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ADDENDUM

DATE: March 8, 2016
TO: Commissioners and Interested Parties
FROM: South Central Coast District Staff
SUBJECT: Agenda Item 8c on Friday, March 11, 2016
Appeal A-4-STB-14-0016 (Carr, Santa Barbara County)

The purpose of this addendum is to make corrections/revisions to the staff report, attach and respond to correspondence received to date, and attach documentation regarding Ex Parte Communications received from Commissioners to date.

A. EX PARTE COMMUNICATIONS

Ex Parte communication received (from Commissioner Bocho) is included as **Attachment 1** of this addendum.

B. THIRD PARTY CORRESPONDENCE

Attachment 2 of this addendum includes correspondence that has been received to-date from interested parties:

C. ADDITIONAL ATTACHMENT

Staff is including **Attachment 3** which details the background and permit history of the subject project. This timeline reflects the permit history described in further detail in the staff report.

D. APPLICANT CORRESPONDENCE

Attachment 4 of this addendum is correspondence received from the agent representing the applicant, dated March 4, 2016. The letter indicates that the applicant has important remaining points of disagreement with the Commission staff recommendation. Below is a summary of the concerns stated by the applicant's representative, along with staff's response to the points raised in the letter. In addition, the applicant's agent requests that the Commission approve the Coastal Development Permit (CDP) pursuant to nine suggested special conditions. Commission staff cannot support the suggested approval of the Coastal Development Permit because doing so would not be consistent with the coastal resource protection policies of the Santa Barbara County (County) Local Coastal Program (LCP) as discussed in the staff report and this addendum.

The applicant's agent asserts that the unpermitted development in question was undertaken only to repair deck supports that were compromised after a sprinkler broke and eroded topsoil under the supports. He also asserts that the foundation improvements undertaken were not necessary for and did not involve repairing or supporting the cabana itself or its foundation. Additionally, the applicant's agent argues that improvements to the deck are fully consistent with the policies and provisions of the LCP (most specifically LUP Policies 3-7, 3-14, and GEO-GV-1). Further, the agent contends that Commission staff has omitted evidence from its analysis that supports the argument that all improvements in question are related to the deck only and that such improvements are fully consistent with the certified LCP. Finally, the agent asserts that the project site is not located on an unstable bluff, that there is no conflict between LUP resource protection policies and LUP nonconforming development provisions, and that the deck repairs are consistent with the LUP visual resource protection policies. These points are addressed below.

Development Includes Foundation Improvements for both Cabana and Deck

The assertion that the proposed development only relates to deck repairs is not consistent with the record in this case. For one thing, while the applicant's agent contends that the repairs were performed only after a sprinkler broke and eroded topsoil under the deck supports in 2004, in actuality, geologic investigations and reports regarding the cabana's stability were initiated much earlier. Grover Hollingsworth & Associates performed a geologic investigation for the previous owner of the property that evaluated the cabana site in August 1999. As discussed in the staff report, the purpose of the exploration was to evaluate geologic and slope stability, stability of the beach cabana, and possible future development. The geologic investigation report concluded that: "...the bluff and slope in the area of the beach cabana are marginally stable. Failure of the beach cabana could occur during a period of heavy rainfall, wave attack, or strong seismic shaking".

Further, the project description approved by Santa Barbara County for the local CDP [(as shown in Exhibit 11 (Notice of Final Action))] includes improvements to -the cabana foundation, cabana structure, and the deck, as follows:

1. As-built approval of the existing reinforcement work done to the foundation of the historic cabana, including the installation of five 35-foot deep caissons and five "dead-man" counter weights;
2. As-built approval of the repairs made to the existing deck and deck stairway
3. As-built approval of the enclosure of a portion of the deck and previous outdoor shower area, creation of internal access to this enclosed area and installation of a $\frac{3}{4}$ bathroom. The as-built enclosure adds an additional 34 sq. ft. to the historic 740 sq. ft. cabana originally permitted in 1956;
4. As-built approval of a wetbar in the cabana with a maximum counter length of 9'-6";

5. As-built zoning approval of the sanitary waste connection from the historic cabana to the existing septic system on the parcel serving the existing single-family dwelling, including the grinder pump and waste water lines; and
6. Approval of drainage repairs and improvements on the bluff face (i.e. located on the walkway leading to the cabana).

This project description was approved by the County Planning Commission through its action on the local coastal development permit. This permit was appealed to the Coastal Commission and found to raise substantial issue at the May 2014 hearing. The applicant has made no modifications to the project as approved by the County. As such, the project description considered in the subject de novo review includes as-built approval of the existing reinforcement work done to the foundation of the cabana in addition to repairs to the deck.

Further, contrary to the applicant's agent's contentions, the as-built plans for the unpermitted work to the cabana foundation and deck show that the improvements provide support not only to the deck, but also to the existing cabana foundation. These plans (**Attachment 5**) were submitted to and reviewed by the Santa Barbara County Building and Safety Department in 2005. Building and Safety staff concluded that the support system had been designed and constructed to not only provide cantilevered support for the existing deck, but that it was also directly tied into the foundation of the cabana and also provides support to the cabana itself. For instance, the caissons support existing footings, exterior wall and roof of the cabana. The pad footings (piers) not only support the new cantilevered girders supporting the deck, they also support the existing girders which support the floor of the cabana. This conclusion by Building and Safety is consistent with the foundation strengthening methods discussed by Mark Braun in his August 12, 2005 letter to the previous owner (discussed in detail in the staff report) and reflect the stated concerns of the previous owner regarding the potential loss of the structure and deck. While the unpermitted development does address, in part, the support issues of the deck and accessway; the 1999 Grover Hollingsworth geotechnical investigation, letters from Braun & Associates, and analysis by Building and Safety staff clearly illustrate that the unpermitted work also ties into the foundation of the cabana and provides support to the cabana itself.

Further, the applicant's agent's arguments do not address the other significant unpermitted development that is also part of the subject project. This development includes enclosure of a portion of the deck and previous outdoor shower area, creation of internal access and installation of a $\frac{3}{4}$ bathroom, addition of a wetbar, and sanitary waste connection from the cabana to the existing septic system on site. While this development may not arguably extend the life of the cabana structure, it does change the use of the structure from a cabana to an accessory residential unit, like a guesthouse. This work is new development on a bluff face which is inconsistent with the policies and provisions of the LCP.

In conclusion, the applicant's agent's arguments that the subject project can be reduced to repairs to the cabana deck necessitated by an irrigation line break and that such

improvements are fully consistent with the LCP is not born out by the evidence contained in the administrative record. It is clear that the project included reinforcement of the foundation that supports both the cabana and the deck, as well as other improvements to the cabana structure.

Geology Reports Demonstrate Foundation Repairs Support Both Cabana and Deck

The applicant's agent contends that documented structural issues with the cabana are focused solely on the deck and did not address the cabana or its foundation and that the Commission staff report omits letters and reports that substantiate the applicant's claim that the repairs were focused solely on the accessway. Finally the applicant contends that if the unpermitted development does in fact support the cabana, it does so incidentally.

As described above, the project clearly includes foundation improvements that support both the cabana and the deck, as well as other improvements. The record includes many geologic, geotechnical, and engineering investigation reports, recommendations, inspection reports, as built plans, and letters regarding the completion of site improvements that were completed over the course of several years. These reports range from 1999 to 2005 which are contemporaneous with the unpermitted subject work. There are also reports prepared by the same consultants in 2011 that discuss their past involvement with the project.

As the agent acknowledges, the reports do discuss the stability of the bluff and the need for foundation and other improvements at the site using different terminology. Staff did review all of the reports available in the record, as well as all other evidence including site photos and conducted a field visit. Based on the totality of this information, it is clear that the foundation work supports both the cabana and the deck. It is not the case that staff omitted information that would demonstrate otherwise. Rather, staff does not agree with the applicants' agent's interpretation that such information clearly relates solely to repairs to the deck.

In a May 6, 2005 "Notice of Non-Compliance" cited by the applicant's agent, a building inspector at County Planning and Development conducted an inspection at the site and noted "deteriorated or inadequate foundations" in eight conditions, five of which are specific to the deck and deck support system. The other three items note that there is plastic sheeting covering areas of soil erosion, that the geotechnical engineer for the project stated that the bluff is likely receding, and that the retaining wall located at the rear of the building (cabana) is listing. Because the results of the investigation highlight the deteriorated condition of the deck supports, the applicant's agent asserts that the focus of the development was initially, and throughout the course of the project, strengthening the foundation of the deck.

However, it is not clear that the description of deteriorated or inadequate foundations was limited to the deck. For one thing, the other three items noted (soil erosion, bluff recession and retaining wall listing) involve other bluff instability issues that do not relate

only to the deck. Additionally, while the cabana foundation was not specifically discussed in the findings of the investigation, it does not mean that fortifying the cabana was not also a motive of the development. Specifically, it is important to remember the letter from Mark Braun dated August 15, 2005 discussed in the staff report. In that letter Mark Braun states that he was provided with a comprehensive Soils Report written by Grover Hollingsworth & Associates dated August 9, 1999. Analysis in the Grover Hollingsworth & Associates report states "...due to the combination of unfavorable oriented bedding, the steep bluff face and the moderately steep slope above the bluff that a deep slope failure or moderately shallow raveling could cause failure of the cabana during or following a period of heavy rainfall, wave attack or strong seismic shaking" (Grover Hollingsworth, 8/9/1999, p 13-14). In that letter Mr. Braun goes on to state that "The owner had significant concerns as to the stability of the Beach House. Based on discussions with the owner and review of the Grover Hollingsworth report, I was in agreement with the concerns of the owner. Within the geotechnical review by Grover Hollingsworth discussions as to stabilizing the Beach House and deck were provided...Based on the work it is my opinion the Beach House has been strengthened by this new foundation system in a method consistent with typical underpinning procedures for the area" (Braun & Associates, 8/12/2005, p.1).

From this timeline it is clear that in 1999 Grover Hollingsworth & Associates determined that the cabana was susceptible to failure during periods of heavy rainfall, wave attack or seismic shaking. This report was given to Mr. Braun by the previous owner prior to his site visit in April 2004. After reviewing the soils report and discussing with the previous owner, Mr. Braun was in agreement with the concerns of the owner. The beach house and deck are identified as two separate structures. The new foundation system strengthened the foundation of the beach house. Regardless of whether or not the building inspector specifically identified deteriorated or inadequate foundations associated with the cabana (he did identify soil erosion, bluff recession and retaining wall listing), the previous owner was concerned with the stability of the cabana and contracted Braun & Associates to strengthen the cabana's foundation. Based on the work, Mr. Braun believed the beach house had been strengthened by the new foundation system.

Strengthening of both the deck and the cabana foundation is addressed in three separate letters from Mr. Braun in 2005 alone. In a final letter from 2011, Mr. Braun states "I worked to resolve concerns that the deck and its foundation were structurally sound as was the Cabana structure...My most recent visit to the property indicates this firm's design has worked remarkably well and no movement or additional bluff retreat was noted. The repairs appear to have provided a safe and stable support system for the deck and the cabana foundation as well" (Braun & Associates, 12/12/2011, p. 2).

While the Commission staff report includes detailed discussion of the various letters and investigations, a second letter from Mr. Braun dated August 15, 2005 was not discussed in the staff report. To clarify, Mr. Braun sent two letters on August 15, 2005, one to Penfield & Smith referencing the work his firm had already performed to improve the foundation system for the cabana and deck (discussed in the staff report) and one to the

previous owner discussing the topsoil erosion from the broken sprinkler that affected the deck as well as prospective work that could be done to repair the damage. The applicant's agent presents this second letter from Mr. Braun to the previous owner as evidence that the unpermitted development was specific only to the deck. It's difficult to determine why Mr. Braun wrote two letters on the same day describing different scenarios for the site, however there is a very important distinction between the two letters. The first letter, in using the past tense, describes work that had already been completed to the cabana and deck, and the second letter, using the future tense, describes work that could be completed in the future to repair damage to the deck. The letter to the previous property owner states that:

Per the desire of the owner to repair the deck this firm recommends stabilizing the deck through the use of a deep foundation system...Once it has been decided as to the time frame for this work this firm (Braun & Associates) can then provide the calculations along with the field inspections for the repair of the deck" (Braun & Associates, 8/12/2005, p.1).

This second letter appears to indicate that work to address the erosion of topsoil after the sprinkler broke had yet to commence as of August 15, 2005 while the first letter indicates that as of August 15, 2005 work to strengthen the foundation of the cabana had already been completed. The two letters from Mr. Braun dated August 15, 2005 are included as **Attachment 6** of this addendum. It is difficult to understand how this second Braun & Associates letter from August 15, 2005 fits with the larger project narrative, however the three previous letters from Braun & Associates and the 1999 Grover Hollingsworth report support the conclusions of the first Braun & Associates letter from August 15, 2005 that states the unpermitted development had the intended effect of supporting the deck and the cabana.

Finally the applicant's agent provided citations from a November 9, 2011 Grover Hollingsworth & Associates report that states "the 2004 Braun plans do not suggest that the beach cabana was to be releveled or repaired as part of the deck stabilization project" (Grover Hollingsworth, 11/9/2011, p. 2-3). While the 2004 Braun plans may not suggest to another consultant that the unpermitted development was not intended to strengthen the foundation of the cabana, considering the 1999 Grover Hollingsworth report, the mutual concern regarding the stability of the cabana and Mr. Braun, and the review of the as-built plans from County Building and Safety it is clear that strengthening the cabana was a priority.

Limitations on Bluff Development

The applicants' agent contends that the LCP (through LUP Policy 3-7) allows for the construction of stairways on bluffs and that this policy applies to both stairs for public access and private stairs equally. He also notes a November 2010 Commission action on an LCP Amendment which included a Suggested Modification to clarify that Policy 3-7 only allows the construction of stairways on bluffs where they provide public access to

the beach. Finally, he alleges that the staff recommendation would amount to an amendment of the LCP in the context of an appeal.

There has been discussion over the years between Commission staff and Santa Barbara County Planning staff regarding the interpretation of Policy 3-7. As noted by the applicant's agent, the Santa Barbara County Board of Supervisors declined to accept the Commission's suggested modification to modify the language of Policy 3-7 to clarify that such an exception would apply only to engineered accessways that provide public beach access. Although the Commission cannot amend the LCP in the context of an appeal, it is both the Commission's prerogative and duty to *interpret* the LCP and its language, which in this case does not plainly state whether Policy 3-7 applies to both private as well as public engineered staircases.

Regardless, the Commission need not comprehensively interpret this policy in order to resolve this appeal because the issues in this appeal do not turn on whether Policy 3-7 pertains to public or private staircases. Rather, because the intention and function of the unpermitted development was to support the cabana, and because the application also seeks approval for improvements unrelated to the staircase (e.g., a bathroom, wet bar and sewer line), the proposed development is in violation of the coastal resource protection policies and ordinances of the LUP regardless of how Policy 3-7 might be interpreted.

Geologic Hazard Areas

The applicant's agent contends that the project site is not located on an unstable bluff and is therefore consistent with the policies and provisions of the LCP that require that development avoid areas of known geologic hazard. The agent cites examples of statements from the many geologic reports to support this argument. However, coastal bluffs are by their very nature erosion features that are subject to a host of potential hazards including erosion from uncontrolled or concentrated drainage, landsliding, loss of toe support from wave action, etc. The same geologic reports indicate the subject bluff is comprised of bedrock that is unfavorably oriented, that is that the rock bedding planes trend downward and out of the bluff face, making this bluff more susceptible to failure.

The initial soils report from Grover Hollingsworth & Associates from August 9, 1999 describes the graded coastal bluff parcel upon which the cabana is constructed as an "...unsupported, potentially unstable wedge of bedrock. Our slope stability analysis suggests that the bedrock wedge has a factor of safety of 1.17 along bedding. A factor of safety of 1.0 indicates that the slope is theoretically at the boundary of failure while a factor of safety of 1.5 is normally required for new construction" (Grover Hollingsworth, 8/9/1999, p 15). As stated earlier in this addendum the Grover Hollingsworth & Associates report from August 9, 1999 also states that

"The beach cabana is located on or above bedrock which is unfavorably oriented with respect to the seacliff. This bedrock orientation has led to landslide along the seacliff east of the subject property. We believe that the bluff and slope in the area of the beach cabana are marginally stable. Failure of the beach cabana could occur during a period of

heavy rainfall, wave attack, or strong seismic shaking” (Grover Hollingsworth, 8/9/1999, pages 13-14).

Concerns over the stability of the site are also discussed in the Santa Barbara County Zoning Administrator Staff Report. “Former County geologist Brian Baca, current County Building and Safety plan-check engineer Eric Hagen and County geological consultants Fugro West, Inc. examined all evidence available in 2005-2006 on the geological stability of the project site, including geological soils reports submitted by the applicant. After reviewing the available material they concluded that “adequate bluff slope stability had not been demonstrated. Mr. Baca concluded further that the structure is built upon a historic landslide plane area” (Santa Barbara County Zoning Administrator Staff Report, 12/16/2013, p. 6). Reports provided to County staff and the geological consultants for this review included Grover Hollingsworth, 1999, Coastal Geology and Soils, 2005, and Braun & Associates, 2005.

In addition to concerns regarding past landslides in the area of the cabana, the August 9, 1999 Grover Hollingsworth & Associates report states that while the site is not located within an Earthquake Fault Zone the site will be subject to moderate to strong ground shaking from Southern California seismic activity (Grover Hollingsworth, 8/9/1999, page 9). The concerns over seismic activity and failure of the cabana are discussed in the 1999 report conclusions mentioned earlier in this section. The 2011 Grover Hollingsworth report is less direct in its discussion of seismic stability stating “Our quantitative analysis also suggests that the bluff and the cabana building pad are stable under non-seismic conditions...Our analysis suggests a static factor of safety for the bluff below the cabana and the bluff and natural slope above the cabana under saturated conditions of 1.17 to 1.22.” (Grover Hollingsworth, 11/9/2011, p. 7-8). So while the report states that the site is stable under “non-seismic” conditions, it does not address the stability of the structure under seismic conditions, as discussed in the 1999 soils report. Furthermore the 2011 report calculates a static factor of safety for the structure of 1.17 to 1.22, as compared to the 1999 report factor of 1.17. This 2011 factor is still below the suggested static factor of safety of 1.5 for new development.

Finally one factor affecting the stability of the site that cannot be disputed is the bluff erosion with respect to wave action and the function of the shotcrete at the toe of the slope. The County approved an emergency permit for the shotcrete injections into the erosional caverns and undercut areas of the bluff in 1989. The 2011 Grover Hollingsworth report concludes that “...the gunite at the base of the bluff has arrested all significant retreat due to wave action since its installation in 1989. Assuming that the gunite is maintained to achieve its historical level of performance, bluff retreat due to wave action will not represent a risk to the cabana’s stability” (Grover Hollingsworth, 11/9/2011, p. 4). LUP Policy 3-14 states “...Areas of the site which are not suited for development because of known soil, geologic, flood, erosion or other hazards shall remain in open space”. The fact that the gunite at the base of the coastal bluff is necessary to prevent future retreat or risk to the cabana’s stability clearly demonstrates that the area of coastal bluff upon which the cabana is perched is subject to erosion and inconsistent with LUP Policy 3-14. Additionally, recent site photos show that the

permitted shotcrete at the base of the bluff is deteriorating and will likely have to be substantially improved or replaced in the future. Because the cliff is subject to erosion from wave action and because the shotcrete will need to be repaired sometime in the future, the project is inconsistent with LUP Policy GEO-GV-1. As a note, Commission staff have reviewed the administrative record and discussed the existing CDP for the shotcrete with County staff. The County issued CDP for the shotcrete does not approve any future additions or repairs to the shotcrete.

Conflict Between the LUP and the CZO Nonconforming Exception

The applicant's agent contends that the foundation improvements only related to the deck and that such repairs are consistent with LUP Policies 3-7, 3-14, and GEO-GV-1. He concludes that there is no conflict between the LUP and the CZO provision relating to nonconforming historic designated development (Section 35-162.1.a.1). However, contrary to this assertion, the unpermitted development is inconsistent with LUP Policies 3-7, 3-14, and GEO-GV-1, as demonstrated in earlier sections of this addendum. It should be noted that the unpermitted development is also inconsistent with other policies and ordinances of the LUP as discussed in the staff report. Specifically, those other policies and ordinances include: Policies 1-1, 1-2, 1-3, 1-4, 2-6, 4-5, GEO-GV-3 and Ordinances 35-67, 35-85, 35-160, and 35-161.

With regard to Policy 3-7 a review of the correspondence between the previous owner and Braun & Associates demonstrates that both parties had reviewed the soils report prepared by Hollingsworth & Associates which stated that the cabana is potentially unstable and susceptible to failure in events of heavy rainfall, wave attack, or strong seismic shaking (Grover Hollingsworth, 8/9/1999, pages 13-14). Both parties expressed concern for the stability of the structure in response to the recommendations of the soils report. Finally, Braun & Associates engineered and constructed foundation supports to strengthen the cabana consistent with the recommendations of the soils report. Additionally, County Building and Safety as well as the County's engineering consultant reviewed the plans submitted by Braun & Associates and came to the same conclusion that in addition to supporting the deck, the unpermitted development also supports the cabana. Policy 3-7 states "No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry". Because the unpermitted development strengthens the foundation of the cabana, as illustrated in correspondence between the previous owner and Braun & Associates and as identified by the review by County Building and Safety, it is not limited to the engineered accessway and in fact supports the cabana. Thus, the unpermitted development is not consistent with Policy 3-7.

As discussed above, the geologic analyses indicate that the bluff on the site is unstable. Based on the Grover Hollingsworth investigations from 1999 and 2011 the static factor of safety for the cabana site is below the suggested safety factor for new development. In addition, reports conclude that survival of the cabana site is reliant upon the shotcrete currently protecting the bluff from erosion. Policy 3-14 requires that areas of any site

which are subject to erosion shall remain open space while Policy GEO-GV-1 states that all new development on bluff-top property shall be sited to avoid areas subject to erosion and avoid reliance on future shoreline and/or bluff protection devices. Because the area of the cabana is below the suggested safety factor for new development and the site is reliant upon the shotcrete to prevent further erosion, the site cannot be considered consistent with Policy 3-14 and GEO-GV-1.

Historic Resource Protection

The applicant's agent asserts that the Commission is ignoring Coastal Zoning Ordinance Section 35-162.1.a.1 (nonconforming structure exception for historic landmarks) as it relates to the historic resource provisions of the LUP (which he considers controlling) in favor of other policies. The agent goes on to cite Section 30513 of the Coastal Act which states that the Commission can certify a Coastal Zoning Ordinance only by finding that its provisions "conform with" or are adequate "to carry out, the provisions of the certified land use plan" and that this ordinance specifically implements the historic resource provisions of the LUP.

The LUP contains five archaeological and historical resource protection policies, which are cited in the staff report. The policies pertain primarily to archaeological or cultural resources. Policy 10-1 is the only policy to specifically include protection of historical resources. However, this policy, which is cited by the applicants' agent, is not on point for the subject project. Policy 10-1 states "All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites". The LUP exception provided to allow enlargement, extension, reconstruction, relocation and/or structural alterations to nonconforming landmark structures is not a measure that can be interpreted to avoid development on historic sites. As such, it cannot be considered to implement this policy.

In addition to the policies, the LUP includes recommendations regarding historical resources. The LUP states (in LUP Section 3.10.5) that: "Although the Coastal Act does not specifically call for protection of historical resources, the following recommendations are made to ensure protection of important historical sites in the coastal zone of Santa Barbara County. The four recommendations call for the County to undertake an inventory of historical sites, to designate sites as landmarks, to nominate sites for national landmark status where appropriate, and to encourage owners to enter into historical properties contracts with the County. It should be noted that the landmark designation provisions are all contained in County ordinances located outside the certified LCP.

The staff report does not argue, as asserted by the applicant's agent, that a local government cannot include policies in an LCP that are in addition to or are more restrictive than the policies of the Coastal Act, but that the Santa Barbara County LCP does not do so with regard to historical resources (with the exception of Policy 10-1 that is not relevant to the subject case). The recommendations regarding historical landmarks

are not policies that specifically govern new development or the designation of landmarks. Further, the landmark designation procedures are not part of the LIP.

It can be argued that Section 35-162-1.a.1, in providing an exception for enlargement, extension, moving, and structural alteration of landmark structures, does provide protection for designated landmark structures. There may well be instances where this exception would be entirely appropriate. For instance, where a structure does not conform with an LCP standard unrelated to the protection of coastal resources (e.g. yard setbacks, building coverage, landscaping, parking requirements). However, when this section is interpreted in the context of all LCP policies and provisions (including LUP Policies 1-2 and 1-3), it is clear that the exception is not controlling and it does not supercede policies that are more protective of coastal resources.

Finally, County Ordinance No. 1716 which grants the County Board of Supervisors the power to designate sites as historical landmarks and County Code Section 18A which provides for the Historical Landmarks Advisory Committee and outlines historic landmark criteria, are not part of the certified County LCP. Pursuant to Policy 1-3 “Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County’s Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence”. As such, because Ordinance No. 1716 and County Code Section 18A are not part of the certified LCP, the policies set forth in the LCP take precedence over any element in the County’s Comprehensive Plan or ordinances.

Visual Resource Policy Compliance

As described in the staff report, the cabana is a legally nonconforming structure constructed in 1956, prior to passage of the Coastal Act (1972) and the County LCP (1982). Following the passage and certification of these development regulations, there are policies and standards that now apply to development at the cabana site.

Coastal Act Section 30251 (incorporated into the LCP by Policy 1-1) and Policy 4-5 require that development be sited and designed to protect scenic coastal areas, to minimize alteration of natural landforms, to be compatible with the character of the surrounding area, to restore and enhance visual quality where feasible to be setback from bluffs to minimize or avoid impacts of public views from the beach. The applicant’s agent contends that in approving the repairs at issue the County Planning Commission found that the development will not significantly obstruct public views of the area and that the repairs are not directly visible at all. This analysis represents an incorrect representation of the cabana’s non-conforming status and how the visual impacts of the structure are evaluated. The area under the deck which includes foundation improvements is visible from below. Additionally, as demonstrated above, the repairs were not isolated to the cabana deck and included substantial foundation improvements to the cabana structure which extends the life of the structure. Additionally, the subject project includes additions to the structure. As such, the cabana structure in its entirety is

being evaluated for impacts to coastal resources. The discussion of visual impacts must consider how the entire cabana structure compares to the visual resources of the area.

The coastal bluff in the project area is generally undeveloped except for private beach accessways. Due to the fact that there are no other structures in the vicinity except for beach accessways the visual character of the area surrounding the cabana is highly scenic, undeveloped coastal bluffs. Additionally because the cabana is located on the bluff face it is not set sufficiently far enough back from the bluff edge to ensure that the structure does not infringe upon public views of the coastal bluffs from the beach below, as required by the LCP. This is especially evident because there are no other existing bluff face or beach level structures on adjacent properties. As such, one cannot argue that views are already impacted by other development.

The applicant's agent cites the findings from the County Board of Supervisors hearing regarding the cabana's nomination as a historic landmark. In their decision, the Board of Supervisors nominated the cabana for landmark status in part because "It has a location on an ocean front bluff with unique physical characteristics and a view or vista representing an established and familiar visual feature of the Hope Ranch community" (Santa Barbara County Board of Supervisors, 3/12/2012, p. 1-2). This determination made by the Board of Supervisors was in the context of the historical significance of the cabana, not its consistency with the visual coastal resources of the surrounding area. Additionally, when the County Planning Commission approved the unpermitted development for the cabana their findings for visual resources did not include a consistency analysis with Coastal Act Section 30251 or LCP Policy 4-5.

Precedent of Nonconforming Structure Exception

Pursuant to Coastal Zoning Ordinance Section 35-162.1.a.1 "a nonconforming structure may be enlarged, extended, reconstructed, moved and/or structurally altered, subject to the following criteria...The structure has been declared to be a historical landmark pursuant...the proposed alterations will help to preserve and maintain the landmark in the long-term". There is another cabana in the Hope Ranch area known as the Bryce Cabana. The Bryce Cabana is located directly on the beach approximately a half mile west of the Carr Cabana and it is only accessible by a funicular. The Bryce Cabana and its funicular were approved as historical landmarks on the same day as the Carr Cabana and while the Bryce Cabana and funicular are significantly deteriorated, any structural alterations to help ensure their survival would be analyzed pursuant to Section 35-162.1.a.1. The applicant's agent contends that Section 35-162.1.a.1 allows the historical landmark designation of the Carr Cabana to supersede the resource protection policies of the LCP, including those related to erosion and development on bluffs. The applicant's agent argues that because the Bryce Cabana is not located on a coastal bluff, any action with regard to the Carr Cabana is unrelated and will not set a precedent.

While the Bryce Cabana is not located on a coastal bluff, it is located on dry sandy beach. Policy 3-3 of the LUP states "To avoid the need for future protective devices that could

impact sand movement and supply, no permanent above-ground structures shall be permitted on the dry sandy beach except facilities necessary for public health and safety...”. In its current state the Bryce Cabana is not consistent with Policy 3-3. Allowing the historical resource exception of Section 35-162.1.a.1 to supersede the bluff and erosion policies of the LUP, as well as the conflict resolution and resource protection policies 1-2 and 1-3, would allow the applicants for any future improvements to the Bryce Cabana, as well as other nonconforming structures, to argue that Section 35-162.1.a supersedes Policy 3-3 and by extension Policies 1-2 and 1-3. These findings could set a significant precedent countywide and statewide with regard to the extension of the life of non-conforming uses, including enlargement, reconstruction, and structure alteration.

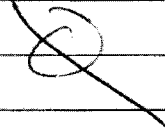
EX PARTE COMMUNICATION DISCLOSURE FORM

MAR 03 2016

Filed by Commissioner:

Bockco

California Coastal Commission
South Central Coast District

- 1) Name or description of project: Carr / F 8c
- 2) Date and time of receipt of communication: 3/3/16 10:54am
- 3) Location of communication: email
(If not in person, include the means of communication, e.g., telephone, e-mail, etc.)
- 4) Identity of person(s) initiating communication: Zimmer, Julia
- 5) Identity of person(s) on whose behalf communication was made: herself
- 6) Identity of persons(s) receiving communication: Bockco
- 7) Identity of all person(s) present during the communication: 

Complete, comprehensive description of communication content (attach complete set of any text or graphic material presented):

See attached

Date

3/3/16

Signature of Commissioner



TIMING FOR FILING OF DISCLOSURE FORM: File this form with the Executive Director within seven (7) days of the ex parte communication, if the communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication. If the communication occurred within seven (7) days of the hearing, provide the information orally on the record of the proceeding and provide the Executive Director with a copy of any written material that was part of the communication. This form may be filed with the Executive Director in addition to the oral disclosure.

