarantee that the visitor-serving components of the project remain as such. Towards that end, **Special Condition 8(b)** prohibits the conversion of any of the hotel visitor-serving units to any other type of use (e.g., condominiums, timeshares, or any use other than standard operating hotel units). In addition, **Special Condition 8(a)** includes limitations on the length of stay by hotel guests in order to maximize the public's ability to use the site. Specifically, the conditions limit stays in the hotel to no more than 29 consecutive days for any individual, family, or group, and not for more than 14 days between the Friday of Memorial Day weekend and Labor Day inclusive.

In sum, the proposed project includes numerous public access amenities as required by the Coastal Act and LCP. As proposed and conditioned, the project can be found consistent with the LCP's and Coastal Act's public access and recreation policies.

5. Public Services

Applicable Policies

Land Use Plan Facilities Element Policy F-36 Water Management Program

When total annual water use reaches 90% of projected available supplies (based on known safe yield levels determined by the Groundwater Depletion Analysis, plus available entitlements from Lake Lopez and the State Water Project), approval of developments requiring increasing water supplies shall be limited to essential public services, public recreation, commercial recreation, and visitor-serving land uses. No development shall have building permits issued which would individually or cumulatively exceed the capacity of the City's water supply systems.

Policy F-37 Water Reserves

The City shall maintain water reserves at 5% over average daily demand at all times and maintain a summer peaking supply of 130% over average weekly demand.

Policy F-39 Water Conservation--New Development

The City shall require water-conserving features in all new development (i.e. low-flow fixtures, drought-tolerant landscaping, automatic timing for irrigation, etc.).

As previously described, the LCP requires new development to be served by an adequate and available supply of water, establishes specific quantities to be reserved, prioritizes certain types of development when specific water availability thresholds are met, and requires all development to conserve water. Specifically, the LUP's Facilities and Services Element requires all new development to have water conserving features, including drought-tolerant landscaping and low-flow fixtures, and prohibits new development when such development would individually or cumulatively exceed the capacity of the City's water supply. The LUP requires the City to maintain water reserves at 5% over average daily demand at all times and maintain a summer peak water supply of 130% over average weekly demand. Finally, when total annual water use reaches 90% of projected available supplies, the LCP requires that approval of developments that increase water usage shall be limited to essential public services, public recreation, commercial recreation, and visitor-serving land uses.

Analysis

According to the City, the City currently consumes 1,482 AFY of water out of its available total annual water supply of 3,228 AF. Even conservatively using the City's typical usage metric of 1,950 AFY, adding the 78.84 AFY that is estimated to be consumed by already approved development,⁵¹ and disregarding the 772 AF supplied in the interim by San Luis Obispo County for drought buffer augmentation, the City's water usage would still be below its available annual supply (2,029 AF demand and 2,456 AF available supply). The City estimates the project will consume 17.1 AFY. Thus, the City has shown that its water demand, inclusive of the approved project's estimated usage, is below its available supply, thereby ensuring consistency with LCP policies that only allow development when such development's water usage won't individually or cumulatively exceed the City's available supply. Furthermore, the City previously conditioned the project to offset its water usage by at least 125%, thereby acting as a conservation tool meant to prolong and economize the City's existing water supplies and ensure LCP compliance with respect to water supply over time. The offsetting requirement is meant to ensure that the project does not burden the City's water supply in the future by usurping scarce supplies. The Applicants are amenable to including a water offsetting program component as part of the project.

To ensure that the City's water supply remains viable over time and to ensure that the proposed development meets LCP requirements regarding water conserving features, the Commission imposes **Special Condition 4**, which requires evidence prior to project construction that the City can and will serve the development with long term and sustainable water and sewer services, and also requires the preparation and approval of a Water Offset Reduction Plan (Offset Plan). The Offset Plan's purpose is to offset the project's water usage by at least 125%, including through such measures as retrofitting existing water fixtures in the same water service area as the proposed project. The Plan also includes required monitoring to ensure that such water savings

⁵¹ The approved projects include 128 multifamily residential units, 119 single-family residential units, 232 hotel rooms, and 2 commercial facilities. These approved projects' estimated water usage does not include conservation measures.

targets are met, including ensuring that the project's *actual* water usage is offset, and not just its estimated usage. Specifically, the Offset Plan shall quantify the approved project's projected water usage in gallons per day, including a list of all water fixtures to be installed, including for outside landscaping, and their associated water flow. The hotel facility shall make maximum use of water conservation fixtures and equipment (including but not limited to high-efficiency low-flow toilets, high-efficiency washing machines and dishwashers, recirculating pumps, low-flow showerheads, shower shut-off valves, faucet aerators, drip and/or micro-spray irrigation, etc.). The Offset Plan also requires a list of all proposed retrofits, including a breakdown of the number and type of fixtures and appliances to be retrofitted. The retrofits must occur in the same water service area as the approved project. The water savings from retrofitting must total at least 125% of the hotel's proposed water usage. Finally, the condition requires monitoring reports starting one year after hotel occupancy documenting the effectiveness of, and identifying any necessary remedial measures to address any deficiencies with, the performed retrofits. Annual reporting shall continue for at least three years or until the project's water usage is offset by at least 125% as documented in two consecutive annual reports, whichever is later. This performance standard is similar to that which the Commission has imposed on other monitoring requirement conditions.⁵²

As conditioned, the approved project can be found consistent with applicable LCP policies with respect to water supply and other public services.

6. Water Quality

Applicable LCP Policies

Land Use Plan Conservation and Open Space Element Policy CO-31 Grading and Drainage Regulations.

The following specific grading and drainage policies shall be applicable to development and construction projects. The city's grading ordinance shall be revised to include these policies:

- (a) Development plans shall minimize cut and fill operations, and any development requiring extensive cut and fill may be denied if it is determined that the development could be carried out with less alteration to the natural terrain.*
- (b) Development shall be designed to fit or complement the site topography, soils, geology, and any other existing conditions and be oriented to minimize to the extent of grading and other site preparation.*
- (c) Retaining walls should be of minimum height and length. Earth colored materials shall be preferred. Long, straight-line retaining walls shall be prohibited.*
- (d) Finished grading shall avoid a manufactured appearance by creating flowing contours of varying gradients generally not exceeding slopes of 4:1. Sharp cuts, fills and long straight-line slopes of uniform grade should be avoided.*
- (e) Native vegetation shall be preserved to the maximum extent possible. (See Policy CO-1S regarding oak trees.)*

⁵² For example, see CDP 3-13-006, approved by the Commission in October 2014.

- (f) All measures for removing sediments and stabilizing slopes shall be in place by November 1 prior to the beginning of the rainy season.*
- (g) Sediment basins shall be required in conjunction with initial grading operations, and maintained throughout the development process as necessary.*
- (h) All cut and fill slopes in a completed development shall be stabilized immediately with planting of native grasses and shrubs, or appropriate nonnative plants within accepted drought-tolerant landscaping practices.*
- (i) Surface runoff waters that will occur as a result of development shall be conducted to storm drains or suitable watercourses to prevent erosion.*
- (j) Degradation of the water quality of the groundwater basins, streams, or wetlands shall not result from development of a project. Pollutants such as chemicals, fuels, lubricants, raw sewage, and other harmful waste shall not be discharged into or alongside streams or wetlands during or after construction.*
- (k) A runoff control plan designed by a licensed engineer qualified in hydrology and soil mechanics shall be required for all development on slopes greater than 10 percent to mitigate any increase in peak runoff. The runoff control plan, including supporting calculations shall be subject to the review and approval of the City Engineer prior to commencement of construction. Such a plan shall include the following provisions:*
 - (1) Runoff control shall be accomplished by minimizing grading and utilizing nonstructural techniques such as on-site percolation galleries. Energy dissipating devices at the terminus of outflow drains shall be required.*
 - (2) All permanent erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.*
 - (3) Prior to the commencement of any grading activity, the permittee shall submit a grading schedule which indicates that grading shall be completed within the permitted time stipulated in Paragraph f and that any variation from the schedule shall be promptly reported to the City Engineer.*
 - (4) Prior to the issuance of a permit for development, a detailed landscape plan indicating the type, size, extent and location of plant materials, the proposed irrigation system, and other landscape features shall be submitted for approval. Drought tolerant, native plant materials shall be utilized to the maximum extent feasible.*
- (l) All grading activities for roads, building pads, utilities and the installation of erosion and sedimentation control devices shall be prohibited within the period from November 1 to March 31 of each year, except that the following grading activities may be permitted outside the above time constraints:*
 - (1) Grading on slopes if they do not drain into an environmentally sensitive habitat area.*
 - (2) Grading on slopes less than 10 percent, if the amount of material to be graded does not exceed 50 cubic yards.*

(m) All areas disturbed by grading shall be planted with temporary or, in case of finished slopes, permanent erosion retardant vegetation. Native species shall be planted wherever feasible. Such plantings shall be accomplished under a plan prepared and submitted by a licensed landscape architect and shall consist of seeding, mulching, fertilization and irrigation adequate to provide 90 percent coverage within 90 days of the time of planting. Planting shall be repeated if the required level of coverage is not established within the time period stipulated above. This requirement shall apply to all disturbed soils, including stockpiles, and to all building pads and road cuts.

Analysis

The LCP includes numerous water quality protections, including prohibiting development from degrading water quality, preventing erosion, and limiting grading. The proposed construction work to develop the hotel would occur above the high tide line. However, construction activity adjacent to the beach always has the potential to cause adverse impacts. Thus, as described earlier, with respect to construction activities, **Special Condition 2** requires submission and maintenance of a Construction Plan to ensure Best Management Practices (BMPs) are implemented during construction to avoid water quality and other impacts during construction, to minimize construction activities and materials on the beach, and to require a construction coordinator to be available to respond to any inquiries that arise during construction. After construction, in order to ensure that the development includes appropriate water quality protections, **Special Condition 1(h)** requires stormwater and drainage infrastructure and related water quality measures (e.g., pervious pavements, etc.), with preference given to natural BMPs (e.g., bioswales, vegetated filter strips, etc.). Such infrastructure and water quality measures shall provide that all project area stormwater and drainage is: filtered and treated to remove expected pollutants prior to discharge, and directed to inland stormwater and drainage facilities (and is not allowed to be directed to the beach or the Pacific Ocean) that area adequate to handle the volume of stormwater and drainage expected, including during extreme storm events. The condition requires runoff from the project to be retained onsite to the maximum extent feasible, including through the use of pervious areas, percolation pits and engineered storm drain systems. Infrastructure and water quality measures shall be sized and designed to accommodate runoff from the site produced from each and every storm event up to and including the 85th percentile 24-hour runoff event, which is a common water quality protection metric. In extreme storm situations (>85th percentile 24-hour runoff event storm) where such runoff cannot be adequately accommodated on-site through the project's stormwater and drainage infrastructure, any excess runoff shall be conveyed inland off-site in a non-erosive manner.

As conditioned, the project can be found consistent with applicable LCP water quality policies.

7. Archaeological Resources

Applicable LCP Policies

The City's LCP recognizes that archaeological and cultural resources are an important and fragile coastal resource. To protect these resources, the LCP include the following policy:

Land Use Plan Conservation and Open Space Element Policy CO-6 Construction Suspension. *Should archaeological or paleontological resources be disclosed during any construction activity, all activity that could damage or destroy the resources shall be*

suspended until a qualified archaeologist has examined the site. Construction shall not resume until mitigation measures have been developed and carried out to address the impacts of the project on these resources.

Analysis

The LCP requires suspension of construction if such resources are found during construction activities. **Special Condition 3** requires an archaeological monitor during grading activities and ensures that construction activities will be suspended if any archeological or paleontological resources are discovered during construction, all as required by the LCP. Therefore, as conditioned, the project can be found consistent with the LCP with respect to archaeological resources.

8. Other

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications.⁵³ Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes requiring reimbursement for any costs and attorneys' fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of these permits (**Special Condition 12**).

The terms and conditions of this approval are meant to be perpetual. In order to inform future owners of the requirements of the permit, this approval is conditioned to require recordation of deed restrictions that will record the project conditions against the affected properties (see **Special Condition 13**). Finally, the Commission's action on this CDP has no effect on conditions imposed by the City of Pismo pursuant to an authority other than the Coastal Act, including the conditions of the City of Pismo Beach Conditional Use Permit and Architectural Review Permit No. P14-000192. Thus, **Special Condition 11** specifies that in the event of conflict between the terms and conditions imposed by the local government pursuant to an authority other than the Coastal Act/LCP and those of this CDP, the terms and conditions of coastal development permit A-3-PSB-15-0037 shall prevail.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of Title 14 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

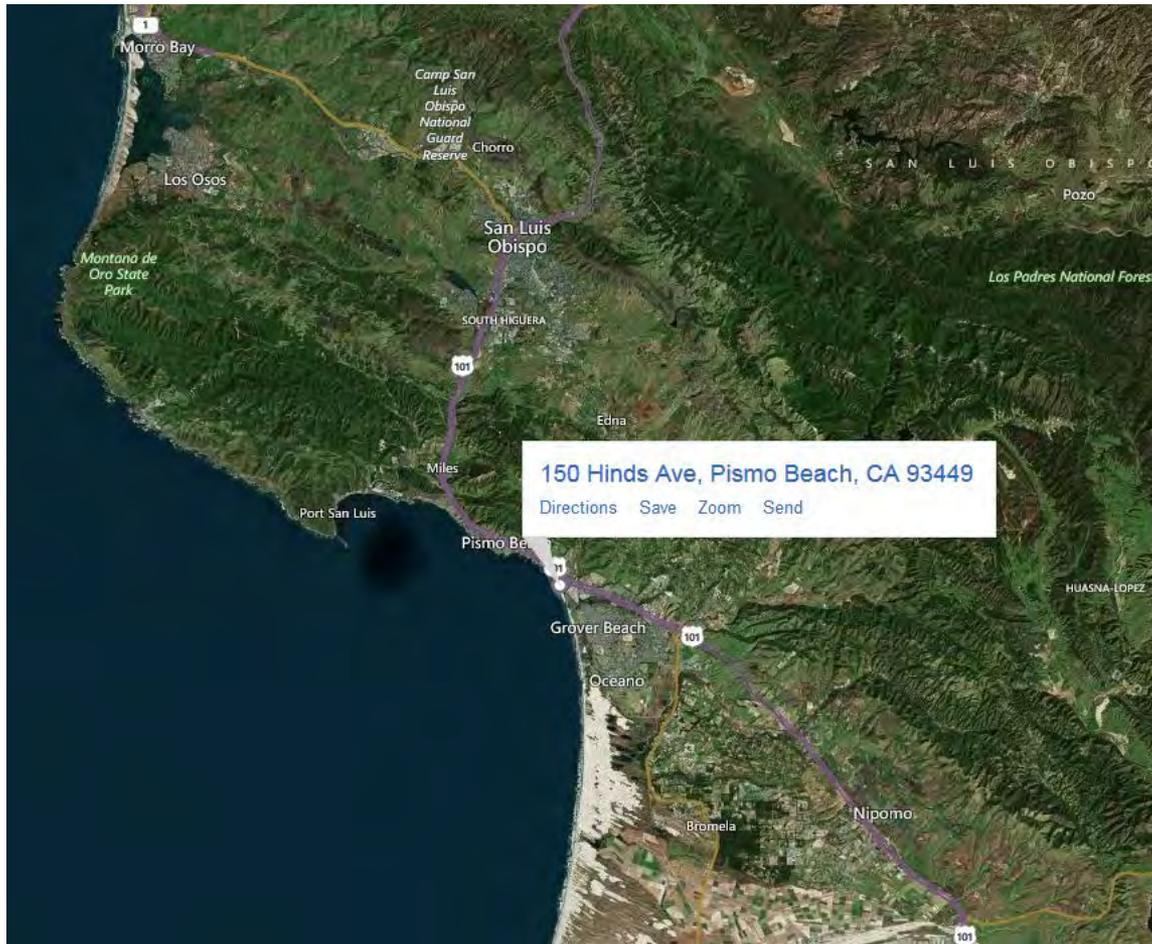
The City of Pismo Beach, acting as lead agency, conducted an environmental review for the proposed project as required by CEQA and issued a Mitigated Negative Declaration.

⁵³ See also California Code of Regulations Title 14 Section 13055(g).

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues associated with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA. As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as modified, would have on the environment within the meaning of CEQA. If so modified, the proposed project will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).

Project Location



Project Location



Project Location





Development Beyond the Street End

Pismo Beach Boardwalk

PISMO BEACH HOTEL

147 STIMSON AVENUE



PROJECT DIRECTORY:

APPLICANT:
NEXUS COMPANIES
1 MACARTHUR PLACE, SUITE 300
SANTA ANA, CA 92707
Attn: Rob Eves

ARCHITECT:
RYS ARCHITECTS, INC.
10 MONTEREY BLVD.
SAN FRANCISCO, CA 94131
(415) 841-9090
Attn: Jim Rato

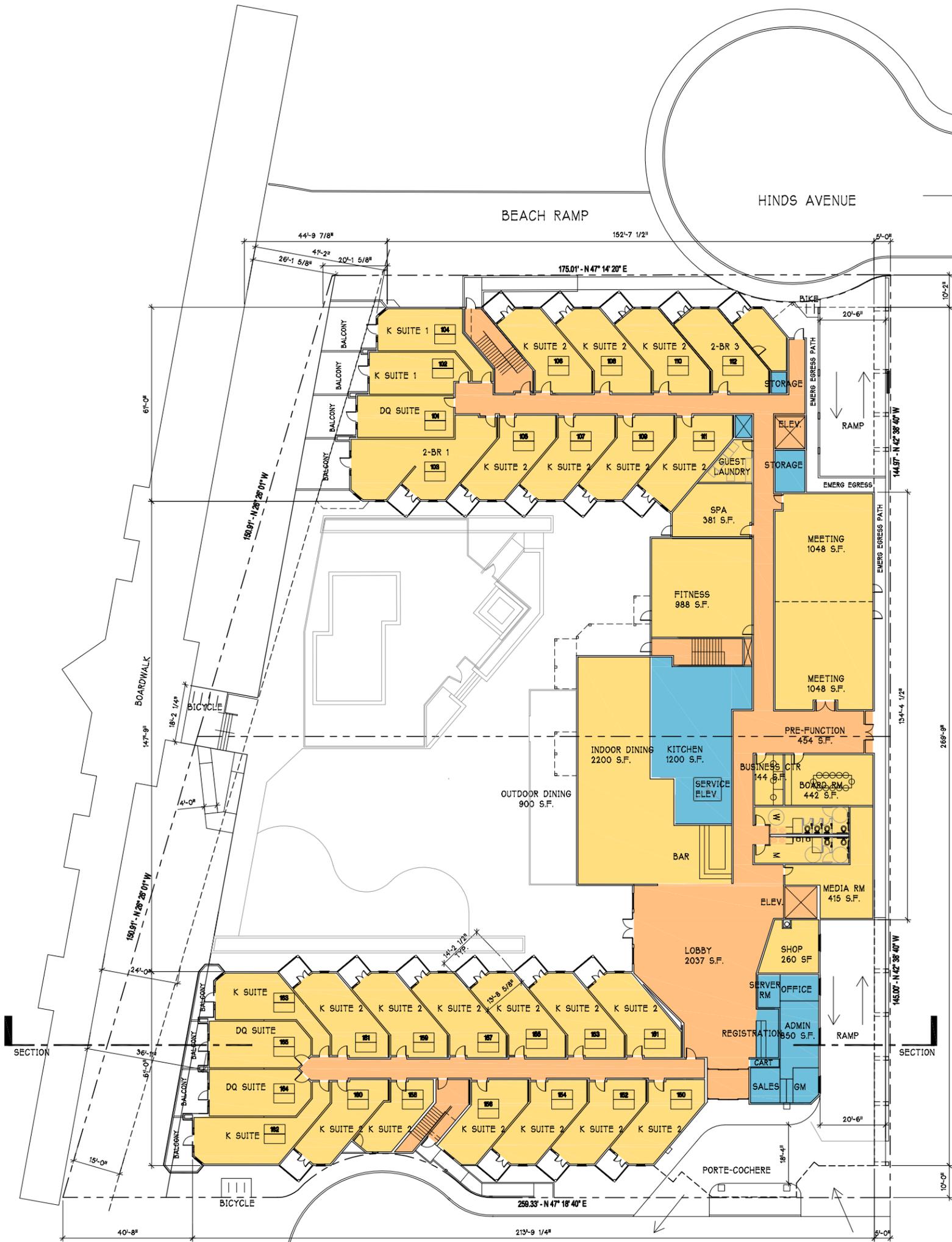
LANDSCAPE ARCHITECT:
KLA LANDSCAPE ARCHITECTURE
151 N. NORLIN STREET
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Attn: Tom Holloway

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SAN LUIS OBISPO, CA 93401
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GEOTECHNICAL ENGINEER:
EARTH SYSTEMS PACIFIC
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SHEET INDEX

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FIRST FLOOR PLAN



GUEST ROOM MATRIX				
	2-BR	K SUITE	DQ SUITE	TOTAL
1ST FLR	2	23	3	28
2ND FLR	2	35	21	58
3RD FLR	3	21	18	42
TOTAL	7	79	42	128

SITE AREA 62,428 SF
 TOTAL BLDG AREA 94,017 SF
 1ST FLOOR 32,186 SF
 2ND FLOOR 35,227 SF
 3RD FLOOR 26,604 SF
 BASEMENT GARAGE 56,274 SF
 CONSTRUCTION TYPE TYPE V-A OR III-A, FULLY SPRINKLERED

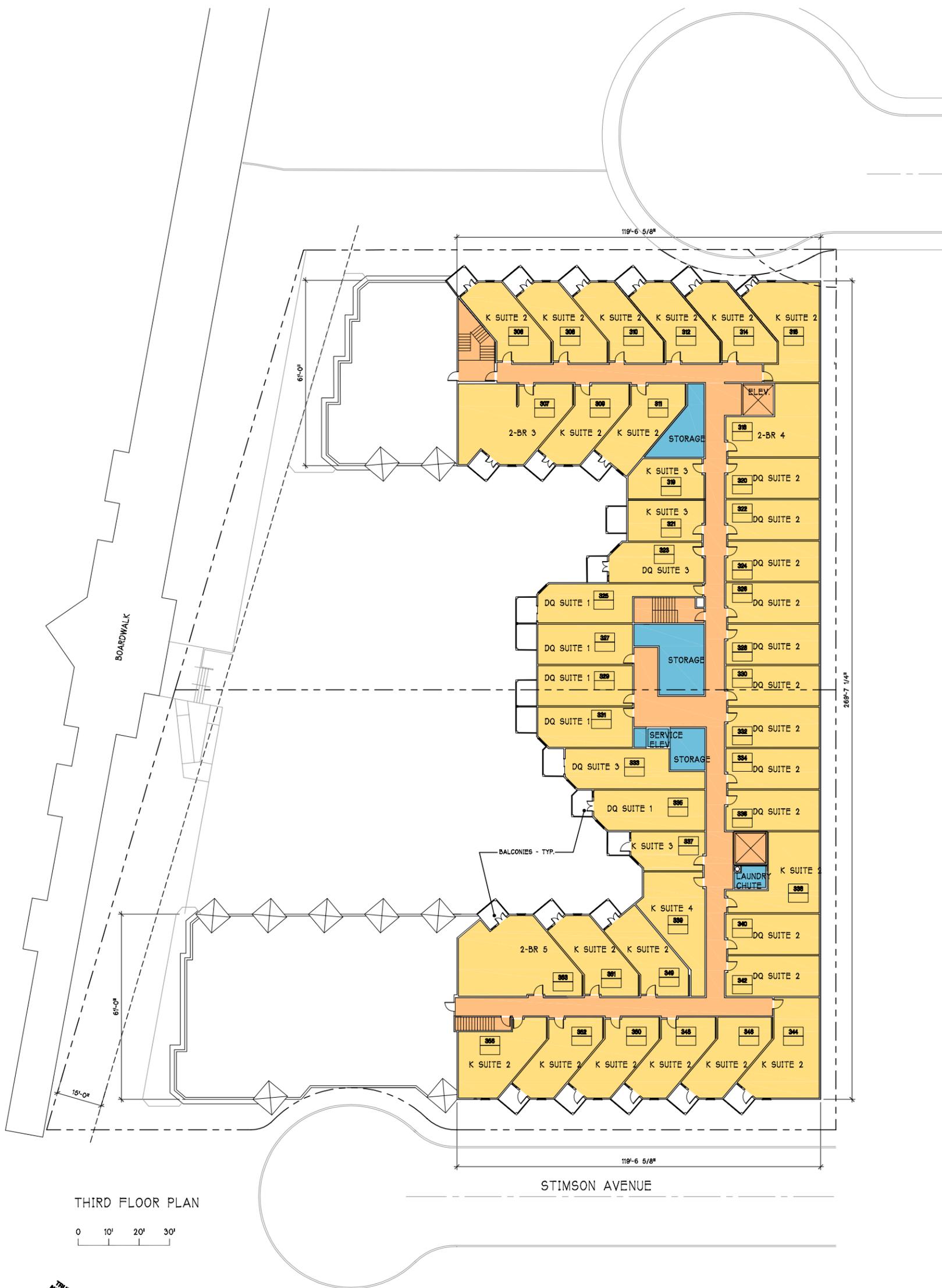
FLOOR AREA RATIO 1.51 (GARAGE EXCLUDED)
 LOT COVERAGE 51.6 % (OUTDOOR DINING & POOL DECK EXCLUDED)
 LANDSCAPED AREAS 10,664 SF, SEE LANDSCAPE PLAN
 PARKING 166 CARS TANDEM



SECOND FLOOR PLAN

0 10' 20' 30'

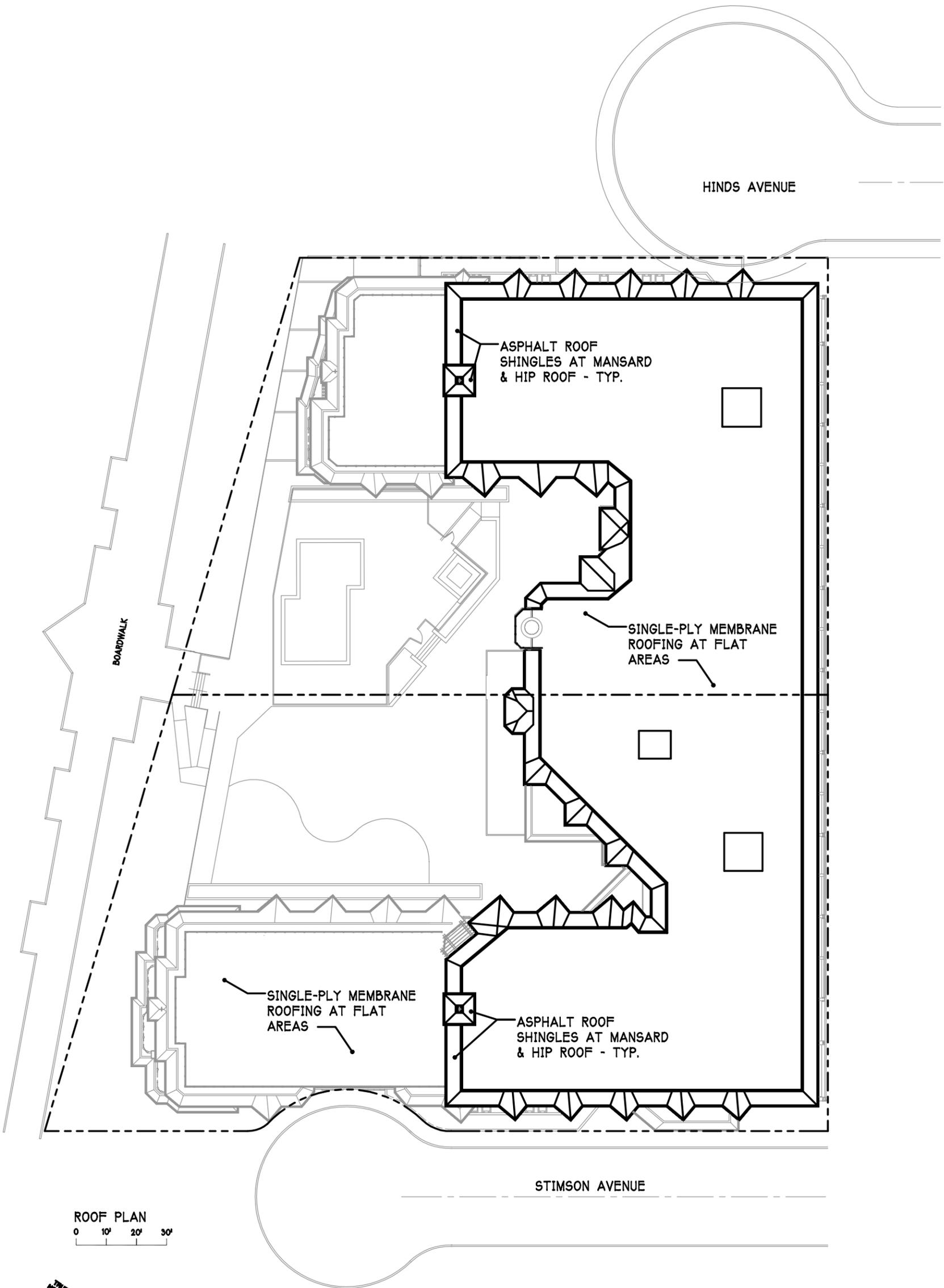




THIRD FLOOR PLAN

0 10' 20' 30'





ROOF PLAN
 0 10' 20' 30'





STIMSON AVENUE ELEVATIONS



HINDS AVENUE ELEVATIONS

BEACH ELEVATIONS



EAST ELEVATIONS







Preliminary Plant Palette

Trees	
<i>Scientific Name</i>	<i>Common Name</i>
<i>Eucalyptus citriodora</i>	Lemon-Scented Gum
<i>Ficus rubiginosa</i>	Rustleaf Fig
<i>Melaleuca nesophila</i>	Pink Melaleuca
<i>Metrosideros excelsus</i>	New Zealand Xmas Tree
<i>Myoporum laetum 'Carsonii'</i>	Ngaio
<i>Phoenix canariensis</i>	Canary Island Date Palm
<i>Pittosporum undulatum</i>	Victorian Box
<i>Syagrus romanzoffianum</i>	Queen Palm
<i>Trachycarpus fortunei</i>	Windmill Palm
<i>Washingtonia filifera</i>	California Fan Palm
<i>Washingtonia robusta</i>	Mexican Fan Palm

Groundcovers	
<i>Annual color</i>	Seasonal flowers
<i>Turf</i>	Sod
<i>Juniperus conferta</i>	Shore Juniper
<i>Trachelospermum asiaticum</i>	Asian Jasmine

Vines	
<i>Bougainvillea 'Santa Ana Red'</i>	Bougainvillea
<i>Ficus pumila</i>	Creeping Fig

Shrubs	
<i>Scientific Name</i>	<i>Common Name</i>
<i>Agapanthus africanus</i>	Blue Lily of Nile
<i>Agave americana</i>	Century Plant
<i>Aloe arborescens</i>	Tree aloe
<i>Carissa macrocarpa</i>	Natal plum
<i>Cuphea hyssopifolia</i>	False heather
<i>Dracaena draco</i>	Dragon tree
<i>Escallonia 'Fradesii'</i>	Frades Escallonia
<i>Hebe 'Patty's Purple'</i>	Patty's Purple Hebe
<i>Lantana camara 'Spreading Sunset'</i>	Spreading Sunset Lantana
<i>Lantana montevidensis</i>	Lantana
<i>Leptospermum scoparium 'Red Damask'</i>	New Zealand Tea Tree
<i>Ligustrum japonicum 'Texanum'</i>	Japanese Privet
<i>Limonium perezii</i>	Sea Lavender
<i>Nephrolepis cordifolia</i>	Southern Sword Fern
<i>Pelargonium peltatum 'Red'</i>	Ivy Geranium
<i>Phoenix roebelenii</i>	Pigmy Date Palm
<i>Phormium tenax 'Maori Queen'</i>	New Zealand Flax
<i>Phormium tenax rubrum</i>	New Zealand Flax
<i>Pittosporum tobira 'Variegata'</i>	Variegated Tobira
<i>Rhaphiolepis umbellata</i>	Yeddo Hawthorn
<i>Tecomaria capensis</i>	Cape Honeysuckle

Preliminary Planting Note

These plants are preliminary and are subject to revision through the design process. Exact plant species, size, and location may change as the site evolves through the design, submittal, and review process. New site conditions and information may require modifications to the plan. The design intent, however, shall remain the same with an emphasis on creating an aesthetic addition to the Pismo Beach downtown area and beach boardwalk while respecting the environmental limitations and opportunities of the site. The following is a further list of plants that were considered and may still be used in the final planting plan. This, in addition to the planting legend, is not to be construed as the only possibilities for plant selection.