ATTACHMENT 1
A-4-STB-14-0016 (CARR)
Ex Parte Communication

Received

MAR 03 2016

California Coastal Commission
South Central Coast District

As you may recall, I did considerable independent research into the County's record before agreeing to sign on to this appeal. I provided that information to Commission staff. I agree in general with the staff report, but I want to emphasize several things which were not discussed:

1. The main reason I agreed to sign this appeal was my concern, in relation to sea level rise and hazard issues, that there is an existing shocrete wall at the base of the bluff with a confused permit history. [Exhibit 14] Current issues aside, must the Commission in the future consider this an 'existing' structure entitled to protection under Section 30235 and 30253?

Please note that the applicants initially submitted documents representing that the permit granted by the Planning Commission authorized repair of this shocrete wall. That turned out to be an *incorrect* representation. If the Commission for some reason decides to allow this "cabana" to remain, I believe it must address this issue, and include a condition of approval, similar to others imposed recently, which precludes additional shoreline protective devices, and required the applicant to remove the structure in the future if a government agency declares it to be unsafe.

2. One of my main concerns, which is not prominently discussed in the staff report, was the *precedent* in Santa Barbara County, of an approval of these improvements and enlargements to a nonconforming structure. There are several nonconforming bluff structures, cabanas, and funiculars along this stretch of beach alone, between Hendry's and Hope Ranch. Notably on the same day that the County designated the Carr (Rich) Cabana, it also designated the Bryce Cabana, for which permits were pending at the time of the appeal. Staff has photos of this structure in its files.

3. Apart from the fact that the HLAC designation process is not part of the LCP, I do not recall seeing any specific HLAC findings that "determined that the proposed structural alterations will help to preserve and **maintain the landmark** in the long term and has reviewed and approved the proposed structural alterations." In fact, several of the as-built approvals were **illegal** additions that have nothing to do with preserving the 'historic' landmark. These include a bathroom addition, wastewater treatment, and wetbar of 9.5 feet when the ordinance only allows 7 feet. This 'cabana' has been 'improved' to the point where it is no longer within the definition of a cabana, since it is designed to allow for cooking and sleeping, and has been transformed from a 'legal' nonconforming structure, to an illegal nonconforming structure.

Perhaps more importantly, as evidenced by the ex parte I had with the applicants prior to the SI hearing, and which is on file, they appeared to have changed their theory of the case altogether, stating that the whole endeavor was to preserve their stairway to the beach, not the cabana as a historic landmark. This purpose directly implicates the Coastal Commission's policies on repair and renovation of private access stairs to the beach, and the 50% rule, which is not discussed.

Relevant coastal zoning ordinance definitions which are not addressed in the staff report:

Pool House/Cabaña. A building, the use of which is incidental and accessory to the use of the beach, a pool, or sports court (e.g., tennis, basketball, handball, and other similar facility), that may include bathrooms, **but does not include sleeping quarters or cooking facilities.**

WETBAR: An area of a room in detached structures that may include the following features:
(Amended by Ord. 3834, 3/20/90)

- (1) A counter area with a maximum total length of seven feet.
- (2) The counter area may include a bar sink and under-counter refrigerator.

- (3) The counter area may include an overhead cupboard area not to exceed seven feet in length.
- (4) The counter area shall be located against a wall or, if removed from the wall, it shall not create a space between the counter and the wall of more than four feet in depth. The seven foot counter shall be in one unit. The intent of this provision is to avoid the creation of a kitchen room.
- (5) No cooking facilities shall be included in the wetbar

6. THE COUNTY APPROVAL DOES NOT REFERENCE IMPROVEMENTS TO THE SEAWALL AT ALL. DON'T KNOW WHAT THE PRIOR PERMITS COVERED, WHETHER APPROVED TO PROTECT THE HOUSE OR THE CABANA. EVEN IF SO, THIS IS A BIG QUESTION FOR ME IN TERMS OF FURTHER PROTECTION OF AN ACCESSORY STRUCTURE. THIS REINFORCES MY CONCERN THAT THIS NEEDS TO BE DEALT WITH IN A CONDITION, IF THE CABANA IS ALLOWED TO REMAIN

Repair and maintenance to the existing shotcrete seawall at the toe of the bluff [see 89-

EMP-002, 89-SUP-072 & 89-CP-036]. The repairs will be performed manually and no

mechanized equipment will be used on the beach;

Received

MAR 08 2016

March 7, 2016

California Coastal Commission
Fax to 805 641-1732

California Coastal Commission
South Central Coast District

RE: Hearing: 3-11-16 @ 9 am
Item F 8c
Permit number A-4-STB-14-0016
Applicant: Lee Carr

I have been running (well, jogging) past this structure every morning for more than a decade. I'm grateful that there is only one other this close to the sand between Hendry's and Goleta Beach, but this has become a part of the landscape with which it is in harmony. In a paradoxical way, it's presence emphasizes the natural, unspoiled beauty of the beach for a couple of miles in each direction.

It's there. What are the alternatives?

A. Tear it down? I don't know if the Commission has authority to order its demolition and disposal. If it does, exercise if that authority would constitute an abuse of governmental power. The benefit to the public is marginal in this isolated case, whereas hardship to the property owner is very significant as the cost of demolition and removal would be reckoned in hundreds of thousands of dollars.

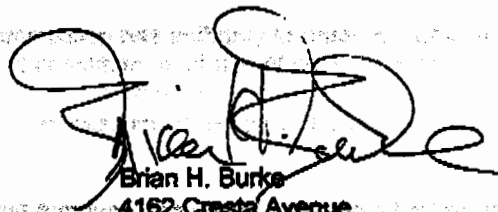
B. Let it rot? If the structure isn't ordered removed, the Commission could make orders to prevent its maintenance so it would eventually fall apart reclaimed by the sea. Accepting the dubious argument that this would benefit the public, the structure will not be reclaimed during the lifetime of anyone now sitting on the Commission or during the lives of their children. Compare the subject property to what's left of the restaurant that once operated about 100 meters south of the Hope Ranch Beach Ramp. The restaurant has been gone for more than fifty years; every season there is further decomposition as footings and foundational elements become more exposed, but it will be decades (or centuries) before all the manmade artifacts disappear. The Carr structure is at least as secure.

Moreover, if the structure were allowed to degenerate because maintenance was prohibited by the Commission, it would become increasingly unsightly, dangerous, and attractive nuisance.

C. Let the applicant care for his property? If the building isn't to be removed or left to rot, allow the willing owner to take proper care of what's a geographically unique structure. This allows him the enjoyment of what's his without harming environmental aesthetics or the public's enjoyment of the beach.

The choice seems apparent.

Respectfully,



Brian H. Burke
4162 Cresta Avenue
Santa Barbara, CA 93110
Fax to: 805 965 3309

cc: Lee Carr

Background and Permit History

- 1956 – A 735 sq. ft. cabana was constructed pursuant to County Building Permit.
- 1956 – 1990 – Cabana was expanded to 789 sq. ft. and $\frac{3}{4}$ bath was added.
- 1989 – Emergency Permit issued for shotcrete seawall at base of bluff.
- 2004 – County issue CDP for unpermitted work on existing beach access stairway down bluff.
- 2005 - County opened building violation for unpermitted reconstruction of stairway, installation of foundation support (cabana was “yellow-tagged”).
- 2006 - County recommended denial of CDP application for the unpermitted development, application withdrawn prior to final action .
- 9/5/2007 - County issued Notice and Order to Vacate cabana.
- 8/20/09 - Current owners applied for CDP for as-built construction, County staff recommended denial, application withdrawn 3/30/2011.

Background and Permit History

- 10/11/2010 – Historical Landmarks Advisory Committee (HLAC) nominated cabana for landmark status, County Board of Supervisors denied the historic landmark designation on 12/7/2010
- 3/3/2011 – Current owners filed suit against County Board of Supervisors
- 7/28/2011 - Current owners again applied for CDP for as-built improvements to cabana
- 12/12/2011 - Historic Landmarks Advisory Committee nominated cabana for historic landmark status for 2nd time
- 3/6/2012 – Board of Supervisors approved historic landmark designation for cabana
- 12/16/13 – Project denied by County Zoning Administrator
- 12/24/13 - CDP denial appealed to the Planning Commission by owners, Planning Commission approved project on 3/5/14



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March 4, 2016

VIA ELECTRONIC MAIL

Mr. Wesley Horn
Coastal Program Analyst
California Coastal Commission
South Central Coast District Office
89 South California Street, Suite 200
Ventura, CA 93001-2801

Re: A-4-STB-14-0016 (Lee Carr)
Agenda Item - March 11, 2016, Friday, 8.c

Dear Mr. Horn:

Please be advised that I have been retained to assist the applicant, Lee Carr, and Jared Ficker, of California Strategies, with regard to the above item, A-4-STB-14-0016.

Pursuant to Section 30319 of the Coastal Act, the following people may communicate with the Coastal Commission and/or Commission Staff on the applicant's behalf in regard to the above-referenced matter.

Jared Ficker
California Strategies
29 El Paseo
Santa Barbara, CA 93101
Tel: (916) 997-2082
Email: jficker@calstrat.com

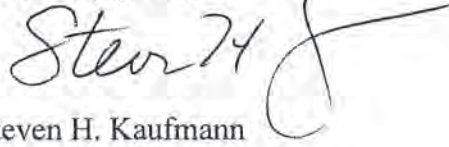
Steven H. Kaufmann
Richards, Watson & Gershon
355 S. Grand Avenue, 40th Floor
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Fax: (213) 626-0078
E-mail: skaufmann@rwglaw.com

ATTACHMENT 4
A-4-STB-14-0016 (CARR)
Applicant Correspondance

Mr. Wesley Horn
March 4, 2016
Page 2

Thanks very much for your assistance.

Very truly yours,


Steven H. Kaufmann

cc: Jared Ficker, California Strategies
Lee Carr

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March 4, 2016

VIA ELECTRONIC MAIL

Steve Kinsey, Chair
And Honorable Commissioners
California Coastal Commission
45 Fremont Street, Suite 200
San Francisco, CA 91405

Re: **A-4-STB-14-0016 (Lee Carr)**
Agenda Item – Friday, 8.c.

Dear Chair Kinsey and Commissioners:

This firm, together with Jared Ficker of California Strategies, represents Lee and Julia Carr, who own a developed residential lot located at 4353 Marina Drive, in Hope Ranch, Santa Barbara County.

The appeal before you concerns the Carrs' request for approval of as-built repairs made 11 years ago to a deck associated with a County-designated historic landmark cabana. The repairs, made by the prior owner, involved the installation of five caissons and a cantilever support system specifically to address the condition of the deck, none of which is directly visible or visible at all to the public from the beach below. The deck serves as an integral part of the engineered private accessway to the beach, the lower portion of which was installed in 2004 pursuant to a County of Santa Barbara CDP which was not appealed to the Commission. No County CDP, however, was obtained for the 2005 deck repairs.

The Carrs, as the current owners, have diligently worked within the system since their purchase of the property in 2007 to obtain a CDP to legalize those repairs, along with proposed drainage improvements associated with the paved walkway that leads to the deck and cabana. After seven years of work, their CDP was approved by the County Planning Commission in March 2014 and appealed to the Commission. The matter is before the Commission de novo and has been pending now for almost two years.

A copy of this letter has been provided to Commission Staff in the Ventura Office

F 8.c

1932769

Steve Kinsey, Chair
March 4, 2016
Page 2

In brief, the Carrs request your approval of the application because, contrary to the Staff Recommendation, the as-built repairs are consistent with the County's certified LCP. The repairs were made to support the deck, a portion of a permitted and long-existing engineered accessway to the beach. They are expressly authorized by LUP Policy 3-7 and CZO Section 35-67.5, located in an area with a natural stable bluff, create no visual impacts, and likewise are consistent with the historic preservation provisions of the LUP and the CZO exception for legally nonconforming designated historic uses, as here.

The Staff Report, unfortunately, does not tell the complete story. It misplaces focus on the cabana when the repairs at issue addressed the deck attached to the cabana structure. The Report omits all of the expert evidence, reports, and other evidence which demonstrate that the deck repairs were indeed consistent with the LCP's policies regarding bluff development and geologic hazards. To facilitate Staff's review and inform its analysis, the Carrs provided a draft of this letter to Staff last December, but the Staff Report does not address any of the points raised or provide the Commission with the benefit of the Carr's position. And, the Staff Report omits the communications provided to the Commission by over 200 persons and organizations throughout Santa Barbara County who have unanimously supported retention of the fully intact cabana as an important County-designated historical landmark and visual resource of substantial value to the public. For all the reasons discussed more fully below, the Carrs request approval of the application with the standard and special conditions we have separately provided to you.

I. Background

A. "The Irene and Frances Rich Beach Cabana" – County Designated Historic Landmark #49

As noted, while this application concerns as-built deck repairs, Staff has focused instead on the existing historic landmarked cabana. The cabana, referred to as the "Irene and Frances Rich Beach Cabana," was constructed with a permit on a pad or "bench" excavated into the southeast portion of the bluff slope on the property in 1956. Today, it is a fully intact cabana, useable since the day it was built, and one of the few remaining in Santa Barbara County. (Exhs. 1A-G [exterior and interior photos of cabana and repaired deck].)

Steve Kinsey, Chair
March 4, 2016
Page 3

In March 2012, following the recommendation of the County Historic Landmarks Advisory Commission (“HLAC”), the Santa Barbara County Board of Supervisors designated the Irene and Frances Rich Beach Cabana as County “Historical Landmark #49.” In its Resolution, the Board of Supervisors explained that the cabana is “historically significant” because:

- “1. It exemplifies or reflects special elements of the County’s cultural, social or aesthetic history, as it is a small, surviving remnant of the California Dream that flourished on the coast of Southern California in the mid-Twentieth Century and was part of a notable arts colony that flourished on the coast in the 1950’s; and
2. It is identified with persons or events significant in local, state or national history, including famed actress Irene Rich, her daughter and renowned artist Frances Rich, Santa Barbara Mayor and State Assemblyman W. Don MacGillivray, and numerous notables from the worlds of art and entertainment such as artist Diego Rivera, actress Katharine Hepburn, opera singer Lottie Lehman and many others; and
3. It has a location on an ocean-front bluff with unique physical characteristics and a view or vista representing an established and familiar visual feature of the Hope Ranch community; and
4. It is one of the few remaining examples in the county, region, state or nation possessing distinguishing characteristics of a historical type or specimen, as it one of only a handful of beach cabanas surviving in the County of Santa Barbara.”¹ (Exh. 2.)

B. The Engineered Beach Accessway

On this property, the beach is accessed from the top of the bluff by a concrete foot path and paved access driveway which descends to and terminates at the deck as it begins on the downcoast side of the cabana. Beach access then continues across the deck in front of the cabana where it connects to an existing wooden stairway to the

¹ We have included a link to a video which sheds a bit more light on the historic significance of the cabana. https://www.youtube.com/watch?feature=player_detailpage&v=yfN8P2D9Y3o.

Steve Kinsey, Chair
March 4, 2016
Page 4

beach which as noted was fully reconstructed pursuant to a CDP approved in June 2004. The deck was and remains the only way to access the beach between the paved access driveway and the wooden stairway. (Exhs. 1A, C, D-F, and 3 [photos of the accessway and cabana].)

Prior to the repair work in 2005, the deck's seaward edge was supported by vertical posts resting on individual shallow concrete pads placed on residual soils of the slope. In 2004, an irrigation line broke beneath the deck causing erosion and soil loss around the base of these supports. The erosion caused the deck to sag due to lack of support and partially pulled away from the cabana structure. (Exh. 4 [photo of damaged deck].)

As explained by Braun and Associates, the engineer who prepared the plans and did the work, the repairs at issue were intended to eliminate reliance of the deck on its failed seaward posts by the use of a cantilever support system, which removes loads from the edge of the bluff and transfers those loads into the deep layer of competent bedrock by the use of deep caissons. Five 18-inch diameter steel reinforced concrete friction piles were installed. Two were placed directly under the east (downcoast) portion of the deck, between the paved driveway and the cabana. Three were placed under the original ocean facing cabana perimeter foundation where the landward side of the deck is attached to the cabana. These three caissons carry the added loads placed on the cabana's original perimeter foundation by the cantilever. (Exh. 5, p. 2.)

The piles were a minimum of 35 feet in length to achieve a minimum embedment of 10 feet into bedrock. Five north/south trending beams with cross girders and braces were also installed under the deck to form the cantilever system. Five steel reinforced concrete pad footings, four feet square by three feet deep were installed beneath the cabana floor as counter support for the beams. These weights are not attached to the cabana itself or its original perimeter foundation but only to the cantilever beams. In sum, these repairs allowed the removal of the original wood posts that supported the southern side of the deck and eliminated the load which they placed on the bluff's edge. The caissons' position further landward also conforms to the current requirements for accessway structures and is thus appropriately engineered. (Id.; see also Exh. 6 [plan detail], Exhs. 7A-C [photos of deck repair].).

Steve Kinsey, Chair
March 4, 2016
Page 5

II. Summary of the Response to the Staff Report

A. Staff's Position

The Staff Report recommends denial of the County-issued “as-built” permit for the repairs done 11 years ago but proposes no remedy. Staff offers a series of arguments to support this recommendation which, in essence, contend that the repairs are inconsistent with LUP policies regarding geologic hazards, shoreline/bluff development, and visual resources, but are consistent with other policies and ordinances, characterizing the inconsistencies as “conflicts.” The Staff Report acknowledges that the County’s certified Coastal Zoning Ordinance (“CZO” or “IP”) provides an exception to the non-conforming building and use provisions of the CZO for improvements to a structure declared a historical landmark pursuant to a resolution of the Board of Supervisors, but maintains that there is conflict between the LUP and CZO, and that under the conflict resolution policies in the LCP, LUP Policy 1-3, the former controls.² The Staff Report asserts that, in its opinion, the Commission must make a choice between policies that are potentially in conflict with one another, which it argues requires denial of the deck repairs.

B. The Carr's Position

In fact, there is no conflict and no choice is required. The work done is perfectly consistent with the policies and ordinance in the LCP. Those policies and ordinances contain express “exceptions” that specifically authorize the deck repairs undertaken and additionally protect the landmarked cabana. There are no conflicts.

As discussed below, the repairs are first consistent with LUP Policy 3-7 and CZO Section 35-67 (identical provisions which authorize bluff development for engineered staircases or accessways to provide beach access) because the repairs to the deck served to maintain part of an engineered accessway which provides the sole access to the beach.

Second, the repairs are consistent with LUP Policy 3-7 and CZO Section 35.162.a.1 (the exception for legally nonconforming historic designated uses); there is no conflict between the policy which authorizes development associated with an

² LUP Policy 1-3 states: Where there are conflicts between the policies set forth in the coastal land use plan and those set forth in any element of the County’s Comprehensive Plan or existing ordinances, the policies of the coastal land use plan shall take precedence. However, in this case there is no conflict.

Steve Kinsey, Chair
March 4, 2016
Page 6

engineered accessway to provide beach access and retention of an historic designated use.

Lastly, the repairs are consistent with the historic resource provisions of LUP Policy 10.and Section 3.10.5 and CZO Section 35.162.a.1.

III. No LCP Conflict: The Caisson System was Designed to Support an Engineered Accessway to the Beach

The Staff Report places primary reliance on LUP Policy 3-7, which states in part: “No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access . . .” (Emphasis added.) This is repeated in the Coastal Zoning Ordinance (“CZO”), CZO Sec. 35-67, “Bluff Development Standards”: “No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access . . .” (Emphasis added.)

As explained, the repairs at issue were undertaken because some of the deck supports were compromised when a sprinkler broke and eroded topsoil under the supports, which were shallow and rested only on topsoil. The deck is an integral part of the engineered accessway to the beach. It falls squarely within the exception noted in the LUP and CZO. As noted, there is no conflict.

A. LUP Policy 3-7 Applies to Both Public and Private Engineered Accessways

At the substantial issue hearing, Staff suggested Policy 3-7 applies only to “public” engineered staircases or accessways.” In other words, Staff would rewrite LUP Policy 3-7 to insert the word “public” because Policy 3-7, quoted above, is not so qualified. At the time, then Deputy Director Ainsworth explained that Staff has been attempting to “revise” the certified LUP to read in that manner. In fact, in 2010, in County of Santa Barbara LCPA 1-09A and B, Staff recommended a suggested modification to the County’s certified LUP which would have done exactly that. The Staff Report explained:

“ . . . [B]ecause the policy is silent as to whether the engineered staircases or access ways are intended for *private* and/or *public* beach access, this has lead to a difference in the interpretation of the existing certified LCP. The County

Steve Kinsey, Chair
March 4, 2016
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has interpreted LUP Policy 3-7 to allow beach stairways for private use down the bluff face provided that they are appropriately engineered.” (Exh. 8, pp. 253-254 and Suggested Modifications, p. 9.)

Citing the potential for proliferation of private bluff stairways and cumulative impacts, the 2010 Staff Report included a suggested modification that “updates and clarifies the intent of Section 35.60.060 of the certified Zoning Code to ensure that new stairways on coastal bluffs shall be prohibited with the exception of new stairways for the purpose of providing public access to the beach.” (Exh. 8, p. 254 and Suggested Modifications, p. 9.) Here, neither the stairway nor the accessway are “new.” They are original features of the parcel as originally developed.

Following the Commission’s decision, County staff explained to the County Board of Supervisors:

“The County has always interpreted this section to allow for private staircases to provide individual homeowners access to the beach from blufftop properties (e.g., those located in Hope Ranch), and has issued Coastal Development Permits allowing for the construction and repair of such staircases.” (Exh. 9, pp. 3-4 and County Letter to CCC, 4/6/2010, p. 2; emphasis added.)

The Board of Supervisors declined to accept the suggested modifications, leaving the existing language in Policy 3-7 unchanged.

Indeed, apparently both the County and the Commission have interpreted LUP Policy 3-7 as applying to both private and public engineered accessways, and the accessway on this property is a case in point. As noted above, in June 2004 the County approved a CDP for repair and reconstruction of the private beach access stairway which leads from the deck to the beach. (Exh. 10.) A Notice of Final Action was sent to the Commission. (*Id.*, p. 2.) No appeal, however, was filed -- presumably because the work approved to redo the private stairway was deemed consistent with LUP Policy 3-7.

In any event, case law establishes that the Commission cannot amend the County’s LCP in the context of a permit appeal, as Staff would do so here. The LCP only may be amended through an LCP amendment, as noted above. In *Security National Guaranty v. California Coastal Com.* (2008) 159 Cal.App.4th

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402, the Court of Appeal established a fundamental proposition that necessarily guides the Commission's review here:

“The Commission has no power to revise the content of . . . [a] certified LCP when hearing an administrative appeal from the grant of a CDP.” (159 Cal.App.4th at 422-423 and 425 fn. 12.)

B. The Repair Work was Designed for Continued Support of an Engineered Accessway to the Beach

The Staff Report argues that the repair work is not for a beach access “stairway.” (Staff Report, p. 18, last paragraph.) First, it is important to get the terminology in the Policy right. LUP Policy 3-7 says “engineered staircases or accessways to provide beach access . . .” (Emphasis added.) The Staff Report contends “that the foundation improvements provide support to both the cabana and attached deck.” (Staff Report, p. 19.) Here, the deck is and has been an integral part of the existing engineered accessway to the beach on this property. In simple terms, a concrete path leads from the parcel's residence to the deck at the ocean side of the cabana. To continue to the beach, one crosses the deck in front of the cabana to reach the permitted stairway to the beach itself. This is the private access route to the beach. There is no alternative way to do it.

The Staff Report is completely selective in citing to the reports which address the repairs. Candidly, initial documents addressed the cabana and deck indiscriminately using the generic term “cabana” or “Beach House.” Others distinguished them as two separate structures. While the distinction initially may not have been particularly important to the documents' authors, it is abundantly clear that the well-documented physical problem centered exclusively on the deck, and did not involve the cabana itself or its foundation. As discussed above, the repairs at issue were undertaken specifically to address that physical problem with the deck. Engineered stairways and beach accessways are specifically allowed under LUP Policy 3-7 and CZO Section 35-67.5, and the repair and maintenance of such structures are provided for in Appendix C of Article II of the CZO, Section III.A.3. To the extent the caisson system also supports the preservation of the landmarked structure, it does so incidentally. Its principal function, by design, was and is to support the accessway. Licensed engineers and geologists have studied the repairs and certify that they were both correct and effective in addressing the physical problem with the deck.

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The following independent expert evidence that the physical problem was solely with the deck is inexplicably not discussed in the Staff Report. First, the repair permitting process was set formally in motion by a “Notice of Non-Compliance,” dated May 6, 2005, issued by Curtis Jensen, a Building Inspector with the County’s Planning and Development Department. Following a site inspection, he detailed his findings as follows:

“Conditions at your site which support a finding of ‘deteriorated or inadequate foundations’ are as follows:

1. Plastic sheeting is covering areas of soil erosion
2. Mark Braun, Geotechnical Engineer stated that the bluff is likely receding.
3. The decking has separated from the dwelling at the SW corner of the building.
4. Decking shows signs of movement.
5. Deck precast piers have fallen away and posts are no longer supported.
6. Posts supporting beam under deck is not plumb.
7. 4” by 8” structural lumber beneath deck is no longer mid-span supported.
8. Retaining wall located at the rear of building is listing and is being evaluated by Mark Braun.” (Exh. 11, p.3; emphasis added.)

Thus, the descriptions of the elements of the “deteriorated or inadequate foundations” were very clearly limited to the deck. No concern was raised regarding the original foundation of the cabana building itself.

The Staff Report appears to purposely pick and choose among the documentation to support a theory that the repairs addressed the cabana building itself. The Staff Report cites an August 15, 2005 letter from Braun & Associates to Penfield and Smith Engineers, which does have ambiguous wording. That letter explained:

“The owner had significant concerns as to the stability of the Beach House. Based on discussions with the owner and review of the Grover Hollingsworth report, I was in agreement with the concerns of the owner. Within the geotechnical review by Grover Hollingsworth discussions as to stabilizing the

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Beach House and deck from seismic activity. Based on our discussion this firm designed a cast in place friction pile foundation to support the structure and remove the loads from the deck.” (Exh. 12, p. 1.)

The same day, however, Braun & Associates wrote then owner, Peter Capone, regarding “Beach House decking,” and explained in a letter, again oddly not included in the Staff Report:

“... The deck is a wood framed structure with concrete block footings placed on grade. The attachment of wood ledgers to the existing structure consisted of nails, which unfortunately pulled away from the building sill plate approximately 2-inches. [¶] Per the desire of the owner to repair the deck this firm recommends stabilizing the deck through the use of a deep foundation system. This would transfer the loads into the underlying bedrock formation. The design would generally utilize most of the existing wood framing with additional wood supports which would then be connected to the foundation system. It is expected the work would cause little to no disturbance of the bluff. (Exh. 13, p. 1.)

On November 9, 2011, the geotechnical engineer, Grover Hollingsworth and Associates, Inc., prepared a report referenced but again inexplicably not included in the Staff Report, in which Robert Hollingsworth explained that he performed multiple independent reviews of the cabana safety and the events involving it since 1999 over 15 years of observation. Hollingsworth reported:

“Our visual inspection conducted on October 13, 2011 confirmed that the Braun repairs are performing as intended to support the deck in a level, sound condition. We also observed that the cabana building itself showed no signs of structural problems or foundation movement.

“The 2004 Braun plans do not suggest that the beach cabana was to be releveled or repaired as a part of the deck stabilization project. The August 17, 2005 Coastal Geology and Soils Inc. report that was prepared after completion of the deck repair project also does not suggest that damage to the original beach cabana foundation systems was apparent. In addition, Curtis Jensen, who observed the beach cabana and deck after the completion of the deck repair project, discussed damage to the deck and its original support system but not to the beach cabana itself. Further, the undersigned did not

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observe obvious evidence of settlement or damage to the beach cabana foundations in 1999. Therefore, while the original southern deck foundations that were shallow and located on the descending natural slope above the steep bluff experienced damage over time, the cabana foundation system that is located further from the bluff face has performed adequately since its original construction in 1956.” (Exh. 14, pp. 2-3, p. 2.)

Lastly, on December 12, 2011, Braun and Associates issued a further report, again omitted from the Staff Report. Mark Braun explained that he first examined the site in 2004 and observed the following:

“Upon my initial site visit I observed there was erosion of the sandy soils beneath the deck and along the bluff face. The area affected was for supporting the outer edge of the deck. The bedrock structure of the bluff did not exhibit signs of sliding, shifting or damage . . . I examined the cabana building and its foundation, no signs of damage or movement was noted. The cabana was originally built in 1956 on an excavated pad above the bluff face. The foundation consisted of continuous perimeter footings and isolated interior concrete piers, which was accepted practice at the time.” (Exh. 5, p. 1)

He went on further to explain:

“The repairs . . . eliminate the reliance of the deck on its south posts by use of a cantilever support system. The cantilever removes load from the edge of the bluff and transfers it into the deep layer of competent bedrock by the use of deep caissons.” (*Id.*, p. 2.)

C. The Project Site is Not Located on an Unstable Bluff Subject to Landslide and Erosion.

The Staff Report further argues that geological and geotechnical engineering studies and letters indicate that “the project site is an unstable bluff subject to landslides and erosion,” and therefore the repairs conflict with LUP Policy 3-14, which prohibits development in areas of known geologic hazard, and LUP (Goleta Community Plan) Policy GEO-GV-1, which requires that development be sited to avoid areas subject to erosion. In fact, the studies and letters prepared by structural and geotechnical engineers state precisely the opposite.

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As noted above, reports prepared by California licensed geologists and engineers confirm that the cabana is safe “as is” and that it was safe before the subject repairs were made in 2004/2005. It is important first to underscore that the deck repairs were undertaken because a sprinkler pipe broke and eroded topsoil under the shallow deck supports. But the experts who prepared the report confirmed that bluff retreat, structural adequacy and “landslides” on this property represent no risk to the cabana.

Grover Hollingsworth explained: “There are no landslides in the area of the cabana that represent a risk to its stability.” (Exh. 14, p. 5; emphasis added.) The report states: “A shallow active landslide exists on the southwest portion of the property within the lower portion of the re-entrant canyon. . . This landslide is not located in an area where it affect the stability of the cabana.” (Id., p. 4.) And, “A second active landslide is present at the extreme southeast corner of the property . . . and is not located in the area of the beach cabana.” (Id., pp. 4-5.)

Further, as noted above, both Grover Hollingsworth and Braun & Associates explained that while the repairs focused on the stability of the deck, no issue was raised as to the cabana. Geotechnical engineer Hollingsworth explained that he “did not observe obvious evidence of settlement or damage to the beach cabana foundations in 1999” (id., p. 3), the cabana foundation “has performed adequately since original construction in 1956” (id.), “the foundation beneath the cabana building itself performed well over that 48 year period and was continuing to provide adequate support for the cabana in 2004 when the deck repair was undertaken (id., pp. 6-7), and “it is our opinion that the beach cabana remains at least as stable as the day it was completed” (id., p. 8). Structural engineer Braun added: “I examined the cabana building and its foundation [in 2005], no signs of damage or movement was noted.” (Exh. 5, p. 1.)

Thus, bluff stability issues may affect other portions of the bluff on this property, but they are remote and present no safety hazard for this long-standing landmarked cabana. The Staff Report fails to make this important distinction. Indeed, geotechnical engineer Hollingsworth emphasized:

“The presence of the cabana actually improves bluff stability and reduces the danger posed to members of the public for several reasons. First, the cabana, its water impervious roof and its water drainage collection system covers the majority of the relevant residual soil at the top of the bluff preventing

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saturation and possible failure of these soils. Second, the cabana reduces the infiltration of incident rainfall into the bedrock . . . Finally, the piles that were installed as a part of the deck stabilization project increase the shear resistance along the adversely oriented bedding planes thereby improving bluff stability.” (Exh. 14, p. 8.)

In short, there is no inconsistency with LUP Policy 3-14 or LUP (Goleta Community Plan) Policy GEO-GV-1.

D. There is No Conflict Between the LUP Policies and the CZO Exception for Legally Nonconforming Historic Designated Uses

The foregoing demonstrates that the repairs at issue were perfectly consistent with the certified LUP. There is no inconsistency with LUP Policy 3-7 because the caisson system for the deck stabilization repairs were designed to support an engineered accessway to the beach. Nor is there any inconsistency with LUP Policy 3-14 or LUP (Goleta Community Plan) Policy GEO-GV-1 because the project site is not located on an unstable bluff subject to either landslide or erosion.

For those reasons, there is no conflict between the LUP and the CZO provisions which permit the kind of deck repair undertaken here in conjunction with a legally nonconforming historic designated use.

IV. There is No LCP Conflict Between this Historic Preservation Provisions of the LUP and the CZO Exception for Legally Nonconforming Historic Designated Uses

As noted, the Staff Report incorrectly argues the repairs were directed to the cabana, not the deck. Even assuming that was accurate (and it is not), the Staff Report first acknowledges that CZO section 162.1.a.1 specifically allows a legally non-conforming structure to be improved provided the structure has been declared a historical landmark pursuant to a resolution of the Board of Supervisors. (Staff Report, p. 13.) CZO section 162.1.a provides:

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

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1) The structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors may be structurally altered provided that the County Historical Landmarks Advisory Commission has determined that the proposed structural alterations will help to preserve and maintain the landmark in the long term and has reviewed and approved the proposed structural alterations.” (Exh. 15.)

The Staff Report dismisses this controlling CZO section and asks the Commission to find that “the exception to certain standards for county historic landmarks does not extend beyond” the CZO to encompass any of the certified policies of the LUP. (*Id.*) As a matter of law, however, the Commission cannot ignore the CZO. As required by Section 30513 of the Coastal Act, the Commission certified the CZO only by expressly finding that its provisions, including Section 162.1.a.1, “conform with” or are adequate “to carry out, the provisions of the certified land use plan.” The CZO exception for legally nonconforming historic designated uses is not an errant provision. It specifically implements the historic resource provisions of the LUP.

The Staff Report then asserts that the LUP provisions relating to historic resources are general, do not provide specific protections for historic landmarks, and are focused on protections for archaeological and cultural sites, as opposed to sites designated as historic landmarks by the County. This is not so, and many examples exist statewide to confirm that. Two clear examples are Crystal Cove in Laguna Beach and the Coral Casino, a private club next to the beach in Santa Barbara the structure of which has been preserved by numerous Commission approvals. Section 3.10 of the LUP addresses “Archaeological and Historic Resources.” Santa Barbara County, like other coastal communities (*e.g.*, Santa Cruz, Laguna Beach), seeks to preserve not only its archaeological and cultural resources, but its historic resources, which are no less important. Importantly, Section 30005(a) of the Coastal Act provides that the Act is not a limitation “on the power of a city or county or city and county to adopt and enforce additional regulations . . . imposing further conditions, restrictions, or limitations with respect to any land or water use or other activity which might adversely affect the resources of the coastal zone.” (Emphasis added; see also (*Yost v. Thomas* (1984) 36 Cal.3d 561, 573, in which the California Supreme Court explained that the Coastal Act sets the minimum standards and policies with which local governments in the coastal zone must comply; under the Act, they have discretion to be more restrictive than the Act].) Thus, it bears emphasis that, as noted above, the County’s LUP cannot be amended through the appeal process and, equally

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important, that the Coastal Act expressly recognizes that local government can indeed regulate coastal resources such as its designated historic resources.

Thus, like other coastal jurisdictions, Santa Barbara County's LUP includes provisions which very clearly intend to ensure that the County's "designated" historic resources, as here, are protected. LUP Policy 10-1 provides: "All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored to avoid development on significant historic, prehistoric, archaeological, and other classes of cultural sites." LUP Section 3.10.5 ("Historical Resources") explains:

"Santa Barbara's historical heritage is rich and diverse. Prime examples of historic sites survive from each of the major periods of California history. In the coastal zone, the majority of these sites are found in the City of Santa Barbara, although a more extensive inventory of historical sites may turn up new sites within the County's jurisdiction."

Section 3.10.5 of the LUP further identifies the Vicente Ortega Adobe as the most important site in the coastal zone, built in the late 1840's or 1850's by descendants of the founder of Santa Barbara. It listed 19 other historic sites in the County's coastal zone from north to south.³ And, as Staff notes, the LUP includes "recommendations," but the point of the recommendations is "to ensure protection of important historical sites in the coastal zone of Santa Barbara County" by inventorying "historical sites in the unincorporated areas of the County" and designating significant sites "by the County Advisory Landmark Committee." (Id.)

The Irene and Frances Rich Beach Cabana is now County-designated Historic Landmark # 49. (Exh. 2.) This landmark designation includes the cabana itself, its deck, and the surrounding area that provides context as a beach cabana. Even if it were assumed that the focus of the repairs at issue was the cabana and not the deck (Staff's incorrect thesis), the certified LUP and CZO both are intended to ensure

³ The 19 other sites include: Point Sal, Point Pedernales, Point Conception Lighthouse, Gaviota Landing, Gaviota Pass (State Historical Landmark), Baron Adobe, La Vigia, Refugio Beach park, Erro Pepper Tree, Ygnacio Ortega Adobe, El Capitan Beach Park, Dos Pueblos (Historic Site, Cabrillo Anchorage), Whaling Camp (Goleta Point Area), Asphaltum Mine (Goleta – UCSB Area), Massini Adobe (Montecito), First Oil Well (Summerland), Fleishman House (Lambert Road), Shepard's Inn (Carpinteria Valley).

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protection of this historic resource. There is no conflict. This is true, moreover, because, as demonstrated above, the repairs are consistent with the bluff development and hazard policies, LUP Policies 3-7, 3-14, and Geo-GV-1 (Goleta Community Plan).

IV. The Repairs are Not Inconsistent with the Visual Resource Policies in the LUP

The Staff Report also contends that the deck repairs are inconsistent with the general visual resource policy in the Coastal Act, Section 30251, which is incorporated in the LCP by LUP Policy 1-1 and LUP Policy 4-5. (Staff Report, pp. 19-20.) Policy 4-5 deals with new bluff top structures, which it states must be set back from the bluff edge sufficiently far to insure the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In that case, the new structure is to be located no closer to the bluff's edge than the adjacent structures.

LUP Policy 4-5 deals with bluff top structures and setbacks and is not applicable here. The cabana is not a new structure. Indeed, its visual effect is exactly the same as it has been since its pre-Coastal Act construction in 1956. Regardless, the record before the Commission establishes that the cabana is a visual asset in this area, and certainly not a detriment as Staff would argue. In fact, there is unanimous support from the public in the record for the conclusion that the historic cabana should be preserved as a visual resource of substantial value to the public. This is one of the bases used by Santa Barbara County in approving the "as-built" permit. The Staff Report simply omits these key considerations.

First, the cabana is a legal non-conforming structure that has been in the current location since its construction in 1956. In approving the repairs at issue, the County Planning Commission found:

"The development will not significantly obstruct public views from any public road or from any public recreation area to, or along the coast. The cabana has been located on the bluff face and has been a part of the local landscape since 1956. The proposed project, including . . . foundation repairs . . . was designed so as to not alter the view of the cabana by the public from the public beach or along the coast in any significant way." (Exh. 16, p. 2.)

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The Planning Commission further found:

“The development is compatible with the established physical scale of the area. . . . [I]mprovements . . . will not alter the appearance of the cabana as viewed from the beach.” (*Id.*)

Second, the nature of the development here is a deck repair which is not directly visible at all, let alone visible to the public from the beach.

Finally, the County Board of Supervisors formally found that the cabana’s appearance and position are among the qualities that are of historic significance and that they are of important to the public. By its Resolution No. 12-45 (March 12, 2012) and after two unanimous designations by the Historic Landmarks Advisory Commission, the Board designated the Irene and Frances Rich Beach Cabana” as County Historic Landmark #49 in part because:

“It has a location on an ocean front bluff with unique physical characteristics and a view or vista representing an established and familiar visual feature of the Hope Ranch community.” (Exh. 2, p. 2.)

It is striking that the public comments have been unanimous that the cabana is a visual asset, not a detriment. Indeed, in connection with the Commission’s substantial issue hearing, 200 persons separately expressed support for this project and retention of the fully intact, designated historic cabana. While this is certainly extraordinary, none of this extensive “support” correspondence has been included in the exhibits which accompany the Staff Report. Appendix B to the Staff Report, however, generally notes that the substantial issue Staff Report and Addendum are on the Commission’s website, and, though not indicated, both of those documents contain this extensive correspondence. The persons who have expressed support for retention of the cabana represent organizations concerned with maintaining the visual and historic character of Santa Barbara and individuals throughout the County, as well as the neighborhood Hope Ranch residents. To name just a few, this includes the Mayor of the City of Santa Barbara, Helene Schneider, the Pearl Chase Society, a 370-member conservancy dedicated to preserving Santa Barbara’s historic architecture, landscapes, and cultural heritage, and the Santa Barbara Trust for Historic Preservation. (Exh. 18 [just 3 of the 200 support letters and e-mails provided to give you an idea of the nature of the support].) The record provides overwhelming support for the conclusion that this cabana is an important visual resource, an

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important historic resource, and a coastal resource of “public importance” as described in the Coastal Act.

VI. Approval of the Deck Repairs Does Not Set a Precedent

The Staff Report also incorrectly suggests that approval of the deck repairs would set an adverse precedent. At the substantial issue hearing, Staff pointed out that there is one other cabana in Hope Ranch. It showed a slide of the defunct “Bryce” cabana and an inoperable funicular on the bluff upcoast of the Carr property. The slide, however, demonstrated that the Bryce cabana differs dramatically from the cabana here for three fundamental reasons.

First, while the Irene and Frances Rich Beach Cabana is perfectly intact, the Bryce cabana “superstructure” no longer exists. Staff’s slide at the substantial issue hearing showed that cabana to be dismantled right down to the platform on which it was constructed. A photo is attached showing its current condition. Plywood siding has since been added for security purposes, but the cabana itself was never intended to have walls. (Exhs. 17A-B [photos of Bryce cabana].)

Second, the platform for the cabana (and thus the former cabana itself) is located directly on the sandy beach, not on the bluff and private property, as here.

Third, there is no access to the Bryce cabana. Access was originally provided via the mechanical funicular on the bluff, but the funicular has been defunct and inoperable for decades.

Finally, the repairs here stabilized the deck, a part of the engineered accessway to the beach. They were not directed to reconstructing or creating a structure anew.

The County-designated historic landmark cabana here is certainly unique. Commission approval of the deck repairs would not serve to set a precedent beyond this Project.

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B. That the Repair Work Also Extends the Life of the Historic Cabana is Irrelevant

Lastly, the Staff Report asserts the repair work done has the effect of prolonging the life of the cabana. That assertion may or may not be true, and there is no known means by which its truth can reliably be determined. All available evidence confirms that its useful life is not threatened by bluff erosion, that its original foundation has withstood the test of time through all storms and seismic events for nearly six decades, and that it is located on a stable bluff. All expert evidence in the record confirms that the cabana had not reached the end of its useful life when the deck repairs were made in 2004/2005, nor has it now.

As explained, the principal purpose of the repairs was to address the failure of the deck. Most importantly on this issue, however, Staff incorrectly applies the CZO when it argues that prolonging the life of these admittedly legally non-conforming structures is not permitted. It is indeed expressly permitted under the exception for structures that are declared historical landmarks.

Staff relies on CZO Section 35-160 (“Purpose and Intent” [of Division 10 Nonconforming Structures and Uses], which states: “It is the intent of this Article to permit these nonconformities to continue until they are removed, but not to encourage their survival.” This provision would certainly apply to ordinary legal non-conforming uses. However, as discussed previously, CZO Section 35-162.1.a provides an express exception for historical landmarks, which states:

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

- 1) The structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors may be structurally altered provided that the County Historical Landmarks Advisory Commission has determined that the proposed structural alterations will help to preserve and maintained the landmark in the long term and has reviewed and approved the proposed structural alterations.” (Exh. 15; emphasis added.)

Thus, to indeed encourage its survival, a declared historical landmark can be preserved and maintained in the long term by, among other things, being completely

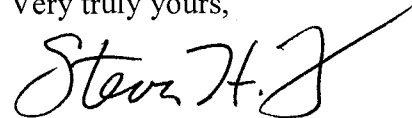
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“reconstructed.” In other words, it does not matter that the repair work to the designated historic landmark here may also have had the effect of extending the life of the cabana and deck. Staff’s repeated point is, therefore, plainly irrelevant.

Conclusion

Accordingly, for all the foregoing reasons, Lee and Julia Carr respectfully request that the Commission approve the Application, as proposed, subject to the standard and special conditions we have separately provided to the Commission. We note that the special conditions include an offer to dedicate a lateral public access easement over the beach below.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven H. Kaufmann", with a long, sweeping horizontal stroke extending to the right.

Steven H. Kaufmann

Cc (w/encs.): John (Jack) Ainsworth, Senior Deputy Director
Chris Pederson, Acting Chief Counsel
Steve Hudson, Deputy Director
Wesley Horn, Coastal Program Analyst
Jamee Jordan Patterson, Deputy Attorney General
Lee & Julia Carr
Jared Ficker, California Strategies

**Application A-4-STB-14-0016
(Lee Carr)
Hearing Date: March 11, 2016**

Applicant's Requested Motion and Special Conditions

I. MOTION AND RESOLUTION

The Applicant requests that the Commission adopt the following resolution:

Motion:

*I move that the Commission **approve** Coastal Development Permit A-4-STB-14-0016 with the conditions set forth below, and I recommend a yes vote.*

The Applicant requests a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and subsequent adoption of revised findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development on the grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. 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

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 permittee 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 of 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 permittee 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. Final Revised Plans

Prior to issuance of the coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, two (2) sets of final revised full size project plans. All plans must be drawn to scale with dimensions shown. The final revised project plan shall be consistent with the applicant's plans prepared by Braun & Associates and dated April 12, 2004, rev. August 2005.

2. Plans Conforming to Geologic Recommendations

The applicant shall comply with the recommendations contained in all of the geologic and engineering reports referenced as Substantive File Documents and submitted to the Coastal Commission in its South Central Coast District Office. Any proposed changes to the approved recommendations shall be reported to the Executive Director. No changes to the approved recommendations shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

3. Plans Conforming to Drainage Plans

The applicant shall comply with the drainage plans prepared by Penfield and Smith and dated August 1, 2011. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

4. Offer to Dedicate Lateral Public Access Easement

Prior to issuance of a coastal development permit, the applicant shall record an irrevocable offer to dedicate to a public agency or to a private association acceptable to the Executive Director of the Commission an easement for lateral public access and recreational use running from the mean high tide line to the toe of the bluff. Such easement shall be free of prior liens or encumbrances except tax liens. The offer shall be made in a manner and form approved in writing by the Executive Director. The offer shall be irrevocable for a period of 21 years, running from the date of recordation and shall run with the land in favor of the people of the State of California binding successors and assigns of the applicant or landowner.

5. No Future Bluff or Shoreline Protective Devices

By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to this coastal development permit in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, sea level rise or other natural coastal hazards in the future. By acceptance of this permit, the applicants/landowners hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 to protect the development approved. By acceptance of this permit, the applicants/landowners further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above.

6. Future Development Restrictions

This permit is only for the development described in coastal development permit A-4-STB-14-0016. Pursuant to Title 14 California Code of Regulations Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by this coastal development permit. Accordingly, any future structures, future improvements, or change of use to the permitted development approved by this permit, including, but not limited to, repair and maintenance identified as not requiring a permit in Public Resources Code Section 30610(d) and Title 14 California Code of Regulations section 13252(a)-(b), shall require an amendment to this coastal development permit or an additional coastal development permit from the Commission or from the applicable certified local government, unless the Executive Director determines that such future amendment or application is not legally required.

7. Compliance with County of Santa Barbara Conditions of Approval

The project shall be subject to all conditions attached to County of Santa Barbara Planning Commission approval (11CDH-00000-00032) except as specifically modified by this approval. Any deviations or conflicts shall be reviewed by the Executive Director to determine whether an amendment to the coastal development permit is required.

8. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards from storm waves, surges, erosion, and flooding; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project 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 hazards.

9. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Applicant shall submit to the Executive Director, for review and approval, documentation demonstrating that the Applicant executed and recorded against the parcels governed by this permit a deed restriction in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of the property; and (2) imposing the Special Conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property subject to this coastal development permit. The deed restriction shall include a legal description of the entire parcel or parcels against which it is recorded. 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 for as 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.

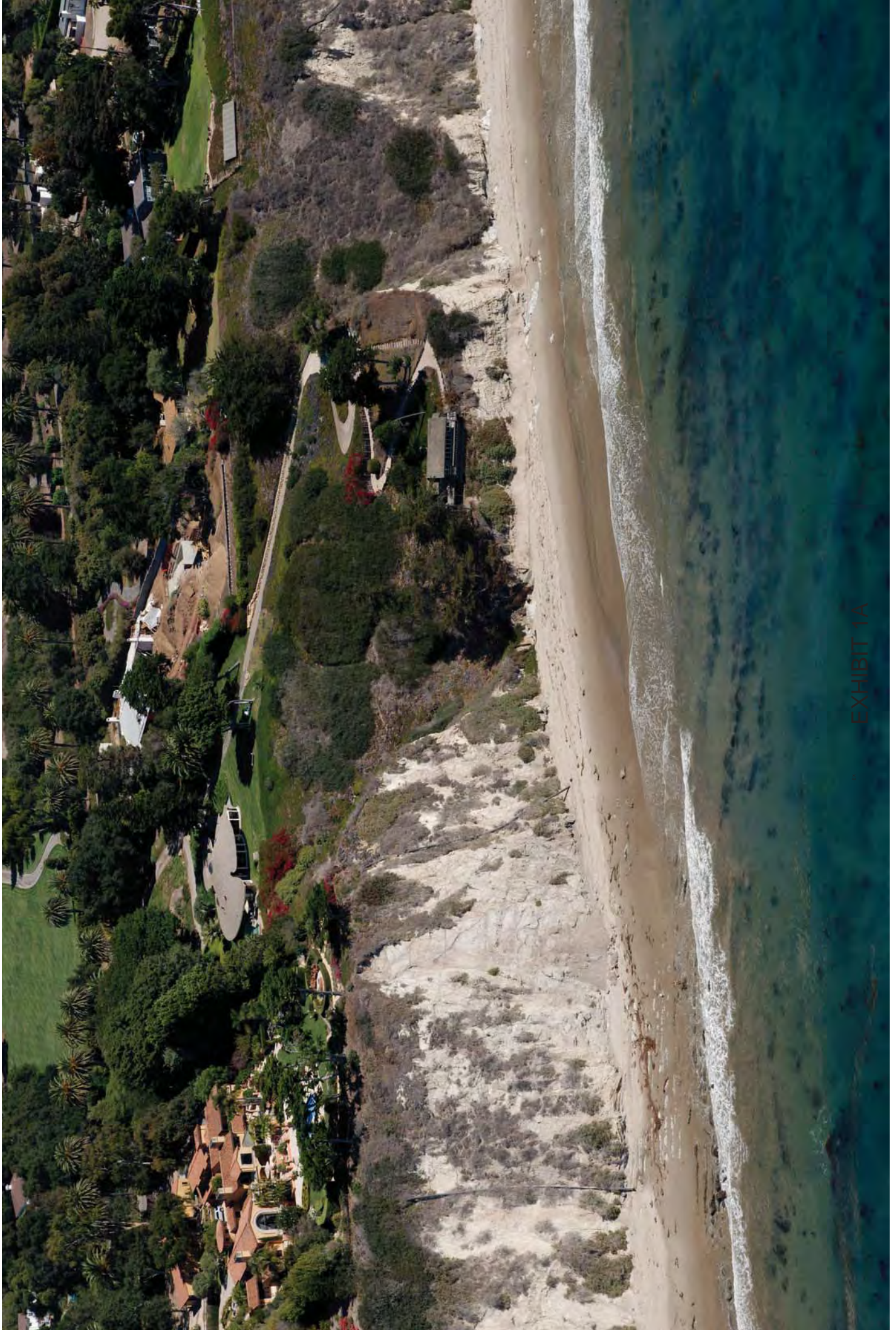


EXHIBIT 1A



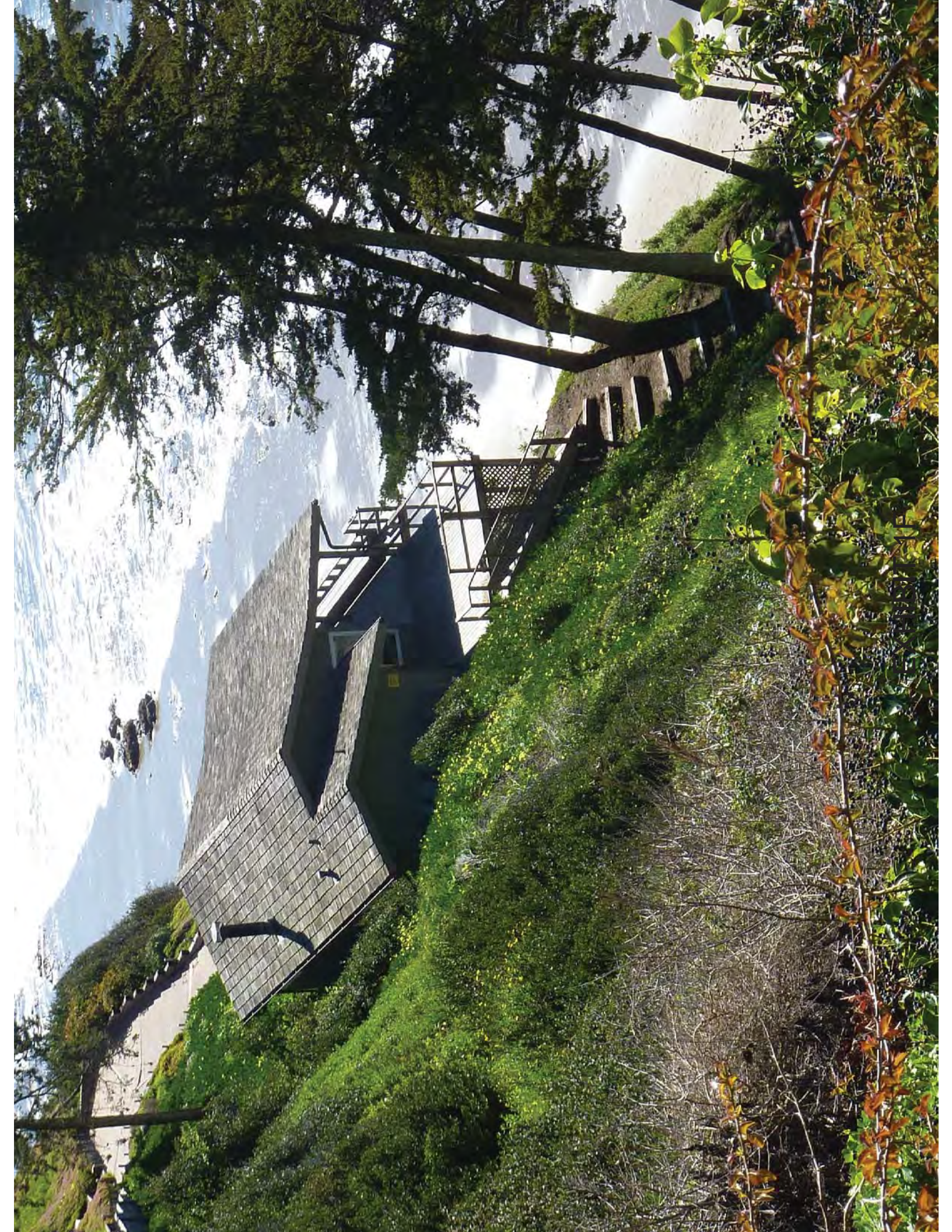
EXHIBIT 1B







EXHIBIT 1E



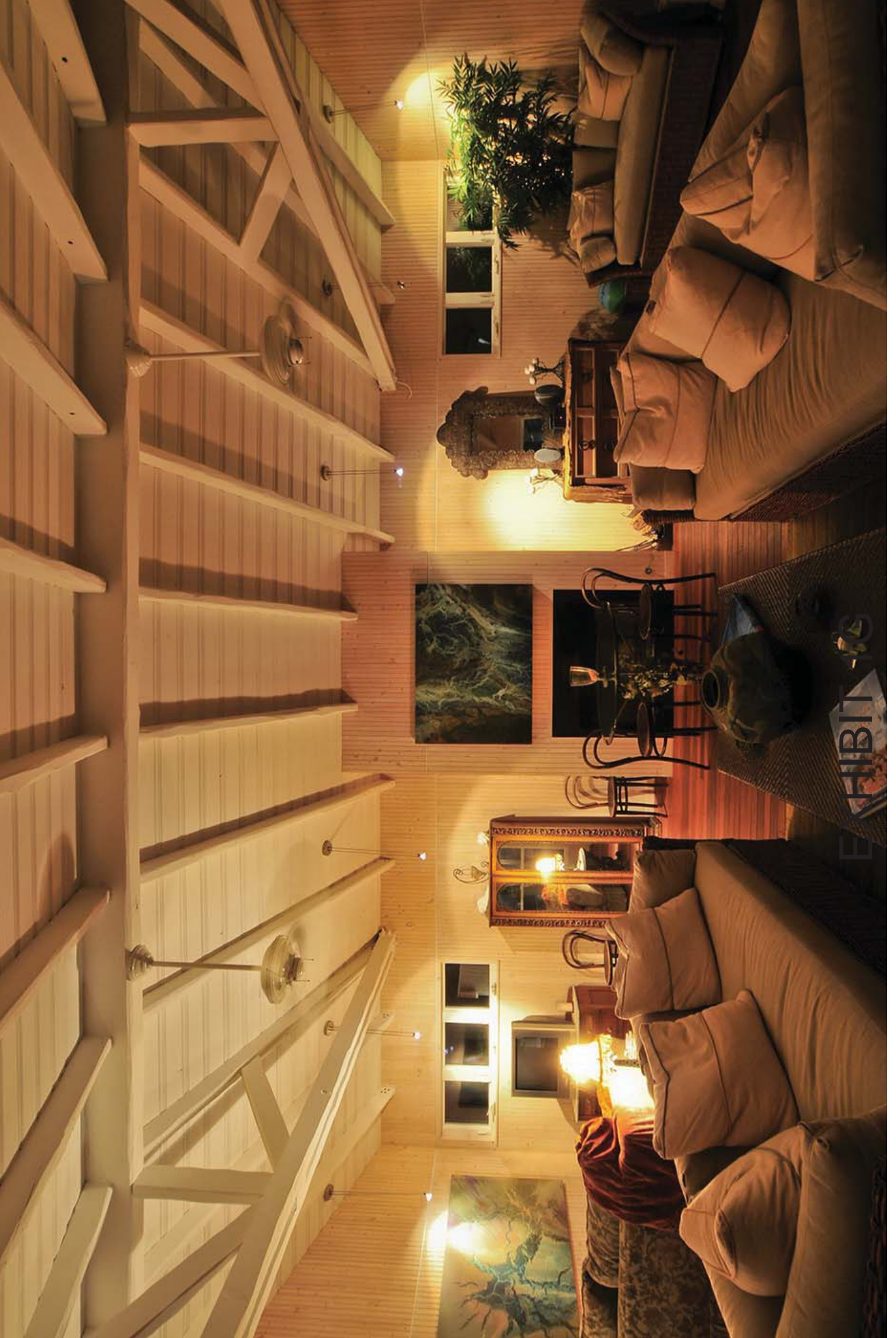


EXHIBIT 10

ATTACHMENT A

RESOLUTION OF THE SANTA BARBARA COUNTY
BOARD OF SUPERVISORS

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

RESOLUTION NO. 12-45

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

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

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

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

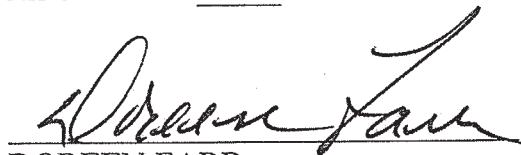
3. It has a location on an ocean-front bluff with unique physical characteristics and a view or vista representing an established and familiar visual feature of the Hope Ranch community; and
4. It is one of the few remaining examples in the county, region, state or nation possessing distinguishing characteristics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

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

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

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

AYES: Supervisor Carbajal, Supervisor Farr, Supervisor Gray, &
Supervisor Lavagnino
NOES: Supervisor Wolf
ABSTAIN: None
ABSENT: None



DOREEN FARR
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:

CHANDRA WALLAR
Clerk of the Board of Supervisors

By 
Deputy Clerk

APPROVED AS TO FORM:

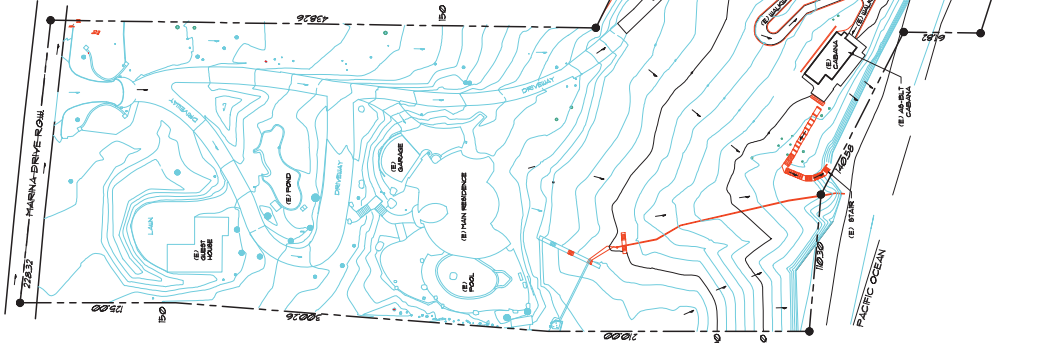
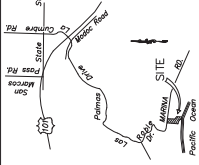
DENNIS MARSHALL
County Counsel

By 
Deputy County Counsel

IRENE & FRANCES RICH CABANA AS-BUILT DRAWINGS

PROJECT SCOPE

AS-BUILT DRAWINGS OF SANTA BARBARA HISTORIC LANCHARK #49



SITE PLAN

1" = 40'-0"

SITE INFORMATION

OWNER/ADDRESS: LEE & JULIA CARR
4393 MARINA DRIVE
SANTA BARBARA, CA 93103
APN: 063-226-073
ZONE: IS-EX-1
SITE AREA: 4.2 ACRES
OCCUPANCY: R-3 / U
CONST TYPE: V-N
STOREYS: 1
HIGH FIRE: NO
SPRINKLERS: NO

EXISTING BUILDING AREAS:

BUILDING	SF GROSS	NET
(E) MAIN RESIDENCE:	5,340	
(E) CABANA:	875	
(E) POOL:	875	
TOTAL:	7,090	

SHEET INDEX

T-11 SITE INFO SITE PLAN SITE INFO
A-10 (E) CABANA FLOOR PLAN & ELEVATIONS
S-01 (E) FLOOR PLANS FRAMING PLAN FLOOR DECK
FRAMING & FOUNDATION PLAN SECTION DETAILS



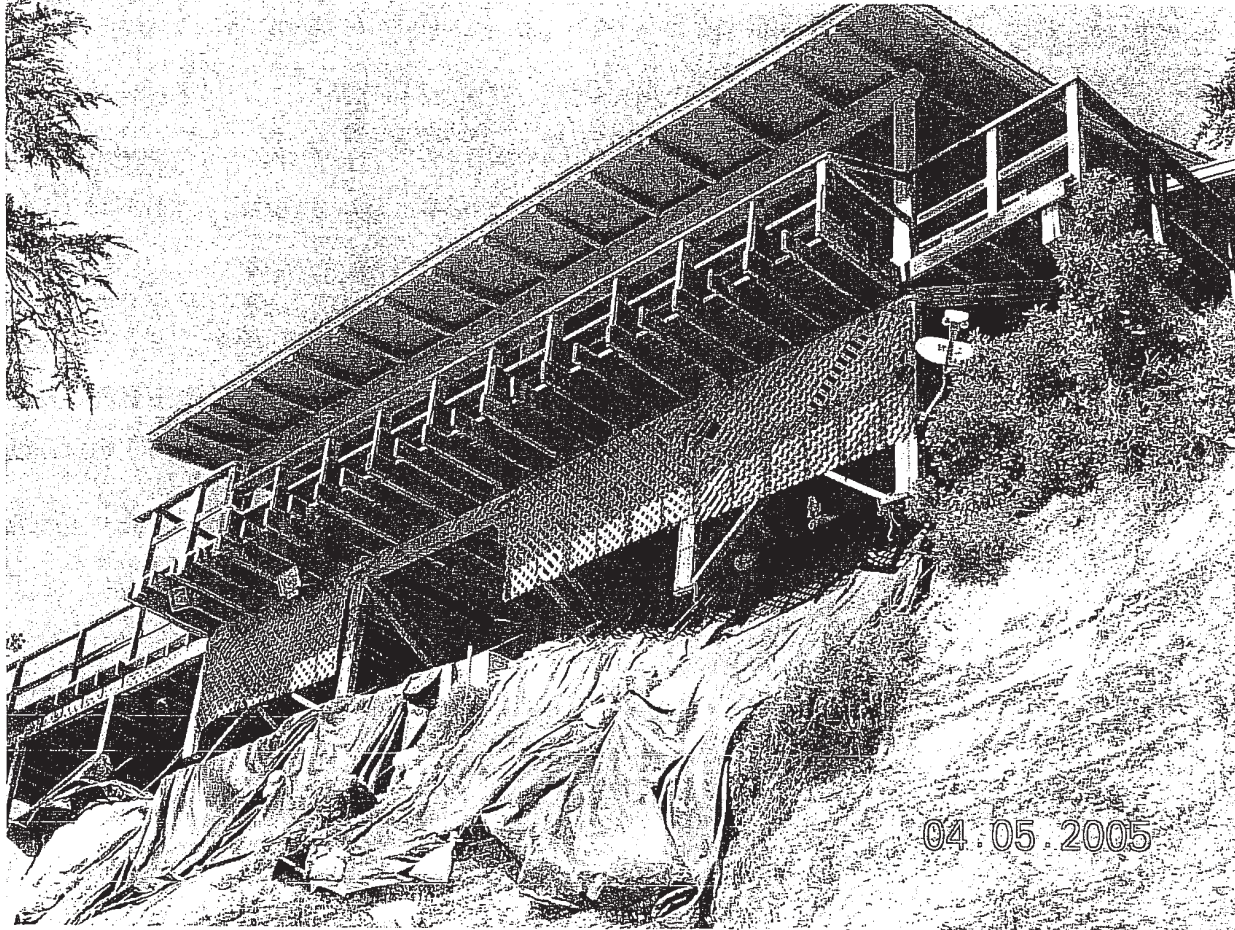
Thomas Ochsenrath
Architect
829 So. 1st Street
Santa Barbara, CA 93101
Phone (805) 564-1204
Fax (805) 963-3904

BEACH CABANA IMPROVEMENTS
TITLE SHEET
LEE & JULIA CARR
4393 MARINA DRIVE
SANTA BARBARA, CA 93103

PROJECT NO.	C-22199
DATE	08/15/2011
BY	BOB
CHECKED BY	BOB
DATE	08/15/2011
PROJECT NAME	LEE & JULIA CARR
PROJECT ADDRESS	4393 MARINA DRIVE
CITY	SANTA BARBARA
STATE	CA
ZIP	93103
SCALE	AS SHOWN
DATE	08/15/2011
BY	BOB
CHECKED BY	BOB
DATE	08/15/2011

May 6, 2005
NOTICE OF NONCOMPLIANCE DUE TO CHANGE IN SOIL CONDITIONS
4353 Marina Drive
APN 063-210-023
05BDV-00033
Page 7 of 7

ENCLOSED PICTURE OF SOUTH ELEVATION OF BEACH HOUSE





December 12, 2011

Lee & Julia Carr
4353 Marina Drive
Santa Barbara, CA 93110

Re: Structural Assessment, Beach Cabana & Deck, Parcel B, Parcel Map 10994.
4353 Marina Drive, Santa Barbara, CA APN 083-220-23

Dear Lee & Julia:

The following provides a review of previous engineering work which was performed to stabilize the deck on the south facing side of the Beach Cabana at the referenced property. This assessment was performed in accordance with your request in the on-going permitting issues for the property. No additional structural work was performed at this time.

This firm was initially retained in 2004 by Mr. Peter Capone, (owner of the property at that time), to review the conditions of the Beach Cabana and determine the general condition and stability of the structure. I was informed that an irrigation line had broken beneath the deck causing erosion and soil loss. Upon my initial site visit I observed there was erosion of the sandy soils beneath the deck and along the bluff face. The area affected was for supporting the outer edge of the deck. The bedrock structure of the bluff did not exhibit signs of sliding, shifting or damage.

The deck was connected to the Cabana by vertical posts resting on individual concrete piers. Some of these piers had been compromised by the described erosion. The piers were shallow cast in place footings resting on residual soils of the slope. The erosion had caused the deck to sag due to lack of support and had partially pulled away from the cabana structure.

I examined the cabana building and its foundation, no signs of damage or movement was noted. The Cabana was originally built in 1956 on an excavated pad above the bluff face. The foundation consisted of continuous perimeter footings and isolated interior concrete piers, which was accepted practice at the time.

In 2005 I met with Mr. Curtis Jensen, Santa Barbara County Building Inspector and we discussed my observations at the site and his "Notice of Non-compliance" dated May 6, 2005. I worked to resolve concerns that the deck and its foundation were structurally sound as was the Cabana structure.

Soils Engineering ▼ Materials Testing

Mailing: P.O. Box 2004, Buellton, CA 93427 • Phone (805) 688-5429 • Fax (805) 688-7239

The repairs undertaken by Mr. Capone intended to eliminate the reliance of the deck on its south posts by the use of a cantilever support system. The cantilever removes loads from the edge of the bluff and transfers it into the deep layer of competent bedrock by the use of deep caissons. The repairs also complied with Mr. Capone's desire to avoid changing the appearance of the Cabana or the configuration which allows the deck to serve as beach access. As discussed in my reports of January 17, August 15 and December 7, 2005 and as detailed in my design drawings dated April 12, 2004 the design and repair consisted of the following:

Installation of five 18-inch diameter steel reinforced concrete friction piles. Three of these were placed under the south facing Cabana perimeter footing and two placed under the east portion of the deck. These piles as constructed have a minimum embedment of 10-feet into the competent bedrock formation. The piles are a minimum of 35-foot in length to achieve the 10-foot embedment. Geologic survey work was performed by Coastal Geology and Soil and Grover Hollingsworth Associates Inc. , both firms were consulted and accepted this design.

The installation of 5 north/south trending beams with cross girders and braces form the cantilever system. Also, installation of five steel reinforced concrete pad footings, 4-foot square by 3-foot in depth beneath the Cabana floor serve as counter support for the beams.

The engineered repairs were designed in accordance with accepted practice and all elements were installed per project plans. This provides the deck with a foundation system that conforms to current Building Code requirements with respect to setbacks to the bluff face. These repairs allowed the removal of the original wood posts that supported the southern side of the deck and eliminated the load which they placed on the bluff's edge.

My most recent visit to the property indicates this firms design has worked remarkably well and no movement or additional bluff retreat was noted. The repairs appear to have provided a safe and stable support system for the deck and the Cabana foundation as well. There has been no noticeable erosion or soil loss to the bluff.

It is my opinion the repairs have provided proper support for the deck and have maintained a safe pathway for beach access. I have no reason to believe the foundation systems performance will degrade as long as annual maintenance to the drainage system for surface runoff is performed and the concrete at the base of the bluff is routinely checked for deterioration.

Should you have questions please contact our office at your convenience.

Sincerely,

BRAUN & ASSOCIATES, INC.



Mark D. Braun, P.E.

MDB/dsc



THIS SIDE UP

EXHIBIT 7A

THIS SIDE UP



EXHIBIT 7B

THIS SIDE UP

EXHIBIT 7C



CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



Th 21b&c

DATE: March 30, 2010

TO: Commissioners and Interested Persons

FROM: Jack Ainsworth, Deputy Director
Steve Hudson, District Manager
Shana Gray, Planning and Regulation Supervisor

SUBJECT: Santa Barbara County Local Coastal Program (LCP) Amendment No. MAJ-1-09-A (Countywide Land Use and Development Code) and LCP Amendment MAJ-1-09-B (Montecito Land Use and Development Code and Montecito Commercial Zone Change) for Public Hearing and Commission Action at the April 15, 2010, Commission Meeting in Ventura.

DESCRIPTION OF THE SUBMITTAL

Santa Barbara County is requesting an amendment to the Coastal Zoning Ordinance/Implementation Plan (CZO/IP) portion of its certified Local Coastal Program (LCP) for Parts A and B of the LCP Amendment 1-09. LCP Amendment 1-09-A would replace the existing Coastal Zoning Ordinance with the new Santa Barbara County Land Use and Development Code (CLUDC), with the exception of the Montecito Community Plan Area. LCP Amendment 1-09-B would: (1) replace the existing Coastal Zoning Ordinance with a separate, stand-alone Land Use and Development Code for the Montecito Community Plan area and (2) amend the CZO/IP portion of its certified LCP to eliminate the Retail Commercial Zone, establish Neighborhood Commercial as new zone district in the Coastal Zone, and rezone the only two parcels (Assessor Parcel Numbers 009-230-025 and -026) located in Montecito that are currently zoned Retail Commercial to Neighborhood Commercial. The County submitted its complete application on November 19, 2009. At its January 14, 2010 Commission meeting, the Commission extended the time limit to act on Local Coastal Program Amendment 1-09 for a period of one year. Consistent with that time extension, the Commission must act upon the amendment before January 18, 2011.

SUMMARY OF STAFF RECOMMENDATION

Staff recommends that the Commission, after public hearing, reject the proposed Santa Barbara County LCP Amendments 1-09-A and 1-09-B and then approve only if modified as shown in the suggested modifications. The suggested modifications are necessary to ensure that the County's Zoning Ordinance / Implementation Plan is consistent with and adequate to carry out the certified LUP. The motions begin on **Page 15** of this report.

The Executive Summary begins on **Page 5** of this report.

which would naturally be released to the littoral system slowly over time. In addition, retaining walls or other supporting measures could result in further adverse impacts to natural landform alteration and visual resources from the public areas to and along the coast.

In past permit actions, the Commission has found that new development on a bluff face may potentially result in increased erosion and alteration of the bluff face and that such development is not consistent with the Coastal Act. Coastal Development Permit Application 5-97-300 (Nasr) for construction of a stairway and retaining wall on a coastal bluff was denied. Coastal Development Permit Application 4-95-110 (Nichols) for restoration of a bluff and construction of a drainage swale/stairway on the bluff face was approved only with the condition that revised plans for the deletion of the stairway/drainage device be submitted. Coastal Development Permit Applications 5-89-1045 (Campa), 5-90-1080 (Golod), and 5-91-632 (Zal) for the placement of new stairs on bluff slopes were denied by the Commission. Coastal Development Permit Application 5-85-758A (Norred) for an increase in the size of a blufftop single family residence and the addition of an elevator shaft where such additions would encroach onto the bluff face was denied by the Commission. Coastal Development Permit Application 5-90-830 (Sprik) for the construction of a single family residence located on a bluff face was also denied.

The Commission notes that bluffs are unique coastal landforms that are inherently unstable due to steep slopes, groundwater seepage and surface runoff and that any development or disturbance on such a steeply sloping unstable landform will only serve to accelerate erosional processes. Rain water running off such structures over time tend to undercut and erode the area of the bluff immediately behind the structure. Additionally, the loss of vegetation through the altering of the natural landforms increases the erosion potential.

New development on bluffs can result in cumulative adverse effects to marine and bluff habitat, including coastal bluff ESHA. Coastal bluff scrub is a rare and threatened plant community. Such communities have been displaced by physical structures along the coast and displaced by ornamental and invasive plant species used for landscaping. Any development on the bluff face that removes vegetation may simultaneously be removing nesting, feeding, and shelter habitat for shoreline animals which would result in a loss or change in the number and distribution of species.

In addition, the development on a bluff face, such as stairs on a coastal bluff, are often visible from public viewing areas to and along the coast. The Commission notes that the development on a bluff face does not serve to protect views from the public areas of the beach, minimize landform alteration, or restore and enhance visual resources in a degraded area and therefore such development is not consistent with Section 30251 of the Coastal Act.

Thus, because of the protective policies and provisions within the certified LUP, as described above, it is reasonable to assume that LUP Policy 3-7, which describes the types of development that may be applied on a bluff face, lacks specificity with regard to the type of engineered staircases or accessways that are allowed to provide beach

access. LUP Policy 3-7 states that “no development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, ...”

In addition, because the policy is silent as to whether the engineered staircases or access ways are intended for *private* or *public* beach access, this has lead to a difference in the interpretation of the existing certified LCP. The County has interpreted LUP Policy 3-7 to allow beach stairways for private use down the bluff face provided that they are appropriately engineered. However, given the very limited types of development that would be allowed on a bluff face, pursuant to LUP Policy 3-7, it seems logical that, engineered staircases for all private residential properties would result in the continued proliferation of private stairways on coastal bluffs. Moreover, such interpretation of this policy would result in significant cumulative adverse impacts to visual resources, habitat, shoreline processes, and erosion hazards as the bluff face is developed. The build-out potential for private stairways on bluff slopes is significant in Santa Barbara County given the number of residential parcels along the coast.

Thus, in order to clarify the intent of this section in the manner most consistent with the resource protection policies of the certified LCP and ensure that new development on bluff slopes will be limited to the maximum extent feasible, consistent with the provision of public access, the Commission finds that LCPA 1-09-A Suggested Modification 21 is necessary. Specifically, Suggested Modification 21 will update and clarify the intent of Section 35.60.060 of the certified Zoning Code to ensure that new stairways on coastal bluffs shall be prohibited with the exception of new stairways for the purpose of providing public access to the beach.

Coastal Hazards and Sea Level Rise

One of the main functions of a shoreline protective device such as a seawall or revetment is the protection of the property or structures landward of the protective device. While they are often effective in protecting the landward development, however, they do nothing to protect the beach seaward of the revetment or seawall and can often have adverse effects on the nearby beach. These adverse effects ultimately cause additional adverse effects on the availability of public access to a beach. Scouring and beach erosion resulting from construction of a seawall or rock revetment will translate into a loss of beach sand at an accelerated rate. The resultant sand loss will be greater during high tide and winter season conditions than would otherwise occur if the beach were unaltered. In addition, as wave run-up strikes the face of the protective device and is deflected seaward, wave energy is concentrated at the face of the wall and ocean conditions along the beach will become more turbulent than would otherwise occur along an unarmored beach. The increase in turbulent ocean conditions along the beach will accelerate displacement of beach sand where the seawall is constructed over time.

The effects of shoreline protective devices on a beach has been documented in numerous past permit decisions by the Commission along the California shoreline. The Commission has found that one of the most critical factors controlling the impact of a shoreline protective device on the beach is its position relative to the surf zone. All other things being equal, the further seaward the wall is, the more often and more vigorously waves interact with it. The best place for a seawall or revetment, if one is necessary, is

Santa Barbara County
Local Coastal Program Amendments 1-09-A and -B
Page 9

Modification #17 eliminates a potentially confusing reference to the Hazardous Waste Element which is not a certified document and reiterates that, within the Coastal Zone, conflicts between non-certified standards and certified standards shall be resolved by the LCP provisions taking precedence and that all such development must comply with all of the provisions of the LCP.
Suggested Modification #18, Rural Recreation
"Rural Recreation" is a land use type that is identified as an allowed use in the Agricultural Zones and Resource Protection Zones. The existing certified LCP identifies rural recreation as low intensity recreational uses within the Agricultural II zone, Resource Management zone, and Mountainous Toro zone; however, each of the zones has a different list of potential low intensity recreational uses and some provide additional standards and some do not. Modification #18 re-inserts the uses and zone standards to be more consistent with the existing certified LCP.
Suggested Modification #19, Allowed Temporary Uses
Modification #19 provides clarifying language to ensure that it is clear that any temporary use listed in Table 4-10 shall only be exempt in the Coastal Zone if it also meets the additional requirements outlined in the temporary event guidelines. Additionally, temporary trailers must meet the regular exemption criteria specified in the exemption section, 35.20.040.C.1 (see Modification #11).
Suggested Modification #20, Telecommunications Facilities (LCPA 1-05-C)
The purpose of this Modification is to incorporate the suggested modifications from LCP Amendment 1-05-C (Telecommunications) with regard to commercial and non-commercial telecommunications. LCPA 1-05-C was certified on June 14, 2007. The certified language of LCPA 1-05-C provided new procedures and development standards regarding the construction and use of commercial telecommunication facilities and provided new procedures and development standards for the construction and use of non-commercial telecommunication facilities. However, the suggested modifications approved by the Commission on March 15, 2007 were not incorporated by the County into the proposed CLUDC. Modification #20 re-inserts the Suggested Modifications from LCPA 1-05-C in order to protect coastal resources, including visual resources, public access and recreation, and environmentally sensitive habitat.
Suggested Modification #21, Clarifications Regarding Bluff Development
<p>Modification #21 addresses two bluff development issues, structures in the bluff setback and access stairways from the bluff to the beach. First, Modification #21 clarifies that minor improvements that may be allowed within the required geologic bluff setback shall not have any structural foundations and in no case shall any minor ancillary structures be sited closer than 15 feet from the bluff edge. Additionally, any such ancillary structures that are threatened by erosion must be removed or relocated landward.</p> <p>Second, Modification #21 will update and clarify the intent of Section 35.60.060 of the certified Zoning Code to ensure that new stairways on coastal bluffs shall be prohibited with the exception of new stairways for the purpose of providing public access to the beach. The existing LCP states that "no development shall be permitted on the bluff face except for engineered staircases or access ways to provide beach access..." This has been interpreted by the County in previous permit actions to allow for construction of private stairways on bluff slopes to provide individual homeowners access to the beach from blufftop properties. However, bluffs constitute unique coastal landforms that are inherently unstable due to steep slopes, groundwater seepage and surface runoff and that any development or disturbance on such a steeply sloping unstable landform will only serve to accelerate erosional processes. Thus, Suggested Modification 21 is necessary to clarify the intent of this section and ensure that new development on bluff slopes will be limited to the maximum extent feasible, consistent with the provision of public access.</p>
Suggested Modification #22, Clarifications Regarding Planning Permit Modifications
The purpose of Modification #22 is to ensure that discretionary modifications from the promulgated zone standards during planning permit approval do not adversely impact coastal resources. Modification #22 adds language that such planning permit modifications must be consistent with all other applicable resource protection policies of the LCP.
Suggested Modification #23, Development Agreements



BOARD OF SUPERVISORS AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name:	Planning & Development
Department No.:	053
For Agenda Of:	4/6/2010
Placement:	Departmental
Estimated Time:	45 minutes
Continued Item:	Yes
If Yes, date from:	3/16/2010 (set hearing)
Vote Required:	Majority

TO: Board of Supervisors
FROM: Department Director Glenn Russell, Ph.D. (805.568.2085)
Contact Info: Dianne Black, Development Services Director (805.568.2086)
SUBJECT: Information and Discussion Regarding Coastal Commission Suggested Modifications to County and Montecito Land Use and Development Codes

County Counsel Concurrence

As to form: N/A

Auditor-Controller Concurrence

As to form: N/A

Other Concurrences: N/A

Recommended Actions:

That the Board of Supervisors:

- A. Receive a report from the Planning and Development Department regarding modifications to the County and Montecito Land Use and Development Codes recommended by Coastal Commission staff; and,
- B. Authorize the Chair of the Board to sign and transmit the attached letter to the California Coastal Commission for their consideration at the April 15, 2010 hearing.

Summary Text:

In November, 2007, the Board of Supervisors adopted the County and Montecito Land Use and Development Codes (LUDCs) that replaced the former zoning regulations contained in Articles I through V of the County Code. This represented the culmination of the Zoning Ordinance Reformatting Project (ZORP) that began in late 2003 as part of Planning and Development Department's land use process improvement efforts. The goals of ZORP were to improve the quality and usability of the County's zoning regulations, streamline processing procedures and provide better customer service by arranging existing regulations into a format that is easier to read and search by (1) eliminating duplicated information/procedures, (2) using "plain English" and (3) grouping related information.

The following month the County submitted the LUDCs to the California Coastal Commission for certification as an amendment to the implementation portion of the County's Local Coastal Program. In September 2008, the Coastal Commission staff determined that the December 2007 submittal was complete for processing and initiated their review of the LUDCs. In October of the same year the

Summary of recommended modifications.

1. **Minor clarifications, clean-ups and corrections.** Most of the recommended modifications are minor in nature and relate to the following:
 - a. Language corrections so that the LUDCs track the language of the Coastal Act more closely.
 - b. Corrections required so that the LUDCs correctly reflect the language of recent amendments to the certified Article II Zoning Ordinance. This is due to the situation that ordinance amendments adopted by the County and sent to the Coastal Commission for certification prior to the adoption of the LUDCs in 2007 were not certified until sometime after 2007 and included modifications to the ordinance language. Because the LUDCs were based on the language of the amendments as originally adopted by the County, any modifications required as part of the certification process of those amendments would not have been reflected in the LUDCs. The recommended modification will reconcile any differences.
 - c. Correcting minor errors, omissions, and section references.
2. **Modifications recommended to implement the Coastal Act that Planning and Development Department staff does not agree are necessary.** Although the LUDCs were presented to the Coastal Commission staff as a simple re-codification of the Article II Coastal Zoning Ordinance, the Coastal Commission staff is taking this opportunity to correct what they see as deficiencies in the existing regulations. These include:
 - a. **Designating subdivisions, lot line adjustments and voluntary mergers as land uses that require the approval of a Coastal Development Permit.** The Coastal Commission staff proposes to add language to the introductory sections of the different zones regarding allowable land uses to state that subdivisions, lot line adjustments and voluntary mergers, are "land uses" that require the approval of a Coastal Development Permit. Additionally, because subdivisions, lot line adjustments and voluntary mergers are not listed as principal permitted uses, they would require the approval of a Coastal Development Permit subject both to a public hearing requirement and the possibility of an appeal to the Coastal Commission. Planning and Development Department staff's position is that these do not constitute uses of property within the typical meaning of the term as used in the LUDCs, and that any regulations of this type do not belong in the LUDCs since the LUDCs do not provide the processing procedures for subdivisions, lot line adjustments or voluntary mergers.

Because subdivisions and lot line adjustments are discretionary applications that are already required to go through a public hearing process, the primary effect of this modification on such applications is that any approvals would be subject to appeal to the Coastal Commission. However, voluntary mergers are strictly ministerial, do not require a public hearing, and are processed by the County Surveyor, not the Planning and Development Department. The result of this recommended modification would be a significant change in the processing of voluntary mergers.
 - b. **Restricting stairways on coastal bluffs to those that provide public access.** The certified Article II Coastal Zoning Ordinance provides that no development shall be permitted on the face of coastal bluffs except for engineered staircases or accessways to provide beach access, pipelines for scientific research or coastal dependent industry, and drainpipes if no other less environmentally damaging drain system is feasible. The County has always

interpreted this section to allow for private staircases to provide individual homeowners access to the beach from blufftop properties (e.g., those located in Hope Ranch), and has issued Coastal Development Permits allowing for the construction and repair of such staircases.

However, the Coastal Commission staff is now taking the position that such stairways and accessways should only be allowed when they provide public access to the beach due to the sensitive nature of the coastal bluffs. This modification, if certified, would not allow the construction of any new private access stairways, and would make all the existing, permitted private staircases nonconforming, thus precluding them from being structurally repaired should the need arise.

- c. **Eliminating the special notice procedures for Coastal Development Permits following approved discretionary projects.** An ordinance amendment (05ORD-00000-00019) adopted by the Board of Supervisors in January 2006 and certified by the Coastal Commission in March 2008 included revised procedures for processing Coastal Development Permits associated with Conditional Use Permits and Development Plans. Previous to the amendment a Conditional Use Permit or Development Plan would be approved, and then some time later a Coastal Development Permit would be issued to allow the actual construction of the project approved by the Conditional Use Permit or Development Plan. This sequential processing of permits allowed for multiple appeals to the Coastal Commission on the same project. The main effect of the amendment was to require that the Coastal Development Permit be processed concurrently with the Conditional Use Permit or Development Plan in order to delete the potential for multiple appeals to the Coastal Commission for the same project. However, because there were Conditional Use Permits and Development Plan approved prior to that date, such that a "follow-up" Coastal Development Permit would still be required to be issued to allow the actual construction of the project, the amendment as certified retained the procedures for noticing such Coastal Development Permits.

The Coastal Commission staff now believes that retaining this procedure can be confusing and is inconsistent with the goal of requiring that Coastal Development Permits are processed concurrently with the discretionary project. Therefore, they are recommending that the procedure be deleted to ensure that Coastal Development Permits are processed concurrently with Conditional Use Permits and Development Plans. If this modification is certified by the Coastal Commission, then the County will have to use a noticing process not provided for in the certified LUDC. Planning and Development Department staff provided the Coastal Commission staff with alternative language that retained the procedure for noticing Coastal Development Permits that follow approved Conditional Use Permits and Development Plan, with the clarification that this only applies to projects approved prior to March 2008, however, this was not acceptable to the Coastal Commission staff.

- d. **Requiring that Coastal Development Permits following amendments to Conditional Use Permits and Development Plans (appealable to the Coastal Commission) are subject to a public hearing.** All Conditional Use Permits, and certain Development Plans (i.e., applications for major energy/public works facilities or if located in the Appeals Jurisdiction) are considered development that may be appealed to the Coastal Commission such that, as required by the Coastal Act, they are required to have a public hearing prior to being approved. Historically, when the Planning and Development Department approved an amendment to a Conditional Use Permit or appealable Development Plan, staff followed

April 6, 2010

Bonnie Neely, Chair
California Coastal Commission
South Central Coast Area
89 South California Street, Suite 200
Ventura, CA 93001, (805) 585-1800

RE: Santa Barbara County Local Coastal Program Amendment No. MAJ-1-09 (Land Use and Development Code, Montecito Land Use and Development Code, and Two-Parcel Rezone, Montecito)

Dear Ms Neely:

The Santa Barbara County Board of Supervisors wishes to express its appreciation for your staff's commitment to bringing this amendment to hearing on April 15, 2010 and their willingness to work with County staff in a highly cooperative manner to resolve the many questions that arose during the review of the County and Montecito Land Use and Development Codes (LUDCs) that are proposed to replace our existing certified Article II Coastal Zoning Ordinance (CZO) as the implementation portion of the County's Local Coastal Program.