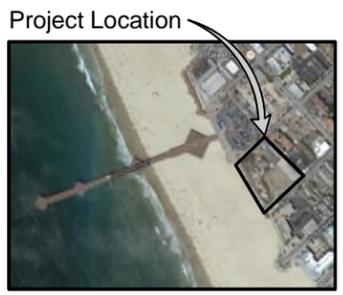
Trees	Shrubs
<i>Callistemon lanceolatus</i>	<i>Arctostaphylos uva-ursi</i>
<i>Chamaerops humilis</i>	<i>Asparagus densiflorus 'Sprenger'</i>
<i>Cupressus macrocarpa</i>	<i>Cistus purpureus</i>
<i>Cupaniopsis anacardioides</i>	<i>Coprosma kirkii</i>
<i>Eriobotrya japonica</i>	<i>Echium fastuosum</i>
<i>Phoenix roclinata</i>	<i>Hemerocallis hybrids</i>
	<i>Juniperus species</i>
	<i>Yucca species</i>

Irrigation

The entire site will be irrigated using a fully automatic system designed to meet the requirements of the Water Efficient Landscape Ordinance (WELO - AB1881). The irrigation system will be predominately spot-drip. Sub-surface drip irrigation may be used in the courtyard and in narrow and small planters. The system will include in-line valves, quick couplers, and gate valves as well as code require meter and backflow preventer. The irrigation controller will be Rainbird, Infiltr, or equal with weather sensor.

Landscape Areas

Raised planters over garage structure	3,861 sf
At-grade open space	4,566 sf
Total Landscape/Open Space	8,427 sf
Size of the project parcel	62,410 sf (1.433 acres)
Percentage of Parcel in landscape/open space	13.2 %
Sand patio over garage structure	1,310 sf
Containers	927 sf
Total non-paved surfaces of Parcel	10,664 sf
Percentage of Parcel in sand and landscape	17.1 %



CONCEPTUAL LANDSCAPE PLAN

PISMO BEACH, CALIFORNIA

PISMO BEACH HOTEL NEXUS DEVELOPMENT

CONCEPTUAL DESIGN 04/01/15



SCALE
0 10 20 40
1 INCH = 20 FEET

SURVEYOR'S STATEMENT

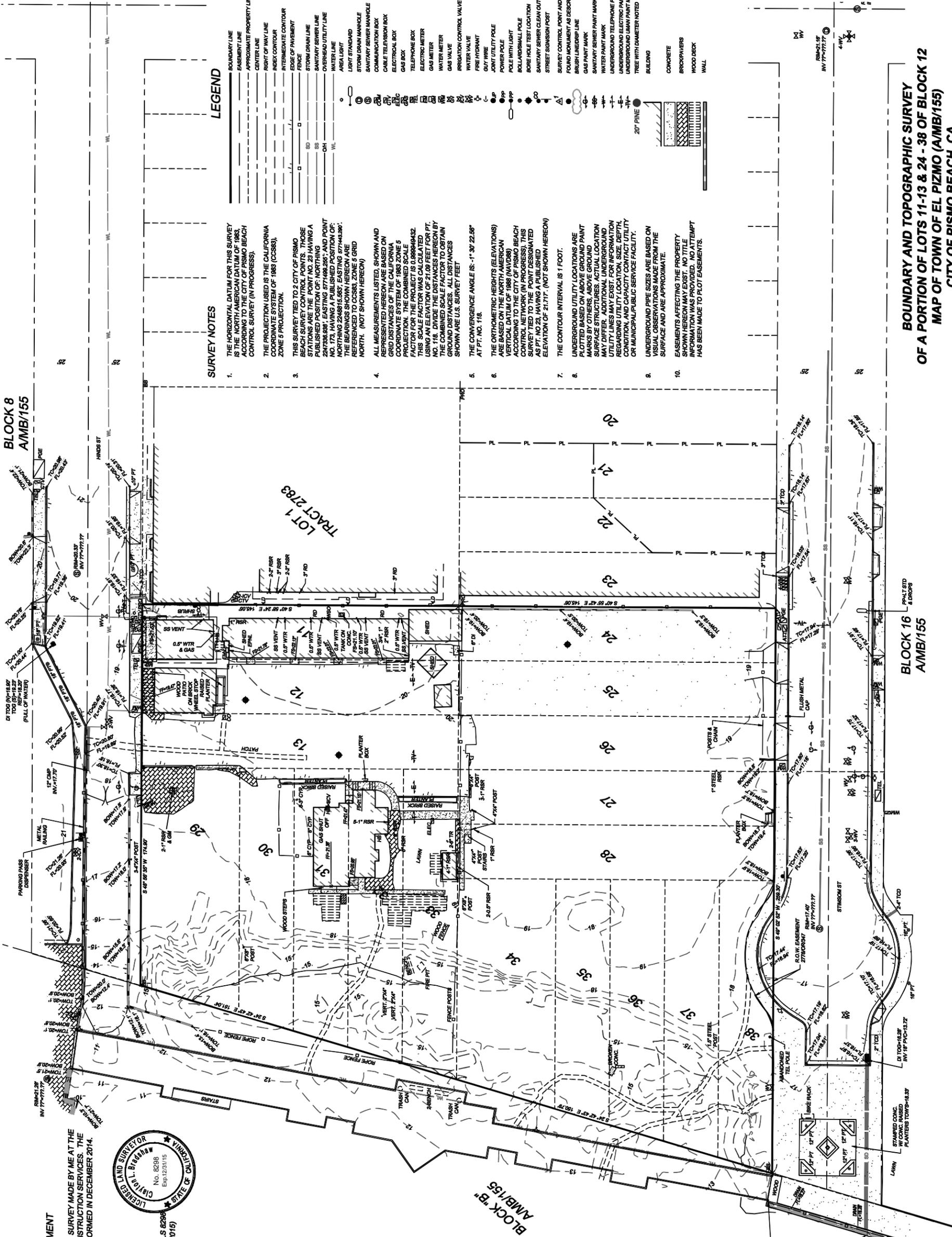
THIS MAP REPRESENTS A SURVEY MADE BY ME AT THE REQUEST OF NEXUS CONSTRUCTION SERVICES, THE FIELD SURVEY WAS PERFORMED IN DECEMBER 2014.

DATE: 01/06/2015

CLAYTON L. BRADSHAW, LS 8236
(LICENSE EXPIRES 12/31/2015)



ABBREVIATIONS	
CATV	CABLE TV
CONC	CONCRETE
CYP	CYPRESS TREE
DI	DRAINAGE INLET
EM	ELECTRIC METER
EPNL	ELECTRIC PANEL
EL	FLOWLINE
GM	GAS METER
HW	HOSE BIB
INV	INVERT
LD	LANDSCAPE DRAINAGE INLET
LT STD	LIGHT STANDARD
PP	POWER POLE
PT	PALM TREE
RD	ROOF DRAIN
REF	REFUSAL
SSR	RISER
SS	SANITARY SEWER
TC	TOP OF CURB
TEL	TELEPHONE
TOG	TOP OF GRATE
TR	TREE
VERT	VERTICAL
WSO	WATER SHUT OFF
NW	WATER VALVE



SURVEY NOTES

1. THE HORIZONTAL DATUM FOR THIS SURVEY IS THE NORTH AMERICAN DATUM OF 1983, ACCORDING TO THE CITY OF PISMO BEACH CONTROL SURVEY (IN PROGRESS).
2. THE PROJECTION USED IS THE CALIFORNIA COORDINATE SYSTEM OF 1983 (CCS83), ZONE 5 PROJECTION.
3. THIS SURVEY TIED TO 2 CITY OF PISMO BEACH SURVEY CONTROL POINTS. THOSE STATIONS ARE THE POINT NO. 23 HAVING A PUBLISHED POSITION OF: NORTING 247336.687, EASTING 5771469.295; AND POINT NO. 173 HAVING A PUBLISHED POSITION OF: NORTING 247336.687, EASTING 5771469.295. THE BEACHES SHOWN HEREON ARE REFERENCED TO CCS83, ZONE 5 GRID NORTH. (NOT SHOWN HEREON)
4. ALL MEASUREMENTS LISTED, SHOWN AND REPRESENTED HEREON ARE BASED ON GRID DISTANCES OF THE CALIFORNIA COORDINATE SYSTEM OF 1983 ZONE 5. THE SCALE FACTOR FOR THIS PROJECT IS 0.99999432. THIS SCALE FACTOR WAS CALCULATED USING AN ELEVATION OF 21.08 FEET FOR PT. NO. 118. DIVIDE THE DISTANCES HEREON BY THE COMBINED SCALE FACTOR TO OBTAIN GROUND DISTANCES. ALL DISTANCES SHOWN ARE U.S. SURVEY FEET.
5. THE CONVERGENCE ANGLE IS: -1° 30' 22.58" AT PT. NO. 118.
6. THE ORTHOMETRIC HEIGHTS (ELEVATIONS) ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) ACCORDING TO THE CITY OF PISMO BEACH CONTROL NETWORK (IN PROGRESS). THIS NETWORK IS NOT YET PUBLISHED AS PT. NO. 23 HAVING A PUBLISHED ELEVATION OF 21.717. (NOT SHOWN HEREON)
7. THE CONTOUR INTERVAL IS 1 FOOT.
8. UNDERGROUND UTILITY LOCATIONS ARE PLOTTED BASED ON ABOVE GROUND PAINT MARKS BY OTHERS. ADDITIONAL UNDERGROUND UTILITY LINES MAY EXIST. FOR INFORMATION REGARDING UTILITY LOCATION, SIZE, DEPTH, CONDITION, AND CAPACITY CONTACT UTILITY OR MUNICIPAL/PUBLIC SERVICE FACILITY.
9. UNDERGROUND PIPE SIZES ARE BASED ON VISUAL INSPECTION AND SIZE FROM THE SURFACE AND ARE APPROXIMATE.
10. EASEMENTS AFFECTING THE PROPERTY SHOWN HEREON MAY EXIST. NO TITLE INFORMATION WAS PROVIDED. NO ATTEMPT HAS BEEN MADE TO PLOT EASEMENTS.

LEGEND

- BOUNDARY LINE
- EASEMENT LINE
- APPROXIMATE PROPERTY LINE
- CENTER LINE
- RIGHT OF WAY LINE
- INDEX CONTOUR
- INTERMEDIATE CONTOUR
- EDGE OF PAVEMENT
- FENCE
- STORM DRAIN LINE
- SANITARY SEWER LINE
- OVERHEAD UTILITY LINE
- WATER LINE
- AREA LIGHT
- STORM DRAIN MANHOLE
- SANITARY SEWER MANHOLE
- COMMUNICATION BOX
- CABLE TELEVISION BOX
- ELECTRICAL BOX
- GAS BOX
- TELEPHONE BOX
- ELECTRIC METER
- GAS METER
- WATER METER
- GAS VALVE
- IRRIGATION CONTROL VALVE
- WATER VALVE
- FIRE HYDRANT
- GUY WIRE
- JOINT UTILITY POLE
- POWER POLE
- POLE WITH LIGHT
- BOLLARD/SMALL POLE
- BORER HOLE TEST LOCATION
- SANITARY SEWER CLEAN OUT
- STREET SIGN/POST
- SURVEY CONTROL POINT AND NUMBER
- FOUND MONUMENT AS DESCRIBED
- BRUSH LINE/RRP LINE
- GAS PAINT MARK
- SANITARY SEWER PAINT MARK
- WATER PAINT MARK
- UNDERGROUND TELEPHONE PAINT MARK
- UNDERGROUND ELECTRIC PAINT MARK
- UNDERGROUND IRRIGATION PAINT MARK
- TREE WITH DIAMETER NOTED
- BUILDING
- CONCRETE
- BRICK/Pavers
- WOOD DECK
- WALL



PISMO BEACH HOTEL
147 STIMSON AVENUE

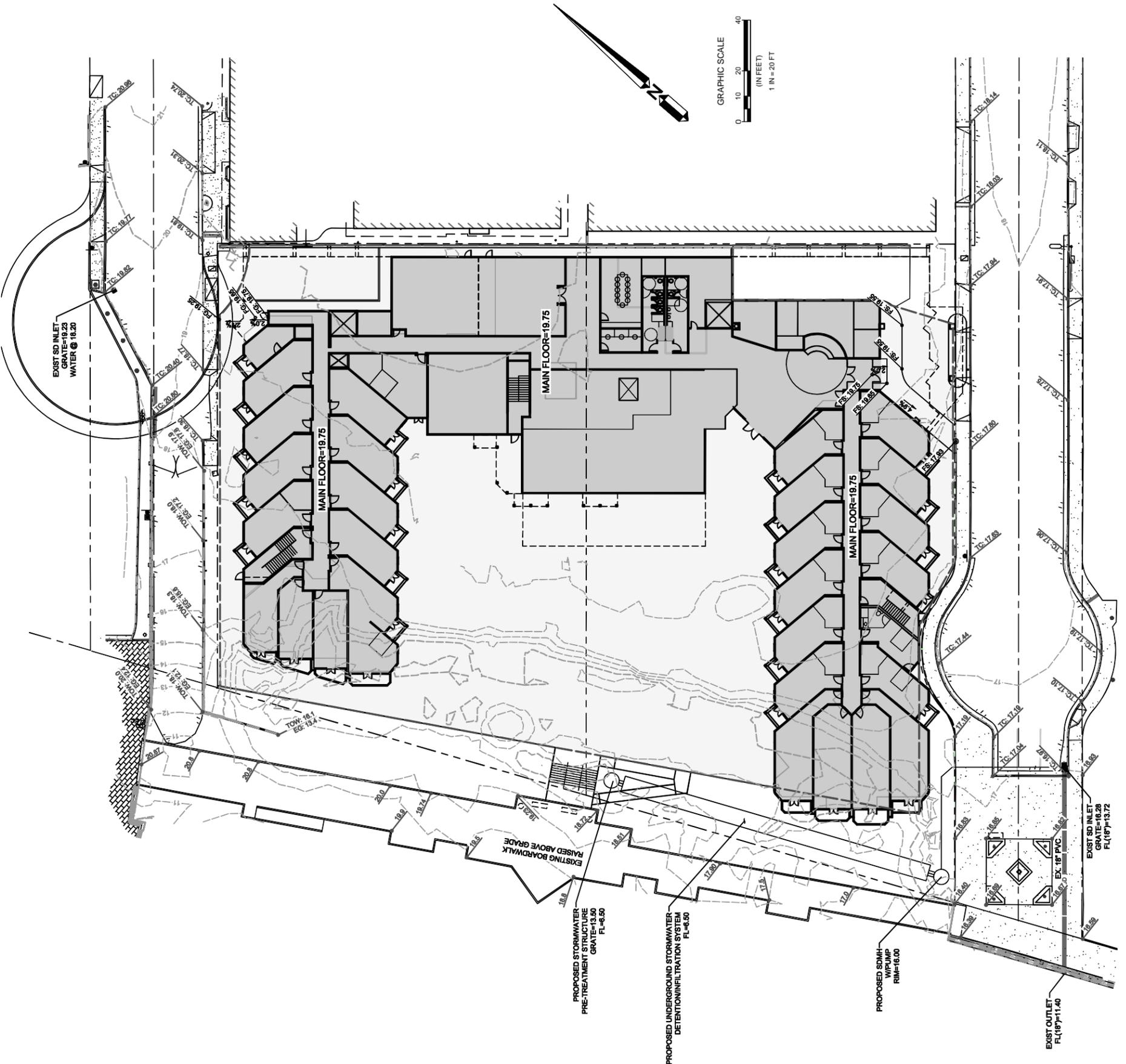
01/23/2015
1:62-0002
WGP PROJ. NO.

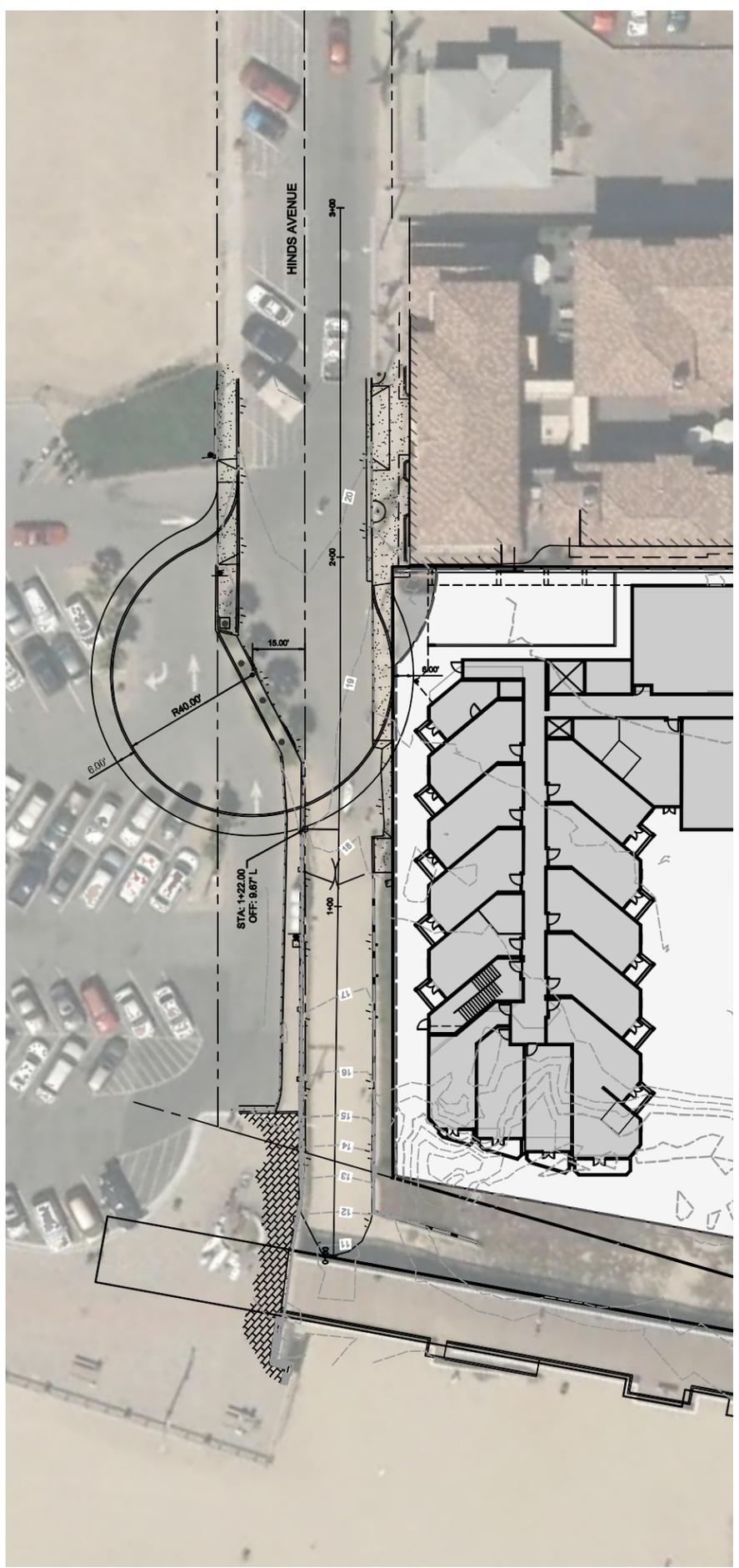
BOUNDARY & TOPOGRAPHIC SURVEY
OF PORTIONS OF LOTS 11-13 & 24 - 38 OF BLOCK 12
MAP OF TOWN OF EL PIZMO (AMB/155)

**BOUNDARY AND TOPOGRAPHIC SURVEY
OF A PORTION OF LOTS 11-13 & 24 - 38 OF BLOCK 12
MAP OF TOWN OF EL PIZMO (AMB/155)
CITY OF PISMO BEACH, CA**

GRADING NOTES

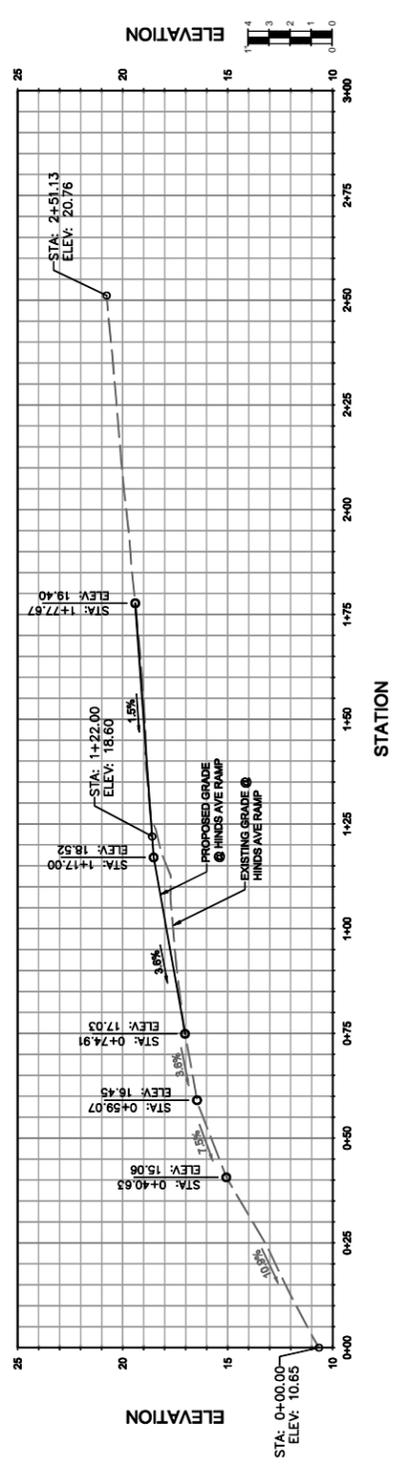
- THE FOLLOWING SOIL QUANTITIES ARE ESTIMATES ONLY AND ARE NOT ADJUSTED FOR REMOVAL OF VEGETATION OR FOR ROCK INCURRED DURING EXCAVATION. QUANTITY ESTIMATES SHOWN ON THESE PLANS ARE TO BE USED FOR BONDING AND PERMIT PURPOSES ONLY. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ACTUAL QUANTITIES AND SHRINKAGE FOR THE PURPOSES OF CONSTRUCTION AND BIDDING.
 - A. CUT = 23,400 CY MAX DEPTH OF CUT = 12 FT.
 - B. FILL = 60,000 CY MAX DEPTH OF FILL = 6 FT.
 - C. NET = 23,400 CY (CUT)
- ALL GRADING AND SITE WORK SHALL BE DONE IN ACCORDANCE WITH THE 2010 CALIFORNIA BUILDING CODE (CBC) CHAPTER 18 & 33 AND THE 1997 UNIFORM BUILDING CODE (UBC) APPENDIX CHAPTER 33, THE GRADING ORDINANCE OF THE (ENTER AGENCY NAME), AND THE SOILS REPORT. IN THE CASE OF CONFLICT BETWEEN THE PRECEDING REQUIREMENTS AND THESE PLANS, THE MORE STRINGENT SHALL GOVERN.
- EARTH SYSTEMS PACIFIC, HEREINAFTER DESCRIBED AS THE GEOTECHNICAL ENGINEER, WILL BE NOTIFIED AT LEAST TWO (2) WORKING DAYS BEFORE SITE CLEARING OR GRADING OPERATIONS COMMENCE AND WILL BE PRESENT TO OBSERVE THE STRIPPING OF DELETERIOUS MATERIAL AND PROVIDE CONSULTATION TO THE GRADING CONTRACTOR IN THE FIELD.
- ALL GRADING OPERATIONS SHALL CONFORM TO THE RECOMMENDATIONS IN THE SOILS REPORT AS DESCRIBED IN NOTE 3 ABOVE, UNLESS OTHERWISE DIRECTED BY THE GEOTECHNICAL ENGINEER OF RECORD OR AS NOTED ON THESE PLANS.
- ALL PERMANENT CUT OR FILL SLOPES SHALL BE NO STEEPER THAN 2.0 HORIZONTAL TO 1.0 VERTICAL. THE GEOTECHNICAL ENGINEER SHALL SUBMIT A REPORT VERIFYING THE STABILITY OF ALL SLOPES STEEPER THAN 2.0 HORIZONTAL TO 1.0 VERTICAL.
- ALL FILLS SHALL BE BENCHED INTO COMPETENT MATERIAL AND FILL AREA SHALL BE PREPARED AS REQUIRED BY THE GEOTECHNICAL ENGINEER. NO FILL SHALL BE PLACED UNLESS THE GEOTECHNICAL ENGINEER HAS OBSERVED THE SOILS TO RECEIVE FILL SHALL BE PERFORMED. ALL FILL MATERIAL SHALL BE IN ACCORDANCE WITH THE SOILS REPORT.
- THE CONTRACTOR SHALL FURNISH THE GEOTECHNICAL ENGINEER WITH A SUBMITTAL INDICATING THE TYPE OF CONCRETE, MIX QUANTITIES, AND MASONRY MATERIALS TO BE USED IN THE CONSTRUCTION OF ALL FOUNDATIONS, FOUNDATION WALLS, AND RETAINING WALLS FOR PRIOR APPROVAL.
- THE CONTRACTOR SHALL PROVIDE UNIFORM GRADES BETWEEN CONTROL ELEVATIONS WITH SMOOTH VERTICAL CURVES AT GRADE BREAKS. THE EDGES OF ALL GRADING WORK SHALL BE ROLLED AND CONTOURED TO PRESENT A NATURAL LOOKING APPEARANCE THAT BLENDS WITH ADJACENT NATURAL GRADES AND AVOIDS PRISMATIC FORMS.
- NO AREA SHALL BE GRADED SOONER THAN IS NECESSARY FOR CONSTRUCTION TO REDUCE THE AMOUNT OF TIME THAT THE SOILS ARE DEVOID OF PLANT MATERIAL.
- PRIOR TO FINAL INSPECTION, THE GEOTECHNICAL ENGINEER SHALL CERTIFY THAT ALL GRADING, SCARIFICATION, AND COMPACTION WAS DONE IN ACCORDANCE WITH THE RECOMMENDATIONS IN THE SOILS REPORT AND AS NOTED ON THESE PLANS.
- THE GEOTECHNICAL ENGINEER SHALL INSPECT AND CERTIFY THAT ALL FOUNDATION EXCAVATIONS COMPLY WITH THE RECOMMENDATIONS OF THE SOILS REPORT.
- A FINAL REPORT SHALL BE PROVIDED BY THE GEOTECHNICAL ENGINEER IN ACCORDANCE WITH UBC SECTION 3318.1.
- THE ENGINEER OF RECORD SHALL INSPECT GRADING OPERATIONS AND COMPLETE AN INSPECTION REPORT ON A BI-WEEKLY BASIS STATING THE PROGRESS OF GRADING OPERATIONS.
- SEE EROSION CONTROL PLANS FOR EROSION, SEDIMENTATION, AND DUST CONTROL NOTES.





PLAN

Scale: 1:1



PROFILE

Scale: 1:20

First/Second and Third Floor Building Footprints Over All Lots



Rendering 1 - Hotel Entry on Stimson Avenue



Rendering 2 - Bird's Eye View Looking East Over Public/Amenity Deck



Rendering 3 - Hinds Avenue



Rendering 4 - Third Floor View to the West





Figure 5 – Photo Simulation.
 A view of the proposed hotel from the intersection of the Promenade



Figure 6 – Photo Simulation.
 A view of the proposed hotel from the intersection of the Promenade

BEACH WALK RESORT



HOTEL VIEW #1 (BEFORE) - Looking west from corner of Cypress & Hinds

Exhibit 3-City-Approved Project Renderings

A-3-PSB-15-0037 (Pismo Beach Hotel)

Page 6 of 11

BEACH WALK RESORT



HOTEL VIEW #1 (AFTER) - Looking west from corner of Cypress & Hinds

BEACH WALK RESORT



HOTEL VIEW #2 (BEFORE) - Looking west from corner of Cypress & Stimson

BEACH WALK RESORT



HOTEL VIEW #2 (AFTER) - Looking west from corner of Cypress & Stimson

Exhibit 3 - City-Approved Project Renderings

A-3-PSB-15-0037 (Pismo Beach Hotel)

Rendering - East Elevation
Presented to City Council on 6/2/15



Buildings that currently exist on this land area (167 Stimson and 160 Hinds) have been removed so that the entire east elevation is visible.

Rendering - East Elevation Presented to City Staff on 6/30/15



5 feet of landscape has been added

Same stone as entry has been added

Portion of ground floor wall is 20 ft behind east property line

3rd floor rooms have been pulled back by 2 ft in order to provide roof treatments over 2nd floor rooms

12 ft building indentation by elevators has been added - breaks up building & roof lines.



CITY OF PISMO BEACH
Community Development Department
 760 Mattie Road, Pismo Beach, California 93449
 (805) 773-4658 / Fax (805) 773-4684

June 03, 2015

CERTIFIED MAIL # 7013-0600-0001-4565-4028

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

ATTN: Daniel Robinson

RECEIVED
 JUN - 5 2015
 CALIFORNIA
 COASTAL COMMISSION

FINAL LOCAL ACTION NOTICE
 REFERENCE # 3-PSB-15-0511
6/8/15 - 6/19/15
 OPEN PERIOD

Notice of Final Action
City of Pismo Beach City Council on a Project located within
the Pismo Beach Coastal Zone

Applicant Info:

Name:	Robert Eres, Nexus
Address:	1 MacArthur Place, Suite 300, Santa Ana, CA 92707
Telephone:	1-174-546-5600
Project No:	P14-000192
Site Address:	147 Stimson and 150 Hinds Avenue
Project Summary:	Appeal of Planning Commission Approval of a Coastal Development Permit, Conditional Use Permit and Architectural Review Permit for the demolition of existing buildings onsite and the construction of a new 128-room hotel with conference rooms, a fitness center, a swimming pool, a jacuzzi, a spa, meeting rooms, a restaurant/bar, a public access courtyard, a deck connecting the project's courtyard to the city's promenade, and underground parking.
Date of Action:	June 2, 2015
Action:	The City Council upheld the Planning Commission's approval of Project P14-000192; thereby approving the project and noted modifications submitted by the applicant.
Attachments:	City Council Resolution No. R-2015-046, Staff Report, Approved Project Plans, Minutes Excerpt, Notification information: Tribune – Proof(s) of Publication for 6/2/15 City Council Meeting, 4/28/15 Planning Commission Meeting, Notice of Mitigated Negative Declaration (MND), MND Distribution list, 300 ft radius mailing lists for Owner and Occupant with APN and maps, and Owner only with Interested persons, and Correspondence.
Appeal Status:	Appealable

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

RESOLUTION NO. R-2015-046

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH UPHOLDING THE APRIL 28, 2015 PLANNING COMMISSION DETERMINATION TO APPROVE PROJECT NO. P14-000192 FOR A COASTAL DEVELOPMENT PERMIT, CONDITIONAL USE PERMIT AND ARCHITECTURAL REVIEW PERMIT FOR THE BEACH WALK HOTEL AT 147 STIMSON AVENUE & 150 HINDS AVENUE;
APNS: 050-152-027, -032, -033**

WHEREAS, Nexus Companies the "Applicant" has submitted an application to the City of Pismo Beach for a Coastal Development Permit (CDP), Conditional Use Permit (CUP), and Architectural Review Permit (ARP) for the "Project" which includes the demolition of five buildings, the construction of a 128-room hotel with conference rooms, a fitness center, a swimming pool, a jacuzzi, a spa, meeting rooms, a restaurant/bar, a public access courtyard, a deck connecting the project's courtyard to the City's Promenade, underground parking and related improvements; and

WHEREAS, the Planning Commission approved the CDP, CUP and ARP for the Project on April 28, 2015; and

WHEREAS, the April 28, 2015 Planning Commission approval of the Project's CDP, CUP and ARP was appealed to the City Council in a timely fashion by Nancy Hampton, Fred and Mitzie Ruiz, Dave Riggle, Marci Imes, Regina Tanner, Michelle McElrath Severance, and Madeleine Winn; and

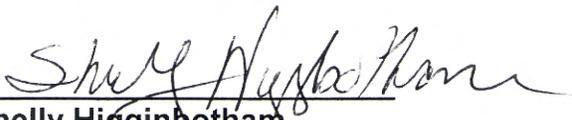
WHEREAS, on June 2, 2015, the City Council held a duly-noticed public hearing to hear the appeals of the Planning Commission's April 28, 2015 approval of the CDP, CUP and ARP for the Project where all interested persons were given the opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pismo Beach hereby upholds the April 28, 2015 Planning Commission approval of a Coastal Development Permit, Conditional Use Permit, and Architectural Review Permit for the demolition of existing buildings onsite and the construction of a new 128-room hotel with conference rooms, a fitness center, a swimming pool, a jacuzzi, a spa, meeting rooms, a restaurant/bar, a public access courtyard, a deck connecting the project's courtyard to the City's promenade, and underground parking with the findings specified in Planning Commission Resolution PC-R-2015-008 and appropriately identified modifications to the project submitted by the applicant, subject to all conditions specified by the Planning Commission and amended by the City Council, identified in **Exhibit A** attached hereto.

UPON MOTION OF Mayor Pro Tem Waage, seconded by Council Member Reiss, the foregoing resolution was adopted by the City Council of the City of Pismo Beach this 2nd day of June 2015, by the following vote:

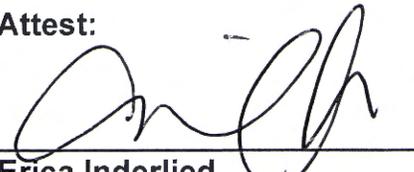
AYES: 4 Council Members Waage, Reiss, Howell, Higginbotham
NOES: 1 Council Member Blake
ABSENT: 0
ABSTAIN: 0
RECUSED: 0

Approved:



Shelly Higginbotham
Mayor

Attest:



Erica Inderlied
Interim City Clerk

EXHIBIT A

**CITY OF PISMO BEACH CONDITIONS
CITY COUNCIL MEETING OF JUNE 2, 2015
PERMIT NO. P14-000192 (CUP, CDP, & ARP)
LOCATION: 147 STIMSON AVENUE & 150 HINDS AVENUE,
APN: 005-152-027, -032, -033**

The conditions set forth in this permit affect the title and possession of the real property which is the subject of this permit and shall run with the real property or any portion thereof. All the terms, covenants, conditions, and restrictions herein imposed shall be binding upon and inure to the benefit of the owner (applicant, developer), his or her heirs, administrators, executors, successors and assigns. Upon any sale, division or lease of real property, all the conditions of this permit shall apply separately to each portion of the real property and the owner (applicant, developer) and/or possessor of any such portion shall succeed to and be bound by the obligations imposed on owner (applicant, developer) by this permit.

AUTHORIZATION: Subject to the conditions stated below, approval of Permit P14-000192 grants a Coastal Development Permit, Architectural Review Permit, Conditional Use Permit for the demolition of five buildings and the construction of a 128-room hotel with conference rooms, a fitness center, a swimming pool, jacuzzi, a spa, meeting rooms, a restaurant/bar, a public access courtyard, a deck connecting the project's courtyard to the City's Promenade, and underground parking as shown on the approved plans with City of Pismo Beach stamp of April 28, 2015. Approval is granted only for the construction and use as herein stated; any proposed changes shall require approval of amendments to these permits by the City of Pismo Beach, unless the Community Development Director determines that the proposed change is immaterial and that no amendment is necessary.

EFFECTIVE DATE: This permit shall become effective upon the passage of 20 days following the receipt of notice of this action by the California Coastal Commission, provided that an appeal has not been to the Coastal Commission within the above 20 days. The filing of an appeal shall stay the effective date until an action is taken on the appeal.

EXPIRATION DATE: The applicant is granted two years for inauguration (i.e. building permits issued and construction begun) of this permit. The permits will expire on June 2, 2017 unless inaugurated prior to that date. Time extensions are permitted pursuant to Zoning Code Section 17.121.160 (2).

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

Exhibit A

COMPLIANCE AGREEMENT: I have read and understood, and I will comply with all applicable requirements of any law or agency of the State, City of Pismo Beach and any other governmental entity at the time of construction. The duty of inquiry as to such requirements shall be my responsibility. I agree to defend, indemnify, and hold harmless the City, its agents, officers, and employees, from any claim, action, or proceeding against the City as a result of the action or inaction by the City, or from any claim to attack, set aside, void, or annul this approval by the City of the project; or my failure to comply with conditions of approval. This agreement shall be binding on all successors and assigns.

I HAVE READ AND UNDERSTOOD, AND I WILL COMPLY WITH ALL ATTACHED STATED CONDITIONS OF THIS PERMIT

Planning Commission April 28, 2015 approval upheld by the City Council on June 2, 2015.

Applicant

Date

Property Owner

Date

Exhibit A

**CONDITIONS, POLICIES, AND SELECTED CODE REQUIREMENTS FOR PROJECT
No. P14-000192; 147 Stimson Avenue & 150 Hinds Avenue
APN: 005-152-027, -032, -033**

Conditions as indicated below have been deemed to be of a substantive nature on the basis of the Planning Commission and City Council's decision. These conditions cannot be altered without Planning Commission approval.

PRIOR TO ISSUANCE OF A BUILDING PERMIT

A. PLANNING DIVISION:

1. BUILDING PERMIT APPLICATION. To apply for building permits submit five (5) sets of construction plans **ALONG WITH FIVE (5) COPIES OF THE CONDITIONS OF APPROVAL NOTING HOW EACH CONDITION HAS BEEN SATISFIED** to the Building Division.

2. COMPLIANCE WITH PLANNING COMMISSION AND COUNCIL APPROVAL. Prior to the issuance of a building permit, the Project Planner shall confirm that the construction plot plan and building elevations are in compliance with the Planning Commission and City Council's approval and conditions of approval. Project shall comply with the standards noted in the tables below:

Item	Required/Permitted for 147 Stimson Avenue
Lot area	34,582 square feet gross
Maximum Lot Coverage	55% of net lot area
Maximum Building Floor Area	125% of net lot area
Minimum Planting Area	20% of net lot area
Front yard setback*	Ocean = 15 feet <i>from property line</i>
Interior Side Setback*	L=0, R=10' from property line <i>AS</i>
Rear yard setback*	5 feet
Minimum setback from the promenade for buildings*	1 st Floor minimum 34 feet 2 nd Floor minimum 35 feet

*Italicized items added by Planning Commission 04.28.2015
Notes: *Setbacks do not include the project's parking garage.*

Exhibit A

Item	Required/Permitted for 150 Hinds Avenue
Lot area	27,846 square feet gross
Maximum Lot Coverage	80% of net lot area
Maximum Building Floor Area	200% of net lot area
Minimum Planting Area	10% of net lot area
Front yard setback*	Ocean = 15 feet from property line
Side Setback*	Hinds = 10 feet, Interior Side opposite Hinds = 0 feet
Rear yard setback*	5 feet
Minimum setback from the Promenade for buildings*	1 st Floor minimum 36 feet 2 nd Floor minimum 42 feet

Italicized items added by Planning Commission 04.28.2015

*Notes: *Setbacks do not include the project's parking garage.*

Item	Required/Permitted for 147 Stimson & 150 Hinds
Maximum number of hotel rooms	128 hotel rooms
Minimum parking spaces required	166 valet parking space
Balconies & deck encroachments into the setbacks	Consistent with the City of Pismo Beach 1983 Zoning Code, Section 17.102.150. For ocean fronting parcels balconies shall be consistent with Section 17.081.030 (C)
Porte-cochère	Shall be located consistent with the 1983 Zoning Code.
Fence Height	Consistent with the City of Pismo Beach 1983 Zoning Code, Section 17.102.120.
Parking Garage	The driveway entry width (inclusive of sidewalk and street curb cuts) from Hinds and Stimson into the parking garage shall be a minimum of 24 feet wide.

3. LANDSCAPING AND IRRIGATION PLANS. Landscaping and irrigation plans encompassing the entire site shall be submitted by the project applicant to the City for review and approval by the project planner. Detailed calculations shall be provided on the face of the plan indicating the provision of a minimum amount of landscaping for the project site as specified in Condition A.2. The Plans shall be consistent with Chapter 15.48 of the City Of Pismo Beach Municipal Code. The landscape plan shall include the following provisions:
- a. Use of low-water-using irrigation systems. Drip irrigation shall be used where feasible.
 - b. Landscape Design Plan (including plant list).
 - c. Irrigation Design Plan.
 - d. Tree list, including mature height of all trees.
 - e. Street trees consistent with the requirements of section 16.40.190 of the City Of Pismo Beach Municipal Code.

Exhibit A

- f. Street trees shall be maintained consistent with Chapter 12.12 of the Municipal Code.
 - g. Landscaping square footage shall be calculated based on the lot size after any dedication.
4. EQUIPMENT SCREENING. Utility devices and mechanical equipment and related structures shall be enclosed within a portion of the building similar in appearance to that of the main building, and shall be shown on plans, subject to Planning Division approval.
 5. PROJECT PHASING. The applicant shall submit and receive approval of site improvement plans, including grading, drainage and utility plans for the entire site prior to issuance of a building permit.
 6. PERMIT SUPERSEDES. Prior to obtaining Building Permits for Permit #P14-000192 the applicant shall verify that California Coastal Commission Permit #A-3-PSB-06-001 and/or any version of that permit has been withdrawn and/or is null and void. If building permits are requested for Permit #P14-000192 then Permit #P14-000192 shall supersede California Coastal Commission permit #A-3-PSB-06-001. The applicant is prohibited from activating both permits on the subject property.
 7. HOTEL UNIT RENTAL RESTRICTIONS. Other than the manager's unit, no hotel or motel room may be rented to the same occupant for more than twenty-nine (29) consecutive days.
 8. PUBLIC ART AND WALLS FACING HINDS & STIMSON. Prior to obtaining a building permit, the project plans shall include a detail of any retaining or blank wall facing Stimson Avenue or Hinds Avenue. The detail shall include an elevation of the entire wall and indicate the size and materials proposed for the wall facing city right-of-way. The design of the wall shall include design components such as a mural and/or materials that provide an attractive surface for that wall expanse. If public art is proposed on the wall surface it shall be located such that it is visible by the public from the Promenade. Should public art on these wall surfaces be infeasible, public art shall be located within the public plaza area of the hotel in a position where it can be viewed by the public from the Promenade. Wall design and/or public art shall be subject to the review and approval of the Community Development Director.
 - 9.¹ WATER AVAILABILITY. Prior to obtaining a building permit the applicant shall verify there is adequate water to serve the proposed project without resulting in an adverse effect to coastal resources either individually or cumulatively. The applicant shall provide information to show that there is

¹ Conditions 9, 12, 13, 14, 15, 16, 17, 18 & 19 requested or previously required by the California Coastal Commission.

Exhibit A

an adequate water supply to support the use of the proposed development for the life of the structure. If potable water will be used for any irrigation associated with the proposed development, only drip or micro spray irrigation systems may be used. The project's design shall incorporate the use of water efficient plumbing fixtures and appliances.

10. VALET PARKING CONDITION. Prior to obtaining building permits the project plans shall clearly indicate on the project plans that (1) the valet system will continue to operate with the hotel and its associated uses; (2) the valet activity is in a controlled area, and (3) the 166 parking spaces required with the development will be accommodated at all times. The applicant shall conduct the valet parking consistent with the project plans and the City's Zoning Code.
11. AFFORDABLE HOUSING. The project shall comply with the inclusionary housing requirements specified in Pismo Beach Municipal Code Section 17.26; specifically Section 17.26.022B. The project shall provide:
 1. For each five thousand sq. ft. of commercial area, provide one affordable unit; or
 2. For a commercial building five thousand sq. ft. or greater, provide in-lieu fees equal to or more than two percent of building permit value; or
 3. For each five thousand sq. ft. of commercial building provide one used dwelling or real property equal to the value of, or more than, the applicable in-lieu fee; or
 4. A combination of the above methods subject to City Council approval.
- 12.¹ BUILDING HEIGHT. The applicant shall verify that the maximum building height for all ocean front parcels does not exceed 25 feet from existing natural grade. Maximum height for all other parcels shall not exceed 35 feet above existing natural grade at any point. Height limits for building appurtenances (e.g., cupolas, flag poles, elevator shafts, and tower features) may be extended by 15%.
- 13.¹ CONSTRUCTION PLAN. The Permittee shall submit a Construction Plan to the Community Development Department for review and approval. The construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in the site plan view. Construction and staging zones shall be limited to the minimum area required to implement that approved project, and to minimize construction encroachment on the beach, among other ways by using blufftop areas for staging and storing construction equipment and materials.

¹ Conditions 9, 12, 13, 14, 15, 16, 17, 18 & 19 requested or previously required by the California Coastal Commission.

The Construction Plan shall also identify the type and location of erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following:

1. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging on the beach.
2. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exception shall be for the temporary erosion and sediment controls required above.
3. Grading or alteration of beach outside of the approved construction zones is prohibited with one exception as follows: existing quarry stone in the vicinity of the Stimson street end shall be removed.
4. Equipment washing, refueling, and/or servicing shall not take place on the beach. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.
5. The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately; keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).
6. All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.

A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to commencement of construction. The Permittee shall notify the Community Development Department Building Official at least 15 working days in advance of the commencement of construction, and immediately upon completion of construction.

The Permittee shall undertake construction in accordance with the approved Construction Plan. Any proposed changes to the approved Construction Plan shall be reported to the Building Official. No changes to the approved Construction Plan shall occur without a City amendment to this coastal development permit unless the Community Development Director determines that no amendment is necessary.

- 14.¹ LANDSCAPE PLAN. The Permittee shall submit a Landscape Plan prepared by a landscape professional to the Community Development

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Department Director for review and approval. The Landscape Plan shall clearly identify in site plan view the type, size, extent and location of all plant materials to be used, as well as the method and extent of irrigation that will be used to ensure planting success. The plant palette shall be comprised of native species of local stock, except within the courtyard and along Stimson Avenue, where drought resistant, non-invasive ornamentals may be allowed. All existing non-native invasive species such as ice plant shall be removed and not allowed to persist on site. Planting of non-native invasive species, such as those listed on the California Invasive Plant Council's Inventory of Invasive Plants, is prohibited.

The Permittee shall undertake development in the accordance with the approved Landscape Plan. Any proposed changes shall be reported to the Community Development Department. No changes shall occur with a Planning Commission amendment to this Coastal Development permit unless the Community Development Director determines that no amendment is necessary.

- 15.¹ BEACH AREA RESTORATION. WITHIN THREE (3) DAYS OF COMPLETION OF CONSTRUCTION, the Permittee shall restore all beach access points impacted by construction activities to their pre-construction condition. *This restoration shall include dune re-vegetation. The type of dune vegetation shall be reviewed and approved by the Community Development Director.* All rock and debris landward of the public pedestrian boardwalk and along the Stimson Avenue street end and the end of Hinds Avenue shall be removed from the site. Beach sands within the construction area shall be sifted as necessary to remove all construction debris. *Added by Planning Commission 04.28.2015.*
- 16.¹ PUBLIC ACCESS. The Permittee shall submit an Access Management Plan to the Community Development Director, for review and approval. The Plan shall specify the hours when the hotel outdoor courtyard and seating areas, sandy beach area, and all associated access connections to the pedestrian Promenade, will be open and available for free public access and passive recreational use. Except as otherwise authorized by the Community Development Director, public access and recreational use for the access area shall be available during daylight hours and evenings, 365 days a year, for the life of the development, except where limited private events are allowed in accordance with the approved Access Management Plan. Provisions for private events may establish a maximum duration and number of events per year, which shall not exceed 7 private events on weekends between and including Memorial Day and Labor Day weekends, (except as otherwise authorized by the Community Development Director) and shall ensure that up to 50% of the courtyard

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area remains open for free public use at all times during such events. The Plan shall also detail the type, design, and location, and content of all signs that will be installed to identify the location of public access areas and approved terms of use.

No development, as defined in Section 30106 of the Coastal Act, shall occur in the Public Access and Recreation area as described and depicted on the approved project plans except for the development authorized by this permit.

- 17.¹ LAND USE REQUIREMENTS. All hotel facilities shall be open to the general public. No individual ownership or long term occupancy of units shall be allowed. Rooms may not be rented to any individual, family, or group for more than 29 consecutive days.
- 18.¹ TSUNAMI PREPAREDNESS PLAN. The Permittee shall submit, for the review and approval of the Community Development Director, a plan for mitigating the hazards associated with tsunamis. The plan shall demonstrate that: (a) the existence of the threat of tsunamis from both distant and local sources will be adequately communicated to all hotel and resort guests, (b) information will be made available regarding personal safety measures to be undertaken in the event of a potential tsunami event in the area, (c) efforts will be provided to assist physically less mobile guests in seeking evacuation from the site during a potential tsunami event, and (d) hotel and resort staff have been adequately trained to carry out the safety plan. The plan shall include, at a minimum, the following components:
- Tsunami Information Component detailing the posting of placards, flyers, or other materials at conspicuous locations within the resort, each hotel room, stairwell exits and elevator lobbies on all floors, and the parking garage, provided in an appropriate variety of languages and formats (e.g., International symbols, embossed Braille, tape recordings, etc.) explaining tsunami risks, the need for evacuation if strong earthquake motion is felt or alarms are sounded, and the location of evacuation routes;
 - Tsunami Evacuation Assistance Component detailing the efforts to be undertaken by hotel and resort staff to assist the evacuation of physically less mobile persons during a tsunami event; and
 - Staff Training Component detailing the instruction to be provided to all hotel and resort employees to assure that the Tsunami Preparedness Plan is effectively implemented.

The Permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan

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shall be reported to the Community Development Department. No changes to the approval final plan shall occur without a Planning Commission amendment to this Coastal Development Permit unless the Community Development Director determines that no amendment is required.

- 19.¹ DEED RESTRICTION. The Applicant shall submit to the Community Development Director and City Attorney for review and approval documentation demonstrating that the Applicants has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the City (1) indicating that, pursuant to this permit, the City has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; (2) imposing the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property; and (3) stating that such deed restriction supersedes and replaces in its entirety that certain existing Deed Restriction recorded May 29, 2009, as Instrument No. 2009028028, in connection with California Coastal Commission Coastal Development Permit #A-3-PSB-06-001. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

- 20. ENVIRONMENTAL. The applicant shall be required to comply with all mitigation measures identified below and submit with the building/grading permit application a letter outlining project compliance with each mitigation measure. In addition the applicant shall be responsible for those duties identified in the Mitigation Monitoring Plan (Exhibit 3B) under "applicant's responsibilities".

Mitigation Measures	
Mitigation Measures (Air Quality)	
AQ-1	Prior to issuance of a grading permit, the project proponent shall demonstrate compliance with applicable provisions of the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M – asbestos NESHAP).
AQ-2	Prior to issuance of a grading permit, the project proponent shall ensure that a geologic evaluation is conducted to determine if Naturally-Occurring Asbestos (NOA) is present within the area to be disturbed. If NOA is not present, an exemption request must be filed with the District. If NOA is found, the applicant must comply with all requirements outlined in the Asbestos ATCM.

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Mitigation Measures

- AQ-3 During construction activities. Fugitive Dust Control Measures. The proposed project shall implement the following dust control measures so as to reduce PM10 emissions in accordance with SLOAPCD requirements.
- a. Reduce the amount of the disturbed area where possible;
 - b. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 mph. Reclaimed (nonpotable) water should be used whenever possible;
 - c. All dirt stock pile areas should be sprayed daily as needed;
 - d. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible following completion of any soil disturbing activities;
 - e. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established;
 - f. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;
 - g. All roadways, driveways, sidewalks, etc. to be paved should be completed as soon as possible after grading unless seeding or soil binders are used;
 - h. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;
 - i. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with CVC Section 23114;
 - j. Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site;
 - k. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water should be used where feasible;
 - l. All of these fugitive dust mitigation measures shall be shown on grading and building plans; and
 - m. The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20 percent opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork or demolition.
 - n. The contractor or builder shall consider the use of an APCD-approved dust suppressant(s) to reduce the amount of water used for fugitive dust control.
- AQ-4 During construction activities. Construction Equipment. The project proponent shall implement the following emissions control measures so as to reduce diesel particulate matter in accordance with SLOAPCD requirements.
- a. Maintain all construction equipment in proper tune according to manufacturer's specifications;
 - b. Fuel all off-road and portable diesel powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road);
 - c. Use diesel construction equipment meeting ARB's Tier 3 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation;
 - d. Use on-road heavy-duty trucks that meet the ARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation;
 - e. Construction or trucking companies with fleets that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g. captive or NOx exempt area fleets) may be eligible by proving alternative compliance;
 - f. Electrify equipment when feasible;

Mitigation Measures	
AQ-5	<p>g. Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and</p> <p>h. Use alternatively fueled construction equipment on-site where feasible, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.</p> <p>To help reduce sensitive receptor emissions impacts of diesel vehicles and equipment used to construct the project, the applicant shall implement the following idling control techniques: <u>California Diesel Idling Regulations</u></p> <p>a. On-road diesel vehicles shall comply with Section 2485 of Title 13 of the California Code of Regulations. This regulation limits idling from diesel-fueled commercial vehicles with gross vehicular weight ratings of more than 10,000 pounds and licensed for operations on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:</p> <ol style="list-style-type: none"> 1. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and 2. Shall not operate a diesel-fueled auxiliary power system (APS) to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 1,000 feet of a restricted area, except as noted in Subsection (d) of the regulation. <p>b. Off-road diesel equipment shall comply with the 5 minute idling restriction identified in Section 2449(d)(2) of the California Air Resources Board's In-Use Off-road Diesel regulation.</p> <p>c. Signs shall be posted in the designated queuing areas and job sites to remind drivers and operators of the 5-minute idling limit.</p>
AQ-6	<p>The proposed truck route for the delivery of materials and equipment shall be selected to ensure routing patterns have the least impact to residential and other sensitive receptors such as schools, parks, day care centers, nursing homes and hospitals.</p>
Mitigation Measures (Cultural Resources)	
C-1	<p>Prior to issuance of grading, demolition and construction permits, the applicant shall submit a Monitoring Plan, prepared by a City-approved archaeologist, for review and approval by the Director. The intent of this Plan is to monitor all earth-disturbing activities in areas identified as potentially sensitive for cultural resources. The monitoring plan shall include at a minimum:</p> <ol style="list-style-type: none"> a. A list of personnel involved in the monitoring activities; b. Inclusion of involvement of the Native American community, as appropriate; c. A description of how the monitoring shall occur; d. A description of frequency of monitoring (e.g., full-time, part time, spot checking); e. A description of what resources are expected to be encountered; f. A description of circumstances that would result in the halting of work at the project site (e.g., What is considered "significant" archaeological resources?); g. A description of procedures for halting work on the site and notification procedures; h. Provisions defining education of the construction crew; i. Protocol for treating unanticipated finds (refer to Treatment Plan); and, j. A description of monitoring reporting procedures.
C-2	<p>Prior to the commencement of demolition or construction activities, the applicant shall retain a qualified archaeologist and/or Native American monitor to act as the project Archaeological Monitor(s). The Archaeological Monitor(s) shall monitor all project-related earth-disturbing activities including trenching and excavation necessary to construct footings and foundations. Should human remains or archaeological or cultural resources be encountered during project construction work shall be immediately halted within 50 feet of the find, and appropriate mitigation measures and a mitigation plan shall be formulated and submitted for review and approval by the Director. The mitigation plan shall be prepared at the applicant's expense by an archaeologist with local expertise, and contain preservation measures including but not limited to full data recovery by a qualified archaeologist or Native American in accordance with the guidelines of the State Office of Historic Preservation and the</p>

Mitigation Measures	
C-3	<p>State of California Native American Heritage Commission. Work shall not recommence in this area until the find can be evaluated by the Archaeological Monitors or other qualified archaeologist with local expertise.</p> <p>Following demolition and before the issuance of grading and construction permits, a limited phase 2 (subsurface) testing program shall be undertaken by a qualified archaeologist to determine the presence of intact prehistoric or historic deposits on the project site. This testing program shall be designed to obtain a statistical analysis of the potential for discovery of subsurface resources in areas to be graded and excavated for the proposed project. If any significant archaeological resources are discovered, which may include, but are not limited to, human remains, chipped stone and groundstone tools, shell and bone artifacts, concentrations of fire affected rock, ash, charcoal, shell, and bone; and historic features such as privy or disposal pits are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Director.</p>
Mitigation Measures (Geology/Soils)	
GEO-1	The building foundation shall be designed to insure appropriate minimum site stability standards as required by the California Building Code for development within a FEMA Zone-A floodplain. Other design considerations for the engineered foundation shall include direct wave attack, shoreline erosion, wave scour, liquefaction, and tsunami over the life of the structure (100 years). Final plans shall be submitted with documentation from a licensed geotechnical engineer that the plans are consistent with the recommendations contained in the Geologic/Wave Run-up Reports (Earth Systems Pacific, as revised by responses to Coastal Commission Comments, February 6, 2007, and the Wave Run-up Study dated 2014.)
GEO-2	Construction plans submitted for building permit approval shall incorporate the recommendations of the geotechnical report required by GEO-1.
GEO-3	Prior to issuance of a permit for grading or demolition, the applicant shall submit a complete grading and drainage plan for review and approval by the City incorporating the relevant provisions of the City's Stormwater Management Program.
Mitigation Measures (Hazards & Hazardous Materials)	
HAZ-1	Demolition activities shall comply with relevant provisions of the National Emission Standard for Hazardous Air Pollutants (40CFR61, Subpart M - asbestos NESHAP). These requirements may include but are not limited to: <ul style="list-style-type: none"> a. Notification to the San Luis Obispo APCD, b. An asbestos survey conducted by a Certified Asbestos Inspector, and, c. Applicable removal and disposal requirements of identified Asbestos Containing Material.
Mitigation Measures (Hydrology/Water Quality)	
HYD-1	Prior to issuance of a permit for grading or demolition, the applicant shall submit a complete grading and drainage plan for review and approval by the City incorporating the relevant provisions of the City's Stormwater Management Program.
HYD-2	The drainage plan shall identify the specific type, design, and location of all drainage infrastructure and Best Management Practices (BMPs) necessary to ensure that post construction drainage from the project, including runoff from the roadway, paths, parking areas, and other impervious surfaces, does not result in erosion, sedimentation, or the degradation of coastal water quality. Such plan shall clearly identify a drainage system designed to collect, filter and treat all runoff prior to its discharge from the site and to remove vehicular contaminants and other typical urban runoff pollutants more efficiently than standard silt and grease traps. Such plan shall at a minimum provide for: <ul style="list-style-type: none"> a. The drainage system shall be designed to filter and treat (i.e., a physical and/or chemical reduction of pollutants achieved through active filtration) the volume of runoff produced from each and every storm event up to and including the 85th percentile 24-hour runoff event prior to discharge. The drainage system and its individual components (such as drop inlets and filtration

Mitigation Measures

- mechanisms) shall be sized according to the specifications identified in the California Storm Water Best Management Practices Municipal Handbook (California Storm Water Management Task Force, March 1993);
- b. The drainage system may include natural biologic filtration components such as vegetated filter strips and grassy swales provided that they are populated with native plant species capable of active filtration and treatment (e.g, rushes). If grades require, check dams may be used in such biologic filters.
- c. The drainage system shall include at least one engineered filtration unit to which all drainage shall be directed prior to discharge from the site. The engineered filtration unit shall be designed to remove, at a minimum, vehicular contaminants, and shall be appropriately sized to handle all parking lot drainage. Such unit may include media designed to remove expected contaminants.
- d. All vehicular traffic and parking areas shall be swept and/or vacuumed at regular intervals and at least once prior to October 15th of each year. Any oily spills shall be cleaned with appropriate absorbent materials. All debris, trash and soiled absorbent material shall be disposed of in a proper manner. If wet cleanup of any of these areas is absolutely necessary, all debris shall first be removed by sweeping and/or vacuuming, all storm drains inlets shall be sealed, and wash water pumped to a holding tank to be disposed of properly and/or into a sanitary sewer system.
- e. The applicant shall be responsible for implementing and maintaining drainage, erosion, and sedimentation control measures and facilities for the life of the project. This shall include performing annual inspections, and conducting all necessary clean-outs, immediately prior to the rainy season (beginning on October 15th), and as otherwise necessary to maintain the proper functioning of the approved system.

HYD-3 Prior to issuance of a building permit, the applicant shall submit a Construction Plan to the Director for review and approval. The Construction Plan shall identify the specific location of all construction areas, all staging areas, and all construction access corridors in site plan view. Construction and staging zones shall be limited to the minimum area required to implement the approved project, and to minimize construction encroachment on the beach, among other ways by using blufftop areas for staging and storing construction equipment and materials. The Construction Plan shall also identify the type and location of erosion control/water quality best management practices that will be implemented during construction to protect coastal water quality, including the following:

- a. Silt fences, or equivalent apparatus, shall be installed at the perimeter of the construction site to prevent construction-related runoff and/or sediment from discharging onto the beach.
- b. All construction materials and equipment shall be removed in their entirety from the beach area by sunset each day that work occurs. The only exception shall be for the temporary erosion and sediment controls required above.
- c. Grading or alteration of beach outside of the approved construction zone is prohibited with one exception as follows: existing quarry stone in the vicinity of the Stimson street end shall be removed.
- d. Equipment washing, refueling, and/or servicing shall not take place on the beach. All construction equipment shall be inspected and maintained at an off-site location to prevent leaks and spills of hazardous materials at the project site.
- e. The construction site shall maintain good construction housekeeping controls and procedures (e.g., clean up all leaks, drips, and other spills immediately, keep materials covered and out of the rain (including covering exposed piles of soil and wastes); dispose of all wastes properly, place trash receptacles on site for that purpose, and cover open trash receptacles during wet weather; remove all construction debris from the beach).
- f. All erosion and sediment controls shall be in place prior to the commencement of construction as well as at the end of each work day.
- g. A copy of the approved Construction Plan shall be kept at the construction job site at all times and all persons involved with the construction shall be briefed on its content and meaning prior to

Mitigation Measures	
	commencement of construction. The applicant shall notify planning staff of the Pismo Beach Planning Department at least 3 working days in advance of commencement of construction, and immediately upon completion of construction.
Mitigation Measures (Land Use/Planning)	
LU-1	Prior to issuance of a demolition permit, the applicant shall submit a plan, acceptable to the Director for providing relocation assistance to moderate-income- and below moderate-income tenants. The plan shall include reasonable moving expenses and relocation assistance.
LU-2	Prior to issuance of a demolition permit, the applicant shall submit program acceptable to the Director for providing for the replacement of affordable rental units removed from the project site.
Mitigation Measures (Traffic)	
T-1	<p>Prior to construction or demolition activities, a Construction Traffic Management plan shall be prepared for review and approval by the Director. The Construction Traffic Management Plan shall be based on the type of roadway, traffic conditions, duration of construction, physical constraints, nearness of the work zone to traffic and other facilities (bicycle, pedestrian, driveway access, etc.). The Construction Traffic Management Plan shall include at least the following:</p> <ol style="list-style-type: none"> a. Advertisement. An advertisement campaign informing the public of the proposed construction activities shall be developed. Advertisements should occur prior to the beginning of construction/demolition activities and during the course of construction. Advertising shall include notification of intersections that may be impacted during construction. b. Property Access. Access to properties along the construction area shall be maintained to the greatest extent feasible. Affected property owners shall receive advance notice of work adjacent to their property access and when driveways would be potentially closed. c. Buses, Bicycles and Pedestrians. The work zone shall provide for passage by buses, bicyclists and pedestrians. d. Intersections. Traffic control (i.e., use of flags) shall be used at intersections unacceptably congested due to construction traffic.