The Board of Supervisors is able to support the vast majority of the proposed modifications as they will bring clarity to the documents as well as correct inadvertent errors that were made in translating the CZO into the new LUDC format. There are, however, several modifications (listed below) that do not appear to be necessary and/or required to achieve consistency with the Coastal Act and the County's certified Land Use Plan for the Coastal Zone.

Suggested Modification #3, Appeals

All Conditional Use Permits, and Development Plans for appealable development, are required to have a public hearing prior to being approved. Historically, when the Planning and Development Department approved an amendment to a Conditional Use Permit or appealable Development Plan, staff followed the approval of the amendment with the approval of a Coastal Development Permit without a public hearing since (1) the overall project previously underwent a public hearing when it was originally approved, and (2) any change allowed by the amendment must be well within the scope of that original approval. However, the recommended modification includes language specifying that any Coastal Development Permit following the approval of an amendment to a Conditional Use Permit or Development Plan for appealable development is subject to a public hearing requirement. The effect of this recommended modification will be an additional public hearing for essentially the same project and associated increases in processing time and costs.

the Planning and Development Department. The result of this recommended modification would be a significant change in the processing of voluntary mergers.

The Board of Supervisors requests that this modification not be certified as proposed.

Suggested Modification #21, Clarifications Regarding Bluff Development

Section 35-67.5 of the certified CZO provides in part that "No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry." This language does not restrict such stairways or accessways to those providing public access, and the County has always interpreted this section to allow for private staircases that provide individual homeowners access to the beach from blufftop properties and has issued Coastal Development Permits allowing for the construction and repair of such staircases.

However, your staff is now taking the position that such stairways and accessways should only be allowed when they provide public access to the beach due to the sensitive nature of the coastal bluffs. This modification, if certified, would not allow the construction of any new private access stairways, and would make all the existing, permitted private staircases nonconforming, thus precluding them from being structurally repaired should the need arise.

The Board of Supervisors requests that this modification not be certified as proposed.

Again, the Santa Barbara County would like to thank the Coastal Commission for the tremendous amount of work required to bring this amendment to the County's certified Local Coastal Program to hearing. If the requests outlined above are made, the County should be able to accept the remainder of the recommended modifications.

Sincerely,

JANET WOLF

Chair, Board of Supervisors
County of Santa Barbara



COURT HOUSE

COUNTY OF SANTA BARBARA CALIFORNIA

ZONING ADMINISTRATOR

COUNTY ENGINEERING BUILDING
123 E. ANAPAMU STREET
SANTA BARBARA, CALIFORNIA 93101-2058
PHONE: (805) 568-2000

June 30, 2004

Peter Capone
3981 Roblar Avenue
Santa Ynez, CA 93460

ZONING ADMINISTRATOR
HEARING OF JUNE 21, 2004

RE: Capone Beach Access Stairway, 01CDH-00000-00015

Hearing on the request of Peter Capone to consider Case No. 01CDH-00000-00015 [application filed on April 23, 2001] for a Coastal Development Permit under Section 35-169.5 in the 1.5-EX-1 Zone District of Article II to allow the repair/reconstruction of an existing beach access stairway; and approve the Negative Declaration, 04NGD-00000-00012, pursuant to the State Guidelines for Implementation of the California Environmental Quality Act. As a result of this project, significant but mitigable effects on the environment are anticipated in the following categories: Cultural Resources, Geologic Processes, Noise and Recreation. The ND and all documents referenced therein may be reviewed at the Planning and Development Department, 123 East Anapamu Street, Santa Barbara. The ND is also available for review at the Goleta Library, 500 North Fairview Avenue, Goleta. The property is identified as AP No. 063-220-023, located at 4353 Marina Drive in the Hope Ranch area, Second Supervisorial District.

Dear Mr. Capone:

At the regular hearing of the Santa Barbara County Zoning Administrator on June 21, 2004, Case No. 01CDH-00000-00015 marked "Officially Accepted, County of Santa Barbara June 21, 2004, Zoning Administrator Exhibit #1" was conditionally approved, based upon the project's consistency with the Comprehensive Plan, including the Coastal Land Use Plan and the Goleta Community Plan, and based on the ability to make the required findings. The Zoning Administrator also took the following action:

1. Adopted the required findings for the project specified in Attachment A of the staff report dated June 11, 2004, including CEQA findings;
2. Approved the Negative Declaration, 04NGD-00000-00012, and adopt the mitigation monitoring program contained in the conditions of approval, included as Attachment B of the staff report dated June 11, 2004, pursuant to CEQA Guidelines Section 15074; and
3. Approved the project subject to the conditions included as Attachment C of the staff report dated June 11, 2004.

The Findings and the Conditions of Approval reflect the action of the Zoning Administrator and are included in this letter as Attachment A and Attachment C

Procedure:

- o The Zoning Administrator's decision may be appealed locally by the applicant, an aggrieved person, as defined under Section 35-58, or any two members of the Coastal Commission within 10 calendar days of the date of the Administrator's decision.
- o If a local appeal is filed, it shall be processed in accordance with all provisions of Section 35-182.3 of the Coastal Zoning Ordinance, and shall be taken to the Santa Barbara County Clerk of the Board, 105 East Anapamu Street - Room 407, Santa Barbara, California before the appeal period expires.
- o No filing fee is required for an appeal since this project may ultimately be appealed to the Coastal Commission under Section 35-182.4.2.
- o Please be advised that if a local appeal is filed, the final action on the appeal by the Board of Supervisors may be appealed to the California Coastal Commission if that final action includes the approval of a permit.
- o **Local appeal period expires on Thursday, July 1, 2004 at 5:00 P.M.**

Sincerely,



STEVEN L. DECAMP
Zoning Administrator

xc: Case File: 01CDH-00000-00015
Hearing Support Zoning Administrator File
Petra Leyva
Lisa Martin, Planning Technician
Agent: Robert Goda, Penfield & Smith, 101 East Victoria Street, Santa Barbara, CA 93101
Address File: 4353 Marina Drive, Santa Barbara, CA 93110
Shana Gray, California Coastal Commission 89 South California St., Ste 200, Ventura, CA 93001
Hope Ranch Park Homes Association: 695 Via Tranquila, Santa Barbara, CA 93110
Jon McKellar, County Surveyor's Office
Supervisor Rose, Second District
Michelle Wilson, Planner

Attachments: **Attachment A – Findings**
 Attachment C – Conditions of Approval

SD:erb

ATTACHMENT A: FINDING.

1.0 CEQA FINDINGS

- 1.1** The ZA has considered the Negative Declaration together with the comments received and considered during the public review process. The Negative Declaration reflects the independent judgment of the ZA, has been completed in compliance with CEQA, and is adequate for this proposal.
- 1.2** The ZA finds that through feasible conditions placed upon the project, the significant impacts on the environment have been eliminated or substantially mitigated.
- 1.3** The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Secretary of the Santa Barbara County Planning Commission, Ms. Jackie Campbell, Planning and Development, located at 123 E. Anapamu Street in Santa Barbara, CA.
- 1.4** Public Resources Code Section 21081.6 requires the County to adopt a reporting and monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.

2.0 ADMINISTRATIVE FINDINGS FOR COASTAL DEVELOPMENT PERMIT

- 2.1** Pursuant to Section 35-169.5 of Article II, a Coastal Development Permit shall only be issued if all of the following findings are made:

2.1.1 *Those findings specified in Section 35-169.6.1.*

- 2.1.1.1** *That the proposed development conforms to 1) the applicable policies of the Comprehensive Plan, including the Coastal Land Use Plan, and 2) with the applicable provisions of this Article and/or the project falls within the limited exception allowed under Section 35-161.7.*

As discussed in Section 6.2 of staff's report and incorporated herein by reference, the proposed project is consistent with the Comprehensive Plan, including the Coastal Land Use Plan. Therefore, this finding can be made.

- 2.1.1.2** *That the proposed development is located on a legally created lot.*

The subject lot is recorded as Parcel B of Parcel Map 10,944, recorded PM BK.5 of Parcel Maps, pg. 51.

- 2.1.1.3** *That the subject property is in compliance with all laws, rules, and regulations pertaining to zoning uses, subdivisions, setbacks, and any other applicable provisions of this Article, and such zoning violation enforcement fees as established from time to time by the Board of Supervisors have been paid. This subsection shall not be interpreted to impose new requirements on legal non-conforming uses and structures under 35-160 et seq.*

The proposed project would abate the current zoning violation for construction and repair of an illegal beach access stairway. The proposed design is consistent with all of the provisions of Article II as discussed in Section 6.3 of staff's report and incorporated herein by reference. Therefore, this finding can be made.

2.1.2 *That the development does not significantly obstruct public views from any public road or from a public recreation area to, and along the coast.*

The existing beach access stairway does not, nor would proposed repairs to the existing stairway, obstruct public views from a public road or from a public recreation area to, or along the coast. Therefore, this finding can be made.

2.1.3 *That the development is compatible with the established physical scale of the area.*

Proposed repairs to the existing stairway would occur in the existing footprint of the current stairway and repairs would improve the stairway's design to fit the topography of the bluff face. Therefore, the proposed project is consistent with this policy.

2.1.4 *That the development is in conformance with the public access and recreation policies of this Article and the Coastal Land Use Plan.*

As discussed in Sections 6.2 and 6.3 of staff's report and incorporated herein by reference, the proposed project is consistent with the public access and recreation policies of the Coastal Land Use Plan and Article II. Therefore, this finding can be made.

ATTACHMENT C: CONDITIONS OF APPROVAL

CONDITIONS OF APPROVAL FOR COASTAL DEVELOPMENT PERMIT ARTICLE II, CHAPTER 35

01CDH-00000-00015

This permit is subject to the following conditions:

1. Project Description

1. The project shall be in conformance with the following project description:

The proposed project involves the repair and reconstruction of an existing beach access stairway located on the coastal bluff on the property located at 4353 Marina Drive (APN 063-220-023) and the removal of recent unpermitted improvements made to that beach access stairway.

Unpermitted structures to be removed include the cemented stone wall and stacked railroad tie wall, that are located along the western side of the stairway, and the concrete steps extending southward onto the public beach. In addition, all of the railroad tie stair treads and pilings would be removed. The removed materials would be incorporated into the proposed new stairway to the extent feasible. Unpermitted structures that would remain, and are proposed to be validated by the requested Coastal Development Permit, include a cemented stone wall and railroad tie wall located on the eastern side of the walkway.

The proposed reconstructed stairway would be about four feet wide and 50 feet in length and would extend from a new concrete landing located at the landward edge of the beach to an existing footpath that provides access up to the existing beach house and up and over the bluff top to the existing guesthouse and primary residence on the property. The lowermost 25 feet of the stairway would be composed of wooden steps (four inch by eight inch planks) supported by timber piles and wood beams. The remainder of the stairway would be composed of railroad ties placed on the ground surface and tacked in place with galvanized steel pipe. Railings would be installed along each side of the stairway. These railings would be approximately three feet high and composed of wooden planks. The uppermost four-foot long section of the stairway would be bounded on the uphill side by a timber lagging retaining wall and by a safety railing (six-foot high chain link fencing) on the downhill side.

The concrete landing at the foot of the stairway would be about eight feet long, four feet wide, and a maximum of six feet tall. It would be embedded into an existing concrete (shotcrete) seawall by as much as four feet on its landward side and founded in the bedrock terrace that underlies the beach sand on its seaward side.

Eight 12-inch diameter timber piles would be used to support the stairway structure. Each pile would be set in the ground about eight feet deep and grouted into place with concrete. Two wooden gates would be installed to prevent use of the stairway by the general public: a four-foot high wooden gate would be installed at the top of the stairs and a five-foot high wooden gate would be located approximately half way up the stairway.

Access to the site for construction personnel and equipment would be from Marina Drive and the existing paved private driveway on the site. Equipment and materials would be hand carried on the coastal bluff during construction. Concrete would be pumped to the proposed concrete landing from the paved driveway where it terminates at the beach house.

Case No.: 01CDH-000000-00015 **Planner:** Michelle Wilson
Project Name: Capone Beach Access Stairway Project
Project Address: 4353 Marina Drive, Santa Barbara, California
A.P.N.: 063-220-023

The Zoning Administrator *grants approval* of this discretionary Coastal Development Permit for the development described below, subject to the attached conditions and final issuance of the Coastal Development Permit.

APPROVAL DATE: June 21 2004

COUNTY APPEAL PERIOD STARTS June 22, 2004

COUNTY APPEAL PERIOD ENDS: July 1, 2004

APPEALS: The decision on this project may be appealed to the Board of Supervisors by the applicant, an aggrieved person, or any two members of the Coastal Commission. The written appeal must be filed with the Clerk of the Board at 105 East Anapamu Street, Santa Barbara, CA 93101 by 5:00 p.m. on or before the date **the County Appeal Period Ends** (Art. II Sec. 35-172). If a local appeal is filed, the Board of Supervisors' final decision on the appeal may be appealed to the California Coastal Commission. If no local appeal is filed, the project may not be appealed to the California Coastal Commission, except as provided in Section 15373(b) of the California Coastal Commission's Administrative Regulations.

DATE OF PERMIT ISSUANCE: July 12, 2004

PROJECT DESCRIPTION AND CONDITIONS See Exhibit A hereby incorporated by reference.

EXPIRATION:

Upon permit issuance, the permit shall be valid for two years. Failure to obtain a required construction or grading permit and to lawfully commence development within two (2) years of permit issuance, shall render this Coastal Development Permit null and void.

Zoning Administrator Approval

Zoning Administrator Signature

6-21-04
Date

ACKNOWLEDGMENT: Undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

Print Name _____

Signature _____

12:45

Planning & Development Issuance by:

Name: _____

Date:



County of Santa Barbara Planning and Development

Glenn S. Russell, Ph.D., Director

Dianne Black, Director of Development Services

Derek Johnson, Director of Long Range Planning

NOTICE OF NONCOMPLIANCE

May 6, 2005

Mr. Peter Capone, Trustee
Capone Revocable Trust
3981 Roblar Ave.
Santa Ynez, CA 93460

RE: **NOTICE OF NONCOMPLIANCE**
4353 Marina Drive
APN: 063-220-023
05BDV-00093

Dear Mr. Capone,

County records indicate that you are responsible party of record of the above referenced property.

Based on report received by the Santa Barbara County Division of Building and Safety, and with the cooperation of Mr. Salvatore Griggs in providing access, a site visit was made to your property on April 28, 2005. During the site visit, the following was observed:

1. Due to the eroding bluff face, pier footings under the columns which previously supported the deck of the guest house appear to have fallen into the ocean. The columns hang from the remaining structure.
2. Due to the continually eroding bluff face, the current proximity of the building foundation to the edge of the bluff top, the steep slope of the bluff face, and the height of the bluff, the soil supporting the structure may be compromised.
3. Foundation elements no longer meet the prescriptive code requirements for setbacks from descending slopes.

4. Work has been done without permit in violation of Santa Barbara County Code Chapter 10 Section 10-2.6 A. Observations which support this finding are:

- a. An old stairway was removed and has been reconstructed on the West end of the deck without permit.
- b. A picture taken on 04/28/05 shows a beam that has been installed since a picture was taken on 04/05/05.
- c. Deck and deck overhanging post supports have been supplanted by cantilevered beams and/or diagonal supports.

In attendance at the site visit were Mr. Salvatore Griggs, owner's representative and General Contractor, Mr. Mark Braun; Geotechnical and Civil Engineer; and representing the County were Mr. Nick Katsenis, Supervising Building Inspector; Mr. Eric Hagen, Plan Check Engineer; and Mr. Curtis Jensen, Building Inspector. Mr. Braun said that he needed at least 30 days to evaluate the condition and prepare submittal documents, so we agreed that 60 days was reasonable to make an evaluation and prepare a submittal to justify the location of the building on the bluff edge or propose measures that will abate the condition. Mr. Braun may want to communicate with the Planning and Development Engineering Geologist, Mr. Brian Baca concerning the possibilities of measures to be considered in the abatement of the condition. Brian Baca can be contacted at Bbaca@co.santa-barbara.ca.us and 805.568.2004.

We found the guest house unoccupied and Mr. Griggs said that it has not been occupied recently. The building has been posted with a yellow notice which restricts entry into the building to construction and building design personnel only. Until engineers make a determination and the County concurs with the determination regarding the building's safety, the Limited Entry Notice will remain on the building. Mr. Braun asked what the procedure would be if he found the retaining wall on the ascending slope side of the building to be failing. If Mr. Braun determines that the retaining wall, building foundation or structure is in an unsafe condition he will immediately notify the Division of Building and Safety of his findings. In that event the abatement process will be commenced pursuant to the Uniform Code for the Abatement of Dangerous Buildings.

Plans and calculations showing the building meets the minimum requirements of the 2001 CBC must be submitted to the County of Santa Barbara Building Division within 60 days of this notice. **If no submittal is received within 60 days of this notice, the building will be deemed to meet the definition of a dangerous and substandard building in The Uniform Code for the Abatement of Dangerous Buildings Chapter 3 Section 302 Subsection 8 and California Health and Safety Code Section 17920.**

A copy of the Uniform Code for the Abatement of Dangerous Buildings can be purchased at <http://www.iccsafe.org/e/prodsearch.html?stateInfo=TkcNcivkfbajnJxd7416%7C3&words=abatement&go.x=31&go.y=4>.

California Health and Safety Code, Section 17920 defines a substandard structure as follows:

17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

Structural hazards which may cause a building to be deemed substandard are defined in the California Health and Safety Code, include, but are not limited to "...*Deteriorated or inadequate foundations.*"

Conditions at your site which support a finding of "deteriorated or inadequate foundations" are as follows:

1. Plastic sheeting is covering areas of soil erosion.
2. Mark Braun, Geotechnical Engineer stated that this bluff is likely receding.
3. The decking has separated from the dwelling at the SW corner of building.
4. Decking shows signs of movement.
5. Deck precast piers have fallen away and posts are no longer supported.
6. Posts supporting beam under deck is not plumb.
7. 4" by 8" structural lumber beneath deck no longer mid-span supported.
8. Retaining wall located at rear of building is listing and is being evaluated by Mark Braun.

Due to the structure's proximity to the bluff-face, your structure no longer meets the prescriptive requirements of the California Building Code. Therefore it is necessary for the Division of Building and Safety to require an investigation of the soil conditions adjacent to your building in the area of the slope failure and verify that your structure has proper structural support.

The sections of the 2001 California Building Code which speak to slope setbacks are as follows:

1806.5.3 Footing setback from descending slope surface. Footing on or adjacent to slope surfaces shall be founded in firm material with embedment and setback from the slope surface sufficient to provide vertical and lateral support for the footing without detrimental settlement. Except as provided for in Section 1806.5.6 and Figure 18-I-1, the following is deemed adequate to meet criteria. Where the slope is steeper than 1 unit vertical in 1 unit horizontal (100% slope), the required setback shall be measured from an imaginary plane 45 degrees to the horizontal, projected upward from the toe of the slope.

May 6, 2005

NOTICE OF NONCOMPLIANCE DUE TO CHANGE IN SOIL CONDITIONS

4353 Marina Drive

APN 063-220-023

05BDV-06093

Page 4 of 7

1806.5.6 Alternative setback and clearance. The Building official may approve alternate setbacks and clearances. The building official may require an investigation and recommendation of a qualified engineer to demonstrate that the intent of this section has been satisfied. Such an investigation shall include consideration of material, height of slope, slope gradient, load intensity and erosion characteristics of slope material.

To properly evaluate the structure and its support conditions, a structural evaluation is required. The attached pages are guidelines to assist your professionals in preparing a complete submittal. ~~We are aware that reports may take longer to prepare. Please determine the amount of time it will take the professionals to prepare a report and request in writing an extension of time to prepare the submittal.~~

To satisfy this notice, all documents and reports shall be submitted to the Division of Building and Safety within ~~30 days of the date of this notice~~ July 7, 2005 ~~iee.~~

For work done without permit, apply for land use and building permits at the same time you submit your structural evaluation documents. Stop all work on the guest house building and attached deck. Please note that any proposed alterations to the retaining wall at the ascending slope or the building will require permits.

GUIDELINES FOR STRUCTURAL EVALUATION SUBMITTAL

Provide four (4) complete sets of plans and two (2) sets of calculations and soils reports. Any drawings provided are to be legible and drawn to scale (engineering scale acceptable if legible). All documentation is to be prepared by currently registered professionals licensed in the State of California. In order to be accepted for processing, structural repair submittals must include, at a minimum, the following:

1. Site Plan, to include (at minimum):

- Project address
- Name, address, and telephone number of the owner and the person responsible for the preparation of the plans
- Name, address, and telephone number of all consultants involved with the project design
- Easements and/or restricted use areas, with dimensions
- North arrow
- Location of all property lines/dimensions from buildings to property lines
- Current location of bluff top and toe, location of Mean High Tide Line
- Locations of all buildings / structures on adjacent property within 10 feet of property line. (For shoring requirements, see item 19)
- Location and dimensions of walks, driveways and other hardscape
- Drainage information, to include site drainage patterns and drainage devices (catch basins, area drains, sump pumps, etc.)

May 6, 2006

NOTICE OF NONCOMPLIANCE DUE TO CHANGE IN SOIL CONDITIONS

4353 Manna Drive

APN 063-220-023

06EDV-00093

Page 5 of 7

2. Site Cross Section (minimum one; additional as necessary), to include:

- Location of street and property line at front of property, location of building, location of Mean High Tide Line, current location of bluff top and toe (or top and toe at slope failure)
- In the case of building support analysis, an outline of the existing foundation, showing footing locations, sizes, and depths

3. Geotechnical Report:

- A foundation investigation which includes soil classification is to be provided as per California Building Code Section 1804
- Report is to include, at a minimum, the information outlined in Section 1804.3 of the California Building Code, including foundation design recommendations
- The Building Official requires that Liquefaction Potential and Soil Strength Loss are to be evaluated as per California Building Code Section 1804.5.
- A slope stability analysis of the adjacent descending slope or bluff face prepared by a CA Licensed Geotechnical Engineer or Engineering Geologist in accordance with Chapter 18 of the California Building Code.

•

- **4. Structural Analysis and Plans (when required for building support analysis):**
- Geotechnical Engineer to provide approval of foundation designs for consistency with soils report recommendations
- Calculations are to include the effects of lateral loads such as wind, seismic, potential wave damage, hydrostatic pressure and/or soil pressure on structural elements including caissons or columns
- Include structural key, design dead and live loads
- Provide size and spacing of all structural elements, construction assemblies, critical connection details, reinforcement detailing, and any other structural elements referred to in the structural design
- Existing condition assessment (i.e., cracking, weathering, corrosion, erosion, etc.) Recommendations for testing, if required, to determine structural properties of materials.

5. Additional Considerations:

- Additional documentation will be required for proposals to correct substandard conditions which require work on the bluff or existing buildings. At a minimum, this would include more detailed site plans, floor plans, and elevations to show the building as altered complies with all aspects of the Santa Barbara County Zoning Ordinance and California Building Codes. It should include a breakdown of project data showing square footage amounts.
- In order to expedite the plan review process, it is in the best interest of all parties that a special effort is made by the design team to comply with ***each and every one*** of the items listed above.

May 6, 2005

NOTICE OF NONCOMPLIANCE DUE TO CHANGE IN SOIL CONDITIONS

4353 Marina Drive

APN 063-220-023

06BDV-00093

Page 6 of 7

Upon resolution of the building compliance case that has been identified on the property, building compliance recovery costs will be assessed to cover all time spent by County staff investigating and resolving the case pursuant to Santa Barbara County Code Chapter 10 Section 10-2.12. The current fee in effect, as approved by the Board of Supervisors is \$85.00 per hour. The payment of compliance costs is required **regardless** of any fines incurred under the Administrative Fine Program pursuant to Santa Barbara County Code Chapter 24A and; any investigation fee that is associated with any work that has been done without permit per the Section 107.5 of the California Building Code.

Prior to the expiration of the above referenced 60 day period, you may submit in writing any information relating to the determination of the existence of a violation(s) or a request for an extension of the 60 day deadline.

Failure to comply with this notice may result in but is not limited to any or all of the following actions:

- Transmittal of Notice of Violation pursuant to Santa Barbara County Code Chapter 24A;
- Declaration of lien recorded of non-compliance against the property;
- Other actions as prescribed by law.

Please be advised that permits and inspections are required of all work. STOP WORK on the guest house.

Thank you for your attention to this matter. Please be advised that this notice only address conditions as noted. Other conditions discovered as a result of this compliance case may require additional compliance actions. You may be required to obtain other permits in order to comply with other portions of the County Code.

Respectfully,

Curtis Jensen
Building Inspector
(805) 884-6842
cujensen@co.santa-barbara.ca.us

Cc: Nick Katsenis, Supervising Building Inspector
Lincoln Thomas, Supervising Building Inspector
Petra Leyva, Supervising Planner
Salvatore Griggs, General Building Contractor #639726; P.O. Box 884; Santa Ynez CA 93460
Mark Braun, Professional Engineer; P.O. Box 2004; Buellton, CA 93427-2004
Compliance Case File

May 6, 2005

NOTICE OF NONCOMPLIANCE DUE TO CHANGE IN SOIL CONDITIONS

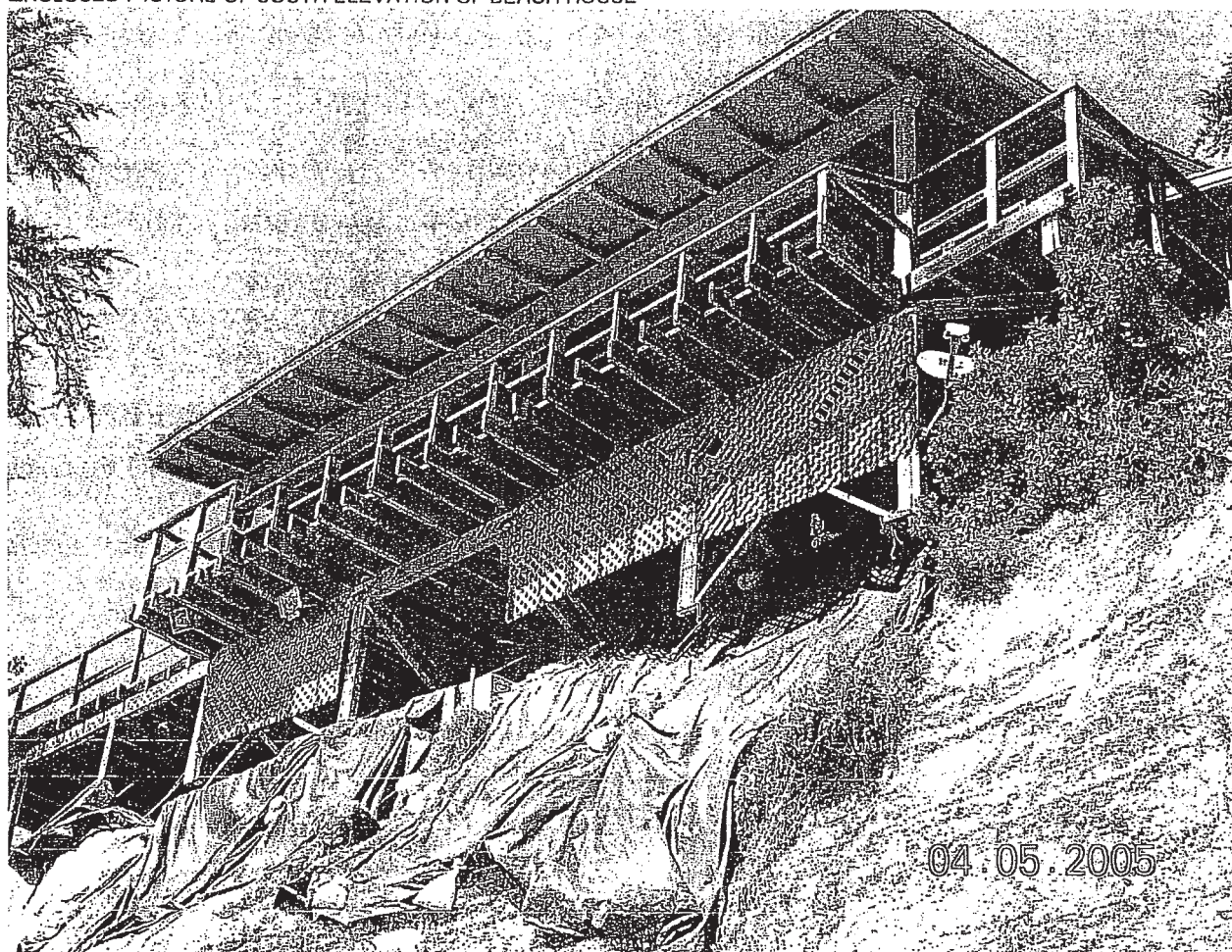
4352 Marine Drive

APN 067-210-023

05BDV-00033

Page 7 of 7

ENCLOSED PICTURE OF SOUTH ELEVATION OF BEACH HOUSE





August 15, 2005

Mr. Bob Goda
Penfield & Smith
P.O. Box 98
Santa Barbara, CA 93102

Re: Capone Beach House, 4353 Marina Drive, Santa Barbara, CA

Dear Mr. Goda:

This letter is a discussion of the work performed by this firm under the request of Mr. Peter Capone, owner of the property. Our work was done in order to mitigate possible loss of the existing structure due to seismic activity.

In April 2004 we were contacted by Mr. Peter Capone through his representative, Mr. Tori Griggs, to review the conditions on the property. Mr. Capone had informed me that the property was recently purchased as part of a quick claim sale by the previous owner. I performed a visual survey of the site to determine the general condition of the structures on the property along with the existing conditions of slopes and drainage. During my visit I was provided with a comprehensive Soils Report conducted by Grover-Hollingsworth & Associates, Inc., dated August 9, 1999. This document discusses the existing structures and stability of the beach bluff.

The owner had significant concerns as to the stability of the Beach House. Based on discussions with the owner and review of the Grover Hollingsworth report, I was in agreement with the concerns of the owner. Within the geotechnical review by Grover Hollingsworth discussions as to stabilizing the Beach House and deck were provided. Mr. Capone was most concerned with loss of the structure and deck from seismic activity. Based on our discussion this firm designed a cast in place friction pile foundation system to support the structure and remove the loads from the deck. This was to be conducted as part of a seismic retrofit and strengthening program.

Design for the underpinning process consisted of analyzing the existing foundation system and determining the type of caissons and minimum depths, which would most effectively provide support to the structure. Copies of the engineering calculations along with the as-built design plans can be found as Enclosure A.