21. **INTERPRETIVE PANELS.** Location, number and design of Interpretive panels shall be determined by the Community Development Director prior to issuance of the building permit. Interpretive panels will be placed along the Promenade and/or the Pier Parking lot area prior to final inspection of the project.

22. **PROHIBITION AGAINST SHORELINE ARMORING.** No future shoreline armoring at 147 Stimson and / or 150 Hinds shall be permitted that would otherwise be entitled by Coastal Act Section 30235 , the Pismo Beach 1993 Land Use Plan Policy S-6, the Pismo Beach 1983 Land Use Implementation Program Section 17.078.060 (F) or any other law or regulation. If an appropriate government agency determines that any portion of the approved development is not to be occupied or used due to any coastal hazards, and such hazard concerns cannot be abated by ordinary repair and/or maintenance, that portion of the development must be relocated and/or removed outside of the area subject to coastal hazards. Prior to removal/relocation, the Applicant shall prepare a Removal and Restoration Plan for review and approval by the Reviewing Authority. If the Reviewing Authority determines that an amendment to the Coastal Permit or a separate Coastal Permit is legally required, the

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Applicant shall immediately submit the required application, including all necessary supporting information to ensure it is complete. The Removal and Restoration Plan shall clearly describe the manner in which such development is to be relocated and/or removed and the affected area restored so as to best protect coastal resources, and shall be implemented immediately upon Reviewing Authority approval, or approval of the Coastal Permit or amendment application, if necessary. *Added by the Planning Commission 04.28.2015.*

23. REAR (EAST) ELEVATION. Prior to obtaining building permits, the applicant shall redesign the east elevation to include more architectural articulation, to the satisfaction of the City Council. *Added by the Planning Commission 04.28.2015; Amended by the City Council 06.02.2015*
24. IN LIEU VISITOR PARKING SPACES. Prior to obtaining a building permit the applicant shall pay to the City an in lieu parking fee for five visitor parking spaces. *Added by the Planning Commission 04.28.2015.*
25. AFFORDABLE OVERNIGHT TRANSIENT ACCOMODATION CONTRIBUTION. *Prior to obtaining a building permit, the applicant shall deposit \$200,000 into a City account to be used for the development of low-cost accommodations in southern San Luis Obispo County, use of funds subject to approval by the City Council. Added by the City Council 06.02.2015.*

B. BUILDING DIVISION:

1. Prior to obtaining building permits the applicant shall provide evidence that the open area of the exterior wall at the ramp location is consistent with relevant state and city codes or the applicant shall redesign the project to provide consistency.
2. Prior to obtaining building permits the applicant shall provide evidence that the vehicle access ramps are adequate to accommodate vehicle maneuvering and that the design of the vehicle access ramps are consistent with relevant state and city codes or the applicant shall redesign the project to provide consistency and safe vehicle maneuvering.
3. Prior to obtaining building permits the applicant shall obtain an encroachment permit from the city for the porte-cochère if it extends over or into the City's right-of-way, or redesign the porte-cochère outside the City's right-of-way if the city declines to issue an encroachment permit.
4. The project shall comply with all City water conservation requirements.

C. ENGINEERING DIVISION:

Project-Specific Improvement Requirements

1. Identify the scale on project layout drawings and present proposed layouts to scale. All Project improvements shall be designed and constructed in accordance with City standards and specifications and in accordance with all applicable City Ordinances. Where no City Standard or Specification exists, the Standards and Specifications of the County of San Luis Obispo shall govern. The decision of the City Engineer shall be final regarding the specific standards that shall apply.
2. Public improvement plans including the following shall be prepared by a registered Civil Engineer and approved by the Public Services Department, Engineering Division:
 - Grading, drainage and erosion control.
 - Street paving, curb, gutter and sidewalk as determined necessary by the City Engineer.
 - Public utilities.
 - Water and sewer.
3. If deemed necessary by the City Engineer, plans within the right-of-way shall include profile drawings. Improvement plans shall accurately identify the size and location of all existing public and private utilities within 10' of the property, and in all public right-of ways fronting the property. Show all proposed private utilities and tie-in locations.
4. Upon approval of the improvement plans, the applicant shall provide a reproducible mylar set and 3 sets of prints of the improvements for inspection purposes. Prior to acceptance of the improvements, the applicant shall provide reproducible mylars, and 2 sets of prints of the approved record drawings (as-builts).
5. The applicant will be responsible for obtaining an encroachment permit for all work within a public right of way.
6. The City Engineering Division shall approve any landscaping or irrigation within a public right of way or otherwise to be maintained by the City.
7. If the existing City street adjacent to the frontage of the project is inadequate for the traffic generated by the project, or will be severely damaged by the construction, the applicant shall excavate the entire structural section and replace it with a standard half-width street.

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8. If the existing pavement and structural section of the City street adjacent to the frontage of the project is adequate, the applicant shall overlay the existing paving to centerline for a smooth transition.
9. At applicant's sole cost, obtain water rights from a third party equivalent to the project's estimated annual water usage as determined by the Director of Public Works/City Engineer. Such water rights shall be established for a period of five years, and may consist of a State Water Project "Table A" allocation, a State Water Project drought buffer allocation, or other water rights or methods sufficient to cover the projects' estimated annual water usage during that five year period. If State Water Project Table A or drought buffer are obtained, the amount obtained shall be based on a twenty-percent delivery expectation. For example, if the project's estimated annual water usage is seventeen acre-feet, the amount of State Water Project Table A or drought buffer allocation shall be not less than eighty-five acre-feet per year. *Applicant shall develop water offsets in an amount equal to 125% of the project's estimated water demand, to the satisfaction of the City Engineer, which offsets shall be in place in perpetuity. Added by the City Council 06.02.2015*
10. Prior to issuance of a building permit, applicant shall contribute a one-time payment of \$300,000 towards future public improvements of the City Council's choice at the City's Pier Plaza (which may include but not be limited to public recreational facilities, public restrooms, or creation of new public parking spaces), to compensate the City for the impact of the project on existing City facilities, including but not limited to the Pier Plaza, Pier Parking Lot, Hinds Avenue and the Pier and the Promenade.

Street Improvements

11. Street improvements shall be designed and constructed ADA and the following street standards:
 - a. 18-foot half-street width on Stimson from centerline to curb, 6 foot wide integral sidewalks, curb and gutter on project side of the street.
 - b. 18-foot half-street width Hinds from centerline to curb, 10 foot wide integral decorative sidewalks, curb and gutter.
 - c. Streetscape improvements along Stimson and Hinds shall comply with the City's downtown streetscape design, which includes new sidewalks, curb, gutter, street lights and street trees, benches, and trash cans per City Standards.
12. At applicant's sole cost, construct cul-de-sac improvements at the end of Hinds Avenue in accordance with plans and specifications approved by the Director of Public Works/City Engineer, if the cul-de-sac is deemed by the Director of Public Works/City Engineer to be necessary for public

Exhibit A

safety and traffic circulation. This condition shall expire three (3) years after the date the certificate of occupancy is issued for the project.

13. All site and floor plans must show the new right-of-way widths and street improvements.
14. The proposed upper levels may not overhang above the street and sidewalk improvements.
15. The proposed lower parking area may not encroach into the public right of way without the approval of an Encroachment Agreement by the Pismo Beach City Council, at their discretion.
16. Street structural sections shall be determined by an R-Value soil test. The Traffic Index for each street shall be as follows:
 - a. T.I. = 7.0 (Stimson and Hinds)

Utilities

17. The applicant is responsible for securing Public Utility signatures for proposed utility relocations. Utility comments shall be forwarded to the City Engineer for approval.
18. All existing above ground utilities located on the property and property frontages shall be relocated underground.
19. The existing 10" water stub at the end of Stimson Avenue shall be abandoned to the tee and the existing fire hydrant shall be modified to add a control gate valve.

Dedications and Easements

20. Prior to issuance of a building permit, an Irrevocable Offer of Dedication must be completed and recorded. Applicant shall submit this application to the Engineering Division. The document shall be stamped and signed by a qualified professional, and signed by all interest holders in the property, including lien holders and trustees. It is recommended that this item be expedited, as it may be a determining factor in time of issuance of the permits. The document is to offer to the City.
 - a. Street right of way, 5 feet wide on Hinds.
 - b. Street right of way, 3 feet wide on Stimson.
21. A Lot Line Adjustment/Lot Merger/Certificate of Compliance must be applied for and completed prior to issuance of a building permit.
22. All final property corners shall be installed.

Grading and Drainage

23. A preliminary grading soils and geology report for the project shall be prepared by a registered professional and supported by adequate test borings. The report shall address the need for slope protection measures and shall identify requirements for grading and structural footings. All earthwork design and grading shall be performed in accordance with the approved soils report.
24. A Grading and Drainage plan shall be submitted in accordance with the City Grading Ordinance. The project shall conform to the City's Storm Water Discharge Ordinance.
25. In order for the proposed development to maintain conformance with the City's Regional Stormwater Permit, implementation of Low Impact Development (LID) source control, site design, and stormwater treatment onsite shall be required. The stormwater design shall be submitted for review and approval by the City Engineer.
26. Calculations and/or a drainage report must be submitted with the plans.
27. Plans shall include Engineering Division standard notes.
28. An Erosion and Drainage Control Plan shall be submitted in accordance with the City Grading Ordinance. The plan shall reflect "Best Management Practices" as proposed in the California Regional Water Quality Control Board Erosion and Sediment Control Field Manual, and shall include both temporary measures (to be used during construction, and until permanent measures are completed/ established) and permanent measures. No Building Permits will be issued without prior approval of the Engineering Division and an approved erosion and sediment control plan and construction schedule. Erosion control measures shall be in place and approved by the Engineering Division prior to the start of construction.

Fees and Bonds

29. The Applicant shall pay all fees and post bonds as applicable at the time of construction prior to submitting the plans for approval.
30. The applicant shall pay any current and outstanding fees for Engineering Plan Checking and Construction Inspection services.
31. The applicant shall post a financial security bond guaranteeing performance of the public improvement plans and the construction of the Hinds Ave cul-de-sac if deemed necessary by the Director of Public Works/City Engineer.

– END –

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

RECEIVED

JUN 17 2015



CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: **David Riggle**

Mailing Address: **1253 Golden Way**

City: **Los Altos**

Zip Code: **94024**

Phone: **650-619-8552**

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Pismo Beach

2. Brief description of development being appealed:

Beachwalk Resort

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

**Beachfront property at 147 Stimson Avenue & 150 Hinds Avenue
APNs 005-152-027, -032 for 147 Stimson and APN 005-152-033 for 150 Hinds**

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-3-PSB-15-0037

DATE FILED: 6/16/15

DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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.

The Beachwalk Resort will occupy oceanfront property adjacent to the boardwalk and pier plaza in the downtown core of Pismo Beach. This property is a resource of public importance and its development should abide by the requirements of the Local Coastal Plan to protect views, be compatible with the surrounding architecture, and preserve the small scale character of the city.

As approved by the Pismo Beach City Council, the proposed hotel is incompatible with the Local Coastal Plan and the California Coastal Act in the following areas:

1. LCP D(2)(a) : Building and Site Design Criteria : Small Scale

New development should be designed to reflect the small-scale image of the city rather than create large monolithic buildings. Apartment, condominium and hotel buildings should preferably be contained in several smaller massed buildings rather than one large building.

Comment:

The proposed hotel is a monolithic building that will dominate the boardwalk and pier area. It will block public views from Stimson and Hinds Avenues and it will create a massive structure directly adjacent to and looming over the public beach access and boardwalk. The large three-story presence on Hinds Avenue will be very prominent to all visitors in the pier area. There is nothing small-scale about this development. It does not fit the small-scale image of Pismo Beach.

2. LCP D(2)(a) : Building and Site Design Criteria : Articulation

Building mass and building surfaces such as roofs and exterior walls shall be highly articulated to maintain a rich visual texture and an intimate building scale.

Comment:

The long, flat, three-story east wall spans an entire city block without landscaping or articulation. It does not meet the building mass, visual texture, or intimate build scale requirements of the Local Coastal Plan.

3. LCP D(2)(e) : Building and Site Design Criteria : Walls

Project perimeter walls should complement surrounding architecture and neighborhood environment and should avoid monotony by utilizing elements of horizontal and vertical articulation.

Comment:

The north and east walls of the hotel do not complement the surrounding architecture. They need to have increased setbacks and articulation and be smaller in scale. The east wall is one long, monotonous wall with neither horizontal nor vertical articulation.

8. LCP LU-K(3.2) : Pier Parking Lot

The primary land use focus for the Central Commercial District is commercial, recreational and cultural. Commercial uses shall be oriented towards visitors (i.e. gift shops, clothing stores, restaurants). Residential uses may be considered as part of mixed use project applications. Notwithstanding the Zoning Code requirements precluding expansions of existing nonconforming structures and land uses, a legal nonconforming residence in the Central Core Commercial district used solely as a permanent residence may itself be expanded up to 50% of the total building area existing as of May 18, 1993." This 50% expansion limitation shall be limited to residences permitted as such, not to hotels that might have converted to residences over time. A pedestrian orientation will be promoted for all development in this district. The pier and boardwalk provide the focus for pedestrian activities in this very "walkable" downtown commercial area.

Improvements in the Commercial Core may include reconfiguration of the pier parking lot for a more cohesive traffic flow from Pomeroy to Hinds and maximum use of the pier parking lot; dedication of a portion of the property adjacent to the city parking lot for vehicles and pedestrian access between those two streets; and a cohesive streetscape program to complement and encourage the pedestrian emphasis of downtown.

Comment:

The Local Coastal Plan recommends "maximum use of the pier parking lot." However, as a result of the hotel project, the future Hinds Avenue cul-de-sac has been moved onto pier parking lot land, causing the loss of many valuable downtown parking spaces. The hotel should be required to give up land for the cul-de-sac to preserve pier parking and future public uses of the pier parking area.

9. Coastal Act section 30251 : Scenic and visual qualities

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.

Comment:

The hotel is in a highly scenic area, one of the last pieces of urban beachfront property in all of California. It is important to the city of Pismo Beach that this property be developed in a way that enhances the character of our unique beach town. As currently designed, the hotel is much too large and will dominate the downtown, beach access, pier, and boardwalk areas. It will restrict views down Stimson and Hinds Avenues. The hotel should be subordinate to the character of its surroundings, not dominate them.

10. Coastal Act section 30253 : Minimization of adverse impacts

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.*

Comment:

The spring and summer months are very windy in Pismo Beach. Continuous onshore winds of 25-35 mph are common throughout the day. The proposed hotel will be a large U-shaped building facing into the wind. This design will catch the wind and channel it into updrafts and vortices on the inside of the U. These vortices will make the courtyard and interior balconies unpleasant and potentially dangerous for pedestrians. A hotel design that was composed of separate, smaller buildings as specified by the Local Coastal Plan would eliminate this danger.

The hotel includes an underground garage that will be flooded during the expected 100 year flood event. With global sea level rise, the frequency of such flood events could be much greater. The risk to life and property should be minimized by eliminating the underground garage, reducing the size of the hotel, and providing above-ground parking.

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.

David Riggle

Signature of Appellant(s) or Authorized Agent

Date: June 15, 2015

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: _____

RECEIVED

CALIFORNIA COASTAL COMMISSION

JUN 18 2015

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
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CALIFORNIA
COASTAL COMMISSION



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Ted J. Case, Central Coast Environmental Protection

Mailing Address: 211 Porterville St

City: Pismo Beach

Zip Code: 93449

Phone: (805) 295-6192

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Pismo Beach, CA

2. Brief description of development being appealed:

Beachwalk Resort

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

Beachfront property at 147 Stimson Avenue & 150 Hinds Avenue
APNs 005-152-027, -032 for 147 Stimson and APN 005-152-033 for 150 Hinds

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-3-PSB-15-0037

DATE FILED: 6/18/15

DISTRICT: Central Coast

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: June 2, 2015

7. Local government's file number (if any): P14-000192

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:

Nexus Companies
c/o Rob Eres
1 MacArthur Place,
Suite 300
Santa Ana, CA 92707

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) ReginaTanner
2633 N. DeWolf Ave
Fresno, CA 93737

(2) Fred and Mitzie Ruiz
1017 N. El Cajon St.
Visalia, CA 93291

(3) Nancy Hampton
2410 Wild Lilac Ct.
Meadow Vista, CA 95720

(4) David Riggle

1253 Golden Way
Los Altos, CA 94024

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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.
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Please see the attached 13 page document

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:

6/15/2015

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:

CCC Appeal by TJC

The ocean, beach and the immediate abutting land are recognized as an irreplaceable national resource to be protected and enjoyed by the entire city and region. The Planned Beachwalk Resort will be situated on prime oceanfront property adjacent to the boardwalk and pier plaza in the downtown core of Pismo Beach. This land is a resource of public importance and its development should abide by the requirements of the Local Coastal Plan to protect views, be compatible with the surrounding architecture, and not diminish access to the beach by residents and visitors. The present plan as approved in the Notice of Determination and permitted by the City of Pismo Beach fails miserably to meet these requirements.

Water availability and demand.

The City's General Plan/LCP (last amended April 2014) states (pg F12-F13): "*New development should be allowed only as additional long- term water sources become available*". Additionally, **F-36** "No development shall have building permits issued which would individually or cumulatively exceed the capacity of the City's water supply system."

The LCP also has many references to the need to follow CEQA procedures as City buildout goes on.

Unfortunately, CEQA procedures and the LCP were not always followed in the planning for the Beachwalk Hotel. New development in the City has gone on unabated in the face of a historic drought without identifying new long- term water sources. This rises to the level of grave concern for the Coastal Commission to the extent that projects might threaten coastal resources. To evaluate the problems raised, it will be helpful to have an annotated timeline of the significant milestones in project review along with State and City actions (Table 1).

Table 1. Timeline

January 17, 2014: Governor Jerry Brown issued a proclamation declaring a Drought State of Emergency for the State of California.

March 4, 2014: the San Luis Obispo County Board of Supervisors declared a drought emergency.

August 2014 to March 24, 2015: None of the Planning Commission meeting agendas contain any items relating to the Beachwalk Inn project.

February 2015. Draft initial study of Environmental impact is available. This Contains the mitigated negative declaration. Water supply and water utilities availability are determined to have "**less than significant environmental impacts**" and therefore no mitigation is required.

March 17, 2015: From the executive summary for the June 2, City Council meeting (pg 6.A-8) "the notice of the environmental document appeared in the Telegram Tribune March 17, 2015, and was forwarded to state agencies for a review period from March 16 to April 6, 2014. No appellant appealed the Planning Commission action to adopt the Mitigated Negative Declaration (MND) for the project. " *

A review of the file on this project reveals that because of the City's earlier determination that "less than significant environmental impacts" will occur in the areas of water supply and water utilities, the MND was not circulated to key state (and Federal) agencies involved with water issues.

April 1, 2015: Governor Brown called for a 25% reduction in water use.

April 28: Pismo Planning Commission approves the Beachwalk project at their regular meeting. However, they insert Conditions A9 and C9 dealing with water.

May 1: The Notice of Determination is recorded on May 1*

May 5 through May 12: Seven private citizens appeal the Planning Commission decision to City Council.

May 18: A geologist hired by the applicant inserts a letter on wave run-up and tsunamis saying they are properly mitigated.

May 19: City Council hears a presentation on the water situation by the City engineer, Benjamin Fine. The accompanying document (available at <http://www.pismo-beach.org/DocumentCenter/View/45812>) contains for the first time an estimate of how much water demand is expected by the Beachwalk Hotel. It is **25.6 AF** per year, but it is buried in the presentation (part of his Table 7) and apparently not appreciated.

Mr. Fine also opines that new purchases of water by the City are not likely to be successful (pg 7.A-9)**.

May 19: At the same meeting City Council votes against a building restriction moratorium. But they do vote in favor of declaring "Critical Water Supply Conditions".

May 28: Kevin Kahn of CCC sends a letter to City Council on concerns. This letter is the first from CCC to now include water as an issue and specifies mitigation requirements based on offsetting the project's water demands by retrofitting water fixtures within the same service area.

May 31. City staff claims the 30 day statute of limitations has expired on NOD objections.*

June 2. City Council hears the appeals and votes to approve permits for the Beachwalk. At the meeting there is discussion about using "offsets" instead of water

purchases to achieve condition C9. All this is summarized in the written executive summary with the sentence "Staff has met with the Applicant to discuss conservation projects that would create real water savings" (pg 6A-12)." City Council and the media mistakenly believe that the hotel will use 17 AF/yr of water, when that number is introduced only as an example to illustrate how the arithmetic would work in fulfilling condition C9. Staff does not correct them. The real estimate that the City Engineer, Mr. Fine, gave City Council on May 19 is 25.6 AF/yr. The project is approved with the original condition C9 in the final resolution, even though it is clear from the verbal discussion that all mitigation is still a work in progress.

Commentary is shown in red

* Note that this seems to violate CEQA procedures since the project had not yet become final because it was appealed to City Council; therefore the NOD was finalized prematurely.

** Pg 7.A-9: "Staff has spoken to several local agencies about the potential of either a short term, or long term water sale commitment. Due to the current drought, none of the local agencies are willing to negotiate a water sale. Staff is still investigating the purchase of water from agencies from outside the area; however there are obstacles in delivering water from outside of the area."

Also same page: "Because of the complex negotiations and pipeline capacity limitations, increasing the City's Table A allocations is not a practical option at this time. "

Comments:

1. The City used the wrong criteria in deciding at the outset that there would be "less than significant impact" in the water availability section and utilities sections of the MND.

The argument given is that "the project is consistent with the General Plan and is an allowed use for R-4 and C-1 zoning districts. The City's water supplies and wastewater system have been sized to accommodate demand associated with the buildout of the City's General Plan which includes the project site."

While it is true that a hotel sited here is consistent with the General Plan, that is only through a conditional use permit. The recommended developments in the Central Commercial District are as follows (LU-K-2):

"The primary land use focus for the Central Commercial District is commercial, recreational and cultural. Commercial uses shall be oriented towards visitors (i.e. gift shops, clothing stores, restaurants). Residential uses may be considered as part of mixed use project applications..."

Hotel development is favored in the City's Mixed-Use district which surrounds the Central Commercial District.

But the real problem is that consistency with a General Plan does not necessarily translate into insignificant environmental impacts because the environmental situation on the ground changes over time. Imagine a cruise ship where there is an *ad libitum* water supply for everyone on board. Now the ship sinks and a small party of individuals survives on a life raft. Even a tablespoon of water becomes a critical resource. Since the general plan was adopted and as the drought lengthened and particularly as the Beachwalk project went through planning, it became increasingly clear that the assumption of "less than significant impacts" in the mitigated negative declaration became invalid.

2. Ongoing development within the City and estimates of its water demands has been performed in an *ad-hoc*, piecemeal way and a case in point is the Beachwalk Inn project whose water demands were never estimated until late in the process. Nor were they put in the context of the cumulative effects caused by other projects going on in the City in the face of an historic drought. Here I reproduce the City Engineer's (Mr. Benjamin Fine) Table 7 that is referenced in the timeline of Table 1.

Table 7: Outstanding Building and Planning Permits

Type of Development	Number of Units	Anticipated Water Demand per Unit (AF)	Total Anticipated Water Demand (AF)
Building Permits			
Multifamily	52	0.01	0.52
Single Family	72	0.25	18.75
Commercial	2	0.33	0.66
Subtotal			19.93
Planning Permits			
Hotel (rooms)	2 (232)	0.2/room	46.4
Multifamily	76	0.01	.76
Single Family	47	0.25	11.75
Subtotal			58.91
Total			78.84

These figures are based upon historic usage and do not include conservation.

Recall from the timeline that this information was presented to City Council on May 19, long after the City recorded their NOD on the Beachwalk Inn project. There are a total of 251 new buildings (present and pending) or 481 new units counting the 232 new hotel units projected (Table 7) in the City. These new buildings are estimated to require **78.84** additional AF of water (assuming no water conservation). The Beachwalk hotel with 128 rooms alone is expected to need an increase of **25.6 AF** (i.e. $128 * 0.2$) or about 1/3 of the city's new yearly water demand. Putting this number in perspective, the entire water savings for the city based on conservation efforts in the City's rebate program by private residences is only expected to be **29 AF** (Fine's Table 6 from the May 19 City Council Meeting). In

other words, this single hotel's water use will negate nearly all water conservation efforts, existing and planned, by City residences through the City's rebate program. The City has also has been trying to cut back its own municipal water use to meet the new State mandates. Mr. Fine expects municipal water savings to be only 9.11 AF, so this one hotel's new demand exceeds the city's own savings by **281%**. Finally, the combined new water demand projected for all new projects is **78.84 AF** and this actually exceeds the narrow water residual the City had for 2014, which was 75 AF.

Planners, decision-makers, and residents need to see how much water use is expected by this project, how this compares with the cumulative impacts to water use elsewhere in the city and region, on shared groundwater and surface reservoirs, and to evaluate and cost out possible mitigation. The water supplies for Pismo Beach are largely shared with other municipalities and water districts. All new water demands need to put in an analytical context with these broad cumulative impacts. This is what EIR's are for. It was a grave initial mistake for the City to begin with a negative declaration and a determination of less than significant impacts. As the project advanced it became increasingly clear that events on the ground – the prolonged drought and its effects, were overtaking previous building and planning decisions that the City had made and was still making.

3. Condition A9 does not seem to meet CEQA standards and lacks analysis of its probable benefit.

“Condition A.9. WATER AVAILABILITY. Prior to obtaining a building permit the applicant shall verify there is adequate water to serve the proposed project without resulting in an adverse effect to coastal resources either individually or cumulatively. The applicant shall provide information to show that there is an adequate water supply to support the use of the proposed development for the life of the structure. If potable water will be used for any irrigation associated with the proposed development, only drip or micro spray irrigation systems may be used. The project's design shall incorporate the use of water efficient plumbing fixtures and appliances.”

A major problem here is that the applicant is put in the position of policing themselves rather than a government agency with enforcement authority.

A second problem is that it is unclear if the condition for more efficient irrigation and plumbing fixtures will make much of a dent in the Hotel's water use. I am unaware of any analysis of this issue by the City but have done my own back-of-the-envelope calculation by looking at how much water has been saved across the entire city from similar cutbacks by residences using data in the city engineers report to City Council of May 19 on the rebate program.

Excluding sod replacement since the hotel has no sod to replace, the City Engineer estimates that about 6 AF of water may be saved by 145 residences (based on both current and pending rebate participation shown in his Table 6, pg 7.A-13). The Beachwalk hotel has 128 rooms so these measures might be expected to save

about 5.3 AF. The hotel's total water use is estimated to be $0.2 \text{ AF} * 128 \text{ rooms} = 25.6 \text{ AF/yr}$. So we might expect savings of about $5.3/25.6 = 20.7\%$ through these conservation measures. However, this is surely an overestimate for two reasons. First, this Hotel also has a spa, a pool, a Jacuzzi, and a restaurant/bar, unlike the typical residence. Secondly, for the obvious reason: a hotel guest does not have to pay separately for the water they use unlike a residence, so there is no financial incentive to conserve water. If there is a low-spray showerhead they can just stay in the shower longer.

One could easily quibble about the details behind my estimate, and I have my own reservations about its accuracy. The point is that the City should have provided the public with an analysis of their own for this project, and done it early in the environmental review process, not at the tail end, and in this case, not at all.

4. Condition C9 is likely unachievable and also does not seem to meet CEQA standards.

Condition C.9. "At applicant's sole cost, obtain water rights from a third party equivalent to the project's estimated annual water usage as determined by the Director of Public Works/City Engineer. Such water rights shall be established for a period of five years, and may consist of a State Water Project "Table A" allocation, a State Water Project drought buffer allocation, or other water rights or methods sufficient to cover the projects' estimated annual water usage during that five year period. If State Water Project Table A or drought buffer are obtained, the amount obtained shall be based on a twenty-percent delivery expectation. For example, if the project's estimated annual water usage is seventeen acre-feet, the amount of State Water Project Table A or drought buffer allocation shall be not less than eighty-five acre-feet per year."

Earlier however, City Engineer, Mr. Fine, in his presentation on May 19 to City Council, opined that new purchases of water by the City are likely to be unsuccessful (pg 7.A-9). But this negates the achievability of condition C9, for the Beachwalk project. If the City can't purchase new water, how is the applicant going to do that?

Also, while the condition reads the City Engineer makes the water demand interpretation, the City Manager Lewis at the City Council meeting of June 2, said the applicant will tell the city how much water they may use (Video of meeting). The problem here is that the applicant could make an unrealistic low-ball estimate and thus fulfill their mitigation requirements with minimal water purchases. There is no penalty specified in Condition C9 for error. Further, an agency must be able to assess water impacts before approval, not 5 years down the road. The water the Hotel is taking is coming from water that could go to someone else, so what are those environmental impacts? The State Water Project Table A and the drought buffer allocation are some of the same sources of water the city uses, so it's hardly a "third party". The more users, the more the water delivery is reduced compared to the allocation amounts for all who share this water.

City Community Development Director Biggs and City Manager Lewis suggest in verbal argument to City Council (June 2) that perhaps the City could reduce the amount of watering on its parks more than the 24% required by state mandates and that this savings could go toward mitigation for the Beachwalk Resort. But why should this offset performed by the City go exclusively to mitigate this single project compared to the 250 other building and planning permits that the City has now? If the City can cut back further on park watering, why hasn't it done so already? The City Manager states several times during the meeting that he will be meeting with applicants later "tonight" to discuss these possible options. It seems clear from this verbal discussion that there is not yet an agreed mitigation by the applicants, that C9 is not feasible, and that it is still very much a work in progress subject to further negotiation, even though according to the City's theory the environmental review period ended on May 1 and the statute of limitations for objections expired May 31.

5. Is it likely that the City's water supply will increase over time making these concerns moot?

This is an important question. Returning to the analogy of the sunken cruise ship and survivors on a lifeboat with very limited water. If there is a reasonable expectation that they will be rescued soon, then they might as well imbibe the limited water they have; if rescue is not imminent, they must be more conservative.

Unfortunately, predicting longer-term precipitation patterns is very difficult and fraught with uncertainty. However, credible scientific analyses forecast that the current drought is likely to be extended for a considerable period of time. Figure 1 is one example that is based on the analysis of tree ring data for western North America.

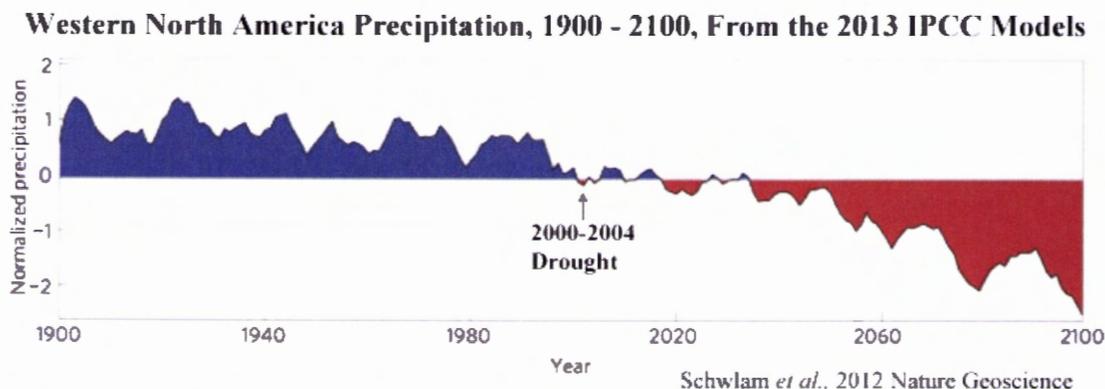


Figure 1. Normalized precipitation over Western North America (five-year mean) from 22 climate models used to formulate the 2013 IPCC report, as summarized by Schwalm *et al.*, 2012, Reduction in carbon uptake during turn of the century drought in western North America. The horizontal line marks the precipitation level of the 2000 - 2004 drought, the worst of the past 800 years. Droughts of this intensity are predicted to be the new normal by 2030, and will be considered an

outlier of extreme wetness by 2100. The paper states: *"This impending drydown of western North America is consistent with present trends in snowpack decline as well as expected increases in aridity and extreme climate events, including drought, and is driven by anthropogenically forced increases in temperature with coincident increases in evapotranspiration and decreases in soil moisture. Forecasted precipitation patterns are consistent with a probable twenty-first century megadrought."* Image credit: Schwalm *et al.*, 2012, Reduction in carbon uptake during turn of the century drought in western North America, *Nature Geoscience* **5**, 551-555, Published online 29 JULY 2012, DOI: 10.1038/NGEO1529, www.nature.com/naturegeoscience.

Is it reasonable to expect that the City Council was aware of such scientific studies when they made their decision on June 2? Yes. They were made aware in my comment letter they received on June 1. It was part of City Council's Package at their June 2 meeting. But even if you do not accept these scientific forecasts, based on the current water supply conditions in California and more particularly the Central Coast, combined with the fact that state and local municipalities have declared them "urgent" and "critical" if not "emergencies", it is no longer tenable for the City of Pismo Beach to declare that a critical water shortage exists (as they did at council's meeting of May 19) and at the same time accept new water hook-ups to City water unabated and with no more than a negative declaration.

6. Impacts of the project's water demands on coastal resources

It is impossible at this time to make such an evaluation. To quantify these impacts we would need to untangle the effects of the drought *per se*, from the effects caused by human take of the water, and finally partial out those due specifically from this project alone. It would be folly to attempt this with the limited data available. Pismo Beach gets its water from multiple sources that are each impacted by the drought and consumption, and evaporation. As Lake Lopez dries up, flows down Arroyo Grande Creek diminish with impacts to estuaries. Demands on the Santa Maria Ground Water Basin can and are leading to salt water intrusion issues affecting wildlife. Limited run-off from the lack of precipitation and from the now diminished irrigation in response, reduce stream flows and therefore steelhead runs. Breeding habitat for many species is being degraded and becoming eutrophic. But salmon and steelhead populations are also affected by commercial fishing, hydroelectric projects, habitat destruction, the Pacific decadal oscillation, and a host of other environmental issues, so untangling all this is next to impossible. A necessary first step, however, is having at least up-front predictions of the water demands of a project and in this case, we didn't get anything until way after the NOD had been issued and the necessary evaluation still hasn't been performed.

Scenic and visual qualities,

Coastal Act section 30251: *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.

Comments:

This Hotel significantly obstructs public views.

As an illustration I have attached a photo taken on the sidewalk of the south side of the intersection of Stimson and Cypress (Fig. 2). The next photo (Fig 3) shows the ocean view blockage expected from the hotel's construction. Unfortunately, it is difficult to do this with much precision since the City never required applicants to put up story poles that would have allowed the public to quantitatively gauge the visual impacts. At the City Council meeting on June 2, Community Development Director Biggs said public views from intersections would be maintained. They are not, at least at this intersection. The view looking north from the cul-de-sac at the end of Stimson is even more dramatic. Now one sees a nearly panoramic view from ocean to the coastal bluffs, which are now protected in the Pismo Preserve. That view will virtually be eliminated by the Hotel's outline.



Figure 2. Present view from the sidewalk looking west from the intersection of Cypress and Stimson.



Figure 3. That same picture photoshopped to show approximately how the Beachwalk hotel will obstruct the public ocean view from this angle.

This view in Figures 2 and 3 represents the east side of the project. The LCP requires that all structures on ocean-fronting parcels be limited to 25 feet in height above site grade. The building height on the eastern perimeter of the site is proposed to be 35 feet above the natural grade. Because this is an ocean-fronting parcel (APN 005-152-033) that extends to the eastern perimeter of the project site, the entirety of this parcel is subject to the 25-foot height limit. Thus the building height on the eastern perimeter of the site located on this parcel should be limited to 25 feet and is not in compliance with the LCP's height limitations.

Coastal Act section 30211 : Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

LCP C(14) : Parking

New development projects located within one-quarter mile of the beach or bluff edge shall be evaluated to assess their impact on the availability of parking for public access to the coast. If a project would result in a reduction of shoreline access parking, the project may be required to provide additional parking spaces to accommodate public access.

Comments:

Parking

The parking situation should have been reviewed in a way that compared the present public parking options and how they will be lost due to cumulative impacts from other projects that are also in the works. The Beachwalk hotel is one of two large hotels recently approved for construction less than a block away from each other. The "Inn at the Pier" already approved will be built at 601 Cypress, between

Pomeroy and Hinds street. It will be a 104-room hotel and conference center built on what is now a dirt lot that is used as an ad-hoc free parking lot for the public. On June 13, at 11am I counted 63 cars using this parking lot.



Figure 4. *Ad hoc* dirt parking lot on Cypress at the site of the future Inn at the Pier.

This public parking option will already be eliminated by the time the Beachwalk Hotel is built out. With the elimination of the ad-hoc public parking lot, street side parking spaces become even more in demand. Yet the Beachwalk project further eliminates 4 street parking spots on Stimson plus an unknown number of parking spaces lost by the creation of the cul-de-sac at the end of Hinds. Note also in Fig. 4, how on this day, every street parking space on Stimson was occupied and this is not atypical.

Further, in the future, we can see from the Pismo Beach Downtown Strategic Plan (adopted November 2014), that the City has a vision for the complete elimination of the current public paid parking lot between Pomeroy and Hinds (see Fig 5.1 in that plan).

The CCC (Justin Buhr) has commented already on the likelihood that the Beachwalk hotel will create pressures on this public lot by friends and visitors of registered guests at the hotel, so the parking access issues go beyond simply the physical number of parking spaces lost by the project's footprint. This impact becomes ever greater with the elimination of the ad-hoc parking lot on Cypress and potentially the planned elimination of the public parking lot altogether as outlined in the City's downtown strategic plan.

Low cost visitor housing

California Coastal Act: Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

Pismo's LCP: LU-4 a.

Resort commercial activities shall be promoted catering to all income levels.

The Beachwalk hotel with its valet parking and expensive rooms replaces 13 cabins on the Stimson side and 5 motel rooms and one residence on the Hinds side which previously served less affluent visitors.

In mitigating this loss of parking and public access, it is important to consider the kinds of activities that are common and historically prevalent in the pier region of Pismo Beach. Surfers come from all over the state to surf at the pier and have for decades. On June 13, 2015 for example at 11:30 am I counted over 45 surfers in the water in the immediate vicinity of the pier (north and south sides). Pismo's surfing pier spot is well known. It is hard to find a restaurant in town that does not have paintings or posters glorifying Pismo's iconic long history as a surfing Mecca. The pier also attracts lots of sport fishermen. In lieu parking at far-away sites puts an unfair burden on patrons of these two sports and removes a privilege that they have enjoyed for decades. Imagine a surfer carrying a heavy board, in a wet suit, and usually barefoot having to walk blocks to the pier; or a fisherman with long poles, tackle boxes and stinky buckets of bait maneuvering back and forth on a shuttle bus to the pier from some remote parking space.

If surfers and fisherman are wealthy enough to get a room at the Beachwalk hotel, they get front row access to the beach and their sports; if they are not so wealthy, they are out of luck and literally may have to sit in the back of the bus.

Traffic

A traffic study was done for this project, and the City maintains in its executive summary from the June 2 City Council meeting that the "addition of vehicular trips related to the project will not result in traffic operating at less than a Level of Service C standard as established by the City". The traffic study, however, did not apparently consider the cumulative impacts of the construction of 353 other new construction unit simultaneously going on in Pismo Beach (see Table 6 from city engineer above). Another problem is that the City inserted a cul-de-sac at the end of Hinds at the Planning Commission meeting of May 29 after the traffic study was completed. A cul-de-sac represents a contradiction for a one-way street like Hinds since it would be illegal for vehicles to use it for its intended purpose i.e. making U-turns. Apparently, the City intends to either convert Hinds to a two-way street or simply a promenade for pedestrians. In any event, this change will affect the entire downtown's traffic circulation in a way not analyzed at all in the traffic study accompanying the Beachwalk hotel. There are presently 11 street side parking spots on Hinds next to the public parking lot, which could also be eliminated in this is the case.

In summary, the project seen in the context of the cumulative effects to traffic and parking seriously impacts the historical access that surfers and fisherman have previously enjoyed and which is being eroded contrary to the spirit of the California Coastal Act.

Minimization of adverse impacts
Coastal Act section 30253 :

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.

Comments

In each of the three letters that the Coastal Commission submitted on this project, there were specific issues raised regarding wave-run up and shoreline hazards. The latest response of the applicant and included in the executive summary to the City Council meeting of June 2, 2015 was a letter from professional geologist Richard T. Gorman dated May 18, 2015 in response to appellant Mr. David Riggle's revealing historical photos of tidal flooding. Mr. Gorman asserts that the present Hotel design including the underground garage is not only safe from 100-year tidal flooding and wave run-up but even tsunamis! This is somehow achieved even though the project is forbidden from using future armoring of the shoreline. I'm not a professional geologist, but I have seen some dramatic photos and footage of some tsunamis (e.g. Crescent City, CA in 1964, Hilo, HI in 1946, and more recently Fukushima, Japan in 2011) and it strains credulity to think that much of the buildings in downtown Pismo would survive tsunamis of that magnitude.

Conclusion

For the reasons given (and others), I appeal to the Coastal Commission to deny coastal development permits for this project.


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JUN 22 2015

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 COASTAL COMMISSION
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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT
Please Review Attached Appeal Information Sheet Prior To Completing This Form.
SECTION I. Appellant(s)

Name: Nancy Hampton

Mailing Address: 2410 Wild Lilac Ct.

City: Meadow Vista

Zip Code: 95722

 916-899
 -8801

SECTION II. Decision Being Appealed

1. Name of local/port government: City of Pismo Beach
2. Brief description of development being appealed: Beach Walk Resort
3. Development's location (street address, assessor's parcel no., cross street, etc.):
 147 Stimson and 150 Hinds
 APN 005-152-027-032 and APN 005-152-033
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.



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TO BE COMPLETED BY COMMISSION:

APPEAL NO: *A-3-PSB-15-0037*

DATE FILED: *rec'd (Fax Copy) 6/19/15*

DISTRICT: *Central Coast*


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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: _____

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:

Nexus Companies
 c/o Rob Eres
 1 Mac-Arthur Place Suite 300
 Santa Ana CA 92707

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.

Regina Tanner
 2633 N. DeWolf Ave
 Fresno CA 93737

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(2) David Riggle
1253 Golden Way
Los Altos CA 94024

(3) Fred and Mitzie Ruiz
1017 N. El Cajon St.
Visalia CA 93291

(4) Alex deLeon
524 Crestmont
San Luis Obispo CA 93401

Fred Avila
1048 Fair Oaks Ave.
Arroyo Grande CA 93420

Lindsay Galloway
160 Stimson
Pismo Beach 93449

Anthony Avila
164 Stimson Ave.
Pismo Beach, CA 93449

Marci Imes
188 Stimson Ave.
Pismo Beach 93449

Naomi Moreno
160 Hinds Ave. #204
Pismo Beach

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**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.

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WATER:**California Coastal Act Section 30250 Location; existing developed area**

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas **with adequate public services and where it will not have significant adverse effects**, either individually or cumulatively, on coastal resources.

According to our LCP under Water Services:

"In November 1989, the Public Works Director concluded that the city had overcommitted the firm available water supplies of the city. This situation had come about through **underestimates of water usage for certain commercial developments**; underestimates of the amount of irrigation water used by residential developments on large lots; reliance on an expected yield of 700 acre feet per year from the Meadow Creek wells that is unproven; and lack of a peaking source to meet summer demand. This overcommitment precipitated an interim urgency ordinance by the City Council requiring stringent conservation measures."

LCP Policy P-5 Guaranteed Water Supply

The well-being of Pismo Beach is dependent on a reliable source of clean water which shall be available, expanded and protected at all times.

LCP Policy F-36 No development shall have building permits issued which would individually or cumulatively exceed the capacity of the City's water supply system

Comment: There is no guarantee of future water if this drought continues. The state is doing everything they can to reduce the use of the limited supply of water in California. They are now discussing the restrictions of ground water and are talking about curtailment notices to the state's most senior water right holders—those claimed before establishment of the state's water rights permitting process in 1914. The State Water Resources Control Board states "If dry



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conditions persist through the spring, it is anticipated that all holders of post-1914 and many holders of pre-1914 water rights in certain watersheds will receive curtailment notices soon". If this drought continues, the State will continue to restrict how much water individual cities can use.

The State Water Resource Control Board has also stated that if communities don't hit their water use target they will face fines of up to \$10,000 a day.

With this new huge Hotel projected to use 25.6 acre feet of water annually, which converts to 8,341,796.57 U.S. gallons, this City Council has put the residents of Pismo Beach in jeopardy. There is no guarantee that the City of Pismo Beach will have enough water for their residents let alone for a new 128 room hotel. (The City recently approved another hotel nearby with 104 rooms) Remember, the developers need to guarantee water in perpetuity and NOBODY can do that.

Pismo Beach new water restriction use says:

"California is in a severe drought with future water availability uncertain. The residents are already under restrictions for water usage. Residents who violate the restrictions could face graduated consequences, starting with a notice and escalating to possible shut-off of their water. First, residents would receive a notice of a violation and be given time to correct the problem. The city engineer would then send a letter to the property owner notifying them of the violation, and then issue fines of \$100 for the second violation, \$200 for the third violation and \$500 for each additional violation. If the city does not receive a response from the water account holder or property owner within 14 days, it may shut off the water."

The City can NOT justify this huge hotel with it's additional water use.

Scenic and Visual Qualities

California Coastal Act Section 30251 Scenic and visual qualities

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

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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.

LCP policy D-2 c. Views to the ocean, creeks, marsh and surrounding hills should be preserved and enhance whenever possible. The feeling of being near the sea should be emphasized, even when it is not visible.

LCP Policy D-2 using smaller massed buildings set back on the property.

D-41 c Street Ends. New buildings or structures on parcels

at these street ends (Hinds and Stimson) shall be sited so as to not block views, or to minimize view impairment when no feasible siting alternative exists.



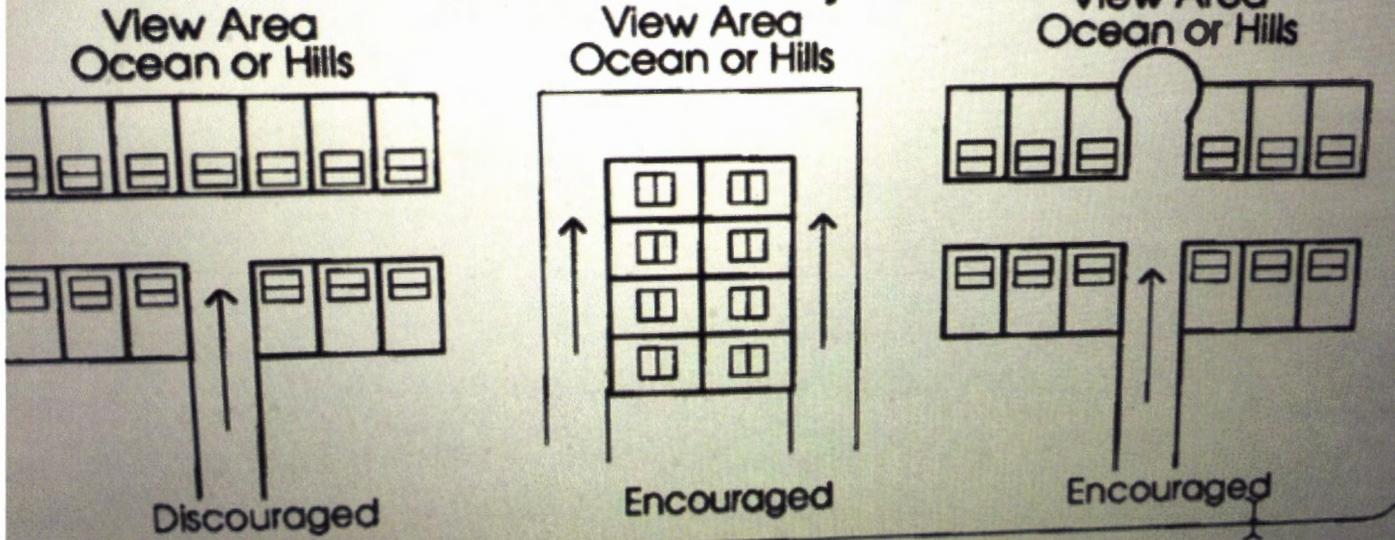
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structures are exempted from this policy. Examples include:

Design Element	D-18	View Corridor Protection
Land Use Element	LU-A-9	Side Yard Views
Land Use Element	LU-D-3	Side Yard Views

**Figure D-4
 Views and Street Layouts**



Design Element

Comment: As you can see from the diagram that is shown in the design element of the LCP, in order to protect ocean views, the building should not go beyond the halfway mark of the cul de sac.

This is a large monolithic building that goes beyond the cul de sacs on Hinds and Stimson blocking all views that the public currently enjoy from the Stimson plaza and the Pier boardwalk. It could easily be designed in smaller massed buildings set back from these street

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ends as our LCP states. This project fronts the beach and will dominate the entire town making all other buildings subordinate to it.

Hazards and Risks:**Section 30253 Minimization of adverse impacts**

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.

The **LCP S-2, S-6 and Section 17.078.050 (5) of the zoning code** regulate new development and construction of shoreline protective structures, and require new development to minimize risk to life and property by avoiding development in high hazards areas.

LCP Policy S-9 Restrictions on development within the 100-year flood plain

1. No habitable structure shall be approved for construction within the area of the 100-year flood unless the applicant demonstrates that the finished floor elevations are at least one foot above the projected elevation of the 100-year flood, except as allowed by FEMA regulations.

LCP Policy S-2 New Development within the City's jurisdiction shall be designed to withstand natural and man-made hazards to acceptable levels of risk by



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Comment: This development is within a high hazards area that is periodically subject to wave attack, wave run-up, and inundation by tsunami. The subterranean parking garage which also contains the laundry facilities, electrical, mechanical type rooms and elevator, is beneath the ocean fronting site and below the level of the beach. The site has a high potential for being flooded from an El Nino storm event or from a tsunami. In 2008 a new fault line was discovered off the local coast which increases the possibility of a local earthquake and hence an increase of a possibility of a tsunami.

Low Cost Visitor Housing

Section 30213 Lower cost visitor and recreational facilities; encouragement and provision; overnight room rentals

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided.

LU-4 a All income levels

Resort commercial activities shall be promoted catering to all income levels.

Comment: This massive high cost hotel with it's valet parking and multi-amenities replaces 13 cabins on the 147 Stimson side and 5 motel rooms and one residence on the 150 Hinds side which previously served low cost visitors.

The housing element of the LCP requires one-to one replacement of affordable units with other affordable units on the site or elsewhere within the City or within three miles of the coastal zone. Because there are a combined 19 affordable housing units on 147 Stimson and 150 Hinds, which is greater than the 10 unit exception, in-lieu of fees are not acceptable.

At the presentation to the City Council, the developer was essentially bribing the City Council by saying this project will bring in between 1.5 and 2 million Transient Occupancy Tax (TOT) a year. Let's look at that figure.

Let's take the lower number of 1.5 million which means with the TOT of 10% the gross revenue is \$15,000,000.



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Most hotels have a 65% occupancy factor. (The City Pismo Beach CVB/LBID board meeting minutes on December 12, 2013 states Monterey has 61% occupancy, Napa 65%, Santa Barbara 70%, San Luis Obispo 60%) So 128 rooms at 65% means that 83.2 rooms a night will be rented. Now times 365 days a year gives you 30,365 total rooms rented a year.

The \$15,000,000 gross revenue divided by the total rooms of 30,365 gives you \$494 a night. No wonder they wanted to increase the bulk and size and room count. This doesn't sound like the type of hotel that will be available to all income levels. Remember, I took **their** conservative number of 1.5 million. If you take the 2 million in TOT it comes out to \$658 a night.

Parking and Traffic

CCA Section 30252 Maintenance and enhancement of public access

(4) providing adequate parking facilities.

P-1 Balanced Transportation d. Visitor Parking and traffic

Some street parking and traffic for regional daily visitors is accepted within the known constraints that the demand for beach parking may often exceed the supply when the weather and beach conditions are attractive. Within this context, however, the volume and regularity of parking and traffic intrusions in the residential areas would be minimized where practical.

Comment: From the applicants data, it says there will be created an additional daily 1204 car trips. Since Hinds is a one way street headed away from the beach, all of these cars traveling to the hotel will be traveling down Stimson. Stimson is already at a stand-still in the busy summer months. Stimson is a small dead end street which can not accommodate this added traffic. The valet parking will also exacerbate the problem. Pismo has an international reputation for their surfing. The surfers travel down Stimson to check out the waves to determine if it is a good day to enjoy their sport. With the huge number of cars traveling to the hotel and the views to the pier blocked by this massive structure that extends almost to the boardwalk, the surfers will lose their ability to do this, let alone the others who would like to use this street.

This hotel needs to be scaled back to reduce the traffic in the downtown area.

This project will remove 5 parking spaces from Stimson which is already short of spaces for residents and visitors. There are some houses on Stimson which do not have a driveway or a garage. The surfers also park on Stimson and walk the short distance to the beach with their



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surfboards. Paying in-lieu of fees for parking away from the beach is NOT a solution. Surfers are not going to be able to carry their boards blocks and blocks to the beach.

With the cul de sac on Hinds going off to the side rather than straight ahead, parking will be lost from the Pier parking which is valuable visitor parking. Daily visitors to the beach will lose the little available parking that exists. In-lieu of fees for parking to be established away from the beach is not a viable option.

With the proposed plan to only have valet parking which is expensive and lacks convenience, many of their guests will also want to use street and pier parking. The back-up of cars along Stimson will block the street while they wait for an available valet attendant.

The cul de sac on Hinds needs to be designed so that it doesn't intrude on the pier parking and the hotel needs to be smaller to lessen the parking and traffic issues.

Design and Scale

Design Element, Policy D-2. This policy indicates that new development should reflect the small-scale image of the city rather than create large monolithic buildings. Items such as hotels should be contained in several smaller massed buildings versus one large building. Building mass and exterior walls shall be highly articulated to maintain a rich visual texture and an **intimate building scale. Maximum height, setback, and site coverage standards to achieve the desired small scale character will be regulated by City ordinance.**

17.102.010 G All development fronting coastal bluffs and beaches shall be sited and designed so as to reduce the impact of bulk and scale.

LCP Policy P-15 Visitor/Resident Balance

The California coast is an extremely desirable place to live, work and recreate that **belongs to all the people**. As such, congenial and cooperative use by both residents and visitors is recognized. Such use should capture the best attributes of the city and creatively determine the acceptable place, **scale** intensity, rate and methods for development consistent with the resource protection and public benefit.



CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE

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Comment: This design criteria says it all. This IS a large monolithic building. There is nothing small scale or intimate about it. At the appeal hearing of the City Council, Mayor Higginbotham asked head of planning Carolyn Johnson whether they had ever considered several smaller massed buildings rather than one large one and Carolyn responded that they had not. This only demonstrates their was no intention to follow Pismo's LCP from the beginning or to create a visitor/resident balance. This hotel is out of scale for the beach town of Pismo Beach. From the beach looking back, it will appear to dominate our small beach town. Its huge bulk will restrict the many public views that are enjoyed by other visitors not being able to afford to stay at this expensive hotel and also the local residents. This project should be denied on this element alone. Pismo's desire to generate more hotel tax revenue should not allow them to ignore Pismo's LCP and zoning codes.

Downtown for Residents and Visitors

LCP policy P-14 Immediate Ocean Shoreline

The ocean, beach and the immediate abutting land are recognized as an **irreplaceable national resource to be enjoyed by the entire city** and region. This unique narrow strip of land should receive careful recognition and planning. The purpose of the beach is to make available to the people, for their benefit and enjoyment forever, the scenic, natural, cultural, and recreational resources of the ocean, beach and related uplands

LCP policy P-17 Downtown Focus for Residents and Visitors

The downtown area of Pismo Beach serves residents year-round, and in this context the downtown must remain inviting and pleasant to the citizens of the community. **New development and revitalization of downtown should enhance the quality of life for the residents as well as better serve the needs of visitors.**

Comment: This hotel dominates the downtown. In order to build this monster of a hotel, the residents and visitors will lose their views, security of water use, parking availability and sense of living in a small beach town which has a population of only 7,700. We all will have to navigate congested City streets. This is all being done so a high end hotel can accommodate the



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1% that can afford it. The developers from Newport Beach may not relate to the majority of our visitors or the local residents.

Zoning Code issues

17.102.080 C Lot coverage 55% maximum

Staff report says “Net lot area unclear.” Does it meet the requirement?

17.102.090.4 Building area ratio 125% of lot area

Staff report says Net lot area unclear. Does it meet the requirement?

17.102.095 Landscaping minimum 20% of lot area

Staff report says “Net lot area unclear.” Does it meet the requirement?

Comment: By saying the “Net lot area unclear”, only demonstrates how the staff was trying to pass this project under the radar. This clearly lacks transparency.

17.102.040.1 Rear yard setback should be 10 ft. Project has it at 5 ft.

17.102.150 Encroachments Maximum

Does not say what it is in the staff report

17.102.100.5 Density for R-4 is one hotel room per 500 sq. ft. of lot area Staff report doesn't mention this. Does it meet the requirement?

Comment: D-2 Maximum height, setback, and site coverage standards to achieve the desired small scale character will be regulated by City ordinance.

Lot line adjustment

It is not clear how this was done on the Hinds side of the property. How many parcels were there before and how many are there now? It is not the intention of lot line adjustments to have



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one small ocean fronting parcel with a height restriction of 25 ft and a huge back parcel with a height restriction larger at 35 ft. This was only done to circumvent the height restriction. It could also be reasoned that the LCP meant to have ALL ocean fronting **buildings** be restricted to 25 ft.

Previously, there was also a lot line adjustment on 147 Stimson to circumvent the 25 ft. height limit. Was this lot line adjustment approved by the CCC?

LCP design D-3 Subdivision Design Criteria b. Views through the site

Projects should be designed to preserve some of the significant views enjoyed by residents of nearby properties which could be blocked by the project. Especially on larger sites, portions of these views can be preserved by clustering the buildings or creating new public view points

Since the City took several parcels (number unclear) and made new parcels, this is technically a subdivision.

Procedural Issues.

The general public was not given any notice that this proposed project was in the works until 5 days before the Planning Commission meeting. At no time were story poles placed on the site for the public and the Planning Commission to visually picture the height, setbacks and loss of views. The day of the Planning Commission meeting, the planning commission had a site meeting with the developer which was open to the public. The public was not given any opportunity to talk to the Planning Commission members and discuss the various issues. After a short visit, even before they walked over to the Stimson side of the project, Planning Commission members had to rush off for another meeting. A project of this magnitude, that is on the most visible location in all of Pismo Beach, ocean front and next to the Pier plaza should have input from the local residents. At the meeting that night, the commission took a 15 minute break to read the letter from the CCC saying the public should have a couple of more months to review the various details. The project was then passed without any comment on the lack of public input.

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At the appeal at the City Council, Mr. Biggs sold the project to the City Council for a good 45 minutes, the applicant spoke and I, as an appellant, was given only 6 minutes to make my case, even though the Mayor had called me 5 hours earlier and told me I had 10 minutes. The applicant spoke several times during the City Council discussion and was given 20 minutes for a rebuttal and I was given 5. The City intentionally orchestrated the whole process to make sure the public did not have oversight.

The City filed and recorded the Notice of Declaration on May 1, and they claim, therefore, that the statute of limitation for objections expired on May 31 which is BEFORE the appeal was heard at the City Council meeting on June 2nd. More evidence that the City was trying to rush this through without any public oversight.



CALIFORNIA COASTAL COMMISSION

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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.

Nancy Hampton

Signature of Appellant(s) or Authorized Agent

Date: 6-16-2015

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: _____

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5260
FAX (415) 904-5400
TDD (415) 597-5885



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Regina & Cary Tanner

Mailing Address: 2633 N. DeWolf Ave

City: Fresno

Zip Code: 93737

Phone: 559-799-4411

SECTION II. Decision Being Appealed

1. Name of local/port government:

City of Pismo Beach

2. Brief description of development being appealed:

Beachwalk Resort

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

147 Stimson and 150 Hinds, Pismo Beach, CA. (APNs 005-152-027, -032, and -033)

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

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

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JUN 16 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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-3-PSB-15-0037

DATE FILED: 6/16/2015

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE
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TDD (415) 597-5885



DISTRICT: _____

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: June 2, 2015

7. Local government's file number (if any): P14-000192

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:

Robert Eres
Nexus Companies
1 MacArthur Place, Suite 300
Santa Ana, CA 92707

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) Dave & Kathy Riggle
1253 Golden Way
Los Altos, CA 94024

(2) Fred & Mitzie Ruiz
1017 N. El Cajon St.
Visalia, CA 93291

(3) Nancy Hampton
2410 Wild Lilac Ct.
Meadow Vista, CA 95720

(4)

the City's GP/LCP.