EXHIBIT 12

Soils Engineering ▼ Materials Testing

Mailing: P.O. Box 2004, Buellton, CA 93427 • Phone (805) 688-5429 • Fax (805) 688-7239

August 12, 2005
4353 Marina/Epone
Page 2

Construction was undertaken in June 2004. Review of the construction by this firm was provided by both visual observations and materials testing. Copies of our inspections along with our materials testing can be found in Enclosure B.

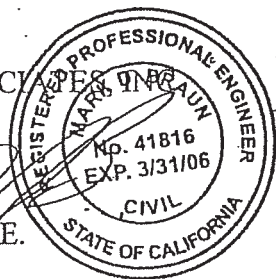
Based on the work it is my opinion the Beach house has been strengthened by this new foundation system in a method consistent with typical underpinning procedures for the area. The structure is now supported by a deep foundation system with footings that extend well into the bedrock in accordance with the Grover Hollingsworth report and proper engineering procedures.

Should you have questions please feel free to call.

Sincerely,

BRAUN & ASSOCIATES

Mark D. Braun, P.E.



MDB/dsc



MAY 09 2014

August 15, 2005

Mr. Peter Capone
C/o SIG Construction
P.O. Box 884
Santa Ynez, CA 93460

Re: Beach House decking, 4353 Marina Drive, Santa Barbara, CA

Dear Mr. Capone:

Per your request this letter discusses the damage and repair options for the Beach House deck which was damaged during the recent storms of 2004-2005.

In December 2004 the Santa Barbara area experienced severe flooding and high winds. As a result in many areas erosion along with toppling of trees had occurred. One such area of damage happened at the Beach House on the property referenced above. Based on discussions with you and your representative, Mr. Tori Griggs I understand that the damage to the wood deck and supporting structure occurred due to a large tree being knocked over by the high winds. The root ball broke an active water line. This damage was not discovered for approximately two days. The resulting concentrated water created an erosional channel, which undermined and exposed portions of the deck foundation system. The deck is a wood framed structure with concrete block footings placed on grade. The attachment of wood ledgers to the existing structure consisted of nails, which unfortunately pulled away from the building sill plate approximately 2-inches.

Per the desire of the owner to repair the deck this firm recommends stabilizing the deck through the use of a deep foundation system. This would transfer the loads into the underlying bedrock formation. The design would generally utilize most of the existing wood framing with additional wood supports which would then be connected to the foundation system. It is expected the work would cause little to no disturbance of the bluff. It is expected however, should the deck be removed the exposed ground open to the weather would cause accelerated surface erosion.

Once it has been decided as to the time frame for this work this firm can then provide the calculations along with field inspections for the repair of the deck.

Soils Engineering ▼ Materials Testing

Mailing: P.O. Box 2004, Buellton, CA 93427 • Phone (805) 688-5429 • Fax (805) 688-7239

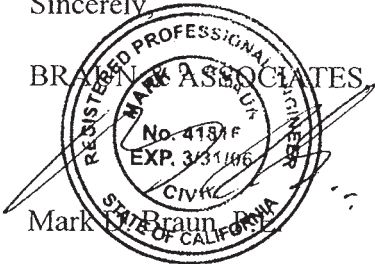
EXHIBIT 13

August 15, 2005
4353 Marina/Capone
Page 2

Should you have any questions please call me at (805) 688-5429.

Sincerely

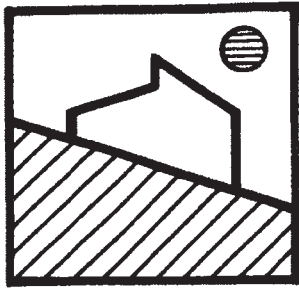
BRADEN MARK ASSOCIATES, INC.



Mark E. Braun, P.E.

MDB/dsc

1697NING BCH HSE DEC REPAIR



Grover Hollingsworth and Associates, Inc.

November 9, 2011
GH14022-G

Lee and Julia Carr
4353 Marina Drive
Santa Barbara, California 93110

Subject: Geologic and Geotechnical Assessment, Beach Cabana and Adjacent Bluff Stability, Parcel B, Parcel Map 10994, APN 083-220-23, 4353 Marina Drive, Santa Barbara, California.

Reference: Reports by Grover-Hollingsworth and Associates, Inc.: Geologic and Engineering Exploration, Landslide Evaluation, Site Stability Assessment, Beach Cabana Stability Assessment, Proposed Sewage Disposal System and Possible Future Site Development, dated August 9, 1999; and Geologic and Soils Engineering Update and Plan Review, Proposed Residence Additions, Pool and Retaining Wall, dated July 31, 2008.

Dear Mr. and Mrs. Carr,

The following provides additional geologic and geotechnical assessment of the stability of the beach cabana and adjacent bluff. This assessment follows a recent site visit performed on October 13, 2011, review of our above-referenced reports, review of recently provided letters and reports by Mark Braun and J.N. Brouwer and review of historic oblique air photographs. Additional subsurface exploration, soil sampling, laboratory testing and slope stability analyses have not been performed as our earlier detailed studies referenced above are still deemed to be valid. It is our understanding that those earlier reports have been provided to Santa Barbara Planning and Development

Engineering Geology

Geotechnical Engineering

31129 Via Colinas, Suite 707, Westlake Village, California 91362 • (818) 889-0844 • (FAX) 889-4170

Department and so they are not now being resubmitted. They are, of course, available on request.

2005 DECK STABILIZATION PROJECT

We have recently learned that a deck stabilization project was undertaken at the beach cabana following a 2004 waterline break that caused local erosion slumping of the residual soil beneath the southwest portion of a wood deck that is situated south of the beach cabana. The erosion/slumping removed support for at least one of the piers supporting the southern edge of the deck. Another pier at the southeast corner of the deck was also unsupported due to earlier erosion.

The deck repair plans were prepared by Braun and Associates and are dated April 12, 2004. The plans detail the installation of five north/south-trending girders extending from the southern east/west-trending deck support beam, to five new pier footings under the beach cabana floor. These new girders extend over original the southern beach cabana footing. The Braun design documentation shows that the existing southern cabana footing was underpinned with three, minimum 35-foot-deep, 18-inch-diameter, steel reinforced, concrete friction piles. These piles and the five new pad footings under the beach cabana floor provide vertical support for the five new girders that now provide cantilever support for the deck. This new support system allowed removal of the original wood posts that formerly supported the southern side of the deck. Two additional concrete friction piles were installed under the eastern side of the wood deck.

Our visual inspection conducted on October 13, 2011 confirmed that the Braun repairs are performing as intended to support the deck in a level, sound condition. We also observed that the cabana building itself showed no signs of structural problems or foundation movement.

The 2004 Braun plans do not suggest that the beach cabana was to be releveled or repaired as part of the deck stabilization project. The August 17, 2005, Coastal Geology and Soils Inc. report that was prepared after completion of the deck repair project also

does not suggest that damage to the original beach cabana foundation system was apparent. In addition, Curtis Jensen, who observed the beach cabana and deck after completion of the deck repair project, discussed damage to the deck and its original support system but not to the beach cabana itself. Further, the undersigned did not observe obvious evidence of settlement or damage to the beach cabana foundations in 1999. Therefore, while the original southern deck foundations, that were shallow and located on the descending natural slope above the steep bluff experienced damage over time, the cabana foundation system that is located farther from the bluff face has performed adequately since original construction in 1956.

BLUFF RETREAT

As part of our work, we reviewed vertical air photographs of the site on file at the University of California Santa Barbara. The vertical air photographs reviewed are from 1928, 1943, 1954, 1964, 1975, and 2001-2002. Stereoscopic review of the photos reveals no significant erosion of the existing bluff face between 1928 and 2002.

We have also reviewed available oblique air photographs of the site that are available on the California Coastal Records Project website. The 1972 and 1979 oblique photographs depict the bluff prior to placement of the gunite at the bluff toe in 1989. A series of shallow sea caves are depicted at the base of the bluff in the area of the beach cabana. The configuration of the bluff below the cabana is not obviously different over this time interval.

The October 2004 oblique air photographs show the condition of the bluff 15 years after installation of the gunite. The gunite appears to be performing as it was intended to function, to prevent significant bluff retreat below the beach cabana. The configuration of the bedrock in the bluff face above the gunite appears substantially the same as that depicted in the earlier 1972 and 1979 images. The October 2004 photographs depict a local shallow erosion within the residual soil at the top of the bluff below the southwest portion of the deck. That failure reportedly occurred as a result of a waterline break. The photographs also show evidence of a similar but smaller local area of slumping/erosion at the top of the bluff below the southeast corner of the deck. Neither of these areas of erosion/slumping involve the bedrock beneath the cabana.

More recent oblique photographs, dated September 2006, September 2008, and September 2010, as well as our recent site observation do not reveal any obvious changes to the gunite protection at the toe of the bluff or the bluff face between the top of the gunite and the beach cabana.

Our historic air photograph review indicates that there has been no significant retreat of the bluff in the area of the cabana since its original construction in 1956. We have also concluded that the gunite at the base of the bluff has arrested all significant retreat due to wave action since its installation in 1989. Assuming that the gunite is maintained to achieve its historical level of performance, bluff retreat due to wave action will not represent a risk to the cabana's stability.

ACTIVE LANDSLIDES

A shallow active landslide exists on the southwest portion of the property within the lower portion of the re-entrant canyon. The location of this landslide is shown on our Geologic Map. This landslide is not located in an area where it can affect the stability of the cabana. That landslide reportedly occurred in the summer of 1998, following the rupture of an irrigation line on the slope above. The failure reportedly occurred four days after the water line rupture. The earth materials involved in the failure were likely already saturated as a result of the heavy winter rains of early 1998.

The southwestern failure area measures approximately 165 feet long and 15 to 50 feet wide, narrowing toward the head scarp. The head scarp is approximately 10 feet high. The failure debris extends toward the beach below. At the time of our site visit in 1999, approximately 10 to 15 feet of failure debris was present at the toe of the slide. Our 2008 site visit revealed that in place bedrock was exposed at the toe of the slide above the beach. It is likely that failure debris at the toe of the landslide had been removed by erosion and wave action. During our site visit in 1999, earth cracks ranging up to 6-inches wide were present within the slide mass. These cracks were not observed during our 2008 and recent site visits.

A second active landslide is present at the extreme southeast corner of the property. This landslide is located on the bluff face and extends offsite to the east. This bedrock landslide

appears to have occurred within steeper south-dipping bedrock located south of the eastward projection of the fold axis that crosses the subject site. This landslide is apparent on both oblique and vertical air photographs taken after 1978 and is not located in the area of the beach cabana. We believe that this landslide occurred during the heavy winter rains of 1978.

A small area of surficial soil erosion/slumping is present below the western portion of the wood deck south of the beach cabana. This failure reportedly occurred in 2004 as the result of a broken water pipe that saturated the near surface residual soil above the bedrock. The failure does not involve the bedrock. Our recent site observation does not reveal evidence of enlargement of this feature.

We have concluded that there are no landslides in the area of the cabana that represent a risk to its stability

SLOPE STABILITY

Static stability calculations were performed for the existing south-facing descending slope in the area of the beach cabana. The calculations were performed using the SLIDE Computer Program by Rocscience. We chose the Corrected Janbu's Method for non-circular failures as potential planar failures are most critical in the area of the beach cabana.

Our slope stability models along Section C include a region of crushed bedrock located along the fold axis that was encountered in Boring B-3 and observed during our geologic mapping. The fold extends across the entire property from the eastern property line to the western property line and was observed in the exposed east-facing bedrock slope outside the property line along the beach. The presence of the fold eliminates any potential for continuous bedding planes along the section line that extend from the beach through the beach cabana to the top of the slope. The presence of this fold likely contributed to the steepness of the bluff in the area of the beach cabana and offsite to the west while the adjoining areas to the east are less steep.

Our slope stability model along Section C designates the downslope portion of the bedrock below the crushed bedrock to have anisotropic bedding shear strength parameters between the angles of 20 to 29 degrees (apparent dip). The bedding along Section C daylights on to the over-steepened bluff face at the beach. The bedrock above the crushed zone was given anisotropic-bedding shear-strength parameters between 40 and 50 degrees.

We have calculated slope stability following commonly accepted methods and using the results of our earlier and detailed geologic studies. These methods assume a fully water saturated structure to represent a "worst case" or minimum factor of safety. These calculations also ignore the improvements to stability provided by the Braun friction pilings implemented as a part of the deck repairs. With these assumptions, static stability calculations with planar failures extending from the toe of the slope to points under the beach cabana along Section C indicate a static factor of safety of 1.17 (SLIDE file 14022C static planar lower). Static stability calculations with planar failures extending from the toe of the slope along Section C to points upslope of the beach cabana indicate a static factor of safety of 1.22 (SLIDE file Carr14022G SecC Static Stability Planar).

CONCLUSIONS

The current beach cabana rests on a small pad that appears to have been excavated into the moderately steep natural slope above the steep bluff that descends to the beach. The beach cabana and the adjacent wood deck were permitted and constructed in 1956. The beach cabana was constructed on continuous perimeter concrete footings and isolated interior piers based on work by Braun and Brouwer (2004-2005). The wood deck was supported by the southern beach cabana wall/foundation and by a southerly wood beam that was supported by small, isolated concrete piers and wood posts. These shallow deck support piers were located at or on the top of the steep bluff face south of the cabana. They did not extend into the bedrock. These piers supporting the southern edge of the deck experienced downslope movement over the 48 year period between their initial construction in 1956 and their elimination (as deck support elements) in 2004.

The foundation beneath the cabana building itself performed well over that 48 year period and was continuing to provide adequate support for the cabana in 2004 when the deck

repair project was undertaken. The deck repair project has eliminated the need for the failing southern row of deck piers by providing a cantilever structure tied to five new friction piles and that are founded in bedrock. The 2004 repair provides the deck, which is a part of the onsite beach access path, with a foundation system that conforms with current Code requirements with respect to foundation setback to the face of the descending slope. The five new reinforced concrete friction piles also improve the stability of the pad upon which the beach cabana rests by improving the shear resistance along the south-dipping bedding.

The beach cabana pad was excavated into a natural slope that is underlain by gently south-to southwest-dipping sedimentary bedrock. The bedrock section below the beach cabana is exposed in the central and upper portions of the bluff face. The bedrock exhibits consistent structure and no evidence of bedrock displacement due to landsliding. The bedrock along the lower portion the bluff is covered with gunite placed in 1989 under an emergency permit to repair sea caves at the base of the bluff. These sea caves are visible in the 1972 and 1979 oblique air photograph that we recently reviewed. The gunite has eliminated significant bluff retreat due to wave action.

The stability of a slope, such as that upon which the beach cabana is built can be evaluated qualitatively through review of historic data and quantitatively through geologic and geotechnical exploration, laboratory testing and engineering analysis. Our qualitative analysis has been performed by reviewing historic vertical and oblique air photographs and reviewing the performance of the cabana. This work suggests that the bluff below the cabana has not visibly retreated since the beach cabana was constructed. The bluff has been very stable since the 1989 emergency gunite installation at the base of the bluff with the exception of the small residual soil erosion due to the waterline leak. There has been no significant change to the bluff's bedrock structure beneath this residual soil area. Based on our review of the Braun repair design documentation, the added friction piles extend into that bedrock and do not rely upon the residual soil for their support.

Our quantitative analysis also suggests that the bluff and the cabana building pad are stable under non-seismic conditions even when we assume that the bedrock profile beneath the cabana is fully water saturated. The assumption that a slope is fully saturated is normally

required for stability analyses performed as part of a new development. Such an assumption can however be overly conservative for analysis of the stability of an existing condition. Our analyses suggest a static factor of safety for the bluff below the cabana and the bluff and natural slope above the cabana under saturated conditions of 1.17 to 1.22. Since a factor of safety of 1.0 indicates theoretical failure this result indicates that the slope below the beach cabana is stable. The factor of safety would be significantly higher if the shear tests, upon which the analyses are based, were run under non-saturated conditions. It is our opinion that presence of the beach cabana that collects roof drainage and conducts it to the beach, and the presence of the fold axis upslope of the cabana that cuts off groundwater flow along bedding toward the beach, make it unlikely that the bedrock profile beneath the cabana ever becomes saturated. Consequently, we conclude that the actual stability of the slope is greater than indicated by our stability analyses. Its historic stability throughout all events since 1956 supports that conclusion.

We understand that questions have been posed regarding the relationship of the current stability of the cabana compared to that at the time it was built. It is our opinion that the beach cabana remains at least as stable as the day it was completed. There is no evidence that any significant bluff retreat has occurred since the cabana was constructed. The 1989 emergency toe-of-bluff stabilization continues to perform well and continues to protect the bluff from wave attack. In addition, the friction piles added as part of the deck stabilization project improve the stability of the bluff above the base of those piles.

The presence of the beach cabana actually improves bluff stability and reduces the danger posed to members of the public for several reasons. First the cabana, its water impervious roof and its water drainage collection system covers the majority of the relevant residual soil at the top of the bluff preventing saturation and possible failure of these soils. Second the cabana reduces the infiltration of incident rainfall into the bedrock. As discussed above, the bedrock factor of safety suggested by our analyses may, at most, be relevant if the bedrock becomes fully saturated. Limiting deep water infiltration is therefore important to long term bluff stability. Finally, the piles that were installed as part of the deck stabilization project increase the shear resistance along the adversely oriented bedding planes thereby improving bluff stability.

Please call this office with any questions. This report and our exploration are subject to the following Notice.

NOTICE

General Conditions


The subsurface conditions, excavation characteristics, geologic structure and contacts described herein and shown on Cross Section C have been projected from excavations on the site, as indicated and should in no way be construed to reflect any variations which may occur between or away from these excavations or which may result from changes in subsurface conditions. The projection of geologic contacts is based on available data and experience and should not be considered exact.

This report is issued and made for your sole use and benefit. The intent of this report is to advise our client on geotechnical matters involving the proposed improvements. It should be understood that the geotechnical consulting provided and the contents of this report are not perfect. Any errors or omissions noted by any party reviewing this report, and/or any other geotechnical aspect of the project, should be reported to this office in a timely fashion. Any liability in connection herewith shall not exceed our fee for the exploration.

Geotechnical engineering is characterized by uncertainty. Geotechnical engineering is often described as an inexact science or art. Conclusions presented herein are partly based upon the evaluations of technical information gathered, partly on experience, and partly on professional judgment. The conclusions presented should be considered "advice." Other consultants could arrive at different conclusions. No warranty, expressed or implied, is made or intended in connection with the above exploration or by the furnishing of this report or by any other oral or written statement.

Should you have any questions, please call.

Respectfully submitted,


ROBERT A. HOLLINGSWORTH
E.G. 1265/G.E. 2022



RAH:pr

Enc: Coastal Geology & Soils Inc. Geologic Map
Coastal Geology & Soils Inc. Section A
GHA Geologic Map (pocket)
GHA Section C
Calculation Sheets (10)

xc: (13) Addressee
(1) Addressee, via email

DIVISION 10 NONCONFORMING STRUCTURES AND USES**Section 35-160. Purpose and Intent.**

Within the districts established by this Article, or amendments that may later be adopted, there exists lots, structures, and uses of land and structures, which were lawful prior to the adoption, revision, or amendment of this Article, or previously adopted County ordinances, but which would be prohibited, regulated, or restricted under the terms of this Article or future amendment. It is the intent of this Article to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Article, subject to only very limited exceptions as specified to prevent nonconforming uses and structures from being enlarged, expanded or extended, or being used as grounds for adding other structures or uses prohibited elsewhere in the same district. (Amended by Ord. 4227, 06/18/1996)

Section 35-161. Nonconforming Use of Land, Buildings and Structures.

(Amended by Ord. 4067, 08/18/1992; Ord. 4227, 06/18/1996; Ord. 4557, 12/07/2004)

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

1. **Structural Change.** Except as otherwise provided in this Article, including seismic retrofitting as defined in Section 35-58 and in accordance with Section 35-169.2.1.m, no existing building or structure devoted to a nonconforming use under this Article shall be enlarged, extended, reconstructed, moved, or structurally altered unless such use is changed to a use permitted in the district in which it is located. No building or structure accessory to a nonconforming use under this Article shall be erected, enlarged, or extended unless such building or structure is also accessory to a conforming use.
 - a. **Exceptions:** Existing structures devoted to a nonconforming use may be enlarged, extended, reconstructed, moved, and/or structurally altered, subject to the following criteria:
 - 1) The structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors may be structurally altered provided that the County Historical Landmarks Advisory Commission has determined that the proposed structural alterations will help to preserve and maintain the landmark in the long-term and has reviewed and approved the proposed structural alterations.
 - 2) The structure is threatened due to coastal erosion, as determined by the County Building Official, and is located on property zoned either SR-M or SR-H. Any structural alteration or relocation (1) shall comply with all setback and height requirements of the zone district in which such structure is located, (2) shall not result in the removal of required parking spaces, and (3) shall not result in an increase in the number of bedrooms within the building unless such increase is consistent with the provisions of the SR-M or SR-H zoning district.
2. **Extension or Expansion.** A nonconforming use may be extended throughout an existing building provided no structural alterations except those required by law or ordinance (i.e., building code regulations) are made therein. No nonconforming use shall be extended to occupy any land outside such building. No existing nonconforming use of land outside buildings, or involving no buildings, shall be enlarged, increased, or extended to occupy a greater area of land than was occupied at the time the use became nonconforming, or moved to any portion of the lot not occupied by such nonconforming use at such time.
3. **Change of Use.** A nonconforming use may only be changed to a conforming use.
4. **Discontinuance.** If a nonconforming use is abandoned, any future use shall comply with the provisions of the district in which the use is located. Proof of discontinuation of a nonconforming use for 12 consecutive months shall be prima facie evidence that the nonconforming use has been abandoned.
5. **Damage.** The purpose of this Section is to identify the standards for allowing the continuation of a nonconforming use in a building, structure, or other development that is damaged or destroyed by fire,

ATTACHMENT A

FINDINGS OF APPROVAL

PLANNING COMMISSION HEARING, MARCH 5, 2014

1.0 CEQA FINDINGS

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

2.0 ADMINISTRATIVE FINDINGS

Those findings specified in Section 35-169.5.2

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

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

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

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

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

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

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

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

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

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

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

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



EXHIBIT 17A



EXHIBIT 17B

From: Schneider, Helene [HSchneider@SantaBarbaraCA.gov]
Sent: Thursday, April 17, 2014 2:35 PM
To: 'John.Ainsworth@coastal.ca.gov'
Cc: 'Julia Wynn Carr'
Subject: Comment letter: Irene & Frances Rich Cabana appeal: #A-4-STB-14-0016

Flag Status: Flagged

April 17, 2014

To: Mr. Ainsworth and other appropriate staff of the California Coastal Commission:

RE: Appeal #A-4-STB-14-0016
Irene & Frances Rich Cabana
4353 Marina Drive, Santa Barbara CA 93110

I have been following the permitting process regarding the Irene & Frances Rich Cabana within the County of Santa Barbara for the last several months. While I am only writing as an individual, and not on behalf of the City of Santa Barbara, I do personally find this issue of great importance as it pertains to the connection between local government Coastal Development Plans and local government's partnership with the California Coastal Commission, especially as it pertains to protecting our coastline, staying in compliance with the California Coastal Act, while also respecting significant historical resources. Even though I am more attuned to the details of the City of Santa Barbara's local coastal plan than the County of Santa Barbara's, I am sending these comments for your consideration as the Commission ~~lovers~~ the issue of consistency of the County's Local Coastal Plan and the County Planning Commission's recent approval for as-built permits for the cabana, and the potential action towards a *de novo* hearing on the merits of the permits granted.

As I understand the issues at hand, the Rich Cabana was built in the 1950s and was designated as an historic landmark in 2012. The current owners sent an application for permits to fix and maintain the Cabana (not expand it), so that they can both protect the Cabana's structural integrity, and prevent bluff erosion that could occur if they did not maintain the structure. At that point, they experienced a problem in the County planning process due to unpermitted work completed by previous owners. The current owners were not allowed to continue work to maintain the Cabana until the County granted as-built permits for the previous work. They received approval for the as-built permits by a unanimous vote of the County Planning Commission, and it is this vote that is upon appeal to the Coastal Commission.

Denying the as-built permits, and thus requiring removal of the unpermitted work, would result in the destruction of the cabana, as well as potentially create additional erosion to the coastal bluff.

I certainly do not condone unpermitted work, especially along coastal bluffs, and can appreciate the concerns County staff and the Coastal Commission would have in allowing an as-built permit in most circumstances. On practical matters, however, I think the Commission should consider two key points. First, that the Cabana was constructed decades before the CA Coastal Act became law and its historical landmark status is significant in terms of preserving historical resources throughout Santa Barbara County. The current owners want to maintain the structure, not expand it, and requiring the removal of the unpermitted work would essentially destroy a historical landmark. Second, and perhaps even more importantly to the Coastal Commission's overall mission as it relates to coastal bluff protection, removing the

unpermitted work could create additional cliff erosion challenges at this location, while maintaining the Cabana could protect it as well as continue to provide access to the beach.

I applaud and agree with current strict standards that limit development on coastal bluffs. Certainly, a Cabana such as the one in question could not – nor should it – receive a permit if it was a new development proposal. This particular historic landmark has no public opposition; in fact it is celebrated by a number of neighbors and local organizations, and no one filed an appeal to the Board of Supervisors on the County Planning Commission's unanimous vote. Maintaining the structure will also preserve access to the beach from the top of bluff as well as protect the immediate area from further destruction. Requiring the removal of the unpermitted work, and thus destroying this historic landmark, would be a very sad and unfortunate outcome for the greater community.

I appreciate your attention to these comments. Thank you.

Sincerely,

Helene Schneider
Mayor, City of Santa Barbara

Helene Schneider
Santa Barbara Mayor
805-564-5323

Geraghty, Amber@Coastal

From: Jarrell Jackman <docjj@sbthp.org>
Sent: Monday, April 28, 2014 9:38 AM
To: Geraghty, Amber@Coastal
Subject: Rich cabana

The SB Trust for Historic Preservation is a staunch supporter of preservation of the Rich Cabana. It is a designated County Landmark and its preservation has broad public support. There was not a single person who spoke against its being landmarked and preserved at the latest County Panning Commission Hearing.

Jarrell C. Jackman, Ph.D.
CEO
www.sbthp.org

Sent from my iPad

David Villalobos, Board Assistant Supervisor
Santa Barbara County Planning Commission

FILE COPY

Re: Item 2, Carr appeal of the Zoning
Administrator's denial of the Irene and Frances Rich
Beach Cabana request for acceptance of unpermitted
as-is additions and structural modifications

Dear Commissioners:

**The Pearl Chase Society's mission is preserving
Santa Barbara's sites of enduring community
value. Most worthy of preservation are those sites
that have been designated by the Board of
Supervisors as County Landmarks.**

**The Irene and Frances Rich beach cabana is such
a site. The Supervisors in 2012 felt that the
preservation of the historic cabana on its unique
site was worthy of protection under the provisions
of Chapter 18 of the County Code. The
unpermitted additions and structural
modifications made by previous owners prior to
the structure being designated a Landmark were
included.**

RECEIVED

MAR 04 2014

S.B. COUNTY
PLANNING & DEVELOPMENT
HEARING SUPPORT

AGENDA ITEMS

ITEM #: 2

MEETING

DATE: 3-5-14

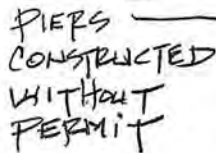
**The Society respectfully asks the Commission to
reject the arguments of Staff and uphold the
appeal, thus fulfilling the provisions of the County
Landmark Ordinance.**

Yours truly,

**Kellam de Forest
Chairman Preservation Committee
Pearl Chase Society
448-7901**

THE CANTILEVERED GIRDERS THAT WERE INSTALLED WITHOUT PERMIT SUPPORT NOT ONLY THE DECK, BUT THEY SUPPORT THE EXISTING PORCH ROOF ALSO

- (E) porch roof

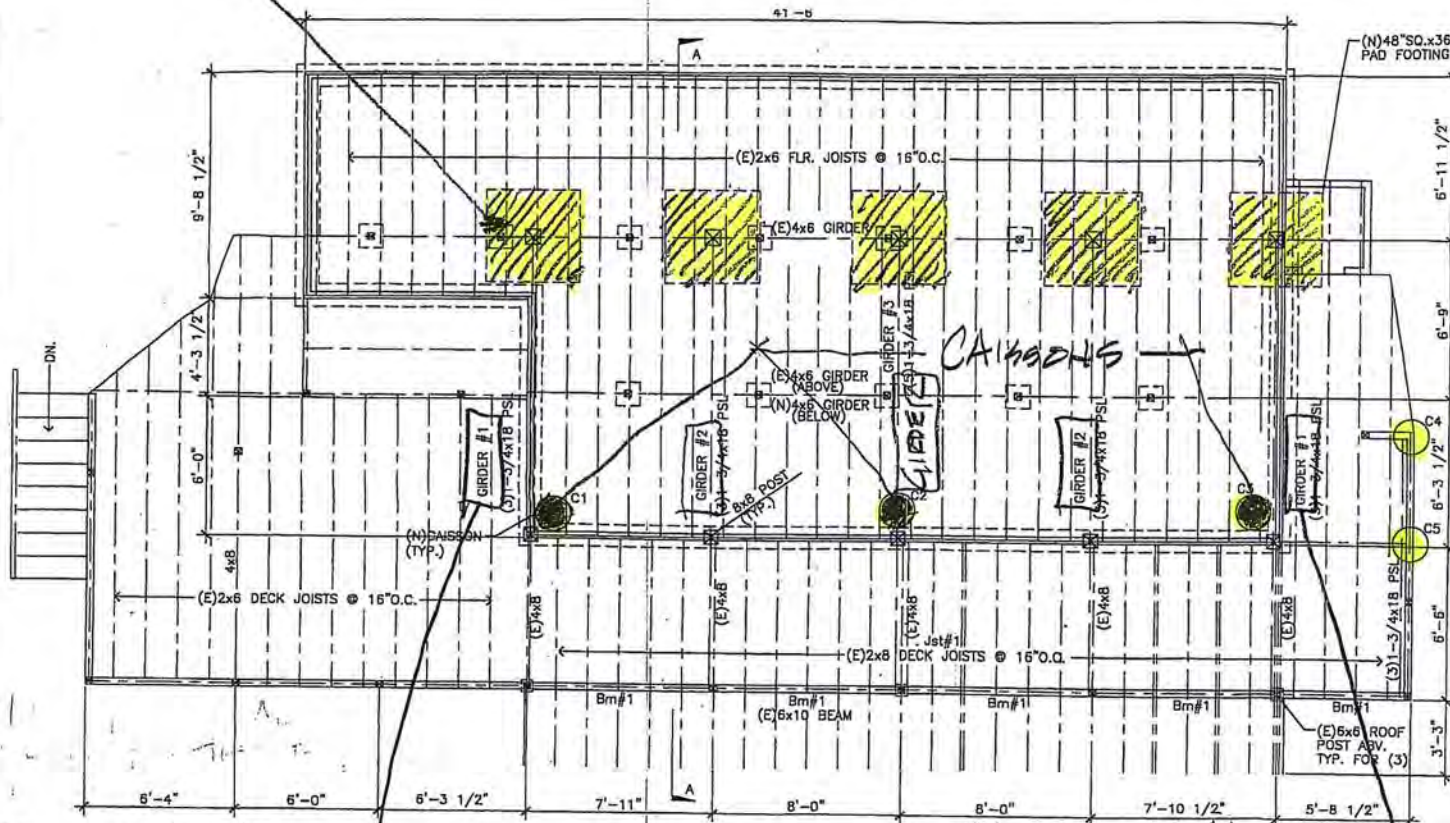


CAISSONS INSTALLED WITHOUT PERMIT DIRECTLY SUPPORT (F) FOOTING, EXTERIOR WALL, AND ROOF (SEE HAUNCH AT RIGHT). THEY CONTEND CAISSON "INSIDE" (E) ETC. - THIS IS NOT

CAISSON INSTALLED
WITHOUT PERMIT

ATTACHMENT 5
A-4-STB-14-0016 (CARR)
Plans Reviewed by Building and Safety

THESE PIERS NOT ONLY SUPPORT CANTILEVERED
GIRDERS, THEY SUPPORT THE EXISTING 4x20
GIRDER WHICH, IN TURN, SUPPORTS (E) FLOOR



THIS GIRDER ALSO SUPPORTS THE EXTERIOR WALL AND ROOF AT THIS END OF THE STRUCTURE

FLOOR/DECK FRAMING PLAN

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

THIS GIRDER ALSO SUPPORTS THE EXTERIOR WALL AND ROOF AT THIS END OF THE STRUCTURE



August 15, 2005

Mr. Bob Goda
Penfield & Smith
P.O. Box 98
Santa Barbara, CA 93102

Re: Capone Beach House, 4353 Marina Drive, Santa Barbara, CA

Dear Mr. Goda:

This letter is a discussion of the work performed by this firm under the request of Mr. Peter Capone, owner of the property. Our work was done in order to mitigate possible loss of the existing structure due to seismic activity.

In April 2004 we were contacted by Mr. Peter Capone through his representative, Mr. Tori Griggs, to review the conditions on the property. Mr. Capone had informed me that the property was recently purchased as part of a quick claim sale by the previous owner. I performed a visual survey of the site to determine the general condition of the structures on the property along with the existing conditions of slopes and drainage. During my visit I was provided with a comprehensive Soils Report conducted by Grover-Hollingsworth & Associates, Inc., dated August 9, 1999. This document discusses the existing structures and stability of the beach bluff.

The owner had significant concerns as to the stability of the Beach House. Based on discussions with the owner and review of the Grover Hollingsworth report, I was in agreement with the concerns of the owner. Within the geotechnical review by Grover Hollingsworth discussions as to stabilizing the Beach House and deck were provided. Mr. Capone was most concerned with loss of the structure and deck from seismic activity. Based on our discussion this firm designed a cast in place friction pile foundation system to support the structure and remove the loads from the deck. This was to be conducted as part of a seismic retrofit and strengthening program.

Design for the underpinning process consisted of analyzing the existing foundation system and determining the type of caissons and minimum depths, which would most effectively provide support to the structure. Copies of the engineering calculations along with the as-built design plans can be found as Enclosure A.

ATTACHMENT 6
A-4-STB-14-0016 (CARR)
Letters from Braun & Associates
dated August 15, 2005

Soils Engineering ▼ Materials Testing

Mailing: P.O. Box 2004, Buellton, CA 93427 • Phone (805) 688-5429 • Fax (805) 688-7239

Construction was undertaken in June 2004. Review of the construction by this firm was provided by both visual observations and materials testing. Copies of our inspections along with our materials testing can be found in Enclosure B.

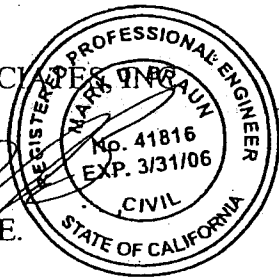
Based on the work it is my opinion the Beach house has been strengthened by this new foundation system in a method consistent with typical underpinning procedures for the area. The structure is now supported by a deep foundation system with footings that extend well into the bedrock in accordance with the Grover Hollingsworth report and proper engineering procedures.

Should you have questions please feel free to call.

Sincerely,

BRAUN & ASSOCIATES

Mark D. Braun, P.E.



MDB/dsc



MAY 09 2014

August 15, 2005

Mr. Peter Capone
C/o SIG Construction
P.O. Box 884
Santa Ynez, CA 93460

Re: Beach House decking, 4353 Marina Drive, Santa Barbara, CA

Dear Mr. Capone:

Per your request this letter discusses the damage and repair options for the Beach House deck which was damaged during the recent storms of 2004-2005.

In December 2004 the Santa Barbara area experienced severe flooding and high winds. As a result in many areas erosion along with toppling of trees had occurred. One such area of damage happened at the Beach House on the property referenced above. Based on discussions with you and your representative, Mr. Tori Griggs I understand that the damage to the wood deck and supporting structure occurred due to a large tree being knocked over by the high winds. The root ball broke an active water line. This damage was not discovered for approximately two days. The resulting concentrated water created an erosional channel, which undermined and exposed portions of the deck foundation system. The deck is a wood framed structure with concrete block footings placed on grade. The attachment of wood ledgers to the existing structure consisted of nails, which unfortunately pulled away from the building sill plate approximately 2-inches.

Per the desire of the owner to repair the deck this firm recommends stabilizing the deck through the use of a deep foundation system. This would transfer the loads into the underlying bedrock formation. The design would generally utilize most of the existing wood framing with additional wood supports which would then be connected to the foundation system. It is expected the work would cause little to no disturbance of the bluff. It is expected however, should the deck be removed the exposed ground open to the weather would cause accelerated surface erosion.

Once it has been decided as to the time frame for this work this firm can then provide the calculations along with field inspections for the repair of the deck.

Soils Engineering ▼ Materials Testing

Mailing: P.O. Box 2004, Buellton, CA 93427 • Phone (805) 688-5429 • Fax (805) 688-7239

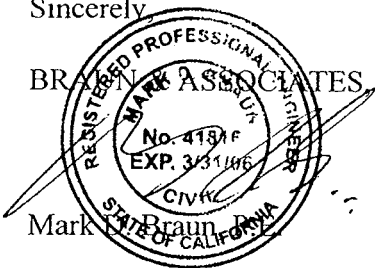
EXHIBIT 13

August 15, 2005
4353 Marina/Capone
Page 2

Should you have any questions please call me at (805) 688-5429.

Sincerely

BRADLEY MARK ASSOCIATES, INC.



Mark E. Braun, P.E.

MDB/dsc

1697NING BCH HSE DEC REPAIR

CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA
89 SOUTH CALIFORNIA ST., SUITE 200
VENTURA, CA 93001
(805) 585-1800



F8c

Appeal Filed: 4/3/14
49th Day: 5/22/14
SI Found: 5/14/14
Staff: W. Horn-V
Staff Report: 2/18/16
Hearing Date: 3/11/16

STAFF REPORT: APPEAL
DE NOVO REVIEW

LOCAL GOVERNMENT: County of Santa Barbara

LOCAL DECISION: Approval with Conditions

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

APPLICANTS: Lee Carr

APPELLANTS: Commissioner Jana Zimmer and Commissioner Dayna Bochco

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

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

MOTION & RESOLUTION: Page 5

SUMMARY OF STAFF RECOMMENDATION: DENIAL

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

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

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

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

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

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

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

Regarding geologic hazards and bluff development standards, LCP policies require development to be sited to avoid areas of geologic hazard, landform alteration, and reliance on future shoreline or bluff protection devices because development located on a geologically unstable bluff unsuitable for development should not extend the life of the non-conforming structure. Moreover, Policy 3-7 of the certified LUP prohibits development on the bluff face except for beach accessways and pipelines for scientific research or coastal dependent

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

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

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

The appeal was then scheduled for the January 7, 2015 hearing with staff recommending denial of the application. Prior to the hearing, the applicant requested postponement to respond to the staff recommendation. This postponement provided staff and the applicant the opportunity to discuss project modifications and/or mitigation measures available to resolve the matter. Staff met with the applicant and their representatives, including at the site in May 2015, however, ultimately changes to the project were not proposed, and staff has again scheduled the de novo hearing and is again recommending denial of the application.

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APPENDIX A: Substantive File Documents

APPENDIX B: Substantial Issue Staff Report (May 2014)

EXHIBITS

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

I. MOTION AND RESOLUTION

Motion:

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

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

Resolution to Deny a CDP:

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

II. STANDARD OF REVIEW

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

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

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

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

III. FINDINGS AND DECLARATIONS FOR DENOVO REVIEW

The Commission hereby finds and declares:

A. PROJECT DESCRIPTION AND PHYSICAL SETTING

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

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

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

A shallow active landslide exists on the southwest bluff portion of the property within the lower portion of the re-entrant canyon. The landslide reportedly occurred in the summer of 1998 following the rupture of an irrigation line on the slope above. The failure area measures approximately 165 ft. long and 15 ft. to 50 ft. wide. The head scarp is approximately 10 ft. high. At the time of the slope failure, approximately 10 ft. to 15 ft. of landslide debris was present at

the toe of the slide. However, likely due to erosion and wave action, landslide debris has washed away and only bedrock is now exposed at the toe of the slide above the beach. Additionally, a second active landslide is present at the extreme southeast corner of the property. This active landslide is located on the bluff face and extends offsite to the east. A small area of surficial solid erosion/slumping is present below the western portion of the wood deck south of the beach cabana. This failure reportedly occurred in 2004 as the result of a broken water pipe that saturated the near surface residual soil above the bedrock. (Grover Hollingsworth, 11/9/11, pgs. 4-5)

B. BACKGROUND AND LOCAL PERMIT HISTORY

Cabana Permit History

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

In 1989, the County approved emergency permit (89-EMP-002) for shotcrete injections into the caverns and undercut areas of the bluff below the cabana. According to County, the approval was specifically based upon a determination by the County's Building and Safety staff that the eroded bluff presented a safety hazard to the public on the beach below the structure and not to protect the cabana structure. The shotcrete extends horizontally along the base of the bluff approximately 180 ft. and is approximately 8 to 10 feet high. A follow-up Special Use Permit (89-SUP-072) for the shotcrete was issued by the County in 1990. This permit would have been appealable to the Commission; however, it is unclear whether a Notice of Final Action for CDP was received by the Commission at that time, and in any event, no appeal was filed.

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

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

The County opened building violation Case No. 05BDV-00000-00093 on March 9, 2005 for the unpermitted installation of structural improvements to the cabana. A Coastal Development Permit application was submitted by the former owner on August 23, 2005 to authorize the unpermitted development. The County recommended denial of that permit and the application was withdrawn by the former owner on March 26, 2006 prior to final action. A zoning violation, Case No. 06ZEV-00000-00057, was opened on March 31, 2006 after withdrawal of that application. A Notice and Order to Vacate was sent to the current property owner on September 5, 2007.

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

The appeal was then scheduled for the January 7, 2015 hearing with staff recommending denial of the application. Prior to the hearing, the applicant requested postponement to respond to the staff recommendation. This postponement provided staff and the applicant the opportunity to discuss project modifications and/or mitigation measures available to resolve the matter. Staff met with the applicant and their representatives, including at the site in May 2015, however, ultimately changes to the project were not proposed, and staff has again scheduled the de novo hearing and is again recommending denial of the application.

Historic Landmark Designation

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

the California Dream that flourished on the coast of Southern California in the mid-Twentieth Century and was part of a notable arts colony that flourished on the property in the late 1950's...". (**Exhibit 13**)

C. DE NOVO REVIEW OF COASTAL DEVELOPMENT PERMIT

In this case, for the reasons discussed below, the Commission hereby denies the Coastal Development Permit as it is inconsistent with standards for geologic hazards and bluff development, visual resources, and non-conforming structures, including Land Use Plan (LUP) Policies 1-2, 1-3, 1-4, 2-6, 3-4, 3-7, 3-14, 4-5, GEO-GV-1, GEO-GV-3, Coastal Act Sections 30251 and 30253 (as incorporated into the LCP pursuant to Policy 1-1), and Coastal Zoning Ordinance Sections 35-67, 35-85, 35-160, and 35-161. In interpreting the LCP Policies in a manner that ensures the LCP is consistent with the Coastal Act (see *Pratt, supra*, 162 Cal. App. 4th at 1075-76), the Commission is guided by the general rule of construction contained in the Coastal Act and also applicable to the LCP that its provisions "shall be liberally construed to accomplish its purposes and objectives" (Pub. Res. Code Section 30009). As a corollary, exemptions or exceptions that tend to defeat the application of certified policies must be construed narrowly. The LCP echoes these rules of construction by mandating that in the case of overlap between policies, the policy most protective of coastal resources prevails. (LUP Policy 1-2).

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

LUP Policy 1-2 states:

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

LUP Policy 1-3 states:

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

LUP Policy 1-4 states:

Prior to the issuance of a coastal development permit, the County shall make the finding that the development reasonably meets the standards set forth in all applicable land use plan policies.

LUP Policy 3-7 states:

No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Drainpipes shall be allowed only where no other less environmentally damaging drain system is feasible and the drainpipes are designed

and placed to minimize impacts to the bluff face, toe and beach. Drainage devices extending over the bluff face shall not be permitted if the property can be drained away from the bluff face.

Coastal Zoning Ordinance, Article II, Section 35-67 states, in part:

- 5) *No development shall be permitted on the bluff face, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry...*

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

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

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

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

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

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

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

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

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

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

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

...

Archeological and Historical Resources Policies

LUP Policy 10-1 states:

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

LUP Policy 10-2 states:

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

LUP Policy 10-3 states:

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

LUP Policy 10-4 states:

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

LUP Policy 10-5 states:

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

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

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

LUP Policy 3-7 and Coastal Zoning Ordinance, Article II, Section 35-67 prohibit bluff face development, except for engineered staircases or accessways to provide beach access, and pipelines for scientific research or coastal dependent industry. Coastal Zoning Ordinance, Article II, Section 35-160 allows nonconforming structures and uses to continue until they are removed, but seeks to prohibit improvements that would extend the life of the non-conforming structure. Policy 3-7 and Coastal Zoning Ordinance, Article II Sections 35-67 and 35-160 are more protective of coastal resources and therefore apply where in conflict with a coastal zoning ordinance regulation such as Section 35-162 (Historic Landmark exception to certain zoning ordinance limitations). In addition, LUP Policy 1-4 only allows Coastal Development Permits for development that reasonably meets the standards set forth in *all applicable land use plan policies*. Here, the proposed development does not meet the standards in all applicable LUP policies, including the restrictions on bluff face development.

As mentioned above, Section 35-162 lifts the strict application of the nonconforming structure policy by allowing an exception that "a nonconforming structure may be enlarged, extended, reconstructed, moved, and/or structurally altered...[where] [t]he structure has been declared to be a historical landmark pursuant to a resolution of the Board of Supervisors ... provided that the

...proposed structural alterations will help to preserve and maintain the landmark in the long term...” The language indicates that these types of historic structures “may be” modified in addition to being retained; however, there is no language that indicates that such modifications or alterations would take precedence in the event of a conflict with the protection of other coastal resources such as bluffs. LUP Policies 1-2 and 1-3 are specifically intended to provide the basis to resolve internal conflicts with regard to interpreting the policies and provisions of the LCP. Where conflicts arise with regard to interpretation of the policies and provisions of the LCP, LUP Policies 1-2 and 1-3 require that the policy most protective of coastal resource shall prevail. Although the LCP encourages new development to be sited and designed to avoid impacts to historic structures, the LCP does not include specific policies requiring the affirmative protection and retention of historic structures. However, the LCP includes specific policies regarding geologic hazards and the protection of coastal bluffs as described more fully in Section III.C.2 of this staff report. Therefore, the construction of additions and improvements to a nonconforming structure (regardless of historic status) that adversely impact coastal resources inconsistent with other policies and provisions of the LCP would not be approvable pursuant to Policies 1-2 and 1-3.

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

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

The structural improvements to the bluff slope cabana extend the life of the non-conforming cabana located in a geologically unstable area unsuitable for development. Article II, Section

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

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

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

Although the LUP lists 20 historic sites in Santa Barbara County¹, the LUP does not include specific policies that protect these resources, but rather only provides “recommendations” in LUP Section 3.10.5 (Historical Resources), cited above. For example, recommendation 2 in

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

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

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

2. GEOLOGIC HAZARDS AND COASTAL BLUFF DEVELOPMENT

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

New development shall:

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

LUP Policy 1-1 states:

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

LUP Policy 3-4 states:

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

LUP Policy 3-7 states:

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

LUP Policy 3-14 states:

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

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

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

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

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

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

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

As described above, the development includes the request for after-the-fact approval of structural improvements to an approximately 789 sq. ft. cabana, including installation of five 18-inch diameter by 35-foot deep concrete caissons and five “dead-man” counter-weights under the cabana and deck; deck and deck stairway repairs; addition of 34 sq. ft. (enclosure of a portion of the existing deck and outdoor shower area) including a ¾ bathroom to the cabana; addition of 9.5 ft. long wetbar to the interior of the cabana; and, addition of a sanitary waste connection from the cabana to the existing septic system serving the single-family dwelling, including a grinder pump and waste water lines. The approved project also includes drainage repairs and drainage improvements on the bluff face (i.e., repairs on the walkway leading to the cabana) and approximately 50 cu. yds. grading, which has not yet been completed.

Coastal Act Section 30253 (as incorporated into the LCP by Policy 1-1), and LCP Policies 3-14, GEO-GV-1 and GEO-GV-3, require development to be sited to avoid areas of geologic hazard, to avoid landform alteration, and to avoid reliance on future shoreline or bluff protection devices. LCP Policy 3-7 and Article II Section 35-67 specifically prohibit development on a bluff face,

except in limited circumstances for beach access stairways and pipelines for scientific research or coastal dependent industry.

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

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

As noted above, landslide activity has occurred on the bluff in the vicinity of the cabana. A shallow active landslide exists on the southwest bluff portion of the property. A second active landslide is also present at the extreme southeast corner of the property. This active landslide is located on the bluff face and extends offsite to the east. A small area of surficial solid erosion/slumping is present below the western portion of the wood deck south of the beach cabana (Grover Hollingsworth, 11/9/11, p.4).

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

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

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

Further, three separate letters prepared in 2005 by Braun & Associates, an engineering firm, indicate that structural stability of the bluff slope cabana was at issue and the friction pile foundation system was designed to support the cabana and deck in order to extend the life of the

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

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

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

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

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

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

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

The development would serve to prolong the life of a non-conforming structure located on an unstable coastal bluff in an area of known geologic and erosional hazards and has caused additional alteration to the natural bluff landform. Further, due to the geologic and erosional hazards present at the bluff on the subject site, prolonging the life of the structure will foreseeably result in the request for additional shoreline or bluff protective devices to protect the development in direct conflict with Coastal Act Section 30253 and LCP Policies GEO-GV-1 and GEO-GV-3. The proposed development is not a beach access stairway or pipeline for scientific research pursuant to LUP Policy 3-7. Further, the development does not comply with LCP Policy 3-4, which requires development to be set back from the bluff edge to be safe from the threat of erosion, because the development prolongs the life of the structure that is located directly on the bluff and has no bluff setback.

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

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

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

3. VISUAL RESOURCES

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

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

LUP Policy 4-5 states:

In addition to that required for safety (see Policy 3-4), further bluff setbacks may be required for oceanfront structures to minimize or avoid impacts on public views from the beach. Bluff top structures shall be set back from the bluff edge sufficiently far to insure that the structure does not infringe on views from the beach except in areas where existing structures on both sides of the proposed structure already impact public views from the beach. In such cases, the new structure shall be located no closer to the bluff's edge than the adjacent structures.

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

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

The coastal bluff in the project area is generally undeveloped except for private beach access stairways. The project, which is out of character for the area, has the effect of extending the life of a cabana located in a highly visible area on a coastal bluff face in a highly scenic coastal area of Santa Barbara County. Specifically, the cabana is not set back from the bluff edge to insure that the structure does not infringe on public views from the beach below. Additionally, in this case, there are no existing bluff face or beach level structures on adjacent properties so views are

not already impacted by other development. Finally the proposed development therefore conflicts with Coastal Act Section 30251 and Policy 4-5. The proposed foundation work and additional grading on the bluff edge will also alter the natural bluff landform inconsistent with Coastal Act Section 30251 and Policy 4-5.

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

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

D. UNPERMITTED DEVELOPMENT

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

For the reasons outlined above, the request for after-the-fact approval of the development described above must be denied as it is inconsistent with the County’s certified LCP. The County’s enforcement staff has represented to Commission staff that it is pursuing methods to address the existing unpermitted development. Additionally, the Commission’s enforcement

staff will work with the County's staff to consider options to address the ongoing violations at the subject site.

E. CONCLUSION

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

APPENDIX A

Substantive File Documents

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

APPENDIX B

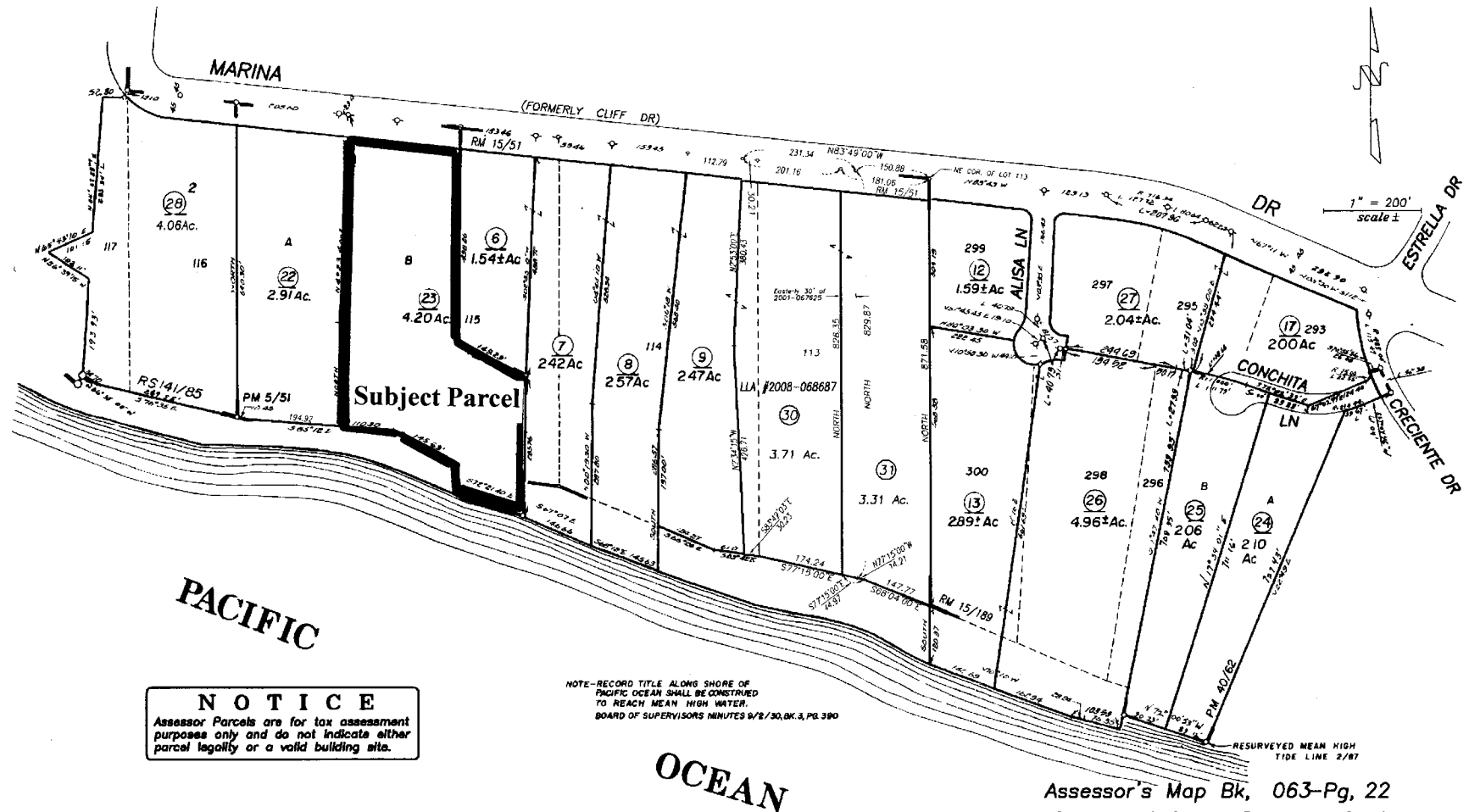
The staff report and addendum for the Commission's substantial issue determination on Appeal A-4-STB-14-016 (May 2014) are available on the Coastal Commission website at:

<http://documents.coastal.ca.gov/reports/2014/5/W21a-5-2014.pdf>



POR. RANCHO LAS POSITAS

063-22



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

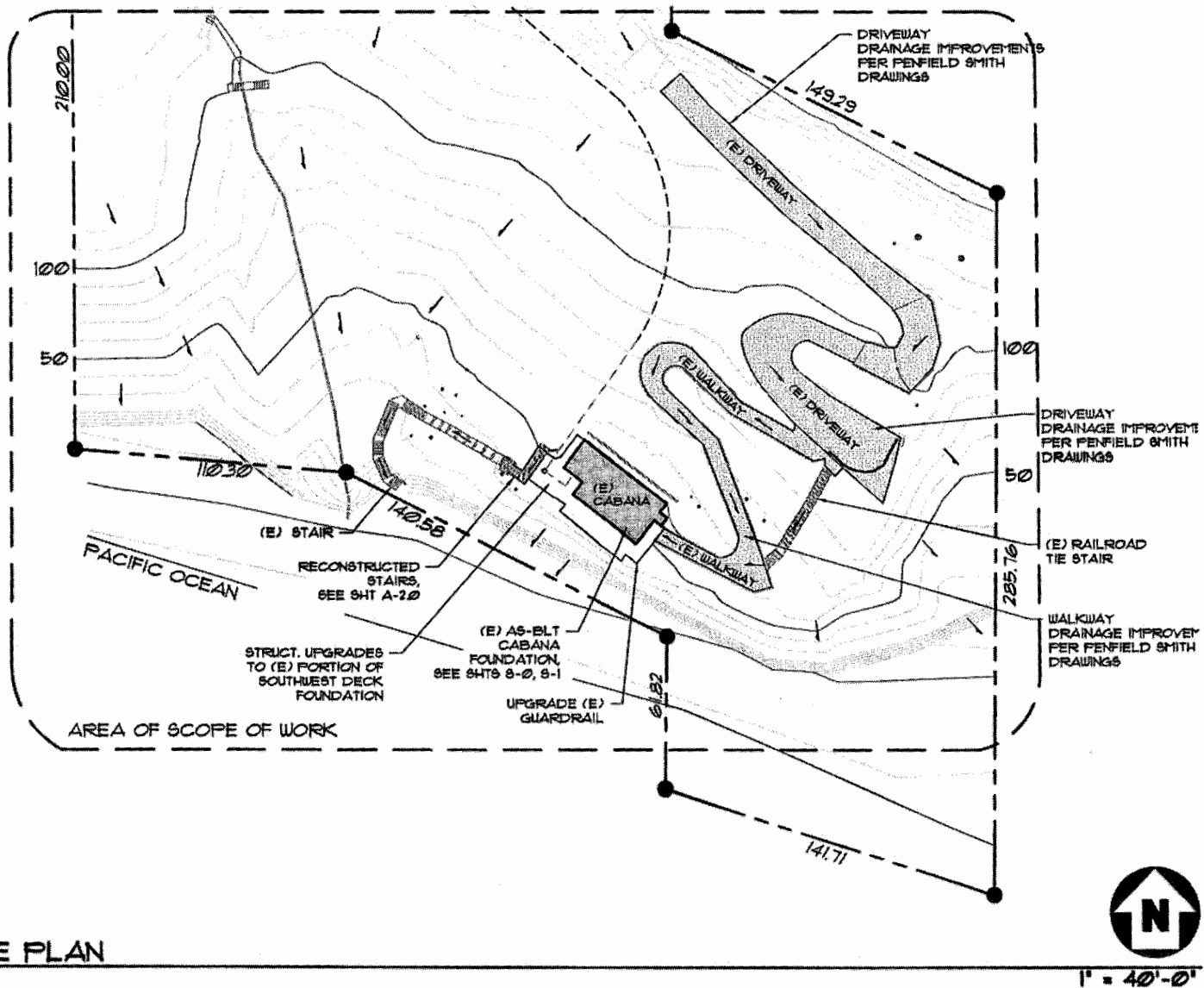
09/04/1928 R.M. Bk. 15 , Pg. 189-201, Tract "Map of Resubdivision of a Portion of Santa Barbara Estates"
05/18/1924 R.M. Bk. 15 , Pg. 51-56 , Tract "Map of Santa Barbara Estates"