5. **ISSUES RELATED TO HIGH TIDE AND STORM SURGES COMING UP THE HINDS AVENUE RAMP.** Pictures of recent storm surges with water going up the Hinds Avenue ramp were submitted to the Planning Commission in an email from Dave Riggle on April 28, 2016. The City and the Coastal Commission should be concerned about how this new construction project will affect the hotel and adjacent properties when storm surges rise to the level of the Hinds Avenue ramp or higher.
6. **ADEQUATE TURNAROUND SPACE FOR PUBLIC SAFETY VEHICLES AND PARKING.** The proposed plans indicate a cul-de-sac will be built at the end of Hinds Avenue. The plans appear to cut in to the public parking lot. The City and the Coastal Commission should be concerned about the possible loss of parking spaces in the busiest parking lot in Pismo Beach. How will the loss of parking spaces impact the general public's access to the beach? How will the loss of parking spaces impact the parking needs of the restaurant being built on the other side of the parking lot?
7. **Traffic.** Traffic flow down Hinds and Stimson Avenues should be considered particularly since Hinds Avenue is a one way street. It is not clear that the impact of the increased traffic on the area residents and businesses that will be created by the guests of the proposed hotel was adequately considered. It is not clear how pedestrian access to the beach will be effected by the increase in traffic exiting the hotel. Please consider requiring Nexus Company to amend its plans to reduce the size of the project.
8. **SURROUNDING ARCHITECTURE.** Section D-2e of the GP/LCP provides "*Project perimeter walls should complement surrounding architecture and neighborhood environment and should avoid monotony by utilizing elements of horizontal and vertical articulation.*" The proposed plans are not consistent with the City's GP/LCP and should complement the neighboring buildings. Please review Nexus Company's architectural renderings and consider how different the proposed hotel is from the existing Pismo Beach classic California beach town homes and the surrounding buildings all of which were previously approved by Pismo Beach and its Planning Commission.
9. **LACK OF GREEN SPACE BETWEEN THE PROPOSED PROJECT AND THE CONDOMINIUM COMPLEX AT 160 HINDS AVE.** Section D-2e of the GP/LCP requires consistent architectural and landscape features throughout the project. The plans do not show any landscaping between the proposed hotel and 160 Hinds Avenue. The east side of the building is barren and unappealing. Please consider requiring Nexus Company to modify its plans to be consistent with the GP/LCP.
10. **LOT LINE ADJUSTMENT.** During the April 28, 2016 Planning Commission meeting there were a few discussions regarding a lot line adjustment done on the 150 Hinds Avenue parcel. The 150 Hinds Avenue parcel has always had a single story motel and home built on it. The lot line adjustment resulted in a single oceanfront parcel upon which buildings would be limited to 25 feet in height and require a series of graduated setbacks for each successive floor become a divided parcel allowing a building to be 35 feet. The Planning Commission explained the resulting lot line adjustment allowed the developers to build up to 35 feet rather than the Coastal Commission's height requirement of 25 feet as well as the setback requirements. The 35 foot sections of the proposed hotel obstruct pedestrian views, classic Pismo Beach ocean views and views of the properties in well-established residential areas. While a lot line adjustment does not require notice, the fact the lot line adjustment was allowed to seemingly circumvent building height and setback requirements of the Coastal Commission is inappropriate and unjust. This issue should be studied and addressed by the Coastal Commission.

I respectfully submit items 1-10 above as an appeal of the City of Pismo Beach's Planning Commission and City Council's decision to grant a Coastal Development Permit, Architectural Review Permit, and a Conditional Use

Permit for the demolition of five buildings and the construction of a 128 room hotel at 147 Stimson and 150 Hinds, Pismo Beach, CA. (APNs 005-152-027, -032, and -033). Pismo Beach is a classic California Beach town with a wonderful small town feel. Please don't allow this development to destroy the Classic California beach town atmosphere.

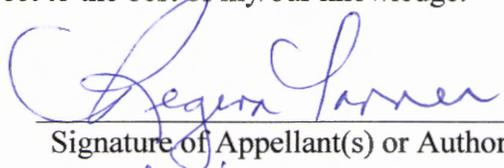
There is no question downtown Pismo needs a nice hotel project downtown. Please consider requiring Nexus Company to amend its plans to reduce the size of the project. The proposed hotel is too large for the area and will not contribute to the character of Pismo Beach. The Coastal Commission must require Nexus Company to submit plans that are consistent with the City of Pismo Beach's GP/LCP and that will enhance the character of Pismo Beach.

Thank you for your consideration.

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: 6/14/15

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: _____

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
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JUN 16 2015



CALIFORNIA
COASTAL COMMISSION

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: FRED AND MITZIE RUIZ

Mailing Address: 1017 N. EL CAJON ST.

City: VISALIA

Zip Code: 93291

Phone: 559-906-9231

SECTION II. Decision Being Appealed

1. Name of local/port government:
City of Pismo Beach

2. Brief description of development being appealed:
Beach Walk INN
A multi-level 128 room hotel

3. Development's location (street address, assessor's parcel no., cross street, etc.):
147 STIMSON AVENUE / 150 HINDS AVENUE
(APNs 005-152-027, -032 and -033)
BEACH FRONT PROPERTY

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

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

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JUN 16 2015

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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-3-PSB-15-0037

DATE FILED: 6/16/2015

DISTRICT: Central Coast

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:

June 2, 2015

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

P14-000192

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:

NEXUS COMPANIES
c/o ROB ERES
1 MacArthur Place, Suite 300
SANTA ANA, CA 92707

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) NANCY HAMPTON
2410 WILD LILAC CT.
MEADOW VISTA, CA 95720
- (2) DAVID RIGGLE
1253 GOLDEN WAY
LOS ALTOS, CA 94024
- (3) REGINA TANNER
2633 N. DE WOLF AVENUE
FRESNO, CA 93737
- (4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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.

Please see attached

The Beachwalk Inn is a 128-room hotel that will occupy oceanfront property adjacent to the boardwalk and pier in the downtown of Pismo Beach. This property is a resource of public importance and should follow the requirements of the Local Coastal Plan to protect views, be compatible with the surrounding architecture and preserve the small-scale character of the city of Pismo Beach.

We are not opposed to the building of a new hotel if it follows the requirements of the Local Coastal Plan, but as approved by the Pismo Beach City Council, the Beachwalk Inn is incompatible with the Local Coastal Plan and the California Coastal Act for the following reasons:

1. LCP D (2)(a): Building and Site Design Criteria: Small Scale

New development should be designed to reflect the small-scale image of the city rather than create large monolithic buildings. Apartment, condominium and hotel buildings should preferably be contained in several smaller massed buildings rather than one large building.

The size of the project is disproportionate to its surroundings. The Beachwalk Inn is a monolithic building that is too large for the lots. It will dominate the boardwalk and pier areas. Public views from Stimson Avenue and Hinds Avenue will be blocked. The Beachwalk Inn will create a huge structure that will interfere with public beach access and the boardwalk. The massive structure of the hotel does not fit the small-scale image of the city of Pismo Beach. The proposed plan is not in compliance with the Pismo Beach General Plan. The project could be built with several smaller massed buildings instead of one large building, which would help preserve some views for current residents, pedestrians and visitors.

2. LCP D (2)(a): Building and Site Design Criteria: Articulation

Building mass and building surfaces such as roofs and exterior walls shall be highly articulated to maintain a rich visual texture and an intimate building scale.

The Beachwalk Inn does not meet the building mass, visual texture, or the intimate building scale required by the Local Coastal Plan. The East wall is a large, straight three-story wall that lacks visual texture.

3. LCP D (2) (e): Building and Site Design Criteria: Walls

Project perimeter walls should complement surrounding architecture and neighborhood environment and should avoid monotony by utilizing elements of horizontal and vertical articulation.

The north and east walls of the project do not complement the surrounding architecture. The east wall is a block-long, three-story monotonous wall lacking both horizontal and vertical articulation. The north and east walls need to have additional setbacks and articulation and should be smaller in scale.

4. LCP D (2)(e): Building and Site Design Criteria: All Facades

Architectural features shall be consistent throughout a development, even when a portion of the development is hidden from public view.

The east side of the project does not have the same architectural features as the other three sides. There is no articulation and no landscaping on the east wall, which is inconsistent with the General Plan.

5. LCP D (2)(a): Building and Site Design Criteria: Setback

Maximum height, setback, and site coverage standards to achieve the desired small-scale character will be regulated by City ordinance.

The zero setback variance along the east side of the property granted to the developers is not in compliance. The project also has an underground garage that will be built right up to the lot line. The second and third floors have a 5-foot setback. A zero setback is inconsistent with the small-scale character of Pismo Beach. A setback of 5 to 10 feet should be used on the project to allow landscaping on the east side of the project as well as preserve views.

6. 1983 Zoning Ordinance 17.102.010(9)© and 17.081.030(3): Height and setback limits on ocean-fronting parcels

"Development" means, on land, on 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:

150 Hinds Avenue was subdivided into two lots, a large inland parcel and a small coastal parcel. This was done to circumvent the 1983 Coastal Zoning Code's height and setback requirements. Previous to this 150 Hinds Avenue was a single oceanfront parcel upon which building would be limited to 25 feet and require a series of graduated setbacks for each successive floor. After the subdivision, the project can be three stories tall and almost to the boardwalk on Hinds Avenue. The subdivision of 150 Hinds Avenue goes against the intent of the 1983 Zoning Ordinance and should remain a single parcel. If 150 Hinds Avenue is divided, it should be divided so that the coastal parcel is equal in area to the 147 Stimson Avenue coastal parcel.

7. LCP P (17): Downtown Focus for Residents and Visitors

Downtown Pismo Beach shall be a city focal point with a blend of cultural, commercial, professional, residential and recreational uses catering to both visitors and residents of all ages. Tourism and visitor services shall be emphasized, carefully and conscientiously blending shopping, recreational and cultural activities for the visitor, with housing, retail and professional services needed by the residents of the community.

The downtown area of Pismo Beach serves residents year-round, and in this context the downtown must remain inviting and pleasant to the citizens of the community. New development and revitalization of the downtown should enhance the quality of life for the residents as well as better serve the needs of visitors.

Two massive hotels will wall Hinds Avenue in and this does not enhance the quality of life for residents. The proposed project will block sunlight to adjacent residence at 160 Hinds Ave. The second and third story of the project plans of the east elevation has hotel rooms facing directly into the windows and on to the balconies of the residences at 160 Hinds Avenue. This is a violation of privacy. This is not pleasing for the residents or the hotel guests visiting Pismo Beach. Increased setbacks along the east side of the Beachwalk Inn would help the downtown remain pleasant to the citizens of the community and better serve its visitors.

8. LCP LU-K (3.2): Pier Parking Lot

The primary land use focus for the Central Commercial, recreational and cultural. Commercial uses shall be oriented towards visitors (i.e. gift shops, clothing stores, restaurants). Residential uses may be considered as part of mixed-use project applications. Notwithstanding the Zoning Code requirements precluding expansions of existing nonconforming structures and land uses, a legal nonconforming residence in the Central Core Commercial district used solely as a permanent residence may itself be expanded up to 50% of the total building area existing as of May 18, 1993. This 50% expansion limitation shall be limited to residences permitted as such, not to hotels that might have converted to residences over time. A pedestrian orientation will be promoted for all development in this district. The pier and boardwalk provide the focus for pedestrian activities in the very "walk-able" downtown commercial area.

Improvements in the Commercial Core may include reconfiguration of the pier parking lot for a more cohesive traffic flow from Pomeroy to Hinds and maximum use of the pier parking lot; dedication of a portion of the property adjacent to the city parking lot for vehicles and pedestrian access between those two streets; and a cohesive streetscape program to complement and encourage the pedestrian emphasis of downtown.

The Local Coastal Plan recommends maximum use of the pier parking lot, but the future Hinds Avenue cul-de-sac has been moved over on to pier parking lot

land to accommodate the Beachwalk Inn project. The result is loss of important pier parking. The loss of parking will impact the public's access to the beach as well as the businesses on Pomeroy.

9. Coastal Act section 30250: Location; existing developed area

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate, it, in other areas with adequate public services and where it will not have significant adverse effect, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural used, outside existing developed areas shall be permitted only where 50% of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

WATER! The construction impact of the local water supply and the water usage and needs of a large hotel will have an impact on the water supply. The Beachwalk Inn is expected to use 5.5 million gallons of water per year, and there is no plan where this water will come from. There is a 104-room hotel scheduled to break ground soon and the city has mandated a 25% cut back in water usage during the drought. Building another large project during this time of drought is a threat to the whole Pismo Beach community until there are other water sources available.

10. Coastal Act section 30251: Scenic and visual qualities

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 the 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.

The Beachwalk Inn is in a highly scenic area. It is one of the last pieces of beachfront property in the area. As the Beachwalk Inn is currently designed it is too large for the property and will dominate the downtown. This project will affect beach access, the pier and the boardwalk. Views will be lost on Stimson Avenue and Hinds Avenue. A project of a smaller scale would be more suited to the area.

11. Coastal Act section 30211: Development not to interfere with access

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

LCP C (14): Parking

New development projects located within one-quarter mile of the beach or bluff edge shall be evaluated to assess their impact on the availability of parking for public access to the coast. If the project would result in a reduction of shoreline access parking, the project may be required to provide additional parking spaces to accommodate public access.

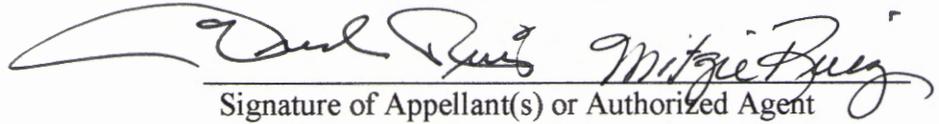
The project at 147 Stimson Avenue and 150 Hinds Avenue will eliminate five street parking spaces on Stimson Avenue and an unknown number in the pier parking lot if the Hinds Avenue cul-de-sac is pushed onto public parking property. There will also be significant traffic flow on Stimson Avenue as that is the entrance to the Beachwalk Inn.

We submit the items above as an appeal of the City of Pismo Beach's Planning Commissions decision to grant permits for the construction of a 128-room hotel at 147 Stimson Avenue and 150 Hinds Avenue. Please consider requiring Nexus Company to amend its plans and reduce the size of the project as well as considering items above that are consistent with the City of Pismo Beach's General Plan and Local Coastal Plan.

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: 6/11/15

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: _____

Land Use Plan Design Element Policy D-2 Building and Site Design Criteria (in relevant part)

a. Small Scale

New development should be designed to reflect the small-scale image of the city rather than create large monolithic buildings. Apartment, condominium and hotel buildings should preferably be contained in several smaller massed buildings rather than one large building. Building mass and building surfaces such as roofs and exterior walls shall be highly articulated to maintain a rich visual texture and an intimate building scale. Maximum height, setback, and site coverage standards to achieve the desired small-scale character will be regulated by City ordinance. Except where specified otherwise by this Plan or further limited by the implementing ordinance, the maximum height standard for new buildings shall not be more than 25 feet above existing natural grade in Neighborhood Planning Areas A through J, and Q; and not more than 35 feet above existing natural grade in the remaining portions of the Coastal Zone.

...

c. Views

Views to the ocean, creeks, marsh, and surrounding hills should be preserved and enhanced whenever possible. The feeling of being near the sea should be emphasized, even when it is not visible.

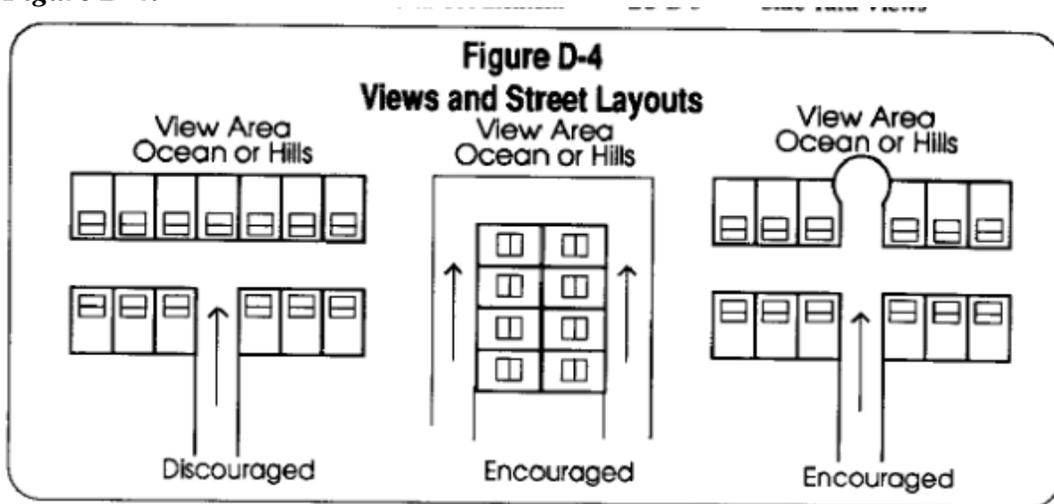
d. All Facades

Architectural features shall be consistent throughout a development, even when a portion of the development is hidden from public view.

Policy D-40 Street Layouts

New streets shall be laid out so as to emphasize views. In many cases this means streets should be perpendicular to the view as shown in Figure D-4. For example, streets perpendicular to the ocean should be open at the end toward the ocean and not blocked with landscaping or buildings.

Figure D-4:



Policy D-41 Special Design Concerns (in relevant part)

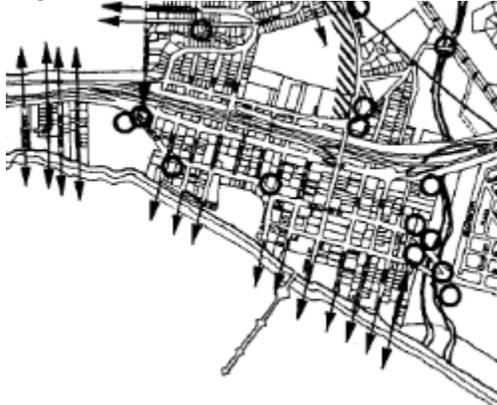
Figure D-3 maps areas of the city where special concern for urban design is necessary. These sites and features shall be included in the Zoning Ordinance, Architectural Review Overlay Zone. Categories of concern include:

...

c. Street Ends

New buildings or structures on parcels at these street ends shall be sited so as to not block views, or to minimize view impairment when no feasible siting alternative exists.

Figure D-3:



Implementation Plan Section 17.102.010(E)

E. Exceeding Height Limits (R-4, R-R, C-1, C-2, C-M and G Zones). Building appurtenances and architectural extensions: Where cupolas, flag poles, elevators, and solar collectors not otherwise permitted by subsection G below, radio and other towers, water tanks, church steeples and similar structures and mechanical appurtenances are associated with a permitted use in a district, height limits may be exceeded by fifteen percent upon securing a conditional use permit or development permit, provided that the height, bulk and scale of the building is compatible with the adjacent area and is consistent with view and other local coastal program land use plan considerations.

Implementation Plan Section 17.102.010(I)(3) (in relevant part)

Special Height Limitations--Ocean Fronting Parcels. Special height limitations for ocean fronting parcels in the following planning areas shall be as described below:

...

3. Commercial Core Planning Area. All structures on ocean fronting parcels shall be limited to twenty-five feet in height above site grade.

Implementation Plan Section 17.102.010(G)

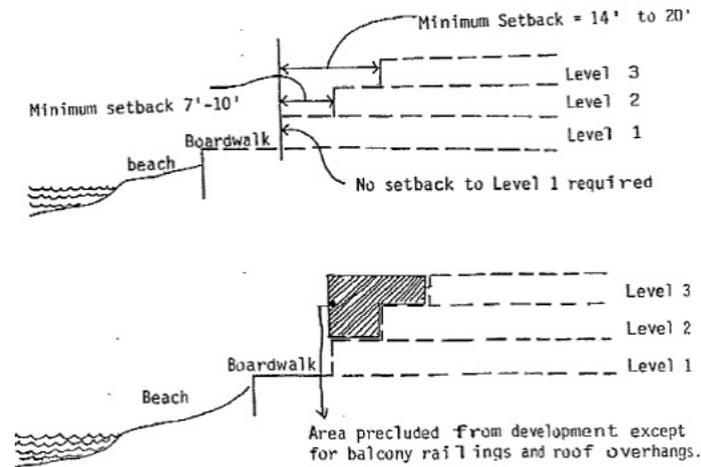
G. All development fronting coastal bluffs and beaches shall be sited and designed so as to reduce the impact of bulk and scale.

Implementation Plan Section 17.081.030(C) Special Height Limits—Ocean Fronting Parcels (in relevant part)

...

C. *Commercial Core Planning Area. Beginning at the inland extent of the public boardwalk identified in the city's local coastal program, one story facades no higher than twelve feet in height above site grade (including roofs) shall be permitted immediately adjacent to the boardwalk. Additional story facades beyond the first level shall maintain the following minimum setbacks from the inland extent of the public boardwalk:*

<i>Level</i>	<i>Setback from Boardwalk</i>
<i>1st level</i>	<i>None required</i>
<i>2nd level</i>	<i>7'—10' minimum setback</i>
<i>3rd level</i>	<i>14'—20' minimum setback</i>
<i>4th level</i>	<i>21'—30' minimum setback</i>



Land Use Plan Safety Element Policy S-6 Shoreline Protective Devices

Shoreline protective devices, such as seawalls, revetments, groins, breakwaters, and riprap shall be permitted only when necessary to protect existing principal structures, coastal dependent uses, and public beaches in danger of erosion. If no feasible alternative is available, shoreline protection structures shall be designed and constructed in conformance with Section 30235 of the Coastal Act and all other policies and standards of the City's Local Coastal Program. Devices must be designed to eliminate or mitigate adverse impacts on local shoreline sand supply, and to maintain public access to and along the shoreline. Design and construction of protective devices shall minimize alteration of natural landforms, and shall be constructed to minimize visual impacts. The city shall develop detailed standards for the construction of new and repair of existing

shoreline protective structures and devices. As funding is available, the city will inventory all existing shoreline protective structures within its boundaries.

Implementation Plan Section 17.078.010 Purpose of zone.

The hazards and protection (H) overlay zone is intended to prevent unsafe development of hazardous areas; to minimize damages to public and private property; and to minimize social and economic dislocations resulting from injuries, loss of life, and property damage. This overlay zone includes those area unsafe for development which are (1) prone to downslope movement or severe land slippage (i.e. slump, landslide areas); (2) in direct contact with known active or potentially active faults or fault zones; and (3) located in areas of high liquefaction potential, unstable slopes, retreating ocean bluffs or easily erodible areas. This overlay zone is intended to maintain and enhance land and watershed management, control storm drainage and erosion and control the water quality of both urban runoff and natural water bodies by regulating development within those areas with slopes of ten percent or greater. Also included in this overlay zone is the city's hillside regulations. This overlay zone is intended to also protect and enhance the shoreline bluffs and beaches of the city from visual as well as physical deterioration or erosion.

IP Section 17.078.060(E) Shoreline protection criteria and standards (in relevant part)

...

E. New development shall not be permitted where it is determined that shoreline protection will be necessary for protection of the new structures now or in the future based on a one hundred year geologic projection.

Land Use Plan Circulation Element Policy C-14 Parking

Parking for both residents and visitors shall be provided as part of new development. Additional designated parking spaces for beach access may be required as a condition of approval of new hotel or other commercial development adjacent to the oceanfront. In-lieu fees for commercial uses shall be encouraged rather than on-site parking in the central commercial area. In-lieu fees may also be considered for residential uses in order to encourage ground floor, street facing residential dwellings. Parking shall be provided within the vicinity of the coastline for recreational uses. However, within the downtown area, day use parking for the beach shall primarily be located at the north or south end of downtown rather than at the pier.

In order to assure that development projects will not adversely affect the availability of existing parking for shoreline access, an adequate quantity of on-site parking spaces to serve the full needs of the development shall be required, except as noted above for the down-town area.

...

New development projects located within one-quarter mile of the beach or bluff edge shall be evaluated to assess their impact on the availability of parking for public access to the coast. If a project would result in a reduction of shoreline access parking, the project may be required to provide additional parking spaces to accommodate public access.

Land Use Plan Policy PR-28 Access Signs Required. Signs should be located at all access points and streets leading to access points to assist the public in recognizing and using major coastal access points. Such signs should be designed and located for easy recognition.

Land Use Plan Facilities Element Policy F-36 Water Management Program

When total annual water use reaches 90% of projected available supplies (based on known safe yield levels determined by the Groundwater Depletion Analysis, plus available entitlements from Lake Lopez and the State Water Project), approval of developments requiring increasing water supplies shall be limited to essential public services, public recreation, commercial recreation, and visitor-serving land uses. No development shall have building permits issued which would individually or cumulatively exceed the capacity of the City's water supply systems.

Policy F-37 Water Reserves

The City shall maintain water reserves at 5% over average daily demand at all times and maintain a summer peaking supply of 130% over average weekly demand.

Policy F-39 Water Conservation--New Development

The City shall require water-conserving features in all new development (i.e. low-flow fixtures, drought-tolerant landscaping, automatic timing for irrigation, etc.).

Land Use Plan Conservation and Open Space Element Policy CO-31 Grading and Drainage Regulations.

The following specific grading and drainage policies shall be applicable to development and construction projects. The city's grading ordinance shall be revised to include these policies:

- (a) Development plans shall minimize cut and fill operations, and any development requiring extensive cut and fill may be denied if it is determined that the development could be carried out with less alteration to the natural terrain.*
- (b) Development shall be designed to fit or complement the site topography, soils, geology, and any other existing conditions and be oriented to minimize to the extent of grading and other site preparation.*
- (c) Retaining walls should be of minimum height and length. Earth colored materials shall be preferred. Long, straight-line retaining walls shall be prohibited.*
- (d) Finished grading shall avoid a manufactured appearance by creating flowing contours of varying gradients generally not exceeding slopes of 4:1. Sharp cuts, fills and long straight-line slopes of uniform grade should be avoided.*
- (e) Native vegetation shall be preserved to the maximum extent possible. (See Policy CO-1S regarding oak trees.)*

(f) All measures for removing sediments and stabilizing slopes shall be in place by November 1 prior to the beginning of the rainy season.

(g) Sediment basins shall be required in conjunction with initial grading operations, and maintained throughout the development process as necessary.

(h) All cut and fill slopes in a completed development shall be stabilized immediately with planting of native grasses and shrubs, or appropriate nonnative plants within accepted drought-tolerant landscaping practices.

(i) Surface runoff waters that will occur as a result of development shall be conducted to storm drains or suitable watercourses to prevent erosion.

(j) Degradation of the water quality of the groundwater basins, streams, or wetlands shall not result from development of a project. Pollutants such as chemicals, fuels, lubricants, raw sewage, and other harmful waste shall not be discharged into or along side streams or wetlands during or after construction.

(k) A runoff control plan designed by a licensed engineer qualified in hydrology and soil mechanics shall be required for all development on slopes greater than 10 percent to mitigate any increase in peak runoff. The runoff control plan, including supporting calculations shall be subject to the review and approval of the City Engineer prior to commencement of construction. Such a plan shall include the following provisions:

(1) Runoff control shall be accomplished by minimizing grading and utilizing nonstructural techniques such as on-site percolation galleries. Energy dissipating devices at the terminus of outflow drains shall be required.

(2) All permanent erosion control devices shall be developed and installed prior to or concurrent with any on-site grading activities.

(3) Prior to the commencement of any grading activity, the permittee shall submit a grading schedule which indicates that grading shall be completed within the permitted time stipulated in Paragraph f and that any variation from the schedule shall be promptly reported to the City Engineer.

(4) Prior to the issuance of a permit for development, a detailed landscape plan indicating the type, size, extent and location of plant materials, the proposed irrigation system, and other landscape features shall be submitted for approval. Drought tolerant, native plant materials shall be utilized to the maximum extent feasible.

(l) All grading activities for roads, building pads, utilities and the installation of erosion and sedimentation control devices shall be prohibited within the period from November 1 to March 31 of each year, except that the following grading activities may be permitted outside the above time constraints:

(1) Grading on slopes if they do not drain into an environmentally sensitive habitat area.

(2) Grading on slopes less than 10 percent, if the amount of material to be graded does not exceed 50 cubic yards.

(m) All areas disturbed by grading shall be planted with temporary or, in case of finished slopes, permanent erosion retardant vegetation. Native species shall be planted wherever feasible. Such plantings shall be accomplished under a plan prepared and submitted by a licensed landscape architect and shall consist of seeding, mulching, fertilization and irrigation adequate to provide 90 percent coverage within 90 days of the time of planting. Planting shall be repeated if the required level of coverage is not established within the time period stipulated above. This requirement shall apply to all disturbed soils, including stockpiles, and to all building pads and road cuts.

Land Use Plan Conservation and Open Space Element Policy CO-6 Construction Suspension. *Should archaeological or paleontological resources be disclosed during any construction activity, all activity that could damage or destroy the resources shall be suspended until a qualified archaeologist has examined the site. Construction shall not resume until mitigation measures have been developed and carried out to address the impacts of the project on these resources.*



December 23, 2014

FILE NO.: SL-14516-GC

Mr. Doug Burroughs
Nexus Development Corporation/Central Division
1 MacArthur Place, Suite 300
Santa Ana, CA 92707

PROJECT: PISMO BEACH HOTEL
150 HINDS AND 147 STIMSON AVENUES
PISMO BEACH, CALIFORNIA

SUBJECT: Sea Wave Run-up Analysis

CONTRACT

REF: Change Order No. 1, Sea Wave Run-up Analysis, to Proposal/Contract for a Geotechnical Engineering Report, Pismo Beach Hotel, 147 Stimson Avenue, Pismo Beach, California, by Earth Systems Pacific, dated November 21, 2014

Dear Mr. Burroughs:

In accordance with Matthew Kaufman's authorization of the referenced Change Order, this sea wave analysis has been completed for the proposed Pismo Beach Hotel project. The project consists of a three story hotel that will span between Hinds and Stimson Avenues in the city of Pismo Beach, California. The building will be a U-shaped structure with a central courtyard that, with the exception of a setback along the seaward side, will extend to the property lines. There will be one level of underground parking that will underlie the building, including the central courtyard. The proposed finish floor elevation of parking level will be approximately Elevation 8; the podium level will be at Elevation 18. No seawalls are planned and the wall along the seaward side of the structure will be of an open design or fitted with louvers to allow wave transmission through it.

The site comprises two beachfront properties to the west of Cypress Street, between Hinds and Stimson Avenues. Directional reference is to "Project North" as shown on the attached profiles that considers the beach and ocean to be to the west of the project. The surrounding district encompasses a mix of commercial and residential properties. The north (upcoast) parcel is developed with a small bungalow-style motel. The south (downcoast) parcel is currently vacant of structures; however, it was formerly the site of a similar motel and a warehouse. The slab of the warehouse is still present. The south parcel and a portion of the north parcel are vegetated with ice plant. The topography is mostly level from the site's inland extent to near its seaward edge; there is a minor slope (3 to 6 feet) that descends to the beach and is protected with rock rip-rap. A recent topographic survey which included three profile lines was prepared by Wallace Group (2014). The Pismo Beach promenade lies between the site and the main extent of Pismo Beach.



In 2012, a sea wave run-up analysis was conducted by our firm for the south parcel (i.e. the former Beachwalk Resort site that fronts on Stimson Avenue). The current analysis updates the 2012 report, and also addresses the northern parcel, i.e. the portion of the site that fronts on Hinds Avenue.

WAVE RUN-UP ANALYSIS

Vertical Datum

In analyzing wave run-up, a number of standard water elevations are required. They were obtained from National Oceanic and Atmospheric Administration for Port San Luis (Station ID: 9412110), the nearest reporting station to the project site (NOAA 2013). With the exception of the highest water level, the data are for the Epoch 1983 – 2001 and are presented below. Please note that some of the elevations are reported in MLLW datum which only differs from NGVD 88 by 0.08 feet. As the difference between the two is so minor, they were considered to be one and the same. NGVD 88 datum is used throughout the analysis; no conversion between the two was used. Also please note that the terms “level” and “elevation” are used interchangeably in references used for this analysis. In this report the terms are considered to be synonymous; the term commonly used in the reference or method being discussed is used herein.

	<u>MLLW/NAVD 88 Datum</u>
Highest Water Level	7.65 feet
Mean Higher High Water	5.32 feet
Mean High Water	4.62 feet
Mean Tide Level	2.83 feet
Mean Sea Level	2.80 feet
Mean Low Water	1.04 feet
Mean Lower Low Water	0.00 feet

Sea Level Rise

To incorporate the changes in sea level anticipated by the California Coastal Commission to occur over the next 100 years, data presented in the California Ocean Protection Council Document (October 2013), were reviewed. Table 1 in this paper only provides a 100-year projection of sea level rise for the century between 2000 and 2100 (not to 100 years from the date of this report). The 100-year projection of sea level rise to the year 2100 was 5.48 feet and it was assumed that this rise would also be valid for the 100 years from the date of this report. It should be noted that for dates after 2050, the modeling of sea level rise becomes less certain and judgment must be exercised in accounting for future risk. Based upon this uncertainty, any adjustment to the 5.48-foot value in the table was considered to be unnecessary.



100-Year Design Stillwater Elevation

The design stillwater elevation is defined as the maximum stillwater elevation under a typical 100-year storm recurrence. Stillwater elevation is dependent upon several factors including the tide, storm surge, wind set up, inverse barometer, and climatic events (El Niño). The highest *historically observed* water level in the project area is about Elevation 7.65; observed on January 18, 1973 (NOAA 2013). It occurred during an El Niño event and takes into account the influence of the El Niño storm surge.

Then, the 100-year Design Stillwater Elevation is simply the sum of the Highest Water Level (Elevation 7.65) and the estimated Sea Level Rise in 100 years (5.48 feet). This calculation yields a Design Stillwater Elevation of 13.13 (NGVD 88). The various elevations are shown on attached North and South profiles. Please note; a third profile, the Middle Profile was provided by Wallace Group, the surveyors. The plan view location of this profile is shown, however, it was not used in our analysis.

100-Year Design Stillwater Depth and Future Location of the Shoreline

The depth of the water below the 100-Year Design Stillwater Elevation is also necessary for the analysis. On both the north and south profiles, the gradient of the beach calculates to approximately 50:1 (horizontal to vertical), or a 2 percent slope. Assuming that the character of the beach is maintained into the future (i.e. a broad, 50:1 sloping beach), it estimated that a winter scour depth of 3 feet could occur. The 100 Year-Design Stillwater Depth (i.e. the depth of the water below the 100-Year Design Stillwater Elevation) would be the vertical depth from the 100-year Design Stillwater Elevation to the elevation of the scour. This yields a 100-Year Design Stillwater Depth (d_s) of 8.13 feet. This depth is plotted on the attached profiles.

To estimate landward extent of the scour, estimating the landward migration of the Mean Tide Level (i.e. the shoreline) in 100 years is necessary. We used two methods to estimate this migration. Both are presented in Appendix B of the California Coastal Commission Draft Sea-Level Rise Policy Guidance (October 2013). One is taken from Figure 11 "Sea-Level Rise and Changes to Tide Range and Intertidal Zone," and the other from Step 4 "Project Tidal Range and Future Inundation."

The Figure 11 method uses the future sea level rise (5.48 feet) and the current profile of the beach. Using this method, we estimated that 100 years in the future the Mean Tide Level (the shoreline) would have eroded inland to approximately Station 3+82 on the north profile, and to approximately Station 4+44 for south profile. This equates to 163 feet of shoreline erosion from its current location of Station 2+19 for the north profile, and 295 feet of shoreline erosion from its current location of Station 1+49 for the south profile.



The Step 4 method utilizes the current average gradient of the beach projected into the future. On both the north and south profiles, the gradient of the beach calculates to 50:1 (horizontal to vertical), or a 2 percent slope. At this slope, future sea level rise of 5.48 feet yields a shoreline erosion distance of 274 feet to Station 4+93 for the north profile, and to Station (Sta.) 4+23 for the south profile.

Comparing the two methods on the north profile, the shoreline using the Step 4 method is estimated to erode farther inland than is estimated using the Figure 11 method. For the south profile, the two methods yielded similar results; however, the Figure 11 method indicated slightly more erosion. Accordingly, the future beach location yielded by the Step 4 method (Sta. 4+93) was used to plot the lateral extent of scour on the north profile and the Figure 11 method (Sta. 4+44) was used to plot the lateral extent of scour on the south profile.

100-Year Maximum Breaking Wave Height

The 1982-1983 deep water storm data obtained along the southern California coast were used as a guideline for determining the maximum breaking wave height at the site. These storm data are considered to be comparable to 100-year storm events. In January 1983, deep water wave heights from 6 to 15 feet, with 4 to 6-second periods were recorded, and were considered to be the most severe of that winter. Generally, these deep water waves break off shore and reform as smaller waves as they approach the shoreline, provided that the ocean bottom has a consent slope.

To estimate the maximum-breaking wave height (H_b) along the shoreline, we used the longer wave period (t) of 6 seconds which is more conservative than the 4-second period. The method then requires that the Design Stillwater Depth (d_s) of 8.13 feet be divided by the gravitational acceleration (g) of 32.2 ft/s^2 and the square of the wave period as shown below.

$$d_s/gt^2 = 8.13 \text{ ft} / 32.2 \text{ ft/s}^2 * (6s)^2 = 0.007$$

Then, using the dimensionless resulting value of 0.007 and a 50:1 near shore slope (i.e. slope (m) of 0.02), as input to Figure 44 of the Coastal Protection Design Manual 26.2 (NAVFAC 1982), a value of 0.90 is derived for the also dimensionless parameter H_b/d_s .

The value for H_b/d_s can be expressed as:

$$H_b/d_s = 0.90$$

Rewriting this equation and incorporating a value of $d_s = 8.13 \text{ ft}$, a value for H_b can be derived:

$$H_b = 0.90 \times 8.13 \text{ ft} = 7.32 \text{ ft}$$



Based on the above equation, the maximum breaking wave height (H_b) at the site with a 6 second period is 7.32 feet.

A copy of Figure 44 with these data identified is attached.

100-Year Wave Run-Up Elevation

Wave run-up (R) is defined as the vertical height above the still water level to which a sea wave will rise on a broad beach, a bluff face, or a bluff protection structure. At this site, the wave run-up elevation is estimated on the broad, relatively flat beach. The wave run-up height was estimated using Figure 72 of the Coastal Protection Design Manual (NAVFAC 1982), copy attached.

The parameter H_b/gt^2 and is necessary as input to Figure 72.

Using values derived previously:

$$H_b/gt^2 = 7.32 \text{ ft} / 32.2 \text{ ft/s}^2 * (6s)^2 = 0.0063$$

Lastly, the cotangent of the angle of the beach is also necessary. The 0.02 slope of the beach is equal to an angular slope of 1.15 degrees; the cotangent of 1.15 degrees is 50.

Using these input parameters, the dimensionless value of R/H_b is found to be 0.13, which can be expressed as:

$$R/H_b = 0.13$$

Rewriting the equation and incorporating $H_b = 7.32 \text{ ft}$ to find R yields:

$$R = H_b \times 0.13 = 7.32 \text{ ft} * 0.13 = 0.95$$

The addition of the 0.95-foot calculated wave run-up height to the 100-year Design Stillwater Elevation of 13.13 feet yields a total 100-year wave run-up elevation of 14.08 feet (NAVD 88).

COASTAL FLOOD ZONE

According to the Flood Insurance Rate Map (FIRM) for the City of Pismo Beach (FEMA 2012), the project site is not located in a 100 year Flood Zone. However, the site does lie adjacent to a 100 year flood (AE) zone that has a flood level at Elevation 13. This elevation is shown on the attached profiles.



TSUNAMIS

Hazardous tsunamis along the California coastline can be caused by vertical displacement of submarine faults, or by submarine landslides. Tsunamis along the central California coast are relatively rare, and only a few such events are well documented. One of these occurred on November 4, 1927, when a major earthquake occurred off the coast of Point Arguello. The earthquake, known as the "Lompoc Earthquake," produced a tsunami that reached a height of 6 feet above Mean High Tide Level along the coast of San Luis Obispo County (Lander et. Al, 1993). The seismic event that occurred in Japan on March 11, 2011 produced an 8.9 magnitude earthquake. Local news reports indicated that this earthquake only caused a minor tsunami tidal surge along the Central Coast shoreline.

Due to the gradual shallowing of the ocean toward the coast in south-central and southern California, tsunami waves originating from distant earthquakes on the coast of Japan, Alaska, and Hawaii have historically only produced a few feet of rise above the tide. However, according to the Tsunami Inundation Zone map of Pismo Beach (State of California 2009), the project site lies within a Tsunami Inundation Zone. The map shows the Tsunami Inundation Zone extending just landward of Cypress Street, which sits at approximately Elevation 27. The Tsunami Inundation Zone was based on a USGS quadrangle map with a scale of 1:24,000 or 1 inch = 2,000 feet, and an elevation precision that could vary up to 33 feet. At this level of precision, the inundation could range up to Elevation 60.

Based upon historical data from near and distant-source causative earthquakes, a tsunami surging to Elevation 27 or 60 appears unlikely. The highest recorded tsunami surge was to 6 feet above the Mean High Tide Level due to the 1927 "Lompoc Earthquake." Adding a 6-foot tsunami surge to the projected 100-year Mean High Water Level (Elevation 10.1) yields a maximum tsunami surge to Elevation 16.1. In our opinion, this is a much more realistic elevation than that projected by the State of California. This indicates that tsunami surge could potentially impact the parking level of the structure, but is unlikely to create any significant impact on the habitable levels of the hotel.

CONCLUSIONS

The estimated future 100 year shoreline lies approximately 260 feet west of the building envelope on both the north and south profiles. The 100-year wave run-up analysis indicated that during a 100-year storm event, the highest elevation that a sea wave run-up would reach is Elevation 14.08 (NAVD 88). Using the existing beach profiles, in 100 years this elevation is estimated to lie approximately 9 feet west of the proposed building envelope at the north profile and 34 feet west of the proposed building envelope at the south profile. In other words,



Pismo Beach Hotel
Pismo Beach, California

December 23, 2014

based upon the analysis the potential for sea wave run-up to reach the site during the anticipated 100-year design life is low.

Despite the analysis, recognizing the overall lack of precision in the analytical method, particularly in the years later than 2050, in our opinion there is a potential for relatively small waves to impact the parking level of the structure in the future. The design of the structure should take this potential into account.

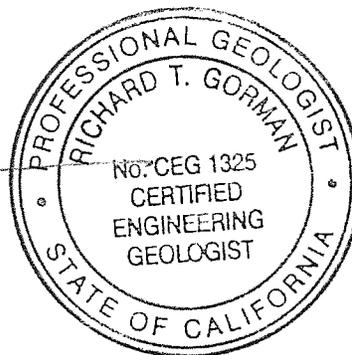
Based upon available historical data regarding tsunami inundation due to near-source and distant-source causative earthquakes, it is unlikely that a tsunami-generated tidal surge would significantly exceed the elevation of the parking level of the hotel. The parking level should be designed to accommodate a tsunami surge to approximately Elevation 16.

Thank you for this opportunity to have been of service. If you have any questions, please feel free to contact this office at your convenience.

Sincerely,

Earth Systems Pacific

Richard T. Gorman, CEG
Associate Geologist



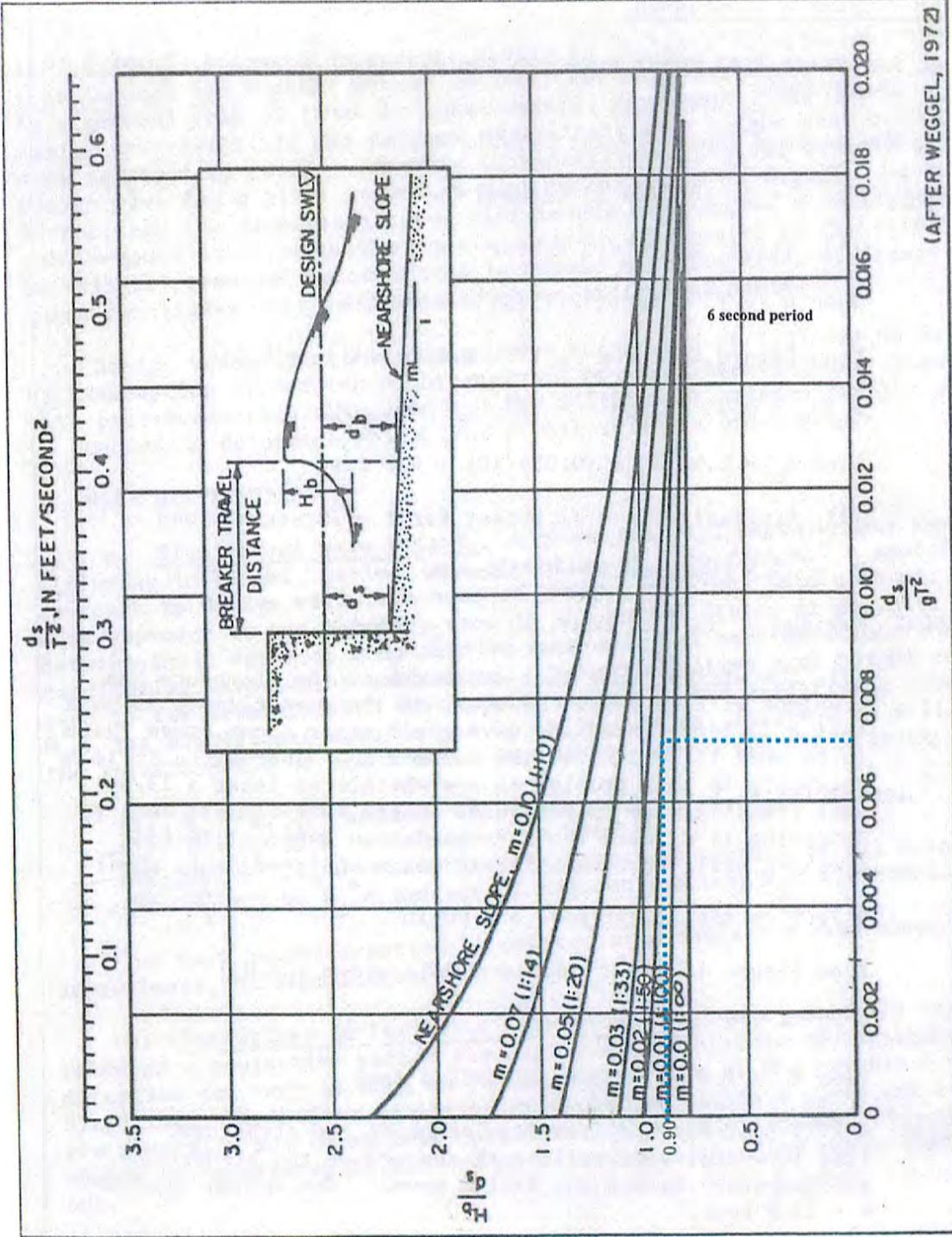
Attachments: Technical References
Figure 44 from Coastal Protection Design Manual
Figure 72 from Coastal Protection Design Manual
North Profile
South Profile

Doc No.: 1412-153.RPT/sr



TECHNICAL REFERENCES

- California Coastal Commission. Draft Sea-Level Rise Policy Guidance. 2013 October.
- FEMA (Federal Emergency Management Agency). Revised 2012 November. "Flood Insurance Rate Map." Map Number 06079C 1344G.
- Lander, J.F., P.A. Lockridge, M.J. Kozuch. 1993. "Tsunamis Affecting the West Coast of the United States 1806-1992." *NGDC Key to Geophysical Records Documentation* No. 29.
- NAVFAC (Naval Facilities Engineering Command). 1982 April. *Coastal Protection Design Manual* 26.2, U.S. Navy.
- NOAA (National Oceanic and Atmospheric Administration). 2013 July. station ID 9412110, Epoch 1983-2001, datum at Port San Luis, California. [website], retrieved from: <http://www.ngs.noaa.gov/Tidal Elevation/diagram.jsp?PID=FV089&EPOCH=1983-2001>
- State of California. 2009 July, "Tsunami Inundation Map for Emergency Planning, Pismo Beach Quadrangle, County of San Luis Obispo."
- Wallace Group. 2014, December. Wave Run-up Survey profile of a portion of Lots 11-13 and 24-38 of Block 12, Map of Town of El Pizmo (a/MB/155); City of Pismo Beach, California, Project No. 1262-0001



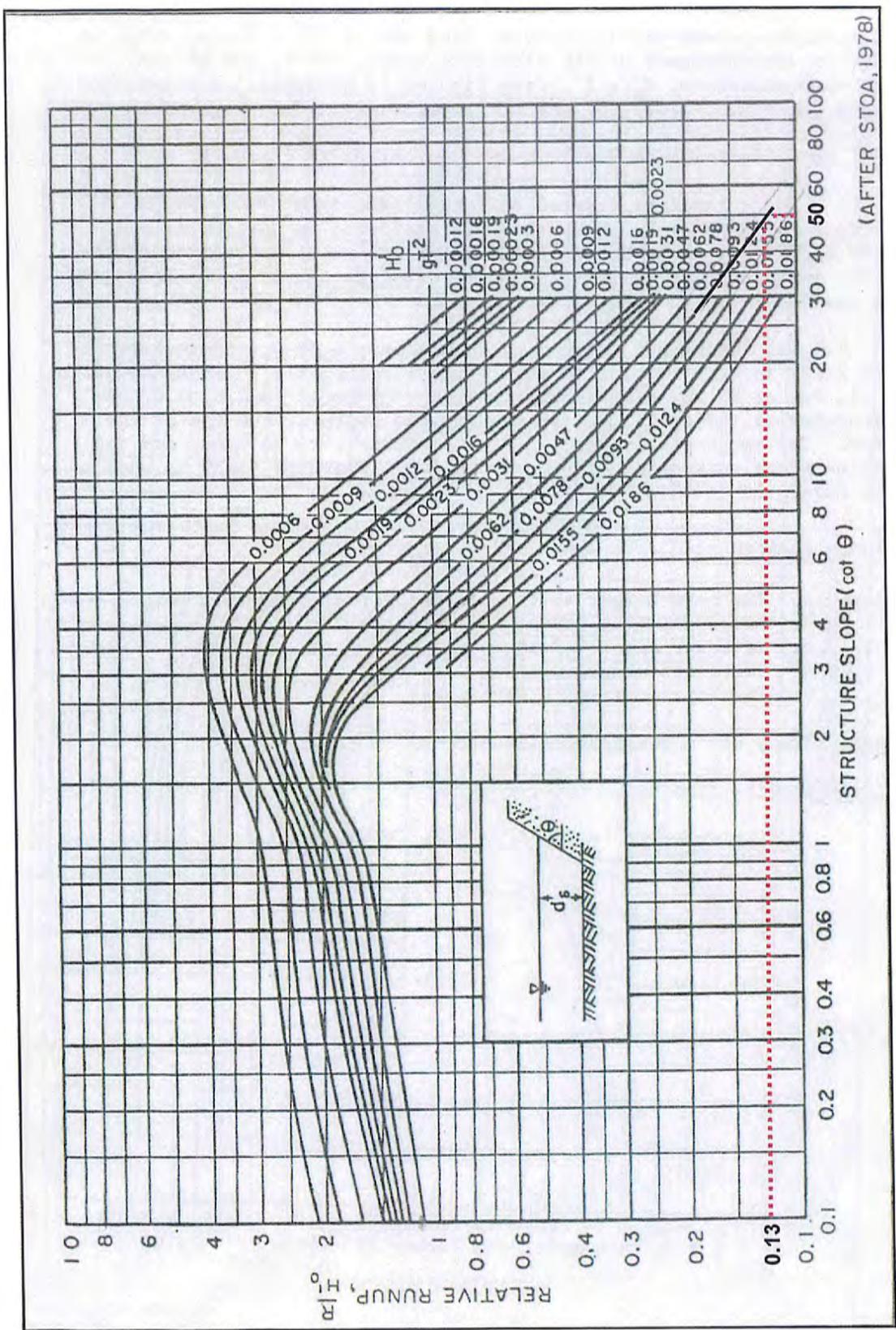
(AFTER WEGGEL, 1972)

Date
December 2014
Project No.
SL-14516-GC

FIGURE 44 FROM COASTAL PROTECTION DESIGN MANUAL
PISMO BEACH HOTEL
150 Hinds & 147 Stimson Avenues
Pismo Beach, California

EARTH SYSTEMS PACIFIC
4378 Old Santa Fe Road, San Luis Obispo, CA 93401
www.earthsys.com - email: esp@earthsystems.com
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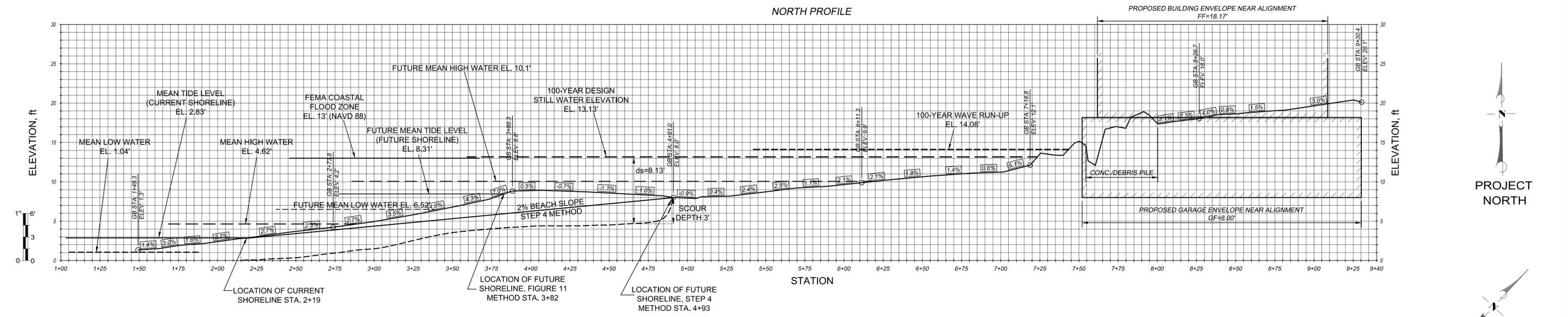
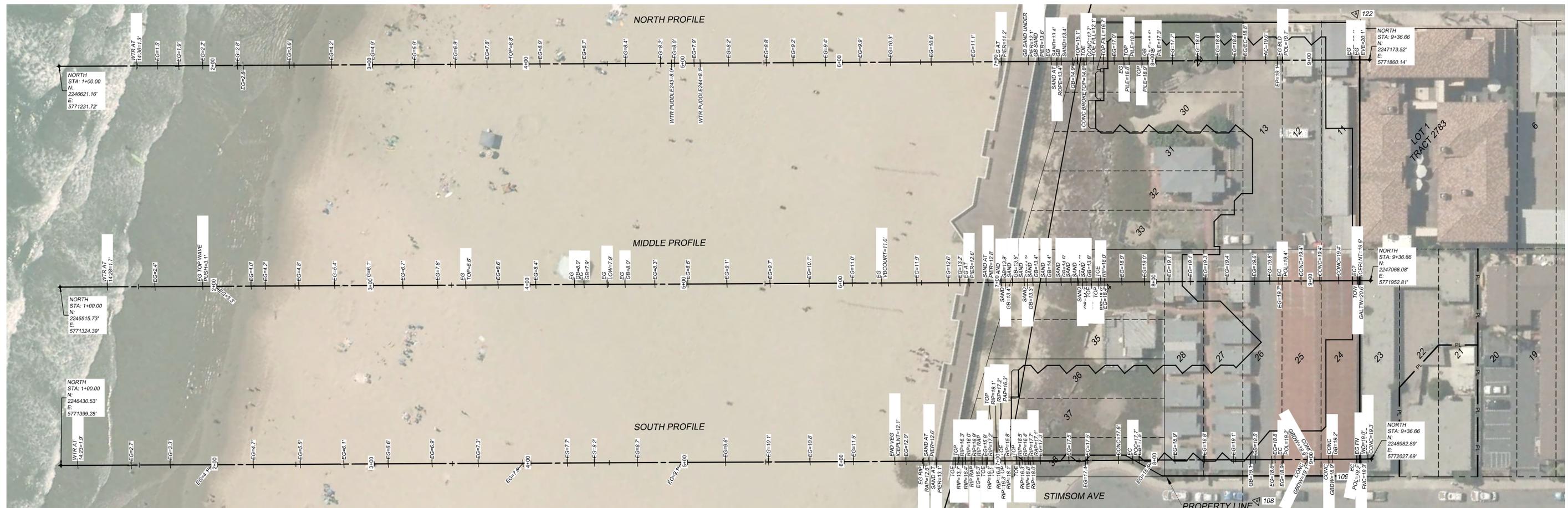


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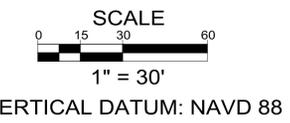
FIGURE 72 FROM COASTAL PROTECTION DESIGN MANUAL
PISMO BEACH HOTEL
150 Hinds & 147 Stimson Avenues
Pismo Beach, California

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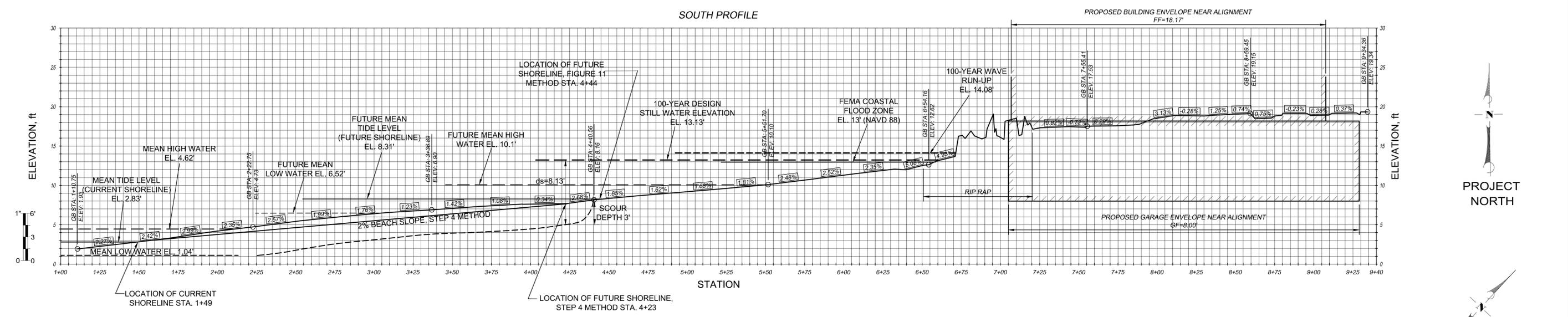
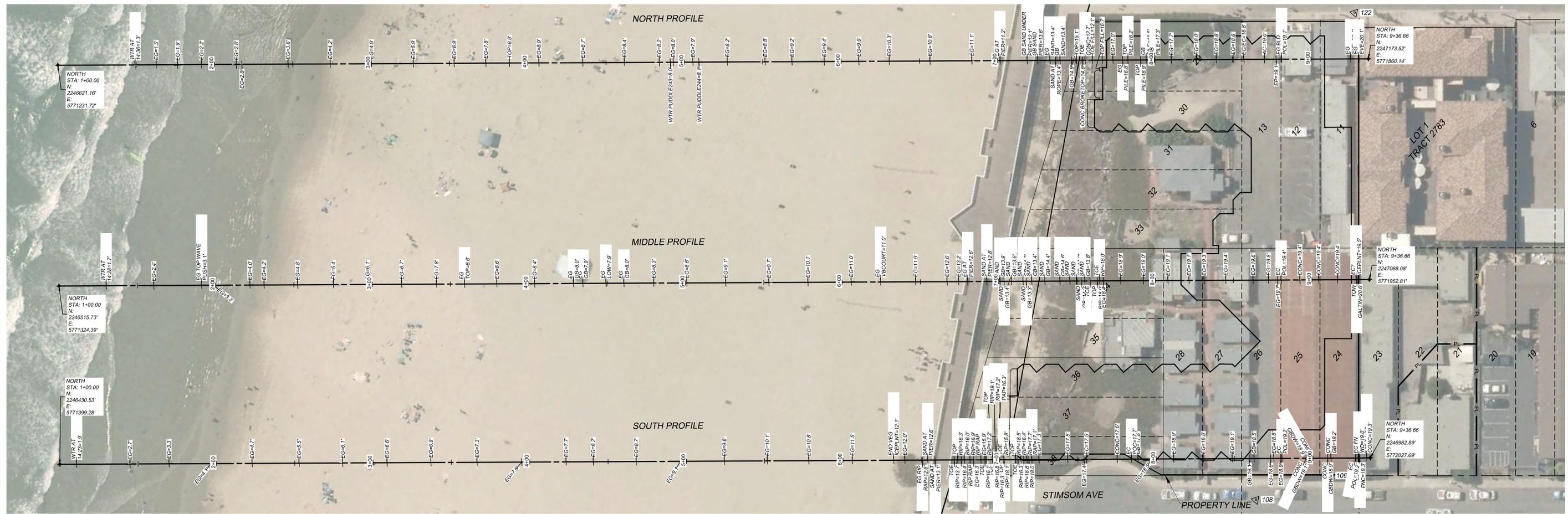
NORTH PROFILE

PISMO BEACH HOTEL

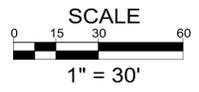
150 Hinds and 147 Stimson Avenues
 Pismo Beach, California

December 19, 2014

RW



NOTE: Profile and topographic information by Wallace Group, December 18, 2014



VERTICAL DATUM: NAVD 88



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RW

SOUTH PROFILE

PISMO BEACH HOTEL

150 Hinds and 147 Stimson Avenues
 Pismo Beach, California



PISMO BEACH HOTEL-121914seawave runup.dwg



December 23, 2014
(Revised August 5, 2015)

FILE NO.: SL-14516-GC

Mr. Doug Burroughs
Nexus Development Corporation/Central Division
1 MacArthur Place, Suite 300
Santa Ana, CA 92707

PROJECT: PISMO BEACH HOTEL
150 HINDS AND 147 STIMSON AVENUES
PISMO BEACH, CALIFORNIA

SUBJECT: Revised Sea Wave Run-up Analysis

CONTRACT

REF: Change Order No. 3, Proposal/Contract for a Geotechnical Engineering Report, Pismo Beach Hotel, 147 Stimson Avenue, Pismo Beach, California, by Earth Systems Pacific, dated July 29, 2015.

Dear Mr. Burroughs:

In accordance with Rob Eres's authorization of the referenced change order, this revised sea wave runup analysis has been completed for the proposed Pismo Beach Hotel project. The revised analysis was in response to comments by Ms. Lesley Ewing, Coastal Engineer with the California Coastal Commission. Her comments were forwarded via email by Mr. Kevin Kahn, District Supervisor California Coastal Commission, on July 23, 2015.

The project consists of a three-story hotel that will span between Hinds and Stimson Avenues in the city of Pismo Beach, California. The building will be a U-shaped structure with a central courtyard that, with the exception of a setback along the seaward side, will extend to the property lines. There will be one level of underground parking beneath the building and courtyard. The proposed finish floor elevation of parking level will be approximately Elevation 8; the first floor podium level will be at Elevation 18. No seawalls are planned and the wall along the seaward side of the structure will be of an open design or will be fitted with louvers to allow wave transmission through it.



The site comprises two beachfront properties to the west of Cypress Street, between Hinds and Stimson Avenues. Directional reference is to “Project North” as shown on the attached profiles that consider the beach and ocean to be to the west of the project. The surrounding district encompasses a mix of commercial and residential properties. The north (upcoast) parcel is developed with a small bungalow-style motel. The south (downcoast) parcel is currently vacant of structures; however, it was formerly the site of a similar motel and a warehouse. The slab of the warehouse is still present. The south parcel and a portion of the north parcel are vegetated with ice plant. The topography is mostly level from the site’s inland extent to near its seaward edge; there is a minor slope (3 to 6 feet) that descends to the beach and is protected with rock rip-rap. A topographic survey which included three profile lines was prepared by Wallace Group (2014). The Pismo Beach promenade lies between the site and the main extent of Pismo Beach.