LD/09 10 & 11 into 30 & 31

EXHIBIT 2

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

Parcel Map



SITE PLAN

EXHIBIT 3

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

Site Plan

SECTION A

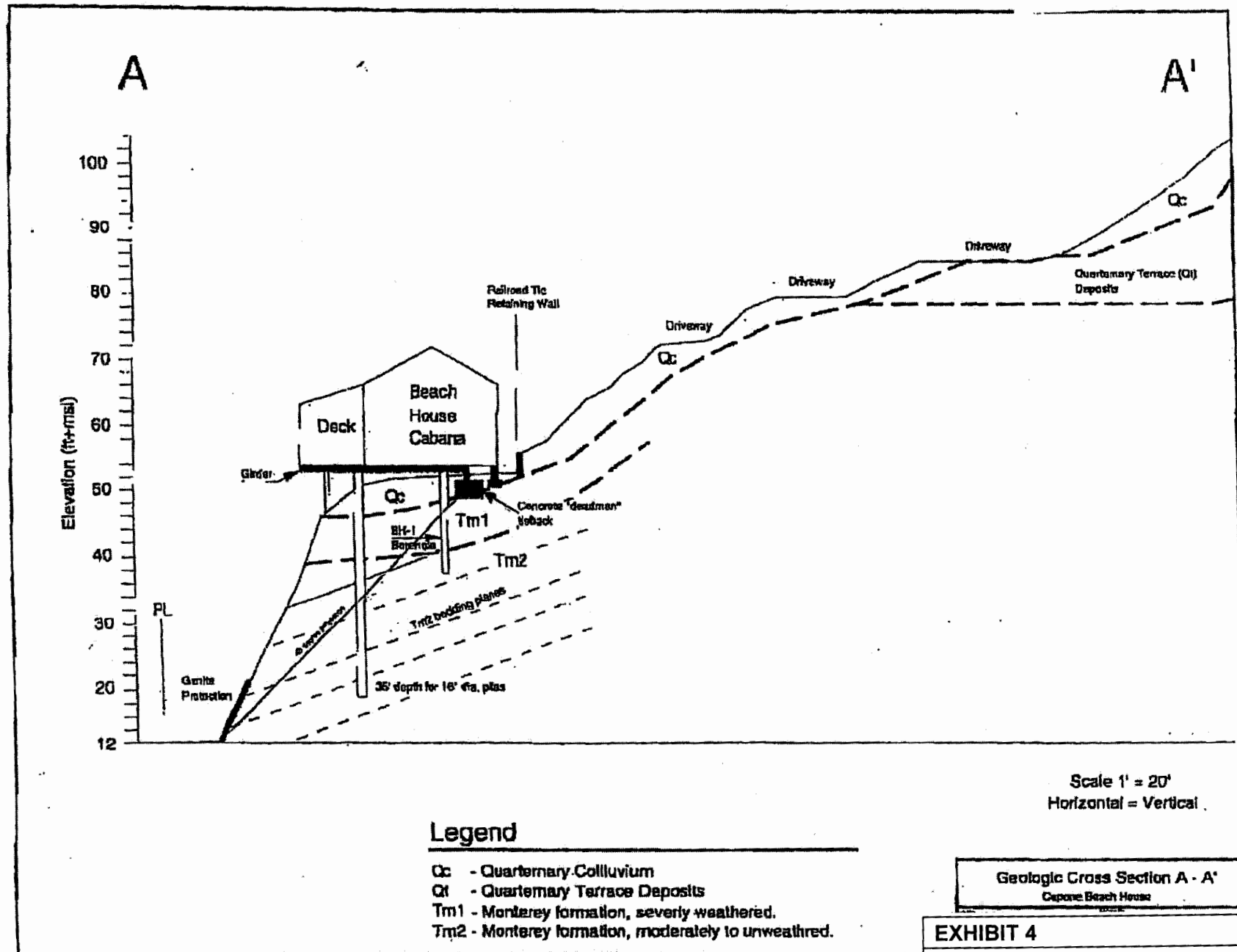
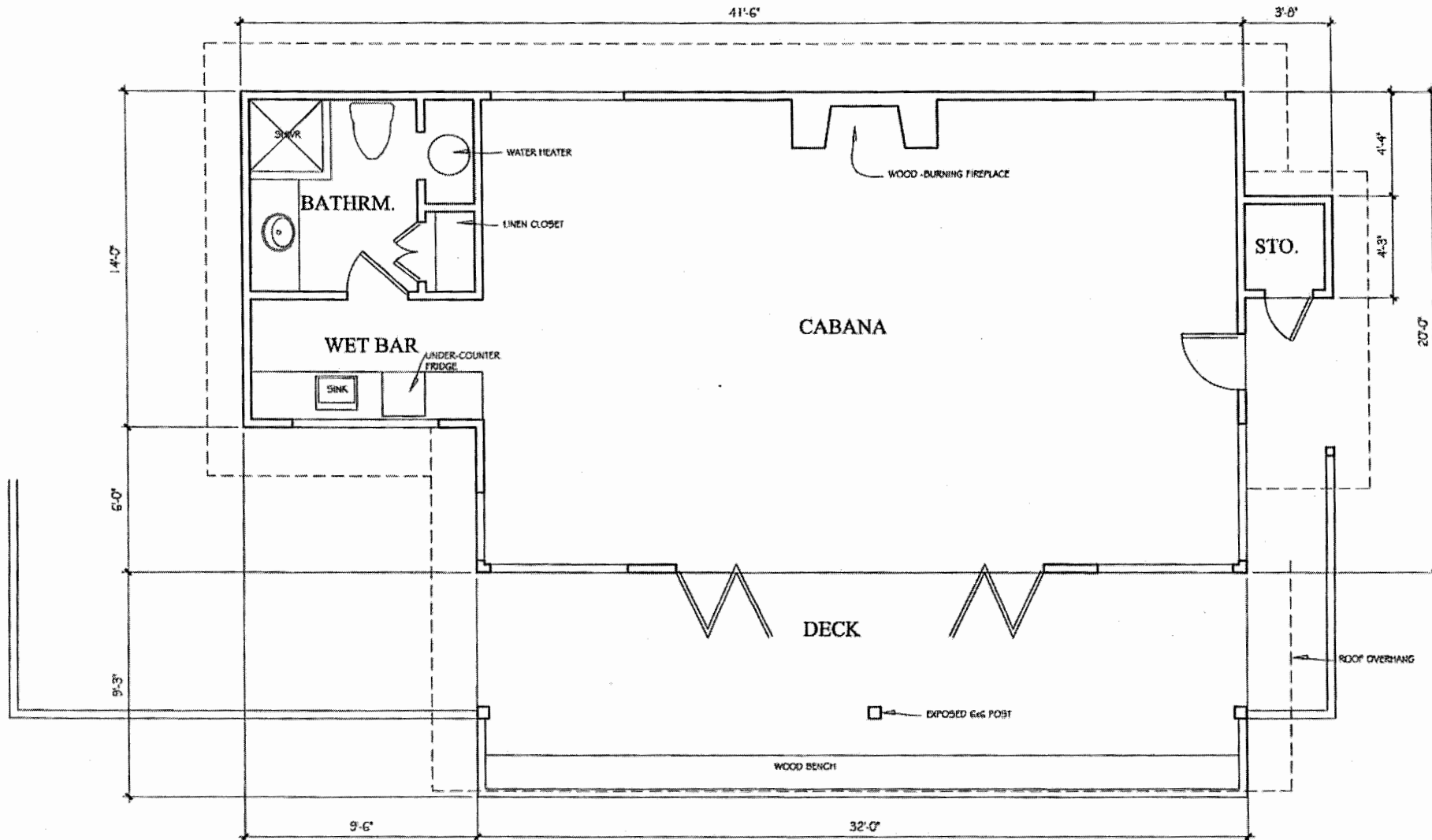


EXHIBIT 4

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

Geologic Cross Section



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

FLOOR PLAN

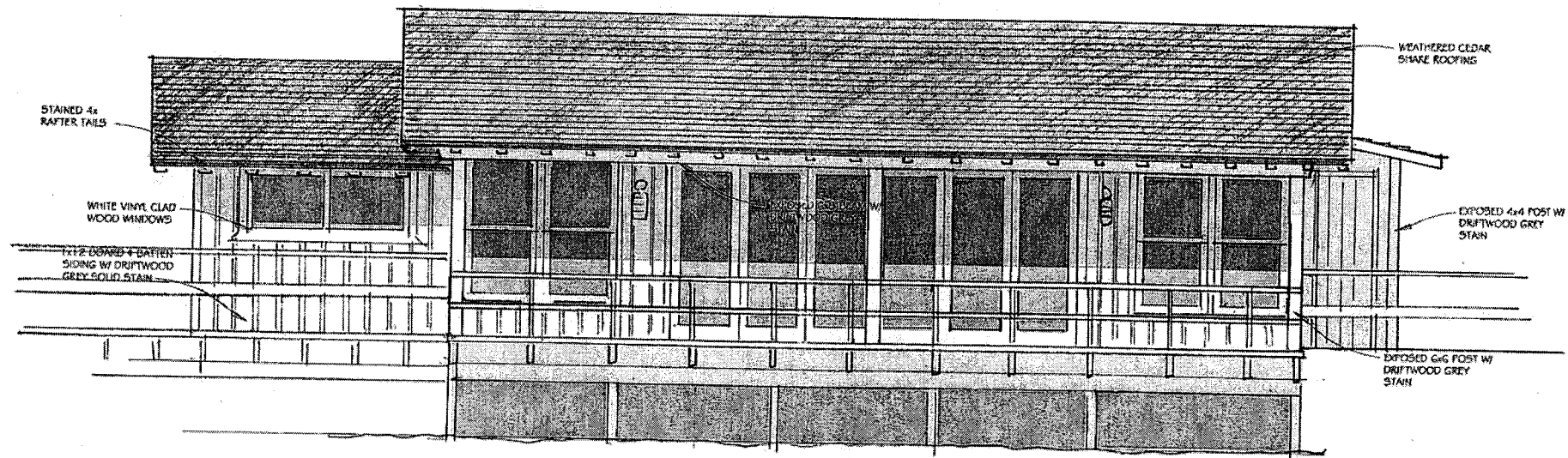
NORTH

SCALE: 1/8" = 1'-0"

EXHIBIT 6

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

Floor Plan



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

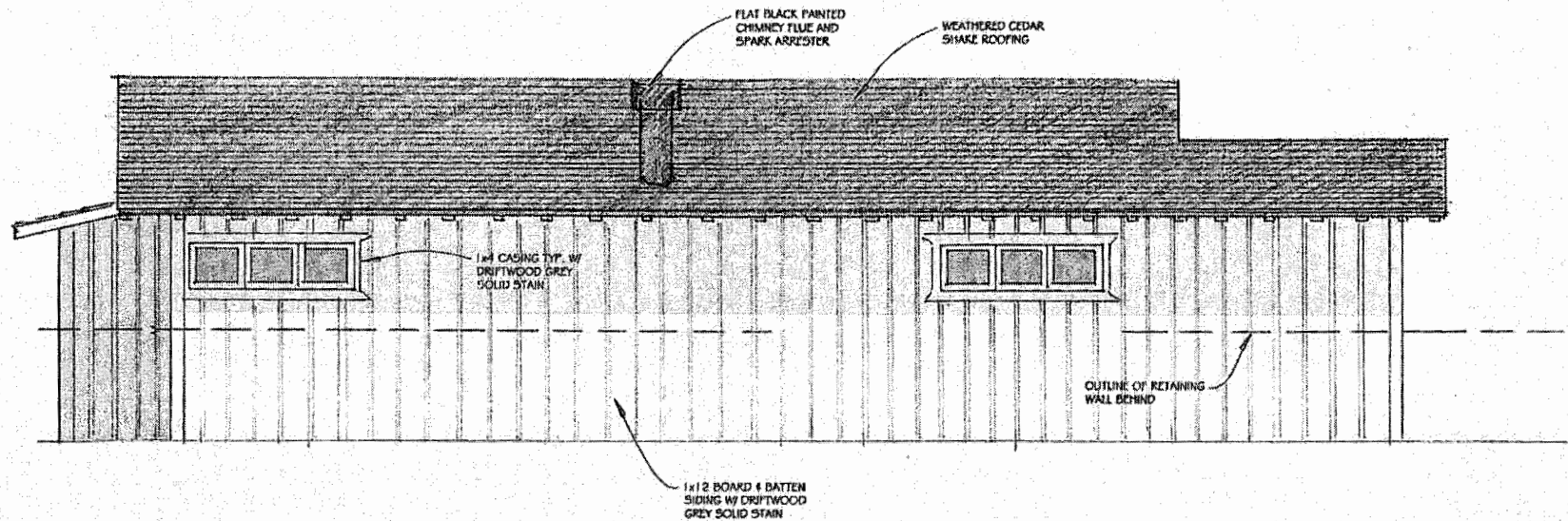
SOUTH ELEVATION

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

EXHIBIT 7

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

South Elevation



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

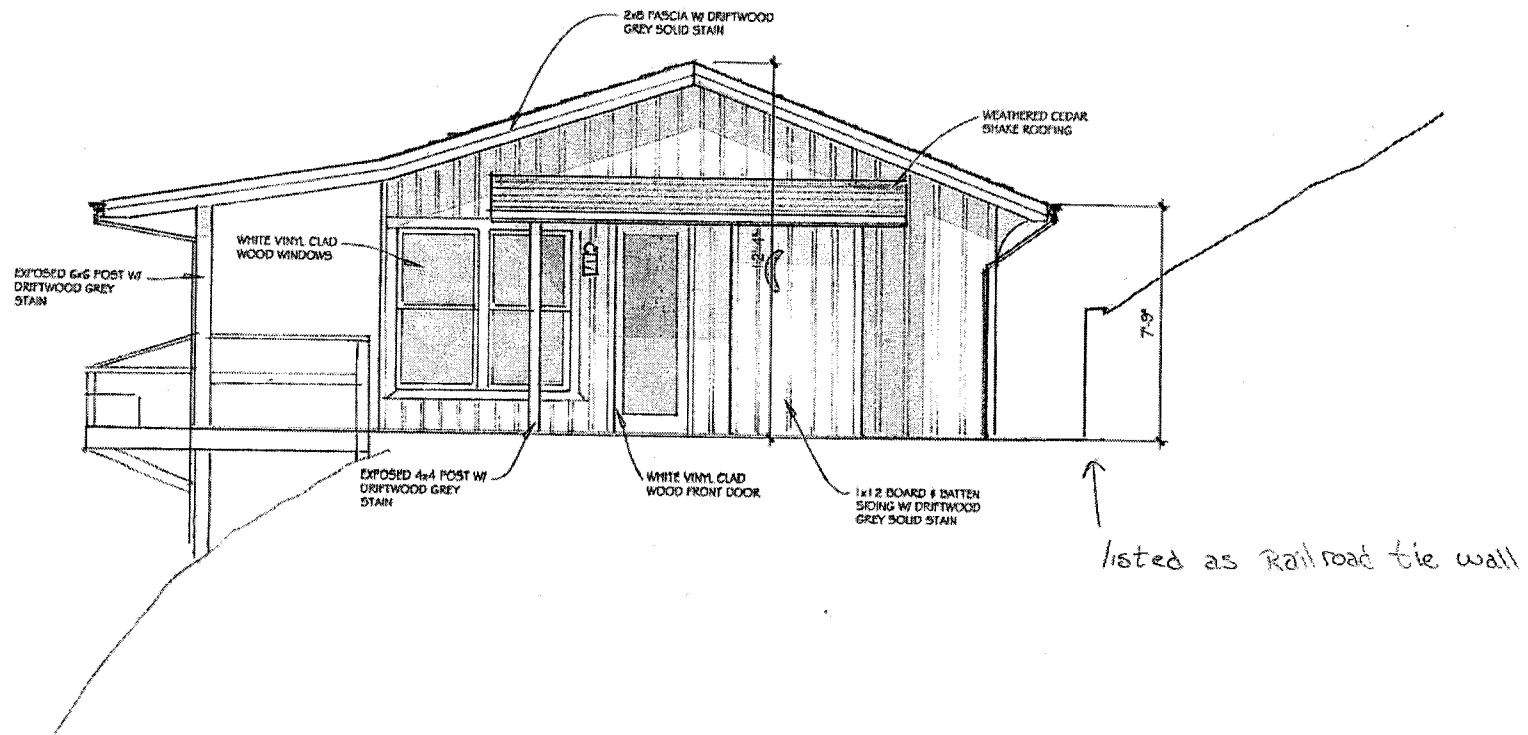
SCALE: 1/4" = 1'-0"

NORTH ELEVATION

EXHIBIT 8

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

North Elevation

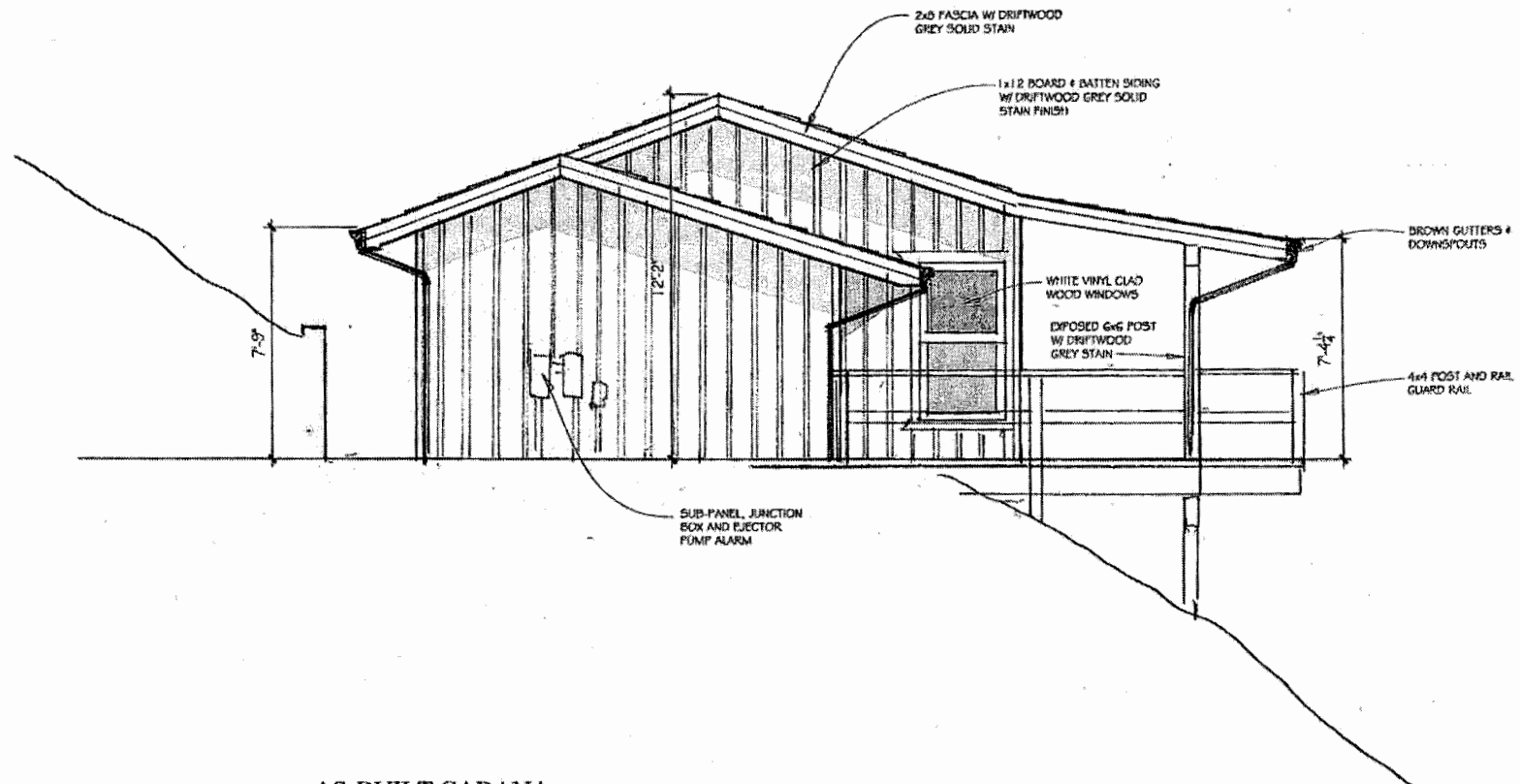


AS-BUILT CABANA
 4353 MARINA DRIVE, SANTA BARBARA, CA 93110
 APN: 063-220-023

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

EAST ELEVATION

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



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

SCALE: $\frac{1}{8}" = 1'-0"$

WEST ELEVATION

EXHIBIT 10

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

West Elevation

4-STB-14-0246

**County of Santa Barbara
Planning and Development**

Glenn S. Russell, Ph.D., Director

Dianne Black, Assistant Director



Received

NOTICE OF FINAL ACTION

MAR 19 2014

March 18, 2014

California
Coastal Commission

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

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

Project Agent:

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

Property Applicant/Owner:

Lee Carr
4353 Marina Drive
Santa Barbara, CA 93110
(805) 894-8955

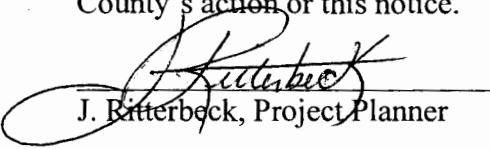
Project Description: The proposed project on appeal is for a Coastal Development Permit, Case No. 11CDH-00000-00032, to allow the following development as related to Santa Barbara County Landmark #49, the "Irene and Frances Rich Beach Cabaña":

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

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

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

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


J. Ritterbeck, Project Planner

Date

March 18, 2014

Attachments: Final Action Letter dated March 10, 2014

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

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

www.sbcountyplanning.org

EXHIBIT 11

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

County Notice of Final Action



COUNTY OF SANTA BARBARA CALIFORNIA

PLANNING COMMISSION

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

March 10, 2014

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

PLANNING COMMISSION
HEARING OF MARCH 5, 2014

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

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

Dear Mr. Wullbrandt:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,



Dianne M. Black
Secretary to the Planning Commission

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

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

Attachments:

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

DMB/dmv

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

ATTACHMENT A

FINDINGS OF APPROVAL

PLANNING COMMISSION HEARING, MARCH 5, 2014

1.0 CEQA FINDINGS

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

2.0 ADMINISTRATIVE FINDINGS

Those findings specified in Section 35-169.5.2

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

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

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

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

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

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

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

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

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

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

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

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



COUNTY OF SANTA BARBARA

Planning and Development

www.sbcountyplanning.org

COASTAL DEVELOPMENT PERMIT NO: 11CDH-00000-00032

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

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

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

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

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

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

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

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

PROJECT SPECIFIC CONDITIONS: See Attachment "A"

ASSOCIATED CASE NUMBERS: 13APL-00000-00030

PERMIT COMPLIANCE CASE: Not Applicable

BOARD OF ARCHITECTURAL REVIEW (BAR): Not Applicable

TERMS OF PERMIT ISSUANCE:

Planner _____ Date _____

ATTACHMENT A: CONDITIONS OF APPROVAL

Project Description

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

The project description is as follows:

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

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

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

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

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

Conditions By Issue Area

3. **Aest-04 HLAC Required:** The Owner/Applicant shall obtain Historic Landmark Advisory Committee (HLAC) approval for project design. All project elements (e.g., design, colors, materials and landscaping) shall be approved for all areas subject to and falling within the extent of County Landmark #49, The Irene and Frances Rich Beach Cabana.

TIMING: The Owner/Applicant shall submit architectural/structural drawings of the project for review and shall obtain HLAC approval prior to issuance of this Coastal Development Permit.

MONITORING: The Owner/Applicant shall demonstrate to B&S inspection staff that the project has been built consistent with approved HLAC plans prior to Final Building Inspection Clearance.

4. **Noise-02 Construction Hours:** The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:00 p.m. Monday through Friday. No construction shall occur on weekends or State holidays. Non-noise generating construction activities such as interior plumbing, electrical, drywall and painting (depending on compressor noise levels) are not subject to these restrictions. Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein.

PLAN REQUIREMENTS: The Owner/Applicant shall provide and post a sign stating these restrictions at all construction site entries.

TIMING: Signs shall be posted prior to commencement of construction and maintained throughout construction.

MONITORING: The Owner/Applicant shall demonstrate that required signs are posted prior to grading/building permit issuance and pre-construction meeting. Building inspectors and permit compliance staff shall spot check and respond to complaints.

County Rules and Regulations

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

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

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

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

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

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Commissioner Jana Zimmer and Commissioner Dayna Bochco

Mailing Address: 45 Fremont St. Suite 2000

City: San Francisco, CA

Zip Code: 94105

Phone: (415) 904-5200

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Santa Barbara

2. Brief description of development being appealed:

Approval of Coastal Development Permit for as-built development associated with a 740 sq. ft. cabana on a bluff face, including: 1) foundation reinforcement work including installation of five 18-inch diameter by 35-foot deep concrete caissons and five "dead-man" counter-weights; 2) deck and deck stairway repairs; 3) addition of 34 sq. ft. and a ¾ bathroom; 4) addition of 9.5 ft. long wetbar; 5) addition of a sanitary waste connection from the cabana to the existing septic system serving the existing single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. grading, located at 4353 Marina Drive, Santa Barbara County.

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

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

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-4-STB-14-0016

DATE FILED:

4-3-14

DISTRICT:

South Central Coast

EXHIBIT 12

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

Appeal

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

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

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

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

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

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Lee Carr
4353 Marina Drive
Santa Barbara, CA 93110

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

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

(2)

(3)

(4)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See attached

Appeal of decision by Santa Barbara County granting a Coastal Development Permit (CDP) for as-built development associated with a 740 sq. ft. cabana, including: 1) foundation reinforcement work including installation of five 18-inch diameter by 35-foot deep concrete caissons and five "dead-man" counter-weights; 2) deck and deck stairway repairs; 3) addition of 34 sq. ft. and a ¾ bathroom; 4) addition of 9.5 ft. long wetbar; 5) addition of a sanitary waste connection from the cabana to the existing septic system serving the existing single-family dwelling, including a grinder pump and waste water lines; 6) drainage repairs and improvements on the bluff face (i.e., repairs on the walkway leading to the cabana); and 7) less than 50 cu. yds. grading, located at 4353 Marina Drive, in the Hope Ranch area of Santa Barbara County (APN 063-220-023).

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

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

Coastal Act Section 30253 states:

New development shall:

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

LUP Policy 1-1 states:

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

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LUP Policy 1-2 states:

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

LUP Policy 1-3 states:

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

LUP Policy 2-6 states:

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

LUP Policy 3-4 states:

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

LUP Policy 3-7 states:

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

LUP Policy 3-14 states:

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

LUP Policy 4-5 states:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Case No.11CDH-00000-00032

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

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

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

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

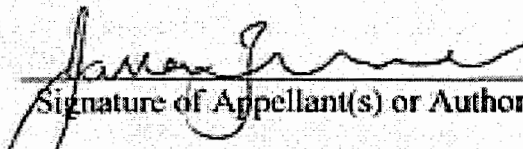
Therefore, the approved project raises a substantial issue with respect to the Coastal Act and LCP policies cited above.

CARR CABANA

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

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date:

4-2-2012

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

Section VI. Agent Authorization

I/We hereby authorize _____

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

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

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

SECTION V. Certification

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

Signed: *J. Bochee*
Appellant or Agent

Date: 4-2-2014

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

Signed: _____

Date: _____

ATTACHMENT A

RESOLUTION OF THE SANTA BARBARA COUNTY
BOARD OF SUPERVISORS

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

RESOLUTION NO. 12-45

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

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

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

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

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

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

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

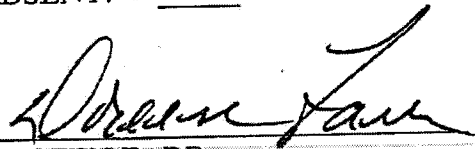
PASSED, APPROVED AND ADOPTED by the Santa Barbara County Board of Supervisors at Santa Barbara, California, this 6th day of March, 2012 by the following vote:

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

NOES: Supervisor Wolf

ABSTAIN: None

ABSENT: None



DOREEN FARR
Chair, Board of Supervisors
County of Santa Barbara

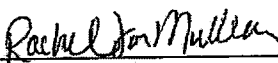
ATTEST:

CHANDRA WALLAR
Clerk of the Board of Supervisors

By 
Deputy Clerk

APPROVED AS TO FORM:

DENNIS MARSHALL
County Counsel

By 
Deputy County Counsel

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Exhibit A
Rich Cabana Historic Area

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

Said portion of land is described as follows:

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

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

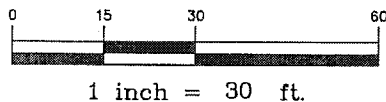
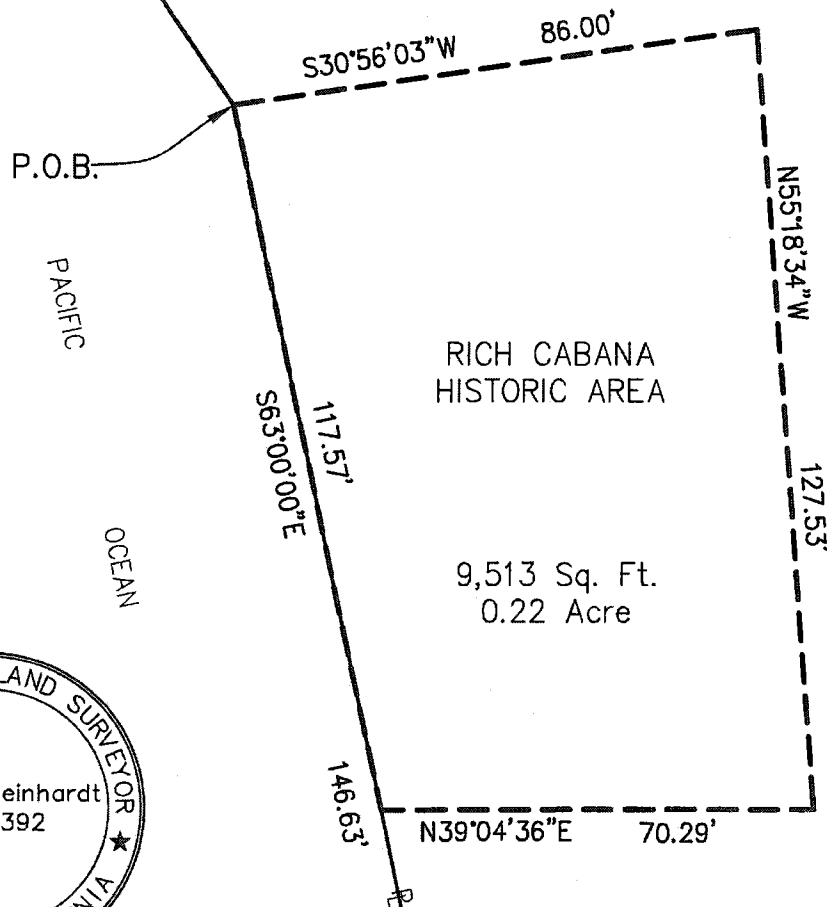
This real property description was prepared by me, or under my direction, in conformance with the Professional Land Surveyor's Act.

Signature: 
Mark E. Reinhardt, PLS

Date: 9/28/10



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



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

ENGINEERING
PLANNING
SURVEYING
CONSTRUCTION MANAGEMENT

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



EXHIBIT 14
A-4-STB-14-0016 (Carr)
Site Photographs