In 2012, a sea wave run-up analysis was conducted by our firm for the south parcel (i.e. the former Beachwalk Resort site that fronts on Stimson Avenue). In 2014, a second analysis updated the 2012 report, and also addresses the northern parcel, i.e. the portion of the site that fronts on Hinds Avenue. The current (third) analysis is intended to update the last analysis as requested by the Coastal Commission.

WAVE RUN-UP ANALYSIS

Vertical Datum

In analyzing wave run-up, a number of standard water elevations are required. They were obtained from National Oceanic and Atmospheric Administration for Port San Luis (Station ID: 9412110), the nearest reporting station to the project site (NOAA 2013). With the exception of the highest water level, the data are for the Epoch 1983 – 2001 and are presented below. Please note that some of the elevations are reported in MLLW datum which only differs from NAVD 88 by 0.08 feet. As the difference between the two is so minor, they were considered to be one and the same. NAVD 88 datum is used throughout the analysis; no conversion between the two was used. Also please note that the terms “level” and “elevation” are used interchangeably in references used for this analysis. In this report the terms are considered to be synonymous; the term commonly used in the reference or method being discussed is used herein.

	<u>MLLW/NAVD 88 Datum</u>
Highest Water Level	7.65 feet
Mean Higher High Water	5.32 feet
Mean High Water	4.62 feet
Mean Tide Level	2.83 feet
Mean Sea Level	2.80 feet
Mean Low Water	1.04 feet
Mean Lower Low Water	0.00 feet



Sea Level Rise

In the email from Kevin Kahn, cited previously, recommendations from Ms. Ewing were provided. Included in those recommendations is an estimated sea level rise of 6.9 feet for the year 2115. This is extrapolated from the previously estimated sea rise of 5.48 feet for the year 2100.

100-Year Design Stillwater Elevation

The design stillwater elevation is defined as the maximum stillwater elevation under a typical 100-year storm recurrence. Stillwater elevation is dependent upon several factors including the tide, storm surge, wind set up, inverse barometer, and climatic events (El Niño). The highest *historically observed* water level in the project area is about Elevation 7.65; observed on January 18, 1973 (NOAA 2013). It occurred during an El Niño event and takes into account the influence of the El Niño storm surge.

Then, the 100-year Design Stillwater Elevation is simply the sum of the Highest Water Level (Elevation 7.65) and the estimated Sea Level Rise in 100 years (6.9 feet). This calculation yields a Design Stillwater Elevation of 14.55 (NAVD 88). The various elevations are shown on attached North and South profiles. Please note a third profile, the Middle Profile, was provided by Wallace Group in their 2014 survey. The plan view location of this profile is shown; however, it was not used in our analysis.

100-Year Design Stillwater Depth and Future Location of the Shoreline

The depth of the water below the 100-Year Design Stillwater Elevation is also necessary for the analysis. On both the north and south profiles, the gradient of the beach calculates to approximately 50:1 (horizontal to vertical), or a 2 percent slope. Assuming that the character of the beach is maintained into the future (i.e. a broad, 50:1 sloping beach), it is estimated that a winter scour depth of 3 feet could occur. The 100-Year Design Stillwater Depth (i.e. the depth of the water below the 100-Year Design Stillwater Elevation) would be the vertical depth from the 100-Year Design Stillwater Elevation to the elevation of the scour. This yields a 100-Year Design Stillwater Depth (d_s) of 9.55 feet. This depth is plotted on the attached profiles.

To estimate landward extent of the scour, estimating the landward migration of the Mean Tide Level (i.e. the shoreline) in 100 years is necessary. We used two methods to estimate this migration. Both are presented in Appendix B of the California Coastal Commission Draft Sea-Level Rise Policy Guidance (October 2013). One is taken from Figure 11 "Sea-Level Rise and Changes to Tide Range and Intertidal Zone," and the other from Step 4 "Project Tidal Range and Future Inundation."



The Figure 11 method uses the future sea level rise (6.9 feet) and the current profile of the beach. Using this method, we estimated that 100 years in the future the Mean Tide Level (the shoreline) would have eroded inland to approximately Station 3+82 on the north profile, and to approximately Station 4+44 for south profile. This equates to 163 feet of shoreline erosion from its current location of Station 2+19 for the north profile, and 295 feet of shoreline erosion from its current location of Station 1+49 for the south profile.

The Step 4 method utilizes the current average gradient of the beach projected into the future. On both the north and south profiles, the gradient of the beach calculates to 50:1 (horizontal to vertical), or a 2 percent slope. At this slope, future sea level rise of 6.9 feet yields a shoreline erosion distance of 274 feet to Station 4+93 for the north profile, and to Station 4+23 for the south profile.

Comparing the two methods on the north profile, the shoreline using the Step 4 method is estimated to erode farther inland than is estimated using the Figure 11 method. For the south profile, the two methods yielded similar results; however, the Figure 11 method indicated slightly more erosion. Accordingly, the future beach location yielded by the Step 4 method (Station 4+93) was used to plot the lateral extent of scour on the north profile and the Figure 11 method (Station 4+44) was used to plot the lateral extent of scour on the south profile.

100-Year Maximum Breaking Wave Height

The 1982-1983 deep water storm data obtained along the southern California coast were used as a guideline for determining the maximum breaking wave height at the site. These storm data are considered to be comparable to 100-year storm events. In January 1983, deep water wave heights from 6 to 15 feet, with 4- to 6-second periods were recorded, and were considered to be the most severe of that winter. Generally, these deep water waves break off shore and reform as smaller waves as they approach the shoreline, provided that the ocean bottom has a constant slope.

To estimate the maximum-breaking wave height (H_b) along the shoreline, we used the longer wave period (t) of 6 seconds which is more conservative than the 4-second period. The method then requires that the Design Stillwater Depth (d_s) of 9.55 feet be divided by the gravitational acceleration (g) of 32.2 ft/s² and the square of the wave period as shown below.

$$d_s/gt^2 = 9.55 \text{ ft} / 32.2 \text{ ft/s}^2 * (6s)^2 = 0.008$$

Then, using the dimensionless resulting value of 0.008 and a 50:1 near shore slope (i.e. slope (m) of 0.02), as input to Figure 44 of the Coastal Protection Design Manual 26.2 (NAVFAC 1982), a value of 0.90 is derived for the also dimensionless parameter H_b/d_s .



The value for H_b/d_s can be expressed as:

$$H_b/d_s = 0.90$$

Rewriting this equation and incorporating a value of $d_s = 8.13$ ft, a value for H_b can be derived:

$$H_b = 0.90 \times 9.55 \text{ ft} = 8.60 \text{ ft}$$

Based on the above equation, the maximum breaking wave height (H_b) at the site with a 6-second period is 8.60 feet.

A copy of Figure 44 with these data identified is attached.

100-Year Wave Run-Up Elevation

Wave run-up (R) is defined as the vertical height above the stillwater level to which a sea wave will rise on a broad beach, a bluff face, or a bluff protection structure. At this site, the wave run-up elevation is estimated on the broad, relatively flat beach. 100-Year Wave Run-Up Elevation (R_2) is defined as the vertical height above the still water level to which a sea wave will rise on the beach. For the purposes of this report, the extreme run-up, defined by the 2% exceedance value, was estimated. As recommended by Ms. Ewing, the wave run-up height was estimated using equations presented in a paper by Hilary F. Stockdon (Stockdon 2006). Values derived previously, along with these equations, were then used to estimate the wave run-up.

$$\text{(Equation 1)} \quad L_0 = \frac{gT^2}{2\pi} = \frac{(32.2 \frac{ft}{sec^2})(6 \text{ sec})^2}{2\pi} = 184.49 \text{ ft}$$

$$\text{(Equation 2)} \quad \xi = \frac{\beta}{(H/L_0)^{1/2}} = \frac{0.02}{(8.60\text{ft}/184.49 \text{ ft})^{1/2}} = 0.09$$

Since $\xi < 0.3$, Equation 18 from the Stockdon paper may then be used to estimate the wave run-up:

$$\text{(Equation 18)} \quad R_2 = 0.043(H_0L_0)^{1/2} = 0.043(8.60\text{ft} * 184.49 \text{ ft})^{1/2} = 1.71 \text{ ft}$$

In addition, Equation 19 from the Stockdon paper was also utilized to estimate wave run-up. This particular equation is referred to as the general expression, which was be utilized for all beaches.

$$\begin{aligned} \text{(Equation 19)} \quad R_2 &= 1.1(0.35\beta_f(H_0L_0))^{1/2} + \frac{[H_0L_0(0.563\beta_f^2 + 0.004)]^{1/2}}{2} \\ R_2 &= 1.1(0.35 * 0.02 * (8.60 \text{ ft} * 184.49 \text{ ft}))^{1/2} + \frac{[8.60 \text{ ft} * 184.49 \text{ ft}(0.563 * 0.02^2 + 0.004)]^{1/2}}{2} \\ R_2 &= 1.73 \text{ ft} \end{aligned}$$



Therefore, due to wave run-up, an additional height of 1.73 feet should be added to the 100-Year Design Stillwater Elevation of 14.55 feet; yielding a total 100-year wave run-up elevation of 16.28 feet (see attached North and South Profiles).

COASTAL FLOOD ZONE

According to the Flood Insurance Rate Map (FIRM) for the City of Pismo Beach (FEMA 2012), the project site is not located in a 100-Year Flood Zone. However, the site does lie adjacent to a 100-year flood (AE) zone that has a flood level at Elevation 13. This elevation is shown on the attached profiles.

TSUNAMIS

Hazardous tsunamis along the California coastline can be caused by vertical displacement of submarine faults, or by submarine landslides. Tsunamis along the central California coast are relatively rare, and only a few such events are well documented. One of these occurred on November 4, 1927, when a major earthquake occurred off the coast of Point Arguello. The earthquake, known as the "Lompoc Earthquake," produced a tsunami that reached a height of 6 feet above Mean High Tide Level along the coast of San Luis Obispo County (Lander et. Al, 1993). The seismic event that occurred in Japan on March 11, 2011 produced an 8.9-magnitude earthquake. Local news reports indicated that this earthquake only caused a minor tsunami tidal surge along the Central Coast shoreline.

Due to the gradual shallowing of the ocean toward the coast in south-central and southern California, tsunami waves originating from distant earthquakes on the coast of Japan, Alaska, and Hawaii have historically only produced a few feet of rise above the tide. However, according to the Tsunami Inundation Zone map of Pismo Beach (State of California 2009), the project site lies within a Tsunami Inundation Zone. The map shows the Tsunami Inundation Zone extending just landward of Cypress Street, which sits at approximately Elevation 27. The Tsunami Inundation Zone was based on a USGS quadrangle map with a scale of 1:24,000 or 1 inch = 2,000 feet, and an elevation precision that could vary up to 33 feet. At this level of precision, the inundation could range up to Elevation 60.

Based upon historical data from near and distant-source causative earthquakes, a tsunami surging to Elevation 27 or 60 appears unlikely. The highest recorded tsunami surge was to 6 feet above the Mean High Tide Level due to the 1927 "Lompoc Earthquake." Adding a 6-foot tsunami surge to the projected 100-Year Mean High Water Level (Elevation 10.1) yields a maximum tsunami surge to Elevation 16.1. In our opinion, this is a much more realistic elevation than that projected by the State of California. This indicates that tsunami surge could potentially impact the parking level of the structure, but is unlikely to create any significant impact on the habitable levels of the hotel.



CONCLUSIONS

The estimated future 100-year shoreline lies approximately 260 feet west of the building envelope on both the north and south profiles. The 100-year wave run-up analysis indicated that during a 100-year storm event, the highest elevation that a sea wave run-up would reach is Elevation 16.28 feet (NAVD 88). Using the existing beach profiles, in 100 years this elevation is estimated to reach the proposed building envelope at the north profile and to approximately 30 feet west of the proposed building envelope at the south profile. The design of the structure should take this potential into account.

Based upon available historical data regarding tsunami inundation due to near-source and distant-source causative earthquakes, it is unlikely that a tsunami-generated tidal surge would significantly exceed the elevation of the parking level of the hotel. The parking level should be designed to accommodate a tsunami surge to approximately Elevation 16 feet.

Thank you for this opportunity to have been of service. If you have any questions, please feel free to contact this office at your convenience.

Sincerely,

Earth Systems Pacific

DRAFT

Richard T. Gorman, CEG
Associate Geologist

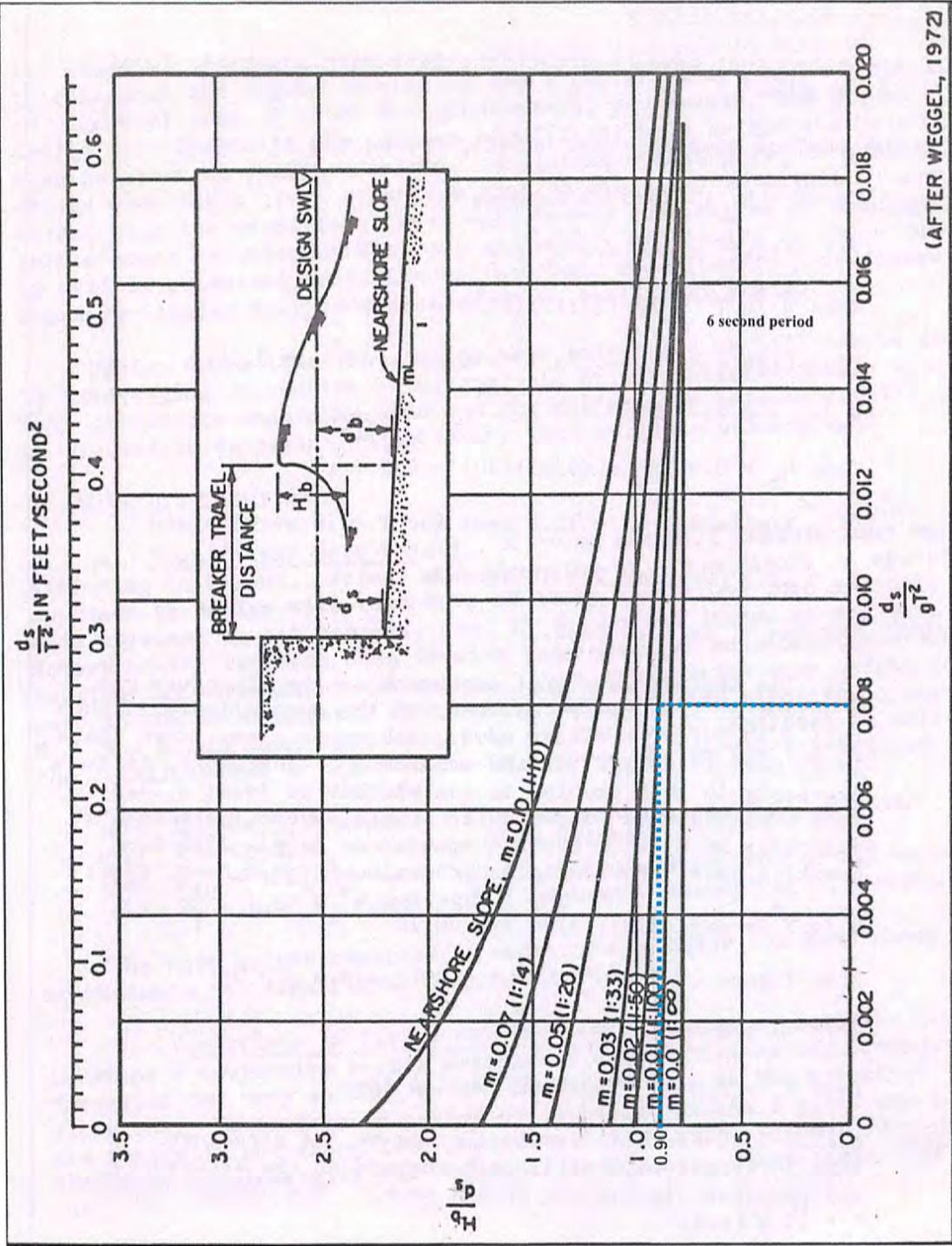
Attachments: Technical References
 Figure 44 from Coastal Protection Design Manual
 North Profile
 South Profile

Doc No.: 1412-153.RPT.REV/nf



TECHNICAL REFERENCES

- California Coastal Commission. Draft Sea-Level Rise Policy Guidance. 2013 October.
- FEMA (Federal Emergency Management Agency). Revised 2012 November. "Flood Insurance Rate Map." Map Number 06079C 1344G.
- Lander, J.F., P.A. Lockridge, M.J. Kozuch. 1993. "Tsunamis Affecting the West Coast of the United States 1806-1992." *NGDC Key to Geophysical Records Documentation* No. 29.
- NAVFAC (Naval Facilities Engineering Command). 1982 April. *Coastal Protection Design Manual 26.2*, U.S. Navy.
- NOAA (National Oceanic and Atmospheric Administration). 2013 July. station ID 9412110, Epoch 1983-2001, datum at Port San Luis, California. [website], retrieved from: http://www.ngs.noaa.gov/Tidal_Elevation/diagram.jsp?PID=FV089&EPOCH=1983-2001
- State of California. 2009 July, "Tsunami Inundation Map for Emergency Planning, Pismo Beach Quadrangle, County of San Luis Obispo."
- Stockdon, H.F., Holman, R.A., Howd, P.A., Sallenger Jr., 2006. "Empirical Parameterization of setup, swash, and runup." *Coastal Engineering* 53 (2006) 573-588.
- Wallace Group. 2014, December. Wave Run-up Survey profile of a portion of Lots 11-13 and 24-38 of Block 12, Map of Town of El Pizmo (a/MB/155); City of Pismo Beach, California, Project No. 1262-0001

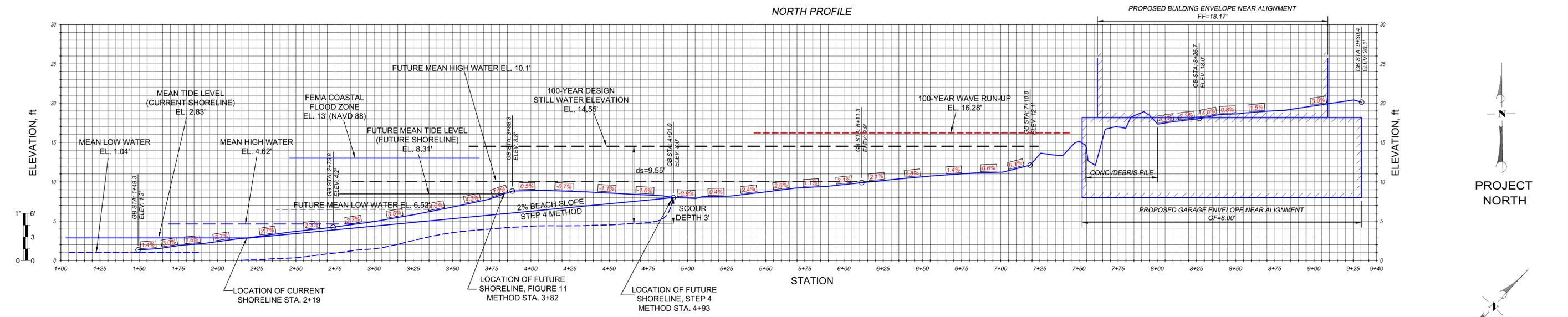
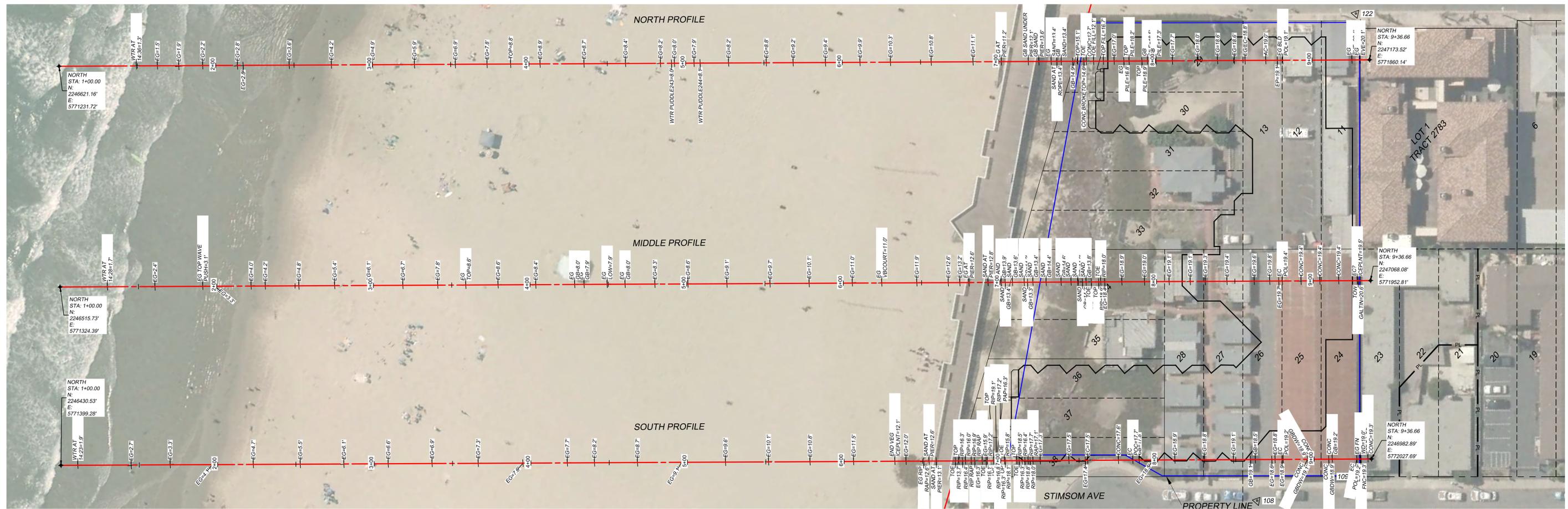


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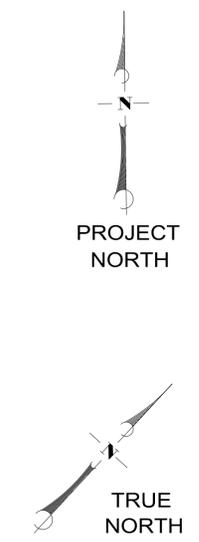
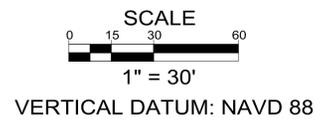
FIGURE 44 FROM COASTAL PROTECTION DESIGN MANUAL
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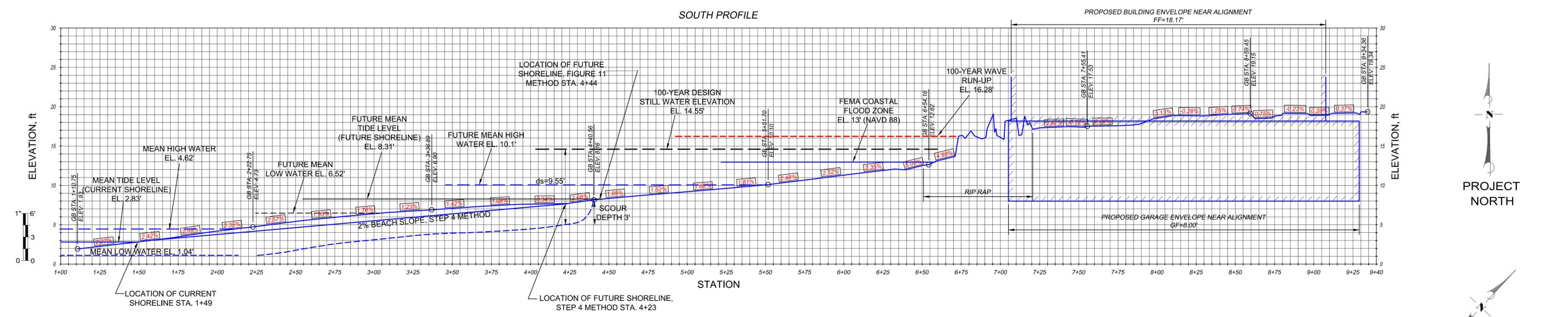
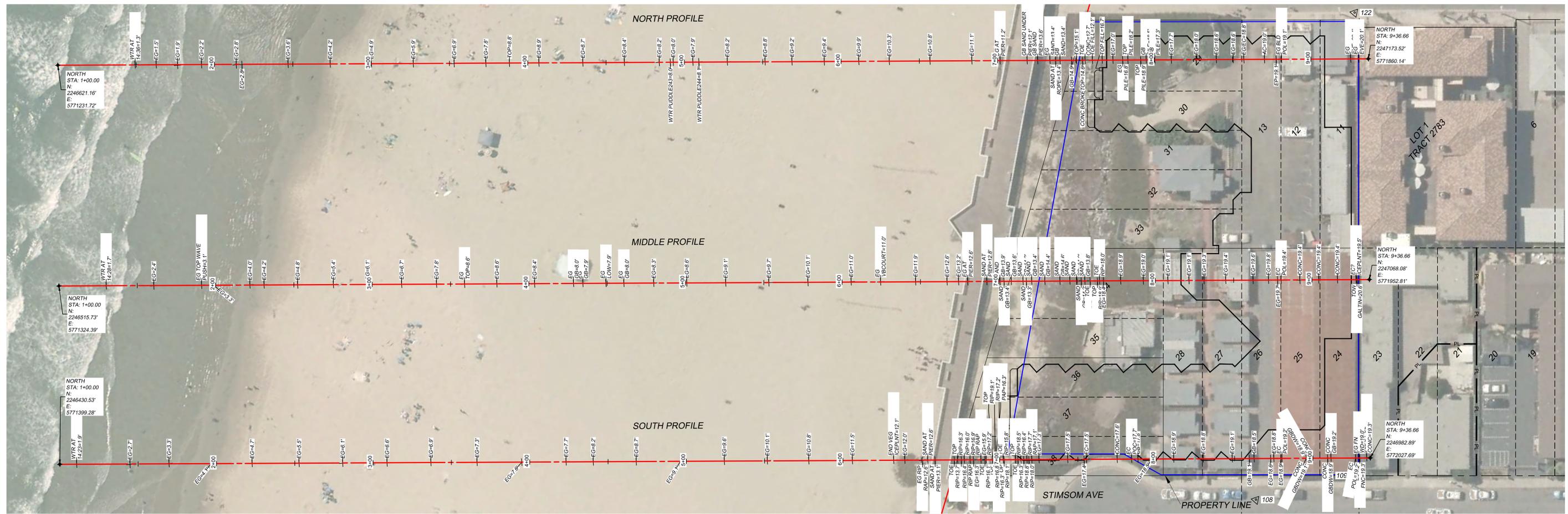
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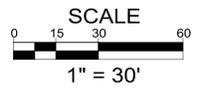
NORTH PROFILE

PISMO BEACH HOTEL

150 Hinds and 147 Stimson Avenues
 Pismo Beach, California



NOTE: Profile and topographic information by Wallace Group, December 18, 2014



VERTICAL DATUM: NAVD 88



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SOUTH PROFILE

PISMO BEACH HOTEL

150 Hinds and 147 Stimson Avenues
 Pismo Beach, California

Revised August 2015

RW

SL-14516-GC



Pismo Beach Hotel Analysis

Date: September 18, 2015

Prepared For: Scott Roby
Evolution Hospitality
scottr@evolutionhospitality.com

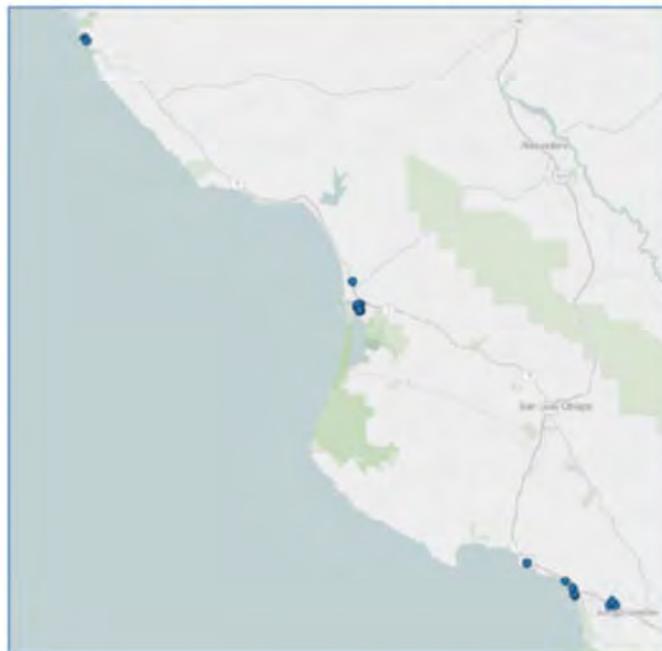
Prepared By: Ali Hoyt
STR Analytics
ahoyt@stranalytics.com

RESULTS

The purpose of this study was to determine the average daily rate of 1 and 2 AAA diamond properties in Pismo Beach that were lower than the California state ADR for July 2015. Due to available supply and participation, there was not a sufficient sample to limit the search to only Pismo Beach. For that reason, we used AAA's website to search for 1 and 2 AAA diamond rated properties within the following cities, located within 5 miles of the coast:

- Pismo Beach
- Morro Bay
- Cambria
- Arroyo Grande
- Grover Beach
- Shell Beach

This list was cross-referenced with hotels that provided July 2015 data to STR. Our search yielded a total of 17 properties. Below is a map showing the location of the properties analyzed:



From this group of properties, we found 8 properties with a July ADR below the California statewide average for July 2015 (\$164.05). These properties represent 437 rooms and have an average ADR of \$152.00 for July 2015. The table below summarizes our results:

	Number of Properties	Number of Rooms
Total Sample	17	927
Portion of Sample Below State ADR	8	437
ADR of Properties Below State ADR	\$152.00	
California State ADR July 2015	\$164.05	

We also performed the same analysis based on a 5-yr average rate for the month of July (2011-2015). The table below summarizes our results:

	Number of Properties	Number of Rooms
Total Sample	17	927
Portion of Sample Below State ADR	6	357
ADR of Properties Below State ADR	\$130.32	
California State 5-yr ADR July	\$142.95	

Site #3



- Site 3 – an existing 10-unit residential project
- Most all units are single-story and have small kitchens.
- The property has been operating as a residential leased project for approx. 25 years; all leases are currently month-to-month;
- All 1st floor units (9 units total) would be converted to low-cost accommodations; the 10th unit (the only unit located on the 2nd floor and above carport) will not immediately be converted to low-cost, but may be converted in the future.
- Property Zoning is: R-R, Resort Residential. A CDP is required for conversion from residential to hotel use.

Site #3



Site #3

[RESIDENTIAL PROPERTY] -

9 rooms

REVENUES¹

	ADR
Jan	\$73.13
Feb	\$79.37
Mar	\$84.63
Apr	\$96.32
May	\$108.89
Jun	\$119.62
Jul	\$130.33
Aug	\$120.97
Sep	\$88.53
Oct	\$90.56
Nov	\$87.36
Dec	\$79.70

Reduce Rate/Room Revenue by:

20%	
ADR	Revenue
\$58.50	\$6,476
\$63.50	\$5,886
\$67.70	\$9,993
\$77.06	\$13,177
\$87.11	\$14,504
\$95.70	\$15,933
\$104.26	\$24,022
\$96.78	\$19,075
\$70.82	\$10,836
\$72.45	\$12,128
\$69.89	\$7,862
\$63.76	\$7,689